

INTERNAL POLICY DIRECTIVE 2016-3

June 17, 2016

HOMESTEAD PROPERTY TAX CREDIT CALCULATION FOR CLAIMANTS LIVING IN SPECIAL HOUSING

POLICY ISSUES

1. Must a claimant calculate the standard homestead property tax credit using a proportionate share of real property taxes in the formula instead of the statutory percentage of rent if the claimant permanently resides in a licensed nursing home, foster care home, home for the aged, or an apartment for which the claimant pays a monthly lump sum for room and board or other services (collectively referred to as special housing)?
2. Is a senior claimant who lives in special housing prohibited from claiming the alternate senior homestead property tax credit?

POLICY DETERMINATION

1. Special housing claimants use the statutory percentage of rent in the formula to calculate the standard homestead property tax credit. However, a claimant may instead use the proportionate share of real property taxes levied on the special housing if that claimant pays a monthly lump sum payment to the landlord for rent, meals and services and is not able to identify the portion that constitutes rent.

If the claimant calculates the homestead property tax credit using the statutory percentage of rent, 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. The claimant may be required to produce a copy of the landlord's documentation to substantiate the claim.

2. A senior claimant who lives in special housing may claim the homestead property tax credit using the alternate senior homestead property tax credit.

If the special housing landlord provides the senior claimant with a document that separates out the rent from other charges, the claimant may claim the alternate senior homestead property tax credit.¹ The claimant may be required to produce a copy of the landlord's documentation to substantiate the claim.

¹ MCL 206.520(9) and (10). The alternate senior homestead property tax credit is the amount by which a claimant's rent exceeds 40% of total household resources.

DISCUSSION

Rescission of R 206.28(6) and (7). On May 3, 2016, the Department rescinded Rule R 206.28(6) and (7). The rule required special housing claimants to use a proportionate share of real property taxes to calculate the homestead property tax credit instead of rent paid. This IPD addresses the calculation of the homestead property tax credit for claimants who live in special housing. The Department will generally require the claimant to use the statutory percentage of rent in the formula to calculate the homestead property tax credit. However, 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 does not know the portion that constitutes rent.

Special housing. Special housing includes care facilities such as licensed nursing homes, foster care homes, and homes for the aged. Special housing also includes apartments for which claimants pay a single monthly charge that covers rent and meals. Cooperatives are not special housing for purposes of this IPD.

The standard homestead property tax credit. The homestead property tax credit is a property tax subsidy for homeowners and renters that is administered under the Michigan Income Tax Act.

For claimants who rent, the standard homestead property tax credit is calculated using a statutory percentage of gross rent. 2015 PA 179 increases the percentage used in calculating the credit. For claimants who live in housing for which a real property tax is levied, the percentage of gross rent is 20% for tax years through 2017 and 23% beginning in 2018.² For claimants who live in service fee housing, the percentage of gross rent is 10%.³ For claimants who rent, the homestead property tax credit is the amount by which the percentage of gross rent exceeds 3.5% of the claimant's total household resources for tax years through 2017 and 3.2% of total household resources for tax years after 2017. The credit is subject to certain limitations based on income and age, and cannot exceed a maximum of \$1,200 through 2017 or \$1,500 beginning in 2018.⁴ The maximum credit will be indexed for inflation beginning in 2021.

The alternate senior homestead property tax credit. Generally, claimants who rent and are senior citizens⁵ may claim a homestead property tax credit using an alternate formula if it provides a greater credit. The credit under the alternate formula is the amount by which the claimant's rent exceeds 40% of total household resources.⁶ The credit is subject to the same limitations as the standard credit. However, if the actual rent is not known and 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.

² MCL 206.520(2) as amended by PA 179 of 2015.

³ MCL 206.520(2). Service fee housing is housing for which a service fee is charged in lieu of ad valorem taxes.

⁴ MCL 206.520(15) as amended by PA 179 of 2015.

⁵ MCL 205.514(1) (1) "Senior citizen" means 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.

⁶ MCL 206.520(9) and (10).

Example 1: In 2015, Claimant is a senior citizen and a permanent resident of a care facility that is licensed for 40 beds. Claimant pays \$5,500/month of which \$1,000 is rent. Real property taxes for the facility are \$60,000/year. The claimant's total household resources are \$20,000.

- *Statutory percentage of rent method.* Claimant knows that \$1,000 of the monthly payment is for rent. Claimant must use the statutory percentage of rent method. Claimant must use 20% of the annual gross rent of \$12,000, which is \$2,400. The homestead property tax credit calculation is the amount by which \$2,400 exceeds 3.5% of total household resources of \$20,000. The formula results in a calculated homestead property tax credit of $\$2,400 - \$700 = \$1,700$. The credit is limited to a maximum of \$1,200 for tax year 2015.
- *Proportionate share of real property taxes method.* Claimant does not know the amount of the monthly payment that constitutes rent. Claimant is attributed \$1,500 of the real property taxes. ($\$60,000/40$ beds.) The homestead property tax credit calculation is the amount by which \$1,500 (proportionate share of real property taxes) exceeds 3.5% of total household resources of \$20,000. This results in a homestead property tax credit of $\$1,500 - \$700 = \$800$.

Example 2: The same facts as in example 1, except that Claimant's total household resources are \$6,000 and all of Claimant's monthly charges for rent, food and other services are paid directly to the care facility by an agency of the state or federal government. Claimant is not entitled to a homestead property tax credit because Claimant is not considered to have paid the property taxes as part of rent to the care facility if Claimant has no responsibility for rent, food and other service charges.⁷

Example 3: In 2015, Claimant's total household resources are \$6,000. Claimant is a senior citizen. Claimant's monthly charges for rent, food and other services are \$5,000 of which \$1,000 is rent. \$4,900 of the Claimant's monthly costs are paid directly to the care facility by an agency of the state or federal government. Real property taxes for the facility are \$60,000/year.

- *Statutory percentage of rent method.* Claimant's government payment of \$4,900 pays 98% of the total monthly charges. Since 98% of the monthly rent is paid by the government, the Claimant may only use 2% of the monthly rent in the homestead property tax calculation. The eligible portion of the monthly rent is $\$1,000 \times 2\% = \20 . The eligible annual rent is $\$20 \times 12 = \240 . The statutory percentage of rent for the homestead property tax credit calculation is $\$240$ eligible annual rent $\times 20\% = \$48$ which is less than 3% ⁸ of total household resources ($\$6,000 \times 3.0\% = \180). Claimant is not eligible for the homestead property tax credit.

⁷ Revenue Administrative Bulletin 2002-2.

⁸ Senior citizen claimants with income of \$6,000 use 3.0% of total household resources. See percentage schedule in MCL 206.522(1)(c).

- *Proportionate share of real property taxes method.* Claimant does not know the amount of the monthly payment that constitutes rent. Therefore, Claimant must use the \$1,500 of the real property taxes (\$60,000/40 beds) that is attributed to him. However, if the total annual payments that Claimant pays for rent, food and other services are less than the \$1,500 share of taxes, then the claimed share of taxes must be reduced. Claimant pays \$100 monthly from his own funds for rent, food and other services for a total of \$1,200 annually. Since Claimant spends less than the \$1,500 proportionate share of taxes attributed to him, Claimant may only claim taxes of \$1,200 he spent on rent, food and other services. The homestead property tax credit calculation is the amount by which \$1,200 exceeds 3.0% of total household resources of \$6,000. The homestead property tax credit is $\$1,200 - \$180 = \$1,020$.

Amended claims. Special housing claimants may amend prior year returns that are within the statute of limitations. Generally, the statute of limitations is 4 years.⁹

⁹ MCL 205.30(2).