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DEPARTMENT OF TREASURY
LANSING

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**BULLETIN NO. 9
CHANGES FOR 2010
October 13, 2009**

TO: Assessors
Equalization Directors

FROM: State Tax Commission (STC)

RE: **PROCEDURAL CHANGES FOR THE 2010 ASSESSMENT YEAR**

The purpose of this Bulletin is to provide information on statutory changes or procedural changes for the 2010 assessment year.

A. Inflation Rate Used in the 2010 Capped Value Formula.

The inflation rate, expressed as a multiplier, to be used in the 2010 Capped Value formula is .997. The 2010 Capped Value Formula is as follows:

$$\text{2010 CAPPED VALUE} = (\text{2009 TAXABLE VALUE} - \text{LOSSES}) \times .997 + \text{ADDITIONS}$$

The preceding formula does not include 1.05 because the inflation rate multiplier of .997 is lower than 1.05.

B. Sunset of Qualified Errors: July or December Boards of Review.

MCL 211.53b indicates that July and December Boards of Review in 2006 through 2009 could correct qualified errors which included:

- (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.

Unless the legislature acts to renew it, the 'qualified errors' provision will expire at the end of 2009 and the authority of July and December Boards of Review will revert back to the ability to correct clerical errors and mutual mistakes of fact. In certain circumstances, the July or December Board of Review has authority to grant poverty exemptions, principle residence exemptions, qualified agricultural exemptions, poverty exemptions, or incorrect uncappings of taxable value.

‘Clerical errors’ and ‘mutual mistakes of fact’ are defined by the courts as follows:

Clerical Error: International Place Apartments v Ypsilanti Township 1996 Mich App. 79. On March 29, 1996 the Michigan Court of Appeals clarified the meaning of the term "clerical error" found in MCL 211.53b which authorizes the correction of a clerical error or mutual mistake of fact by the July and December Boards of Review. The Court of Appeals states that the July and December Boards of Review are allowed to correct clerical errors of a typographical or transpositional nature. The 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. The Court of Appeals decided that a ‘clerical error’, “...simply does not include cases where the assessor fails to consider all the relevant data, even if the root of the assessor’s error may have been a ministerial mistake such as the filing of a document.”

Mutual Mistake of Fact: On June 28, 2006 in a Ford Motor Company case, the Michigan Supreme Court redefined ‘mutual mistake of fact’. The Michigan Supreme Court defined a ‘mutual mistake of fact’ as, “An erroneous belief, which is shared and relied on by both parties, about a material fact that affects the substance of the transaction.”

C. Federal Poverty Guidelines Used in the Determination of Poverty Exemptions for 2010.

MCL 211.7u, which deals with poverty exemptions, was significantly altered by PA 390 of 1994 and was further amended by PA 620 of 2002.

Local governing bodies are required to adopt guidelines that set income levels for their poverty exemption guidelines and those income levels **shall not be set lower** by a city or township than the federal poverty guidelines updated annually by the U.S. Department of Health and Human Services. This means, for example, that the income level for a household of 3 persons **shall not** be set lower than \$18,300 which is the amount shown on the following chart for a family of 3 persons. The income level for a family of 3 persons may be set higher than \$18,300.

Following are the federal poverty guidelines for use in setting poverty exemption guidelines for 2010 assessments.

Size of Family Unit	Poverty Guidelines
1	\$ 10,800
2	\$ 14,600
3	\$ 18,300
4	\$ 22,100
5	\$ 25,800
6	\$ 29,500
7	\$ 33,300
8	\$ 37,000

Note: PA 390 of 1994 states that the poverty exemption guidelines established by the governing body of the local assessing unit shall also include an asset level test. An asset test means the amount of cash, fixed assets or other property that could be used, or converted to cash for use in the payment of property taxes. The asset test should calculate a maximum amount permitted and all other assets above that amount should be considered as available.

D. Multipliers for the Valuation of Free-Standing Communication Towers.

The State Tax Commission has received a number of inquiries, both from the assessing community and from taxpayers, relating to the proper procedures for assessing freestanding communication towers. Accordingly, the Commission has determined that, in addition to providing the valuation multipliers for use in making 2010 assessments, it is appropriate to re-state a number of directives that have been made in previous Bulletins.

The State Tax Commission recommends that, subject to the qualifications stated below, communication towers should be valued for the 2010 assessment year using the table of **historical (original** cost when the tower was new) cost valuation multipliers set forth in the multiplier table below. These multipliers have been developed in a manner such that they account for the typical depreciation which is expected for a tower of the indicated age and also account for changes in the cost of erecting the tower which have occurred since the time the tower was constructed. On this basis, the multiplier table which is shown below is intended to predict the current true cash value of a tower of the vintage year in which the tower was constructed. An important component in determining the current value of a tower built in a given year is the change in the cost of materials, particularly changes in the cost of steel, between the time of construction and the current Tax Day. Since the table considers both depreciation and changes in construction costs, and since changes in construction cost have not always occurred at a constant rate, the multiplier table does not always evidence a decline in the rate by which the historical cost must be adjusted in order to determine current value. This effect is expected and can be better understood if one remembers that the multiplier table is not a depreciation table and the multipliers are applied to the historic cost of construction, not to the current replacement cost.

Communication towers are real property. When a communication tower is built on land owned by the owner of the tower, the tower is valued and assessed as a real property improvement to the land on which it is located. When a communication tower is built on leased land, the owner is required to report the original construction cost of the tower on Section N of its personal property statement, in the same way that it would report any other structure on leased land. Although the construction costs are reported on the personal property statement, a tower on leased land is not assessed on the personal property assessment roll. Instead, the assessor is required to establish a separate real property assessment for a tower located on leased land, using the procedures set forth in State Tax Commission Bulletin 8 of 2002 and State Tax Commission Bulletin 1 of 2003.

Assessors should note several other matters that affect the proper assessment of freestanding communication towers, as follow: Sometimes communication towers are located on land which is exempt because the land is owned by an exempt entity such as a municipality or is otherwise exempt. When this occurs, the tower must be assessed to the tower owner on the real property roll as a structure on leased land. IN ADDITION, the assessor must consider whether the land should also be assessed to the tower owner as provided by MCL 211.181.

There may be situations in which the value of a particular freestanding communication tower is more or less than the figure developed by using this table. This could be due to unusual depreciation and/or obsolescence or an unusual enhancement in value caused by supply and demand factors in a particular area.

The State Tax Commission has developed STC Form 3594 for reporting the costs of freestanding communication towers. This form was developed for the specific purpose of gathering construction cost information for communication towers. The assessor may use this form to gather detailed information regarding the construction costs of communication towers. This cost information can then be used as a basis for valuation by multiplying the historic cost by the appropriate multiplier from the table located below.

Please note the following cautions:

- The preferred method for valuing freestanding communication towers is using original cost new multiplied by the appropriate multiplier from the following table.
- In some cases historical/original cost may be unobtainable. Those cases may require using the Assessor's Manual cost new multiplied by the Assessor's Manual depreciation table multiplier.
- Do not apply the Assessor's Manual depreciation table multipliers to the historical/original cost of a tower.
- Do not apply the communication tower multipliers from the following table to the Manual cost new of a tower.

State Tax Commission Form 3594 is a real property statement and, as such, the taxpayer is not required to complete and submit the form to the assessor unless the taxpayer is specifically asked to do so. If a communication tower is located on leased land, the owner should already be reporting its original acquisition costs on Section N of the personal property statement (STC Form L-4175). If so, the assessor would only need to send STC Form 3594 if more detailed information regarding costs is needed. The assessor IS NOT REQUIRED TO SEND STC Form 3594 to tower owners each year.

**HISTORICAL (ORIGINAL) COST VALUATION MULTIPLIERS FOR USE IN
2010 ASSESSMENTS OF FREESTANDING COMMUNICATIONS TOWERS**

YEAR OF CONSTRUCTION	MULTIPLIER	YEAR OF CONSTRUCTION	MULTIPLIER
2009	0.97	1989	0.97
2008	0.97	1988	0.96
2007	0.99	1987	0.96
2006	1.01	1986	0.95
2005	1.06	1985	0.93
2004	1.10	1984	0.93
2003	1.10	1983	0.93
2002	1.08	1982	0.93
2001	1.06	1981	0.96
2000	1.06	1980	1.02
1999	1.06	1979	1.11
1998	1.06	1978	1.16
1997	1.04	1977	1.20
1996	1.04	1976	1.20
1995	1.04	1975	1.33
1994	1.03	1974	1.46
1993	1.03	1973	1.61
1992	1.03	1972	1.74
1991	1.02	1971	1.91
1990	0.97	1970 and prior	2.06

E. Property Classification

The State Tax Commission reviewed all property classified as industrial personal and industrial real for the 2009 year. A significant number of errors were found; including a significant number of residential houses classified as industrial real. Assessors are asked to carefully review the industrial personal and industrial real classifications taking into account the following:

Industrial Personal: The State Tax Commission at their meeting on October 27, 2008 indicated that MCL 211.34c defines industrial personal property to include all machinery and equipment, furniture and fixtures, and dies on industrial parcels. The Commission has determined that “on industrial parcels” means parcels on which industrial activity is taking place.

Industrial Real: Based upon our review of the parcels classified as industrial real, we believe there is significant confusion on how to classify industrial real parcels. We would refer you to MCL 211.34c which indicates that industrial real parcels include: (i) Platted or unplatted parcels used for manufacturing and processing purposes, with or without buildings. (ii) Parcels used for utilities sites for generating plants, pumping stations, switches, substations, compressing stations, warehouses, rights-of-way, flowage land, and storage areas. (iii) Parcels used for removal or processing of gravel, stone, or mineral ores, whether valued by the local assessor or by the state geologist.

These definitions are clear that industrial real parcels must be used for a manufacturing purpose. It is also clear that when referencing warehouses, the act is discussing parcels used for utility sites and not warehouses in general. We would note that parcels zoned industrial, that have an IFT or are in an industrial park are meeting a different standard than those classified as industrial real property. Simply put; the definitions for exemption certificates and for zoning are not the same as the definitions for classification on the assessment roll.

We would ask that all assessors again review the industrial and commercial classifications of property to ensure those parcels are correctly classified.

F. Sales Studies

At its meeting on May 26, 2009, the State Tax Commission adopted the following:

Effective immediately (beginning with 2009 studies for the starting base for 2010 Equalization), equalization study dates are changed as follows:

- Two Year Study: October 1, two years prior through September 30, current year
- Single Year Study: October 1, preceding year through September 30, current year

For 2009 studies for 2010 equalization the dates are as follows:

- Two Year Study: October 1, 2007 through September 30, 2009
- Single Year Study: October 1, 2008 through September 30, 2009

Note that the time period revisions apply to all equalization studies, that is: sales ratio studies, land value studies and economic condition factor studies for appraisals.

Also note that the revised time period for two year studies applies to all real property classifications.

At its meeting on May 11, 2009 the State Tax Commission adopted the following:

1. In addition to the two year equalization study, the Commission orders the use of 2009 single year sales studies for the 2010 starting base for the residential class for all local units. County Equalization Directors on behalf of their local units may request an exception to this order. In order to request an exception, Equalization Directors must present compelling evidence to support the use of a two year study. Requests for an exception should be directed to Kelli Sobel, Executive Secretary State Tax Commission at P.O. Box 30471, Lansing, MI 48909 or via email at sobelk2@michigan.gov.

2. The Commission authorizes the use of a single year study in the first year of an increasing market, only if a single year study was used in the immediately preceding year to measure a decrease in value.

The following information pertains to the processing Form 2804 (L-4047) for the single year sales study and Form 2793 (L-4017) for the two year sales study.

For the single year sales ratio study, the math remains the same as last year:

- The immediately preceding year's assessments for the first six month's sales are adjusted by an adjustment modifier.
- The current year's assessments for the last six months are not adjusted (or are adjusted by a multiplier of 1.0000).
- The total of the assessments as adjusted for all 12 months is divided by the total of the sale prices for all 12 months to determine the ratio.

For the two year sales ratio study, the math has changed, but in each case, sales from the following date ranges are compared to the same assessments as before:

- Assessments from two years ago as adjusted by an adjustment modifier (two year) are compared to the first six month's sales prices to determine a ratio
- Assessments from last year as adjusted by another adjustment modifier (one year) are compared to the next twelve month's sales prices to determine a second ratio.
- The current year's assessments are not adjusted (or apply a multiplier of 1.0000) and are compared to the last six month's sales prices to determine a third ratio.
- The first and third ratios are each weighted by a multiplier of .25, and the second ratio is weighted by a multiplier of .50.
- The weighted ratios are added together to determine the final ratio.

The final ratio from either sales study is posted to Form 603 (L-4018).

For the two year sales ratio study, if there is an inadequate number of sales to determine a reliable ratio for any of the three time periods, then that study must not be used.

For the single year sales ratio study, if there are an inadequate number of sales in either six month period, the single year sales ratio study still may be used, if and only if, there is an adequate total number of sales to determine a reliable ratio. Recall that the single year sales ratio study divides the total of adjusted assessments to the total of sale prices to determine a single ratio. For the residential class, an exception can be requested due to inadequate number of sales.

Please note that due to the methods of processing ratios, it is possible to have adequate sales for a single year sales ratio study, and have the same set of sales be inadequate for a two year sales ratio study.

G. Foreclosure Sales - Reminder

On August 15, 2007 the State Tax Commission adopted guidelines for Assessors to use for verification for inclusion of foreclosure sales in sales studies. The proper selection of sales for inclusion in these ratio studies is critically important to the development of uniform and accurate assessments. The State Tax Commission has established these guidelines to be used when reviewing sales for sales-ratio studies. The purpose of the guideline is to provide direction when compiling a “desk-reviewed” sales study. Desk-review means determining whether a particular sale will be used in a study based on transfer documents and other information in the office without additional investigation or field inspection. Deviation from the guidelines should be based on investigation of the transaction beyond the normal steps of a desk review process. The recent increase in foreclosures has caused those transactions to have an impact on the real estate market in some parts of the state.

Please see Bulletin 6 of 2007 for detailed information.

H. Home and Farm Alternative Energy Systems

The Commission suggests that in cases where reliable costs can be determined, or developed, for the complete installation of a wind energy system or a solar array energy system in the year of installation, the following valuation multiplier table may be useful in estimating the value of the system as it ages, to wit:

Home and Farm Alternative Energy Systems

AGE	Multiplier
1	0.90
2	0.88
3	0.84
4	0.83
5	0.79
6	0.72
7	0.65
8	0.58
9	0.54
10	0.49
11	0.43
12	0.39
13 and Older	0.35

I. Submission of MCL 211.154 (Form 627) Omitted or Incorrectly Reported Property Petitions

The State Tax Commission continues to receive many MCL 211.154 (Form 627) petitions from assessors that are either incomplete and/or without any supporting documentation. This failure to correctly complete the petition and/or provide supporting documentation results in significant extra work for our staff. Therefore, beginning January 1, 2010, petitions will not

be date stamped as received by the Commission unless they are completely filled out correctly, signed by the assessing officer and/or have all supporting documentation. These petitions will be returned to the assessing officer. If the petition is returned again to the Commission as incomplete and/or without the proper documentation, it will be dismissed for lack of progress.

Please Note: this could be a factor at the end of the calendar year regarding preserving jurisdiction for a year when the Commission will lose jurisdiction on January 1.