STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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BULLETIN NO 6 of 2010
SENIOR & DISABLED NON-PROFIT HOUSING EXEMPTION
May 24, 2010

TO: Assessors and Equalization Directors

FROM: State Tax Commission

SUBJECT: **Changes to the Senior and Disabled Non-Profit Housing Exemption (MCL 211.7d) Due to the Passage of Public Act 8 of 2010**

Bulletin 16 of 2009 is hereby rescinded.

Public Act 8 of 2010 was signed by the Governor on March 8, 2010 with an effective date of December 31, 2009 and replaces Public Act 585 of 2008. Public Act 8 changes and streamlines the exemption for senior and disabled non-profit housing provided under MCL 211.7d. The purpose of this bulletin is to explain those changes mandated by Public Act 8 of 2010.

Public Act 8 of 2010 Accomplishes the Following:

- Deletes requirements for property owners to submit annual affidavits of eligibility and for collection officers to prepare annual statements for payment in lieu of taxes.
- Deletes a requirement that the State Treasurer make payments in lieu of taxes based on the property's value [determination depends on whether the property was exempt before January 20, 2009].
- For property exempt before 2009, requires the State Treasurer to make annual payments in lieu of taxes based on the amount of taxes paid in 2008.
- For property not exempt before 2009 or for new construction to exempt property, requires the local tax collecting unit to calculate a payment in lieu of taxes based on the number of mills levied in the first year for which the exemption was valid.
- Requires the State Treasurer to prorate the payments if insufficient funds were appropriated to make all payments in full.
- Allows the Department of Treasury to deny an exemption.
- Gives the Department of Treasury standing to appeal issues concerning tax liability for exempt property in the Michigan Tax Tribunal and all courts of the State.

A more detailed explanation of the Act follows.

Requesting Approval, Denial and Notification:
By completing the Department of Treasury Request for Senior and Disabled Housing Tax Exemption form, an owner of property may request an exemption under MCL 211.7d from the assessor of the local unit of government where the property is located. To determine qualification, the assessor will need the following documentation to assist in a proper review:

- A copy of the owner's Articles of Incorporation, showing nonprofit status or limited dividend housing corporation,
- A copy of the HUD Mortgage, or other documentation, showing that the facility was, built, financed, or qualified for financing under Section 202, 236 or 811,
- Documentation showing that the facility contains at least eight units,
- A copy of the Occupancy Permit, along with a statement giving the date the first resident actually moved into the facility,
- Documentation showing new or rehabilitated structures, and
- General information regarding the facility, including its name, address and phone number and the name, address and phone number of its management company.

Upon receipt, the assessor will review the request in accordance with the requirements identified in MCL 211.7d and approve or disapprove the request. If approved, the assessor will submit to the Department of Treasury all documentation utilized to determine eligibility and a completed Department of Treasury Payment in Lieu of Tax for Senior and Disabled Housing form. All exemptions granted under MCL 211.7d begin on December 31 of the year the exemption is approved and continues until the property is no longer occupied or used solely by elderly or disabled families.

Qualifications for Exemption:

- The housing must be owned and operated by a non-profit corporation or association, or by a limited dividend housing corporation, not otherwise tax-exempt.
- The housing must be occupied solely (with the exception of service personnel, such as a custodian or nurse) by the elderly 62 years of age, as defined in Section 202 of the title II of the housing act of 1959, or the disabled, as defined in Section 811 of subtitle B of title VIII of the Cranston-Gonzalez national affordable housing act.
- The housing must consist of 8 or more residential units in 1 or more structures.
- The housing must have been qualified, built or financed under Section 202, 236 or 811 of the National Housing Act.
- "Housing" means new or rehabilitated structures with 8 or more residential units in 1 or more structures.

Public Act 8 of 2010 Additional New Requirements:

- The assessor must continue to notify the owner of the facility, and now the Department of Treasury, in writing of the exemption’s approval or disapproval. The Department of Treasury requires the assessor to submit the Request for New Senior Citizen and Disabled Housing Tax Exemption form, along with the supporting documentation submitted by the owner.

- If there are any changes in the property that would affect the exemption, the owner of the exempt property is required to notify the local tax collecting unit and the Department of Treasury in the year the changes take effect.
- By June 15, 2010, assessors are required to submit to the Department of Treasury a completed Payment in Lieu of Tax for Senior and Disabled Housing form, for each facility that is currently exempt under 211.7d.

Assessed and Taxable Value:
The calculation of the assessed value for Senior and Disabled Non-Profit Housing property exempt under MCL 211.7d, as amended by Public Act 8 of 2010, is calculated in the same manner as the assessed value is calculated for all ad valorem property. The taxable value for exempt property is to remain at the 2008 taxable value or the taxable value for the first year the exemption is valid. The property remains on the ad valorem assessment roll.

Calculation of Payment in Lieu of Tax:
Public Act 8 of 2010 requires that the amount of payment in lieu of tax for property that was exempt under MCL 211.7d prior to January 1, 2009 shall be in the amount of taxes paid on that property in the 2008 tax year and will remain frozen during the duration of the exemption. Per Section 3(a), millage rates of up to 18 mills for school operating, hold harmless rates and 6 mills for State Education Tax are excluded from billing and are not included in the payment in lieu of tax.

For property that becomes exempt under MCL 211.7d after January 1, 2009, the exemption will be based on the tax liability in the first year that the exemption is approved. The annual amount of payment in lieu of tax is determined in the first year and will remain frozen for the duration of the exemption. Per Section 3(a), millage rates of up to 18 mills for school operating, hold harmless rates and 6 mills for State Education Tax are excluded from billing and are not included in the payment in lieu of tax.

Submitting and Processing a Statement for Payment In Lieu of Tax:
Upon verification of the exemption, the Department of Treasury will issue the payment in lieu of tax allowable under this act for qualified and approved facilities to the appropriate local tax collecting units by December 15 each year. The Department of Treasury will only pay the real and personal property taxes, not administrative fees, special assessments, penalties or interest fees. The local tax collecting unit is required to distribute the amount received in the same manner and in the same proportions as general ad valorem taxes collected under the General Property Tax Act.

Reporting of Exempt Property on the Tax Roll:
MCL 211.7d, as amended by PA 8 of 2010, states that the property is exempt from the collection of property taxes, and that the Department of Treasury's payment in lieu of tax excludes the state education tax and mills levied under MCL 380.1211; all local school district operating millage, both the standard 18 mills and any supplemental (hold-harmless) mills.

The State Tax Commission instructs assessors to report the taxable value of all Senior Citizen and Disabled Housing properties exempt under MCL 211.7d as 100% Principal Residence Exemption (PRE) on the tax roll.

Forfeiture, Foreclosure and Sale for Delinquent Taxes:
Property that is used for occupancy or used solely by elderly or disabled families and is eligible for exemption under Section 211.7d is not subject to forfeiture, foreclosure, and delinquent taxes under the act for any year in which the property is exempt.

Revocations:
Revocations of existing Senior Citizen and Disabled Housing Facility Exemptions are not allowed under MCL 211.7d. Once an exemption is approved, it remains exempt until the facility is no longer used solely as elderly or disabled non-profit housing as defined by MCL 211.7d.

Property Tax Credit for Residence:
Due to the State of Michigan making payments in lieu of tax on MCL 211.7d exempt facilities, residents of those facilities are not eligible for a Property Tax Credit when filing their state income tax return.

Millage Rollback Calculations:
The taxable value of parcels that are exempt under MCL 211.7d should be excluded from the taxable value of each taxing jurisdiction before calculating millage rollbacks. Since school operating millage is not levied against these parcels, it is clear that the taxable value of these exempt parcels should be eliminated from school rollback calculations. Since for all other taxing jurisdictions, the payment for this exempt property is no longer based on the taxable value, but on a frozen payment, the taxable value of these exempt parcels should be eliminated from their rollback calculations.

MCL 211.7d(10) Definitions are described as follows:

(a) **Disabled Person** is defined as a person with disabilities.

(b) **Elderly or Disabled Families** is defined as families consisting of 2 or more persons if the head of the household, or his or her spouse, is 62 years of age or over or is a disabled person, and includes a single person who is 62 years of age or over or is a disabled person.

(c) **Elderly Person** is defined in section 202 of title II of the Housing Act of 1959, Public Law 86-372, 12 USC 1701q, specifically "a household composed of one or more person at least one of whom is 62 years of age or more at the time of initial occupancy."

(d) **Housing** is defined as new or rehabilitated (see rehabilitation definition that follows) structures with 8 or more residential units in 1 or more of the structures for occupancy and use by elderly or disabled persons, including essential contiguous land and related facilities as well as all personal property of the corporation, association, or limited dividend housing corporation used in connection with the facilities.

(e) **Limited Dividend Housing Corporation** is defined as a corporation incorporated or qualified under the laws of this state and chapter 6 of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1481 to 125.1486 (see attached excerpt), or a limited dividend housing association organized and qualified under chapter 7 of the State Housing Development Authority Act of 1966, 1966 PA 346, MCL 125.1491 to 125.1496 (see attached excerpt), that will rehabilitate and own a housing facility or project previously qualified, built, or financed under Section 202 of Title II of the Housing Act of 1959, Public Law 86-372, 12 USC 1701q, Section 236 of Title II of the National Housing Act, Chapter 847, 82 Stat. 498, 12 USC 1715z-1, or Section 811 of Subtitle B of Title VIII of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, 42 USC 8013.

(f) **New Construction** is defined in MCL 211.34d(b)(iii) as "property not in existence on the immediately preceding tax day and not replacement construction. New construction includes the physical addition of equipment or furnishings, subject to the provisions set forth in Section 27(2)(a) to (o) [commonly known as residential non-consideration]. For purposes of determining the taxable value of property under Section 27a, the value of new construction is the true cash value of the new construction multiplied by 0.50.

(g) **Nonprofit Corporation or Association** is defined as a nonprofit corporation or association incorporated under the laws of this state not otherwise exempt from the collection of taxes under this act, operating a housing facility or project qualified, built, or financed under Section 236 of Title II of the National Housing Act, Chapter 847, 82 Stat. 498, 12 USC 1715z-1, or Section 811 of Subtitle B of Title VIII of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, 42 USC 8013.

(h) **Persons with Disabilities** is defined in Section 811 of Subtitle B of Title VIII of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, 42 USC 8013.

(i) **Residential Units** is defined to include 1-bedroom units licensed under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, for persons who share dining, living, and bathroom facilities and who have a mental illness, developmental disability, or a physical disability, as those terms are defined in the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or individual self-contained dwellings and 1-bedroom units must be financed either under Section 202 of Title II of the Housing Act of 1959, Public Law 86-372, 12 USC 1701q, or under Section 811 of Subtitle B of Title VIII of the Cranston-Gonzalez National Affordable Housing Act, Public Law 101-625, 42 USC 8013.

Rehabilitation is defined under the Obsolete Property Rehabilitation Act, 2000 PA 146, MCL 125.2782, as "changes to property other than replacement that are required to restore or modify the property, together with all appurtenances, to an economically efficient condition. Rehabilitation includes major renovation and modification including, but not necessarily limited to, the improvement of floor loads, correction of deficient or excessive height, new or improved fixed building equipment, including heating, ventilation, and lighting, reducing multistory facilities to 1 or 2 stories, adding additional stories to a facility or adding additional space on the same floor level not to exceed 100% of the existing floor space on that floor level, improved structural support including foundations, improved roof structure and cover, floor replacement, improved wall placement, improved exterior and interior appearance of buildings, and other physical changes required to restore or change the property to an economically efficient condition. Rehabilitation shall not include improvements aggregating less than 10% of the true cash value of the property at commencement of the rehabilitation of the obsolete property."

Contact Information

Questions regarding the implementation of this Bulletin can be directed to:

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State Tax Commission
430 W. Allegan Street
Lansing, MI 48922
(517) 335-3429 Phone
www.michigan.gov/statetaxcommission

Questions regarding payments or specific exempt facilities can be directed to:

Michigan Department of Treasury
Finance and Accounting Division
430 W. Allegan Street
Lansing, MI 48922
(517) 373-3165 Phone
www.michigan.gov/taxes