

INTERNAL POLICY DIRECTIVE 2006-10

October 2, 2006

PROPERTY TAX:PRINCIPAL RESIDENCE STATE EDUCATION TAX EXEMPTION FOR BED AND BREAKFAST ESTABLISHMENTS

POLICY ISSUE

How are the common areas of a Bed & Breakfast establishment treated for purposes of the Principal Residence Exemption under MCL 211.7cc?

POLICY DETERMINATION

50% of the common areas of a Bed & Breakfast establishment will be presumed to qualify for the Principal Residence Exemption under MCL 211.7cc.

DISCUSSION

MCL 211.7cc sets forth the statutory requirements an owner must meet in order to qualify a residence for the Principal Residence Exemption. Section 16 of the statute applies to Bed & Breakfast establishments ("B&B").

(16) **"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."
(Emphasis added)

A B&B owner is only entitled to a Principal Residence Exemption for the "portion" of the property he/she uses as a principal residence.

The Legislature delegated to the Department of Treasury ("Department") the authority to establish the "manner" in which the proration would be determined. Prior to the release of this IPD, the Department of Treasury treated all common areas of a B & B as ineligible for the Principal Residence Exemption. In that regard, the Department of Treasury has reviewed this policy and determined that 50% of the common areas of a B & B will be presumed exempt and 50% will be presumed nonexempt. This new policy is adopted in recognition of the great difficulty taxpayers, local government officials and state government officials would have establishing and supporting a percentage based upon actual usage. For instance, if usage were measured by actual time in a common area, such as a washroom, not only would guest usage and family (personal) usage have to be tracked, but idle time where no active use of the washroom takes place would also have to be tracked. Such a regime, or any similar to it, seems unrealistic and impractical. Consequently, the Principal Residence Exemption will be prorated in an equal distribution for common areas as follows:

Property exclusively used for personal purposes (property not available to guests) – 100% exempt

Property exclusively used for business purposes (property dedicated to guests)– 0% exempt

Common areas - 50% exempt/ 50% nonexempt

For these purposes, common areas are defined as the areas within a single family residence which are available, but not dedicated, to the guests of the B & B. Typical examples of common areas include: shared washrooms or spa facilities; dining room; living or sitting room; kitchen, lounge or library; foyer, entrance, and hallways.

The following example illustrates these principles:

An owner's principal residence has 3,000 square feet. He maintains his residence as a B & B. The B & B has four rooms available for guests. There are three floors to the residence, each floor has 1,000 square feet.

- The first floor is comprised of common areas, such as a dining room, living room, kitchen and foyer. These common areas are available to guests as well as family members. 50% of this floor is presumed eligible for the Principal Residence Exemption.
- The second floor is comprised of the bedrooms and bathrooms rented to the public. No portion of this floor is eligible for the Principal Residence Exemption because it is used for business purposes.
- The third floor is comprised of the owner's quarters and is not available to B & B guests. 100% of this floor is eligible for the Principal Residence Exemption.

An owner that is entitled to an adjustment to the treatment of the common areas as the result of this IPD should file a new affidavit (Form 2368 Homeowner's Principal Residence Exemption Affidavit) with the local assessor on or before May 1 of the year for which the change is requested. Requests for changes for the immediately preceding three years must be made to the July or December Board of Review.