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STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

MEJENNIFER M. GRANHOLM
GOVERNOR

JAY B. RISING
STATE TREASURER

DATE: **March 5, 2004**

TO: **Assessors**
Equalization Directors

FROM: **Property Tax Division**

RE: **POSSIBLE IRREGULARITIES IN THE PERSONAL PROPERTY STATEMENTS FILED BY SOME MULTI-JURISDICTION TAXPAYERS.**

Michigan Complied Laws 211.19 requires taxpayers to report their assessable property using a written statement in a form prescribed by the State Tax Commission. It has come to the attention of the Property Tax Division that certain taxpayers reporting personal property to multiple Michigan jurisdictions may have failed to comply with the instructions for categorizing their assessable property, as contained in form L-4175 (also referred to as form 632), as contained in its schedules and/or as contained in the Commission's Bulletin 12 of 1999, Bulletin 1 of 2000 and Bulletin 3 of 2000. Other taxpayers may not be reporting their costs correctly.

The Instructions to form L-4175 require a taxpayer that is uncertain of the proper categorization of its property on the form to contact the assessor or the State Tax Commission for clarification. Page 15-1 of Chapter 15 of Volume III of the Assessors Manual, states that use of the recommended valuation multipliers results in "uniformity in the valuation of personal property statewide." The Manual provides that "where conditions warrant a change in general policy, because of special circumstances or regulations, the assessor and/or taxpayer shall seek the advice of the State Tax Commission." In the view of the Property Tax Division, all taxpayers, especially those filing in multiple jurisdictions, must consult with the State Tax Commission so that uniformity can be maintained. While a personal property taxpayer has the right to provide supplementary materials seeking to convince the assessor or the Commission that the valuation multipliers recommended by the Commission fail in a particular instance to correctly estimate true cash value, **the taxpayer has no discretion in the proper method of reporting**. It is the view of the Property Tax Division that a taxpayer's failure to report its assessable property in accordance with the instructions referred to above probably constitutes incorrect reporting pursuant to MCL 211.154.

Assessors are also alerted to the fact that they should **never** rely on a taxpayer's calculation of true cash value and should instead perform all of their own calculations. Assessors are further reminded that taxpayers must report on a State Tax Commission approved form and that **no assessor has the authority to approve any deviation in the taxpayer's method of reporting** (although professional judgment may be exercised in the determination of true cash value itself).

This letter addresses a number of reported instances where taxpayers may have failed to correctly categorize their assessable personal property in the completion of form L-4175 or its schedules. This letter only mentions reporting problems that have been brought to our attention during the course of preparing the 2004 personal property assessment roll. We have found that assessors sometimes fail to bring matters to our attention if they know we were previously aware of irregularity. The Property Tax Division has previously transmitted letters similar to this for assessment years 2002 and 2003. Those letters were dated March 8, 2002 and March 6, 2003, respectively. When we prepared the March 6, 2003 letter we attempted to identify reporting issues from the previous year that had not been corrected. The letter relating to the 2003 assessment year can be reviewed by accessing the **MAA Alert** section of the **Michigan Assessors Association** web site. We suggest that **you may wish to examine the renditions of the taxpayers mentioned in the March 6, 2003 letter, to assure that the taxpayer has corrected previously identified reporting problems.** The Property Tax Division, at the end of this memorandum, suggests several alternatives if a local assessor discovers incorrect reporting by a taxpayer. Assessors are urged to review both the personal property statements of the taxpayers mentioned below and the personal property statements of the taxpayers mentioned in last year's letter. We urge you to take appropriate action if incorrectly reported and/or omitted property is noted.

For the past several years it has been reported to the Property Tax Division that **Xerox Corporation** and **Xerox Lease Equipment LLC (both hereafter referred to as "Xerox")** may have reported digital copiers on Section F of the personal property statement rather than on Section D. The instructions to the personal property statement for the 2004 assessment year **specifically** provide in the instructions to Section D, that " copiers (including digital copiers)" are to be reported in Section D. The instructions to Section F further **specifically** direct the taxpayer "(not to) report digital copiers in (Section F) even if the equipment can also be used as a computer peripheral." Digital copier equipment is capable of being connected to a computer, in a manner that the equipment can be used as a computer printer and/or can be utilized as a facsimile machine. Such equipment must be reported in Section D, notwithstanding the fact that this equipment can be used as a computer printer and uses digital technology. The defining characteristic of a copier is its ability, in a practical way, to accomplish volume, freestanding, document reproduction in one piece of equipment that combines the functions of both scanning and reproduction of a document. The proper reporting of personal property on the personal property statement is determined by its indicated economic life rather than by the similarity or dissimilarity of its components to those of a computer. In October of 2002 the State Tax Commission considered and granted the request of the City of Warren that **Xerox's** 2001 personal property assessment be increased, based on the Commission's determinations that:

1. **Xerox** failed to correctly report the original historic cost of its assessable equipment on its 2001 personal property statement and thereby understated it costs; and,

2. **Xerox** reported Digital copiers as computers, rather than under Section D, as required by the instructions.

The Commission later referred the matter back to the parties to identify any computer equipment that may have been included in the **Xerox** reported costs. At this point, it cannot be determined what the final result of that identification process will be, for the reason that the Property Tax

Division Staff will be required to review the results to verify that any purported "computer" equipment is incapable of being used, in a practical way, to perform volume, freestanding, document reproduction in one piece of equipment that combines the functions of both scanning and reproduction of a document. Assessors must note that there has been no change in the definition of, or the reporting procedure for, copiers and that they may wish to investigate to determine whether items claimed to be computer equipment qualify as such. One possible method would be to select several items for inspection.

Further, it has been reported to the Property Tax Division that **Xerox** may have indicated in its 2004 cover letter that, except for the 2003 acquisitions, the cost reported is not the original acquisition cost new for the property. Rather, **Xerox** may have reported its older equipment using the cost that it reported for 2002, rather than original historic cost. If so, this method of reporting is not in accordance with the instructions of form L-4175. The State Tax Commission's recommended valuation multipliers are intended to be used with original acquisition cost and year new rather than a "rebooked" cost. The STC recommended valuation multipliers provide a reliable indication of true cash value only when applied to the original acquisition cost and year new. The assessor must, therefore, appraise such assets if costs and year new are not reported. Suggestions for making such an appraisal are contained on page 13 of the December, 2000 issue of the Michigan Assessor. The assessor might also consider attempting to derive the original cost new from the previous filings (ideally the first year of reporting of a particular item) of the taxpayer, since it appears that the taxpayer has recomputed its reported cost each assessment year (frequently at a lower amount).

There is a continuing problem with incorrect reporting by the owners of transmission pipeline assets. Assessors should review ALL of the submissions by pipeline companies to assure that the rights-of way and easements are reported and assessed. Generally, the Property Tax Division expects that there will be right-of–way acquisition costs associated with every part of a transmission pipeline. Further, idle, surplus and/or obsolete equipment status is not permitted for pipeline and related equipment assets. Any pipeline taxpayer's use of form 2698 in an attempt to claim such status is incorrect. The State Tax Commission has intentionally not provided a form for such reporting. Also several pipeline companies have, in the past, requested and computed a proposed true cash value based upon a claimed impairment of the asset. In several cases, the Commission has specifically recommended valuation allowances for pipelines. In other cases, economic allowances have been claimed without the approval of the Commission. In these cases, it is the view of the Property Tax Division that the method suggested by the taxpayer for calculating an economic obsolescence is probably contrary to accepted valuation theory, or is unwarranted, or both.

In previous years, it has been reported to the Property Tax Division that **Embridge Energy, LP, formerly Lakehead Pipeline Company, LP**, although it filed its pipeline assets using Table K of form 3589, modified the form in an unauthorized manner, and **changed the multipliers from those adopted** by the State Tax Commission to other, unapproved, multipliers different than those adopted by the Commission. It should be noted that the State Tax Commission, on February, 2004, authorized the application of a 12 % allowance for that portion of the **Embridge** pipeline lying east of Stockbridge and specifically denied any allowance for that portion of the pipeline lying west of Stockbridge. **This 12 % allowance represents a significant reduction in the allowance from last year.** Even for those portions lying east of Stockbridge, the taxpayer has no authority to incorporate the allowance into the Table K multipliers. **At this time, we have received no reports**

of incorrect reporting by this taxpayer in 2004, but the Property Tax Division reminds assessors that they should ascertain whether an allowance greater than 12 % has been given. Any unauthorized change in the form, and/or the use of a form L-4175 that does not bear a current State Tax Commission approval date, results in a failure to file on a State Tax Commission approved form, as required by MCL 211.19.

It has been reported to the Property Tax Division that **several wireless (cellular) telephone companies** may still be reporting all or part of their costs incorrectly. Specific instances of apparent incorrect reporting are detailed later in this memorandum but assessors should examine all cellular company renditions to assure compliance. The proper categorization of cellular tower site assets is set forth in STC Bulletin 3 of 2000. Unless property at the site is capable of being used to accomplish general data processing procedures (in a manner such that it could be practically converted to another non-communications application) it is not reported under Section F of the form L-4175. This is the case even if the equipment is communications equipment, switching equipment, transmitting equipment and/or receiving equipment that is "computerized". The Property Tax Division does not normally expect to find any significant costs reported on Section F of form L-4175 for a cellular site. In particular, the Property Tax Division expects to find the greater portion of the total (non-tower) costs for the site reported on Section D of form L-4175.

The Property Tax Division is aware of arguments of the representatives of the wireless telephone companies that their communications equipment is over-valued by the use of the Table D multipliers. The Property Tax Division does not, at this time, have any information from which it can conclude that these arguments have merit. The Division's investigation has shown that many of the assets used at cellular sites do not seem to exhibit the high rate of technological change claimed by the wireless companies. Further, the Division has not been able to determine that there exists a high rate of disposal for even the items mentioned by the representatives as having a shorter economic life. Without a detailed, objective and comprehensive study of all the wireless assets that are valued by Table D, the Property Tax Division cannot conclude that the assets, as a group, are overvalued. The Property Tax Division does not believe that a case can be made for overvaluation of the cellular site assets if that case is based on only a selection of some of the assets. Similarity of appearance of components to computer equipment does not result in an entitlement to report in Section F. Only assets having an economic life similar to that of computer equipment should be valued using the Table F multipliers. The staff of the Property Tax Division has no information to indicate that the economic life of cellular site equipment is similar to that of computer equipment. If all the data needed for a study is made available, the Property Tax Division will recommend to the State Tax Commission that further analysis be undertaken.

Freestanding communications towers must be reported on Section N of form L-4175. Beginning in the 2003 assessment year, these towers, if they are located on leased land, are assessed separately to the tower owner on the real property roll, pursuant to P.A. 415 of 2000. The recommended valuation procedure for most freestanding communications towers is set forth in Bulletin 3 of 2000 and is updated in Bulletin 13 of 2003. Assessors should take care to assure neither omission nor double assessment of freestanding communications towers. Freestanding communications towers are valued using real property valuation principles and do not qualify for idle or obsolete and surplus treatment or for a 50% construction in progress allowance. Finally, a cellular company that continues to provide analog cellular service must continue to report the cost of its analog equipment, even if it has also installed digital equipment.

A number of assessors have reported to the Property Tax Division that the acquisition costs disclosed on the cellular site owner's personal property statement may not include many of the costs that it may have incurred and booked for financial accounting purposes. Frequently these costs amount to one hundred thousand dollars, or often, significantly more. All costs associated with the equipment located at a cellular tower site must be reported, including, but not limited to, site preparation, the foundation, the design and construction engineering and the expense of installation. See State Tax Commission Bulletins 1 of 1999 and 3 of 2000.

It has been reported to the Property Tax Division that **AT & T Wireless PCS LLC** may have reported most of its cellular tower site assets in Section F of form L- 4175 rather than in Section D as the Property Tax Division would expect.

It has been reported to the Property Tax Division that **Detroit SMSA LP,** that **Verizon Wireless** and that **Sprint Spectrum LP** may have reported costs of their cellular tower site assets and/or the costs of the towers themselves on a summary, one sheet, rendition that does not report costs by acquisition year, that is not a State Tax Commission approved form, and that is presented in a manner such that it is unclear whether the equipment at the site has been fully reported. These renditions should be examined carefully to assure that all costs, including equipment costs, have been reported, to assure that historic cost and acquisition year new has been reported (rather than a rebooked cost), and to assure that most of the equipment has been reported in Section F of form L-4175 rather than in Section D. Any summary, undisclosed calculation of true cash value should not be accepted. Instead, the assessor should conduct an independent determination of value for the assets.

It has been reported to the Property Tax Division that **IPCS, Inc.**, that **IPCS Wireless, Inc**. and that **IPCS Equipment, Inc.** (collectively the Sprint PCS affiliate in the Midwest) may have reported acquisition costs that reflect an impairment taken for accounting purposes. If this is the case, such a reporting methodology represents an incorrect reporting practice arising from the fact that costs should not be depreciated or otherwise adjusted before inclusion on the from L-4175. In this case, the taxpayer's justification is the poor business results experienced by the tower's owner. As stated previously, although the taxpayer can urge a lower value for the assets, it has no discretion in its method of reporting.

The Property Tax Division has received information that indicates that several independent owners of communications towers have urged that "rebooked" costs should be used in valuing their towers and/or that the valuation multipliers recommended by the State Tax Commission should not be used. The Division has also received information that indicates that allocated costs derived from bulk purchases of hundreds (or thousands) of towers have been reported as acquisition cost new. Further, it appears that the allocation process may be flawed by the fact that costs, such as entrepreneurial profit, construction supervision and management, the overlay of administrative costs and the unusual expenses associated with constructing on certain demanding sites, may not have been considered in making the allocation. If any, or all, of these deficiencies exist, then the cost reporting methodology represents an incorrect reporting practice, arising from the fact that costs should not be depreciated or otherwise adjusted before inclusion on the Form L-4175 and must include all costs necessary to make the asset available for service. See Bulletin 1 of 1999. Apparently, the taxpayers' justification for their positions in these cases is the expectation of poor

business results in the future, the anticipation of technological change, the poor market for towers in the used asset market, and the limited term of the lease agreements with the wireless companies. **American Tower**, in particular, has asserted these arguments. However, in the opinion of the Property Tax Division, arguments of the taxpayer are flawed. While it may be that some individual towers suffer an impairment based on future business prospects, the Division does not believe that any communication tower can be valued simply by setting the value at the price at which other towers, perhaps the poor performing towers, are sold, or by simply making a pro rata allocation. The Property Tax Division believes that the most reliable method of valuing communications towers is to calculate reproduction cost and then apply depreciation and obsolescence. The Commission's recommended valuation methodology is based on this approach. As indicated in Bulletin 3 of 2000, if there are factors that result in excess functional and/or economic obsolescence, then such factors should also be considered by the assessor, but only when actually observed, not on a speculative basis. The Property Tax Division believes that each tower is a structure located on real property and must be treated as a unique asset. In any case, as stated previously, although the taxpayer can urge a lower value for the assets, it has no discretion in its method of reporting its costs.

It appears at this point that the assets of **AT & T Global Network Services**, at internet provider, which were reported to local assessors for the 2003 roll, are now integrated into an entity that is assessed by the State of Michigan, rather than by local assessors.

The Property Tax Division has received a copy of a letter from the owner of pay telephones (it happens to be Cincinnati Bell Public Communications, Inc.), claiming the existence of a decline in the industry which, in turn, has resulted in a write-down of booked costs and the existence of economic obsolescence. The Property Tax Division has no opinion on the merits of this claim. However, the Division does wish to use the opportunity the letter presents to remind assessors that the State Tax Commission valuation multipliers cannot be applied to rebooked costs to determine true cash value. Instead, the property must be appraised. Suggestions for making such an appraisal are contained on page 13 of the December, 2000 issue of the Michigan Assessor. If the multipliers were used in conjunction with rebooked costs, the result would generally be an incorrect indication of value, frequently an under-valuation of the property.

It has been reported to the Property Tax Division that **K-Mart Corporation** may have reported acquisition costs that reflect a revaluation of the assets as the result of K-Mart's bankruptcy proceeding (commonly referred to a "fresh start" accounting and referred to as a "rebooked" cost in the instructions to form L-4175). The reporting of costs in this manner is specifically disapproved by the instructions to form L-4175. The taxpayer's letter to assessors may imply that the reporting of such costs to assessors is required by the Bankruptcy Court. The Property Tax Division is not aware of such a requirement, or of any authority of the United States Bankruptcy Court to order a method of reporting for personal property tax reporting purposes after a discharged from bankruptcy has occurred. Even if such an authority exists, such costs cannot be used in conjunction with the State Tax Commission's valuation multipliers, to obtain an indication of true cash value. The Commission's valuation multipliers are intended to be used with cost new. If historic costs and acquisition years are not used, then the property must be appraised. Suggestions for making such an appraisal are contained on page 13 of the December, 2000 issue of the Michigan Assessor.

It has been reported to the Property Tax Division that **Millenium Digital Media** may have failed to file its 2004 personal property rendition on a State Tax Commission approved form. It appears that this is of particular concern for the reason that the rendition contains both a purported indication of true cash value based on use of the Cable Television multipliers **and** one based on a novel valuation method that suggests the use of the Table F "computer" multipliers. Assessors should review the rendition to assure that they have not mistakenly used a computed true cash value different than the one that they intended to use.

The Property Tax Division has also received reports that some of the owners of electric generating plants may not be including the indirect costs of the electric generating equipment in their reports of real and personal property (including nuclear fuel) to local assessing units. Electric generating equipment includes improvements to land, structures, reactor buildings, reactor plant equipment, reservoirs, dams, waterways, boiler plant equipment, heat recovery steam generators, turbogenerators, water wheels, turbines, generators, and accessory electric equipment. Reportable indirect costs are described in the State Tax Commission's Bulletin 1 of 1999, Self-Constructed Assets. The Property Tax Division is aware that some companies have not included the allowance for funds used during construction and other indirect costs in the original cost of the equipment that was reported. There have been instances where the taxpayer identified these costs as excludable Miscellaneous Construction Expenditures (MCE). These costs should be reported as part of the original costs of the property being reported. The Utilities Valuation Section of the Property Tax Division also suggests that assessors having generating plants should obtain from the taxpayers the costs associated with, and the certificate numbers of, Air and Water Pollution Control Certificates so that the value of the exempt facilities can be determined and excluded from the true cash value. Finally, the State Tax Commission has approved Form 3991 for Gas Turbine and Diesel Generator Plants, Form 4070 for Hydroelectric Plants and Form 4094 for Steam Plants. Taxpayers should be reporting on these forms, as appropriate, and the Property Tax Division believes that failure to use these forms constitutes incorrect reporting within the meaning of MCL 211.154. Contact David Berquist at berquistd@michigan.gov or (517) 373-3535 if you have questions.

Several assessors have called to report that apartment complexes that own satellite television distribution systems are reporting these assets as cable television system assets using Form 3589. This is incorrect. Only regulated cable television providers should be reporting on form 3589. Owners of private satellite television receiving systems should report the assets on the appropriate Sections of form L-4175, generally on page 2.

The Property Tax Division has also identified several other concerns. BS&A Software has informed the Property Tax Division that utility right-of-way costs must be added as a "Miscellaneous Adjustment" in its Equalizer software. The Property Tax Division reminds assessors that utility rights-of way are valued at acquisition cost, and must be included as part of the assessment. Assessors are also reminded that the new procedure for calculating Headlee Additions and Losses, as authorized in STC Bulletin 19 of 2002, **does not apply to the calculation of capped value** or to equalization new and loss. These latter procedures have not changed. The Property Tax Division has received reports of dramatic, and unjustified, reductions in taxable value caused by using the Headlee Losses and Additions to compute capped value. The proper procedure for calculating capped value for personal property is set forth in STC Bulletin 1 of 2000. Generally the Property Tax Division does not expect that, for most personal property assessments, the Taxable Value will be lower than the State Equalized Value.

The Property Tax Division requests that you inform local assessors regarding these reporting issues as soon as possible, so that any necessary corrective action can be taken. Variations from the required reporting format must be treated as a serious matter. If the assessor does not receive notice of the issues in this letter in time to correct the assessment roll, the Property Tax Division asks that the assessor submit the matter to the Board of Review for its consideration. If necessary, a petition for omitted and/or incorrectly reported property should be submitted to the State Tax Commission, pursuant to MCL 211.154. Assessors are also encouraged to bring matters of incorrect reporting to the attention of the State Tax Commission at their earliest opportunity. You may do so by calling Timothy Schnelle at (517) 373-6262.