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REVENUE ADMINISTRATIVE BULLETIN 1988-21

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**INDIVIDUAL INCOME TAX -
HOMESTEAD PROPERTY TAX CREDIT
PERMANENT RESIDENT OF A NURSING HOME**

(Replaces Income Tax Advisory #39)

RAB-88-21. This Bulletin describes a permanent nursing home resident's entitlement to a homestead property tax credit when substantially all or a part of the charges for rent, food, nursing or other services are paid directly to the nursing home by agencies of the State or federal government. (This Bulletin supersedes Income Tax Advisory, Number 39, May 1, 1986.)

Practice for Tax Years Beginning Before January 1, 1985

In accordance with Department of Treasury Rule, 1979 AC, R 206.28(6), a permanent resident of a nursing home, home for the aged, or a foster care home is entitled to claim a homestead property tax credit based on an allocated share of the property taxes levied on the facility. Although the taxpayer may not be personally responsible for the payment of rent and other charges, the property taxes used in the computation of the credit are not adjusted.

Entitlement to a Homestead Property Tax Credit

An individual natural person who was domiciled in Michigan for at least 6 months of the calendar year may file for 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. MCL 206.520(2) and Department of Treasury Rule 1979 AC R 206.28 provide that a claimant who rents or leases a homestead may claim a similar credit.

Property Taxes Eligible to be Claimed for the Credit

MCL 206.520(1) provides that the property taxes that may be used to calculate a property tax credit are the taxes on a homestead that are deductible for federal income tax purposes pursuant to Section 164 of the Internal Revenue Code of 1986, or the property taxes that would have been deductible if the taxpayer had elected to itemize his or her deductions. In computing the credit, "homestead property taxes" are the taxes levied on property and based on the state equalized value of the homestead, including collection fees, or 17 per cent of the gross rent paid. [See MCL Section 206.520(2)]

The property taxes used for the credit computation may not be greater than the amount levied for one year, pursuant to MCL 206.530(2), and will be subject to further adjustment if the homestead is occupied less than a 12-month period.

Computation of Credit

The credit is equal to 60 percent of the property taxes levied on the homestead or property taxes paid in rent that exceed 3.5 percent of the claimant's household income, and subject to further reduction if the claimant receives aid to dependent children and/or has household income in excess of \$73,650.00, (as indexed). [MCL 206.520(8) and MCL 206.522(a)]

MCL 206.522 describes other categories, for example senior citizen, that a claimant may qualify to file under for the credit. Generally, these other categories will entitle him or her to a larger percentage of the property taxes as a credit. The claimant may only elect one category in filing a claim. The total credit allowed to a claimant in a taxable year on after December 31, 1975 may not exceed \$1,200.00. [MCL 206.522(16)]

New Practice (For Tax Years Beginning on or After January 1, 1985)

A permanent resident of a nursing home may not use in the computation on a property tax credit all or a portion of his or her "allocable share" of property taxes, as defined in Department of Treasury Rules, 1979 AC, R 206.28(6), if the rent, food, nursing or other services are paid directly to the nursing home by an agency of the state or federal government.

This claimant is considered to have paid none of the property taxes in rent to the nursing home if he or she has no responsibility for rent, food, and other nursing home charges. Only a renter or lessee may claim a property tax credit on property that he or she has contracted to rent or lease. Pursuant to MCL 206.520(1), the property taxes eligible for the credit must be the same property taxes that could have been deducted under Section 164 of the Internal Revenue Code of 1986. A cash basis taxpayer cannot claim a deduction of real estate taxes in excess of those property taxes which he or she has not paid.

Therefore, if all the charges for a permanent nursing home resident are paid directly to the nursing home by an agency of the State or federal government, the resident has not paid any property taxes and may not claim a property tax credit based on the "allocated share" of property taxes designated to a person residing in a nursing home.

Summary

A nursing home resident cannot claim as his or her "allocable share" of property taxes any sum that exceeds the total nursing home charges paid by him or her. In determining the total nursing home charges paid by the resident, any charges paid directly to the nursing home by state or federal agencies will be deducted from the total charges paid for the year from all sources. Where the total charges paid by the resident are less than the "allocable share" of property taxes, all payments made by him or her are designated as payment of taxes.

And, where the total charges paid by the resident are equal to or greater than the resident's "allocable share", the claimant may include the "allocable share" of property taxes in the computation of his or her credit.

Example: A nursing home charges for Resident A were billed in a lump sum of \$10,000 for rent, food, and other nursing services to the State of Michigan, Department of Social Services. Of that sum, \$9,600 was paid directly to the nursing home by the State. The resident paid the balance of \$400.00 due.

The resident's "allocable share" of property taxes on the facility, based on 100 beds and real property taxes of \$50,000.00, is \$500.00. However, since the total charges paid by him are less than his "allocable share," only the lesser figure of \$400.00 may be utilized by the resident for calculating a property tax credit.

In computing the household income of a nursing home resident, any charges paid directly to the nursing home by an agency of the State or Federal Government are not required to be considered. See Department of Treasury Income Tax Rules, 1979 AC, R 206.4(2)(b). This Rule provides that "household income" does not include "[r]elief in kind by a governmental unit such as medicaid payments to a nursing home or doctor, or rent paid, in whole or in part, directly to the landlord"