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LANSING

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Property Classification**

TO: Assessors and Equalization Directors

RE: State Tax Commission Statement Regarding Property Classification

On July 12, 2007 Governor Granholm signed into law the Michigan Business Tax Act (MBTA), which took effect January 1, 2008. The MBTA exempts Industrial Personal Property from the 6 mill State Education Tax and up to 18 mills of local school district operating millage; and exempts Commercial Personal Property from up to 12 mills of local school district operating millage. The Act based qualification for this exemption on the classification of the property according to MCL 211.34c.

It is our understanding that the intent of the Legislature and the Governor was to provide a tax break to businesses that were manufacturing and processing in Michigan. However, because of erroneous interpretations of 211.34c, businesses that clearly do not qualify have been receiving the exemption. In an effort to ensure uniformity and to ensure the intention of the Legislature and Governor is carried out, the Michigan Department of Treasury on behalf on the State Tax Commission in 2009 filed 10,331 appeals with the Michigan Tax Tribunal to reclassify clearly commercial property from industrial to commercial.

MCL 209.104 provides that the State Tax Commission shall have general supervision of the administration of the tax laws of the state, and shall render such assistance and give such advice and counsel to the assessing officers of the state as they may deem necessary and essential to the proper administration of the laws governing assessments and the levying of taxes in this state.

In accordance with their statutory authority, the State Tax Commission advises assessors of the following:

1. In accordance with the requirements of MCL 211.34c, all assessors shall annually determine a classification for every item of assessable property in their jurisdiction. These classification shall be based upon the definitions contained in MCL 211.34c and further defined in this memorandum and **shall** be based upon the use of the property as of tax day and not highest and best use.

2. The State Tax Commission has determined that manufacturing and processing as referenced in MCL 211.34c(2)(d) is defined as follows:

The activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in the manufacturing of a product to be ultimately sold at retail.

3. The State Tax Commission has determined that only warehousing directly associated with manufacturing and processing can be considered industrial.
4. The State Tax Commission has determined that the phrase on industrial parcels used to define industrial personal property as defined in MCL 211.34c(3)(c) means parcels on which manufacturing and processing is taking place.
5. The simple fact that a property qualifies for an IFT does not qualify that property to be classified industrial.
6. The simple fact that a property is zoned industrial does not qualify that property to be classified industrial.