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691212.1

TAXATION: Assessment at fifty percent of true cash value. Appeal from individual assessment.

CONSTITUTIONAL LAW: Equalization of assessments.

All individual taxable properties within a district shall be assessed and equalized at fifty percent of their true cash value pursuant to law.

There is no requirement that county and state equalization must result from an actual appraisal of all of the individual properties within the county or state.

The use of a factor to attribute the adjustment in aggregate assessed values resulting from the processes of equalization of individual properties does not contravene Art. IX, § 3, Michigan Constitution of 1963, or any statute. The legislatively prescribed timetable for individual assessment appeal and for the processes of equalization is valid.

No. 4682.

December 12, 1969.

Hon. George Montgomery
House of Representatives
State Capitol
Lansing, Michigan

You have requested my opinion upon five specific questions pertaining to ad valorem taxation, namely:

"1. Does No. 409, PA 1965, mean that the aggregate of taxable properties *must* be assessed at 50% of true cash value and that individual properties within the local assessing district *may* be assessed over 50% of true cash value without violating § 3 of Art. IX, Michigan Constitution of 1963?

"2. Does § 3 of Art. IX, Michigan Constitution of 1963, mean that individual taxable properties (both real and personal) may not be assessed and equalized at more than 50% of their true cash value?

"3. Does § 3 of Art. IX, Michigan Constitution of 1963, permit the assignment of additional 'cash value' by equalization of an assessing district either by the county board of supervisors or by the State Tax Commission without an actual appraisal of each of the individual properties in such district?

"4. Recent property assessment and taxation procedures in certain counties use a 'factor' to generate a uniform across-the-board increase of *every* assessment in a local assessment district. Does the use of this 'factor' violate § 3 of Art. IX, Michigan Constitution of 1963, or state statutes which regulate assessment procedures?

"5. Is the legal right of a property taxpayer to appeal his property assessment, but *only* at the March board of review meeting, abridged or violated by the use of the 'equalization factor' which results from state equalization in May, some two months later than the taxpayer's final appeal to the board of review?"

The first four questions require interpretation of Art. IX, § 3, Michigan Constitution of 1963, which reads in pertinent part:

"The legislature shall provide for the uniform general ad valorem taxation of real and tangible personal property not exempt by law. The legislature shall provide for the determination of true cash value of such property; the proportion of true cash value at which such property shall be uniformly assessed, which shall not, after January 1, 1966, exceed 50 percent; and for a system of equalization of assessments. * * *"

Act No. 206, PA 1893, as amended, being MCLA § 211.1, et seq., MSA 1960 Rev. Vol., § 7.1, et seq., is known as the general property tax act. By amendment¹ of § 27 of the general property tax act, supra, the legislature has specified the proportion of true cash value at which property is to be uniformly assessed, i.e.,

"Notwithstanding any other provisions of law, except as hereinafter provided, property shall be assessed at 50% of its true cash value in accordance with article 9, section 3 of the constitution."

The foregoing legislative mandate was given immediate effect on November 3, 1965. Consequently, beginning with the 1966 tax year, property assessments were to constitute 50% of true cash value.

The uniformity clause of Art. IX, § 3, as implemented by No. 409, PA 1965, demands assessment of individual properties within a local assessing district at 50% of their true cash value. Further, all properties in the district "shall be uniformly assessed" at such standard. The inevitable result of uniform assessment of individual properties at 50% is that their aggregate assessed value will constitute 50% of their aggregate true cash value.

Ideally, every taxable property bears an assessment of one-half of its true cash value not necessitating any adjustment by processes of equalization, but there are local assessors who may assess at a different proportion of true cash value. In order to achieve a uniform assessment level throughout each county, the legislature has provided² for county equalization by the county board of supervisors. This section of the general property tax act, as amended by No. 275, PA 1964, supra, provides for the mandatory establishment and maintenance before December 31, 1968, of "a department to survey assessments and assist the board of supervisors in the matter of equalization of assessments."

County equalization is achieved "by adding to or deducting from the valuation of the taxable property in any township or city such an amount"³ as will produce aggregate valuation of the various local units at 50% of true cash value.

¹ Act No. 409, P.A. 1965.

² Sec. 34 of the general property tax act, supra.

³ Ibid.

Many counties equalized at 50% of true cash value and their annual "county equalized value" was subsequently adopted by the state tax commission as their state equalized value. However, some counties may equalize at a proportion of true cash value other than 50%.

In order to fulfill its constitutional duty⁴ to provide for uniform ad valorem taxation throughout the state, the legislature established the process of state equalization. Formerly achieved by a separate board, state equalization is performed by the state tax commission. Availing itself of continuing studies by its own staff, data submitted by local assessing officials and equalization departments, the commission establishes the aggregate equalized value of each county at 50% of the aggregate true cash value of taxable properties within the county.

While technically, an individual taxable property has no separately established "equalized value," the adjustments of aggregate values by county and state equalization are attributed to, or "spread back" upon, the individual properties. Illustratively, if the aggregate assessed value in a township is doubled by the processes of county and state equalization, each individual property within the township is said to have a "state equalized valuation" in twice the amount of its "local assessed valuation."

Section 44 of the general property tax act, as last amended by No. 277, PA 1968, *supra*, requires local units of government to include upon the tax statements sent to their respective taxpayers the "state equalized valuation" of their taxable property. In order to fulfill that legislative mandate, local treasurers compute a "factor" by dividing the aggregate local assessed value into the aggregate state equalized value of the unit. Each local assessment thereafter is multiplied by that factor and the products of such multiplication constitute the state equalized values of the individual properties.

The foregoing observation and explanation of the machinery of assessment administration and its functioning supply the necessary background for my answer to the specific questions you have posed, as follows:

1. All individual properties within a local assessing district should be assessed at 50% of their true cash value and if this is done, the consequence will be that the aggregate of taxable properties in the district will be assessed at 50% of true cash value. Moreover, assessments must be uniform throughout the assessing district.
2. Individual taxable properties must be assessed and equalized at 50% of their true cash value.
3. When a county board of supervisors or the state tax commission determines, at the time of county and state equalization, that the aggregate assessed value of an assessing district or county respectively is below 50% of its aggregate true cash value, they may, and must, add an amount to this assessed value to bring its aggregate to 50% of true cash value. The determination of aggregate true cash value within an assessing district or county must be based upon evidence acceptable to the county board

⁴ This duty was imposed by Art. XIV, § 3, Michigan Constitution of 1850; Art. X, § 3 of the Michigan Constitution of 1908, and Art. IX, § 3 of the Michigan Constitution of 1963.

of supervisors and state tax commission, respectively. It may be derived from a process of sampling, such as that described in

Kingsford Chem. Co. v. City of Kingsford (1956), 347 Mich 91, 104.

There is no requirements at law, nor a practical possibility, that county and state equalization should be based only upon an actual appraisal of all of the individual properties within the county or state, respectively.

4. If in the aggregate individual property has been assessed at less than 50% of true cash value, the use of a factor to attribute the adjustments in value by the processes of equalization to individual properties does not violate any constitutional or statutory provision.

5. After completion of the local assessment function on or before the first Monday in March, the assessment rolls are submitted to the boards of review, which hold their meetings and hear complaints of aggrieved taxpayers during March.⁵ A taxpayer's complaint or "appeal" to the local board of review constitutes a remedy to any taxpayer whose property is assessed at a proportion of true cash value other than the supposedly uniform proportion of true cash value at which all other property in the district is assessed. The function of the local board of review is the alteration and ultimate execution of an assessment roll for the assessing district upon which property is valued at a uniform proportion of its true cash value. The board of review is an instrument to fulfill the uniformity of taxation specified by constitutional provision at the standard of value specified by law. Thus, there appears to be no constitutional infirmity in the legislatively prescribed timetable for individual assessment appeal and equalization.

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691230.1

LABOR: Female Workers.

CIVIL RIGHTS: Discrimination Based upon Sex.

The Federal Civil Rights Act of 1964 barring discriminatory employment practices based upon sex supersedes Michigan law limiting the working hours of women. However, as the federal act covers only employers with twenty-five or more employees, Michigan law limiting working hours of women is applicable to employers with less than twenty-five employees.

No. 4687

December 30, 1969.

Senator Coleman A. Young
State Senate
Capitol Building
Lansing, Michigan

You have requested my opinion as to the effect of an apparent conflict between the Federal Civil Rights Act of 1964, specifically Title VII¹

⁵ Secs. 28-33 of the general property tax act, as amended, supra.

¹ 42 U.S.C. §§ 2000e-2000e-15.