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Poverty Exemption Audit

TO: Assessors and Equalization Directors
FROM: Michigan State Tax Commission
SUBJECT: Local Unit Audit of MCL 211.7u Poverty Exemptions

This Bulletin includes updates made to MCL 211.7u by Public Act 253 of 2020. Specifically, PA 253 allows a local assessing unit, by resolution, to extend certain poverty exemptions, once granted, without annual reapplication by the taxpayer. PA 253 requires the State Tax Commission to issue a bulletin providing further guidance to local assessing units on the development and implementation of an audit program for these “extended” poverty exemptions, which are further described in this bulletin.

“Extended” Poverty Exemptions under MCL 211.7u(6) and (8) Must Be Audited

Assessors **are not** required to audit all poverty exemptions that have been granted. PA 253 of 2020 added two provisions in which the local assessing unit can adopt a resolution that would allow a taxpayer to continue to receive a poverty exemption without having to file a new Form 5737 and other required documents each year. Local units **must** adopt resolutions to utilize these provisions and the requirements in the statute must be met. If the local unit has adopted one or both of these resolutions, then the assessor would be required to audit the poverty exemptions granted under MCL 211.7u(6) and/or (8).

MCL 211.7u(6): Extension for Those Persons Receiving A Fixed Income From Public Assistance

Local units can adopt a resolution that allows an exemption granted in 2019 or 2020 to carry forward to 2021, 2022 and 2023 for those persons who receive a fixed income solely from public assistance that is not subject to significant annual increases (Federal Supplemental Security Income, Social Security disability or retirement benefits).

Local units can also adopt a resolution for any new exemptions in 2021, 2022 or 2023 to remain exempt for up to 3 years for persons who receive a fixed income solely from public assistance that is not subject to significant annual increases.

A person that receives an extended exemption under MCL 211.7u(6) must file an affidavit rescinding the exemption with the local assessing unit within 45 days after: 1) ceasing to own and occupy the property as a principal residence; or 2) a change in household assets or income that defeats eligibility for the poverty exemption.

MCL 211.7u(8): Extension Applicable to the 2021 Tax Year Only

If the assessor determines that a person is still eligible for the poverty exemption in 2021 and the person received a poverty exemption for the property in tax year 2019 or 2020, or both, local assessing units can carry the poverty exemption forward for the 2021 tax year, without an application or protest to the Board of Review in 2021. **Local units must adopt a resolution by February 15, 2021 to carry the exemption forward.** If an exemption is carried forward to 2021 no Form 5737 or other documentation is required from the taxpayer, and they do not have to protest to a Board of Review. However, the statute provides that the local assessing unit *may* require that the person affirm ownership, poverty, and occupancy status in writing by filing Form 5739.

Local Unit Audit Program Requirement

Local units that adopt a resolution to extend the poverty exemption under MCL 211.7u(6) for up to 3 years for those persons who receive a fixed income solely from public assistance or local units that carry the 2019 and 2020 granted poverty exemptions forward to 2021 under MCL 211.7u(8) must implement an audit program. If found ineligible, the taxpayer is subject to repayment of the taxes plus interest as provided in MCL 211.7u(6)(b).

MCL 211.7u(9) requires that the local assessing unit audit program include, at a minimum, an audit of all information filed under MCL 211.7u(2). The items that must be filed, and audited, are as follows:

1. Own and occupy as a principal residence the property for which an exemption is requested. The person shall affirm this ownership and occupancy status in writing by filing a form prescribed by the state tax commission with the local assessing unit.
2. File a claim with the board of review on a form prescribed by the state tax commission and provided by the local assessing unit, accompanied by federal and state income tax returns for all persons residing in the principal residence, including any property tax credit returns, filed in the immediately preceding year or in the current year. Federal and state income tax returns are not required for a person residing in the principal residence if that person was not required to file a federal or state income tax return in the tax year in which the exemption under this section is claimed or in the immediately preceding tax year. If a person was not required to file a federal or state income tax return in the tax year in which the exemption under this section is claimed or in the immediately preceding tax year, an affidavit in a form prescribed by the state tax commission may be accepted in place of the federal or state income tax return. The filing of a claim under this subsection constitutes an appearance before the board of review for the purpose of preserving the claimant's right to appeal the decision of the board of review regarding the claim.
3. Produce a valid driver license or other form of identification if requested by the supervisor or board of review.

4. Produce a deed, land contract, or other evidence of ownership of the property for which an exemption is requested if required by the supervisor or board of review.
5. Meet the federal poverty guidelines published in the prior calendar year in the Federal Register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902, or alternative guidelines adopted by the governing body of the local assessing unit provided the alternative guidelines do not provide income eligibility requirements less than the federal guidelines.

How To Conduct the Audit of “Extended” Poverty Exemptions

The State Tax Commission suggests the following steps be taken by the assessor to audit poverty exemptions that were extended under MCL 211.7u(6) or (8). Please note, these are the minimum steps to be taken; the assessor may need to take additional action based on the circumstances of the particular poverty exemption being audited.

A local assessing unit resolution under MCL 211.7u(8) to extend an exemption granted in 2019 or 2020, or both, for the 2021 tax year only would require that the assessor audit only those poverty exemptions extended by resolution for the 2021 tax year. For local assessing unit resolutions adopted under MCL 211.7u(6), the assessor would be required to audit poverty exemptions extended for the 2021 tax year and subsequent tax years.

The State Tax Commission recommends that the assessor audit extended poverty exemptions at least once every three years. The date of the most recent audit should be documented, along with supporting evidence.

1. Check to ensure the necessary local assessing unit resolution has been adopted under MCL 211.7u(6) and/or (8)
2. Compile a list or report of all poverty exemptions extended under MCL 211.7u(6) and/or (8)
3. If there is reason to believe the taxpayer was not eligible for the extended poverty exemption for any of the years granted and additional information or documentation is needed, send an audit letter to the taxpayer requesting additional information and/or documentation
4. Issue a written denial letter to any taxpayer found to be ineligible for the poverty exemption following an audit. The written denial letter must include an explanation of the taxpayer’s appeal rights to the Michigan Tax Tribunal

Below is a list of audit sources that can help when auditing extended poverty exemptions (similar to sources that assessors may be already using when auditing principal residence exemptions):

- Compare mailing address against property address
- Look for multiple properties owned by the same person
- Check list or database of rental properties
- Check to see if property owners are registered to vote at the property address
- Review death notices

- Review returned mail when sent to the property address
- Check water/sewer (utility) databases for properties that say to bill “tenant”

Taxpayer Appeal Rights for Poverty Exemption Denials

An appeal of the written denial by the assessor of a poverty exemption, following audit, can be made to the Michigan Tax Tribunal within 35 days of the written denial. The petition form required to appeal and more information on how to file an appeal are available on the Michigan Tax Tribunal’s website at <https://www.michigan.gov/taxtribunal>.