

BULLETIN NO. 8 OF 1996

UNCAPPING TAXABLE VALUE

MAY 6, 1996

TO: Assessors

Equalization Directors

Treasurers

FROM: State Tax Commission(STC)

RE: PROCEDURES TO USE WHEN A 1995 "TRANSFER OF OWNERSHIP" IS DISCOVERED AFTER THE ADJOURNMENT OF THE 1996 MARCH BOARD OF REVIEW

This bulletin will establish procedures to be used by the assessor when the assessor discovers after the adjournment of the 1996 March Board of Review that a "Transfer of Ownership" has occurred in 1995, and that the 1996 Taxable Value has not yet been "uncapped". "Uncapping Taxable Value is the process which makes the Taxable Value of a parcel of property the same as the State Equalized Value in the year following a "Transfer of Ownership". Also, see a related example situation described in paragraph B of this bulletin where a Taxable Value is incorrectly "uncapped" due to a clerical error.

IMPORTANT NOTE: This bulletin is being written as it applies specifically to the "uncapping" of the 1996 Taxable Value. It will also apply to the same situations in future years.

This failure to "uncap Taxable Value" in a timely manner can be caused either by a failure on the part of the transferee (buyer) of the property to file the Property Transfer Affidavit (Form L-4260) in a timely manner or by a clerical error on the part of the assessor or a mutual mistake of fact. Each of these two situations will be addressed separately in this bulletin.

A) Problem: A Taxable Value is Not "Uncapped" Due to a Failure on the Part of the Transferee (Buyer) to Timely File the Property Transfer Affidavit (Form L-4260).

Corrective Procedures: The following are the procedures established by the State Tax Commission which shall be used by assessors and treasurers when it is discovered that a Taxable Value has not been "uncapped" in a timely manner DUE TO A FAILURE ON THE PART OF THE TRANSFEREE (BUYER) TO TIMELY FILE THE PROPERTY TRANSFER AFFIDAVIT (FORM L-4260).

1) If the assessor is uncertain whether a particular transfer is a "Transfer of Ownership", the assessor shall send a copy of the Property Transfer Affidavit (Form L-4260) to the Transferee (Buyer). (Please see STC Bulletin No. 16 of 1995 for more information regarding "Transfers of Ownership".) The assessor should advise the transferee of the obligation under the law to file

the form and the penalties which apply. If the assessor is certain that a particular transfer is a "Transfer of Ownership", steps 1, 2 and 3 of this procedure may be skipped.

- 2) The assessor shall allow at least 2 weeks for the transferee to return the form L-4260.
- 3) Whether or not the form L-4260 is returned, the assessor must decide whether a "Transfer of Ownership" has occurred.
- 4) If the assessor believes that a "Transfer of Ownership" has occurred in 1995 and the 1996 Taxable Value has not been "uncapped", the assessor shall immediately "uncap" the 1996 Taxable Value of the property and enter the new Taxable Value on the 1996 assessment roll. The 1996 Tax Roll shall also be corrected. The assessor shall also enter on the assessment roll the date of the last "transfer of ownership" as required by Public Act 415 of 1994 and as discussed on page 10 of STC Bulletin No. 18 of 1995.
- 5) The assessor shall immediately notify the property owner in writing that the determination has been made that a "transfer of ownership" has occurred and that the Taxable Value on his/her property has been "uncapped". The assessor shall also advise the owner of his/her right to appeal to the Michigan Tax Tribunal by letter within 35 days of the notice.
- 6) Within 30 days of the "uncapping" of Taxable Value, the assessor shall file an affidavit relative to the new Taxable Value and the additional taxes to be levied with the proper officials who are involved with the assessment figures, rate of taxation, or mathematical calculations and all affected official records shall be corrected. A sample affidavit is included at the end of this bulletin along with an example of how the middle part of the affidavit is to be filled out for a homestead property which requires an immediate billing for additional taxes. A separate affidavit must be filled out for each property and for each year affected. Therefore, if the Taxable Value for a property is changed for 2 years, 2 affidavits must be filed.
- 7) If the "uncapping" occurs after a 1996 tax bill has already been sent out, the assessor shall certify to the treasurer any additional taxes due because of the "uncapping". This is done on the affidavit form discussed in step 6 above. This certification is made to the treasurer of the local tax collecting unit if the local unit has possession of the tax roll or to the county treasurer if the county has possession of the tax roll.

If the "uncapping" occurs before the 1996 tax bill has been sent, the 1996 tax roll shall be corrected so that when the 1996 bill is sent, it will be based on the corrected Taxable Value.

- 8) The appropriate treasurer shall immediately prepare and submit a corrected tax bill including any interest and penalty which may be due. The interest and penalty originate from the date the tax would have been originally levied if the Taxable Value had been uncapped at the proper time.

For example, if a Taxable Value should have been uncapped in 1996, for a tax levied on December 1, 1996 and this fact was discovered several years later, the penalty and interest on the "additional taxes" would be calculated starting on

February 15, 1997 because February 14 is the last day to pay taxes without incurring a penalty.

Please see STC Bulletin No. 16 of 1995, starting on page 22, for further clarification of interest and penalties.

The assessor and the treasurer shall not obstruct, interfere with, or needlessly delay the process of uncapping taxable value and collecting the "additional taxes" interest, and penalty.

The Local Audit and Finance Division of the Michigan Department of Treasury recommends that, if "additional taxes", interest, and penalties are not paid within 30 days of billing, they should be added to the delinquent tax roll(s) for the year(s) that the taxes were originally levied, (assuming there already is a delinquent tax roll for the year in question).

9) Section 27b of PA 415 of 1994 states that if the buyer, grantee, or transferee does not file the Transfer Affidavit (form L-4260) within 45 days of a "transfer of ownership", a penalty of \$5.00 per day may be levied (up to a maximum of \$200) for each day after the 45 days have elapsed. Please see STC Bulletin No. 16 of 1995, starting on page 23, for more information about the \$5.00/day penalty.

The collection of the \$5.00/day penalty (up to a maximum of \$200) may be delayed until the next tax bill. The STC recommends that the \$5.00/day penalty shall NOT become a lien on property.

B) Problem: Taxable Value is Not "Uncapped" Due to a Clerical Error by the Assessor or a Mutual Mistake of Fact

Corrective Procedure: The procedures to be followed when a 1995 "Transfer of Ownership" has occurred and the 1996 Taxable Value was not "uncapped" DUE TO A CLERICAL ERROR BY THE ASSESSOR OR A MUTUAL MISTAKE OF FACT are substantially different from the procedures outlined in paragraph A of this bulletin.

An example of a clerical error would be the situation where a Property Transfer Affidavit (Form L-4260) was received by the assessor prior to the adjournment of the March Board of Review but, due to a clerical error, the Taxable Value was not "uncapped" even though there was a "Transfer of Ownership".

Another example of a possible situation involving a clerical error would be where a deed is recorded in January of 1995 and the assessor "uncaps" Taxable Value in 1996. Later the assessor discovers that the "Transfer of Ownership" actually occurred in December of 1994 even though the deed was recorded in 1995. Because the transfer actually occurred in 1994, the 1996 Taxable Value should NOT have been "uncapped" because "Transfers of Ownership" were not authorized to begin until January 1, 1995.

Situations involving clerical errors related to the "uncapping" of Taxable Value should be corrected by the July or December Board of Review using the same procedures that are used to

correct other clerical errors. This includes notifying the property owner of the action being recommended by the assessor to the July or December Board of Review so that the owner has the opportunity to appear at the Board of Review session and advising the taxpayer of the right to appeal to the Michigan Tax Tribunal within 30 days of the Board of Review action.

For future years, when there is a missed "uncapping" of Taxable Value due to a clerical error or a mutual mistake of fact, it will be necessary to recalculate Taxable Value for each year following the "Transfer of Ownership" (from the year of the error to the current year). Although it may be necessary to recalculate Taxable Value for more than 2 years, a correction by the July or December Board of Review due to a clerical error by the assessor or a mutual mistake of fact can only be made for the current year and one previous year.

For example, in the year 2000, the assessor discovers a missed "uncapping" of Taxable Value on the 1996 assessment roll due to a clerical error involving a 1995 "Transfer of Ownership" which was missed. Although the recalculation of Taxable Value will determine what the Taxable Value should have been for the years 1996 through the year 2000, the July or December Board of Review is limited to correcting the Taxable Values for the years 1999 and 2000.

It is important to note that since "Transfers of Ownership" which uncap Taxable Values first occurred in 1995, the recalculation of Taxable Values will not be necessary for years prior to 1996.

ASSESSOR AFFIDAVIT REGARDING "UNCAPPING" OF TAXABLE VALUE

County

The changes in Taxable Value recorded on this affidavit are related to the "Uncapping" of Taxable Value due to a failure on the part of the transferee (buyer) to timely file the Property Transfer Affidavit (form L-4260).

In accordance with the authority identified in Section 27b of the General Property Tax Act (P.A. 206 of 1893, as amended), a correction has been made in the Taxable Value of the following described Real/Personal property:

_____ located in the City of/Township of/Village of _____, This is a correction to the _____ Assessment/Tax Roll.
(Parcel Identification Number) (Tax Year)

Correction of Taxable Value Due to Transfer of Ownership						
School Code 	HOMESTEAD AND QUALIFIED AGRICULTURAL			NON-HOMESTEAD AND NON-QUALIFIED AGRICULTURAL		
	Before Correction	Amount of Increase/Decrease	Corrected	Before Correction	Amount of Increase/Decrease	Corrected
State Equalized Valuation	23,000					
Taxable Valuation	20,000	3,000	23,000			

Correction of Taxing Unit Levy						
Taxing Unit	HOMESTEAD AND QUALIFIED AGRICULTURAL			NON-HOMESTEAD AND NON-QUALIFIED AGRICULTURAL		
	Before Correction	Amount of Increase/Decrease	Corrected	Before Correction	Amount of Increase/Decrease	Corrected
County <i>4.5 mills</i>	90.00	13.50	103.50			
Intermediate School District <i>2 mills</i>	40.00	6.00	46.00			
Community College <i>1 mill</i>	20.00	3.00	23.00			
State Education Tax <i>6 mills</i>	120.00	18.00	138.00			
Local School Operating						
Local School Supplemental (<=18) <i>5 mills</i>	100.00	15.00	115.00			
Local School Supplemental (>=18)						
Local School Enhancement						
Local School Debt <i>1 mill</i>	20.00	3.00	23.00			
City/Township/Village <i>30 mills</i>	600.00	90.00	690.00			
Other						
Total	990.00	148.50	1,138.50			

NOTE: The levy section of this affidavit does not include collections fees, penalties, and interest. These must be added to the bill, when applicable, by the treasurer.

I, _____, being the certified assessor for the City/Twp of _____, do hereby swear or affirm that the above information is true, to the best of my knowledge.

Signature of Certified Assessor	Date	Certification No.
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Copies to: State Tax Commission, Equalization Department, County Treasurer, and the Treasurers of all other affected Taxing Units.

1/3/98

ASSESSOR AFFIDAVIT REGARDING "UNCAPPING" OF TAXABLE VALUE

County

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_____ located in the City of/Township of/Village of _____. This is a correction to the
(Parcel Identification Number) _____ Assessment/Tax Roll.
(Tax Year)

Correction of Taxable Value Due to Transfer of Ownership

School Code <input type="text"/>	HOMESTEAD AND QUALIFIED AGRICULTURAL			NON-HOMESTEAD AND NON-QUALIFIED AGRICULTURAL		
	Before Correction	Amount of Increase/Decrease	Corrected	Before Correction	Amount of Increase/Decrease	Corrected
State Equalized Valuation						
Taxable Valuation						

Correction of Taxing Unit Levy

Taxing Unit	HOMESTEAD AND QUALIFIED AGRICULTURAL			NON-HOMESTEAD AND NON-QUALIFIED AGRICULTURAL		
	Before Correction	Amount of Increase/Decrease	Corrected	Before Correction	Amount of Increase/Decrease	Corrected
County						
Intermediate School District						
Community College						
State Education Tax						
Local School Operating						
Local School Supplemental (<=18)						
Local School Supplemental (>=18)						
Local School Enhancement						
Local School Debt						
City/Township/Village						
Other						
Total						

NOTE: The levy section of this affidavit does not include collections fees, penalties, and interest. These must be added to the bill, when applicable, by the treasurer.

I, _____, being the certified assessor for the City/Twp of _____, do hereby swear or affirm that the above information is true, to the best of my knowledge.

Signature of Certified Assessor	Date	Certification No.
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_____, State Tax Commission, Equalization Department, County Treasurer, and the Treasurers of all other affected Taxing Units.