

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING & REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
MICHIGAN TAX TRIBUNAL**

Cadence Innovations,
Petitioner,

v

MTT Docket No. 350415

Township of Chesterfield,
Respondent.

Tribunal Judge Presiding
Steven H. Lasher

OPINION AND JUDGMENT

INTRODUCTION

Petitioner, Cadence Innovations, appeals ad valorem property tax assessments levied by Respondent, Township of Chesterfield, against the real and personal property owned by Petitioner located at 50801 E. Russel Schmidt, 50203 E. Russel Schmidt, 26420 23 Mile Road, and 26090 23 Mile Road for the 2008 tax year (ten parcels). Myles B. Hoffert, attorney, represented Petitioner, and Lawrence W. Dloski, attorney, represented Respondent.

Petitioner previously filed a Motion for Summary Disposition in this matter, stating that (i) Petitioner filed for bankruptcy under Chapter 11 on August 26, 2008, (ii) the Federal Bankruptcy Court approved the sale of real and personal property known as 50801 E. Russel Schmidt on May 14, 2009, and declared the sale to be arms-length, the purchase price to be fair and reasonable and constituted the highest or best offer for the assets, and (iii) the Federal Bankruptcy Court approved the sale of real property known as 26420 and 26090 23 Mile Road and 50703 E. Russel Schmidt on July 24, 2009, contending that the true cash values for the subject property be revised to reflect the

values approved by the Bankruptcy Court. On June 2, 2010, the Tribunal issued its Order Denying Petitioner’s Motion for Summary Disposition, concluding that the “sale of property pursuant to a bankruptcy court order is not a sale of property subject to normal market pressures and, as such, is not necessarily indicative of the property’s true cash value.”

On May 10, 2011, Respondent filed a Motion for Partial Summary Disposition, contending that because Industrial Facilities Exemption certificates had been issued by Respondent to Petitioner for four of the subject parcels¹, the taxable values for those affected parcels are “frozen” pursuant to MCL 207.564(1). On June 29, 2011, the Tribunal issued its Order Granting Respondent’s Motion for Partial Summary Disposition, concluding that the taxable value of the four parcels at issue is “frozen” at \$4,494,856.

A hearing on this matter was held on January 12, 2012. Petitioner presented no witnesses at the hearing. Respondent offered Respondent’s Assessor, Dean E. Babb, as its only witness. Post-Hearing Briefs were filed by Respondent on February 8, 2012, and by Petitioner on February 9, 2012.

Based on the evidence, testimony, and case file, the Tribunal finds that the true cash values (“TCV”), state equalized values (“SEV”), and taxable values (“TV”) of the subject property for the 2008 tax year are as follows:

PARCEL NUMBER	TCV	SEV	TV
009-998-332-609-00-00	\$30,102,137	\$15,051,068	\$15,051,068
009-019-201-010-00-00	\$172,216	\$86,108	\$86,108
009-019-201-010-01-00	\$632,498	\$316,249	\$316,249
009-019-251-006-00-00	\$190,080	\$95,040	\$95,040
009-019-251-007-00-00	\$68,400	\$34,200	\$34,200

¹ Parcel Nos. 009-019-201-010-01-00, 009-019-251-007-01-00, 009-019-201-011-01-00, 009-019-127-001-01

PARCEL NUMBER	TCV	SEV	TV
009-019-251-007-01-00	\$486,894	\$243,447	\$243,447
009-019-201-011-00-00	\$60,258	\$30,129	\$30,129
009-019-201-011-01-00	\$208,124	\$104,062	\$104,062
009-019-127-001-00-00	\$407,600	\$203,800	\$203,800
009-019-127-001-01-00	\$7,662,196	\$3,831,098	\$3,831,098

PETITIONER'S CONTENTIONS

Petitioner contends that (i) the sale of the subject property by the U.S. Bankruptcy Court was arms-length and “indicative of market value,” (ii) irrespective of the “frozen” taxable values of the IFT property, the Tribunal must “make an independent determination of the true cash value of the subject property,” including the IFT property, and (iii) Respondent’s valuation case relies solely on its assessment record cards and the testimony of its current assessor who was not the assessor for Respondent in 2008. (Petitioner’s Post-Hearing Brief, pp. 1 – 4).

With respect to valuation of the four IFT parcels, Petitioner agrees that pursuant to MCL 207.564, the taxable value of those properties is “set at the taxable value of the year prior to the issuance of the Industrial Facilities Exemption Certificate.” (Petitioner’s Post-Hearing Brief, p. 3). Petitioner contends, however, that the Tribunal cannot determine the true cash value of the subject property based on the “frozen” taxable value of the IFT property. (*Great Lakes Div of Natl Steel Corp v City of Ecorse*, 227 Mich App 379; 576 NW2d 667 (1998)) Instead, Petitioner contends that the Tribunal must make an independent determination of the true cash values of those parcels.

Petitioner further contends that in making an independent determination of the true cash value of the subject property, the Tribunal may not automatically accept Respondent’s assessment evidence, “but must make its own findings of fact and arrive

at a legally supportable true cash value.” (Petitioner’s Post-Hearing Brief, pp. 5 – 6)

Here, Petitioner contends that even though a sale price is not conclusive evidence of the true cash value of a property, and a sale by a seller in bankruptcy may be excluded from consideration (MCL 211.27), the Michigan Court of Appeals in *Great Lakes, supra*, held that although such a sale may raise concerns as to the weight to be given such evidence, “we are not persuaded that the seller’s bankrupt status precludes the Tax Tribunal from considering evidence of this sale.” Petitioner further contends that the sale of the subject property by the Bankruptcy Court was arms-length, as the properties were subject to a “full and robust marketing and sales process.” (Petitioner’s Post-Hearing Brief, p. 7) Specifically, an investment banking firm retained by the Bankruptcy Court initially approached 148 potential buyers and solicited bids for the subject business. After an unsuccessful attempt to sell the business, a real estate broker was retained to sell the subject property, the sales were approved by the Bankruptcy Court, which concluded that the sales were arms-length transactions, were fair and reasonable, and constituted the highest and best offer for the assets. (Petitioner’s Post-Hearing Brief, p. 8)

Therefore, as determined by Petitioner’s allocation of sale price by the Bankruptcy Court (Petitioner’s Exhibit P-13), the TCV, SEV, and TV for the subject property for the 2008 tax year should be:

PARCEL NUMBER	TCV	SEV	TV
009-998-332-609-00-00	\$5,722,800	\$2,861,400	\$2,861,400
009-019-201-010-00-00	\$80,000	\$40,000	\$40,000
009-019-201-010-01-00	\$113,000	\$56,500	\$56,500
009-019-251-006-00-00	\$88,900	\$44,450	\$44,450
009-019-251-007-00-00	\$52,700	\$26,350	\$26,350
009-019-251-007-01-00	\$81,300	\$40,650	\$40,650

PARCEL NUMBER	TCV	SEV	TV
009-019-201-011-00-00	\$95,378	\$48,689	\$48,689
009-019-201-011-01-00	\$75,296	\$37,648	\$37,648
009-019-127-001-00-00	\$75,300	\$37,650	\$37,650
009-019-127-001-01-00	\$1,280,100	\$6,400,050	\$6,400,050

PETITIONER'S ADMITTED EXHIBITS

P-3 Bankruptcy Filing.

P-4 Bankruptcy Motion to sell 50801 E. Russel Schmidt.

P-5 Order approving sale of 50801 E. Russel Schmidt.

P-6 Settlement Statement of 50801 E. Russel Schmidt.

P-7 Purchase Agreement.

P-8 Debtor's Notice of Motion to sell 26420 and 26090 23 Mile and 50203 E. Russel Schmidt.

P-9 Motion to sell property.

P-10 Notice of Proposed Sale and Sale Agreement.

P-11 Order of July 23, 2009 approving Motion to Sell 26420 and 26090 23 Mile.

P-12 Settlement Agreement 26420 and 26090 23 Mile and 50203 E. Russel Schmidt.

P-13 Requested Values.

RESPONDENT'S CONTENTIONS

Respondent contends that the true cash, assessed, and taxable values for the subject property for the 2008 tax year should not be determined based on the sale of the subject property by the Bankruptcy Court because the documents submitted by Petitioner do not constitute a valuation disclosure as required by the Tribunal, and even if considered a valuation disclosure, do not establish the true cash value of the subject

property. Specifically, Respondent contends that the Bankruptcy Court documents submitted by Petitioner to support its true value contentions fail to provide Petitioner's value conclusions and data, valuation methodology, analysis and reasoning, as is required by MTT Rule 101(1)(m). Respondent further contends that even if the Bankruptcy Court documents were accepted by the Tribunal as Petitioner's valuation disclosure, the sale of the subject property occurred in mid-2009, approximately 1 ½ years after the applicable December 31, 2007, assessment date, Petitioner failed to provide any evidence of market condition changes occurring during that time period, and therefore, failed to provide credible evidence of value to the Tribunal. Respondent further contends that MCL 211.27(5) provides that "the purchase price paid in a transfer of property is not the presumptive true cash value of the property transferred," particularly when the sale is a "forced sale" in Bankruptcy Court. (Respondent's Post-Hearing Brief, pp. 2 – 4) Finally, Respondent contends that Petitioner failed to produce any witnesses to explain or support the bankruptcy sale and also failed to provide any documents that clearly distinguish the sale price of the assets by parcel or by real or personal property designation.

Respondent instead contends that its valuation evidence should be adopted by the Tribunal, as it provides supported land values and personal property information.

Finally, Respondent contends that because the taxable value of the IFT property is frozen at the value for the year prior to the issuance of the IFTC (MCL 207.564(1)), the assessed values of the subject IFT parcels should be the same as the taxable values, and the true cash values should be twice the assessed values.

As determined by Respondent's assessor, the TCV, SEV, and TV for the subject property for the 2008 tax year should be:

PARCEL NUMBER	TCV	SEV	TV
009-998-332-609-00-00	\$34,127,444	\$17,063,722	\$17,063,722
009-019-201-010-00-00	\$484,358	\$242,179	\$242,179
009-019-201-010-01-00	\$632,498	\$316,249	\$316,249
009-019-251-006-00-00	\$534,600	\$267,300	\$267,300
009-019-251-007-00-00	\$299,258	\$149,669	\$149,669
009-019-251-007-01-00	\$486,894	\$243,447	\$243,447
009-019-201-011-00-00	\$263,632	\$131,816	\$131,816
009-019-201-011-01-00	\$208,124	\$104,062	\$104,062
009-019-127-001-00-00	\$407,600	\$203,800	\$203,800
009-019-127-001-01-00	\$7,662,196	\$3,831,098	\$3,831,098

RESPONDENT'S ADMITTED EXHIBITS

R-1 Macomb County GIS Map.

R-2 Plat Map.

R-3 Resume of Dean Babb, MMAO.

R-4 IFEC No. 206-242.

R-5 Valuation Disclosure, Land.

R-6 Valuation Disclosure, Personal Property.

RESPONDENT'S WITNESSES

Dean E. Babb

Dean E. Babb, Michigan Master Assessing Officer ("MAAO"), has been the assessor for Chesterfield Township since February 2011. Mr. Babb testified regarding the location of the subject parcels, and that (i) the subject property is zoned M-2, heavy

industrial, (ii) that its highest and best use is industrial, (iii) the subject property is located near major highways, (iv) the subject property is serviced by municipal utilities, (v) the true cash values for each of the subject parcels for the 2008 tax year were determined using the mass appraisal method, (vi) the land values were determined using a rate table that he did not develop, (vii) he reviewed three years of improved land sales information to verify the rate table used by Respondent to assess the subject land for the 2008 tax year, (viii) he reviewed and confirmed the Personal Property Statement filed by Petitioner and the mathematical calculations made by Respondent to determine the true cash value of the subject personal property for the 2008 tax year, and (ix) it was his understanding that \$4,025,307 of property leased by Petitioner from GE Capital, Merrill Lynch, and A T & T was not reported by Petitioner on its Personal Property Statement and, therefore, was added to the assessment of Petitioner's personal property. (Transcript, pp. 37 – 87)

FINDINGS OF FACT

1. The subject property consists of ten parcels of property (nine real property parcels and one personal property parcel), located at 26420 23 Mile Road, 26090 23 Mile Road, 50801 E. Russel Schmidt, and 50703 E. Russel Schmidt, Chesterfield, Michigan, and includes four parcels with Industrial Facilities Exemption certificates.
2. The five non-IFT real property parcels are contiguous, are a combined 26.1 acres, and are improved with industrial buildings subject to the IFT.
3. The highest and best use of the subject property as improved is industrial.
4. The subject property is zoned M-2, Industrial.

5. The subject property was assessed for the 2008 tax year as follows:

PARCEL NUMBER	TCV	SEV	TV
009-998-332-609-00-00	\$34,127,444	\$17,063,722	\$17,063,722
009-019-201-010-00-00	\$484,358	\$242,179	\$242,179
009-019-201-010-01-00 (IFT)	\$632,498	\$316,249	\$316,249
009-019-251-006-00-00	\$534,600	\$267,300	\$267,300
009-019-251-007-00-00	\$299,258	\$149,669	\$149,669
009-019-251-007-01-00 (IFT)	\$486,894	\$243,447	\$243,447
009-019-201-011-00-00	\$263,632	\$131,816	\$131,816
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009-019-127-001-00-00	\$407,600	\$203,800	\$203,800
009-019-127-001-01-00 (IFT)	\$7,662,196	\$3,831,098	\$3,831,098

6. Respondent's cost-less-depreciation mass appraisal approach to value relied on values derived from the State Tax Commission cost manual, and a land sales study.
7. Respondent's assessment of Petitioner's personal property relied on the Personal Property Statement filed by Petitioner and on leased property statements filed by GE Capital, Merrill Lynch, and A T & T.
8. Petitioner filed for bankruptcy protection under Chapter 11 of the U.S. Bankruptcy Code on August 26, 2008.
9. On June 6, 2009, the property located at 50801 E. Russel Schmidt was sold to Revstone Plastics, LLC for \$350,000.²
10. On July 24, 2009, the property located at 26090 23 Mile Road, 26420 23 Mile Road, 50703 E. Russel Schmidt was sold to Chesterfield Real Estate Enterprises LLC for \$7,530,000.

² Although the Warranty Deed issued for this transaction reflects consideration of \$10, the Settlement Statement reflects the purchase price of \$350,000.

ISSUES AND CONCLUSIONS OF LAW

The assessment of real and personal property in Michigan is governed by the constitutional standard that such property shall not be assessed in excess of 50% of its true cash value.

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...exceed 50%.... Const 1963, art 9, sec 3.

The Michigan Legislature has defined "true cash value" to mean:

. . .the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale. . . [t]he usual selling price does not include sales at public auction where the sale is part of a liquidation of the seller's assets in a bankruptcy proceeding or where the seller is unable to use common marketing techniques to obtain the usual selling price for the property. MCL 211.27(1).

The Michigan Supreme Court has determined that "true cash value" is synonymous with "fair market value." See *CAF Investment Co v State Tax Commission*, 392 Mich 442, 450; 221 NW2d 588 (1974).

Under MCL 205.737(1), the Tribunal must find a property's true cash value in determining a lawful property assessment. *Alhi Development Co v Orion Twp*, 110 Mich App 764, 767; 314 NW2d 479 (1981). The Tribunal is not bound to accept either of the parties' theories of valuation. *Teledyne Continental Motors v Muskegon Twp*, 145 Mich App 749, 754; 377 NW2d 908 (1985). The Tribunal may accept one theory and reject the other, it may reject both theories, or it may utilize a combination of both in arriving at its determination. *Meadowlanes Limited Dividend Housing Association v City of Holland*, 437 Mich 473, 485- 486; 473 NW2d 636 (1991).

A proceeding before the Tax Tribunal is original, independent, and de novo. MCL 205.735(1); MSA 7.650(35)(1). The Tribunal's factual findings are to be supported by competent, material, and substantial evidence. *Antisdale v City of Galesburg*, 420 Mich 265, 277; 362 NW2d 632 (1984); *Dow Chemical Co v Department of Treasury*, 185 Mich App 458, 462-463; 452 NW2d 765 (1990). Substantial evidence must be more than a scintilla of evidence, although it may be substantially less than a preponderance of the evidence. *Jones and Laughlin Steel Corp v City of Warren*, 193 Mich App 348, 352-353; 483 NW2d 416 (1992).

"The petitioner has the burden of establishing the true cash value of the property...." MCL 205.737(3). This burden encompasses two separate concepts: (1) the burden of persuasion, which does not shift during the course of the hearing; and (2) the burden of going forward with the evidence, which may shift to the opposing party. *Jones and Laughlin* at 354-355. However, "[t]he assessing agency has the burden of proof in establishing the ratio of the average level of assessment 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." MCL 205.735(3).

The three most common approaches to valuation are the capitalization of income approach, the sales comparison or market approach, and the cost-less-depreciation approach. *Meadowlanes*, at 484-485; *Pantlind Hotel Co v State Tax Commission*, 3 Mich App 170; 141 NW2d 699 (1966), *aff'd* 380 Mich 390 (1968). The market approach is the only appraisal method that directly reflects the balance of supply and demand for property in marketplace trading. *Antisdale*, p278. The Tribunal is under a duty to apply its own expertise to the facts of the case to determine the appropriate method of arriving

at the true cash value of the property, utilizing an approach that provides the most accurate valuation under the circumstances. *Antisdale*, p277. The Tribunal finds that the appropriate method of determining the true cash value of the subject property for the tax years at issue is Respondent's cost less depreciation approach.

Petitioner asks the Tribunal to accept the sale price of the subject property realized by the U.S. Bankruptcy Court in mid-2009 as the fair market value of the subject property as of December 31, 2007, and then asks the Tribunal to allocate the respective sale prices to the ten parcels subject to this appeal. Petitioner recognizes that as a general rule, a property's selling price is not conclusive evidence of a property's value and the Tribunal is not bound to accept it as the true cash value of that property. MCL 211.27(5); *First City Corp v City of Lansing*, 153 Mich App 106; 395 NW2d 26 (1986); *Jones & Laughlin, supra*. Petitioner further recognizes that although MCL 211.27(1) "appears to exclude the consideration of a sale by a seller in bankruptcy from the definition of true cash value." (Petitioner's Post-Hearing Brief, p. 6), it contends that the Tribunal can ignore these presumptions and conclude that Petitioner has presented the best evidence of value in this matter.

In denying Petitioner's prior Motion for Summary Disposition, former Tribunal Member Halm relied on MCL 211.27(5) to conclude that:

[w]hile the bankruptcy court may have determined that the sale was an arms-length transaction, it can hardly be said that a sale of property to pay off creditors in a bankruptcy case was not a "forced sale." The Tribunal finds that the sale of a property pursuant to a bankruptcy court order is not a sale of property subject to normal market pressures and, as such, is not necessarily indicative of the property's true cash value.

This Tribunal judge does not agree with Judge Halm's apparent conclusion that the sale of property in a bankruptcy proceeding is never indicative of the property's true

cash value. The Tribunal agrees with Petitioner that the Michigan Court of Appeals in *Great Lakes, supra*, applied a less restrictive test (stating that “we are not persuaded that the seller’s bankrupt status precludes the Tax Tribunal from considering evidence of this sale”); however, the Tribunal has considered the evidence submitted by Petitioner regarding the sale of the subject property by the Bankruptcy Court and finds that Petitioner has failed to provide any witnesses in support of, or substantive evidence of, the circumstances of the sale other than Petitioner’s counsel’s argument at the hearing and a Motion filed by Petitioner’s bankruptcy counsel alleging that Petitioner’s “businesses have been the subject of a full and robust marketing and sale process . . . [a]fter the Debtors realized that a going-concern sale of its operations would not result in a benefit to their creditors in excess of liquidation value, on or about December 19, 2008, the Debtors commenced an orderly liquidation process.” (Petitioner’s Exhibit P-3) This statement by counsel and unauthenticated and uncertified copies of documents from bankruptcy proceedings are insufficient evidence upon which the Tribunal can rely in making a determination of true cash value.

Although the Tribunal finds that Petitioner has failed to present convincing evidence of the value of the subject property as of December 31, 2007, the Tribunal cannot automatically adopt Respondent’s cost-less-depreciation value determination. Instead, the Tribunal must make an independent determination of value. The Tribunal has considered the testimony of Mr. Babb and the valuation evidence presented by Respondent, and finds that although Mr. Babb was not the assessor of record for Respondent for the 2008 tax year, Mr. Babb did review the land sales information used by Respondent to determine land values, the IFT information, and the personal property

statement filed by Petitioner, and provided credible support for Respondent's value determinations. The Tribunal does find, however, that because the five parcels valued as vacant land are contiguous, and could reasonably be viewed as one parcel, they should be valued using the land table rate of \$.80 per square foot applicable to parcels in excess of 476,000 square feet (Respondent's Exhibit R-5), and has therefore adjusted the true cash values of those parcels accordingly. Because Petitioner has presented no separate evidence of value with respect to Petitioner's personal property, the Tribunal finds that Respondent has appropriately applied the State Tax Commission depreciation tables to the personal property reported by Petitioner on its Personal Property Statement (Respondent's Exhibit R-6). The Tribunal, however, finds that Respondent has failed to provide credible support for its assessment of \$4,025,308 of leased property alleged to have been reported by leasing companies, but not included on Petitioner's Personal Property Statement.³ Finally, because the Tribunal has not accepted any of Petitioner's valuation evidence or allocation methodology, the Tribunal finds that the taxable values of the IFT parcels were "frozen" at 2006 values, and that Respondent's contention that the assessed values for the IFT parcels should be equal to the taxable values for those parcels is supported by statute.

The Tribunal finds, based upon the Findings of Fact and the Conclusions of Law set forth herein, that Petitioner failed to prove by a preponderance of the evidence that the subject property was assessed in excess of 50% of market value for the 2008 tax

³ Respondent's witness Babb testified that he does not know if the assets reported by Petitioner on Schedules B and D on the Personal Property Statement included the leased property. However, Mr. Babb testified that "it is my understanding that the twenty million seven hundred and fifty thousand zero sixty-eight that was reported under Section B by Petitioner on their return does not include the four million three hundred and fifty-six eight twenty-seven that was reported by GE Capital and Merrill Lynch. It was my understanding that the hundred and ninety-one nine twenty-six reported in calendar year 2006 (sic) under Schedule D by Petitioner does not include the hundred and seventy-five thousand eight hundred and seventy that was reported by AT & T." (Transcript, pp. 77 – 80)

year. Nevertheless, a revision of values based on the land table rate of \$.80 per square foot is appropriate. The subject property's true cash values (TCV), state equalized values (SEV), and taxable values (TV) are as stated in the Introduction section above.

JUDGMENT

IT IS ORDERED that the property's assessed and taxable values for the tax year at issue are MODIFIED as set forth in the Introduction section of this Final Opinion and Judgment.

IT IS FURTHER ORDERED that the officer charged with maintaining the assessment rolls for the tax years at issue shall correct or cause the assessment rolls to be corrected to reflect the property's true cash and taxable values as finally shown in this Final Opinion and Judgment within 90 days of the entry of the Final Opinion and Judgment, subject to the processes of equalization. See MCL 205.755. To the extent that the final level of assessment for a given year has not yet been determined and published, the assessment rolls shall be corrected once the final level is published or becomes known.

IT IS FURTHER ORDERED that the officer charged with collecting or refunding the affected taxes shall collect taxes and any applicable interest or issue a refund as required by this Order within 28 days of the entry of this Order. If a refund is warranted, it shall include a proportionate share of any property tax administration fees paid and of penalty and interest paid on delinquent taxes. The refund shall also separately indicate the amount of the taxes, fees, penalties, and interest being refunded. A sum determined by the Tribunal to have been unlawfully paid shall bear interest from the date of payment to the date of judgment and the judgment shall bear interest to the date

of its payment. A sum determined by the Tribunal to have been underpaid shall not bear interest for any time period prior to 28 days after the issuance of the Tribunal's order. As provided in 1994 PA 254, being MCL 205.737, as amended, interest shall accrue for periods after March 31, 1985, but before April 1, 1994, at a rate of 9% per year. After March 31, 1994, but before January 1, 1996, interest rate of the 94-day discount Treasury bill rate for the first Monday in each month plus 1%. As provided in 1995 PA 232, being MCL 205.737, as amended, interest shall accrue for periods after January 1, 1996 at an interest rate set each year by the Department of Treasury. Pursuant to 1995 PA 232, interest shall accrue (i) after December 31, 1995 at the rate of 6.55% for calendar year 1996, (ii) after December 31, 1996 at the rate of 6.11% for calendar year 1997, (iii) after December 31, 1997 at the rate of 6.04% for calendar year 1998, (iv) after December 31, 1998 at the rate of 6.01% for calendar year 1999, (v) after December 31, 1999 at the rate of 5.49% for calendar year 2000, (vi) after December 31, 2000 at the rate of 6.56% for calendar year 2001, (vii) after December 31, 2001 at the rate of 5.56% for calendar year 2002, (viii) after December 31, 2002 at the rate of 2.78% for calendar year 2003, (ix) after December 31, 2003 at the rate of 2.16% for calendar year 2004, (x) after December 31, 2004 at the rate of 2.07% for calendar year 2005, (xi) after December 31, 2005 at the rate of 3.66% for calendar year 2006, (xii) after December 31, 2006 at the rate of 5.42% for calendar year 2007, and (xiii) after December 31, 2007 at the rate of 5.81% for calendar year 2008, (xiv) after December 31, 2008, at the rate of 3.31% for calendar year 2009, and (xv) after December 31, 2009, at the rate of 1.23% for calendar year 2010, (xvii) after December 31, 2010 at the

rate of 1.12% for calendar year 2011, and (xv) after December 31, 2011 at the rate of 1.09% for calendar year 2012.

This Order resolves all pending claims in this matter and closes this case.

MICHIGAN TAX TRIBUNAL

Entered: March 19, 2012

By: Steven H. Lasher