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**BOARD OF REVIEW**

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

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

**RE: 2010 BOARD OF REVIEW**

This Bulletin contains information that Boards of Review need to be aware of for the 2010 assessment year. In 2008, the State Tax Commission published 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) Sunset of Qualified Errors.**

MCL 211.53b indicates that July and December Boards of Review in 2006 through 2009 could correct qualified errors which included:

- (i) An error of measurement or calculation of the physical dimensions or components of the real property being assessed.
- (ii) An error of omission or inclusion of a part of the real property being assessed.
- (iii) An error regarding the correct taxable status of the real property being assessed.
- (iv) An error made by the taxpayer in preparing the statement of assessable personal property under section 19.

Unless the legislature acts to renew it, the 'qualified errors' provision will expire at the end of 2009 and beginning in 2010 the authority of July and December Boards of Review will revert back to the correcting clerical errors and mutual mistakes of fact. In certain circumstances, the July or December Board of Review has authority to grant poverty exemptions, principle residence exemptions, qualified agricultural exemptions, poverty exemptions, or incorrect uncappings of taxable value.

'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 June 28, 2006 in a Ford Motor Company case, the Michigan Supreme Court redefined 'mutual mistake of fact'. The Michigan Supreme Court defined a 'mutual mistake of fact' as, "An erroneous belief, which is shared and relied on by both parties, about a material fact that affects the substance of the transaction."

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

The State Tax Commission is requiring that all Boards of Review maintain appropriate documentation of their decisions including minutes, a copy of the form 4035 and the 4035a whenever the Board of Review makes a change that causes the Taxable Value to change and a Board of Review Action Report. The 4035 must include a detailed reason why the Board made their determination.

Minutes must include:

- Day, time and place of meetings.
- Members present and members absent, name of elected chairperson and notation of any correspondence received.
- A log should be kept that identifies the hearing date, the petition number, the petitioner's name, the parcel number, the type of appearance, type of appeal and action of the board of review.
- Actual hours in session should be recorded daily, and time of daily adjournments recorded. Date and time of closing of the final annual session should be recorded.

## **3) Inflation Rate used in the 2010 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 in (f) it 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 2010 is as follows:

1. The 12 monthly values for October 2007 through September 2008 are averaged.
2. The 12 monthly values for October 2008 through September 2009 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:

Oct-07	208.936	Oct-08	216.573
Nov-07	210.177	Nov-08	212.425
Dec-07	210.036	Dec-08	210.228
Jan-08	211.080	Jan-09	211.143
Feb-08	211.693	Feb-09	212.193
Mar-08	213.528	Mar-09	212.709
Apr-08	214.823	Apr-09	213.240
May-08	216.632	May-09	213.856
Jun-08	218.815	Jun-09	215.693
Jul-08	219.964	Jul-09	215.351
Aug-08	219.086	Aug-09	215.834
Sep-08	218.783	Sep-09	215.969
<b>Average</b>	<b>214.463</b>		<b>213.768</b>
		Ratio	<b>0.997</b>
		% Change	<b>-.3%</b>

**Local units cannot develop or adopt or use an inflation rate multiplier other than .997 in 2010. It is not acceptable for Local units to indicate to taxpayers that you do not know how the multiplier is developed.**

#### **4) Alternate Start Dates for the July or December Boards of Review.**

Governor Jennifer Granholm signed into law Public Act 122 of 2008 on May 8, 2008. This act amends 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.

#### **5) Foreclosure Sales.**

The State Tax Commission issued guidance regarding the use of foreclosure sales in sales studies, through Bulletin 6 of 2007. The recent increase in foreclosures has caused those transactions to have an impact on the real estate market in some parts of the state. In hearing appeals, Boards of Review are cautioned that foreclosure sales should be scrutinized in the same way as foreclosure sales are considered for inclusion in these ratio studies. Boards of

Review are strongly encouraged to familiarize themselves with Bulletin 6 of 2007 and the guidelines related to foreclosure sales.

**6) Single-Year Sales Studies.**

At its meeting on May 26, 2009, the State Tax Commission adopted the following:

Effective immediately (beginning with 2009 studies for the starting base for 2010 Equalization), equalization study dates are changed 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 2009 studies for 2010 equalization the dates are as follows:

Two Year Study: October 1, 2007 through September 30, 2009  
Single Year Study: October 1, 2008 through September 30, 2009

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.

At its meeting on May 11, 2009 the State Tax Commission adopted the following:

1. In addition to the two year equalization study, the Commission orders the use of 2009 single year sales studies for the 2010 starting base for the residential real classification 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, Executive Secretary State Tax Commission at P.O. Box 30471, Lansing, MI 48909 or via email at [sobelk2@michigan.gov](mailto:sobelk2@michigan.gov).
2. The Commission authorizes the use of a single year study in the first year of an increasing market, only if a single year study was used in the immediately preceding year to measure a decrease in value.