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DATE: October 25, 2005

TO: Assessors and Equalization Directors

FROM: State Tax Commission (STC)

SUBJECT: Following Sales

It has come to the attention of the State Tax Commission that some assessors are engaging in a practice that the STC considers to be the illegal practice of "following sales". The STC defines "following sales" in STC Bulletin 19 of 1997 as follows:

"Following sales" is described in the State Tax Commission Assessor's Manual as the practice of ignoring the assessments of properties which HAVE NOT RECENTLY SOLD while making significant changes to the assessments of properties which HAVE RECENTLY SOLD.

"Following sales" can also be described as the practice of assessing properties which HAVE RECENTLY SOLD significantly differently from properties which HAVE NOT RECENTLY SOLD.

The practice of concern to the Commission is the practice of singling out sale properties for inspection to determine whether there is some error in the assessment or taxable value, such as omitted property, while disregarding properties which have not sold.

Examining and reviewing all properties in an assessing jurisdiction for discrepancies, including "omitted property", is a good assessing practice. The examination and review of properties, with a bias toward sold properties, is "following sales", and is not a good assessing practice. It is not acceptable to single out low-ratio sale properties, high-ratio sale properties, or sale properties in general and examine them for omitted property or any other characteristic needing adjustment (e.g. - class of construction, depreciation, or economic condition factor) while disregarding properties which have not sold. This practice is a form of the illegal practice of 'following sales'.

Some assessors point to the following quote from STC Bulletin 19 of 1997 as justification for inspecting sale properties:

"Following sales" is both UNCONSTITUTIONAL AND ILLEGAL. An exception would occur where an assessor inspects a property after a transfer of ownership and discovers that there is omitted property such as a garage which was built in the past but was not included in the assessment and was not noted on the assessment card. In this case, the assessor must include the omitted property in the assessed value for the year following the transfer of ownership.

This excerpt from STC Bulletin 19 of 1997 intends that, in the normal course of business, when an assessing officer discovers omitted property on a property, the omitted property must be included in the following year's assessment and, to the extent required by MCL 211.34d (1)(b)(i), in the capped value. This practice is not "following sales" because there is no distinction between the treatment of properties that experienced a "transfer of ownership" and those that did not. In other words, when reviewing neighborhoods, it is necessary to fix errors on parcels that have coincidentally sold. However, if an assessor uses the fact that a parcel has sold (high-ratio or low-ratio sale) to trigger a review of the parcel, the assessor is guilty of "following sales".

MCL 211.27(5) reads, in part, as follows:

In determining the true cash value of the transferred property, an assessing officer shall assess that property using the same valuation method used to value all other property of that same classification in the assessing jurisdiction."

The practice of using the sale or transfer of properties as a criterion for the review or examination of parcels likely results in differing values, and clearly results in a different "valuation method", for transferred properties, which violates the statute. Additionally, this practice may result in a different level of assessment for transferred properties, which violates the uniformity requirement of Article IX, Section 3 of the Constitution of Michigan.

Important Note: If a property that sold in a prior year was subject to the exemption for normal repairs, replacements and maintenance provided by MCL 211.27(2), the value of the normal repairs, replacements and maintenance made by the seller must be returned to the assessment roll as an addition. The amount of the addition shall be 50% of the true cash value of the previously exempt property. Please see STC Bulletin 17 of 1995 for more information about the exemption provided by MCL 211.27(2). **This requirement to return the value of normal repairs, replacements and maintenance to the assessment roll after a sale does not allow the assessor to single out sale properties for inspection to determine whether there is omitted property while disregarding properties which have not sold.**

Policy of the State Tax Commission regarding the practice of "Following Sales":

The State Tax Commission, at its meeting on October 25, 2005 adopted the following policy regarding the practice of "following sales": If the State Tax Commission becomes aware that an assessor is "following sales", the Commission will notify the assessor and require that the assessor indicate in writing his/her understanding of the practice of "following sales" and commit in writing not to engage in that practice. If the State Tax Commission later becomes aware that the same assessor is continuing to engage in the practice of "following sales", the Commission will refer the matter to the State Assessors Board for its consideration as to whether action is warranted under its authority to revoke an assessor's certification. If the situation warrants it, the Commission may go directly to the second step outlined in this policy when it becomes aware that an assessor is "following sales".