



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

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**BULLETIN 20 of 2013  
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BOARD OF REVIEW**

**TO: Boards of Review and Assessing Officers**

**FROM: State Tax Commission (STC)**

**RE: 2014 BOARD OF REVIEW**

This Bulletin contains information that Boards of Review need to be aware of for the 2014 assessment year. In 2013, the State Tax Commission updated a Question and Answer Document regarding the statutory obligations for Boards of Review. The STC asks that all Boards of Review carefully review this document in order to fully understand their statutory obligations.

**1) Qualified Errors:**

The State Tax Commission continues to note a number of July and December Boards of Review making changes that are not allowed by the statute. **Boards of Review and assessors are cautioned to take great care to ensure that any changes made by the July or December Board meet the requirements of MCL 211.53b.**

MCL 211.53b provides that the July or December Boards of Review can correct "qualified errors" for the current year and one prior year, unless the specifically addressed by the statute.

A correction under subsection (6) regarding Principal Residence Exemptions may be made for the year in which the appeal was filed and the three immediately preceding years.

A correction under subsection (8) that approves a qualified personal property exemption contained in MCL 211.9o for small business taxpayers may be made for the year in which the appeal was filed and the immediately preceding three tax years. Corrections that approve an exemption under MCL 211.9m or 211.9n, related to personal property exemptions may be made only for the year in which the appeal was filed.

Regarding MCL 211.27a(4); if the taxable value of property is adjusted and the assessor determines that there had not been a transfer of ownership, the taxable value of the property shall be adjusted for the current year and for the three immediately preceding calendar years. An adjustment under this subsection shall be considered the correction of a clerical error.

Qualified errors are defined in the act as:

- A clerical error relative to the correct assessment figures, the rate of taxation, or the mathematical computation relating to the assessing of taxes.
- A mutual mistake of fact.
- An adjustment under section 27a(4) – taxable value or an exemption under section 7hh(3)(b)– qualified start-up business exemption.
- An error of measurement or calculation of the physical dimensions or components of the real property being assessed.
- An error of omission or inclusion of a part of the real property being assessed.
- An error regarding the correct taxable status of the real property being assessed.
- An error made by the taxpayer in preparing the statement of assessable personal property under section 19.
- An error made in the denial of a claim of exemption for personal property under section 9m, 9n or 9o.

“Clerical errors’ and ‘mutual mistakes of fact’ are defined by the courts as follows:

**Clerical Error:** *International Place Apartments v Ypsilanti Township* 1996 Mich App. 79. On March 29, 1996 the Michigan Court of Appeals clarified the meaning of the term "clerical error" found in MCL 211.53b which authorizes the correction of a clerical error or mutual mistake of fact by the July and December Boards of Review. The Court of Appeals states that the July and December Boards of Review are allowed to correct clerical errors of a typographical or transpositional nature. The July and December Boards of Review are NOT allowed to revalue or reappraise property when the reason for the action is that the assessor did not originally consider all relevant information. The Court of Appeals decided that a ‘clerical error’, “...simply does not include cases where the assessor fails to consider all the relevant data, even if the root of the assessor’s error may have been a ministerial mistake such as the filing of a document.”

**Mutual Mistake of Fact:** On March 31, 2010, the Michigan Supreme Court clarified the meaning of the term “mutual mistake of fact” found in 211.53a which authorizes the recovery of excess payments not made under protest. The Court previously defined “mutual mistake of fact” in *Ford Motor Co v City of Woodhaven*, 475 Mich 425; 716 NW2d 247 (2006) as follows: “a ‘mutual mistake of fact’ is “an erroneous belief, which is shared and relied on by both parties, about a material fact that affects the substance of the transaction.” To qualify under the statute, the “mutual mistake of fact” must be one that occurs only between the assessor and the taxpayer. The mutual mistake cannot be imputed to the assessor on an agency theory unless the assessor makes a mistake in performing his/her duties in spreading and assessing the tax.

## 2) Personal Property Tax

Boards of Review are encouraged to review Bulletins 11 and 12 of 2013 regarding changes to the personal property tax and updated requirements of the Boards of Review.

### **3) Documentation of Board of Review Changes:**

The State Tax Commission requires that all Boards of Review maintain appropriate documentation of their decisions including; minutes, a copy of the form 4035, form 4035a whenever the Board of Review makes a change that causes the Taxable Value to change and a Board of Review Action Report. Form 4035 must include a detailed reason why the Board made their determination. **Assessors please note, you are not required to file the Board of Review log or Action Report with the State Tax Commission.**

Minutes must include all of the following items:

- Day, time and place of meetings.
- Members present, members absent, name of elected chairperson and notation of any correspondence received.
- A log that identifies the hearing date, the petition number, the petitioner's name, the parcel number, the type of appearance, type of appeal and decision of the board of review.
- Record daily the actual hours the Board was in session, and time of daily adjournments. Record the closing date and time of the final annual session.

### **4) Inflation Rate used in the 2014 Capped Value Formula:**

MCL 211.34d defines the calculation for the Inflation Rate Multiplier. The statute states in part:

(l) "Inflation rate" means the ratio of the general price level for the state fiscal year ending in the calendar year immediately preceding the current year divided by the general price level for the state fiscal year ending in the calendar year before the year immediately preceding the current year.

Further, (f) states "General price level" means the annual average of the 12 monthly values for the United States consumer price index for all urban consumers as defined and officially reported by the United States department of labor, bureau of labor statistics.

Based on this statutory requirement, the calculation for 2014 is as follows:

- 1.The 12 monthly values for October 2011 through September 2012 are averaged.
- 2.The 12 monthly values for October 2012 through September 2013 are averaged.
- 3.The ratio is calculated by dividing the average of column 2 by the average of column 1.

The specific numbers from the US Department of Labor, Bureau of Labor Statistics are as follows:

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Oct-11	226.421	Oct-12	231.317
Nov-11	226.230	Nov-12	230.221
Dec-11	225.672	Dec-12	229.601
Jan-12	226.665	Jan-13	230.280
Feb-12	227.663	Feb-13	232.166
Mar-12	229.392	Mar-13	232.773
Apr-12	230.085	Apr-13	232.531
May-12	229.815	May-13	232.945
Jun-12	229.478	Jun-13	233.504
Jul-12	229.104	Jul-13	233.596
Aug-12	230.379	Aug-13	233.877
Sep-12	231.407	Sep-13	234.149
<b>Average</b>	<b>228.526</b>		<b>232.247</b>

Ratio	<b>1.016</b>
Change	<b>1.6%</b>

**Local units cannot develop or adopt or use an inflation rate multiplier other than 1.016 in 2014. It is not acceptable for local units to indicate to taxpayers that you do not know how the multiplier is developed.**

### **5) County Multipliers:**

It has come to the attention of the State Tax Commission that some Boards of Review believe it is appropriate to develop their own County Multipliers. It is not acceptable for a local unit or Board of Review to develop County Multipliers. The multipliers developed by the State Tax Commission must be used.

### **6) Alternate Start Dates for the July or December Boards of Review:**

Public Act 122 of 2008 amended MCL 211.53b to provide that July or December Boards of Review may have an alternate start date. The act requires that the governing body of the City or Township adopt by ordinance or resolution alternate start dates that must conform to the following: For the July Board, an alternate date during the week of the 3<sup>rd</sup> Monday in July. For the December Board, an alternate date during the week of the 2<sup>nd</sup> Monday in December.

### **7) Poverty Exemptions:**

The State Tax Commission in May of 2012 issued Bulletin 5 of 2012 regarding Poverty Exemptions. This Bulletin reflects updates due to recent court decisions and legislative changes. Specifically:

The Michigan Court of Appeals ruled in *Ferrero v Township of Walton* (302221) that monies received pursuant to MCL 206.520 (homestead property tax credit) is a rebate of property taxes and is not income for purposes of MCL 211.7u.

Statutory changes to allow an affidavit to be filed for all persons residing in the residence who were not required to file federal or state income tax returns in the current year or in the immediately preceding year. This does include the individual filing for the exemptions.

Board of Review members are encouraged to review Bulletin 5 of 2012 prior to the start of March Board of Review meetings.

### **8) Property Classification and Transfer of Ownership:**

Boards of Review are encouraged to review the updated Property Classification and Transfer of Ownership Q and A Documents available on the State Tax Commission website.