

Act No. 131  
Public Acts of 2003  
Approved by the Governor  
July 31, 2003  
Filed with the Secretary of State  
August 1, 2003  
EFFECTIVE DATE: January 1, 2004

**STATE OF MICHIGAN  
92ND LEGISLATURE  
REGULAR SESSION OF 2003**

Introduced by Reps. Stakoe, Ward, Stahl, Nofs and Hune

# **ENROLLED HOUSE BILL No. 4192**

AN ACT to amend 1973 PA 186, entitled "An act to create the tax tribunal; to provide for personnel, jurisdiction, functions, practice and procedure; to provide for appeals; and to prescribe the powers and duties of certain state agencies; and to abolish certain boards," 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:*

Sec. 35. (1) A proceeding before the tribunal is original and independent and is considered de novo. For an assessment dispute as to the valuation of property or if an exemption is claimed, the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (2), except as otherwise provided in this section for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property or for an appeal of a denial of a principal residence exemption by the department of treasury, and in section 37(5) and (7). For a dispute regarding a determination of a claim for exemption of qualified agricultural property for a year in which the July or December board of review has authority to determine a claim of exemption for qualified agricultural property, the claim for exemption must be presented to either the July or December board of review before the tribunal acquires jurisdiction of the dispute. For a special assessment dispute, the special assessment must be protested at the hearing held for the purpose of confirming the special assessment roll before the tribunal acquires jurisdiction of the dispute.

(2) The jurisdiction of the tribunal in an assessment dispute is invoked by a party in interest, as petitioner, filing a written petition on or before June 30 of the tax year involved. Except in the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is sent by certified mail on or before June 30 of that tax year. In the residential property and small claims division, a written petition is considered filed by June 30 of the tax year involved if it is postmarked by first-class mail or delivered in person on or before June 30 of the tax year involved. All petitions required to be filed or served by a day during which the offices of the tribunal are not open for business shall be filed by the next business day. In all other matters, the jurisdiction of the tribunal is invoked by a party in interest, as petitioner, filing a written petition within 30 days after the final decision, ruling, determination, or order that the petitioner seeks to review, or within 35 days if the appeal is pursuant to section 22(1) of 1941 PA 122, MCL 205.22. Except in the residential property and small claims division, a written petition is considered filed if it is sent by certified mail or delivered in person on or before expiration of the period in which an appeal may be made as provided by law. In the residential and small claims division, a written petition is considered filed if it is postmarked by first-class mail or delivered in person on or before expiration of the period in which an appeal may be made as provided by law. An appeal of a contested tax bill shall be made within 60 days after mailing by the assessment district treasurer and the appeal is limited solely to correcting arithmetic errors or mistakes and is not a basis of appeal as to disputes of valuation of the property, the property's exempt status, or the property's equalized

value resulting from equalization of its assessment by the county board of commissioners or the state tax commission. Service of the petition on the respondent shall be by certified mail. For an assessment dispute, service of the petition shall be mailed to the assessor of that governmental unit if the respondent is the local governmental unit. Except for petitions filed under chapter 6, a copy of the petition shall also be sent to the secretary of the school board in the local school district in which the property is located and to the clerk of any county that may be affected.

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

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

Sec. 37. (1) The tribunal shall determine a property's taxable value pursuant to section 27a of the general property tax act, 1893 PA 206, MCL 211.27a.

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

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

(4) If the taxpayer paid additional taxes as a result of the unlawful assessments on the same property after filing the petition, or if in subsequent years an unlawful assessment is made against the same property, the taxpayer, not later than the filing deadline prescribed in section 35(2), except as otherwise provided in subsections (5) and (7), may amend the petition to join all of the claims for a determination of the property's taxable value, state equalized valuation, or exempt status and for a refund of payments based on the unlawful assessments. The motion to amend the petition to add a subsequent year shall be accompanied by a motion fee equal to 50% of the filing fee to file a petition to commence an appeal for that property in that year. A sum determined by the tribunal to have been unlawfully paid or underpaid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to date of its payment. However, a sum determined by the tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the tribunal's decision. Interest required by this subsection shall accrue for periods before April 1, 1982 at a rate of 6% per year, shall accrue for periods after March 31, 1982 but before April 1, 1985 at a rate of 12% per year, and shall accrue for periods after March 31, 1985 but before April 1, 1994 at a rate of 9% per year. After March 31, 1994 but before January 1, 1996, interest shall accrue at an interest rate set monthly at a per annum rate based on the auction rate of the 91-day discount treasury bill rate for the first Monday in each month, plus 1%. After December 31, 1995, interest shall accrue at an interest rate set each year based on the average auction rate of 91-day discount treasury bills in the immediately preceding state fiscal year as certified by the department of treasury, plus 1%. The department of treasury shall certify the interest rate within 60 days after the end of the immediately preceding fiscal year. The tribunal shall order the refund of all or part of a property tax administration fee paid in connection with taxes that the tribunal determines were unlawfully paid.

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

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

(b) If the residential property and small claims division of the tribunal has jurisdiction over a petition, the appeal for each subsequent year for which an assessment has been established shall be added automatically to the petition. The residential property and small claims division shall automatically add to an appeal of a final determination of a claim for exemption of a principal residence or of qualified agricultural property each subsequent year in which a claim for exemption of that principal residence or that qualified agricultural property is denied. However, upon leave of the tribunal, the petitioner or respondent may request that any subsequent year be excluded from appeal at the time of the hearing on the petition.

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

(7) If the final equalization multiplier for the tax year is greater than the tentative multiplier used in preparing the assessment notice and as a result of action of the state board of equalization or county board of commissioners a taxpayer's assessment as equalized is in excess of 50% of true cash value, that person may appeal directly to the tax tribunal without a prior protest before the local board of review. The appeal shall be filed under this subsection on or

before the third Monday in August and shall be heard in the same manner as other appeals of the tribunal. An appeal pursuant to this subsection shall not result in an equalized value less than the assessed value multiplied by the tentative equalization multiplier used in preparing the assessment notice.

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

(2) This section only applies to taxes paid under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, or 1953 PA 189, MCL 211.181 to 211.182.

(3) This section does not apply to an appeal to the residential property and small claims division of the tribunal under section 62a of a denial of a claim for exemption of a principal residence or of qualified agricultural property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, from taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

Sec. 62a. (1) The residential property and small claims division created under section 61 has exclusive jurisdiction over an appeal of a final determination of a claim for exemption of a principal residence by the department of treasury or of qualified agricultural property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, from taxes levied under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211.

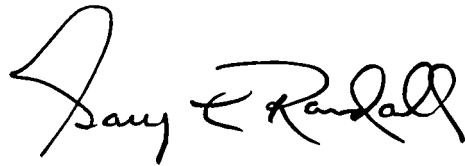
(2) An appeal of a final determination of a claim for exemption of a principal residence under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, shall be filed not later than 35 days after the department of treasury determines a claim for exemption. An appeal is considered filed if it is postmarked by first-class mail or delivered in person within 35 days after the department of treasury denies a claim for exemption.

(3) An appeal of a final determination of a claim for exemption of qualified agricultural property under the general property tax act, 1893 PA 206, MCL 211.1 to 211.157, shall be filed not later than 30 days after the July or December board of review determines a claim for exemption. An appeal is considered filed if it is postmarked by first-class mail or delivered in person within 30 days after the July or December board of review denies a claim for exemption.

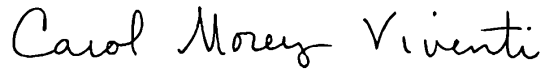
Enacting section 1. This amendatory act takes effect January 1, 2004.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 133 of the 92nd Legislature is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor