

STATE OF MICHIGAN
COURT OF APPEALS

AUTODIE, LLC.,

Petitioner-Appellant,

v

CITY OF GRAND RAPIDS, DEPARTMENT OF
TREASURY, and STATE TAX COMMISSION,

Respondents-Appellees.

FOR PUBLICATION
May 27, 2014
9:15 a.m.

No. 314553
Tax Tribunal
LC No. 00-449060

Before: FITZGERALD, P.J., and SAAD and WHITBECK, JJ.

PER CURIAM.

Petitioner, Autodie, LLC, appeals as of right the Tax Tribunal's order granting summary disposition in favor of respondent, City of Grand Rapids, under MCR 2.116(I)(1), and dismissing respondents Department of Treasury (the Department) and State Tax Commission (the Commission) from the case. We affirm.

I. FACTS

A. BACKGROUND FACTS

The parties do not dispute the facts of this case. Automobile manufacturers may use Form 4798, which the Department issues, to report their personal property. Form 4798 uses lower valuation multipliers than assessors use for other types of personal property, and its use results in a lower true cash value for the personal property.

Autodie is a wholly owned subsidiary of Chrysler Group, LLC, and manufactures dies for use in Chrysler's vehicles. In 2011, Autodie used Form 4798 to submit its personal property statement to Grand Rapids's assessor. The assessor concluded that Autodie was not entitled to use Form 4798, rejected the form, and independently calculated the value of Autodie's personal property.

B. PROCEDURAL HISTORY

1. AUTODIE'S PETITION TO THE STATE TAX COMMISSION

In October 2011, Autodie filed a petition with the Commission, asserting that the Commission had subject matter jurisdiction under MCL 211.154 because its personal property was “incorrectly reported or omitted[.]” Autodie asserted that the Grand Rapids assessor had “incorrectly reported and/or omitted from the 2011 Grand Rapids Assessment rolls, the personal property belonging to Autodie LLC, as not being eligible for Form 4798” Autodie asked the Commission to require Grand Rapids to correct its assessment roll regarding Autodie’s personal property, to refund its excess tax payments, and to declare that Autodie was entitled to use Form 4798.

On October 2, 2012, the Commission dismissed Autodie’s petition. The Commission concluded that it did not have subject matter jurisdiction over Autodie’s petition. Reasoning that “it is clear that no part of the real property in question has been omitted from assessment and it is also clear that the assessor did not base his or her assessment on an incorrect taxpayer report,” the Commission determined that Autodie was actually challenging the assessor’s determination of the personal property’s value. Because the Tax Tribunal has exclusive jurisdiction to review final determinations of value, the Commission concluded that it lacked subject matter jurisdiction to hear Autodie’s petition.

2. AUTODIE'S PETITION TO THE MICHIGAN TAX TRIBUNAL

On November 5, 2012, Autodie filed a petition in the Tax Tribunal. Autodie asked the Tax Tribunal to review the Commission’s decision, contending that the Commission erred when it dismissed its petition. Autodie contended that the assessor’s “complete disregard or misinterpretation” of its status as a qualified automobile manufacturer, and subsequent rejection of Form 4798, was “an incorrectly reported or omitted property issue” over which the Commission had subject matter jurisdiction. Additionally, Autodie asserted for the first time that the Commission had jurisdiction to review the assessor’s decision as an improper assessment under MCL 211.150(3).

On December 4, 2012, the Department and the Commission moved to be dismissed from the petition, asserting that they were not necessary parties to the action. Autodie responded that the Commission was a necessary party because the Grand Rapids assessor acted on its advice and because it sought to bind the Commission to the Michigan Tax Tribunal’s decision.

3. THE TAX TRIBUNALS' DECISION

On January 15, 2013, the Tax Tribunal granted the Department and Commission’s motion to be dismissed as parties. The Tax Tribunal reviewed and affirmed the Commission’s decision that it lacked subject matter jurisdiction over Autodie’s petition:

If the State Tax Commission determines that property subject to the collection of taxes under the General Property Tax Act has been incorrectly reported or omitted, the state tax commission shall place the corrected assessment value for the appropriate years on the appropriate assessment roll. Here, the State Tax

Commission properly determined that the issue did not relate to whether the property was omitted or incorrectly reported; rather, the State Tax Commission determined “the assessment was based on the independent determination of value made by the assessor that was not affected by the omission of property components from the valuation process.” As such, the Michigan Tax Tribunal, and not the State Tax Commission, was the proper venue to raise its claim because the issue was a disagreement relating to the true cash value of assessable property.

The Tax Tribunal then sua sponte granted Grand Rapids summary disposition, determining that it did not have subject matter jurisdiction to resolve Autodie’s valuation dispute because Autodie did not timely file its petition.

II. SUBJECT MATTER JURISDICTION

A. STANDARD OF REVIEW

This Court’s review of a decision by the Tax Tribunal is limited.¹ When a party does not dispute the facts or allege fraud, we review whether the Tribunal “made an error of law or adopted a wrong principle.”² This Court reviews de novo the interpretation and application of tax statutes.³

B. STATUTORY INTERPRETATION

When interpreting a statute, our goal is to give effect to the intent of the Legislature.⁴ The language of the statute itself is the primary indication of the Legislature’s intent.⁵ If the language of the statute is unambiguous, we must enforce the statute as written.⁶ This Court reads the provisions of statutes “reasonably and in context,” and reads subsections of cohesive statutory provisions together.⁷

¹ *Michigan Props, LLC v Meridian Twp*, 491 Mich 518, 527; 817 NW2d 548 (2012).

² *Id.* at 527-528.

³ *Id.* at 528; *Ford Motor Co v City of Woodhaven*, 475 Mich 425, 438; 716 NW2d 247 (2006).

⁴ *US Fidelity Ins & Guaranty Co v Mich Catastrophic Claims Ass’n (On Rehearing)*, 484 Mich 1, 13; 795 NW2d 101 (2009).

⁵ *Id.* at 13.

⁶ *Id.* at 12-13.

⁷ *McCahan v Brennan*, 492 Mich 730, 739; 822 NW2d 747 (2012).

1. THE TAX TRIBUNAL'S JURISDICTION

This case concerns the interplay between statutes that grant subject matter jurisdiction over property tax disputes to two distinct bodies: the Commission and the Tax Tribunal. The Tax Tribunal “has *exclusive* and original jurisdiction” over proceedings involving “direct review of a final decision, finding, ruling, determination, or order of an agency relating to assessment, valuation, rates, special assessments, allocation, or equalization, under the property tax laws of this state.”⁸ The Legislature has vested the Tax Tribunal with “jurisdiction over matters previously heard by the State Tax Commission *as an appellate body.*”⁹ Thus, the Tribunal has jurisdiction to hear appeals from the decisions of the Commission.¹⁰

2. THE COMMISSION'S JURISDICTION

Because the Legislature has granted the Tax Tribunal exclusive appellate jurisdiction over decisions related to assessment, the Commission no longer has power to hear such cases as an appellate body.¹¹ However, the Commission retains jurisdiction to hear and decide claims as an administrative agency that it had initially heard and investigated before the Tax Tribunal's creation.¹² Two statutes confer authority on the Commission to hear and decide claims as an agency: MCL 211.150(3) and MCL 211.154.¹³ MCL 211.150(3) provides that the Commission has a duty to

receive all complaints as to property liable to taxation that has not been assessed or that has been fraudulently or improperly assessed, and to investigate the same, and to take such proceedings as will correct the irregularity complained of, if any is found to exist.

MCL 211.154 provides that the commission may correct assessment values if it determines that “property subject taxation . . . has been incorrectly reported or omitted”

Thus, there are four areas in which the Commission has original subject matter jurisdiction to initially hear and investigate petitions: (1) property fraudulently assessed under MCL 211.150(3); (2) property improperly assessed, under MCL 211.150(3); (3) property omitted, under MCL 211.154; and (4) property improperly reported, under MCL 211.154.

⁸ MCL 205.731(a) (emphasis added).

⁹ *Superior Hotels, LLC v Mackinaw Township*, 282 Mich App 621, 632; 765 NW2d 31 (2009), quoting *Jefferson Schools v Detroit Edison Co*, 154 Mich App 390, 398; 397 NW2d 320 (1986) (quotation marks omitted). See *Emmet Co v State Tax Comm*, 397 Mich 550, 553-555; 244 NW2d 909 (1976).

¹⁰ *Superior Hotels*, 282 Mich App at 632.

¹¹ See *Jefferson Schools*, 154 Mich App at 398.

¹² *Id.*

¹³ *Superior Hotels*, 282 Mich App at 632-633.

C. APPLYING THE STATUTES

1. PROPERTY FRAUDENTLY ASSESSED UNDER MCL 211.150(3)

Autodie did not assert that the assessor in this case fraudulently assessed the property. Thus, this ground for jurisdiction does not apply.

2. PROPERTY IMPROPERLY ASSESSED UNDER MCL 211.150(3)

On appeal, Autodie asserts that the assessor's failure to use Form 4798 was an improper assessment under MCL 211.150(3). We decline to review this unpreserved issue.

One of the administrative functions that the Commission retains is "exercising general supervision over the assessing officers of this state" ¹⁴ A party may petition the Commission to initiate an investigation of alleged improper assessment. ¹⁵ The Commission has original jurisdiction over claims of improper assessment, and *initially* hears and investigates these claims. ¹⁶ But "[g]enerally, an issue is not properly preserved if it is not raised before, addressed, or decided by the circuit court or administrative tribunal." ¹⁷

Here, Autodie did not raise MCL 211.150(3) before the Commission. Autodie instead asserted only that the assessor omitted or improperly reported its property under MCL 211.154. Autodie did not ask the Commission to investigate whether an assessor's decision to reject Form 4798 when the taxpayer submitting the form is a wholly owned subsidiary of an automobile manufacturer. And the Commission did not investigate or render a decision.

Autodie raised this issue for the first time before the Tax Tribunal. However, the Tax Tribunal was acting as an appellate body reviewing the Commission's decision. The Tax Tribunal did not address Autodie's argument under MCL 211.150(3), likely because the Commission did not make any decision on that ground for it to review. We conclude that the Tax Tribunal properly declined to address this unpreserved issue.

Similarly, we decline to address this unpreserved issue on appeal. This Court will generally decline to address unpreserved issues unless "a miscarriage of justice will result from a failure to pass on them, or if the question is one of law and all the facts necessary for its resolution have been presented, or where necessary for a proper determination of the case." ¹⁸ While this is a question of law for which the necessary facts have been presented, to properly

¹⁴ *Richland Twp v State Tax Comm*, 210 Mich App 328, 335; 533 NW2d 369 (1995).

¹⁵ *Jefferson Schools*, 154 Mich App at 399.

¹⁶ *Id.* at 398-399.

¹⁷ *Polkton Charter Twp v Pellegrom*, 265 Mich App 88, 95; 693 NW2d 170 (2005).

¹⁸ *Heydon v MediaOne of Southeast Mich, Inc*, 275 Mich App 267, 278; 739 NW2d 373 (2007) (quotation marks and citations omitted).

address this issue, this Court would need to address issues that the parties did not raise or argue below, or on appeal. These include whether the Commission could make an assessment change to correct the allegedly improper assessment under MCL 211.150(3) and whether MCL 211.150(3) and MCL 205.731(a) conflict. We have neither the benefit of a decision by the Commission or the Tax Tribunal nor sufficient briefing by the parties. We therefore decline to review the issue.

3. PROPERTY OMITTED UNDER MCL 211.154

Autodie contends that the Tribunal improperly determined that this case does not concern omitted property. Grand Rapids contends that this suit did not involve an omission. We agree with Grand Rapids.

We conclude that this Court's decision in *Superior Hotels, LLC v Mackinaw Township* does not support Autodie's contention that the assessor's decision to reject Form 4798 resulted in omitted property. In *Superior Hotels*, the taxpayer began a new construction on its property.¹⁹ When the taxpayer was building the property, the assessor calculated the property's taxable value in 2001, 2002, and 2003 as though the construction was only half completed.²⁰ However, construction was completed in 1999.²¹ The State Tax Commission adjusted the property's value upward for the tax years.²² The Tax Tribunal ruled that the Commission did not have jurisdiction to do so under MCL 211.154 because it reasoned that the property was not incorrectly reported or omitted.²³

This Court reversed the Tax Tribunal's judgment.²⁴ We reasoned that the additional 50% of the construction that was completed constituted an addition.²⁵ Additions included omitted property that was discovered after the tax roll was complete, and construction that was not previously in existence.²⁶ The assessor failed to add the value of the addition to the assessment.²⁷ We concluded that the addition was therefore omitted property, and the Commission had jurisdiction to correct the assessment.²⁸

¹⁹ *Superior Hotels*, 282 Mich App at 624.

²⁰ *Id.* at 623-623.

²¹ *Id.* at 624.

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 624.

²⁵ *Id.* at 638.

²⁶ *Id.* at 636-637, quoting MCL 311.34d(1)(b).

²⁷ *Superior Hotels*, 282 Mich App at 639.

²⁸ *Id.* at 638-639.

We conclude that the facts in *Superior Hotels* are distinguishable from the facts in this case. In *Superior Hotels*, the assessor failed to count 50% of the taxpayer's property. Here, the assessor counted all Autodie's personal property. Autodie does not contend that the assessor's rejection of Form 4798 resulted in the assessor failing to count or consider any of its personal property.

Property is not omitted when the assessor determined the property's value.²⁹ Here, the assessor *did* determine the value of Autodie's personal property, even though it rejected Autodie's use of Form 4798. We conclude that Autodie's personal property was not omitted within the meaning of MCL 211.154.

4. PROPERTY IMPROPERLY REPORTED UNDER MCL 211.154

Autodie contends that its property was improperly reported under MCL 211.154 because the assessor improperly reported the property's type (disqualifying it as automotive manufacturing equipment) by rejecting Form 4798. Grand Rapids contends that an assessor does not improperly report property because the *taxpayer* reports the property, not the assessor. We agree with Grand Rapids. An assessor does not "report" under MCL 211.154, and thus the property was not improperly reported.

In sum, we agree with the Tax Tribunal's succinct statement, "[t]he taxpayer 'reports' and the taxing authority 'assesses.'"³⁰ We afford an agency's interpretation of the statutes that it executes respectful consideration, if its interpretation does not conflict with the plain language of the statute.³¹ We conclude that the Tax Tribunal's interpretation faithfully interprets the statute's language.

The statutory scheme for taxing personal property assigns distinct duties to taxpayers and assessors. Personal property located in Michigan is subject to property taxes.³² This property must be assessed annually.³³ The person who possesses or owns the property makes a statement of his or her personal property.³⁴ The assessor is not bound by the taxpayer's personal property statement.³⁵ The assessor determines the property to be assessed and "in estimating the value of

²⁹ See *Orion Township v State Tax Comm*, 195 Mich App 13, 18; 489 NW2d 120 (1992).

³⁰ *SSAB Hardtech, Inc v State Tax Comm*, 13 MTTR 164, 174 (Docket No. 288672, issued March 30, 2004).

³¹ *In re Complaint of Rovas Against SBC Mich*, 482 Mich 90, 103; 754 NW2d 259 (2008); *Superior Hotels*, 282 Mich App at 629-630.

³² MCL 211.1; *Ford Motor Co*, 475 Mich at 444.

³³ MCL 211.10(1); *Ford Motor Co*, 475 Mich at 444.

³⁴ MCL 211.19(2); *Ford Motor Co*, 475 Mich at 445.

³⁵ MCL 211.24(f); *Ford Motor Co*, 475 Mich at 446.

that property . . . shall exercise his or her best judgment.”³⁶ The assessor then makes and completes the assessment roll.³⁷

Autodie contends that the assessor’s action is a report. When the Legislature has not defined a statute’s terms, we may consider dictionary definitions to aid our interpretation.³⁸ Considering only the dictionary definition of the word report, Autodie’s interpretation is a plausible interpretation. The verb “report” has many definitions, several of which fit this context: “to relate, as the results of one’s observation or investigation,” “to give a formal account or statement of,” “to make known the presence, absence, condition, etc., of,” and “to relate, tell.”³⁹ It is plausible that an assessor might incorrectly observe, account, make known, or relate a taxpayer’s personal property. Thus, considering only the dictionary definition, an assessor’s action appears to be a report.

We have also considered whether *both* the taxpayer and the assessor may improperly report under MCL 211.154, and we conclude that this interpretation would not be consistent with the statute as a whole. The use of different terms within the same statute indicates that the terms have different meanings.⁴⁰

Here, the Legislature used the phrase “improperly reported” in MCL 211.154, but used the phrase “improperly assessed” in MCL 211.150(3). Because the Legislature used different terms, we conclude that improperly reporting and improperly assessing are distinctly different activities.

The difference between reporting, which is the activity of the taxpayer, and assessing, which is the activity of the assessor, becomes clear when we read and consider the statutory scheme as a whole.

When considering the statutory scheme as a whole, it is clear that the assessor’s duty is more specific than simply making a statement of the taxpayer’s personal property. The assessor must also estimate the property’s value and make and complete the assessment roll. To put it another way, the assessor does not simply give a formal account of the personal property or make it known, but also processes the information and applies his or her judgment to determine the property’s true cash value. In contrast, the taxpayer’s only duty is to make the property known by making a statement of the property. The taxpayer’s duty activity adheres much more closely to the common meaning of “report.”

³⁶ MCL 211.24(f).

³⁷ MCL 211.24(f). See *Ford Motor Co*, 475 Mich at 445.

³⁸ *Oakland Co Bd of Co Rd Comm v Mich Prop & Cas Guaranty Assn*, 456 Mich 590, 604; 575 NW2d 751 (1998).

³⁹ *Random House Webster’s College Dictionary* (2005), pp 1102-1103.

⁴⁰ *US Fidelity Ins & Guarantee Co*, 484 Mich at 14.

Considering the statute’s plain language, the statute as a whole, and the Legislature’s use of different terms, we conclude that the Legislature meant MCL 211.154 to apply to situations in which the *taxpayer* improperly reported its personal property on a personal property statement.

We also conclude that Autodie’s allegations did not involve improper reporting under MCL 211.154. Autodie did not contend that it—the taxpayer—incorrectly submitted its personal property statement. Autodie instead contended that the assessor improperly reported its personal property by rejecting the form on which it made that statement. But the assessor does not report: the assessor assesses. Because there is no indication that Autodie’s allegations involved an improper report, we conclude that the Commission properly determined that it lacked jurisdiction under MCL 211.154.

III. AUTODIE’S ADDITIONAL ISSUES

Autodie raises several additional arguments in its statement of issues presented. Autodie premises these arguments on its assertion that the Tax Tribunal improperly affirmed the Commission’s decision to reject Autodie’s petition. Because we have concluded that the Tax Tribunal properly affirmed the Commission’s decision, we do not reach these additional issues.

IV. CONCLUSION

We conclude that the Tax Tribunal properly affirmed the Commission’s decision to dismiss Autodie’s petition because it lacked subject matter jurisdiction. The assessor’s rejection of Form 4798 was not an issue of omitted or improperly reported property under MCL 211.154. It may have been an issue of improperly *assessed* property under MCL 211.150(3), but Autodie did not raise that issue or argue it before the Tax Commission, and we decline to review it. We do not reach the remainder of Autodie’s issues on appeal because the Tax Tribunal properly dismissed Autodie’s case on subject matter jurisdiction grounds.

We affirm.

/s/ E. Thomas Fitzgerald
/s/ Henry William Saad
/s/ William C. Whitbeck