

Act No. 232
Public Acts of 1995
Approved by the Governor
December 16, 1995
Filed with the Secretary of State
December 19, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. Gernaat, Llewellyn, Hill, Gnodtke, Bodem, Jaye, Middaugh, DeLange, Rhead, London, Green and McManus

ENROLLED HOUSE BILL No. 5124

AN ACT to amend sections 37 and 62 of Act No. 186 of the Public Acts of 1973, 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," section 37 as amended by Act No. 254 of the Public Acts of 1994 and section 62 as amended by Act No. 21 of the Public Acts of 1993, being sections 205.737 and 205.762 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 37 and 62 of Act No. 186 of the Public Acts of 1973, section 37 as amended by Act No. 254 of the Public Acts of 1994 and section 62 as amended by Act No. 21 of the Public Acts of 1993, being sections 205.737 and 205.762 of the Michigan Compiled Laws, are amended to read as follows:

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

(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) 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 homestead or of qualified agricultural property each subsequent year in which a claim for exemption of that homestead 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 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. 62. (1) The residential property and small claims division created in section 61 has jurisdiction over a proceeding, otherwise cognizable by the tribunal, in which residential property is exclusively involved. Property other than residential property may be included in a proceeding before the residential property and small claims division, if the amount of that property's taxable value or state equalized valuation in dispute is not more than \$100,000.00. The residential property and small claims division also has jurisdiction over a proceeding involving an appeal of any other tax over which the tribunal has jurisdiction if the amount of the tax in dispute is \$6,000.00 or less.

(2) For purposes of this chapter, "residential property" means a homestead or other residential or agricultural real property including less than 4 rental units.

(3) A person or legal entity entitled to proceed under section 31, and whose proceeding meets the jurisdictional requirements of subsection (1), may elect to proceed before either the residential property and small claims division or the tribunal. A formal record of residential property and small claims division proceedings is not required. Within 20 days after a hearing referee issues an order, by leave of the tribunal and for good cause, a party may request a rehearing by a tribunal member. A rehearing is not limited to the evidence presented before the hearing referee.

(4) The residential property and small claims division shall meet in the county in which the property in question is located or in a county contiguous to the county in which the property in question is located. A petitioner-appellant shall not be required to travel more than 100 miles from the location of the property in question to the hearing site, except that a rehearing by a tribunal member shall be at a site determined by the tribunal.

(5) The tribunal shall make a short form for the simplified filing of residential appeals.

(6) In a proceeding before the residential property and small claims division for property other than homestead residential property, if the amount of taxable value or state equalized valuation in dispute is greater than \$20,000.00, or in nonproperty matters if the amount in dispute is greater than \$1,000.00, the filing fee is the amount that would have been paid if the proceeding was brought before the tribunal and not the residential property and small claims division.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.