

**Packet for February 28,
2022, Special Township
Board Meeting**

Business

PENINSULA TOWNSHIP

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Memorandum

February 24, 2022

To: Peninsula Township Board
From: Sally Murray-Assessing Department
Subject: Delayed Uncapping

Proposal A is the basis of Michigan's property tax structure. It amended Michigan's constitution by a vote of the people in 1994.

Unless there is a statutory exemption, when real property is transferred, there is an uncapping of taxable value. In the year following the transfer, the State Equalized Value (SEV) becomes the new starting base Taxable Value (TV) for the parcel. The SEV and the TV are the same amount in the year after sale. The SEV is a representation of market value. The TV is what the millage is levied against.

When a sale occurs, it is the responsibility of the buyer to file a Property Transfer Affidavit (PTA) with the local municipality (even if you are not recording a deed). Filing is mandatory and must be completed within 45 days of the transfer.

If it is later discovered that a transfer of ownership has taken place and the buyer has failed to file a PTA with the local municipality, a delayed uncapping results and the assessor must file an affidavit of uncapping (Form 3214) for each year that warrants an adjustment. The affidavit is filed with the local and/or county treasurer(s) and additional taxes, penalties and interest must be levied for all years affected. Interest and penalties originate from the date the tax would have originally been levied if the property's taxable value had been uncapped at the proper time.

Recently, it was discovered that a delayed uncapping is warranted on Parcel ID No. 28-11-109-029-00. The year of uncapping has been determined to be 2011. Therefore, years 2012 through 2021 are subject to additional tax, interest and penalties. Complicating the issue is the fact that the parcel was divided in 2018 into four new parcels. The original parent parcel was retired from the 2019 assessment roll. The four child parcels were new to the 2019 assessment roll. One parcel has subsequently sold. The remaining three parcels have been retained, as outlined below:

28-11-109-029-01-retained
28-11-109-029-02-retained
28-11-109-029-03 (sold)
28-11-109-029-04-retained

Because of the split/sale, the Grand Traverse County Treasurer can only levy retroactive billings for years 2019, 2020 at the retained parcels. The 2021 tax bills were adjusted by the local treasurer for the retained parcels.

This places the township in the position of having to sue to collect the retroactive taxes, interest and penalty on the (now retired) parent parcel for years 2012 through 2018.

This excerpt from the Michigan State Tax Commission's "Transfer of Ownership Guidelines- Issued October 30, 2017" details the process:

"What happens if a local assessor becomes aware of a transfer of ownership which did not result in a taxable value uncapping due to a failure on the part of the transferee to file a Property Transfer Affidavit in a timely manner, but a subsequent transfer of ownership has occurred for this same property?

Under these circumstances, Michigan law allows the local taxing unit to sue the transferee who did not report the first transfer of ownership. The local taxing unit may sue for all of the following: 1. Any additional taxes that would have been levied from the date of transfer if the transfer of ownership had been reported as required 2. Interest and penalty from the date the tax would have been levied 3. The penalties as described in the Property Transfer Affidavit section The taxable value(s) of the property are not actually changed due to the first transfer of ownership. Also, what would have been additional taxes, etc. do not become a lien on the property. It is the former owner, not the current owner, who can be sued. The current owner of the property is not held responsible for the additional taxes, etc. which are the result of a previous owner's failure to timely file a Property Transfer Affidavit.

The township attorney is prepared to address the matter and advise the township board on the best course of action.

Year	Original Taxable Value	Adjusted Taxable Value	(Difference) Taxable Value
2022	TV for retained parcels is already adjusted		
2021	Retained parcels have already been billed		
2020	Retained parcels have already been billed		
2019	Retained parcels have already been billed		
2018	249,252	633,587	384,335
2017	244,126	620,556	376,430
2016	241,949	615,021	373,072
2015	241,226	613,182	371,956
2014	237,428	603,526	366,098
2013	233,689	594,022	360,333
2012	228,212	580,100	351,888
YEAR 2011: TRANSFER/DISPERSEMENT			
Parent Parcel: 28-11-109-029-00			
Years Requiring Town Board action			

Difference in Taxable Value Multiplied by	Additional Base Tax Owed (No Interest or Penalty)
Non-Homestead Millage Rate (Approx 0.044)	
384335 x 0.044 =	\$16,911
376430 x 0.044 =	\$16,563
373072 x 0.044 =	\$16,415
371956 x 0.044 =	\$16,366
366098 x 0.044 =	\$16,108
360333 x 0.044 =	\$15,855
351888 x 0.044 =	\$15,483
	\$113,701

Uncap Year =>