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**BULLETIN NO. 5 of 2006
AUTHORITY OF JULY OR
DECEMBER BOARD OF
REVIEW TO CORRECT
QUALIFIED ERRORS**

DATE: April 10, 2006

TO: Assessors
Equalization Directors
Boards of Review

FROM: State Tax Commission (STC)

RE: Changes Due to Public Act (PA) 13 of 2006 – Authority of July or December Board of Review to Correct Qualified Errors

Public Act (PA) 13 of 2006 was enacted into law on February 2, 2006 with an effective date of February 2, 2006. A copy of the act is available on the Internet at www.michiganlegislature.org. When you reach the site, click on **Public Acts** and enter the act number and the year **2006**.

This law amended 211.53b to grant the July or December Board of Review the authority to correct a **qualified error**. 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) For board of review determinations in 2006 through 2009, 1 or more of the following:
 - (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.

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. P.A. 13 of 2006 did not change the language that a correction may be made in the year the qualified error was made or the following year only.

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.

Mutual mistake of fact was defined in the MTT case *General Products Delaware Corporation v Township of Leoni*. The Tribunal defined mutual mistake of fact as follows: “the fact or facts upon which the erroneous belief is based must be an identifiable thing common to both parties’ knowledge and awareness, be within the contemplation of each party, be a ‘basic assumption’ material to the mistake – and that each party arrive at a substantially identical but erroneous conclusion based upon that material fact or set of facts and that the mistaken fact was the primary cause of, and had a ‘material effect’ upon the over-assessment and excessive tax payment.”

IMPORTANT NOTE: Please note that the July and December Board of Review authority to correct item D including: an error of measurement or calculation of the physical dimensions or components of the real property being assessed; an error of omission or inclusion of a part of the real property being assessed; an error regarding the correct taxable status of the real property being assessed or; an error made by the taxpayer in preparing the statement of assessable personal property under section 19, **is limited to tax years 2006 through 2009 only.**

P.A. 13 of 2006 presents the possibility of misuse by the July or December Board of Review. If the State Tax Commission determines that misuse has occurred, the Commission will take action. Such action may include assuming jurisdiction of the roll, legal measures or other action deemed appropriate by the Commission.

Examples of Item D 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 year the qualified error was made and the following year or 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.