



STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

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**BULLETIN NO. 11 of 2012  
CHANGES FOR 2013  
October 30, 2012**

TO: Assessors  
Equalization Directors

FROM: State Tax Commission (STC)

RE: **PROCEDURAL CHANGES FOR THE 2013 ASSESSMENT YEAR**

The purpose of this Bulletin to provide information on statutory changes or procedural changes for the 2013 assessment year.

**A. Inflation Rate Used in the 2013 Capped Value Formula.**

The inflation rate, expressed as a multiplier, to be used in the 2013 Capped Value formula is 1.024. The 2013 Capped Value Formula is as follows:

$$\mathbf{2013\ CAPPED\ VALUE = (2012\ TAXABLE\ VALUE - LOSSES) \times 1.024 + ADDITIONS}$$

The preceding formula does not include 1.05 because the inflation rate multiplier of 1.024 is lower than 1.05.

**B. Federal Poverty Guidelines Used in the Determination of Poverty Exemptions for 2013.**

MCL 211.7u, which deals with poverty exemptions, was significantly altered by PA 390 of 1994 and was further amended by PA 620 of 2002.

Local governing bodies are required to adopt guidelines that set income levels for their poverty exemption guidelines and those income levels **shall not be set lower** by a city or township than the federal poverty guidelines updated annually by the U.S. Department of Health and Human Services. This means, for example, that the income level for a household of 3 persons **shall not** be set lower than \$19,090 which is the amount shown on the following chart for a family of 3 persons. The income level for a family of 3 persons may be set higher than \$19,090. Following are the federal poverty guidelines for use in setting poverty exemption guidelines for 2013 assessments.

Size of Family Unit	Poverty Guidelines
1	\$ 11,170
2	\$ 15,130
3	\$ 19,090
4	\$ 23,050
5	\$ 27,010
6	\$ 30,970
7	\$ 34,930
8	\$ 38,890
For each additional person	\$3,960

**Note:** PA 390 of 1994 states that the poverty exemption guidelines established by the governing body of the local assessing unit shall also include an asset level test. An asset test means the amount of cash, fixed assets or other property that could be used, or converted to cash for use in the payment of property taxes. The asset test should calculate a maximum amount permitted and all other assets above that amount should be considered as available. Please see STC Bulletin 5 of 2012 for more information on poverty exemptions.

**Note:** P.A. 135 of 2012 changed the requirements for filing documentation in support of a poverty exemption to allow an affidavit (Treasury Form 4988) 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 owner of the property who is filing for the exemption.

### **C. Multipliers for the Valuation of Free-Standing Communication Towers.**

The State Tax Commission recommends that, subject to the qualifications stated below, communication towers should be valued for the 2013 assessment year using the table of **historical** (original cost when the tower was new) cost valuation multipliers set forth in the multiplier table below. These multipliers have been developed in a manner such that they account for the typical depreciation which is expected for a tower of the indicated age and also account for changes in the cost of the tower and erecting it that have occurred since the time the tower was constructed. On this basis, the multiplier table which is shown below is intended to predict the current true cash value of a tower of the vintage year in which the tower was constructed. An important component in determining the current value of a tower built in a given year is the change in the cost of materials, particularly changes in the cost of steel, between the time of construction and the current Tax Day. Since the table considers both depreciation and changes in construction costs, and since changes in construction cost have not always occurred at a constant rate, the multiplier table does not always evidence a decline in the rate by which the historical cost must be adjusted in order to determine current value. This effect is expected and can be better understood if one remembers that the multiplier table is not a depreciation table and the multipliers are applied to the historic cost of construction, not to the current replacement cost.

Communication towers are real property. When a communication tower is built on land owned by the owner of the tower, the tower is valued and assessed as a real property improvement to the land on which it is located. When a communication tower is built on leased land, the owner is required to report the original construction cost of the tower on Section N of its personal property statement, in the same way that it would report any other structure on leased land. Although the construction costs are reported on the personal property statement, a tower on leased land is not assessed on the personal property assessment roll. Instead, the assessor is required to establish a separate real property assessment for a tower located on leased land, using the procedures set forth in State Tax Commission Bulletin 8 of 2002 and State Tax Commission Bulletin 1 of 2003.

Please note: Sometimes communication towers are located on land that is exempt because the land is owned by an exempt entity such as a municipality or is otherwise exempt. When this occurs, the tower must be assessed to the tower owner on the real property roll as a structure on leased land. IN ADDITION, the assessor must also consider whether the land should also be assessed to the tower owner as provided by MCL 211.181.

There may be situations where the value of a particular freestanding communication tower is more or less than the figure developed by using this table. This could be due to unusual depreciation (physical deterioration and/or obsolescence) or an unusual enhancement in value caused by supply and demand factors in a particular area.

The State Tax Commission has developed STC Form 3594 for reporting the costs of freestanding communication towers. This form was developed for the specific purpose of gathering construction cost information for communication towers. The assessor may use this form to gather detailed information regarding the construction costs of communication towers. This cost information can then be used as a basis for valuation by multiplying the historic cost by the appropriate multiplier from the table located below.

Please note the following:

- The preferred method for valuing freestanding communication towers is using original cost new multiplied by the appropriate multiplier from the following table.
- In some cases historical/original cost may be unobtainable. Those cases may require using the Assessor's Manual cost new multiplied by the Assessor's Manual depreciation table multiplier.
- Do not apply the Assessor's Manual depreciation table multipliers to the historical/original cost of a tower.
- Do not apply the communication tower multipliers from the following table to the Manual cost new of a tower.

State Tax Commission Form 3594 is a real property statement and, as such, the taxpayer is not required to complete and submit the form to the assessor unless the taxpayer is specifically asked to do so. If a communication tower is located on leased land, the owner should already be reporting its original acquisition costs on Section N of the personal property statement (STC Form L-4175). If so, the assessor would only need to send STC Form 3594 if more detailed information regarding costs is needed. The assessor IS NOT REQUIRED TO SEND STC Form 3594 to tower owners each year.

The following table applies to both guyed and self-supporting communication towers.

**HISTORICAL (ORIGINAL) COST VALUATION MULTIPLIERS FOR USE IN  
 2013 ASSESSMENTS OF FREESTANDING COMMUNICATIONS TOWERS**

<b>YEAR OF CONSTRUCTION</b>	<b>MULTIPLIER</b>	<b>YEAR OF CONSTRUCTION</b>	<b>MULTIPLIER</b>
2012	0.97	1992	0.97
2011	0.96	1991	0.94
2010	0.92	1990	0.93
2009	0.91	1989	0.90
2008	0.92	1988	0.94
2007	0.93	1987	0.91
2006	0.95	1986	0.89
2005	0.98	1985	0.88
2004	1.05	1984	0.86
2003	1.04	1983	0.86
2002	1.03	1982	0.87
2001	0.99	1981	0.91
2000	1.00	1980	0.95
1999	0.99	1979	1.01
1998	0.99	1978	1.08
1997	0.98	1977	1.15
1996	0.98	1976	1.25
1995	0.98	1975	1.36
1994	0.97	1974	1.49
1993	0.97	1973 and prior	1.64

**D. Property Classification**

The State Tax Commission reminds assessors that classification is to be determined annually and is based upon the use of the property and not highest and best use of the property. The Commission is aware that some assessors are still classifying property according to highest

and best use and/or are not classifying property on an annual basis. The Commission asks that all assessors take the necessary steps to ensure that all real and personal property is properly classified according to MCL 211.34c.

### **E. Sales Studies**

Equalization study dates are as follows:

Two Year Study: October 1, two years prior through September 30, current year

Single Year Study: October 1, preceding year through September 30, current year

For 2012 studies for 2013 equalization the dates are as follows:

Two Year Study: October 1, 2010 through September 30, 2012

Single Year Study: October 1, 2011 through September 30, 2012

Note that the time period revisions apply to all equalization studies, that is: sales ratio studies, land value studies and economic condition factor studies for appraisals. Also note that the revised time period for two year studies applies to all real property classifications.

The Commission orders the use of 2012 single year sales studies for the 2013 starting base for the residential class for all local units. County Equalization Directors on behalf of their local units may request an exception to this order. In order to request an exception, Equalization Directors must present compelling evidence to support the use of a two year study. Requests for an exception should be directed to Kelli Sobel, State Tax Commission at P.O. Box 30471, Lansing, MI 48909 or via email at [sobelk2@michigan.gov](mailto:sobelk2@michigan.gov). **Requests for exceptions must be received by November 1, 2012.**

### **F. *Michigan Properties, LLC v Meridian Township and Toll Northville LP, et al v Northville Township*, Supreme Court Docket # 143085 (2012)**

Two separate appeals were consolidated for purposes of the decision, arising from the fact that both cases involved the authority of the March Board of Review and the Tax Tribunal, respectively, to change the Taxable Value for the current year which is being protested or appealed, in order to implement the correction of an incorrect entry of a Taxable Value that occurred in a previous assessment year. In other words, the question is whether the March Board of Review and the Tax Tribunal, even though they clearly have jurisdiction over the current year, have the authority to correct the current year Taxable Value to recognize that the starting point for the current year's Capped Value Formula (the prior year's Taxable Value) was incorrectly stated.

In the *Michigan Properties* case, the Township received a Transfer Affidavit in January relating to a sale that occurred in December, but mistakenly failed to uncap. When it discovered the error, it sought the advice of the Assessment and Certification Division of Treasury and was advised to calculate, but not enter, the correct Taxable Value and then have the next March Board of Review correct the Taxable Value for the year in which it was sitting, in order to recognize the uncapping, on a prospective basis only. This advice was based on the wording of MCL 211.29 and MCL 211.30. The Township followed Treasury's

advice and the Taxpayer appealed to the Tax Tribunal, claiming that the March Board did not have the authority to make the change in Taxable Value. The Tribunal rejected the Taxpayer's claim, the Court of Appeals reversed the MTT, and the Supreme Court reversed the Court of Appeals, finding that the March Board did have the authority to correct the current year's Taxable Value to recognize the uncapping event. Presumably, the March Board of Review can also make other "prospective" corrections in the determination of Taxable Value that are appropriate to make the current year's Taxable Value conform with the law. However, it does not appear that this authority extends beyond determining whether a given change in Taxable Value was correct at law.

In the *Toll Northville* case, the Taxpayer failed to protest and appeal the Taxable Value (the Capped Value Addition) in the year following infrastructure improvements, but did protest the Taxable Value to the following year's March Board. The Board of Review rejected the Taxpayer's request, finding that it did not have the authority to correct the current year's Taxable Value to recognize the removal of a prior year's Capped Value Addition. The Tribunal determined that it did not have the authority to change the current year's Taxable Value based on an error in determining Taxable Value for a prior year. The Court of Appeals affirmed, and the Supreme Court reversed, finding that "once its jurisdiction is properly invoked, (it) possesses the same powers and duties as those assigned to a March Board of Review."

Key issues include:

1. The Supreme Court determined that under the authority granted in Sections 29 and 30 of the General Property Tax Act, a city or township March Board of Review has the jurisdiction to correct the taxable value of the year in which it is sitting (but not the taxable value for any prior year) if it determines that the taxable value is incorrect arising from the failure to uncap the taxable value, a failure to apply a proper capped value addition or the failure to enter a capped value loss, that should have been recognized in a prior year and which affects the current year's taxable value.
2. The Supreme Court also determined that the Michigan Tax Tribunal, once it properly obtains jurisdiction over a given assessment year, has the same authority as the March Board of Review for that assessment year to correct the taxable value for the year in question.
3. It is the State Tax Commission's view that the holding of the Supreme Court is limited in its application to situations where the taxable value is incorrect arising from a failure to recognize a transfer of ownership that has occurred, a failure to recognize an addition that is authorized by MCL 211.34d(1)(b) or a failure to recognize a loss that is authorized by MCL 211.34d(1)(h).
4. It is the State Tax Commission's view that the holding of the Supreme Court does not permit the March Board of Review to consider or reconsider the correctness of the amount of an addition or loss that was entered in adjusting the taxable value for a previous assessment year. The Commission considers such matters to be valuation determinations, for which a timely March Board of Review protest and/or Tax Tribunal appeal was required.

5. If the March Board of Review exercises its authority, as confirmed by the Supreme Court, the proper calculation of the taxable value for the current year requires a determination of the correct taxable value for the year in which the transfer of ownership, addition or loss should have been recognized, followed by recalculation of the taxable value for any intervening year(s), so that the correct taxable value for the current year can be determined.
6. It is also the view of the State Tax Commission that the Supreme Court's holding does not apply to instances where it is determined that the taxable value was incorrectly increased pursuant to the provisions of MCL 211.27a(3). Instead, a mistaken increase in taxable value pursuant to MCL 211.27a(3) must be corrected pursuant to the procedure contained in MCL 211.27a(4).

### **G. Principal Residence Exemptions: PA 114 of 2012**

On May 1, 2012, Governor Snyder signed Public Act 114 of 2012 (2011 Senate Bill 349), which amended Section 211.7cc of Public Act 206 of 1893, the General Property Tax Act. The Act makes two significant changes: It establishes two deadlines by which a Principal Residence Exemption may be filed and it creates a new conditional rescission for "foreclosure entities." More information regarding these changes was emailed to assessors in May 2012 and can be found on the PRE website at [www.michigan.gov/taxes](http://www.michigan.gov/taxes) (not a live link).

### **H. Neighborhood Enterprise Zone Application Processing**

New procedures have been implemented regarding processing of Neighborhood Enterprise Zone (NEZ) applications under MCL 207.781. An NEZ certificate will be issued by the State Tax Commission after a review of the completed application and subsequently held in abeyance until the Section 10 requirements are met for a period of up to two years. A written request for a 1-year extension can be submitted to the Commission before the initial 2-year period has expired. If the Section 10 requirements are not met before the certificate expires, the property will no longer qualify for the NEZ tax exemption. If the Section 10 requirements are met before the expiration date, the Commission will assign the appropriate effective date and remove the certificate from abeyance. At that time, the property would be placed on the NEZ specific tax roll.

Section 10 includes the following requirements:

(1) Except as provided in subsections (2) and (3), the effective date of the neighborhood enterprise zone certificate is December 31 in the year in which the new facility or rehabilitated facility is substantially completed and, for a new facility, occupied by an owner as a principal residence, **as evidenced by the owner filing with the assessor of the local assessing unit all of the following:**

- (a) For a new facility, a certificate of occupancy.
- (b) For a rehabilitated facility, a certificate that the improvements meet minimum local building code standards issued by the local building inspector or other authorized officer or a certificate of occupancy if required by local building permits or building codes.

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(c) For a rehabilitated facility, documentation proving the cost requirements of section 2(k) are met.

(d) For a homestead facility or a new facility, an affidavit executed by an owner affirming that the homestead facility or new facility is occupied by an owner as a principal residence.