

HOUSE BILL No. 4192

February 11, 2003, Introduced by Reps. Stakoe, Ward, Stahl, Nofs and Hune and referred to the Committee on Tax Policy.

A bill to amend 1973 PA 186, entitled
"Tax tribunal act,"
by amending sections 35, 37, 43, and 62a (MCL 205.735, 205.737, 205.743, and 205.762a), section 35 as amended by 2000 PA 165, section 37 as amended by 1996 PA 505, and section 43 as amended and section 62a as added by 1994 PA 254.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35. (1) A proceeding before the tribunal is original
2 and independent and is considered de novo. For an assessment
3 dispute as to the valuation of property or if an exemption is
4 claimed, the assessment must be protested before the board of
5 review before the tribunal acquires jurisdiction of the dispute
6 under subsection (2), except as otherwise provided in this
7 section for a year in which the July or December board of review
8 has authority to determine a claim of exemption for qualified

1 agricultural property or for an appeal of a denial of a
2 ~~homestead~~ **principal residence** exemption by the department of
3 treasury, and in section 37(5) and (7). For a dispute regarding
4 a determination of a claim for exemption of qualified
5 agricultural property for a year in which the July or December
6 board of review has authority to determine a claim of exemption
7 for qualified agricultural property, the claim for exemption must
8 be presented to either the July or December board of review
9 before the tribunal acquires jurisdiction of the dispute. For a
10 special assessment dispute, the special assessment must be
11 protested at the hearing held for the purpose of confirming the
12 special assessment roll before the tribunal acquires jurisdiction
13 of the dispute.

14 (2) The jurisdiction of the tribunal in an assessment dispute
15 is invoked by a party in interest, as petitioner, filing a
16 written petition on or before June 30 of the tax year involved.
17 Except in the residential property and small claims division, a
18 written petition is considered filed by June 30 of the tax year
19 involved if it is sent by certified mail on or before June 30 of
20 that tax year. In the residential property and small claims
21 division, a written petition is considered filed by June 30 of
22 the tax year involved if it is postmarked by first-class mail or
23 delivered in person on or before June 30 of the tax year
24 involved. All petitions required to be filed or served by a day
25 during which the offices of the tribunal are not open for
26 business shall be filed by the next business day. In all other
27 matters, the jurisdiction of the tribunal is invoked by a party

1 in interest, as petitioner, filing a written petition within 30
2 days after the final decision, ruling, determination, or order
3 that the petitioner seeks to review, or within 35 days if the
4 appeal is pursuant to section 22(1) of 1941 PA 122, MCL 205.22.
5 Except in the residential property and small claims division, a
6 written petition is considered filed if it is sent by certified
7 mail or delivered in person on or before expiration of the period
8 in which an appeal may be made as provided by law. In the
9 residential and small claims division, a written petition is
10 considered filed if it is postmarked by first-class mail or
11 delivered in person on or before expiration of the period in
12 which an appeal may be made as provided by law. An appeal of a
13 contested tax bill shall be made within 60 days after mailing by
14 the assessment district treasurer and the appeal is limited
15 solely to correcting arithmetic errors or mistakes and is not a
16 basis of appeal as to disputes of valuation of the property, the
17 property's exempt status, or the property's equalized value
18 resulting from equalization of its assessment by the county board
19 of commissioners or the state tax commission. Service of the
20 petition on the respondent shall be by certified mail. For an
21 assessment dispute, service of the petition shall be mailed to
22 the assessor of that governmental unit if the respondent is the
23 local governmental unit. Except for petitions filed under
24 chapter 6, a copy of the petition shall also be sent to the
25 secretary of the school board in the local school district in
26 which the property is located and to the clerk of any county that
27 may be affected.

1 (3) The petition or answer may be amended at any time by
2 leave of the tribunal and in compliance with its rules. If a tax
3 was paid while the determination of the right to the tax is
4 pending before the tribunal, the taxpayer may amend his or her
5 petition to seek a refund of that tax.

6 (4) A person or legal entity may appear before the tribunal
7 in his or her own behalf, or may be represented by an attorney or
8 by any other person.

9 Sec. 37. (1) The tribunal shall determine a property's
10 taxable value pursuant to section 27a of the general property tax
11 act, ~~Act No. 206 of the Public Acts of 1893, being section~~
12 ~~211.27a of the Michigan Compiled Laws 1893 PA 206, MCL 211.27a.~~

13 (2) The tribunal shall determine a property's state equalized
14 valuation by multiplying its finding of true cash value by a
15 percentage equal to the ratio of the average level of assessment
16 in relation to true cash values in the assessment district, and
17 equalizing that product by application of the equalization factor
18 that is uniformly applicable in the assessment district for the
19 year in question. The property's state equalized valuation shall
20 not exceed 50% of the true cash value of the property on the
21 assessment date.

22 (3) The petitioner has the burden of proof in establishing
23 the true cash value of the property. The assessing agency has
24 the burden of proof in establishing the ratio of the average
25 level of assessments in relation to true cash values in the
26 assessment district and the equalization factor that was
27 uniformly applied in the assessment district for the year in

1 question.

2 (4) If the taxpayer paid additional taxes as a result of the
3 unlawful assessments on the same property after filing the
4 petition, or if in subsequent years an unlawful assessment is
5 made against the same property, the taxpayer, not later than the
6 filing deadline prescribed in section 35(2), except as otherwise
7 provided in subsections (5) and (7), may amend the petition to
8 join all of the claims for a determination of the property's
9 taxable value, state equalized valuation, or exempt status and
10 for a refund of payments based on the unlawful assessments. The
11 motion to amend the petition to add a subsequent year shall be
12 accompanied by a motion fee equal to 50% of the filing fee to
13 file a petition to commence an appeal for that property in that
14 year. A sum determined by the tribunal to have been unlawfully
15 paid or underpaid shall bear interest from the date of payment to
16 the date of judgment and the judgment shall bear interest to date
17 of its payment. However, a sum determined by the tribunal to
18 have been underpaid shall not bear interest for any time period
19 prior to 28 days after the tribunal's decision. Interest
20 required by this subsection shall accrue for periods before
21 April 1, 1982 at a rate of 6% per year, shall accrue for periods
22 after March 31, 1982 but before April 1, 1985 at a rate of 12%
23 per year, and shall accrue for periods after March 31, 1985 but
24 before April 1, 1994 at a rate of 9% per year. After March 31,
25 1994 but before January 1, 1996, interest shall accrue at an
26 interest rate set monthly at a per annum rate based on the
27 auction rate of the 91-day discount treasury bill rate for the

1 first Monday in each month, plus 1%. After December 31, 1995,
2 interest shall accrue at an interest rate set each year based on
3 the average auction rate of 91-day discount treasury bills in the
4 immediately preceding state fiscal year as certified by the
5 department of treasury, plus 1%. The department of treasury
6 shall certify the interest rate within 60 days after the end of
7 the immediately preceding fiscal year. The tribunal shall order
8 the refund of all or part of a property tax administration fee
9 paid in connection with taxes that the tribunal determines were
10 unlawfully paid.

11 (5) A motion to amend a petition to add subsequent years is
12 not necessary in the following circumstances:

13 (a) For petitions filed after December 31, 1987, if the
14 tribunal has jurisdiction over a petition alleging that the
15 property is exempt from taxation, the appeal for each subsequent
16 year for which an assessment has been established shall be added
17 automatically to the petition. However, upon leave of the
18 tribunal, the petitioner or respondent may request that any
19 subsequent year be excluded from appeal at the time of the
20 hearing on the petition.

21 (b) If the residential property and small claims division of
22 the tribunal has jurisdiction over a petition, the appeal for
23 each subsequent year for which an assessment has been established
24 shall be added automatically to the petition. The residential
25 property and small claims division shall automatically add to an
26 appeal of a final determination of a claim for exemption of a
27 ~~homestead~~ **principal residence** or of qualified agricultural

1 property each subsequent year in which a claim for exemption of
2 that ~~homestead~~ **principal residence** or that qualified
3 agricultural property is denied. However, upon leave of the
4 tribunal, the petitioner or respondent may request that any
5 subsequent year be excluded from appeal at the time of the
6 hearing on the petition.

7 (6) The notice of the hearing on a petition shall include a
8 statement advising the petitioner of the right to amend his or
9 her petition to include or exclude subsequent years as provided
10 by subsections (4) and (5).

11 (7) If the final equalization multiplier for the tax year is
12 greater than the tentative multiplier used in preparing the
13 assessment notice and as a result of action of the state board of
14 equalization or county board of commissioners a taxpayer's
15 assessment as equalized is in excess of 50% of true cash value,
16 that person may appeal directly to the tax tribunal without a
17 prior protest before the local board of review. The appeal shall
18 be filed under this subsection on or before the third Monday in
19 August and shall be heard in the same manner as other appeals of
20 the tribunal. An appeal pursuant to this subsection shall not
21 result in an equalized value less than the assessed value
22 multiplied by the tentative equalization multiplier used in
23 preparing the assessment notice.

24 Sec. 43. (1) If the date set by law for the payment of
25 taxes has passed, the tribunal shall not make a final decision on
26 the entire proceeding until the taxes are paid. This requirement
27 may be waived at the tribunal's discretion.

1 (2) This section only applies to taxes paid under the general
 2 property tax act, ~~Act No. 206 of the Public Acts of 1893, as~~
 3 ~~amended, being sections 211.1 to 211.157 of the Michigan Compiled~~
 4 ~~Laws, or Act No. 189 of the Public Acts of 1953, as amended,~~
 5 ~~being sections 211.181 and 211.182 of the Michigan Compiled Laws~~
 6 **1893 PA 206, MCL 211.1 to 211.157, or 1953 PA 189, MCL 211.181 to**
 7 **211.182.**

8 (3) This section does not apply to an appeal to the
 9 residential property and small claims division of the tribunal
 10 under section 62a of a denial of a claim for exemption of a
 11 ~~homestead~~ **principal residence** or of qualified agricultural
 12 property under ~~Act No. 206 of the Public Acts of 1893 from taxes~~
 13 ~~levied under section 1211 of the school code of 1976, Act No. 451~~
 14 ~~of the Public Acts of 1976, being section 380.1211 of the~~
 15 ~~Michigan Compiled Laws~~ **the general property tax act, 1893**
 16 **PA 206, MCL 211.1 to 211.157, from taxes levied under section**
 17 **1211 of the revised school code, 1976 PA 451, MCL 380.1211.**

18 Sec. 62a. (1) The residential property and small claims
 19 division created under section 61 has exclusive jurisdiction over
 20 an appeal of a final determination of a claim for exemption of a
 21 ~~homestead~~ **principal residence** by the department of treasury or
 22 of qualified agricultural property under the general property tax
 23 act, ~~Act No. 206 of the Public Acts of 1893, being~~
 24 ~~sections 211.1 to 211.157 of the Michigan Compiled Laws~~ **1893**
 25 **PA 206, MCL 211.1 to 211.157, from taxes levied under**
 26 ~~section 1211 of the school code of 1976, Act No. 451 of the~~
 27 ~~Public Acts of 1976, being section 380.1211 of the Michigan~~

1 ~~Compiled Laws~~ **revised school code, 1976 PA 451, MCL 380.1211.**

2 (2) An appeal of a final determination of a claim for
3 exemption of a ~~homestead~~ **principal residence** under ~~Act No. 206~~
4 ~~of the Public Acts of 1893~~ **the general property tax act, 1893**
5 **PA 206, MCL 211.1 to 211.157,** shall be filed not later than 35
6 days after the department of treasury determines a claim for
7 exemption. An appeal is considered filed if it is postmarked by
8 first-class mail or delivered in person within 35 days after the
9 department of treasury denies a claim for exemption.

10 (3) An appeal of a final determination of a claim for
11 exemption of qualified agricultural property under ~~Act No. 206~~
12 ~~of the Public Acts of 1893~~ **the general property tax act, 1893**
13 **PA 206, MCL 211.1 to 211.157,** shall be filed not later than 30
14 days after the July or December board of review determines a
15 claim for exemption. An appeal is considered filed if it is
16 postmarked by first-class mail or delivered in person within 30
17 days after the July or December board of review denies a claim
18 for exemption.

19 Enacting section 1. This amendatory act does not take
20 effect unless Senate Bill No. _____ or House Bill No. 4189
21 (request no. 01070'03) of the 92nd Legislature is enacted into
22 law.