

## MEMORANDUM



**DATE:** January 19, 2012  
**TO:** All Interested Parties  
**FROM:** Ben Gielczyk, Senior Fiscal Analyst  
**RE:** Payments in Lieu of Taxes (PILT) Reductions

This memo provides information on recent reductions in appropriations for payments in lieu of taxes (PILT) paid to local units of government for state-owned property.

### **Background**

Payments in Lieu of Taxes (PILT) are payments statutorily required to be made by the state of Michigan to local units of government for land owned by the state and administered by the Department of Natural Resources (DNR) and privately owned land retained for long-term timber production. These lands include purchased lands, swamp and tax reverted lands, and commercial forest reserve lands. Payments are made through line-item appropriations in the Department of Treasury appropriations act.

#### *Purchased Lands*

Purchased Lands are defined to be state-owned public property purchased and controlled by the DNR. Under the General Property Tax Act, Public Act (PA) 206 of 1893, public property belonging to the state of Michigan is exempt from taxation. However, the Natural Resources and Environmental Protection Act, PA 451 of 1994, as amended, requires the state to make PILT to local governments for lands purchased by the state after 1933. Prior to the enactment of PA 513 of 2004, payments were based on land values and set by the State Tax Commission. However, under PA 513 of 2004, land values were froze at their 2004 level through 2008. Beginning in 2009, the valuation of the property could not increase annually by more than the increase in the immediately preceding year in the inflation or 5%, whichever was less.

Prior to PA 513 of 2004, Purchased Lands PILT was paid out of the fund source used to acquire each parcel.<sup>1</sup> With the passage of PA 513 of 2004 all Purchased Lands PILT were to be made with 50% General Fund and 50% restricted funds (Michigan Natural Resources Trust Fund, Game and Fish Protection Fund, and Michigan Waterways Fund). Beginning in FY 2011-12, under PAs 117 and 118 of 2011, Michigan Natural Resources Trust Fund (MNRTF) Purchased Land PILT will be required to be paid in full (equal to the total amount due to the local unit of government) solely from the MNRTF.

#### *Swamp and Tax Reverted Land*

The DNR owns and controls certain properties that are deemed swampland or tax reverted properties. Most of the land under this PILT category was left unclaimed and remained in the state's name primarily due to it being considered swampland. Under statute (MCL 324.2150) the state is required to make a payment of \$2.00 per acre by December 1 each year to each local unit of government. Disbursements made for PILT on swamp and tax reverted land are distributed 50% to the county

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<sup>1</sup> Purchased Land PILT is acquired using funds from the Game and Fish Protection Fund, the Michigan State Waterways Fund, and the Michigan Natural Resources Trust Fund. However, prior to FY 2001-02, PILT on land purchased with Game and Fish Protection Fund of Federal Pittman Robertson funds were paid 50% from the Game and Fish Protection Fund and 50% from the General Fund.

General Fund and 50% to the township General Fund. All swamp and tax reverted PILT are paid with state General Fund appropriations.

*Commercial Forest Reserve*

Commercial Forest Reserve PILT covers those private lands enrolled in the Commercial Forest Program (CFP) under Part 511 of PA 451 of 1994. The CFP is a tax incentive program for private landowners to provide an incentive for retaining and managing forest land for long-term timber production. Currently, there are approximately 2.2 million acres listed under this program.

Under the CFP, private land owners are subject to an annual specific tax of \$1.20 per acre as opposed to ad valorem property taxes. In addition, statute states that the state of Michigan will pay an additional \$1.20 per acre annually on behalf of the landowner to the county. Beginning in FY 2011-12, the tax per acre, as well as the state payment per acre, is scheduled to increase by five cents. Commercial Forest Reserve PILT is paid with state General Fund appropriations.

**Funding Reductions**

Prior to Fiscal Year (FY) 2009-10, payments were paid in full according to a statutory formula for each type of PILT. However, due to budgetary constraints, beginning in FY 2009-10 all PILT were reduced and prorated due to General Fund reductions in the Department of Treasury's PILT appropriation levels. The following tables highlight the appropriation changes for each PILT category. The tables are supplemented with a more detailed narrative below.

*Purchased Lands PILT*

<b>Year</b>	<b>Gross Appropriation</b>	<b>Amount Due (est.)</b>	<b>Difference</b>
FY 2008-09	\$4,450,000	\$4,292,100	\$157,900
FY 2009-10*	4,386,000	4,557,500	(171,500)
FY 2010-11*	4,386,000	4,533,200	(147,200)
FY 2011-12**	3,292,200	4,533,200	(1,241,000)

\*Gross appropriation includes inflated restricted fund authorization (see below). Total payments totaled \$3,872,000 in FY 2009-10 and \$3,789,700 in 2010-11. Restricted fund authorizations were properly adjusted in FY 2011-12.

\*\*FY 2011-12 amount due is an estimate based on FY 2010-11 figures.

*Swamp and Tax Reverted PILT*

<b>Year</b>	<b>Gross Appropriation</b>	<b>Amount Due (est.)</b>	<b>Difference</b>
FY 2008-09	\$7,071,200	\$7,071,200	\$0
FY 2009-10	6,227,300	7,076,400	(849,100)
FY 2010-11	6,227,300	7,075,800	(848,500)
FY 2011-12*	5,293,200	7,075,800	(1,782,600)

\*FY 2011-12 amount due is an estimate based on FY 2010-11 figures.

*Commercial Forest Reserve PILT*

<b>Year</b>	<b>Gross Appropriation</b>	<b>Amount Due (est.)</b>	<b>Difference</b>
FY 2008-09	\$2,645,700	\$2,645,700	\$0
FY 2009-10	2,343,100	2,647,400	(304,300)
FY 2010-11	2,343,100	2,656,400	(222,300)
FY 2011-12*	1,991,600	2,656,400	(664,800)

\*FY 2011-12 amount due is an estimate based on FY 2010-11 figures.

## **FY 2009-10**

In an effort to balance the FY 2009-10 General Fund budget, PILT appropriations were effectively reduced by 12.0%.<sup>2</sup> This amounted to a \$1.3 million GF/GP reduction from FY 2008-09 PILT. The Department of Treasury issued prorated payments to local units of government due to the reduced appropriations. While statute at the time of budget passage allowed for short-term proration of Purchased Land PILT payments (MCL 324.2154), prorated payments could not satisfy the state's payment obligation. In order to remedy the situation, Public Act (PA) 31 of 2010 was enacted which allowed prorated payments to satisfy the state's Purchased Land PILT obligation in FY 2009-10 only.

While Swamp and Tax Reverted PILT and Commercial Forest Reserve PILT were reduced by 12.0%, it was determined that no corresponding statutory change was needed to authorize prorated payments. The Department of Treasury determined that without the prohibiting language that was present in the Purchased Lands PILT statute (MCL 324.2154), proration was effectively implied in the Swamp and Tax Reverted PILT and Commercial Forest Reserve PILT statutes (MCLs 324.2150 and 324.51106, respectively). Therefore, prorated payments on Swamp and Tax Reverted PILT and Commercial Forest Reserve PILT would satisfy the state's obligation under the statute.

## **FY 2010-11**

In FY 2010-11 the 12.0% reductions made in FY 2009-10 were maintained to, once again, assist in balancing the General Fund budget. As was the case in FY 2009-10, the Department of Treasury issued prorated payments to local units of government. Prorating PILT in FY 2010-11 required another statutory change due to the one-year sunset in PA 31 of 2010. To address the lack of statutory authority for prorated payments to satisfy the state's PILT obligation, legislation was enacted (PAs 117 and 118 of 2011) that implemented the following changes:

- Requires PILT on Michigan Natural Resources Trust Fund (MNRTF) purchased land to be paid in full (calculated amount due to local government under statute) from the MNRTF beginning in 2012. Statute previously specified that no more than 50.0% of the PILT on MNRTF purchased lands may be paid from the MNRTF. Purchased Land PILT for those lands purchased with funds from the Game and Fish Protection Fund and Michigan State Waterways Fund maintains the 50/50 split.
- Amends statute to permit the annual proration (no sunset) of all Purchased Land PILT beginning in FY 2010-11. However, as was noted above, MNRTF Purchased Land PILT are not subject to proration beginning in FY 2011-12.<sup>3</sup> The prorated payments satisfy payments obligated to be made by the state.

## **FY 2011-12**

The Governor's recommendation, ultimately enacted by the legislature, reduced all PILT by 15.0% from FY 2010-11 levels. Under the reforms of PAs 117 and 118 of 2011, the Department of Treasury will have the statutory authority to prorate payments for all PILT, with the exception of MNRTF

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<sup>2</sup> General Fund appropriations were reduced by 12.0% in all three PILT categories. According to statute, 50.0% of Purchased Land PILT shall be paid from the revenue source used to acquire the land. In the FY 2009-10 budget, restricted fund authorizations were not correspondingly reduced which meant Gross PILT appropriations only showed a 8.7% reduction. Due to a statutory cap on all Purchased Lands PILT payments from restricted fund sources at 50.0% the actual Gross reduction did total 12.0%.

<sup>3</sup> The acts did authorize the proration of MNRTF Purchased Land PILT for FY 2010-11.

Purchased Land PILT. In order to satisfy the current requirements of PAs 117 and 118 of 2011, a supplemental appropriation from the MNRTF will be required which would replace current General Fund appropriations supporting MNRTF Purchased Land PILT and increase gross funding to equal the total amount due to local units of government. The amount of additional MNRTF needed to accomplish full funding is estimated to be \$882,800 (based on FY 2010-11 full funding estimates). Approximate General Fund savings will amount to \$350,400.