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DEPARTMENT OF TREASURY  
LANSING

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**Bulletin 3 of 2010**  
**Qualified Errors**  
**April 26, 2010**

**TO: Assessors, Equalization Directors and Board of Review Members**

**RE: Ability of the July or December Board of Review to Correct Qualified Errors**

**Bulletin 5 of 2006 is rescinded.**

Public Act (PA) 24 of 2010 was signed into law with an effective date of March 26, 2010. This act amended MCL 211.53b to grant the July or December Board of Review the authority to correct a **qualified error**. The act also clarified the years that the July and December Boards of Review have the authority to correct by stating: Except as otherwise provided in subsection (6) and section 27a(4), a correction under this subsection may be made for the current year and the immediately preceding year only.

Qualified errors are defined in the act as:

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

**Items A, B and C mentioned above are not changes in or expansions of the authority of the July or December Board of Review, but are now defined as qualified errors.**

Clerical errors were clarified by the Court of Appeals in *International Place Apartments v Ypsilanti Township*. The Court of Appeals stated that July and December Boards of Review are allowed to correct clerical errors of a typographical or transpositional nature. 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.

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.

**Examples of Qualified Errors:**

- **An error of measurement or calculation of the physical dimensions or components of the real property being assessed:**

1. A building is listed on the record card sketch as 60' x 100', priced as 6,000 square feet, and valued accordingly on the roll. A field inspection reveals that the building dimensions are actually 60' x 90', and that 5,400 should have been priced.
2. A building is properly listed on the record card sketch as 60' x 100', erroneously priced as 5,600 square feet, and valued accordingly on the roll. A desk review reveals the error.

Note: ‘Errors of measurement or calculation’ may include ‘building height’ errors or ‘floor area perimeter multiplier’ errors.

- **An error of omission or inclusion of a part of the real property being assessed:**

1. ‘Error of omission’ – A 1200 square foot house had a 500 square foot addition. The addition was taken as assessed/equalization new, but was not taken as a capped value addition, and so, was not included in the taxable value.
2. ‘Error of inclusion’ – A pole barn was erected on parcel ‘A’, but is erroneously assessed to parcel ‘B’. The ‘error of inclusion’ pertains to parcel ‘B’. An ‘error of omission’ pertains to parcel ‘A’.

**Note:** This change in jurisdiction is limited to situations where ‘part’ of the ‘real property’ is at issue. Issues involving the ‘entire real parcel’ or involving ‘personal property’ are not included under this subsection.

**Note:** Omitted property may be added under this section for the current year and the immediately preceding year only may still be added under MCL 211.154 for the current year and two prior.

- **An error regarding the correct taxable status of the real property being assessed.**
  1. A charitable non-profit corporation that qualified for exemption under MCL 211.7o sent a letter with proper documentation to the assessor and requested exemption. The assessor failed to grant the exemption.
  2. A church purchased the house next door in November (deed delivered), and was immediately used as a parsonage. The parcel qualified for exemption under MCL 211.7s. The deed was recorded in January, but the copy of the deed failed to reach the local assessor. The parcel had an assessed and taxable value as the close of the March Board of Review.
- **An error made by the taxpayer in preparing the statement of assessable personal property under section 19.**
  1. A taxpayer reported newly acquired office furniture in Section B, 'Machinery and Equipment' of the personal property statement. It should have been reported in Section A, 'Furniture and Fixtures'.
  2. A taxpayer reported newly acquired office furniture in Section A, 'Furniture and Fixtures', on the top line and entered the amount paid for the items in the purchase of the total property. It was discovered by the assessor after the close of the March Board of Review that the previous owner had reported a different acquisition cost new for the office furniture five years earlier.

**Note:** In the case where a personal property statement was not filed in a timely fashion, the act does not permit the assessor to change an estimated assessment made in the absence of a filed statement.