

State Tax Commission Bulletin No. 15 of 1995

June 26, 1995

Public Act 74 of 1995

TO: All Assessing Officers

FROM: State Tax Commission (STC)

RE: THE JULY AND DECEMBER BOARDS OF REVIEW AND THE AFFECTS OF ACT NO. 74 OF THE PUBLIC ACTS OF 1995 (Enrolled House Bill No. 4077) IN THE FOLLOWING FOUR AREAS:

A) THE JULY AND DECEMBER BOARDS OF REVIEW INCLUDING NEW AUTHORITY OVER POVERTY EXEMPTIONS AND NEW AUTHORITY OVER THE IMMEDIATELY PRECEDING YEAR'S HOMESTEAD AND QUALIFIED AGRICULTURAL PROPERTY EXEMPTIONS

B) THE QUALIFIED AGRICULTURAL PROPERTY EXEMPTION FROM THE 18 MILLS OF LOCAL SCHOOL OPERATING TAX

C) THE "HEADLEE" MILLAGE REDUCTION FRACTION FOR LOCAL SCHOOL DISTRICTS

D) THE ADMINISTRATION OF THE HOMESTEAD EXEMPTION

This bulletin deals with items A, B and C above and replaces those parts of STC Bulletin No. 12 of 1994 and STC Bulletin No. 10 of 1995 which are related to the July and December Boards of Review. Item D above will be addressed in future mailings by the Department of Treasury which will address additional aspects of PA 74 which deal with the changes to the administration of the homestead exemption found in section 7cc and section 120 of this act.

Attached to this bulletin is a copy of P.A. 74 of 1995 which became law on June 13, 1995 and has immediate effect. The amendments to the law which have been added by this act have been underlined on the attached copy.

The last page of this bulletin is a Quick Reference which highlights the major changes discussed in this bulletin.

A) The 1995 July and December Boards of Review

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.

PA 74 of 1995 makes several amendments to the law dealing with the July and December

Boards of Review. These changes are addressed below under the first four headings. Those portions of STC Bulletins No. 12 of 1994 and No. 10 of 1995 which deal with the July and December Boards of Review and which still apply are also addressed below under the first four separate headings. Item #5 below deals with the authority of the July and December Boards of Review regarding changes to Capped Values and Taxable Values.

1) Authority of the 1995 July and December Boards of Review (BOR) Regarding Homestead Exemptions and Qualified Agricultural Property Exemptions.

Act 74 of 1995 changes 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.

There are now 2 situations in which the 1995 July and December Boards of Review are authorized to act regarding these exemptions.

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.

PRIOR to Act 74, this appeal could only be made if an owner CLAIMED TO HAVE FILED A HOMESTEAD OR QUALIFIED AGRICULTURAL PROPERTY EXEMPTION AFFIDAVIT. Starting in 1995, the law states that this type of appeal can be made by the July or December BOR 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 1995 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 1995 July Board of Review, even if there is no summer levy of local school operating taxes, if there is Homestead or Qualified Agricultural Property Exemption business to be taken care of.

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 **1994** Homestead exemption or a **1994** Qualified Agricultural Property exemption at the **1995** July or December Board of Review if the exemption was not on the tax roll in 1994.

Authority of the 1995 July and December BOR Regarding the 1994 50% Homestead Exemptions.

In addition to the July and December BOR's authority regarding the immediately preceding year's regular Homestead and Qualified Agricultural Property Exemptions, the authority to consider the immediately preceding year's exemption also applies to the 1994 50% Homestead exemption. The 50% Homestead exemption was for owners acquiring and occupying a homestead after May 1, 1994 and before October 3, 1994. If an affidavit was not timely filed for the 50% Homestead exemption in 1994, the owner may appear in person or by mail before the 1995 July or December Board of Review to obtain a rebate of 50% of the number of mills levied for school operating purposes in excess of the rate

paid by homestead properties which received the full Homestead exemption in 1994. Please note that THE 50% HOMESTEAD EXEMPTION IS A ONE TIME EXEMPTION FOR THE YEAR 1994 ONLY. The discussion in this paragraph applies to an appeal by a property owner who did not receive the 50% exemption in 1994 and appeals to the 1995 July or December Board of Review in order to receive the exemption.

This 50% Homestead exemption does not apply unless the 1994 assessment of the property is based on the valuation of a homestead or a portion of a structure that has become a homestead. Therefore, a home which was built in 1994 but was assessed as a vacant lot as of December 31, 1993 for the 1994 assessment shall not receive this exemption. See page 6 of STC Bulletin #12 of 1994 for more information about the 50% Homestead exemption.

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 1994 exemption which was not on the tax roll, the owner must have qualified for the Homestead Exemption as of May 1, 1994; for the Qualified Agricultural Property exemption as of June 1, 1994; or for the 1994 50% Homestead Exemption as of May 2, 1994 through October 2, 1994. 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) The 1995 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 Boards 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 (1995) 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.

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, 1995 deadline 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, 1995. If the assessor intends to recommend that a particular affidavit not be accepted by the 1995 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 the 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 EXEMPTION

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.

Starting in 1995, 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 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 (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.

2) Local Unit Required to Have a December Board of Review Under Certain Circumstances

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.

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

Starting in 1995, PA 74 of 1995 authorizes 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 TO 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 Boards 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.

4) 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 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 starting in 1995.

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.

5) Authority of the July and December Boards 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 Boards 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 Board 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 Board 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 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:

1995 Assessed Value = \$55,000 (Equalization Factor is 1.000)

1995 Capped Value = \$51,300

1995 Taxable Value = \$51,300

If the July or December Board of Review changed the 1995 Assessed Value from \$55,000 to \$51,000 because of a clerical error or a mutual mistake of fact, the Taxable Value would also change to \$51,000 because \$51,000 is lower than the 1995 Capped Value of \$51,300.

If the 1995 July or December Board of Review changes the immediately preceding year's assessed value because of a clerical error or a mutual mistake of fact which occurred in 1994, it will also be necessary to recalculate the 1995 Capped Value and Taxable Value for the property.

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 1995 formula for capped value is calculated as follows (See STC Bulletin No. 3 of 1995 for alternative formula):

$$\text{Capped Value} = (\text{1994 Final SEV} - \text{Losses}) \times 1.026 + \text{Additions}$$

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 "1994 Final SEV" and the "inflation factor" of 1.026. 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 and 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 1994 with a true cash value of \$8,000

Given: 1995 Assessed Value = \$59,000 (Equalization Factor is 1.000)

1995 Capped Value = \$55,300

1995 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 CHANGE TAXABLE VALUE UNLESS IT HAS ALSO CHANGED THE ASSESSED VALUE AND/OR THE CAPPED VALUE.** 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.

B. Changes to the Qualified Agricultural Property Exemption Contained in PA 74 of 1995.

STC Bulletin No. 10 of 1995 addressed the Qualified Agricultural Property Exemption. This present bulletin only addresses those aspects of the Qualified Agricultural Property Exemption which have changed due to the enactment of PA 74 of 1995.

1) Length of Qualified Agricultural Property Exemption

The language of PA 74 of 1995 states that Qualified Agricultural Property exemption shall last through the 1998 tax year or until December 31 of the year in which the **property is no longer qualified agricultural property as defined in section 7dd.**

The language PRIOR to the passage of PA 74 of 1995 stated that the exemption would last through the year 1998 or until December 31 of the year in which the **owner rescinds the exemption.**

2) Owner's Request that the Local Unit Withdraw the Qualified Agricultural Property Exemption.

PA 74 of 1995 adds language on page 5 of that act which provides that an owner may request in writing that a local tax collecting unit withdraw the Qualified Agricultural Property exemption.

A withdrawal is different from a rescission. A rescission (form T-1072) is filed by an owner when a property which was Qualified Agricultural Property when the affidavit was originally filed is no longer Qualified Agricultural Property. When a rescission is filed, the exemption ends as of December 31 of the year the rescission was filed.

An owner requests a withdrawal if the Qualified Agricultural Property exemption was erroneously granted to begin with and the property never did qualify for the exemption.

When an owner makes a request for a withdrawal, the assessor shall notify the owner that the exemption has been withdrawn because of the request. The property shall then be immediately placed on the tax roll by the local tax collecting unit if it has possession of the tax roll or by the county treasurer if the county has possession of the tax roll.

A corrected tax bill shall then be issued by the local tax collecting unit or by the county treasurer (depending on who has possession of the tax roll) as though the exemption had not been granted.

The owner is not liable for any penalty or interest on the additional tax because of the withdrawal if BOTH of the following conditions are met:

a) The owner requests that the exemption be withdrawn BEFORE he/she is contacted in writing by the local assessor regarding his/her eligibility for the exemption. In other words, a withdrawal by an owner after the assessor has already contacted the owner in writing about his/her eligibility for exemption would not qualify.

b) The owner pays the corrected tax bill within 30 days after the corrected bill is issued.

An owner who does not meet the conditions of BOTH "a" and "b" above is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date that taxes were originally levied.

3) Changes to the July and December Boards of Review which Affect the Administration of the Qualified Agricultural Property Exemption.

PA 74 of 1995 makes changes to the laws affecting the administration of the July and December Boards of Review which affect the Qualified Agricultural Property Exemption. These changes have been discussed earlier in paragraph A of this bulletin.

C) "Headlee" Millage Reduction Fraction for Local School Districts.

Section 34e of PA 74 of 1995 states that, starting in 1995, the "Headlee" Millage Reduction Fraction shall be calculated using TAXABLE VALUE.

The law PRIOR to PA 74 of 1995 stated that the "Headlee" Millage Reduction Fraction would

be calculated using STATE EQUALIZED VALUE.

QUICK REFERENCE
FOR STC BULLETIN #15 OF 1995
(For More Detail, Read Bulletin # 15 in its Entirety)

A) July and December Boards of Review (BOR)

1) The 1995 July and December Boards of Review have authority over Homestead and Qualified Agricultural Property Exemptions in 2 situations:

a) When a Homestead or Qualified Agricultural Property Exemption was not on the tax roll.

Starting in 1995, this authority is for the current year and the immediately preceding year.

The authority over the immediately preceding year also applies to the 50% Homestead exemptions which were available in 1994 only.

b) When an assessor has denied a new current year's Qualified Agricultural Property Exemption. Please note that this does NOT apply to Homestead Exemptions.

2) a) Starting in 1995, PA 74 of 1995 requires that a local unit must hold a December Board of Review if a Homestead exemption appeal is received not later than 5 days before the date of the December Board of Review.

b) 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.

3) Starting in 1995, the July and December Boards of Review have authority over new poverty exemption requests for the current year.

4) The July and December Boards of Review have the authority to correct clerical errors and mutual mistakes of fact made in the calculation of Capped Values and Taxable Values.

B) Changes to the Qualified Agricultural Property Exemption

1) The Qualified Agricultural Property Exemption shall last through the 1998 tax year or until December 31 of the year in which the **property is no longer qualified agricultural property as defined in section 7dd.**

2) New language was added to the law which establishes a procedure for an owner to request that a local unit withdraw the Qualified Agricultural Property exemption.

C) The "Headlee" Millage Reduction Fraction for Local School Districts is Calculated on Taxable Value, NOT STATE EQUALIZED VALUE.