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DEPARTMENT OF TREASURY
LANSING

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Bulletin No. 21 of 2020
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July and December Boards of Review

TO: Assessing Officers and County Equalization Directors
FROM: Michigan State Tax Commission
SUBJECT: July and December Boards of Review

Bulletin 6 of 2018 is rescinded.

This Bulletin combines previous guidance issued by the State Tax Commission related to July and December Boards of Review. It is intended to provide an overview of key information related to July and December Boards of Review. More detailed information related to Boards of Review can be found in the Board of Review Q&A available on the State Tax Commission website at www.michigan.gov/statetaxcommission.

JULY AND DECEMBER BOARDS OF REVIEW MEETINGS

The July Board of Review meets on the Tuesday following the third Monday in July if there is business to conduct. An alternative start date may be approved by resolution of the assessment jurisdiction's governing body, but the alternate date must be during this same week.

The December Board of Review meets on the Tuesday following the second Monday in December if there is business to conduct. An alternative start date may be approved by resolution of the assessment jurisdiction's governing body, but the alternative date must be during this same week.

Hours for meetings held in July and December may be established by the Boards of Review.

There are no specific notice requirements for the July and December Boards, but public bodies must always post meeting notices in accordance with Act 267, P.A. 1976, Open Meetings Act.

The Boards of Review cannot go into a closed session and meet privately to discuss poverty exemption appeals, disabled veterans exemptions or any other appeal. Information contained in documents provided to Boards of Review that is exempt should be redacted before being provided to the Board.

JULY AND DECEMBER BOARDS OF REVIEW ACTIONS AND DECISIONS

Form 4031, *July/December Board of Review Affidavit*, has been developed for use to memorialize the actions of the July and December Board of Review as required by law.

Form 3128 (L-4035a) must be completed by the Board of Review and made a part of the Board of Review records whenever a change is made to an individual parcel of property which causes a change in Taxable Value.

Notification of decisions by the July and December Boards of Review are as follows:

[T]he board of review shall file an affidavit within 30 days relative to the qualified error with the proper officials and all affected official records shall be corrected. If the qualified error results in an overpayment or underpayment, the rebate, including any interest paid, shall be made to the taxpayer or the taxpayer shall be notified and payment made within 30 days of the notice. A rebate shall be without interest. (MCL 211.53b(1)).

If the other statutorily-authorized changes are made by the July and December meetings of the Board of Review, the taxpayer shall be notified of the change in writing, in the manner prescribed by the particular statute which authorizes the change.

AUTHORITY OF THE JULY AND DECEMBER BOARDS OF REVIEW

The July and December Boards of Review have different authorities than the March Board of Review. The July and December Boards of Review meet to correct Qualified Errors, and to consider appeals related to the Principal Residence Exemption, Qualified Agricultural Exemption, Taxable Value Uncapping, the Qualified Start-up Business Exemption, the Disabled Veteran's Exemption and the Poverty Exemption.

Qualified Errors

The July and December Boards of Review may correct "Qualified Errors," *that have been previously verified by the Assessor*. "Qualified Errors" are defined to include the following:

1. Correction of a Clerical Error. (The error must be an error made by the Assessor relating to the correct assessment figures, the rate of taxation or the mathematical computation of the tax or must be an error in the rate of taxation which was applied. The court decisions indicate that to be clerical error (other than the application of an incorrect rate of taxation), the Assessor must have made an error which is computational, transpositional or computational.)
2. A Mutual Mistake of Fact, where the mistaken belief of fact was shared by the Assessor and the Taxpayer at the time the assessment was made.
3. *For Real Property only*, an error as to the correct Taxable Status (exempt status) of the property.
4. *For Real Property only*, an error of Omission or Inclusion of part of the property.

5. *For Real Property only*, an error of measurement or calculation of physical dimensions or components.
6. *For Personal Property only*, an error by the Taxpayer in the preparation of a Personal Property Statement. The Taxpayer must have filed a Personal Property Statement on which the existing assessment was based. This is the only change permitted for personal property, unless there was an Assessor's clerical error or a mutual mistake of fact.
7. An error made in the denial of a claim of exemption of assessable personal property under MCL 211.9o. An appeal by the Taxpayer of a denial by the Assessor for a prior year cannot be considered by the July or December Board of Review. However, a qualified error can be considered for both the current year and the immediately preceding year. The distinction is that a qualified error is an error that the Assessor has verified, while an appeal of a denial made by the Assessor indicates disagreement between the Taxpayer and the Assessor relating to the correctness of the denial.
8. An issue beyond the control of a disabled veteran or his or her unremarried surviving spouse that causes a denial of an exemption under section 7b. An issue beyond the control of a disabled veteran or his or her unremarried surviving spouse means an error made by the local tax collecting unit in the processing of a timely filed exemption affidavit or a delay in the determination by the United States Department of Veterans Affairs that a veteran is permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.

More information on Qualified Errors can be found in Bulletin 20 of 2020 available on the State Tax Commission website.

Principal Residence Exemption

The July and December Boards of Review may grant a Principal Residence Exemption (PRE) which was not previously denied. The Board may grant the PRE for the current year plus the immediately preceding three years, pursuant to MCL 211.7cc(19). Specifically this means that if a taxpayer files the form to claim the PRE after June 1 or after November 1, the July or December Board may grant that PRE if the taxpayer qualifies and if the PRE was not previously denied.

Important Note:

MCL 211.7cc specifically states: "Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes" An assessor is not required to have the July or December Board grant PRE's if the taxpayer files an affidavit to claim the PRE. The assessor has **no authority** to bring a PRE affidavit before a July or December Board of Review to grant or deny the exemption. It is the assessor's responsibility to timely grant or deny a PRE following the filing of a PRE affidavit by the taxpayer.

More information regarding the Principal Residence Exemption is available at www.michigan.gov/PRE.

Qualified Agricultural Exemption

The July and December Boards of Review may review a denial by the Assessor of a Qualified Agricultural Property Exemption, pursuant to MCL 211.7ee(6), for the current year if the exemption was not in existence for the previous year (the Boards may review the denial of a new application for property which is claimed to qualify by May 1 of the current year). The appeal must be filed at the July meeting unless the school does not make a summer levy or the Board does not meet in July. Notice that this authority only applies to new exemptions and if the Assessor denies the continuation of a previously existing exemption, the July and/or December Board does not have jurisdiction.

Pursuant to MCL 211.7ee(6), if property met the requirements to be Qualified Agricultural Property on or before May 1 of the year or years for which the exemption is claimed, and there has not been a previous denial of the exemption for that immediately preceding year, the owner may file an appeal to the July or December Board of Review of the current year requesting that the Qualified Agricultural Exemption be granted for the immediately preceding year and/or for the current year.

More information on the Qualified Agricultural Exemption is available on the Commission's website.

Taxable Value Uncapping

The July and December Boards of Review have authority to reverse an incorrect taxable value uncapping. The July or December Boards of Review can disagree with the assessor and refuse to reverse the taxable value uncapping. It is the opinion of the State Tax Commission that, after the assessor determines that a particular transaction or situation was not a "transfer of ownership", the matter has come within the jurisdiction of the July or December Boards of Review which then do have the authority to overrule the decision of the assessor and refuse to reverse the taxable value uncapping.

It is the opinion of the State Tax Commission that a determination by the assessor is required before the July or December Boards of Review can act to reverse a taxable value uncapping. Therefore, if the assessor has not made such a determination, the July or December Boards of Review do not have the authority to act.

The July or December Boards of Review do not have the authority to determine that a particular transaction, or situation, was not a "transfer of ownership" and reverse the uncapping. It is the opinion of the State Tax Commission that, if the assessor has reconsidered whether a particular transfer was a "transfer of ownership" and continues to be of the opinion that it was a "transfer of ownership", the assessor has not made a determination that there was not a "transfer of ownership" and the July or December Boards of Review do not have the authority to reverse the taxable value uncapping.

More information on taxable value uncapping and transfers of ownership can be found in Bulletin 20 of 2017 and the Transfer of Ownership Guidelines available on the State Tax Commission website.

Qualified Start-Up Business Exemption

The July and December Boards of Review may grant an exemption, at the election of the

taxpayer, for a Qualified Start-Up Business as provided in MCL 211.7hh for the current year and the immediately preceding year.

Disabled Veteran's Exemption

The July and December Boards of Review may grant a Disabled Veteran's Exemption pursuant to MCL 211.7b for the current year only, unless a previous session of the Board that year issued a denial. A denial must be appealed to the Michigan Tax Tribunal and cannot be reconsidered at a subsequent meeting.

While Boards of Review do make a determination to grant or deny a Disabled Veteran's Exemption, they do not have the authority to determine if the veteran is disabled or individually unemployable. Those determinations are made by the Federal Department of Veterans Affairs.

Public Act 206 of 2020: On October 14, 2020, PA 206 of 2020 was signed into law. This Act amends MCL 211.53b regarding July and December Board of Review authority by adding as a qualified error an issue beyond the control of a disabled veteran or the unremarried surviving spouse that caused a denial of the disabled veterans exemption:

1. An error made by the local tax collecting unit in processing of a timely filed exemption affidavit; or
2. A delay in the determination by the United States Department of Veterans Affairs that a veteran is permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.

More information on the Disabled Veterans Exemption can be found on Commission's website.

Poverty Exemption

Poverty exemptions may be heard at the July and December Boards of Review. However, once a poverty exemption is considered by a Board of Review, it may not be considered by a later Board of Review in the same year. For instance, if a poverty exemption is denied at the July Board of Review, it may not be reconsidered at the December Board of Review, even if new information is presented. MCL 211.7u(5) states:

The Board of Review shall follow the policy and guidelines of the local assessing unit in granting or denying an exemption under this section unless the Board of Review determines there are substantial and compelling reasons why there should be a deviation from the policy and guidelines and the substantial and compelling reasons are communicated in writing to the claimant.

No Authority

The July and December Boards of Review DO NOT have authority over the following:

- A denial by the March Board of Review of a Poverty Exemption under MCL 211.7u cannot be reconsidered by the July or December Board of Review. (The Taxpayer must appeal to the Michigan Tax Tribunal by the applicable appeal deadline.)
- A denial by the Assessor or by an auditing county of a Principal Residence Exemption (PRE) under MCL 211.7cc cannot be reviewed by the March, July or December Board of Review. (The Taxpayer must appeal the denial to the Michigan Tax Tribunal within 35 after the date of notice of the denial.)
- A denial by the Michigan Department of Treasury of a PRE under MCL 211.7cc cannot be reviewed by the March, July or December Board of Review. (The Taxpayer must appeal the denial to the Department of Treasury within 35 days after the date of notice of the denial.)
- A denial by the Assessor of the continuation for the current year of a Qualified Agricultural Property Exemption under MCL 211.7ee, where the exemption was in existence for the previous year (denial of the continuation of a previously existing Qualified Agricultural Property Exemption) cannot be reviewed by the July or December Board of Review. (This denial must be protested to the March Board and appealed to the Michigan Tax Tribunal.)
- The July and December Boards of Review cannot review the classification determinations made by the Assessor and/or by the March Board of Review. (Classification may only be protested to the March Board and appealed to the State Tax Commission by June 30.)
- The July and December Boards of Review cannot consider changes in valuation (true cash value) which are not caused by the correction of a “qualified error,” as defined in subsection 10 of MCL 211.53b. The July and December Boards of Review do not have jurisdiction to revisit the Assessor’s determinations which were made through the exercise of professional judgment, such as Quality Class (D, CD, C, BC, B or A for residential construction, depreciation and land value determinations, Economic Condition Factors, etc.), even if the Assessor or a Successor Assessor later believes that the original determination was mistaken. (Valuation appeals must be protested to the March Board and/or appealed to the Michigan Tax Tribunal.)
- The July and December Boards of Review have no authority to make a valuation determination even if the March Board of Review deferred a decision on a valuation matter to a later Board of Review (the March Board of Review has no authority to defer or postpone a valuation appeal to a July or December Board of Review).
- The July and December Boards of Review cannot recap a Taxable Value pursuant to PA 260 of 2000 where a purchaser of Qualified Agricultural Property files a late Affidavit (after the close of the March Board in the year of the transfer). Although the Taxable Value can be recapped pursuant to MCL 211.27a(8), the recapping has no retroactive effect and only applies to future tax payments. Pursuant to MCL 211.27a(9), no refund of taxes is permitted.
- The July and December Boards of Review have no authority to grant a Small Business Taxpayer Exemption under MCL 211.9o unless there was an error made by the assessor

in the denial of the exemption. The July or December Boards of Review cannot hear an appeal of a denial of the Small Business Taxpayer Exemption.

- The July and December Boards of Review have no authority over Eligible Manufacturing Personal Property Exemption (for Eligible New or for Eligible Previously Existing Personal Property under MCL 211.9n and MCL 211.9n). If an assessor misplaces or failed to properly act on a timely filed Form 5278, that is not considered a clerical error or mutual mistake and the July and December Boards of Review have no jurisdiction over these matters. Further, if a taxpayer failed to properly claim the exemption this is not a qualified error and cannot be appealed to the July or December Boards of Review.
- The March, July and December Boards of Review may not consider any aspect of a delayed uncapping of Taxable Value pursuant to MCL 211.27b. A delayed uncapping is required when the Taxpayer fails to file a timely *Property Transfer Affidavit*, Form L-4260 (2766), after a Transfer of Ownership has occurred. After the close of the March Board of Review in the year that the uncapping should have occurred, the assessor is solely responsible for entering the delayed uncapping of Taxable Value, using Form L-4054 (3214). After such a delayed uncapping has occurred, the Taxpayer must appeal to the Michigan Tax Tribunal if the Taxpayer disagrees with the uncapping.
- The July and December Boards of Review cannot approve an Eligible Development Property or Development Property exemption pursuant to MCL 211.7ss for any tax billing date prior to the date of the filing of Form 5033. It should be noted that, as of December 31, 2015, the Development Property exemption is no longer authorized (leaving only the Eligible Development Property exemption available) and that Form 5033 must be filed by the preceding June 1st to exempt the summer billing and must be filed by the preceding November 1st to exempt the winter billing.
- The July and December Boards of Review cannot approve a Poverty Exemption pursuant to MCL 211.7u or a Disabled Veteran's Exemption pursuant to MCL 211.7b for any year prior to the current year.
- The July and December Boards of Review cannot reconsider any matter which was previously decided by a Board of Review. Instead, the Taxpayer was required to appeal the previous Board's determination to the Michigan Tax Tribunal.
- The July and December Boards of Review cannot review a denial by the Department of Agriculture and Rural Development of a Qualified Forest Exemption. Note that if the property has received the exemption (if the exemption has been granted) but the exemption is omitted from the roll, the July and December Boards of Review have jurisdiction to correct the roll for the current year and the immediately preceding year.