

TO:

State Tax Commission
Bulletin No. 12 of 1997
May 15, 1997

JULY AND DECEMBER BOARDS OF REVIEW

TO: All Assessing Officers

FROM: State Tax Commission (STC)

RE: **JULY AND DECEMBER BOARDS OF REVIEW:
INCLUDING NEW LEGISLATION AND A MICHIGAN COURT OF APPEALS CASE
WHICH HAVE OCCURRED SINCE 1995 AND WHICH AFFECT THE
ADMINISTRATION OF THE JULY AND DECEMBER BOARDS OF REVIEW**

The STC issued Bulletin No. 15 of 1995 on June 26, 1995. Most of that bulletin addressed the changes in the administration of the July and December Boards of Review caused by Act No. 74 of the Public Acts of 1995.

Since that bulletin, 1996 Public Act (PA) 476 has been enacted with an effective date of December 26, 1996. PA 476 of 1996 provides for a one time appeal at the 1997 July or December Board of Review to obtain the QUALIFIED AGRICULTURAL PROPERTY exemption for the year **1994**, provided specified conditions are met. PA 476 of 1996 also provides for an appeal to the July or December Board of Review by an owner of property whose HOMESTEAD exemption has been RESCINDED.

Also since STC Bulletin No. 15 of 1995, the Michigan Court of Appeals has handed down a decision which clarifies the meaning of the term "clerical error".

Finally, this bulletin contains a discussion about the responsibility of the July and December Boards of Review to consider whether their change in the PRIOR year's Taxable Value of a property will cause the CURRENT year's Taxable Value of that property to also change.

Because of the above mentioned litigation and legislative changes, the State Tax Commission needs to issue this bulletin (STC Bulletin No. 12 of 1997) which will address the topics mentioned above and will repeat and update those parts of STC Bulletin No. 15 of 1995 dealing with the duties and responsibilities of the July and December Boards of Review.

This bulletin, No. 12 of 1997, replaces those parts of STC Bulletin No. 15 of 1995 which pertain to the July and December Boards of Review.

Bulletin No. 12 is divided into parts A, B, C, and D.

- Section A is entitled "Changes in the Authority of the July and December Boards of Review Required by PA 476 of 1996."
- Section B is entitled "Clarification of the Meaning of the term "Clerical Error" by the Michigan Court of Appeals."
- Section C deals with the "Obligation of the July and December Boards of Review to Consider whether a Change in the Prior Year's Taxable Value will cause the Current Year's Taxable Value to Change."
- Section D is a "Repeat of Information contained in STC Bulletin No. 15 of 1995". Any new material in this Section is underlined.

IMPORTANT NOTE: Attached at the end of this bulletin is a subject index designed to assist the reader in locating topics of interest.

IMPORTANT NOTE: The July and December Boards of Review have no authority to make corrections to Special Assessment Rolls.

A. CHANGES IN THE AUTHORITY OF THE JULY AND DECEMBER BOARDS OF REVIEW REQUIRED BY PA 476 OF 1996.

1. One Time Appeal at the 1997 July or December Board of Review to Obtain the QUALIFIED AGRICULTURAL PROPERTY Exemption for the Year 1994.

PA 476 of 1996 amended section 7ee of the General Property Tax Act by adding new language which provides for a **one time** appeal at the 1997 July or December Board of Review to obtain the QUALIFIED AGRICULTURAL PROPERTY exemption for the year **1994**.

IMPORTANT NOTE: The law provides similar provisions to appeal the **1994 HOMESTEAD** exemption to the Michigan Department of Treasury, **NOT TO THE BOARD OF REVIEW**. For more information, please see page 4 of the memo from Floyd Schmitzer included with STC Bulletin No. 3 of 1997.

In order to receive the QUALIFIED AGRICULTURAL PROPERTY exemption for the year 1994, certain conditions required by PA 476 of 1996 must be met.

An owner of property who appeals to the 1997 July or December Board of Review to receive the 1994 Qualified Agricultural Property exemption must meet ALL of the following conditions in order to receive the exemption:

- a) The owner who appeals in 1997 in order to receive the 1994 Qualified Agricultural Property exemption must have owned the property continuously since May 1, 1994.
- b) The Michigan Tax Tribunal (MTT) has not assumed jurisdiction of or already decided a 1994 Qualified Agricultural Property Exemption appeal for this property. This means that a person who has already appealed to the MTT to receive the 1994 Qualified Agricultural Property exemption, cannot appeal again under the provisions of this new law. An appeal to the MTT of the 1994

ASSESSED VALUE or TAXABLE VALUE for the property does NOT prevent an appeal of the 1994 Qualified Agricultural Property Exemption to the 1997 July or December Board of Review.

- c) The property under appeal must have met all of the requirements to receive a Qualified Agricultural Property exemption in the years 1994, 1995, 1996, and 1997 and must have actually received the Qualified Agricultural Property exemption for the years 1995, 1996, and 1997. This means that a property cannot receive the exemption for 1994 from the 1997 July or December Board of Review unless the property has already received the exemption for the years 1995, 1996, and 1997. Please see STC Bulletin No. 4 of 1997 for an explanation of the eligibility requirements for receiving the Qualified Agricultural Property exemption.

An owner of property that meets all of the requirements above shall be required to file a completed Farmland Exemption Affidavit (STC Form T-1063) with the July or December Board of Review in order to receive the exemption. A copy of STC Form T-1063 is included with STC Bulletin No. 4 of 1997.

If a Qualified Agricultural Property exemption is granted for 1994, the county treasurer having possession of the tax roll shall correct the tax roll to reflect the exemption and issue a refund if the 1994 taxes have already been paid.

Property Owner Appeal If the July or December Board of Review Denies the Claim for 1994 Exemption

If the Qualified Agricultural Property exemption requested for 1994 is denied by the 1997 July or December Board of Review, the owner can appeal that denial to the Residential and Small Claims Section of the Michigan Tax Tribunal within 35 days of the denial by the July or December Board of Review.

2. Appeal by a Property Owner to the July or December Board of Review When a

HOMESTEAD Exemption Has Been RESCINDED.

Rescission of Homestead Exemption

Michigan Compiled Law (MCL) 211.7cc(9) provides that when an owner of property files an affidavit for a HOMESTEAD exemption, that filing rescinds (cancels) all previous HOMESTEAD exemptions filed by that owner for any homestead in Michigan.

The Michigan Department of Treasury is required by law to notify an assessor when a rescission of the homestead exemption of a property located in his/her assessment unit has occurred. The assessor is then required by law to remove the HOMESTEAD exemption effective December 31 of the year for which the rescission is effective. The law states that the rescission is effective on December 31 of the year the property is transferred or is no longer utilized as a homestead.

Appeal of a Homestead Rescission

MCL 211.7cc (10) provides that an owner of property for which an exemption has been rescinded may appeal that rescission to the July or December Board of Review. An appeal of the rescission of a HOMESTEAD exemption may be made in the year in which the exemption is rescinded by the local assessor or in the immediately succeeding year only.

EXAMPLE:

If an assessor rescinds a HOMESTEAD exemption in June of 1997 for the years 1995, 1996, and 1997, the owner may appeal that rescission to the 1997 or 1998 July or December Board of Review.

An owner of property for which a claim of exemption is rescinded may appeal the decision of the July or December Board of Review to the Residential and Small Claims Division of the Michigan Tax Tribunal within 35 days of that decision.

Requirement to Convene the December Board of Review

MCL 211.7cc (10) states that a local tax collecting unit SHALL hold a December Board of Review if an appeal of a rescission to the December Board of Review is received not later than 5 days prior to the date of the December Board of Review.

B. CLARIFICATION OF THE MEANING OF THE TERM "Clerical Error" BY THE MICHIGAN COURT OF APPEALS

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 a mutual mistake of fact by the July and December Boards of Review. This clarification is found in *International Place Apartments v Ypsilanti Township*, 1996 Mich App. 79.

In the above-cited case 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 Court goes on to say that the July and December Boards of Review are NOT allowed to revalue or reappraise property when the reason for the action is that all relevant information was not originally considered by the assessor.

The State Tax Commission further advises that the July and December Boards of Review do NOT have the authority to address valuation or exemption disputes except for the poverty exemption and the specific situations discussed in this bulletin dealing with the Homestead and Qualified Agricultural Property exemptions. Valuation disputes and other exemption disputes are matters to be considered by the **March** Board of Review.

C. OBLIGATION OF THE JULY AND DECEMBER BOARDS OF REVIEW TO CONSIDER WHETHER A CHANGE IN THE PRIOR YEAR'S TAXABLE VALUE WILL CAUSE THE CURRENT YEAR'S TAXABLE VALUE TO CHANGE

The July and December Boards of Review have the authority to correct clerical errors and mutual mistakes of fact in the year the errors were made or in the following year only.

If the July or December Board of Review makes a change in the PRIOR year's Taxable Value, the Board shall consider whether this change also causes the CURRENT year's Taxable Value to change. If it does, the Board shall also correct the current year's Taxable Value.

Example: If the 1997 July or December Board of Review makes a change which causes the 1996 Taxable Value of a property to change, the Board shall also recalculate the 1997 Capped Value of the property using the corrected 1996 Taxable Value as the first element in the formula. The Board of Review shall then compare the recalculated 1997 Capped Value of the property with the 1997 SEV of the property and the lower of the two shall become the 1997 Taxable Value. If this is different from the 1997 Taxable Value on the 1997 roll, the July or December Board of Review shall enter the correct 1997 Taxable Value on the 1997 roll.

THE USE OF THE 1996 AND THE 1997 VERSIONS OF STC FORM L-4035a: When to use the 1997 version and when to use the 1996 version.

The July and December Boards of Review shall fill out STC Form L-4035a whenever it makes a change which causes the Taxable Value of a property to change. A copy of STC Form L-4035a is included at the end of this bulletin.

Please see STC Bulletin No. 5 of 1997 (page 16) for instructions on the use of STC Form L-4035a and for examples of how the form is filled out.

If the 1997 July or December Board of Review corrects a clerical error or a mutual mistake of fact **for the year 1996** which causes the 1996 Capped Value to change, the Board of Review shall use the 1996 version of STC Form L-4035a for the 1996 calculations. This is true because the 1996 version of STC Form L-4035a contains a section on the form which is used to recalculate the Value Change Multiplier (VCM) when necessary.

While the VCM was removed from the law by PA 476 of 1996 and shall not be used **starting in 1997**, the State Tax Commission advises assessors in a letter dated September 30, 1996 that **1996** Taxable Valuations shall include the effects of the VCM, when applicable, because of the constitutional mandate of uniformity contained in Article IX, Section 3 of the Michigan Constitution. (Please see page 5 of STC Bulletin No. 4 of 1996 for a discussion of the VCM.)

Example: If the 1997 July or December Board of Review corrects a clerical error which results in a reduction of the **1996** assessed value, the Board of Review is required to calculate (on the **1996** version of STC Form L-4035a) the change in the 1996 VCM that this correction causes. When the VCM changes, this in turn could cause the 1996 Capped Value and Taxable Value to also change. If so, the Board of Review is required to make these changes also.

A copy of the 1996 version of STC Form L-4035a is included at the end of this bulletin. Please see page 13 of STC Bulletin No. 4 of 1996 for a further discussion of the use of the 1996 version of STC Form L-4035a. Examples of its use are also contained after pages 8 and 10 of STC Bulletin No. 4 of 1996.

D. REPEAT OF INFORMATION CONTAINED IN STC BULLETIN NO. 15 OF 1995

The remainder of this bulletin repeats information which addresses the duties and responsibilities of the July and December Boards of Review and which was already contained in STC Bulletin No. 15 of 1995.

Any new information presented in the rest of this bulletin is underlined to alert the reader.

1) July and December Boards of Review Are Subject to the Open Meetings Act.

The State Tax Commission reminds all local assessing units that the July and December Boards of

Review are subject to the provisions of the Open Meetings Act which include the requirement that meetings be open to the public and be held in a place available to the general public.

2) Authority of the July and December Boards of Review (BOR) Regarding Homestead Exemptions and Qualified Agricultural Property Exemptions.

Act 74 of 1995 changed the language of sections 7cc(13) and 7ee(6) which address the authority of the July and December Boards of Review to deal with **Homestead Exemptions** and **Qualified Agricultural Property Exemptions** from the 18 mills of local school operating tax.

Described below are 2 situations in which the July and December Boards of Review are authorized to act regarding these exemptions. (See also pages 2 through 4 of this bulletin which describe 1) the one time appeal at the 1997 July or December Board of Review to obtain the Qualified Agricultural Property Exemption for the year 1994 and 2) the appeal to the July or December Board of Review when a homestead exemption has been rescinded.)

a) When The Homestead or Qualified Agricultural Property Exemption Was Not On The Tax Roll

An owner who owned and occupied a homestead on May 1 or an owner who owned qualified agricultural property on May 1 may file an appeal with the July or December Board of Review, if the exemption was not on the tax roll.

Some of the reasons which would justify such an appeal are:

- **the owner did not file the affidavit.**
- **the affidavit was mailed but not received by the local unit.**
- **the assessor failed to process the exemption.**
- **and other similar reasons.**

An owner of property which qualified for the Homestead or Qualified Agricultural Property exemption as of May 1 but did not receive it because of one of the reasons above may file an appeal with the July or December BOR. The owner must include with the appeal a completed Homestead Exemption Affidavit (Form T-1056) or a Farmland Exemption Affidavit (Form T-1063) as required by section 53b(3) of the law.

Please note that the July and December Boards of Review do NOT have the authority to grant a Homestead exemption if it has already been denied for the year in question by the assessor, the Department of Treasury, or the Tax Tribunal. See paragraph "b" below regarding denials of Qualified Agricultural Property exemptions for the current year.

At the July Board of Review, a local unit may consider appeals of Homestead and Qualified Agricultural Property Exemptions which were not on the tax roll even if the unit does not levy a SUMMER TAX. The State Tax Commission recommends that all assessing units hold a July Board of Review, when there is Homestead or Qualified Agricultural Property Exemption business to be taken care of, even if there is no summer levy of local school operating taxes.

AUTHORITY OVER CURRENT YEAR AND THE IMMEDIATELY PRECEDING YEAR

Act 74 of 1995 also states that, starting in 1995, an appeal because a Homestead or Qualified Agricultural Property exemption was not on the tax roll may be made to the July or December BOR for the immediately preceding year.

This means that a property owner could appeal a **1996** Homestead exemption or a **1996** Qualified Agricultural Property exemption at the **1997** July or December Board of Review if the exemption was not on the tax roll in 1996.

Summary of Authority Over the Immediately Preceding Year's Exemption

In order for the July or December Board of Review to grant an owner's appeal of a prior year's Homestead or Qualified Agricultural Property exemption which was not on the tax roll, the owner must have qualified for the Homestead or Qualified Agricultural Property exemption as of May 1 of the prior year. Also, the owner must submit a completed Homestead Exemption Affidavit (Form T-1056) or a Farmland Exemption Affidavit (Form T-1063) as required by law.

b) Appeal of DENIAL of QUALIFIED AGRICULTURAL PROPERTY Exemption Only.

The July or December BOR is also authorized to act when there has been a denial of a QUALIFIED AGRICULTURAL PROPERTY exemption for the current year. (Please note that the July and December Boards of Review have no authority over denials of homestead exemptions.)

Act 74 of 1995 authorizes the July Board of Review (if there is a SUMMER levy) or the December Board of Review to consider appeals of Qualified Agricultural Property exemptions which were denied by the assessor **FOR THE CURRENT YEAR ONLY**. Please note that the law does **NOT** permit the appeal of the denial of a Homestead exemption to the July or December Board of Review. The appeal of the denial of Homestead exemptions can be made to the Michigan Department of Treasury.

If an assessor intends to deny a new current year's Qualified Agricultural Property exemption, the State Tax Commission recommends that the assessor denial be made by July 1 of the current year and that the owner be notified immediately of the denial, the reason for the denial, and rights of appeal to the July or December Board of Review.

Letter Appeals to July and December Boards of Review

As is the case with other matters before the July and December Boards of Review, it is the opinion of the State Tax Commission that owners may appeal to obtain the Homestead or Qualified Agricultural Property exemption by letter, regardless of whether they are residents or nonresidents. This does not apply to the March Board of Review. An owner may also authorize someone to appear on his/her behalf.

The State Tax Commission recommends that affidavits which were filed after the May 1 deadline for the current year and are presently in the assessor's possession should be treated as letters of appeal to the July Board of Review provided that the affidavits claim that the properties were Homesteads or Qualified Agricultural Properties as of May 1 of the current year. If the assessor intends to recommend that a particular affidavit not be accepted by the current year's July or December board of review as filed, the assessor is advised to notify the owner of his/her intention so that the owner may appear at the board of review session.

Exemption Affidavits For The July And December Boards of Review

In order to be granted a Homestead or Qualified Agricultural Property exemption by the July or December Board of Review, owners are required by law to file a homestead exemption affidavit (form T-1056) or a farmland affidavit (form T-1063) with the Board of Review depending on which exemption is being applied for.

The homestead affidavits (form T-1056) must then be batched by the assessor and sent to the Michigan Department of Treasury (NOT to the State Tax Commission or the Property Tax Division) according to the regular schedule established by the Department of Treasury (quarterly on the 10th of February, May, August, and November).

The farmland affidavits (form T-1063) are NOT to be forwarded to the Michigan Department of Treasury but are to be retained by the assessor of the local unit of government.

APPEALING DECISIONS OF THE JULY OR DECEMBER BOARD OF REVIEW REGARDING HOMESTEAD AND QUALIFIED AGRICULTURAL PROPERTY EXEMPTIONS

Section 53b(4) and (5) provide for separate appeal procedures depending on whether the exemption granted or denied by the July or December Board of Review is for Homestead or for Qualified Agricultural Property.

Homestead Exemption (Administered by the Michigan Department of Treasury)

a) If a Homestead exemption is granted by the July or December BOR because the exemption was not on the tax roll, the ASSESSOR of the local tax collecting unit may appeal by following the procedures found in section 7cc(6) through (8) of Act 74.

Those procedures call for the assessor to send a recommendation for denial, the reasons for the recommendation and the owner's affidavit to the Michigan Department of Treasury.

This action should be taken within 35 days of the July or December Board of Review.

The Department of Treasury shall then determine if the property is the homestead of the owner claiming the exemption. The owner may then appeal an adverse decision of the Department of Treasury to the Department of Treasury for an informal conference. The final decision of the Department of Treasury may then be appealed to the Residential and

Small Claims Division of the Michigan Tax Tribunal within 35 days of that decision by either the owner or an assessor who has denied the exemption under section 7cc(6).

b) If a Homestead exemption is not granted by the July or December Board of Review, an OWNER may appeal that decision in writing to the Michigan Department of Treasury within 35 days of the Board of Review's denial as provided in section 7cc(7) of this act. This is the same procedure involving the Department of Treasury and the Michigan Tax Tribunal that is discussed in the paragraph above.

Qualified Agricultural Property Exemption (Administered by the STC)

An owner or assessor may appeal a decision by the July or December Board of Review regarding an exemption for Qualified Agricultural Property directly to the Residential and Small Claims Division of the Michigan Tax Tribunal within 30 days of the BOR action.

3) Notice to an Owner or the Person Listed on the Assessment Roll that an Assessment Increase is Being Submitted to the July or December Board of Review.

Section 24c of General Property Tax Act requires that an assessor shall provide a notice of an

increase in assessed value or taxable value 10 days before the meeting of the March Board of Review. **This law applies only to the March Board of Review, not to the July and December Boards of Review.**

While there is no specific language in the law which requires a notice of assessment increase when an action is being considered by the July and December Boards of Review, the State Tax Commission directs that a reasonable notice shall be provided so that a property owner may make arrangements for an appearance at the July or December Board of Review.

4) Requirement to Convene the December Board of Review Under Certain Circumstances (See also page 4 regarding the requirement to convene the December Board of Review for Rescissions.)

Act 74 states that a local tax collecting unit SHALL convene a December Board of Review if a Homestead exemption appeal is received no later than 5 days before the date of the December Board of Review.

While this requirement applies specifically to the appeal of a Homestead exemption, good assessment practice would dictate that a December Board of Review should be held whenever there is business to be taken care of and it becomes aware of this business in a timely manner.

While PA 74 of 1995 does not contain this same language for the July Board of Review, the STC advises that the July BOR must be held whenever there is Homestead or a Qualified Agricultural Property Exemption business to be taken care of regardless of whether there is a SUMMER LEVY.

5) Authority of July and December Boards of Review Over Poverty Exemptions

Starting in 1995, PA 74 of 1995 authorized the July and December Boards of Review to hear appeals provided for in Michigan Compiled Law 211.7u (the poverty exemption).

PRIOR to Act 74, only the March Board of Review had the authority to consider poverty exemption requests.

This authority for the July and December Boards of Review to consider poverty exemptions applies only to poverty exemption requests for the CURRENT YEAR, NOT FOR PREVIOUS YEARS. A taxpayer who already appealed to the March Board of Review for a poverty exemption may NOT also appeal to the July or December Board of Review for the same exemption. Poverty exemptions denied by the March Board of Review may be appealed to the

Michigan Tax Tribunal by June 30 of the current year.

Please refer to STC Bulletin No. 5 of 1995 for a discussion of the legal requirements for the administration of the poverty exemption as provided by MCL 211.7u.

If a poverty exemption under MCL 211.7u is approved, the Board of Review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected. This is the same procedure that has always been followed for other July and December Board of Review changes.

If the July or December Board of Review denies a claim for a poverty exemption under MCL 211.7u, the person claiming the exemption may appeal that decision to the Michigan Tax Tribunal within 30 days of the denial.

6) Reporting the Results of the July or December Board of Review.

Sections 53b(1) and (3) of Act 74 of 1995 require that the Board of Review shall file an affidavit within 30 days with the proper officials when an appeal of the exemption for Homestead Property or Qualified Agricultural Property or the poverty exemption results in a change. The officials to be notified are the State Tax Commission, the county equalization department and all taxing units affected by the change, e.g., the local unit treasurer, the county treasurer, the school board treasurer, etc. This is a continuation of the traditional reporting requirements for the July and December Boards of Review.

The Homestead exemption affidavits should be forwarded to the Michigan Department of Treasury and a copy must be kept by the assessor.

The treasurer shall refund any overpayment determined by the July or December Board of Review, including any interest already paid, to the taxpayer. If additional taxes are due because of action by the July or December Board of Review, payment is due without interest or penalties within 30 days of receipt of the corrected billing.

7) Authority of the July and December Board of Review Regarding Changes to Capped Value and Taxable Value Caused by Clerical Errors or Mutual Mistakes of Fact

The authority of the July or December Board of Review to correct clerical errors and mutual mistakes of fact applies to Capped Values and Taxable Values as well as to Assessed Values.

The July and December Boards of Review have the authority over clerical errors, mutual mistakes of fact, and those situations involving Poverty Exemptions, Homestead

Exemptions, and Qualified Agricultural Property Exemptions discussed earlier in this bulletin. The July and December Boards of Review do NOT have any authority regarding valuation disputes and other exemption disputes.

If there has been a clerical error or a mutual mistake of fact relative to:

- the correct computation of the Capped Value, Taxable Value, and/or the Assessed Value,
- the rate of taxation applied against the taxable value, and/or
- the mathematical computations relating to the assessing of taxes,
- the clerical error or mutual mistake shall be verified by the local assessing officer and approved by the July Board of Review for summer taxes or by the December Board of Review.

When the July or December Board of Review makes a correction to the Assessed Value or the Capped Value because of a clerical error or a mutual mistake of fact, it must also consider whether this correction has also caused the other values to change. This point is discussed under items a,b, and c below.

a) Changes to Assessed Value

If the July or December Board of Review changes the Assessed Value because of a clerical error or a mutual mistake, it must also consider whether this change has caused the Taxable Value to also change. This could happen because Taxable Value is the LOWER of the Assessed Value (after applying the equalization factor) and the Capped Value.

EXAMPLE:

1997 Assessed Value = \$55,000 (Equalization Factor is 1.000)

1997 Capped Value = \$51,300

1997 Taxable Value = \$51,300

If the July or December Board of Review changed the 1997 Assessed Value from \$55,000 to \$51,000 because of a clerical error or a mutual mistake of fact that does not involve a Capped Value LOSS, the Taxable Value would also change to \$51,000 because \$51,000 is lower than the 1997 Capped Value of \$51,300.

b) Changes to Capped Values

STC Bulletin No 14 of 1994 states that the assessment roll must contain the Capped Value for each parcel of real property. The formula for Capped Value is calculated as follows:

Capped Value = (Prior Year's Taxable Value - Losses) X Lower of 1.05 or the Inflation Rate + Additions

Two elements of the formula above are matters of record and do not require any judgement decisions by the Board of Review. Those elements are the "Prior Year's Taxable Value" and the "inflation rate". If the correct numbers of record are in the formula, these two elements CANNOT be changed by the Board of Review.

If the amount of the Losses or Additions is incorrect due to a clerical error or a mutual mistake of fact, it may be changed by the July or December Board of Review. Please see STC Bulletin No. 3 of 1995 which addresses the question of what qualifies as a Loss or an Addition and the procedures for determining the amount of Losses and Additions.

If the July or December Board of Review changes the Capped Value by changing the amount of an addition or a loss, it must also include the affects of this change in the Assessed Value if the same error exists there. This would also cause Taxable Value to change because Taxable Value shall be the LOWER of the Assessed Value (after applying the equalization factor) and the Capped Value.

EXAMPLE: In this example a garage was added in 1996 with a true cash value of \$8,000

Given: 1997 Assessed Value = \$59,000 (Equalization Factor is 1.000)

1997 Capped Value = \$55,300

1997 Taxable Value = \$55,300

If the July or December Board of Review lowered the amount of the ADDITION in the Capped Value formula for the garage by \$500 (from \$4,000 to \$3,500) because of a clerical error or a mutual mistake of fact, it would also be necessary to lower the Assessed Value by \$500 down to \$58,500 assuming the same error existed there.

c) Tentative Taxable Values

The law requires that the tax roll must show the Taxable Value for each parcel of property. Once the Capped Value and the Assessed Value (with its equalization factor) are properly

calculated, the Taxable Value is merely the lower of the two. If this is properly done, **THE BOARD OF REVIEW SHALL NOT RAISE OR LOWER TAXABLE VALUE UNLESS IT HAS ALSO RAISED OR LOWERED THE ASSESSED VALUE AND/OR THE CAPPED VALUE.** (An exception to this rule could occur if the July or December Board of Review uncapped the Taxable Value of a property which had a "transfer of ownership" in the prior year but which had not been timely uncapped by the assessor due to a clerical error or a mutual mistake of fact. See STC Bulletin No. 8 of 1996, page 4.) If either the Capped Value or the Assessed Value is changed by the Board of Review, the Board shall also determine whether the Taxable Value must also change. This could happen because Taxable Value is the LOWER of the Assessed Value (with the equalization factor) and the Capped Value. See example under "Changes to Assessed Value" in paragraph #a above.

Appeal of July or December Board of Review Action to the Michigan Tax Tribunal

An owner or assessor may appeal a decision by the July or December Board of Review regarding the correction of a clerical error or mutual mistake of fact to the Michigan Tax Tribunal within 30 days of the BOR action. This appeal is authorized by MCL 205.735(2) which is part of the Tax Tribunal Act.

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RESCINDED