

## Principal Residence Exemption Audit Tips

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Property Services Division  
Michigan Department of Treasury

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### What is a Principal Residence Exemption (PRE)?

- In accordance with MCL 211.7cc, a Principal Residence Exemption (PRE) exempts a principal residence from the tax levied by a local school district for operating purposes, up to 18 mills.

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### Who is Eligible for a Principal Residence Exemption?

- A *person* must own and occupy the property as his or her principal residence by May 1<sup>st</sup> to claim the exemption for that year.



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## How Does a Person Claim a Principal Residence Exemption?



- The property owner must file a Principal Residence Exemption Affidavit, Form 2368, with the local assessor.
- The affidavit is a sworn statement by the person claiming the exemption attesting that he or she is an owner that occupies the property as their principal residence.

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## Who is an "Owner" for Principal Residence Exemption Purposes (MCL 211.7dd)?

- A person who owns property or who is purchasing property under a land contract.
- A person who is a partial owner of property.
- A person who owns property as a result of being the beneficiary of a will, trust or intestate succession.
- A person who owns or is purchasing a dwelling on leased land.

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## Who is an "Owner" for Principal Residence Exemption Purposes (MCL 211.7dd)? (Cont.)

- A person holding a life lease in property previously sold or transferred to another.
- A grantor who has placed property in a **revocable trust** or a **qualified personal residence trust**.
- The sole present beneficiary of a trust if the trust purchased or acquired the property for a beneficiary who is totally and permanently disabled.
- A cooperative housing corporation.
- A facility registered under the Living Care Disclosure Act.

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## Some Qualifying/Non-qualifying Factors to Consider

- A husband and wife who file, or are required to file, a joint Michigan income tax return are entitled to not more than one PRE.
- If the person claims a substantially similar exemption in another state which has not been rescinded, he or she does not qualify for a PRE in Michigan.
- If the person files an income tax return as a resident of another state, (active military personnel excluded), he or she does not qualify for a PRE in this state.

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## More Qualifying/Non-qualifying Factors to Consider

- If a person files a nonresident Michigan income tax return, (active military personnel with his or her principal residence in this state excluded), he or she does not qualify for a PRE in Michigan.
- If a person or his or her spouse owns property in another state for which either person claims an exemption similar to the PRE, he or she does not qualify for a PRE in Michigan, unless they file separate income tax returns.

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## What is a Principal Residence?



- The one place where an owner of property has his or her true, fixed, permanent home to which, whenever absent, he or she intends to return.
- Includes all of an owner's unoccupied property classified as "residential," that is "adjoining or contiguous" to the dwelling owned and occupied by the owner.

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## What is a Conditional Rescission?

- Allows an owner to receive a PRE on currently owned property and previously exempted property **simultaneously**, for up to 3 years, if the previous residence:
  - Is not occupied,
  - Is for sale,
  - Is not leased, and
  - Is not used for any business or commercial purpose.

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## Application for Conditional Rescission

- To apply for a conditional rescission, the owner must submit a Conditional Rescission of Principal Residence Exemption, Form 4640, to the assessor for the local unit where the property is located on or before May 1 of the first year of the claim.
- Annually, the owner must submit Form 4640 on or before December 31 as verification to the assessor that the property meets the conditional requirements mentioned previously.

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## Audit Responsibilities

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| <ul style="list-style-type: none"><li>■ <b>Opt-In Counties</b><ul style="list-style-type: none"><li>✓ The county treasurer or county equalization director has audit responsibilities.</li><li>✓ Department of Treasury may audit.</li><li>✓ County treasurer, equalization director, assessors and Department of Treasury may issue denial notices.</li></ul></li></ul> | <ul style="list-style-type: none"><li>■ <b>Opt-Out Counties</b><ul style="list-style-type: none"><li>✓ Department of Treasury has audit responsibilities.</li><li>✓ Assessors and Department of Treasury may issue denial notices.</li></ul></li></ul> |
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## Audit Possibilities

- Compare mailing address against property address.
- Multiple properties owned by same person.
- Check list or database of rental properties, check to see whether any are receiving a PRE.
- Check to see if property owners are registered to vote at the property address.
- Review death notices.



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## Audit Possibilities (Cont.)



- Check for properties 100% owned by companies or businesses.
- If there is a DBA for a property, check to see if they are receiving a PRE at 100%.
- Classification of property – adjacent or contiguous property must be unoccupied and classified as residential.
- Flag returned mail when sent to the property address.
- Compare against addresses listed on dog licenses.

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## Audit Tools

- Send an audit letter and questionnaire to any person claiming a questionable exemption. A sample can be found at: [www.michigan.gov/PRE](http://www.michigan.gov/PRE).
- Send a questionnaire to the assessor.
- Disclosure agreement with the Department of Treasury.
- Principal Residence Exemption (PRE) database developed by the Dept. of Treasury which can be found at: [www.michigan.gov/PREDatabase](http://www.michigan.gov/PREDatabase).

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## Acceptable Verification of Ownership

- ✓ Warranty Deed.
- ✓ Quit Claim Deed.
- ✓ Land Contract.
- ✓ Life Estate.
- ✓ Life Lease (holder of the life lease must be the prior owner).
- ✓ Beneficiary of a will or trust.
- ✓ Grantor who placed property in a revocable trust or qualified personal residence trust.
- ✓ Generally, documents verifying ownership must either be notarized and/or recorded.

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## Factors to be Considered in Validating a Principal Residence

Where a person:

- ✓ Keeps his or her most important possessions.
- ✓ Houses his or her family.
- ✓ Votes.
- ✓ Maintains church, club and lodge memberships.
- ✓ Buys automobile licenses.
- ✓ Maintains a mailing address and banking location.
- ✓ Operates a business.
- ✓ Sues for divorce.

**This is not an inclusive list and no one of these factors is controlling.**

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## Acceptable Verification of Occupancy

- ✓ Both sides of a driver's license with property address listed.
- ✓ Voter's registration record.
- ✓ Canceled checks showing the property address.
- ✓ Bank/charge accounts showing purchases within the vicinity of the property.
- ✓ Medical billings from physicians within the vicinity of the property.
- ✓ Copy of a passport.
- ✓ Copy of a land contract.
- ✓ Income tax return showing the mailing address.
- ✓ Insurance policies.

**This is not an inclusive list and no one of these factors is controlling.**

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## Foreclosed Properties

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- A PRE on a foreclosed property is removed on December 31 in the year of the foreclosure or Sheriff's sale, not when the previous owner's redemption period ends.
- When the Sheriff's deed is issued, the property is no longer owned by the previous owner, and they no longer meet the statutory requirements of "owning and occupying" the property.
- If the property is redeemed, the PRE may be reinstated upon filing of the Affidavit and, if needed, brought before the Board of Review so there is no break in the exemption.



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## Denial Notices and Appeal Rights

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**Issued by the County**



- Notice of Denial of Principal Residence Exemption (County), Form 4075.
- Found at [www.michigan.gov/PRE](http://www.michigan.gov/PRE) under PRE related forms.
- Taxpayer has appeal rights to the Michigan Tax Tribunal

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## Denial Notices and Appeal Rights (Cont.)

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**Issued by Local Unit Assessor**



- Notice of Denial of Principal Residence Exemption (local unit), Form 2742.
- Found at: [www.michigan.gov/PRE](http://www.michigan.gov/PRE) under PRE related forms.
- Taxpayer has appeal rights to the Michigan Tax Tribunal.

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## Denial Notices and Appeal Rights (Cont.)

### Issued by the Department of Treasury



- Initial audit is conducted by Tax Management Associates (TMA).
- A list of denied parcels provided to Department by TMA (*taxpayers who fail to respond to our inquiry within 30 days are also denied*).
- Department issues denial notice by letter to taxpayer.
- Department sends letter and list of denials to county treasurer, equalization director and assessor.
- Taxpayer has appeal rights to Hearings Division of Michigan Department of Treasury.

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## Principal Residence Exemption Appeal Authority

Type of Appeal	Board of Review	Dept. of Treasury	Tax Tribunal
Denial by Assessor OR Auditing County of PRE for 2006, 2007, 2008, or 2009	No Review Authority	No Review Authority	Within 35 days after date of notice of denial
PRE which was NOT on the 2006, 2007, 2008 and/or 2009 Tax Roll	July or December for 2006, 2007, 2008 and/or 2009 exemption	No Review Authority	Within 35 days of decision by the Board of Review
Department of Treasury Denial of PRE	No Review Authority	Office of Hearings within 35 days after date of notice of denial	Within 35 days of the final decision by the Department of Treasury

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## Tax Roll Action and Billing Requirements

- Sections 6, 8, and 11 of MCL 211.7cc
- Assessor shall remove the exemption from the property and amend the tax roll to reflect the denial. If the local unit is in possession of the tax roll, the local treasurer shall, within 30 days of the date of the denial, issue a corrected tax bill for any additional taxes, including interest at the rate of 1.25% per month, or fraction thereof and penalties computed from the date the taxes were last payable without interest and penalty.
- Late interest on any tax set forth in a corrected/supplemental tax bill shall begin to accrue 60 days after the date the bill is issued at a rate of 1.25% per month or fraction thereof.
- There is no authority in MCL 211.7cc to waive interest as a result of a PRE denial. Interest is not punitive in nature, but charged for the use of the money.

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## Tax Roll Action and Billing Requirements (cont.)

- If the County is in possession of the tax roll, it shall be amended to reflect the denial and the county treasurer shall, within 30 days of the denial, prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction thereof and penalties computed from the date the taxes were last payable without interest and penalties.
- Taxes levied in a corrected/supplemental bill shall be returned as delinquent on March 1 in the year immediately succeeding the year in which the corrected/supplemental bill is issued.
- The Department has consistently held that based upon Section 13 of MCL 211.7cc, a property cannot be foreclosed upon for delinquent taxes which are a result of a PRE denial if the owner is appealing the PRE denial. It is recommended that the taxpayer pay the additional tax in order to avoid additional interest in the event of an unsuccessful appeal outcome.

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## Bonafide Purchasers



- A bonafide purchaser is one who purchases in good faith for valuable consideration.
- The taxes that become due because of the denial do not become a lien on the property (the PRE is not removed).
- Upon notification from a local unit, the Department assesses the previous owner the taxes, interest, and penalties as a result of the PRE denial.

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## Information Necessary to Process Request to Bill a Bonafide Purchaser



- Date and name of unit of government that issued the PRE denial.
- Parcel Number.
- Taxable Value for each year denied.
- School operating millage rate for each year denied.
- Date of Sale.
- Seller's name and address.
- Buyer's name and address.
- Tax year and due date (summer or winter).
- Copy of all transfers (deeds/land contracts) within denied years.

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## Principal Residence Exemption Interest Distribution

- Section 23 of MCL 211.7cc details required distribution.
- Interest to the Department of Treasury is submitted with Form 4142, Principal Residence Exemption Denial Interest Summary (including negative amounts).
- Mail to address listed on bottom of form.



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## Principal Residence Exemption Interest Distribution (*Cont.*)

- Include your e-mail address on Form 4142. Beginning October 1, 2009, we will respond by e-mail when your payment has been received. If you do not receive a confirmation within 30 days, please contact our office at the phone number or e-mail address listed on the form.



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## Future Presentation and Questions

Is there any interest in similar presentations/training for other county employees?

Questions?

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## Contact Information

- David Buick: [Buickd@michigan.gov](mailto:Buickd@michigan.gov)  
(517) 335-4410
- PRE Unit: [PTE-Section@michigan.gov](mailto:PTE-Section@michigan.gov)  
(517) 373-1950  
  
[www.michigan.gov/PRE](http://www.michigan.gov/PRE)

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STATE OF MICHIGAN  
DEPARTMENT OF TREASURY  
LANSING

JENNIFER M. GRANHOLM  
GOVERNOR

ROBERT J. KLEINE  
STATE TREASURER

## BONA FIDE PURCHASER EXCEPTION

Under MCL 211.77cc, “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 ...” In other words, the seller (the person the Department denied) is responsible for all additional taxes, interest and penalties due for years up to and including the year of the sale if the purchaser is a bona fide purchaser. The Principal Residence Exemption (PRE) is not removed in a bona fide purchaser situation.

A bona fide purchaser is one who purchases in good faith for valuable consideration. Therefore, a person who receives property through an inheritance or foreclosure or one who receives property through a quit claim without valuable consideration, would not qualify as a bona fide purchaser. If the new owner is not a bona fide purchaser, the taxes are added back to the tax roll and the purchaser is responsible for the additional taxes, interest and penalties which become a lien on the property.

In order for the Department to process a request to bill the seller (the person the Department denied) for additional taxes, interest and penalties in a bonafide purchaser situation, the following information must be submitted to the address listed below:

- The date and the unit of government that did the PRE denial (local, county or state)
- Parcel number
- Taxable value for each year denied
- School operating millage rate for each year denied
- Date of sale
- Seller’s name and address
- Buyer’s name and address
- Tax year and due date (summer or winter)
- Copy of all transfers (deeds/land contracts) within denied years

# Principal Residence Exemption (PRE) Denial Interest Summary

Sheet \_\_\_\_\_ of \_\_\_\_\_

Issued under authority of Public Act 206 of 1893.

**Read instructions on page 2 before completing the form.** Use additional copies of this form if necessary. Summaries are due with remittance (if applicable) to the Department of Treasury on April 15, July 15, October 15 and January 15. **Refunds must have supporting documentation attached.**

Governmental Agency Remitting Funds (County, City, Township)	Has Form 4410 (MDOE Taxable Value Report) been updated to reflect the changes?  <input type="checkbox"/> Yes - enter date updated _____ <input type="checkbox"/> No
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IDENTIFICATION INFORMATION					DISTRIBUTION OF INTEREST (enter refunds as negative numbers)				
Name of Property Owner	Property Identification Number	Taxable Value	Tax Year	Denied by *	Total Interest	Local Portion	County Portion	State Portion	Refund Reason **
1.									
2.									
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									
11.									
12. Total on this sheet (add lines 1 through 11).....									
13. Total on additional sheets (add line 12 totals from other sheets).....									
14. <b>Total Interest Distributed or to be Refunded</b> (total of lines 12 and 13).....									

**Mail form with supporting documents to:**

Principal Residence Exemption Unit  
Michigan Department of Treasury  
P.O. Box 30440  
Lansing, MI 48909

\* "L" if Local Unit (city or township)  
"C" if County  
"S" if State of Michigan

\*\* "M" if Michigan Tax Tribunal  
"T" if Treasury Overturn  
"O" if Other Reason

Prepared By (name and title)	Date	Telephone Number	E-mail Address
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## **Instructions for Completing Form 4142 Principal Residence Exemption (PRE) Denial Interest Summary**

### **BACKGROUND**

Michigan Compiled Law (MCL) 211.7cc (6), (8), and (11) requires interest charges at a rate of 1.25% per month or fraction of a month to be charged to the owner of property that has been issued a PRE denial notice. The interest is then distributed in accordance with MCL 211.7cc (23). If the assessor of the local tax collecting unit denies the PRE, 70% of the collected interest is distributed to the local tax collecting unit, 20% to the county in which the property is located and 10% to the Michigan Department of Treasury (Department). If the Department denies the PRE, 70% of the collected interest is distributed to the Department, 20% to the local tax collecting unit and 10% to the county in which the property is located. If the county treasurer or his/her designee or the county equalization director or his/her designee denies the PRE, 70% of the collected interest is distributed to the county in which the property is located, 20% to the local tax collecting unit and 10% to the Department.

### **SUMMARY FORM USAGE**

A summary Form 4142 must be completed and submitted to the Department by a county, city or township when the State's portion of PRE denial interest is remitted. In addition, any PRE denial interest that is refunded to the taxpayer that reduces the State's portion of interest must be detailed on the summary form. If the net report on the summary form results in a refund, the Department will process the refund within 60 days and a warrant will be mailed to the unit of government stated on the top of the summary form.

### **REFUNDS**

A refund of PRE denial interest is necessary when payment is made by a taxpayer but the denial is later overturned and the PRE is reinstated. Depending upon what entity issued the denial, the denial may be overturned by the Department, Michigan Tax Tribunal, or other appellate court. Board of Reviews and assessors do not have the statutory authority to reinstate a PRE after it has been denied. For each refund, indicate on each individual line the reason for refunding the interest. Enter "T" for the Department of Treasury, "M" for the Michigan Tax Tribunal and "O" for any other reason. Supporting documentation showing when the interest was paid to the Department (copy of the summary sheet and cancelled check) and the reason for the refund (copy of the judgment or determination) must be attached to the summary form for each refund.

### **IDENTIFICATION INFORMATION**

Use only one line to report interest remitted for each tax year. For example, if a taxpayer is denied his/her PRE for tax years 2005, 2006 and 2007 and has subsequently paid the appropriate interest for each year, the taxpayer's name and applicable property identification number would be entered on three separate lines with the appropriate taxable value for each tax year.

### **PREPARER INFORMATION**

Complete the preparer contact information at the bottom of the form for Department confirmation of receipt, and questions.

If you have any questions, please call: 517-373-1950 or e-mail at: [PTE-Section@michigan.gov](mailto:PTE-Section@michigan.gov).

# Principal Residence Exemption (PRE) Audit Questionnaire

Issued under the authority of Public Act 206 of 1893

**INSTRUCTIONS:** Information requested relates to the property listed in Part 1. Return the completed form and necessary documentation to: **PRE Audit Center, 869 S. Old US-23, Suite 100, Brighton, MI 48114.**

## PART 1: PROPERTY INFORMATION

Street Address:

County:

City, State, ZIP Code:

Parcel ID:

## PART 2: OWNERSHIP INFORMATION - Attach a copy of the deed, land contract or life estate.

The property in Part 1 is owned by: choose one entity (company, trust, individual, OR other) and complete corresponding information.

**Company** Company's Legal Name Date Purchased by Company (mm/dd/yy)

**Trust\*\*** Name of Trust Date Purchased by Trust (mm/dd/yy)

Trust Type:  Qualified Personal Residence  Revocable  Irrevocable

**\*\* Each grantor (creator) must complete the "Individual" section. If the grantors of the trust are deceased, each beneficiary must complete this section and provide a copy of the grantor's death certificate. Indicate by each name whether he/she is a grantor or beneficiary.**

**Individual** If there are additional owners of this property, please provide requested information on the reverse side of this form.

Owner's First Name	Owner's Last Name	Driver's License Number	Telephone Number
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Do you currently live at the property listed in Part 1? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, provide current address.	Have you ever lived at the property listed in Part 1? <input type="checkbox"/> Yes <input type="checkbox"/> No	Provide dates you occupied the property listed in Part 1 (mm/dd/yy). From: _____ To: _____
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Do you own other property in Michigan or another state that currently receives a PRE? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide the address of the property receiving a PRE.	Spouse's Full Name (first and last)	Date owner purchased the property listed in Part 1 (mm/dd/yy).
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Second Owner's First Name	Second Owner's Last Name	Driver's License Number	Telephone Number
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Do you currently live at the property listed in Part 1? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, provide current address.	Have you ever lived at the property listed in Part 1? <input type="checkbox"/> Yes <input type="checkbox"/> No	Provide dates you occupied the property listed in Part 1 (mm/dd/yy). From: _____ To: _____
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Do you own other property in Michigan or another state that currently receives a PRE? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide the address of the property receiving a PRE.	Spouse's Full Name (first and last)	Date owner purchased the property listed in Part 1 (mm/dd/yy).
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**Other** Explain (example - land contract holder, life lease, renter): If more space is needed, please use reverse side of form.

## If you no longer own this property, provide the following information as well as completing Part 2 above:

Name of Purchaser	Telephone Number (if known)	Date of Sale (mm/dd/yy)	Sale Price
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## PART 3: ALTERNATIVE USE OF THE PROPERTY

Complete this portion if the property is used for business purposes, is vacant or Qualified Agricultural.

Is any portion of the property in Part 1 used for business purposes or rented? <input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, provide the percentage of business or rental use. _____ % Business _____ % Rental
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Is the property listed in Part 1 vacant (no dwelling)? <input type="checkbox"/> Yes <input type="checkbox"/> No	If no, is the dwelling a pole barn or garage? <input type="checkbox"/> Yes <input type="checkbox"/> No
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Is property located next to an owner's home? <input type="checkbox"/> Yes <input type="checkbox"/> No	Is the property being farmed and considered Qualified Agricultural? If yes, attach a copy of the <i>Claim for Farmland Exemption from Some School Operating Taxes</i> (Form 2599) which you filed with the local assessor. <input type="checkbox"/> Yes <input type="checkbox"/> No
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**Important Reminder: A copy of the deed, land contract, life estate, or other proof of ownership is required. Each owner must provide relevant information requested in Part 2. If you filed a Conditional Rescission of PRE (Form 4640) or a PRE Active Duty Military Affidavit (Form 4660) with the local assessor, provide a copy with this completed questionnaire.**

# Principal Residence Exemption Denials by the Michigan Department of Treasury

## Frequently Asked Questions

### 1. What is a Principal Residence Exemption (PRE)?

In accordance with MCL 211.7dd, a *principal residence* is defined as the "... one place where an owner of the property has his or her true, fixed, and permanent home, to which whenever absent, he or she intends to return ...." An *exemption* means that the home, after applying and qualifying with the local assessor, is not subject to the tax levied by a local school district for school operating purposes up to 18 mills.

### 2. Why did I get a PRE denial letter?

The Michigan Department of Treasury mailed a questionnaire requesting documentation to verify that you owned and occupied the property as your principal residence, and either no response to that letter was received or the response received did not verify that the property was your principal residence for the year(s) being denied.

### 3. How do I appeal a denial of a PRE?

Submit your appeal in writing to the Department within 35 days of the date on the denial letter. Include a copy of the denial letter and state that you are requesting an informal conference, list the reasons you disagree with the denial, and provide documentation showing you owned and occupied the property as your principal residence for each year denied.

### 4. How does the Department of Treasury determine a taxpayer's principal residence?

Factors to be considered in determining a principal residence include where taxpayers keep their most important possessions, house their family, vote, maintain club and lodge memberships, buy automobile licenses, maintain a mailing address and banking location, operate a business, or sue for divorce. However, no one of these factors is controlling.

### 5. What is acceptable verification of occupancy and Michigan residency to show I am entitled to the exemption?

Copies of at least four different pieces of documentation dated between January 1 and May 2 for each of the years being appealed. Some examples of acceptable documents that show the property was occupied as the principal residence of the owner for the year(s) in question are:

- A. Both sides of your driver's license with property address.
- B. Your voter's registration record.
- C. A cancelled check showing the property address. (Black out any information other than the address and date the check was written.)
- D. A statement from a bank, charge account, medical billing, utility bills, etc. (Only the portion showing your mailing address and date need be submitted.)
- E. Property tax bill with the property as the mailing address.
- F. Copy of your passport.
- G. Your income tax return showing the mailing address. (Black out any sensitive information.)
- H. An insurance policy. (Only the portion showing your mailing address and date need be submitted.)

**NOTE:** This is not an all inclusive list and no one item is particularly controlling.

### 7. What is acceptable verification of ownership?

Warranty deed; quit claim deed; land contract; life estate; life lease (holder of the life lease must have been the prior owner); beneficiary of a will or trust; or a grantor who has placed the property in a revocable trust or a qualified personal residence trust. All documents verifying ownership must either be notarized and/or recorded.

### 8. How do I know if my appeal has been received?

You will receive a letter confirming that your appeal has been received by the Department.

### 9. How long will the appeal process take?

It may take several months to complete the review of the appeal.

### 10. Who is reviewing my appeal?

The first step in the review process involves the PRE staff of the Department. They will review your appeal information to determine if sufficient evidence exists to reinstate the exemption or partial exemption. If it is found that the exemption should be reinstated, you, the county treasurer, and the local unit assessor will be notified, in writing, that the exemption for the given years has been reinstated. If we are unable to resolve the matter based on the information you supply, we will forward your file to the Hearings Division. The Hearings Division will schedule an informal conference and will notify you of the date, time and place.

### 11. How will I know the result of the appeal review by the PRE staff, if they determine that sufficient evidence was provided to rule in my favor?

If your documentation shows the property was occupied as the owner's principal residence, the denial will be removed for the year(s) in question. You, the county treasurer and the local unit assessor will be notified, in writing, that the exemption has been reinstated.

(Over)



**12. How will I know the result of the appeal review by the PRE staff, if they determine that insufficient evidence was provided to rule in my favor?**

If your documentation does not show that the property was occupied as the owner's principal residence, a letter will be sent to you advising that your file will be forwarded to the Hearings Division for an informal conference. That office will notify you of the date, time, and place of the informal conference.

**13. What if I disagree with the ruling of the Hearings Division?**

You may appeal the decision of the Hearings Division to the Small Claims Division of the Michigan Tax Tribunal.

**14. What if the property was foreclosed upon and is now owned by a mortgage company or some other business?**

In order for property to qualify for the PRE, the owner must be a living person(s) who holds legal title to the parcel. A partnership, corporation, limited liability company, association, or other legal entity does not meet the requirements of an "owner" as defined by MCL 211.7dd. In addition, if the owner, prior to foreclosure, did not occupy the property as his or her principal residence, the additional tax, penalty and interest for those years would become a lien against the property since valuable consideration was not given for the property.

**15. Do I have to pay additional taxes before I can appeal?**

No. Taxes do not have to be paid at the time of the appeal. However, penalty and interest will continue to accrue. If your appeal is not successful and the denial is upheld, the penalty and interest will be charged from the original due date of the taxes.

**16. How can I find out how much my adjusted bill is/will be?**

You will receive a bill for corrected or adjusted taxes by mail. Depending on your specific circumstances, the bill can come from either the Department or your local or county treasurer. You may contact your local or county treasurer to obtain the amount of the corrected or adjusted taxes if a bill has not yet been received.

**17. Can I have any interest or penalties waived?**

The General Property Tax Act does not provide a provision for waiver of interest.

**18. Can I make a partial payment?**

Most counties and local units require full payment. If a taxpayer is allowed to make a partial payment, any funds received will first be applied to penalties and interest. The remainder of taxes owed will continue to accumulate interest and may result in a lien against the property.

**19. Why was my PRE denied on my parcel of land next to my home?**

Generally, land adjoining or contiguous to a person's principal residence qualifies for a PRE if that person owns the adjoining or contiguous parcel(s). However, the adjoining or contiguous parcel must be classified as residential and be unoccupied to qualify for the exemption.

**20. Why did I receive a PRE denial on my agricultural property?**

The Department does not review Qualified Agricultural Exemptions. However, because a Qualified Agricultural Exemption results in the same tax savings as a PRE, some assessors place a PRE on agricultural property. If a valid agricultural exemption exists and covers the years at issue, that exemption on the parcel(s) will remain unchanged. The assessor should be contacted to fix the discrepancy and the Department should be notified in accordance with the appeal process explained in the denial notice.

**21. Why was I denied and billed for years that I did not own the property?**

The Department was unable to verify that you did not own the property for all of the years denied. In addition, the county and local unit may not have been aware of the discrepancy at the time of billing. The best way to make the correction is to proceed with the appeal process by providing documentation that you did not own the property for the specific years. The county treasurer and local unit will be informed of the results of the appeal.

**22. I received the denial notice and didn't realize what it was until I received the additional tax bill. Now it's well after the 35 days to appeal. What can I do?**

MCL 211.7cc gives the taxpayer 35 days to appeal a denial from the date the denial was received. There is nothing in the statute to allow the Department to give you additional time if the denial was received.

**23. I did not receive the denial notice, but received the additional tax bill. Now it's well after the 35 days to appeal. What can I do?**

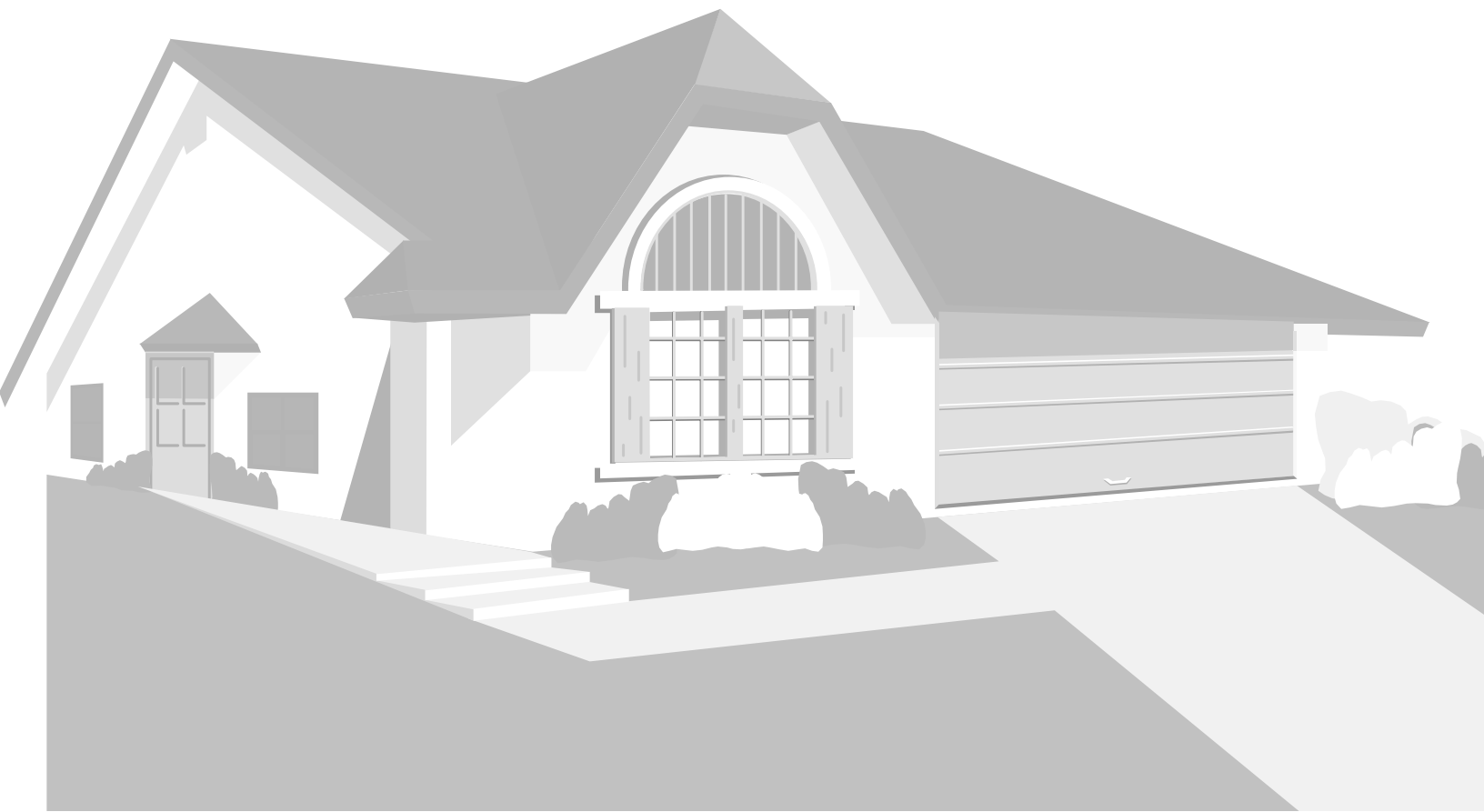
MCL 211.7cc gives the taxpayer 35 days to appeal a denial from the date the denial was received. There is nothing in the statute to allow the Department to give you additional time if the denial was received. You may send in an appeal beyond the 35 days, detailing why the denial notice was not received. The information provided in your appeal will be reviewed and you will be notified in writing of the Department's decision.

**24. Where can I find more information about PREs?**

Information regarding PREs is found at [www.michigan.gov/pre](http://www.michigan.gov/pre).

# **Guidelines**

## **for the Michigan Homeowner's Principal Residence Exemption Program**



# **Guidelines for the Michigan Homeowner's Principal Residence Exemption Program**

These guidelines are compiled questions and answers from the previous four volumes published. It amends outdated information and includes new information.

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## **Chapter 1. Filing Deadlines**

### **1. Is there a filing deadline to request a Homeowner's Principal Residence Exemption?**

Yes. The property owner must have filed a Homeowner's Principal Residence Exemption Affidavit, Form 2368, by May 1 of the year the exemption is being claimed.

### **2. Where can I get Form 2368?**

The Homeowner's Principal Residence Exemption Affidavit, Form 2368, and other homeowner's principal residence exemption forms should be available from your local assessor or on the internet at [www.michigan.gov/treasury](http://www.michigan.gov/treasury).

### **3. What year's taxes are affected by the homeowner's principal residence exemption?**

A valid affidavit, filed on or before May 1 of the year the exemption is being claimed, will reduce that year's taxes.

### **4. If I was eligible for the exemption on May 1<sup>st</sup>, but did not file timely, may I still file my claim?**

Public Act 105 of 2003 provides for an exemption to be filed by mail or in person at the July or December Board of Review for the year of the claim or the succeeding three years. To petition the Board of Review, you must submit a signed Form 2368. A petition to the December Board of Review must be made at least five days before the date of the Board of Review.

*Example: A claim for exemption in 2003 may be brought to the July or December Board of Review in any year between 2003 and 2006.*

### **5. I moved to a different home before the May 1 filing deadline. May I claim my new home?**

Yes. If you purchase a new home and move into it before the filing deadline you may claim an exemption on the new home before the filing date. Form 2368 should be available at the closing or from your local assessor.

### **6. I moved to a different home after May 1. May I claim my new home?**

No. Since you did not own and occupy the home before the filing deadline, you may not file a claim. However, the previous owner may have claimed the property and that exemption remains in effect until December 31. You may file a claim for your new home before May 1 of the following year by filing Form 2368.

### **7. I began construction on a new home in January and owned and occupied it as my principal residence by May 1, may I claim an exemption for the current year's taxes?**

Yes. If you own and occupy a dwelling as your principal residence by May 1, you may file a claim for exemption with your local unit of government by May 1.

### **8. May an assessor deny an erroneous claim for the current year exemption before the Board of Review meets so the tax bills are issued correctly?**

Yes. Public Act 105 of 2003 states the assessor may deny a claim for exemption for the current year and for the three immediately preceding calendar years.

### **9. May a closing agent be held liable by a buyer or seller if the buyer isn't granted a homeowner's principal residence exemption because the closing agent did not provide the appropriate forms at closing, or did not submit their forms timely?**

No. Closing agents are required to provide an affidavit and rescind form at closing. However, Public Act 415 of 1994 provides that there is no legal course of action against the closing agent, by the buyer or the seller, if the agent fails to provide Form 2368, or fails to file the form with the local tax-collecting unit when requested to do so by the buyer or seller.

**10. What are the qualifications to be able to appeal under Public Act 415?**

The sale must have taken place after December 31, closing statement preparer didn't properly present Form 2368 or if requested to do so. The buyers may appeal to Treasury within 30 days of their first notification that an exemption is not posted.

**11. What information must be submitted with a Public Act 415 appeal?**

- A. Copy of warranty deed or land contract to verify ownership.
- B. Copy of driver license, voter registration, or other documents to verify occupancy.
- C. Completed Form 2368.
- D. A letter indicating what years you are appealing.

**Chapter 2. Residency**

**1. Who is a Michigan resident?**

You are a Michigan resident if Michigan is your permanent home. Your permanent home is the place you intend to return to whenever you go away. A temporary absence from Michigan, such as spending the winter in another state, does not make you a part-year resident.

**2. What determines principal residence?**

Michigan law defines principal residence as the one place where a person has his or her true, fixed, and permanent home to which, whenever absent he or she intends to return and that shall continue as a principal residence until another principal residence is established. In order to verify a persons claim that a particular property is a principal residence, Treasury will accept various documents that, taken together, establish that the person or persons filing the claim occupy the property as a principal residence. Examples include drivers license, voter registration card, cancelled checks listing the property address, statements such as medical, bank or charge accounts, income tax records indicating the mailing address and insurance policies. No one

of these factors taken alone is controlling over any other factor. Documentation needs to verify occupancy between the periods of January 1 to May 1 of each year.

**3. I own two homes in Michigan. For which home do I claim exemption?**

Claim the exemption for the home you occupy as your principal residence (*see the tests in #2*).

**4. I have a home in Michigan and one in another state. May I claim an exemption on my Michigan home?**

You may claim the homeowner's principal residence exemption if you meet all of the criteria below:

- A. You are a resident of the State of Michigan (*see #1*).
- B. You own and occupy the home as your principal residence (*see #2*).
- C. Neither you, nor your spouse if you file a joint income tax return, receive an exemption, deduction, or credit substantially similar to the Michigan Homeowner's Principal Residence Exemption on property you own in another state.
- D. You have not filed a non-resident Michigan income tax return.
- E. You have not filed a tax return as a resident of another state.

**5. I own property in Michigan, but moved to another state and have established residency there. May I still claim my Michigan home?**

No. Only Michigan residents are eligible for this exemption. If you wish to re-establish Michigan residency in order to claim this exemption, you must do so before the filing deadline. Re-establishing your residency would include such things as registering to vote in the township or city where your home is located; registering your vehicle in Michigan; and getting a Michigan driver's license or a Michigan personal identification card. As a Michigan resident you may be liable for Michigan income taxes.

**6. I temporarily work and live outside Michigan (e.g. teaching sabbatical, military assignment), but remain a Michigan resident and own a home in Michigan. May I claim an exemption on my Michigan home?**

Yes, unless you rent the home to another person.

### **Chapter 3. Ownership**

**1. May renters file for this exemption?**

No. You must own your principal residence to claim an exemption on it.

**2. My children co-own my home. Do they also have to sign the affidavit even though they don't live with me?**

No. Only co-owners who occupy the home as their principal residence should be listed on the affidavit and sign it. If your children also own and occupy their own home they may file a claim for their principal residence, not yours.

**3. My children own my home, but I hold a life estate. May I claim the exemption?**

Yes. Complete the affidavit using your name, address, social security number and signature. Your children should not sign the affidavit. (Person with a life estate must have been a prior owner.)

**4. I own my home but rent an apartment closer to my work. My apartment address is where I'm registered to vote and is the address on my driver's license. May I still claim my home?**

No. Your apartment is considered your principal residence. Because you vote in the township where the apartment is located and the apartment is the address on your driver's license.

**5. I purchased my principal residence on a land contract. May I claim the exemption?**

Yes. Complete the affidavit using your name, address, social security number and signature, not the information of the land contract holder.

**6. I am leasing my home with an option to buy. May I claim my home?**

No. Leasing with an option to buy is considered a rental agreement, so the home is ineligible. Once you exercise the option to buy, you may claim an exemption.

**7. I am a senior citizen living in my home. I sold my home to my daughter and did not keep a life estate, but we have a verbal agreement that I may remain here until I die or choose to leave. May I claim my home?**

The law allows the claim to be filed only by an owner who occupies the property. You may claim your home only if you and your daughter sign a written agreement (which you can write yourselves) by the filing deadline. The agreement must specify that you may remain in the home until you choose to leave or until you die. This agreement should be notarized and/or recorded with the Register of Deeds.

**8. My sister and I each own and occupy a separate home on the same parcel of property, which we co-own. May we claim an exemption for both homes?**

Yes. If the values of the homes are equal, you would each be entitled to a 50% exemption.

**9. The owners of a property deeded their home to an LLC that they own. They still occupy the home. Are they entitled to a homeowner's principal residence exemption?**

No. MCL 211.7cc states that the owner of property may be entitled to a homeowner's principal residence exemption. MCL 211.7dd defines an owner as a "person" except in specifically identified exceptions. It further defines person as an individual for purposes of MCL 211.7cc. The LLC owns the home, the individual owns the LLC, and therefore the property does not qualify for a homeowner's principal residence exemption.

**10. I am building a home on property I lease. Am I entitled to a homeowner's principal residence exemption?**

Yes, once the house is completed and you move in. You are only entitled to a HPRE on the house; the value of the land must be computed separately from the house.

**Chapter 4. Qualified Homeowner's Principal Residence Property**

**1. I have moved several times in the last year. Which home do I claim?**

You should claim the exemption on the property you own and occupy as your principal residence on the date you file the affidavit.

**2. My home is on a 40-acre parcel classified as residential. Are all 40 acres eligible for exemption?**

Yes. Your principal residence includes the entire parcel that your home sits on, *unless you rent part of the land to another person or it is used for business purposes.*

**3. I have a rural home on a 20-acre parcel. My home is classified as residential property. I also own the adjoining 80-acre residential vacant parcel. What may I claim?**

You may claim an exemption on both parcels. The 80-acre parcel is classified as residential vacant, and is contiguous to the parcel on which your home is located, so you are eligible for the exemption on both properties.

**4. Is it possible to receive exemption on more than one home?**

Yes, but only for a limited period of time. If you moved to a new principal residence prior to May 1<sup>st</sup> you are entitled to that exemption for that tax year. When you rescind the exemption on your old property, it will not take effect until December 31<sup>st</sup> of the year it was rescinded.

**5. I own the lot adjoining and contiguous to my home. It has a different property identification number than the parcel on which my principal residence is located. May I also claim an exemption on this property?**

You may claim an exemption on this property as long as the property claimed is adjoining or contiguous to your home. It must also be classified residential and vacant. A road does not break contiguity. File an affidavit for each parcel.

**6. I own two adjoining parcels and my house is built on both parcels. May I claim both parcels?**

Yes.

**7. I own the parcel adjoining to my home. There is a home on the adjoining parcel that I rent out. May I claim an exemption on this parcel?**

No. The adjoining parcel is eligible only if it is vacant or has a garage or other structures that are part of your home. A lot is not considered to be vacant if there is a dwelling on the lot. The dwelling need not be occupied.

**8. A taxpayer owns a residential lot next to a principal residence. The lot has garage and guesthouse. The guesthouse is only used by his family. What percent exemption would that parcel qualify for, and why?**

0%. It must be vacant. A guesthouse counts as a dwelling, therefore the parcel is not considered vacant.

**9. I own and occupy my home and I am filing an exemption claim for that home. I also own a contiguous piece of property with a home on it that my children occupy. May I also claim that home?**

No. Only your principal residence may be claimed, even if your children do not pay rent.

**10. My spouse and I each own and occupy separate homes. We file our tax return as married filing separately. May we each claim our home?**

Yes. Spouses who maintain separate principal residences may each claim his or her principal residence unless they file a joint income tax return.

**11. My home is in a licensed trailer park. My garage and shed are taxable. May I claim this exemption for the garage and shed?**

Yes.

**12. How must a taxpayer's home be classified to qualify for exemption?**

A home can be any classification as long as the taxpayer owns and occupies it as their principal residence.

**13. I live in a nursing home but still maintain a home. May I claim an exemption on the home I own?**

Yes, unless the home is rented to another person.

**14. I live in an assisted living facility and my principal residence is not rented. I do not expect to return home. Am I still entitled to a homeowner's principal residence exemption on my home?**

No, because there is no expectation to return to your former address.

**15. Is vacant property classified as timber cut over eligible for exemption?**

No.

**16. I own a condominium and a boat slip, which have separate property identification numbers. The common area for my condo adjoins the common area of my boat slip. May I claim an exemption for the boat slip?**

No. You do not own and occupy the common areas of your condominium. Therefore the boat slip would not qualify.

**17. Would an individual be entitled to a homeowner's principal residence exemption for 2004 in the following example? Why or why not?**

*Example: Individual purchased property January 15, 2004. They had to complete many renovations before they moved into their home on May 5, 2004.*

No. The home was not occupied until after May 1 of the year of the claim.

**18. If a person is in a nursing home and claims a property tax credit on the nursing home, are they still entitled to claim a homeowner's principal residence exemption?**

No. A person may have only one principal residence. Both the income tax credit and the property tax exemption, are based on the taxpayer's principal residence. Therefore of the taxpayer claims one the other cannot be claimed.

**19. A homeowner owns a property with two dwellings on it; the second dwelling has water service but not kitchen or bathroom. Should the exemption be prorated?**

Yes. If both structures are assessed as dwellings then the exemption must be prorated based on the portion of the taxable value of the property used as the homeowner's principal residence.



**20. A homeowner has an attached garage with an upper level that was used for storage; the homeowner converted the storage space to an apartment; is the homeowner still entitled to an exemption?**

Yes, but not a 100% exemption. The exemption must be prorated based on percentage of the total square footage used as a principal residence.

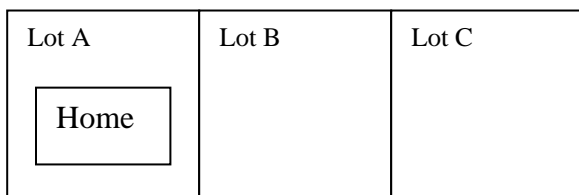
**21. A homeowner owns property in a resort/lake area. The owner occupies the home the majority of the year but rents it out during the summer and takes an apartment in town. Is the owner entitled to a 100% homeowner's principal residence exemption, a reduced exemption, or no exemption?**

Michigan law does not make any provision for granting a partial exemption based on the percentage of the year that the homeowner occupied the home as a principal residence. Federal law allows a homeowner to rent their principal residence for less than 15 days during a calendar year without declaring it as a rental property on their tax return. A homeowner that would be required to declare rental income on their home is not entitled to a homeowner's principal residence exemption on that property. Therefore, if a homeowner rents his property for more than 14 days a year, the property is not entitled to a HPRE.

**22. Does contiguous mean that there must be a common boundary, or can contiguous touch contiguous?**

A. Contiguous may touch contiguous. In the diagram below, if the owner of Lot A owns both Lot B and Lot C, and Lot A is qualified for a Homeowner's Principal Residence Exemption, and both lots B and C are classified residential and vacant (vacant means no dwelling) then Lot C is contiguous to Lot A through Lot B.

Diagram I

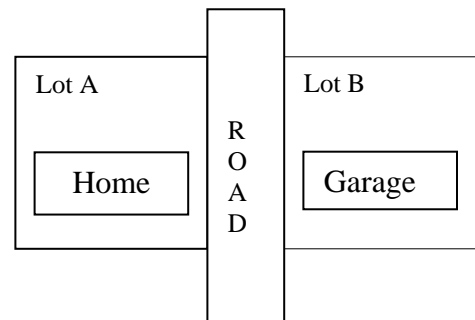


B. If lot B above is not classified as residential, or if B has a structure on it that is assessed as a dwelling, then Lot B is not considered to be qualified, and Lot C would no longer be contiguous or qualified.

**23. In the diagram below, Lot A is a qualified homeowner's principal residence exemption property. Lot B is owned by the owner of lot A and is classified residential, and the building is assessed as a garage. Is Lot B eligible for an exemption under the rules of contiguity?**

Yes. Contiguity is not broken by a road, a right of way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the two [parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. See example below.

Diagram II



**24. In Diagram II above, Lot B be is contiguous to Lot A. Would the owner qualify for exemption if there were an apartment in the garage?**

No. The property would not be considered vacant.

**25. Is a contiguous parcel considered eligible for a homeowner's principal residence exemption if it has a residence on it that is only being used for storage?**

No. If there is a building that is classified as a dwelling, regardless of how it is being used, the property is not considered to be vacant.

**26. My wife and I own two homes in Michigan; our main home in southeastern Michigan and a cottage up north. In March 2004, we decided to put the southeastern Michigan home up for sale and live at our cottage up north. We listed the house with a realtor, rescinded the homeowner's principal residence exemption on the house, and moved to our cottage. We requested, and received, a homeowner's principal residence exemption on our cottage. We have not been able to sell our other home and plan to move back there in March of 2005. Can we rescind the exemption on our cottage, and reclaim the exemption on our other home?**

No. Public Act 247 of 2003 prohibits the reclaiming of rescinded exemptions when property ownership has not changed, and either of the following conditions are met:

- A. That person has claimed an exemption under this section for any other property for that tax year.
- B. That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

Therefore you are not eligible for a HPRE on your southeastern Michigan home since the HPRE you were granted on your cottage remains in effect until December 31 of the year it was rescinded.

**27. My wife and I own our home in southern Michigan and we own a cottage up north. Because of the high price of lake front property, our cottage is now worth more than our home. Can we transfer our homeowner's principal residence exemption to the cottage? We would still only be claiming one exemption.**

No. The homeowner's principal residence exemption only applies to the property you own and occupy as your principal residence.

## **Chapter 5. Multi-Purpose Property**

**1. I live in part of my home and operate a business in another part. May I claim an exemption?**

Yes, you may claim a partial exemption even if the property is classified commercial, but only on the portion that is owned and occupied as your principal residence. Complete line 12 of Form 2368.

**2. I provide childcare in my home. Do I need to complete line 12 of the affidavit?**

No. You may claim your entire home as a principal residence. This also applies to homeowner's that provide care to foster children.

**3. I rent a room in my home to a boarder. May I still claim an exemption?**

Yes. If more than 50 percent of your home is used as your principal residence, you may claim an exemption for your entire home. If you use 50 percent or less of your home as a principal residence, enter the percentage of your home that you occupy on line number 12 of the affidavit.

**4. My mother lives in my home in a separate area, but does not pay rent. Is her living area part of my principal residence?**

If your mother's area has a separate entrance and does not have an adjoining entrance to your living area, then her living area is not part of your principal residence and is not eligible for this exemption. If there is a common entrance question 3 applies.

**5. I own a duplex and live in one unit. My father lives in the other unit, but does not pay rent. May I claim an exemption on both units?**

No. You may claim an exemption only on the unit you occupy as your principal residence even if there is an adjoining entrance between the units. Complete number 12 of the affidavit.

**6. I own a duplex and occupy both halves; can I get a 100% HPRE?**

No. A duplex is assessed as a multiple unit dwelling. An owner may occupy part or the entire dwelling but is only entitled to an exemption on one unit. A duplex, or any other multiple unit dwelling, is assumed to have the additional units for the purpose of renting or leasing them out. It is a business property. Because one unit of the duplex, or one or more units in a multiple unit dwelling is unoccupied, does not change the essential nature of the dwelling. If an owner is using both units of a duplex as a personal principal residence, then the owner needs to get the dwelling reclassified as a single family dwelling in order to be eligible for a 100% homeowner’s principal residence exemption.

**7. If there are two separately owned homes on the same parcel, not split, which gets the exemption?**

If one of the homeowner's were also the owner of the parcel, that homeowner would be entitled to a partial exemption based on the portion of the property he or she occupied as their principal residence. The owner of the other home would not be entitled to an exemption. If both homeowners were on the deed, then each would be entitled to partial exemption, based on the relative values of the dwellings. The combined exemption should total 100%.

**8. If a house is 60% owner occupied, and 40% tenant occupied, what percentage is allowed?**

A single family dwelling used as the principal residence of the owner, where less than 50% of the total square footage is rented as the principal residence of the tenant, is entitled to a 100% exemption.

**9. I own an 8-unit apartment building classified as commercial property and one unit is my principal residence. May I claim an exemption on my unit?**

Yes. Complete number 12 of the affidavit.

**10. I operate a bed and breakfast. May I claim an exemption?**

Yes, but only for the portion of the property that is used as your principal residence.\*

**11. I own a bed and breakfast. May I receive a 50 percent exemption if I occupy 50 percent of the square footage as my principal residence?**

Yes, if you use part of your principal residence for commercial purposes like a bed and breakfast or an adult foster care home, you may claim an exemption on the percentage of the home you occupy as your principal residence.\*

\* See Internal Policy Directive 2006-10.

**Chapter 6. Cooperative Housing Corporations**

**1. I am a shareholder in a cooperative housing corporation. May I claim the exemption?**

Shareholders in a cooperative housing corporation may qualify for the homeowner’s principal residence exemption. Your claim should be filed with the cooperative. The cooperatives must then compile information and file an affidavit with the local assessing unit.

**2. Is a cooperative housing corporation eligible for the homeowner’s principal residence exemption? What must be filed?**

A cooperative housing corporation is entitled to a full or partial exemption. They must file the following:

- A. Form 2368, Homeowner’s Principal Residence Exemption Affidavit.
- B. A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder.
- C. A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence.

D. A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

## **Chapter 7. Estates and Trusts**

### **1. If a home has been placed in a grantor trust, who should sign the affidavit?**

The grantor is considered the owner and should sign the affidavit.

### **2. What if the grantor is unable to sign the affidavit?**

The trustee may sign on the grantor's behalf. Complete the form using the grantor's name and social security number.

### **3. As the beneficiary of a trust, when are you considered eligible for a homeowner's principal residence exemption?**

Upon the death of the grantor of the trust, provided you occupy the property as your principal residence.

### **4. The deceased owner of the principal residence had a will specifying that the person who was occupying the principal residence was to inherit it. May the beneficiary claim an exemption?**

Yes, the beneficiary must file Form 2368. For purposes of the exemption the beneficiary is considered the owner upon the death of previous owner.

### **5. The owner of the principal residence died before the filing date without a will, but had only one heir who occupies the home as his/her principal residence. May the beneficiary claim an exemption?**

Yes, see question 4.

### **6. The owner of the principal residence died before the May 1 filing date. Before his/her death, the owner placed the property in a revocable trust that specified that the surviving spouse was a life beneficiary. The surviving spouse occupies the home as a principal residence. Can he/she claim the exemption?**

Yes. The life beneficiary is considered the owner of the home and is entitled to claim a principal residence exemption on the property.

### **7. The surviving spouse is the life beneficiary of a decedent who died before the filing date. The decedent transferred the home to the trust before death. The surviving spouse lives in another state and one of the adult children of the decedent who lived with the decedent continues to occupy the home. May the occupant claim the exemption?**

No. Since the owner of the home, the life beneficiary, does not occupy the home as a principal residence, neither the owner nor the occupant may claim an exemption.

### **8. A trust agreement gives the trustee discretion to distribute the home to any of the beneficiaries or to sell the home and distribute the proceeds to the beneficiaries. One of the beneficiaries occupies the home as a principal residence and continues to live there while the home is being sold by the trust. May the beneficiary/occupant claim an exemption?**

Yes, see question 3.

### **9. The decedent co-owned the home, but the decedent's interest was placed in a revocable trust, which is now irrevocable. The surviving joint owner continues to occupy the home, but is not one of the decedent's beneficiaries. May the surviving joint owner file an exemption?**

Yes. Since the surviving joint owner co-owns and occupies the property, he or she may claim an exemption.

**10. A trust was created by a decedent's death before the filing deadline. Three properties were transferred to the trust. Two of the children are life beneficiaries and occupy the homes they inherited. The third home is unoccupied and is being sold. May the trustee file a claim for the home, which is for sale, on behalf of the trust?**

No, because the trust cannot occupy the home as a principal residence. The life beneficiaries may claim their respective homesteads, which they occupy as their principal residences.

**11. I have placed property in an irrevocable, qualified personal residence trust. The property will be my children's in 20 years. The property is my principal residence. May I claim a homeowner's principal residence exemption on this property?**

Yes. The IRS allows individuals to place their personal residences in a qualified personal residence trust. The individual (grantor) must continue to occupy the property as a personal residence. The IRS recognizes the grantor and spouse as the owner and only the grantor, spouse and dependents may occupy the home.

As long as the house is your principal residence on the date the affidavit is filed, you may claim an exemption.

**12. A person that qualified for a homeowner's principal residence exemption, but did not file, dies. Can the estate file on the owner's behalf to recoup taxes for prior years?**

Yes.

## **Chapter 8. Social Security Numbers**

**1. Can the State of Michigan require my social security number? Will it be kept confidential?**

The Michigan Department of Treasury has the legal authority to use social security numbers for tax purposes. Federal law prohibits the state or local governmental units from releasing a social security number to unauthorized persons. Local government units may not use social security numbers for any

purpose other than to administer the homeowner's principal residence exemption.

**2. Will I receive the homeowner's principal residence exemption if I do not enter my social security number?**

The Department may deny a claim if homeowner refuses to provide his or her social security number on written request from the Department of Treasury.

## **Chapter 9. Rescinding an Exemption.**

**1. What is a rescission? When is the exemption removed from the tax roll?**

The parcel qualified for exemption but has now been sold or the use of the property has changed. The exemption is removed from the tax roll on December 31 of the year in which the change or sale took place.

**2. When I file an exemption on my new residence, what happens to the exemption on the residence I sold?**

The exemption remains in effect until December 31 of the year you move out. You must rescind your exemption within 90 days of the date you no longer either own *or* occupy the property as your principal residence, whichever comes first.

**3. Treasury notified the assessor to rescind an exemption; however, an affidavit is on file for the purchaser. Does the assessor have to rescind the exemption?**

No. If a valid affidavit is on file from the current owner, do not rescind the exemption.

**4. What happens if a lender foreclosed on a mortgage?**

The principal residence exemption must be rescinded using Form 2602, Request to Rescind Homeowner's Principal Residence Exemption.

**5. I am moving into a new home and converting my current home to a rental property in November. Do I have to rescind the exemption on my current home?**

Yes, within 90 days of moving. The exemption will remain in place until December 31<sup>st</sup> of the year that the use was changed from your principal residence to a rental property.

**6. Treasury may assess a \$5.00 per day penalty for failure to rescind an exemption. Is this penalty optional and who will enforce it?**

Treasury, under the Revenue Act of 1941, as amended, may assess \$5.00 per day penalty up to \$200.00. This penalty applies to transfers or changes of use that occurred on or after October 1, 1994. Treasury may waive the penalty under certain circumstances.

**7. When a divorce occurs do new homeowner's principal residence exemption forms have to be filed?**

As long as one of the owners still occupies the home as their principal residence, and the original affidavit was filed joint, the property will still qualify. The owner who no longer owns should file a rescission form using their information.

**Chapter 10. Denials**

**1. What years may be denied using a Notice of Denial (Form 2742 or 4075)?**

Counties that have opted-in with the Michigan Department of Treasury and local units may issue denials for the current year and three immediately preceding years.

**2. Is the exemption removed from the tax roll at the time the notice of denial is done?**

Yes.

**3. Does the July or December Board of Review have the authority to issue a Notice of Denial?**

Yes, on newly filed affidavits. The assessor and the

July or December Boards of Review may issue a Notice of Denial. *See Chapter 12 for more information on the Boards of Review.*

**4. What should be done when an exemption is still on the tax rolls because it was not rescinded by taxpayer?**

For any year that an exemption should have been rescinded and was not, the exemption should be denied.

**5. Can an appeal be made to the Board of Review to overturn a denial?**

The Board of Review has no authority to overturn a denial. An appeal of denial of a homeowner's principal residence exemption issued by a county or a local unit must be made to the Residential/Small Claims Division of the Michigan Tax Tribunal (MTT). An appeal of a denial issued by the Department of Treasury must be made to the Department of Treasury, Office of Hearings.

**6. If an assessor does a local unit denial, can he/she withdraw the denial?**

No. Once a denial has been sent to the taxpayer, the only way to overturn the denial is through the appeals process with MTT. The local unit may appeal to MTT on the taxpayer's behalf.

**7. What action should be taken when an assessor discovers an exemption has been carried forward for several years without a Homeowner's Principal Residence Affidavit having been filed?**

The assessor should deny the current year and up to three prior years.

**8. Do denials occur only if an affidavit has been filed? Can you deny a carryover?**

If an exemption is on the tax roll, then a denial can be done to remove it from the tax roll.

**9. If a local unit or an opt-in county has doubts about the legitimacy of a claim for a HPRE, and Treasury is unable to supply information because of privacy considerations, should we deny the exemption?**

If you are unable to verify that the property being claimed qualifies for a homeowner's principal residence exemption; you should deny the claim. The appeal would be to the Small Claims Division, Michigan Tax Tribunal.

**Chapter 11. Denial Appeals**

**1. If my exemption is denied, may I appeal the decision?**

Yes. If the Department of Treasury denies your homeowner's principal residence exemption, you may request an informal hearing with the Michigan Department of Treasury, Office of Hearings within 35 days of the denial. If your appeal is denied, you may appeal to the Residential Small Claims Division of the Michigan Tax Tribunal within 35 days of Treasury's Final Denial. If the county or local unit denies your homeowner's principal residence exemption you may appeal to the Small Claims Division of the Michigan Tax Tribunal within 35 days of the denial.

**2. May a local unit assessor or treasurer, or a county treasurer appeal a denial on the taxpayer's behalf?**

Yes. They may submit written information supporting the claim on the owner's behalf within 35 calendar days of the date the denial is issued.

**3. If an owner's exemption is reinstated as the result of an appeal of a denial, how are refunds issued?**

The Treasurer (local or county) who is in possession of the tax roll issues the refund. The refund will include any interest or penalty the owner paid on non-principal residence taxes and is issued within 30 days of the date notice is received. Refunds will not accrue interest.

**4. If I request a hearing from Treasury or the Michigan Tax Tribunal, does that extend the period of time in which I may pay my corrected tax bill with no penalty or interest?**

No. A request for hearing does not extend your payment period for any supplemental taxes and there is no provision in the law for a waiver of penalty and/or interest if the supplemental taxes are still due after the hearing process.

**5. What happens with land divisions that create parcels that end up with prior taxes due because of principal residence exemption errors?**

The owners should be re-billed using appropriate PIN.

**Chapter 12. Board of Review**

**1. What may be appealed to the Board of Review (BOR)?**

Claims for homeowner's principal residence exemption that are not on the tax roll and have not previously been denied may be appealed. The BOR may review these claims for the current year and the three preceding years.

**2. If I filed my affidavit timely, but my local government misplaced my form, may I appeal?**

Yes. You may appeal to the local Board of Review during the year of the claim or the next succeeding 3 years. You may appeal by mail or in person by submitting a claim for exemption. (Example: A claim for exemption in 2004 may be appealed to the July or December Board of Review in any year from 2004 to 2007.)

**3. If a property owner wishes to appeal to the December Board of Review, by what date must the local assessor's office receive the appeal?**

The appeal must be received at least 5 days prior to the date the Board of Review is set to convene. Contact the local assessor's office for date and times.

**4. May a township convene a Board of Review in July to consider homeowner's principal residence exemption appeals when no summer tax is levied?**

In STC bulletin #15 of 1997, the State Tax Commission gave the following answer: *At the July board of review, a local unit may consider appeals of homeowner's principal residence exemptions and qualified agricultural property exemptions, which were not on the tax roll even if the unit does not have a summer tax. The State Tax Commission recommends that all assessing units hold a July board of review, even if there is no summer levy of local school operating taxes, if there is principal residence or qualified agricultural property exemption business.*

**5. May the local assessor or Board of Review deny an existing homeowner's principal residence exemption?**

Starting in 1995, if the local assessor has reason to believe that a principal residence exemption should not be granted, the assessor must either deny the exemption for the current year or provide the Department of Treasury with the reasons for denial so Treasury may formally deny. The Board of Review may deny only principal residence exemptions submitted to them as an appeal by the owner. **The Board of Review may not deny an existing homeowner's principal residence exemption.**

**6. May the assessor appeal to the July or December board of review without an affidavit from the owner?**

An appeal to the July or December Board of Review may be done in person or in writing. However, to appeal to the board for a principal residence exemption, the owner must complete and submit Form 2368, Homeowner's Principal Residence Exemption Affidavit. If the assessor has an affidavit which was not posted to tax roll in either the current year or 3 preceding years, it may be presented to the July or December Board of Review as a written appeal.

**7. A taxpayer inquires at the local assessor's**

**office as to why they did not receive their 2000 homeowner's principal residence exemption. Upon researching, the assessor finds out that he was supposed to take the request to the December 2003 Board of Review, but didn't. What can the local assessor do to correct the error or omission?**

There is no legislation that would allow anything to be done for the 2000 tax year. Homeowner's principal residence exemptions **may not** be taken to the Board of Review as an error or omission.

**8. Can homeowner's principal residence exemption issues be addressed at the March Board of Review?**

No. Homeowner's principal residence exemption issues can only be addressed at the July and December Boards of Review.

**9. If the owner disagrees with the decision of the Board of Review, does the owner have any further avenues for appeal?**

The owner has the right to appeal a decision of the Board of Review to the Small Claims Division of the Michigan Tax Tribunal within 35 days of the board's decision.



## **Chapter 13. Corrective Billing Procedures**

### **1. How can the county treasurer prove the taxpayer received the supplemental tax bill to start counting the 60 days in which the taxpayer may pay with no additional interest?**

There is a premise that if a bill is placed in the United States Postal system, the bill was received. If the supplemental tax bill was mailed to the last known address used to mail the taxpayer's property tax bills, then the burden of proof is on the taxpayer to prove that the supplemental tax bill was not received. Generally, The Michigan Department of Treasury will allow a reasonable amount of time for delivery by mail. The 35 days to request an informal conference will begin on that date. Delays in United States mail delivery that is not the fault of a taxpayer will be allowed if substantiated by the taxpayer. Acceptable proof includes the date of the postmark on the envelope or proof that the denial notice was mailed to an address other than the last known address of the taxpayer at the time the denial notice was mailed.

### **2. I purchased my home on May 16, 2003 and Treasury denied the seller's exemption for 2002 and 2003 on June 13, 2003. Am I responsible for the additional taxes on my home?**

No. When property is sold to a bona fide purchaser before a tax bill is issued for the additional non-principal residence taxes as a result of a seller's exemption being denied, Treasury will bill the seller for additional tax, penalty, and interest due. The local unit of government in possession of the tax roll will send Treasury a corrected bill. The additional non-principal residence taxes for 2002 and 2003 will not become a lien against the property. The local or county treasurer, depending on who has possession of the tax roll at the time the denial notice is issued, will provide Treasury with the additional taxes due. Treasury will bill the seller for the additional taxes plus the applicable penalty and interest under the Revenue Act.

### **3. Would a denial call for an immediate change of the tax roll, just as a Michigan Tax Tribunal order does?**

Yes. When a denial is issued, the assessor must immediately change the tax roll, unless the assessor is in possession of a valid claim filed by a subsequent owner. The local or county treasurer, depending on who has possession of the roll, must issue either a corrected or supplemental tax bill for the additional non-principal residence taxes within thirty days. *See question #4 for additional information.*

### **4. As the county treasurer, we were advised not to bill taxpayers based on Treasury's denial listing without checking with the local assessor first. How do we know when to issue a supplemental tax bill?**

There are four instances where the tax should not be billed based on a Treasury denial. This information should come from the local assessor or county equalization director. The four instances are:

- A. The assessor has received a timely filed claim for exemption from the buyer and Treasury is denying the seller. Or the assessor has received a timely filed claim from the seller and Treasury is denying the buyer.
- B. The name on the denial notice does not match the name on record for the owner indicating that the parcel number or revenue share code could be wrong.
- C. The principal residence exemption is being denied for property classified as agricultural or property for which an exemption for qualified agricultural property has been claimed.
- D. The property has been transferred to a bona fide purchaser.

There has to be communication between the local assessor, local treasurer, and county treasurer. The treasurers should verify information with the local assessor before issuing a corrected or supplemental tax bill as a result of a denial notice.

**5. What information must be submitted to Michigan Department of Treasury with a bona fide purchase?**

- A. Name of owner to be billed.
- B. Name of new owner
- C. Taxable value of property
- D. Date of the sale
- E. Year being billed, along with the due date
- F. Millage rate, along with the amount of taxes to be billed.
- G. Parcel Identification Number of property denied or rescinded.

**6. Would a Quit Claim Deed, with a good sales price, qualify as a bona fide purchase?**

Yes. Sale must be an arms length transaction for fair market value.

**7. The Department of Treasury has stated in the past that a quit claim deed did not qualify as a bona fide purchase. However, other state information said the criteria was “valuable consideration.” If a Quit Claim Deed included “valuable consideration”, or a considerable dollar amount, would that be considered a bona fide purchase?**

Yes, as long as the “valuable consideration” was equal to the fair market value of the property.

**8. How far back can a bona fide purchase be billed for non-homeowner’s principal residence exemption taxes?**

For all years denied.

**9. When the assessor notifies the county treasurer to bill the non-homeowner’s principal residence exemption tax, should the assessor provide the treasurer with the name of the purchaser?**

Assessors should notify the county treasurer to bill the tax roll and give the applicable treasurer all available information. If it is a bona fide purchase, the required information should be included.

**10. When billings are issued does each tax year need to stand alone, or can the denial be in 2003 and the tax bill be a combination of 2001, 2002 and 2003?**

Taxes can be billed on the same bill, but they must be itemized. The taxpayer has the right to pay each year separately.

**Chapter 14. Administrative Issues**

**1. Can counties that have opted to audit their own homestead records under Public Act 105 operate only from the leads provided by the Department of Treasury, or can they do their own research and investigations?**

Counties may use their own resources to investigate homeowner’s principal residence exemption.

**2. Because of the changes brought about by Public Acts 105 and 247, is the Department of Treasury preparing new forms?**

Yes. They are available at the Treasury Web site; [michigan.gov/treasury](http://michigan.gov/treasury).

**3. Will it be necessary to file new affidavits for all parcels?**

No.

**4. Do counties have the authority under Public Act 105 to deny former property owners that had an illegal homestead exemptions from 2001 to 2003, but have since sold the property?**

Yes. Counties that have opted to audit their own homestead records have the authority to deny homeowner’s principal residence exemption claims for the current year and the three (3) immediately preceding years.

**5. What action should be taken if an assessor discovers that a property was sold several years earlier and the exemption was erroneously carried forward?**

Deny the exemption if a valid affidavit is not on file. An exemption may be denied for the current year and up to three years prior.

**6. If a 2001 tax year is denied and billed in 2004, and the taxpayer does not remit payment prior to the March 1, 2005, when does it become delinquent?**

The tax bill becomes delinquent on March 1, 2005, the year after the tax bill was issued.

**7. When billing denials, should we also bill for the 1% local administration fee that would have been on the original tax bill?**

Yes. Public Act 105 did not effect the way other fees or penalties are billed.

**8. If a county opted in, do the local units within the county lose their ability to deny principal residence exemptions?**

No. Local units have the ability to deny whether or not their county opted-in.

**9. Can a county that has opted-in deny information regarding homeowner's principal residence exemption to local units?**

When counties elected to opt-in they took on leadership in auditing homeowner's principal residence exemptions in that county. Best results would be achieved with county and local officials working together.

**10. When a county opts-in, will the procedure for local units to gain confidential information be to contact the county?**

Yes. However, before the county can disclose confidential information, Treasury must have approved signed disclosure form(s) on file for the person making the request.

**11. If my county decides not to opt-in to the new auditing program, how does that affect me as the local assessor?**

You will continue to audit the exemptions as before.

**12. Define confidential information, be specific.**

All information gained from income tax records i.e., mailing address, filing status, residence status, social security numbers, etc.

**13. What is browsing?**

Browsing means to inspect confidential information obtained from tax records for purposes other than the administration of the homeowner's principal residence exemption.

**14. Can principal residence exemption information be used to process other work within the office, such as Public Act 123?**

No.

**15. If a county reviews the leads list provided by the Department of Treasury, is there any need for the local units to sign disclosure forms?**

Yes. Before anyone can view or use leads list information, there must be a signed disclosure form on file.

**16. Would password protection for files be sufficient safeguard in lieu of signed agreements?**

No.

**17. If an assessor calls the County Treasurer's office for information, how will the treasurer know if the assessor has signed the disclosure form?**

The state will maintain a database of signed disclosure agreements.

**18. Is there a procedure for notifying the Department of Treasury of employees that no longer need access to confidential information because of a change in duties, or because they are no longer employed by the local unit or county government?**

Provide a written statement, to the Department of Treasury, Disclosure Officer, that the person is no longer an employee, or that the employee's duties no longer include the need to access confidential information is sufficient.

**Chapter 15. Other Questions**

**1. How will the homeowner's principal residence exemption affect my homestead property tax credit claim?**

This program is separate from the Homestead property tax credit claim (Form MI-1040CR or MI-1040CR-2) filed with your state income tax return. **Do not** file the Homeowner's Principal Residence Exemption Affidavit (Form 2368) with your state income tax return. The exemption affidavit must be filed with your township or city assessor so the property tax rolls can be adjusted properly.

**3. Is there an income limit for this exemption?**

No.

**4. On the bottom of Form 2368, Homeowner's Principal Residence Exemption Affidavit and Form 2602, Request to Rescind Homeowner's Principal Residence Exemption, is a question for the local governments, "What is first year you will post this exemption to the tax roll?" Do I enter the first year an exemption was claimed on that parcel of property by anyone, or the first year that particular taxpayer claimed an exemption for that property?**

Enter the first year an exemption was claimed for that parcel of property by the owner identified by the social security number on the form.

**5. If I file Form 2766, Property Transfer Affidavit, upon purchase of my home, must I also file Form 2368?**

Yes, if it is your principal residence file both forms. If the Form 2368 is not filed, you will not receive the exemption. Failure to file the transfer affidavit can result in a penalty of \$5.00 a day up to \$200.00, plus any additional delinquent tax due.

**6. May I list more than one parcel number on Form 2368?**

No. A separate form is required for each property.

**7. When a parcel is split, do taxpayers have to file new Form 2368?**

Yes. New property numbers are assigned when a parcel is split, or when a combination is done. If the parcel still qualifies as a principal residence, a new affidavit must be filed. If the old parcel number had a homeowner's principal residence exemption, it must be rescinded.

**8. Does Treasury manually review all Homeowner's Principal Residence Exemption Affidavits received?**

No. The Treasury mailroom staff receives the forms and forwards them to be data entered and then sent for storage. Homeowner's Principal Residence Exemption Unit personnel review only those forms that do not meet the audit criteria when data processed.

**How to contact the Homeowner's Principal Residence Exemption Unit:**

Michigan Department of Treasury  
Homeowner's Principal Residence  
Exemption Unit  
P.O. Box 30440  
Lansing, MI 48909  
(517) 636-4320

[www.michigan.gov/treasury](http://www.michigan.gov/treasury)

These guidelines are published under Public Act 237 of 1994, P.A. 105 and P.A. 247 of 2003.

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.7cc Homestead exemption from tax levied by local school district for school operating purposes; procedures; definitions.**

Sec. 7cc. (1) A principal residence is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, if an owner of that principal residence claims an exemption as provided in this section. Notwithstanding the tax day provided in section 2, the status of property as a principal residence shall be determined on the date an affidavit claiming an exemption is filed under subsection (2).

(2) Except as otherwise provided in subsection (5), an owner of property may claim 1 exemption under this section by filing an affidavit on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall state that the property is owned and occupied as a principal residence by that owner of the property on the date that the affidavit is signed. The affidavit shall be on a form prescribed by the department of treasury. One copy of the affidavit shall be retained by the owner, 1 copy shall be retained by the local tax collecting unit until any appeal or audit period under this act has expired, and 1 copy shall be forwarded to the department of treasury pursuant to subsection (4), together with all information submitted under subsection (26) for a cooperative housing corporation. The affidavit shall require the owner claiming the exemption to indicate if that owner or that owner's spouse has claimed another exemption on property in this state that is not rescinded or a substantially similar exemption, deduction, or credit on property in another state that is not rescinded. If the affidavit requires an owner to include a social security number, that owner's number is subject to the disclosure restrictions in 1941 PA 122, MCL 205.1 to 205.31. If an owner of property filed an affidavit for an exemption under this section before January 1, 2004, that affidavit shall be considered the affidavit required under this subsection for a principal residence exemption and that exemption shall remain in effect until rescinded as provided in this section.

(3) Except as otherwise provided in subsection (5), a husband and wife who are required to file or who do file a joint Michigan income tax return are entitled to not more than 1 exemption under this section. For taxes levied after December 31, 2002, a person is not entitled to an exemption under this section if any of the following conditions occur:

(a) That person has claimed a substantially similar exemption, deduction, or credit on property in another state that is not rescinded.

(b) Subject to subdivision (a), that person or his or her spouse owns property in a state other than this state for which that person or his or her spouse claims an exemption, deduction, or credit substantially similar to the exemption provided under this section, unless that person and his or her spouse file separate income tax returns.

(c) That person has filed a nonresident Michigan income tax return, except active duty military personnel stationed in this state with his or her principal residence in this state.

(d) That person has filed an income tax return in a state other than this state as a resident, except active duty military personnel stationed in this state with his or her principal residence in this state.

(e) That person has previously rescinded an exemption under this section for the same property for which an exemption is now claimed and there has not been a transfer of ownership of that property after the previous exemption was rescinded, if either of the following conditions is satisfied:

(i) That person has claimed an exemption under this section for any other property for that tax year.

(ii) That person has rescinded an exemption under this section on other property, which exemption remains in effect for that tax year, and there has not been a transfer of ownership of that property.

(4) Upon receipt of an affidavit filed under subsection (2) and unless the claim is denied under this section, the assessor shall exempt the property from the collection of the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, as provided in subsection (1) until December 31 of the year in which the property is transferred or, except as otherwise provided in subsection (5), is no longer a principal residence as defined in section 7dd. The local tax collecting unit shall forward copies of affidavits to the department of treasury according to a schedule prescribed by the department of treasury.

(5) Not more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. However, if an owner is eligible for and claims an exemption for that owner's current principal residence, that owner may retain an exemption for not more than 3 tax years on property previously exempt as his or her principal residence if that property is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose by filing a

conditional rescission form prescribed by the department of treasury on or before May 1 with the local tax collecting unit. Property is eligible for a conditional rescission if that property is available for lease and all other conditions under this subsection are met. A copy of the conditional rescission form shall be forwarded to the department of treasury according to a schedule prescribed by the department of treasury. An owner who files a conditional rescission form shall annually verify to the assessor of the local tax collecting unit on or before December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. If an owner does not annually verify by December 31 that the property for which the principal residence exemption is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose, the assessor of the local tax collecting unit shall deny the principal residence exemption on that property. If property subject to a conditional rescission is leased, the local tax collecting unit shall deny that conditional rescission and that denial is retroactive and is effective on December 31 of the year immediately preceding the year in which the property subject to the conditional rescission is leased. An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$200.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the state school aid fund established in section 11 of article IX of the state constitution of 1963. This penalty may be waived by the department of treasury.

(6) Except as otherwise provided in subsection (5), if the assessor of the local tax collecting unit believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the assessor may deny a new or existing claim by notifying the owner and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The assessor may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the assessor denies an existing claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the assessor denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, 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, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due, interest, and penalties through the date of that notification. The department of treasury 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, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The denial shall be made on a form prescribed by the department of treasury. If the property for which the assessor has denied a claim for exemption under this subsection is located in a county in which the county treasurer or the county equalization director have elected to audit exemptions under subsection (10), the assessor shall notify the county treasurer or the county equalization director of the denial under this subsection.

(7) If the assessor of the local tax collecting unit believes that the property for which the exemption is claimed is not the principal residence of the owner claiming the exemption and has not denied the claim, the assessor shall include a recommendation for denial with any affidavit that is forwarded to the department of treasury or, for an existing claim, shall send a recommendation for denial to the department of treasury, stating the reasons for the recommendation.

(8) The department of treasury shall determine if the property is the principal residence of the owner claiming the exemption. The department of treasury may review the validity of exemptions for the current calendar year and for the 3 immediately preceding calendar years. Except as otherwise provided in subsection

(5), if the department of treasury determines that the property is not the principal residence of the owner claiming the exemption, the department shall send a notice of that determination to the local tax collecting unit and to the owner of the property claiming the exemption, indicating that the claim for exemption is denied, stating the reason for the denial, and advising the owner claiming the exemption of the right to appeal the determination to the department of treasury and what those rights of appeal are. The department of treasury may issue a notice denying a claim if an owner fails to respond within 30 days of receipt of a request for information from that department. An owner may appeal the denial of a claim of exemption to the department of treasury within 35 days of receipt of the notice of denial. An appeal to the department of treasury shall be conducted according to the provisions for an informal conference in section 21 of 1941 PA 122, MCL 205.21. Within 10 days after acknowledging an appeal of a denial of a claim of exemption, the department of treasury shall notify the assessor and the treasurer for the county in which the property is located that an appeal has been filed. Upon receipt of a notice that the department of treasury has denied a claim for exemption, the assessor shall remove the exemption of the property and, if the tax roll is in the local tax collecting unit's possession, amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the department of treasury denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, 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, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23).

(9) The department of treasury may enter into an agreement regarding the implementation or administration of subsection (8) with the assessor of any local tax collecting unit in a county that has not elected to audit exemptions claimed under this section as provided in subsection (10). The agreement may specify that for a period of time, not to exceed 120 days, the department of treasury will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(10) A county may elect to audit the exemptions claimed under this section in all local tax collecting units located in that county as provided in this subsection. The election to audit exemptions shall be made by the county treasurer, or by the county equalization director with the concurrence by resolution of the county board of commissioners. The initial election to audit exemptions shall require an audit period of 2 years. Before 2009, subsequent elections to audit exemptions shall be made every 2 years and shall require 2 annual audit periods. Beginning in 2009, an election to audit exemptions shall be made every 5 years and shall require 5 annual audit periods. An election to audit exemptions shall be made by submitting an election to audit form to the assessor of each local tax collecting unit in that county and to the department of treasury not later than April 1 preceding the October 1 in the year in which an election to audit is made. The election to audit form required under this subsection shall be in a form prescribed by the department of treasury. If a county elects to audit the exemptions claimed under this section, the department of treasury may continue to review the validity of exemptions as provided in subsection (8). If a county does not elect to audit the exemptions claimed under this section as provided in this subsection, the department of treasury shall conduct an audit of exemptions claimed under this section in the initial 2-year audit period for each local tax collecting unit in that county unless the department of treasury has entered into an agreement with the assessor for that local tax collecting unit under subsection (9).

(11) If a county elects to audit the exemptions claimed under this section as provided in subsection (10) and the county treasurer or his or her designee or the county equalization director or his or her designee



believes that the property for which an exemption is claimed is not the principal residence of the owner claiming the exemption, the county treasurer or his or her designee or the county equalization director or his or her designee may, except as otherwise provided in subsection (5), deny an existing claim by notifying the owner, the assessor of the local tax collecting unit, and the department of treasury in writing of the reason for the denial and advising the owner that the denial may be appealed to the residential and small claims division of the Michigan tax tribunal within 35 days after the date of the notice. The county treasurer or his or her designee or the county equalization director or his or her designee may deny a claim for exemption for the current year and for the 3 immediately preceding calendar years. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the county treasurer or his or her designee or the county equalization director or his or her designee shall direct the assessor of the local tax collecting unit in which the property is located to remove the exemption of the property from the assessment roll and, if the tax roll is in the local tax collecting unit's possession, direct the assessor of the local tax collecting unit to amend the tax roll to reflect the denial and the treasurer of the local tax collecting unit shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest and penalty. If the tax roll is in the county treasurer's possession, the tax roll shall be amended to reflect the denial and the county treasurer shall within 30 days of the date of the denial prepare and submit a supplemental tax bill for any additional taxes, together with interest at the rate of 1.25% per month or fraction of a month and penalties computed from the date the taxes were last payable without interest or penalty. Interest on any tax set forth in a corrected or supplemental tax bill shall again begin to accrue 60 days after the date the corrected or supplemental tax bill is issued at the rate of 1.25% per month or fraction of a month. Taxes levied in a corrected or supplemental tax bill shall be returned as delinquent on the March 1 in the year immediately succeeding the year in which the corrected or supplemental tax bill is issued. If the county treasurer or his or her designee or the county equalization director or his or her designee denies an existing claim for exemption, the interest due shall be distributed as provided in subsection (23). However, 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, and the local tax collecting unit if the local tax collecting unit has possession of the tax roll or the county treasurer if the county has possession of the tax roll shall notify the department of treasury of the amount of tax due and interest through the date of that notification. The department of treasury shall then assess the owner who claimed the exemption under this section for the tax and interest plus penalty accruing as a result of the denial of the claim for exemption, if any, as for unpaid taxes provided under 1941 PA 122, MCL 205.1 to 205.31, and shall deposit any tax or penalty collected into the state school aid fund and shall distribute any interest collected as provided in subsection (23). The department of treasury shall annually provide the county treasurer or his or her designee or the county equalization director or his or her designee a list of parcels of property located in that county for which an exemption may be erroneously claimed. The county treasurer or his or her designee or the county equalization director or his or her designee shall forward copies of the list provided by the department of treasury to each assessor in each local tax collecting unit in that county within 10 days of receiving the list.

(12) If a county elects to audit exemptions claimed under this section as provided in subsection (10), the county treasurer or the county equalization director may enter into an agreement with the assessor of a local tax collecting unit in that county regarding the implementation or administration of this section. The agreement may specify that for a period of time, not to exceed 120 days, the county will not deny an exemption identified by the department of treasury in the list provided under subsection (11).

(13) An owner may appeal a denial by the assessor of the local tax collecting unit under subsection (6), a final decision of the department of treasury under subsection (8), or a denial by the county treasurer or his or her designee or the county equalization director or his or her designee under subsection (11) to the residential and small claims division of the Michigan tax tribunal within 35 days of that decision. An owner is not required to pay the amount of tax in dispute in order to appeal a denial of a claim of exemption to the department of treasury or to receive a final determination of the residential and small claims division of the Michigan tax tribunal. However, interest at the rate of 1.25% per month or fraction of a month and penalties shall accrue and be computed from the date the taxes were last payable without interest and penalty. If the residential and small claims division of the Michigan tax tribunal grants an owner's appeal of a denial and that owner has paid the interest due as a result of a denial under subsection (6), (8), or (11), the interest received after a distribution was made under subsection (23) shall be refunded.

(14) For taxes levied after December 31, 2005, for each county in which the county treasurer or the county equalization director does not elect to audit the exemptions claimed under this section as provided in



subsection (10), the department of treasury shall conduct an annual audit of exemptions claimed under this section for the current calendar year.

(15) Except as otherwise provided in subsection (5), an affidavit filed by an owner for the exemption under this section rescinds all previous exemptions filed by that owner for any other property. The department of treasury shall notify the assessor of the local tax collecting unit in which the property for which a previous exemption was claimed is located if the previous exemption is rescinded by the subsequent affidavit. When an exemption is rescinded, the assessor of the local tax collecting unit shall remove the exemption effective December 31 of the year in which the affidavit was filed that rescinded the exemption. For any year for which the rescinded exemption has not been removed from the tax roll, the exemption shall be denied as provided in this section. However, interest and penalty shall not be imposed for a year for which a rescission form has been timely filed under subsection (5).

(16) Except as otherwise provided in subsection (28), if the principal residence is part of a unit in a multiple-unit dwelling or a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury. If a portion of a parcel for which the owner claims an exemption is used for a purpose other than as a principal residence, the owner shall claim an exemption for only that portion of the taxable value of the property used as the principal residence of that owner in a manner prescribed by the department of treasury.

(17) When a county register of deeds records a transfer of ownership of a property, he or she shall notify the local tax collecting unit in which the property is located of the transfer.

(18) The department of treasury shall make available the affidavit forms and the forms to rescind an exemption, which may be on the same form, to all city and township assessors, county equalization officers, county registers of deeds, and closing agents. A person who prepares a closing statement for the sale of property shall provide affidavit and rescission forms to the buyer and seller at the closing and, if requested by the buyer or seller after execution by the buyer or seller, shall file the forms with the local tax collecting unit in which the property is located. If a closing statement preparer fails to provide exemption affidavit and rescission forms to the buyer and seller, or fails to file the affidavit and rescission forms with the local tax collecting unit if requested by the buyer or seller, the buyer may appeal to the department of treasury within 30 days of notice to the buyer that an exemption was not recorded. If the department of treasury determines that the buyer qualifies for the exemption, the department of treasury shall notify the assessor of the local tax collecting unit that the exemption is granted and the assessor of the local tax collecting unit or, if the tax roll is in the possession of the county treasurer, the county treasurer shall correct the tax roll to reflect the exemption. This subsection does not create a cause of action at law or in equity against a closing statement preparer who fails to provide exemption affidavit and rescission forms to a buyer and seller or who fails to file the affidavit and rescission forms with the local tax collecting unit when requested to do so by the buyer or seller.

(19) An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal with the July board of review or December board of review in the year for which the exemption was claimed or the immediately succeeding 3 years. If an appeal of a claim for exemption that was not on the tax roll is received not later than 5 days prior to the date of the December board of review, the local tax collecting unit shall convene a December board of review and consider the appeal pursuant to this section and section 53b. For the 2008 tax year only, an owner of property eligible for a conditional rescission under subsection (5) who did not file a conditional rescission form prescribed by the department of treasury with the local tax collecting unit on or before May 1, 2008 may file an appeal with the 2008 July board of review or 2008 December board of review to claim a conditional rescission for the 2008 tax year.

(20) If the assessor or treasurer of the local tax collecting unit believes that the department of treasury erroneously denied a claim for exemption, the assessor or treasurer may submit written information supporting the owner's claim for exemption to the department of treasury within 35 days of the owner's receipt of the notice denying the claim for exemption. If, after reviewing the information provided, the department of treasury determines that the claim for exemption was erroneously denied, the department of treasury shall grant the exemption and the tax roll shall be amended to reflect the exemption.

(21) If granting the exemption under this section results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.

(22) If an exemption under this section is erroneously granted for an affidavit filed before October 1, 2003, an owner may request in writing that the department of treasury withdraw the exemption. The request to

withdraw the exemption shall be received not later than November 1, 2003. If an owner requests that an exemption be withdrawn, the department of treasury shall issue an order notifying the local assessor that the exemption issued under this section has been denied based on the owner's request. If an exemption is withdrawn, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for the tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll. Unless a denial has been issued prior to July 1, 2003, if an owner requests that an exemption under this section be withdrawn and that owner pays the corrected tax bill issued under this subsection within 30 days after the corrected tax bill is issued, that owner is not liable for any penalty or interest on the additional tax. An owner who pays a corrected tax bill issued under this subsection more than 30 days after the corrected tax bill is issued is liable for the penalties and interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

(23) Subject to subsection (24), interest at the rate of 1.25% per month or fraction of a month collected under subsection (6), (8), or (11) shall be distributed as follows:

(a) If the assessor of the local tax collecting unit denies the exemption under this section, as follows:

(i) To the local tax collecting unit, 70%.

(ii) To the department of treasury, 10%.

(iii) To the county in which the property is located, 20%.

(b) If the department of treasury denies the exemption under this section, as follows:

(i) To the local tax collecting unit, 20%.

(ii) To the department of treasury, 70%.

(iii) To the county in which the property is located, 10%.

(c) If the county treasurer or his or her designee or the county equalization director or his or her designee denies the exemption under this section, as follows:

(i) To the local tax collecting unit, 20%.

(ii) To the department of treasury, 10%.

(iii) To the county in which the property is located, 70%.

(24) Interest distributed under subsection (23) is subject to the following conditions:

(a) Interest distributed to a county shall be deposited into a restricted fund to be used solely for the administration of exemptions under this section. Money in that restricted fund shall lapse to the county general fund on the December 31 in the year 3 years after the first distribution of interest to the county under subsection (23) and on each succeeding December 31 thereafter.

(b) Interest distributed to the department of treasury shall be deposited into the principal residence property tax exemption audit fund, which is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund shall be considered a work project account and at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money from the fund shall be expended, upon appropriation, only for the purpose of auditing exemption affidavits.

(25) Interest distributed under subsection (23) is in addition to and shall not affect the levy or collection of the county property tax administration fee established under this act.

(26) A cooperative housing corporation is entitled to a full or partial exemption under this section for the tax year in which the cooperative housing corporation files all of the following with the local tax collecting unit in which the cooperative housing corporation is located if filed on or before May 1:

(a) An affidavit form.

(b) A statement of the total number of units owned by the cooperative housing corporation and occupied as the principal residence of a tenant stockholder as of the date of the filing under this subsection.

(c) A list that includes the name, address, and social security number of each tenant stockholder of the cooperative housing corporation occupying a unit in the cooperative housing corporation as his or her principal residence as of the date of the filing under this subsection.

(d) A statement of the total number of units of the cooperative housing corporation on which an exemption under this section was claimed and that were transferred in the tax year immediately preceding the tax year in which the filing under this section was made.

(27) Before May 1, 2004 and before May 1, 2005, the treasurer of each county shall forward to the department of education a statement of the taxable value of each school district and fraction of a school district within the county for the preceding 4 calendar years. This requirement is in addition to the

requirement set forth in section 151 of the state school aid act of 1979, 1979 PA 94, MCL 388.1751.

(28) For a parcel of property open and available for use as a bed and breakfast, the portion of the taxable value of the property used as a principal residence under subsection (16) shall be calculated in the following manner:

(a) Add all of the following:

(i) The square footage of the property used exclusively as that owner's principal residence.

(ii) 50% of the square footage of the property's common area.

(iii) If the property was not open and available for use as a bed and breakfast for 90 or more consecutive days in the immediately preceding 12-month period, the result of the following calculation:

(A) Add the square footage of the property that is open and available regularly and exclusively as a bed and breakfast, and 50% of the square footage of the property's common area.

(B) Multiply the result of the calculation in sub-subparagraph (A) by a fraction, the numerator of which is the number of consecutive days in the immediately preceding 12-month period that the property was not open and available for use as a bed and breakfast and the denominator of which is 365.

(b) Divide the result of the calculation in subdivision (a) by the total square footage of the property.

(29) The owner claiming an exemption under this section for property open and available as a bed and breakfast shall file an affidavit claiming the exemption on or before May 1 with the local tax collecting unit in which the property is located. The affidavit shall be in a form prescribed by the department of treasury.

(30) As used in this section:

(a) "Bed and breakfast" means property classified as residential real property under section 34c that meets all of the following criteria:

(i) Has 10 or fewer sleeping rooms, including sleeping rooms occupied by the owner of the property, 1 or more of which are available for rent to transient tenants.

(ii) Serves meals at no extra cost to its transient tenants.

(iii) Has a smoke detector in proper working order in each sleeping room and a fire extinguisher in proper working order on each floor.

(b) "Common area" includes, but is not limited to, a kitchen, dining room, living room, fitness room, porch, hallway, laundry room, or bathroom that is available for use by guests of a bed and breakfast or, unless guests are specifically prohibited from access to the area, an area that is used to provide a service to guests of a bed and breakfast.

**History:** Add. 1994, Act 237, Imd. Eff. June 30, 1994;—Am. 1994, Act 415, Imd. Eff. Dec. 29, 1994;—Am. 1995, Act 74, Eff. Dec. 31, 1994;—Am. 1996, Act 476, Imd. Eff. Dec. 26, 1996;—Am. 2002, Act 624, Imd. Eff. Dec. 23, 2002;—Am. 2003, Act 105, Imd. Eff. July 24, 2003;—Am. 2003, Act 140, Eff. Jan. 1, 2004;—Am. 2003, Act 247, Imd. Eff. Dec. 29, 2003;—Am. 2006, Act 664, Imd. Eff. Jan. 10, 2007;—Am. 2008, Act 96, Imd. Eff. Apr. 8, 2008;—Am. 2008, Act 198, Imd. Eff. July 11, 2008.

**Compiler's note:** Section 2 of Act 74 of 1995 provides:

"This amendatory act is retroactive and shall take effect December 31, 1994."

**Popular name:** Act 206

**Popular name:** Homestead

**THE GENERAL PROPERTY TAX ACT (EXCERPT)**  
**Act 206 of 1893**

**211.7dd Definitions.**

Sec. 7dd. As used in sections 7cc and 7ee:

(a) "Owner" means any of the following:

(i) A person who owns property or who is purchasing property under a land contract.

(ii) A person who is a partial owner of property.

(iii) A person who owns property as a result of being a beneficiary of a will or trust or as a result of intestate succession.

(iv) A person who owns or is purchasing a dwelling on leased land.

(v) A person holding a life lease in property previously sold or transferred to another.

(vi) A grantor who has placed the property in a revocable trust or a qualified personal residence trust.

(vii) The sole present beneficiary of a trust if the trust purchased or acquired the property as a principal residence for the sole present beneficiary of the trust, and the sole present beneficiary of the trust is totally and permanently disabled. As used in this subparagraph, "totally and permanently disabled" means disability as defined in section 216 of title II of the social security act, 42 USC 416, without regard as to whether the sole present beneficiary of the trust has reached the age of retirement.

(viii) A cooperative housing corporation.

(ix) A facility registered under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844.

(b) "Person", for purposes of defining owner as used in section 7cc, means an individual and for purposes of defining owner as used in section 7ee means an individual, partnership, corporation, limited liability company, association, or other legal entity.

(c) "Principal residence" means the 1 place where an owner of the property has his or her true, fixed, and permanent home to which, whenever absent, he or she intends to return and that shall continue as a principal residence until another principal residence is established. Except as otherwise provided in this subdivision, principal residence includes only that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and that is owned and occupied by an owner of the dwelling or unit. Principal residence also includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied by the owner. Contiguity is not broken by a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2 parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. Except as otherwise provided in this subdivision, principal residence also includes any portion of a dwelling or unit of an owner that is rented or leased to another person as a residence as long as that portion of the dwelling or unit that is rented or leased is less than 50% of the total square footage of living space in that dwelling or unit. Principal residence also includes a life care facility registered under the living care disclosure act, 1976 PA 440, MCL 554.801 to 554.844. Principal residence also includes property owned by a cooperative housing corporation and occupied by tenant stockholders. Property that qualified as a principal residence shall continue to qualify as a principal residence for 3 years after all or any portion of the dwelling or unit included in or constituting the principal residence is rented or leased to another person as a residence if all of the following conditions are satisfied:

(i) The owner of the dwelling or unit is absent while on active duty in the armed forces of the United States.

(ii) The dwelling or unit would otherwise qualify as the owner's principal residence.

(iii) Except as otherwise provided in this subparagraph, the owner files an affidavit with the assessor of the local tax collecting unit on or before May 1 attesting that it is his or her intent to occupy the dwelling or unit as a principal residence upon completion of active duty in the armed forces of the United States. In 2008 only, the owner may file an affidavit under this subparagraph on or before December 31. A copy of an affidavit filed under this subparagraph shall be forwarded to the department of treasury pursuant to a schedule prescribed by the department of treasury.

(d) "Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 36101 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.36101. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a principal residence exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of

the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building.

**History:** Add. 1994, Act 237, Imd. Eff. June 30, 1994;—Am. 1996, Act 57, Imd. Eff. Feb. 26, 1996;—Am. 1996, Act 476, Imd. Eff. Dec. 26, 1996;—Am. 2003, Act 140, Eff. Jan. 1, 2004;—Am. 2006, Act 114, Imd. Eff. Apr. 10, 2006;—Am. 2008, Act 243, Imd. Eff. July 17, 2008.

**Popular name:** Act 206