

Act No. 254  
Public Acts of 1994  
Approved by the Governor  
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**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1994**

**Introduced by Reps Dobronski DeMars Gnodtke Wallace, Rivers Barns Richard A Young Gilmer  
Voorhees Freeman Wetters Olshove Stallworth Rhead Brackenridge Pitoniak Parks and Gubow**

# **ENROLLED HOUSE BILL No. 5313**

AN ACT to amend sections 35 37 and 43 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 35 as amended by Act No 65 of the Public Acts of 1989 and section 37 as amended by Act No 21 of the Public Acts of 1993 being sections 205 735 205 737 and 205 743 of the Michigan Compiled Laws and to add sections 62a and 66

*The People of the State of Michigan enact*

Section 1 Sections 35 37 and 43 of Act No 186 of the Public Acts of 1973 section 35 as amended by Act No 65 of the Public Acts of 1989 and section 37 as amended by Act No 21 of the Public Acts of 1993 being sections 205 735 205 737 and 205 743 of the Michigan Compiled Laws are amended and sections 62a and 66 are added to read as follows

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 the property or where an exemption is claimed 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 homestead exemption by the department of treasury the assessment must be protested before the board of review before the tribunal acquires jurisdiction of the dispute under subsection (2) except as provided by 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 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 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 as the appellant may choose.

Sec 37 (1) In arriving at its determination of a lawful property assessment, the tribunal shall multiply 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.

(2) The lawful assessment as determined by the tribunal is subject to equalization and shall be equalized by application of the equalization factor that is uniformly applicable in the assessment district for the year in question which, after equalization, 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, and 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 subsequent to the filing of the petition the taxpayer paid additional taxes as a result of the unlawful assessments on the same property or if in subsequent years unlawful assessments were made against the same property, the taxpayer, not later than the filing deadline as prescribed by section 35(2), except as provided by subsections (5) and (7), may amend his or her petition to join all of his or her claims for lawful assessment determination and for refund by reason 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 what the original filing fee would be. 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 30 days after the decision rendered by the tax tribunal. 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, 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%. The tribunal shall order the refund of all or part of a property tax administration fee that was paid in connection with a sum of taxes determined by the tribunal to have been 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. 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 assessment disputes for 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, Act No. 206 of the Public Acts of 1893 as amended, being sections 211.1 to 211.157 of the Michigan Compiled Laws, or Act No. 189 of the Public Acts of 1953 as amended, being sections 211.181 and 211.182 of the Michigan Compiled Laws.

(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 homestead or of qualified agricultural property under Act No 206 of the Public Acts of 1893 from taxes levied under section 1211 of the school code of 1976 Act No 451 of the Public Acts of 1976 being section 380 1211 of the Michigan Compiled Laws

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 homestead by the department of treasury or of qualified agricultural property under the general property tax act Act No 206 of the Public Acts of 1893 being sections 211 1 to 211 157 of the Michigan Compiled Laws from taxes levied under section 1211 of the school code of 1976 Act No 451 of the Public Acts of 1976 being section 380 1211 of the Michigan Compiled Laws

(2) An appeal of a final determination of a claim for exemption of a homestead under Act No 206 of the Public Acts of 1893 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 Act No 206 of the Public Acts of 1893 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

Sec 66 A tax tribunal hearing in the residential property and small claims division shall be held after 6 00 p m if the petitioner requests an evening hearing in his or her initial petition

This act is ordered to take immediate effect

Co Clerk of the House of Representatives

Secretary of the Senate

Approved

Governor