BONA FIDE PURCHASER EXCEPTION

Under MCL 211.7cc, "if the property has been transferred to a bona fide purchaser before additional taxes were billed to the seller as a result of the denial of a claim for exemption, the taxes, interest, and penalties shall not be a lien on the property and shall not be billed to the bona fide purchaser…" The local tax collecting unit in possession of the tax roll then notifies the Department of Treasury (Department) who "shall then assess the owner who claimed the exemption under this section for the tax, interest, and penalties accruing as a result of the denial of the claim for exemption…"

A transfer to a bona fide purchaser does not determine liability for taxes owed in regard to the denial of a PRE. Rather, a transfer to a bona fide purchaser is the event that triggers the Department of Treasury's jurisdiction to bill for the taxes owed in regard to the denial of a PRE. In addition, MCL 211.7cc does not require that the taxpayer be the party that transferred to a bona fide purchaser but rather it just requires that the property has been transferred to a bona fide purchaser.

In other words, *if the new owner is not a bona fide purchaser*, the taxes, interest and penalties that are owed as a result of the denial are added to the tax roll and become a lien on the property. *If the property was sold to a bona fide purchaser* before the taxes, interest and penalties are charged as a result of the denial, the taxes, interest and penalties are not a lien on the property and the Department is obligated by statute to assess the owner who claimed the PRE as a result of the denial.

In order for the Department to process a request to bill the owner who claimed the PRE for the additional taxes, interest and penalties in a bona fide purchaser situation, a Request to Bill Seller Following a PRE Denial, Form 4816, must be completed and submitted to the Department along with the required documentation. The form can be found at www.michigan.gov/PRE under "Forms and Instructions."