A Closer Look at

THE LAW

CUNNINGHAM DALMAN PC

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Disclaimer: This newsletter is for general information only and covers only broad legal concepts. In no way is this newsletter intended as formal legal advice. If you have further questions regarding a legal matter, please consult a licensed attorney.

Cunningham Dalman, P.C. is a full service law firm located in Holland, as well as in Douglas, Michigan. Our attorneys possess skill and experience in a broad spectrum of areas of practice, and have proudly served the lakeshore community for over 100 years.

I Just Got My Assessment Notice and Think it is Wrong. Should I Do Anything?

By: Randall S. Schipper
Attorney at Law

This is the time local assessors send out notices of assessment. The notice says it is not a tax bill. That does not mean it is not important. If anything, it is more important than a tax bill: it is what controls the amount of your tax bill. The notice shows how much the assessor thinks your property has increased or decreased in value and how much the assessor is changing your "taxable value" (TV). And you have only a short time to challenge the assessor's determination.

Your tax bill simply applies the total of the applicable millages to your TV. Your TV is supposed to equal the assessed valuation/state equalized valuation (AV/SEV) of your property at the time you bought it increased by inflation since that time and "additions" you have made to your property. (This is a gross simplification but this is an article, not a chapter.) If the assessor has increased your TV by more than the rate of inflation, or has you down for an "addition" that either you didn't do or that the tax law does not define as an "addition", you probably want to challenge the assessor's determination because it would have a direct impact on the property tax bill you will receive the following July and December. And every July and December after that since this year's TV will be the base from which the assessor works next year.

The AV and SEV also shown on the notice of assessment usually have a less direct effect on your taxes. (Most of the time, the AV and SEV will be the same.) In the first year after you have acquired a property or made an addition, the AV/SEV and TV will be essentially the same and, since the TV cannot be greater than the AV/SEV, any reduction in the AV/SEV forces a reduction in the TV. In later years, a too-high AV/SEV can hurt you because the assessor can increase your TV even in years when the market value of your property drops as long as the TV does not get above the AV/SEV. Thus, some people this year will see their AV/SEV drop while their TV still goes up. Finally, most transfers of your property will uncap the TV to the level of the AV/SEV. Most often this is your buyer's problem but there are some situations in which the assessor may uncap your TV even though you continue to own at least a partial interest in your property. You should also take notice of changes in your AV/SEV and consider challenging any errors.

Another type of error could be a mistake in the homestead or qualified agriculture status of your property. In this regard, if you have made a property your permanent residence by May 1 of a year, you can file a homestead exemption affidavit that will exempt you from paying the 18 mil school tax.

You are given only a very short period near the beginning of March to challenge mistakes in your notice of assessment, usually only a week or two after you receive the notice. To do so, you need to file an objection with your local board of review. Property owners who live out-of-state can rely on a written objection; those who live locally need to attend the board of review in person. You will need support for your challenge, some

evidence showing the assessor made a mistake. One important point: the board of review could decide to raise instead of lower your TV/AV/SEV if it finds that the assessor overlooked something, like the bathroom you installed in the basement two years ago.

Work Loss Benefits Under Michigan's No-Fault Law

By: Kenneth M. Horjus and James A. Bidol
Attorneys at Law

You are driving along in your car or truck and the unexpected happens: you're in an accident, and you're injured. The injuries are serious. Hospitalization, doctor visits, therapy, and rehabilitation all follow. But what is worse than almost anything is that you can't work, have no income, and you don't know what to do.

Fortunately, your Michigan No-Fault Auto Insurance Policy covers you in that situation, and may provide some relief as you get back on your feet.

If you were employed at the time of your accident, it is very likely that you will be able to obtain this No-Fault benefit, and receive work-loss payments during the time you are not able to work. Of course, you will need to submit a timely claim for this benefit together with proof of your inability to work, which usually takes the form of a physician's note, or "Doctor's Slip" that restricts you from working. If this information is submitted in a timely fashion to your insurance provider, and absent any disqualifying events, you, as an injured person, are generally entitled to work-loss benefits to compensate you for the loss of your employment income which would have been received had the accident not occurred. These benefits are not a dollar-for-dollar replacement, but will equal roughly 85% of your income level, and are generally free of income tax.

This picture will change if you are not employed at the time of the accident. If you are not employed, then you are generally not entitled to work-loss benefits. But, there are certain exceptions. For example, if you are "temporarily unemployed" then you are generally entitled to work-loss benefits. Courts have determined that a "temporarily unemployed person" must be able to prove that they would have returned to specific work had the accident not occurred. For example, if a person is between jobs and has accepted an offer to work but is unable to start because of the injuries sustained in an accident, that person is likely viewed as being "temporarily unemployed." Likewise, if someone has been "laid off" on a temporary basis, or otherwise "furloughed," and would have returned to work but for the accident, that person will likely be viewed as "temporarily unemployed." The intent to return to work, or an intent to look for work, is not sufficient to qualify for work-loss benefits.

This general overview is not intended to substitute for the advice of an

attorney with experience in this area. If your insurance carrier has declined to provide work-loss benefits for any reason, it is important that you consult an attorney who specializes in Michigan's No-Fault Law as quickly as possible. They'll be able to help you find your way through the No-Fault maze, answer your questions, and provide guidance on how to proceed.