



This Week in State Tax (TWIST)

February 6, 2023



to listen to the
podcast please
[click here.](#)

Michigan: Waste Hauler Does Not Qualify for Rolling Stock Exemption

The Michigan Tax Tribunal recently addressed whether a taxpayer, a provider of waste disposal services, such as trash collection, trash disposal, and recycling, was eligible for the rolling stock use tax exemption. Under Michigan law, the exemption applies to purchases of rolling stock (e.g., trucks, trailers and various parts affixed to trucks or trailers) used in interstate commerce and purchased, rented, or leased by an interstate fleet motor carrier. “Interstate fleet motor carrier” means a person engaged in the business of carrying persons or property, other than themselves, their employees, or their own property, for hire across state lines, whose fleet mileage was driven at least 10 percent outside of this state in the immediately preceding tax year. The taxpayer argued that it qualified for the exemption because it was hired to transport property (waste) and its commercial service agreements confirmed it never took title to the non-recyclable waste. Similarly, it did not take title to the recyclable waste until after it was processed by a third party. Because the taxpayer did not own the landfill or the recycling plant, it viewed itself as an interstate fleet motor carrier whose primary business purpose was transporting its customers’ waste across state lines. As such, the taxpayer asserted that the purchased trucks and equipment were “rolling stock” exempt from Michigan Use Tax.

The Tribunal agreed with the Department of Treasury that the taxpayer was not an “interstate fleet motor carrier” and therefore did not qualify for the exemption. In the Tribunal’s view, the taxpayer was not in the primary business of carrying property other than their own property for hire across state lines. Rather, the taxpayer’s primary business purpose was providing garbage and recycling disposal services and the taxpayer’s transportation of the waste and garbage was incidental to its disposal. The Tribunal also determined that although the taxpayer’s contracts stated that the waste remained the property of the owner, the reality was that when a customer hired the taxpayer to haul away garbage or waste, they were relinquishing control over that waste. Looking at the business as a whole, the Tribunal concluded that the taxpayer was hired to dispose of waste, and not merely transport it to a second location. As such, the taxpayer was not an interstate fleet motor carrier and was ineligible to claim the rolling stock exemption. Please contact [Ryan Hohenthauer](#) with questions on *Michiana Recycling & Disposal Services, Inc. v. Michigan Dep’t of Treasury*.



For more news and insights on tax developments, follow KPMG’s U.S. Tax practice on Twitter – [@KPMGUS_Tax](#).

kpmg.com/socialmedia



© 2023 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved. NDP418010-1E

The following information is not intended to be “written advice concerning one or more federal tax matters” subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230.

The information contained herein is of a general nature and based on authorities that are subject to change. Applicability of the information to specific situations should be determined through consultation with your tax adviser.