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DEPARTMENT OF TREASURY
LANSING

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BULLETIN NO. 7 of 2010
POVERTY EXEMPTIONS
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TO: Assessor and Equalization Directors

FROM: State Tax Commission

SUBJECT: Poverty Exemptions

The purpose of this bulletin is to provide additional guidance to assessors and Equalization Directors to provide to Boards of Review regarding poverty exemptions, MCL 211.7u..

If a person's financial situation prevents them from being able to pay the property taxes on his/her home is there a way to reduce the amount of property taxes the taxpayer must contribute?

MCL 211.7u of the General Property Tax Act, MCL 211.1, et. seq., allows a property tax exemption for the principal residence of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute to the public charges.

To be eligible for the poverty exemption, a person must own and occupy the principal residence for which the exemption is requested, file a claim (each year the exemption is sought) with the supervisor or board of review on the city/township's form, along with federal and state income tax returns for all persons residing in the principal residence, show proof of ownership, and meet federal poverty income standards annually determined by the U.S. Office Department of Health and Human Services or standards adopted by the local assessing unit's governing body (if the local assessing unit's standards are less strict than the federal guidelines). *See Section D: Filing for the Poverty Exemption below.*

A. Poverty Exemption Guidelines Options

MCL 211.7u was significantly altered by PA 390 of 1994 and was further amended by PA 620 of 2002 and PA 104 of 2003.

Pursuant to MCL 211.7u(2)(e), local governing bodies are required to adopt guidelines that set income levels for their poverty exemption guidelines and those income levels **shall not be set lower** by a city or township than the federal poverty guidelines updated annually by the U.S. Department of Health and Human Services. This means, for example, that the income level for a household of 4 persons **shall not** be set lower than \$22,100, shown in the chart in Section B below. The income level for a family of 4 persons, however, may be set higher than \$22,100 by the local assessing unit.

In order to determine a taxpayer's eligibility for poverty exemption guidelines, PA 390 of 1994 states that the poverty exemption guidelines established by the governing body of the local assessing unit shall also include an asset level test. An asset test means the amount of cash, fixed assets or other property that could be used, or converted to cash for use in the payment of property taxes for the year the property exemption claim was filed. The asset test should calculate a maximum amount permitted and all other assets above that amount should be considered as available. The determination of the amount of the asset level test is left to the discretion of the local assessing unit.

B. Federal Poverty Guidelines Used in the Determination of Poverty Exemptions for 2010.

The following are the federal poverty guidelines for use in setting poverty exemption guidelines for the 2010 assessments.

2010 Federal Poverty Income Guidelines

Number of Persons Residing in the Principal Residence	Maximum Total Income
1	\$10,800
2	\$14,600
3	\$18,300
4	\$22,100
5	\$25,800
6	\$29,500
7	\$33,300
8	\$37,000
Each Additional Person	\$3,700

The income guidelines shall include, but are not limited to, the specific income for the person claiming the exemption, and should also include anyone else who is living at the claimant's household. According to the U.S Census Bureau, "income" includes:

- Money, wages, and salaries before any deductions.
- Net receipts from non-farm self-employment. (These are receipts from a person's own business, professional enterprise, or partnership, after deductions for business expenses.)
- Net receipts from farm self-employment. (the same provisions as above for self-employment.)
- Regular payments from social security, railroad retirement, unemployment, worker's compensation, veteran's payments and public assistance.
- Alimony, child support, and military family allotments.
- Private pensions, governmental pensions, and regular insurance or annuity payments,
- College or university scholarships, grants, fellowships, and assistantships.
- Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

For example, it is possible that a claimant might meet the income test for the poverty exemption for all the persons living at the claimant's household but the claimant does not meet the asset level test of the entire household or some additional test adopted by the local governing body. In this situation the claimant would **not qualify** for the poverty exemption even though the income level for the entire household test was met.

C. Asset Tests for the Poverty Exemption

The local governing body must adopt poverty exemption income guidelines and an asset level test. The asset test may include a variety of assets that the board believes should be considered in determining the applicant's eligibility. The asset test, however, does not include the principal residence.

According to the Michigan Tax Tribunal in *Robert Taylor v Sherman Twp.* (MTT Small Claims Division, Docket No. 236230, August 13, 1997), the Tax Tribunal views the 'asset test' to be an indication of funds available which might be used to pay one's taxes. In *Taylor*, Tax Tribunal held, "If the equity of the homestead is included, it would require the Petitioner to sell his homestead or borrow against the equity to pay the taxes. The Tribunal finds that the inclusion of the value of the equity is inconsistent with the basic intent of the granting of poverty exemptions, that being to enable the petitioning party to maintain their homestead."

The local governing body should set a maximum asset amount that would likely result in receiving a 0% poverty exemption. This could be either a dollar amount or a percentage of total income.

For example, a governing body could decide that claimants with a total asset value of \$15,000 or more will receive a 0% poverty exemption, even though they meet the federal poverty income guidelines. Or, another township could decide that its maximum value of assets eligible for the exemption is \$150,000.

Based upon the assets listed on a poverty exemption application, the Board of Review may grant the application a 0% to 100% exemption. This does not preclude the local governing body with from allowing an applicant to own other things, in addition to the house and still receive a poverty exemption. Possible examples include:

- Additional vehicles
- More land than a minimum "footprint" for the home
- Equipment or other personal property of value, including recreational vehicles (campers, motor homes, boats, ATV's etc.)
- Bank account(s) up to a specified amount

A local governing unit, however, may require an applicant to list all of his/her assets to apply for a poverty exemption. Below are some examples of assets the local governing may choose to ask an applicant to list. (This is not an exhaustive list).

- A second home
- Land
- Vehicles
- Recreational vehicles such as campers, motor-homes, boats and ATV's
- Buildings other than the residence
- Equity in the residence above a specified amount
- Jewelry
- Antiques
- Artworks
- Equipment
- Other personal property of value
- Bank accounts over a specified amount
- Stocks
- Money received from the sale of property such as stocks, bonds, a house or a car unless a person is in the specific business of selling such property.
- Withdrawals of bank deposits and borrowed money.
- Tax Refunds, gifts, loans, lump-sum inheritances, and one-time insurance payments.
- Food or housing received in lieu of wages and the value of food and fuel produced and consumed on farms.
- Federal non-cash benefits programs such as Medicare, Medicaid, food stamps, and school lunches.

Pursuant to PA 390 of 1994, all local governing units **shall** make available the local policy and guidelines established for granting poverty exemptions to a requesting taxpayer.

The local governing unit is required by MCL 211.7u(5) to follow the established policy and guidelines of the local assessing unit in granting or denying a poverty exemption. MCL 211.7u(5), permits the Board of Review to deviate from this mandate only when there are "substantial and compelling reasons why there should be a deviation from the policy and guidelines." If the Board of Review deviates from the policy and guidelines, they are **required** by statute to communicate the substantial and compelling reasons for the deviation from the guidelines *in writing* to the claimant.

For example, a wife suffers a catastrophic illness, and the husband is forced to reduce his work hours to care for her. Their medical bills exceed their insurance coverage and they have used their savings, credit and income to pay those bills, leaving no funds to pay the taxes. Even if their assets exceed the township's maximum asset amount, a board of review might consider these substantial and compelling reasons to deviate from the guidelines.

D. Filing Requirements for the Poverty Exemption

In order to be eligible for the poverty exemption, the claimant must do all of the following on an annual basis.

- 1) Own and occupy as a principle residence for which the exemption is requested.
- 2) File a claim with the supervisor or the local board of review after January 1st but

- before the day prior to the last day of the Board of Review on a form provided by the local assessing unit. (Note: the filing of this claim constitutes an appearance before the March Board of Review for the purpose of preserving the right to appeal to the Michigan Tax Tribunal).
- 3) Provide federal and state income tax returns for all persons residing in the principal residence including any property tax credit returns. These income tax returns shall include those filed in the current year or in the immediately preceding year. **Important: the law does not allow for the filing of an affidavit attesting that a taxpayer does not file income tax returns. The law requires the applicant to file and produce an income tax return even if that return is a zero filing.**
 - 4) Produce a valid driver's license or other form of identification if requested by the supervisor or board of review.
 - 5) Produce a deed, land contract, or other evidence of ownership of the property for which an exemption is being requested if requested by the supervisor or the board of review.
 - 6) Meet the federal poverty income standards as defined and determined annually by the United States Department of Health and Human Services OR meet the alternative income standards adopted by the local governing body. **Important: alternative guidelines shall not require less income to qualify for the poverty exemption than the federal guidelines require.**
 - 7) Meet the asset levels set by the local governing body.
 - 8) Meet any other tests that may be set by the local governing body.

E. Poverty Exemption for Principal Residence and Qualified Agricultural Property

According to PA 104 of 2003, Eff. January 1, 2004, the poverty exemption only applies to an individual homeowner for his/her "principle residence." As used in MCL 211.7u, "principle residence" means a principle residence or a qualified agricultural property as defined by MCL 211.7dd.

No property owned by a corporation may receive the poverty exemption. This means that even if a corporation meets the definition of a principal residence or of qualified agricultural property a corporation shall not be eligible to receive the poverty exemption.

F. Requesting a Poverty Exemption and Appealing Assessment

PA 390 of 1994 allows a claimant requesting a poverty exemption to also appeal his/her assessment before the March Board of Review in the same year.

G. Appealing BOR decisions regarding the Poverty Exemption to the MTT

A property owner or an assessor may appeal the March Board of Review's decision granting or denying a poverty exemption to the Michigan Tax Tribunal. Appeals to the MTT must be made by July 31 of the same year.

H. Partial Poverty Exemption for Principal Residences and Qualified Agricultural Property

PA 390 of 1994 allows for partial poverty exemptions. A partial poverty exemption is an exemption of only a part of the taxable value of the property rather than the entire taxable value. The local governing body could limit its poverty exemptions to partial exemptions or to minimum or maximum exemptions of their choosing.

I. Comments by the State Tax Commission

The State Tax Commission is concerned regarding the apparent trend toward the abuse of the poverty exemption. The rules and guidelines that PA 390 of 1994 will enable local units to more fairly and consistently exempt qualifying property owners, and will provide better audit tools to local units and the State Tax Commission to prevent abuse of the exemption. Recently, in some units, there was a growing trend toward the wholesale granting of poverty exemptions for “political” purposes.

Assessors, Boards of Review and Supervisors should all be aware that the 1963 Michigan Constitution still provides a narrow construction of what is, and what is not exempt. Only those poverty exemptions where the claimant meets the requirements of the Act should be granted.