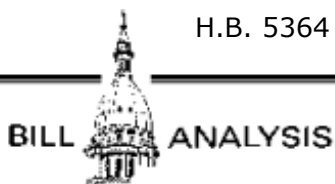




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House Bill 5364 (Substitute H-2 as passed by the House)
Sponsor: Representative Kevin Green
House Committee: Tax Policy
Senate Committee: Finance

Date Completed: 1-18-06

CONTENT

The bill would amend the General Property Tax Act to require an assessor to prepare and execute an affidavit verifying a mutual mistake of fact to the board of review when the assessor and property owner agreed that property liable to taxation had been incorrectly assessed and require the board to approve the correction of the error. The bill also would allow a taxpayer to recover excess taxes paid as the result of an error made by the taxpayer in preparing a statement of assessable personal property; and make other changes to the Act relative to an error.

Under the bill, if the assessor and the owner of property liable to taxation agreed that the property had been incorrectly assessed for the current assessment year and one year immediately preceding the date of discovery and disclosure to the assessor of the incorrect assessment, the assessor would have to prepare and execute an affidavit, which also would have to be signed by the property owner, verifying the mutual mistake of fact to the July or December board of review. If the affidavit were submitted to the board of review, it would have to approve the correction of the error. Property liable to taxation would include property subject to taxation under the plant rehabilitation and industrial development Act, Public Act 282 of 1905 (which provides for the taxation of railroads), Public Act 189 of 1953 (which provides for the taxation of users of tax exempt property), and the Commercial Redevelopment Act.

Under the Act, if a taxpayer is assessed and pays taxes in excess of the correct and lawful amount due because of a clerical error or mutual mistake of fact made by the assessing officer and the taxpayer, the taxpayer may recover the excess paid, without interest, if suit is commenced within three years from the date of payment, notwithstanding that the payment was not made under protest. Under the bill, this also would apply if a taxpayer were assessed and paid taxes in excess of the correct and lawful amount due because of an error made by the taxpayer in preparing the statement of assessable personal property.

The Act provides for the verification and correction of a clerical error or a mutual mistake of fact relative to the correct assessment figures, the rate of taxation, or the mathematical computation related to the assessing of taxes. The Act also provides for a rebate, or notice to and payment by the taxpayer, if the clerical error or mutual mistake of fact results in an overpayment or underpayment. The bill would refer in these provisions to a clerical error, a mutual mistake of fact, or "error".

Currently, the county treasurer may deduct a rebate from the appropriate tax collecting unit's subsequent distribution of taxes, and the county treasurer must bill to the appropriate tax collecting unit its share of taxes rebated. The bill would refer to the treasurer in possession of the appropriate tax roll, instead of the county treasurer.

Proposed MCL 211.27e et al.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would reduce both local revenue and State School Aid Fund revenue, as well as increase School Aid Fund expenditures, by an unknown amount. The actual amount of the reductions would depend upon the characteristics of the properties affected by the bill as well as the timing of any changes and the extent to which assessments otherwise would be changed under current law. Changes related to nonhomestead property also would increase School Aid Fund expenditures because School Aid Fund expenditures would need to rise in order to maintain per-pupil funding guarantees.

This analysis is preliminary and will be revised as new information becomes available.

Fiscal Analyst: David Zin

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.