

HOUSE BILL No. 5230

August 4, 2009, Introduced by Rep. Opsommer and referred to the Committee on Tax Policy.

A bill to amend 1973 PA 186, entitled
"Tax tribunal act,"
by amending section 37 (MCL 205.737), as amended by 2006 PA 174.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

4 (2) The tribunal shall determine a property's state equalized
5 valuation by multiplying its finding of true cash value by a
6 percentage equal to the ratio of the average level of assessment in
7 relation to true cash values in the assessment district, and
8 equalizing that product by application of the equalization factor
9 that is uniformly applicable in the assessment district for the

1 year in question. The property's state equalized valuation shall
2 not exceed 50% of the true cash value of the property on the
3 assessment date.

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

10 (4) If the taxpayer paid additional taxes as a result of the
11 unlawful assessments on the same property after filing the
12 petition, or if in subsequent years an unlawful assessment is made
13 against the same property, the taxpayer, not later than the filing
14 deadline prescribed in section 35 for a proceeding before the
15 tribunal that is commenced before January 1, 2007 or section 35a
16 for a proceeding before the tribunal that is commenced after
17 December 31, 2006, except as otherwise provided in subsections (5)
18 and (7), may amend the petition to join all of the claims for a
19 determination of the property's taxable value, state equalized
20 valuation, or exempt status and for a refund of payments based on
21 the unlawful assessments. ~~The~~ **BEFORE JANUARY 1, 2010, THE** motion to
22 amend the petition to add a subsequent year shall be accompanied by
23 a motion fee equal to 50% of the filing fee to file a petition to
24 commence an appeal for that property in that year. **AFTER DECEMBER**
25 **31, 2009, THE APPEAL FOR EACH SUBSEQUENT YEAR SHALL BE ADDED**
26 **AUTOMATICALLY TO THE PETITION AND THE TRIBUNAL SHALL NOTIFY EACH**
27 **PETITIONER THAT SUBSEQUENT YEARS SHALL BE AUTOMATICALLY ADDED**

1 WITHOUT NEED FOR A MOTION OR FILING FEE. HOWEVER, THE PETITIONER
2 MAY MOVE TO EXCLUDE OR AMEND THE APPEAL OF ANY SUBSEQUENT YEAR AT
3 THE TIME OF THE HEARING ON THE PETITION. A sum determined by the
4 tribunal to have been unlawfully paid or underpaid shall bear
5 interest from the date of payment to the date of judgment and the
6 judgment shall bear interest to date of its payment. However, a sum
7 determined by the tribunal to have been underpaid shall not bear
8 interest for any time period prior to 28 days after the tribunal's
9 decision. Interest required by this subsection shall accrue for
10 periods before April 1, 1982 at a rate of 6% per year, shall accrue
11 for periods after March 31, 1982 but before April 1, 1985 at a rate
12 of 12% per year, and shall accrue for periods after March 31, 1985
13 but before April 1, 1994 at a rate of 9% per year. After March 31,
14 1994 but before January 1, 1996, interest shall accrue at an
15 interest rate set monthly at a per annum rate based on the auction
16 rate of the 91-day discount treasury bill rate for the first Monday
17 in each month, plus 1%. After December 31, 1995, interest shall
18 accrue at an interest rate set each year based on the average
19 auction rate of 91-day discount treasury bills in the immediately
20 preceding state fiscal year as certified by the department of
21 treasury, plus 1%. The department of treasury shall certify the
22 interest rate within 60 days after the end of the immediately
23 preceding fiscal year. The tribunal shall order the refund of all
24 or part of a property tax administration fee paid in connection
25 with taxes that the tribunal determines were unlawfully paid.

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

1 (a) If the tribunal has jurisdiction over a petition alleging
2 that the property is exempt from taxation, the appeal for each
3 subsequent year for which an assessment has been established shall
4 be added automatically to the petition. However, upon leave of the
5 tribunal, the petitioner or respondent may request that any
6 subsequent year be excluded from appeal at the time of the hearing
7 on the petition.

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

20 (6) The notice of the hearing on a petition shall include a
21 statement advising the petitioner of the right to amend his or her
22 petition to include or exclude subsequent years as provided by
23 subsections (4) and (5) **AND, AFTER DECEMBER 31, 2009, A STATEMENT**
24 **ADVISING THE PETITIONER THAT SUBSEQUENT YEARS SHALL BE**
25 **AUTOMATICALLY ADDED WITHOUT NEED FOR A MOTION OR FILING FEE, AS**
26 **PROVIDED IN SUBSECTION (4).**

27 (7) If the final equalization multiplier for the tax year is

1 greater than the tentative multiplier used in preparing the
2 assessment notice and as a result of action of the state board of
3 equalization or county board of commissioners a taxpayer's
4 assessment as equalized is in excess of 50% of true cash value,
5 that person may appeal directly to the tax tribunal without a prior
6 protest before the local board of review. The appeal shall be filed
7 under this subsection on or before the third Monday in August and
8 shall be heard in the same manner as other appeals of the tribunal.
9 An appeal pursuant to this subsection shall not result in an
10 equalized value less than the assessed value multiplied by the
11 tentative equalization multiplier used in preparing the assessment
12 notice.