



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

RICK SNYDER
GOVERNOR

NICK A. KHOURI
STATE TREASURER

REVENUE ADMINISTRATIVE BULLETIN 2017-8

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**INDIVIDUAL INCOME TAX – HOMESTEAD PROPERTY TAX CREDIT
FOR PERMANENT RESIDENT OF SPECIAL HOUSING**

(Replaces Revenue Administrative Bulletin 2002-2)

Pursuant to MCL 205.6a, a taxpayer may rely on a Revenue Administrative Bulletin issued by the Department of Treasury after September 30, 2006, and shall not be penalized for that reliance until the bulletin is revoked in writing. However, reliance by the taxpayer is limited to issues addressed in the bulletin for tax periods up to the effective date of an amendment to the law upon which the bulletin is based or for tax periods up to the date of a final order of a court of competent jurisdiction for which all rights of appeal have been exhausted or have expired that overrules or modifies the law upon which the bulletin is based.

RAB 2017-8. Michigan’s homestead property tax credit is a tool Michigan uses to help certain qualified homeowners or renters pay some of their property taxes.¹ For most people, the credit is based on a comparison between property taxes and total household resources (THR).² For people who are permanent residents of special housing situations, this Revenue Administrative Bulletin describes how to properly calculate and claim a homestead property tax credit.

CRITERIA AND COMPUTATION OF THE STANDARD HOMESTEAD PROPERTY TAX CREDIT

An individual who was a resident of Michigan for at least six months during the tax year may be eligible to claim a homestead property tax credit based on property taxes levied or rent paid on a Michigan homestead owned or rented as the claimant’s principal residence.³ The property must be subject to ad valorem property tax or a service fee in lieu of ad valorem taxes and must have a taxable value of \$135,000 or less for tax years through 2021.⁴ An individual can have only one principal residence (domicile) at a time and must be the occupant as well as the owner or renter.

For claimants who own their homestead, the standard credit is a percentage (generally, 60% for non-senior citizen claimants) of the amount by which the property taxes on the homestead

¹ Renters are considered to pay property taxes indirectly with their rent payment.

² Beginning in 2012, “household income” as used in Chapter 9 of the Michigan Income Tax Act relating to the home heating and the homestead property tax credits was replaced with “total household resources.” See Revenue Administrative Bulletin 2015-18 Income Tax – Total Household Resources Defined for more information.

³ MCL 206.520.

⁴ MCL 206.520(1); for tax years after 2021, the taxable value is indexed for inflation. The taxable value requirement applies to owners, not renters.

exceed a certain percentage of the claimant's THR.⁵ For claimants who rent, the standard homestead property tax credit is calculated using a statutory percentage of gross rent instead of property taxes. For tax years through 2017, the percentage of gross rent is 20%, increasing to 23% for tax years 2018 and after.⁶ For claimants who rent a homestead subject to a service fee in lieu of ad valorem taxes, the percentage of gross rent used is 10%.⁷ This percentage of gross rent (or property taxes levied for owners) is then compared to a claimant's THR to determine the amount of the credit.

The homestead property tax credit for both owners and renters is a percentage of the amount by which either the percentage of gross rent, in the case of renters, or property taxes, in the case of owners, exceeds 3.5%⁸ of the claimant's THR. The credit is subject to certain limitations based on income and age and cannot exceed a maximum of \$1,200 for tax years through 2017 or \$1,500 beginning in 2018.⁹ The maximum credit will be indexed for inflation beginning in 2021. A homestead property tax credit or claim for refund must be made within 4 years from the due date set for filing the annual return.

CRITERIA AND COMPUTATION OF THE CREDIT FOR CLAIMANTS LIVING IN SPECIAL HOUSING

Special Housing Defined

Special housing is defined by the Department to include care facilities such as nursing homes, foster care homes, and homes for the aged, whether licensed or unlicensed, and is not subject to the taxable value limitation of \$135,000 applicable to standard property types. Special housing includes apartments for which claimants pay a single monthly charge that covers rent and meals. It does not include cooperatives. A nursing home or foster care home or home for the aged, including apartments charging a single monthly fee for rent and meals, is the homestead of a permanent resident.¹⁰ A homestead maintained elsewhere by the spouse, as long as the homestead is in Michigan, is considered a part of the same homestead.¹¹ If filing a joint return, spouses may claim only one joint credit between them by combining the THR of each and combining the property taxes or statutory percentage of rent paid for each. Spouses who file separate Michigan returns and who did not share a household during the tax year may each claim a credit. A single person who is a permanent resident of special housing and also owns the house he formerly occupied may claim for credit either the taxes on the house (if not rented) or his share of the taxes paid by the facility or home, but not both.¹² For more detailed instructions, please refer to the Instructions for the MI-1040CR.

⁵ MCL 206.522(1)(a) and (b). The calculation of the credit varies and depends on whether a claimant is a senior citizen or a disabled non-senior and on the income level of the senior citizen claimant.

⁶ MCL 206.520(2).

⁷ *Id.* The statute refers to service "charge" rather than service "fee." This RAB uses the more common nomenclature of service fee and is synonymous with service charge as used in the statute.

⁸ This percentage varies for senior citizens based on the amount of THR. Also, for those claimants that are not senior citizens (disabled claimants), this percentage is reduced to 3.2% for 2018 and beyond. See MCL 206.522.

⁹ MCL 206.520(15).

¹⁰ Mich Admin Code, R 206.25(4).

¹¹ *Id.*

¹² Mich Admin Code, R 206.25(5).

Credit Computation Based on Statutory Percentage of Rent

Prior to May 3, 2016, the Department's administrative rules required special housing claimants to use a proportionate share of real property taxes instead of rent paid to calculate the homestead property tax credit. The requirement generally applied to licensed facilities where residents were billed in a lump sum for rent, food and other services. To determine a resident's proportionate share of property taxes, the Department used either the number of occupants designated by the state-issued license or an allocated share of property tax.¹³ On May 3, 2016, the Department rescinded Rule 206.28(6) and (7), eliminating this requirement.

For tax year 2016 and after, for a claimant who lives in special housing, the Department will generally require the claimant to use the statutory percentage of rent to calculate the homestead property tax credit.¹⁴ To do so, the claimant must receive either a monthly statement from the landlord that separately itemizes rent, food, services and other items, or the claimant must obtain a letter from the landlord that states the portion of the monthly payment that constitutes rent. Upon request, the claimant must produce a copy of the landlord's documentation to substantiate the claim.

Example 1. A disabled senior living in special housing pays \$750 per month for all expenses. The landlord supplies claimant a letter with a breakdown of the monthly charges as follows: \$450 for rent, \$150 for food, and \$150 for miscellaneous services. Assuming the tax year in which the credit is claimed is 2016 and the special housing is subject to ad valorem taxes, the claimant may use 20% of the annual rental fee of \$5,400, or \$1,080, to compute the property tax credit. Assuming claimant has THR of \$10,000, the following computation determines the standard homestead property tax credit:

| | |
|-----------|----------------|
| Rent/Year | \$5,400 |
| | <u>x 0.20</u> |
| | \$1,080 |
| THR | \$10,000 |
| | <u>x 0.035</u> |
| | \$350 |

The credit equals the excess of the statutory percentage of claimant's annual rent over 3.5% of THR: $\$1,080 - \$350 = \$730$

The Department will allow a claimant to use the proportionate share of real property taxes levied on the special housing if the claimant makes a lump sum monthly payment to the landlord for rent, meals and services and is unable to determine the portion that constitutes rent. A proportionate share of real property taxes for a licensed bed facility is generally calculated by dividing the amount of real property taxes by the number of licensed beds. However, where the special housing is not a licensed bed facility, the proportionate share may be calculated by

¹³ See Mich Admin Code, R 206.28(6), rescinded. For apartments in multi-dwelling complexes where furnished meals were included in a lump sum billing, R 206.28(7) required the allocation to be based on the ratio of the square footage of each apartment to the total square footage of all apartments.

¹⁴ See Internal Policy Directive 2016-3 Homestead Property Tax Credit Calculation for Claimants Living in Special Housing.

dividing the total square footage of the facility or property by the amount of square footage the claimant occupies.

Example 2. A senior claimant living in special housing in tax year 2016 pays \$750 per month for room and board and is unable to determine what portion constitutes rent. Claimant occupies 1,000 square feet of a 62,000 square foot apartment building or 1.6 % (1,000/62,000) of the total. The landlord pays \$54,000 in property taxes per year. The amount of property taxes that may be used to compute the homestead property tax credit is 1.6 % (0.016) x \$54,000 = \$864. Assuming the same THR of \$10,000 as in Example 1, the property tax credit is \$864 – \$350 = \$514.

If claimant's total annual payments for rent, food and other services are less than the calculated proportionate share of taxes, claimant is limited to using the total amount actually paid to calculate the homestead property tax credit.

Example 3. Claimant's monthly bill for rent, food and other services at a 70-bed licensed care facility is \$4,000; but the amount that constitutes rent is unknown. A federal agency pays \$3,200 per month directly to the care facility. Claimant contributes \$800 toward the monthly bill (\$9,600 annually). The facility pays \$60,000 in property taxes per year, and the amount that claimant may use to compute the homestead property tax credit is \$60,000/70 = \$857. Because the amount claimant pays annually (\$9,600) exceeds her proportionate share of property taxes (\$857), claimant may use the \$857 proportionate share of property taxes, without reduction, when calculating her property tax credit.

A Senior Claimant Living in Special Housing May Elect the Alternate Senior Homestead Property Tax Credit

Alternatively, special housing claimants who rent and are senior citizens may claim a homestead property tax credit using an alternate formula if it provides a greater credit than the standard computation, as long as the special housing landlord provides the senior claimant with a document separating out the rent from other charges.¹⁵ Upon request, the claimant must produce a copy of the landlord's documentation to substantiate the claim. The credit under the alternate formula is the amount by which the claimant's annual rent exceeds 40% of THR, subject to the credit maximum.¹⁶ The credit is subject to the same limitations as the standard credit. However, if the actual rent is not known or has not been itemized, the claimant must use a proportionate share of real property taxes levied on the property and may not claim the alternate senior homestead property tax credit.

Example 4. A senior claimant living in special housing pays a lump sum of \$750 per month to the housing facility for all expenses in tax year 2016. Upon request, the landlord supplied claimant a letter with a breakdown of the monthly charges as follows: \$450 for rent, \$150 for food, and \$150 for miscellaneous services. Assuming claimant has THR of \$10,000, the following computation determines the alternate senior homestead property tax credit for a claimant living in special housing:

¹⁵ See MCL 206.514(1), defining "Senior citizen" as an individual, or either 1 of 2 persons filing a joint tax return under this part, who is 65 years of age or older at the close of the tax year. The term also includes the unremarried surviving spouse of a person who was 65 years of age or older at the time of death.

¹⁶ MCL 206.520(9) and (10).

| | |
|-----------|---------------|
| Rent/Year | \$5,400 |
| THR | \$10,000 |
| | <u>x 0.40</u> |
| | \$4,000 |

The credit is the excess of rent over 40% of THR: $\$5,400 - \$4,000 = \$1,400$, capped by the statutory maximum of \$1,200. Claimant is entitled to claim the credit computed under the alternate method (\$1,200) because it is greater than the credit of \$730 computed under the standard method as demonstrated in Example 1.

Allocations of Monthly Rent Where the Government Pays a Portion of a Claimant's Special Housing Monthly Bill

When a governmental entity, such as an agency of the state or federal government, pays for a portion of a claimant's monthly special housing bill and makes payment directly to the care facility, the amount of rent claimant may use for determining the credit is calculated by taking the ratio of the monthly rent payment over the total monthly bill and multiplying that percentage by the monthly amount paid by the claimant.

Example 5. Claimant's monthly bill for rent, food and other services at a care facility is \$4,000, of which \$1,000 is rent. A federal agency pays \$3,200 per month directly to the care facility. Claimant contributes \$800 toward the monthly bill.

Ratio of monthly rent divided by total monthly bill: $(\$1,000 \div \$4,000) = 25\%$

| | |
|--|--------------------------|
| Portion of monthly bill attributable to rent, multiplied by claimant's monthly payment: | 25% x \$800 = \$200 |
| Eligible annual rent: | \$200 x 12 mo. = \$2,400 |

Assuming claimant has THR of \$10,000, the following computation determines the standard homestead property tax credit:

| | |
|--------------------|----------------|
| Eligible Rent/Year | \$2,400 |
| | <u>x 0.20</u> |
| | \$480 |
| THR | \$10,000 |
| | <u>x 0.035</u> |
| | \$350 |

The credit equals the excess of rent over 3.5% of THR: $\$480 - \$350 = \$130$