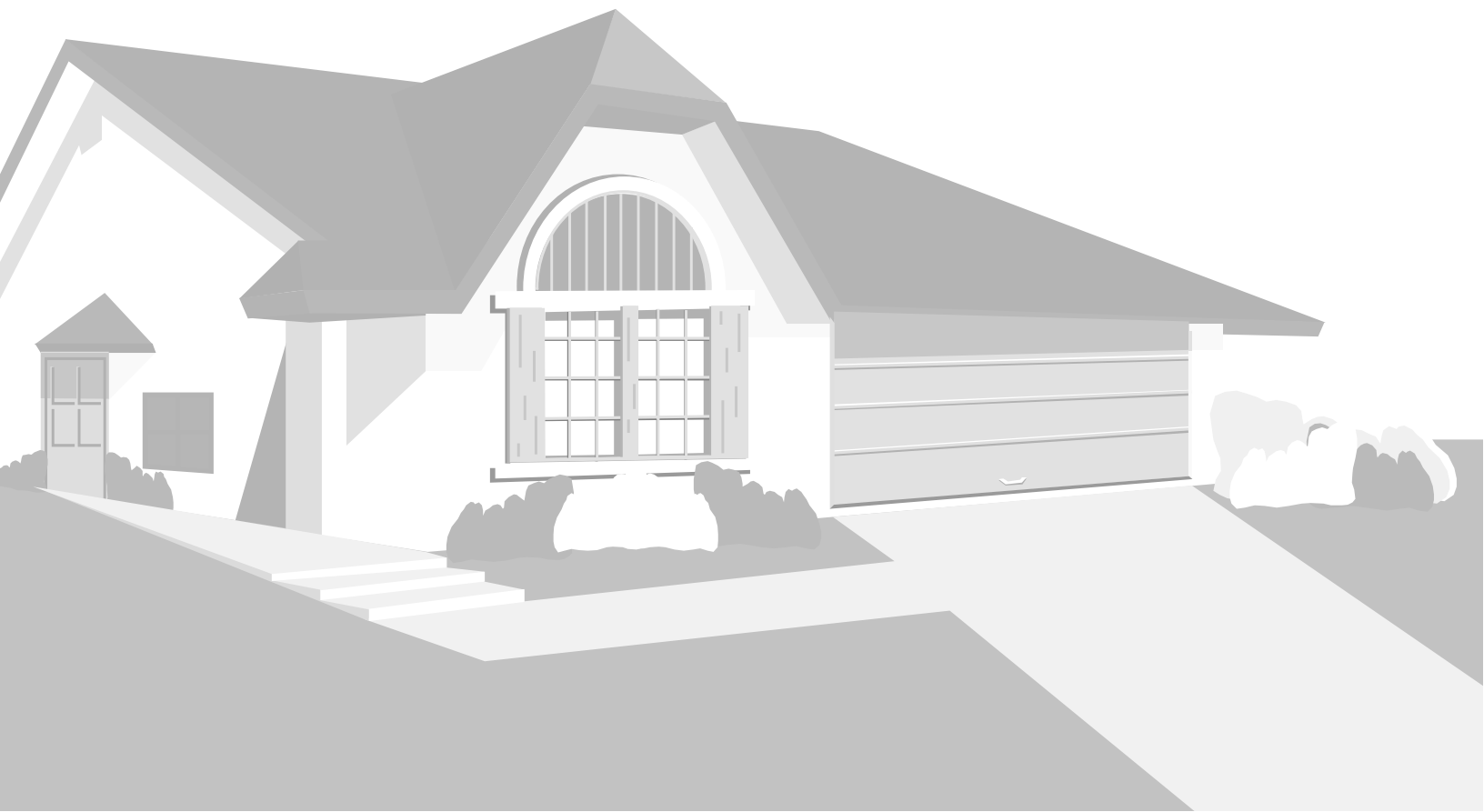


Guidelines

for the Michigan Homeowner's Principal Residence Exemption Program



This publication is authorized by P.A. 237 of 1994, as amended. 5,000 copies were printed at a cost of \$1,819.58. Each copy cost \$0.36.

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 It amends outdated information and includes new information.

TABLE OF CONTENTS

<u>Chapter</u>	<u>Page</u>
Chapter 1: Filing Deadlines	2
Chapter 2: Residency	3
Chapter 3: Ownership	4
Chapter 4: Qualified Homeowner's Principal Residence Exemption Property	5
Chapter 5: Multi-Purpose Property	8
Chapter 6: Cooperative Housing Corporations	9
Chapter 7: Estates and Trusts	10
Chapter 8: Social Security Numbers	11
Chapter 9: Rescinding an Exemption	11
Chapter 10: Denials	12
Chapter 11: Denial Appeals	13
Chapter 12: Board of Review	13
Chapter 13: Corrective Billing Procedures	14
Chapter 14: Administrative Issues	16
Chapter 15: Other	18

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.

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 1st, 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 value 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 1st 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 31st 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 if 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.

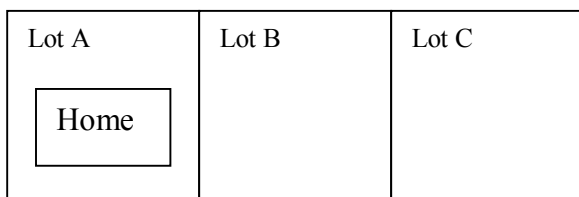
21. A homeowner owns property in a resort/lake area. The owner occupies the home the majority of the year but rents it out during the summer and takes an apartment in town. Is the owner entitled to a 100% homeowner's principal residence exemption, a reduced exemption, or no exemption?

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

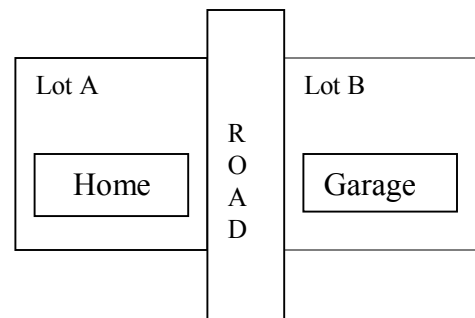


B. If lot B above is not classified as residential, or if B has a structure on it that is assessed as a dwelling, then Lot B is not considered to be qualified, and Lot C would no longer be contiguous or qualified.

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.

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 31st 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 are 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 .

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 effect 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

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