



# **Garfield Charter Township**

Grand Traverse County

Assessing Department Policy for  
Granting, Auditing and Correcting  
Principal Residence Exemptions

2022

In 1994, Michigan voters approved Proposal A thereby replacing the majority of school property taxes with an increased sales tax. This reduced the property tax burden for Michigan taxpayers dramatically. Proposal A provides for:

1. An exemption from some school operating taxes to those owning and occupying their home as their principal residence, and qualified agricultural property; and
2. Taxable Value is capped - meaning it can only be increased by the CPI or 5%, whichever is less, in a year UNLESS there has been new construction or UNTIL the property sells - in which case, the taxable value becomes the same as the assessed value in the year following the transfer, then is capped again until the next sale or transfer; and
3. The sales tax in Michigan was increased from 4% to 6%, and taxes on alcohol and tobacco and the real estate transfer tax also increased; and
4. The constitution was amended to require any increase in school operating taxes to be allowed only with a 3/4 vote of both the state house and senate; and
5. School funding was amended so that schools now receive funding on a per pupil basis that is funded by the tax increases in #3, above, and the State Education Fund - which is a 6-mill levy on all taxable real property in the State.

The Michigan Department of Treasury "Guidelines for the Michigan Principal Residence Exemption Program" is attached, and hereby serves as the guidance for granting these exemptions.

Additionally, the following factors must also be considered when evaluating an owner's eligibility for a PRE:

- A husband and wife who file, or are required to file, a joint Michigan income tax return are entitled to not more than one PRE.
- If a person claims a substantially similar exemption in another state which has not been rescinded, they do not qualify for a PRE in Michigan.
- If a person files an income tax return as a resident of another state, (active military personnel excluded), they do not qualify for a PRE in Michigan.

- If a person files a non-resident Michigan income tax return, (active military personnel with his or her principal residence in this state excluded), they do not qualify for a PRE in Michigan.
- If a person or his or her spouse owns property in another state for which either person claims an exemption similar to the PRE, they do not qualify for a PRE in Michigan, unless they file separate income tax returns.

Assessing staff must ultimately follow the most current version of Michigan Department of Treasury, Principal Residence Exemption Guidelines. Some of the most relevant portions of those guidelines follow here.

### **Determining Eligibility for PRE:**

Determining whether a person occupies a property as a principal residence can be challenging. A person must physically occupy or live at the property by June 1st of the year they are claiming the PRE. There are a number of ways to verify occupancy.

The following occupancy verification list is not an all inclusive list and no single factor is controlling:

- Both sides of a driver's license with the property address listed.
- Voter's registration record.
- Cancelled checks showing the property address.
- Bank/charge accounts showing purchases within the vicinity of the property.
- Medical billings from physicians within the vicinity of the property.
- Income tax returns showing the mailing address.
- Insurance policies.

Temporary absences are allowed in some circumstances which can make the verification process more difficult. Examples of temporary absences include: prisoners with a less-than-life sentence, a person in a nursing home or assisted living facility, missionaries, a person on an extended work assignment, a person renting an apartment while renovating a home, or military personnel.

With all temporary absences, the owner must have the intent to return to the property and occupy it as a principal residence. Determining this “intent to return” can be an issue. If a person changes a driver’s license address or registers to vote at a new location, his or her intent to return to the property should be in question. If the property is rented or is listed for sale, it may be concluded that there is no intent to return to the property. When the owner’s personal possessions are removed from the property, it is difficult to believe that they intend to return to that property. The length of absence or the reason for the absence may also raise questions as to the owner’s intent to return to the property.

Ultimately, the burden is on the taxpayer to show that they are eligible for the PRE.

### **Partial PRE Exemptions:**

If a property is used for multiple purposes, only the percentage of the property occupied by the owner as a principal residence may qualify for a PRE. When a person operates a business out of the property, rents a portion of the home to a tenant or owns multi-dwellings such as duplexes, the owner may be eligible to claim a portion of the property occupied as the owner’s principal residence. If the property contains one building, the PRE is reduced by the proportion of the square footage not used as the owner’s principal residence. If the property contains two or more buildings, the PRE is reduced by the proportion of the tax able value/assessed value of the building not used as the owner’s principal residence.

For owners who rent a portion of their home to a tenant, the owner is entitled to a 100% PRE if less than 50% of the square footage is rented. If an owner rents his entire property for more than 14 days in a year, they are not entitled to a PRE on that property (IRS Publication 527, Chapter 5, Page 21). A portion of a bed and breakfast may also qualify as a principal residence.

### **Military Personnel Considerations:**

Military personnel are given special consideration when evaluating principal residence.

When military personnel are required to leave Michigan while on active duty, they may continue to qualify for a PRE in Michigan. In order to qualify, they must be an owner of the property. They must have occupied the property as a principal residence prior to deployment AND have the intent to return to the property after their commitment ends. In order to continue to receive the PRE in Michigan, military personnel cannot receive an exemption, deduction or credit similar to the Michigan PRE in another state. If military personnel wish to rent out his or her property while on active duty military, they may file an Active Duty Military Affidavit, Form 4660, on or before May 1st with the local assessor where the property is located.

### **Rescinding a PRE Exemption:**

When a person no longer owns or occupies the property as a principal residence, they must file a Request to Rescind Homeowner's Principal Residence Exemption (PRE), Form 2602, (Rescission) with the assessor for the Township in which the property is located. The PRE will be removed by the assessor beginning with the next tax year.

A PRE on a foreclosed property should be removed on December 31st in the year of the foreclosure or Sheriff's sale. If the property is redeemed, the PRE may be reinstated upon filing of the Affidavit and, if needed, brought before the Board of Review so there is no break in the exemption.

Under certain circumstances a person may qualify for a conditional rescission which allows an owner to receive a PRE on his or her current Michigan property and on previously exempted property simultaneously for up to three years. To initially qualify for a conditional rescission, the owner must submit a Conditional Rescission of Principal Residence Exemption, Form 4640, to the assessor on or before June 1 for the first year of the claim. A Conditional Rescission must be submitted to the assessor **annually** on or before December 31 to verify the property still complies with the conditional rescission requirements in order to receive the exemption for the following year.

In order to qualify for a conditional rescission, the owner must have purchased a second property in Michigan which is occupied as his or her principal residence. In addition, the previous principal residence must not be occupied, must be for sale, must not be leased, and must not be used for any business or commercial purposes in order for the owner to qualify for a conditional rescission.

### **Foreclosure Entity Conditional Rescission:**

A land contract vendor, bank, credit union, or other lending institution (foreclosing entity) can retain a PRE on foreclosed property by filing a foreclosure entity conditional rescission with the local tax collecting unit on or before June 1 provided the property meets other statutory requirements. If a foreclosure entity conditional rescission is timely filed and accepted for the first year, the foreclosing entity must annually verify to the assessor on or before December 31st that the property continues to qualify for the foreclosure entity conditional rescission.

The “foreclosure entity conditional rescission” has separate and distinct requirements and should not be confused with the current “owner’s conditional rescission”.

In order to qualify for a foreclosure entity conditional rescission, the following requirements must be met:

- The foreclosing entity must submit a Foreclosure Entity Conditional Rescission of Principal Residence Exemption by June 1 of the first year of the claim.
- The foreclosure entity must be a land contract vendor, bank, credit union, or other lending institution.
- The foreclosure entity must own the property as a result of a foreclosure.
- The property must have been subject to a PRE immediately preceding the foreclosure.
- The property cannot be occupied.
- The property must be for sale.
- The property cannot be leased to any person other than the person who claimed the PRE immediately preceding the foreclosure.
- The property must not be used for any business or commercial purpose.

- The foreclosure entity must pay to the tax-collecting unit an amount equal to the amount of taxes that the foreclosing entity would have paid if the property were not subject to a PRE and must pay an administration fee equal to the property tax administration fee imposed under Section 44 of the General Property Tax Act.
- The foreclosure entity must annually verify the foreclosure entity conditional rescission by December 31st.
- The foreclosure entity must rescind the exemption upon a transfer of ownership.

The payment required of the foreclosure entity is to be collected by the local tax collecting unit at the same time and in the same manner as taxes that would have been collected were the property not subject to a PRE. The payment must be distributed to the Department of Treasury for deposit into the state school aid fund. The administration fee is to be retained by the local tax collecting unit. If the foreclosure entity fails to make the required payment, the local tax collecting unit must deny the foreclosure entity conditional rescission, retroactively, effective on December 31 of the immediately preceding year. If the foreclosure entity's conditional rescission is denied, the local tax collecting unit must remove the PRE and any additional taxes, penalties, and interest must be collected from the foreclosing entity.

### **Qualified Agricultural Exemption: PA 237 of 1994**

The Qualified Agricultural Property exemption is an exemption from 18 mills of local school operating mills for parcels that meet the Qualified Agricultural Property definition. A transfer of Qualified Agricultural Property is not considered a transfer of ownership if both of the following are true:

1. The property remains Qualified Agricultural Property after the transfer and the new owner files Form 3676 with the assessor and the register of deeds; and
2. A parcel, classified as agricultural, normally receives the Qualified Agricultural Exemption automatically and the owner does not usually have to file Form 2599, Claim for Farmland Exemption from Some School Operating Taxes.

However, the assessor can request the form to determine, for example, if the parcel contains structures that are not entitled to the exemption.

Owners of property not classified as agriculture must file form 2599 to receive the exemption. All owners must file form 2473, Request to Rescind Qualified Agricultural Property Exemption, to rescind the exemption within 90 days of a change that would cause rescission (e.g. change in use, change in ownership etc.). The requirement applies whether only a part, or all of the property, is affected. The penalty for not filing a rescission form is a maximum fine of \$200.

The exemption status is determined as of May 1st of the year of the exemption. Unlike the Principle Residence Exemption, property owned by a legal entity (such as a partnership, corporation, limited liability company, association, etc.) may receive the exemption. In some situations, land may not be actively farmed on May 1st, yet the parcel containing the land may still be eligible for the exemption. For example, the land may be intentionally left fallow; the growing season for a crop in some parts of the state may begin after May 1st, etc.

### **Qualified Agricultural Eligibility:**

To be eligible for the exemption, a parcel has to be Qualified Agricultural Property. A parcel can become a Qualified Agricultural Property in two ways:

1. Classification of the parcel as agricultural on the current assessment roll, or
2. Devotion of more than 50% of the acreage of the parcel to agricultural use as defined by law (MCL 324.36101).

The percentage of a parcel that is devoted to agricultural use is calculated based on the parcel's total acreage. Total acreage includes any area within the parcels ownership including any area(s) covered by an easement or right-of-way for road or drain purposes, even though the area under a public road right-of-way or a public (surface) drain right-of-way is exempt from taxation. Parcels classified agricultural do not have to have more than 50% devoted to agricultural use.

## **Auditing PREs**

Quarterly (February, May, August and November), assessing staff shall run a Questionable PRE report from BS&A. All parcels discovered in the process should be reviewed, using the standards listed previously, to determine whether the PRE is valid or if a denial should be issued.

Staff should send a letter of inquiry to those who it is believed may have mistakenly filed a PRE at the time of purchase, or simply didn't understand what they were filing. This should also be part of the on-going process when new deeds are filed and processed.

Prior to denial, all available sources of information should be considered, including:

- Internet searches (facebook, google, instagram, airbnb, etc)
- Voter registration information
- Deeds
- Other township departments

Any proof that a PRE should be denied must be attached to the parcel record, under the PRE tab, along with a copy of the signed denial. Additionally, a copy of the denial must be sent to the Township Treasurer, County Treasurer and County Equalization Department.

## **Denial of a PRE:**

Subsections 6, 8 and 11 of MCL 211.7cc allow the assessor, Department of Treasury (the Department), and in certain circumstances, the County Treasurer or Equalization Director, to deny PRE claims for the current and three preceding years. If an assessor believes that a property is not the principal residence of the owner claiming the exemption or that the owner failed to properly rescind the PRE, the assessor may deny the new or existing claim by notifying the owner using a Notice of Denial of Principal Residence Exemption, Form 2742 (Assessor's Denial). The Assessor's Denial provides the owner with his or her appeal rights to the Michigan Tax Tribunal (MTT) within 35 days from the date of the notice. The assessor does not need to seek the approval of the Board of Review when issuing a PRE denial.

MCL 211.7cc(11) gives the County Treasurer or County Equalization Director the authority to issue a denial notice. In order for the County to maintain the authority to deny a PRE claim, the County must elect to audit PRE claims in accordance with MCL 211.7cc(10). This election is made every five years. Notice of Denial of Principal Residence Exemption, Form 4075 (County 's Denial), is issued by the County and provides the owner with his or her appeal rights to the MTT within 35 days from the date of the notice.

Under MCL 211.7cc(8), the Department is given the authority to deny PRE claims in any County in Michigan. The Department generally issues PRE denial notices by letter to the owner with a copy of the letter or list of denied parcels provided to the assessor, County Treasurer and the County Equalization Director. The owner has 35 days from the date the denial notice to appeal the denial to the Hearings Division of the Department. If the owner is not satisfied with the decision of the informal conference, they may then appeal the decision to the MTT.

### **Denial of a Qualified Agricultural Exemption:**

An assessor may deny:

- A new exemption, if the property or part of the property does not qualify;
- An exemption continued from a prior year, at the time of preparation of the annual tax roll, if the property is no longer qualified;
- An existing exemption after the close of the local Board of Review and up to the status day if the property is no longer qualified for the exemption; and
- When the property owner has requested a withdrawal of the exemption for the current year, even if the request occurs after May 1st;

If the assessor discovers a situation where it is clear that a parcel is incorrectly receiving the Qualified Agricultural Property exemption for the current year, after May 1st, the assessor has no power to deny the exemption. The assessor may deny the exemption for the next year.

Similarly, the assessor may not deny a Qualified Agricultural Property exemption for a prior year.

## Corrections to PREs:

MCL 211.77cc(19) provides for PRE corrections under certain circumstances described as follows:

An owner who owned and occupied a principal residence on June 1<sup>st</sup> for which the exemption was not on the tax roll, or

an owner of property who previously occupied that property as his or her principal residence but did not occupy that property on June 1:

- while residing in:
  - a nursing home,
  - assisted living facility
  - other location under circumstances described in 211.7cc(5)(a) to (d):
    - “The owner continues to own that property while residing in the nursing home, assisted living facility or other location.
    - The owner has not established a new principal residence.
    - The owner maintains or provides for the maintenance of that property while residing in the nursing home, assisted living facility or other location.
    - That property is not leased and is not used for any business or commercial purpose.”
- while absent on active duty as a member of any branch of the Armed Forces, under circumstances described in 211.7cc(32)(a) to (d) – “ ... if the owner manifests an intent to return to that property by satisfying all of the following conditions:
  - The owner continues to own the property while absent on active duty as a member of any branch of the Armed Forces of the United States, including the Coast Guard, a reserve component of any branch of the Armed Forces of the United States or the National Guard.
  - The owner has not established a new principal residence.
  - The owner maintains or provides for the maintenance of that property while absent on active duty as a member of any branch of the Armed Forces of the United States, including the Coast Guard, a reserve component of any branch of the Armed Forces of the United States or the National Guard.

- That property is not used for any business or commercial purpose except as provided in section 7dd(c):

“Property that qualified as a principal residence shall continue to qualify as a principal residence for 3 years after all or any portion of the dwelling or unit included in or constituting the principal residence is rented or leased to another person as a residence if all of the following conditions are satisfied:

- (i) The owner of the dwelling or unit is absent while on active duty in the armed forces of the United States.
- (ii) The dwelling or unit would otherwise qualify as the owner's principal residence.
- (iii) Except as otherwise provided in this subparagraph, the owner files an affidavit with the assessor of the local tax collecting unit on or before May 1 attesting that it is his or her intent to occupy the dwelling or unit as a principal residence upon completion of active duty in the armed forces of the United States. A copy of an affidavit filed under this subparagraph shall be forwarded to the department of treasury pursuant to a schedule prescribed by the department of treasury.”

- while absent due to the damage or destruction of the principal residence under the circumstances described in 211.7cc(33)(a) to (d):

“... that owner may retain an exemption on that property for not longer than the tax year during which the damage or destruction occurred and the immediately succeeding 2 tax years if the owner manifests an intent to return to that property by satisfying all of the following conditions:

- (a) The owner continues to own that property while absent because of the damage or destruction of the principal residence.
- (b) The owner has not established a new principal residence.
- (c) The owner provides for the reconstruction of the principal residence for purposes of occupying it upon its completion as his or her principal residence.
- (d) The property is not occupied, is not leased, and is not used for any business or commercial purpose.”

for which the exemption was not on the tax roll,

the owner must first file Form 2368 Principal Residence Exemption Affidavit with the local assessor and claim the principal residence exemption for the current and [up to] previous three years. Once received, the local assessor can grant the exemption after they verify the owner has met the requirements for the principal residence exemption. This can be done at any time during the year.

The local assessor then completes Form 5838 Principal Residence Exemption Notice of Adjustments (see next page) and distributes copies of the completed form to the County Treasurer, the County Equalization Director and the treasurers of all other affected taxing authorities. It is good practice to attach the form 2368 with the Form 5838.

The legislature granted the authority for assessors to correct Principal Residence Exemptions when it passed PA 141, July 11, 2022, with immediate effect.

## Principal Residence Exemption Notice of Adjustments

Issued under authority of Public Act 206 of 1893, as amended.

The property owner has requested a Principal Residence Exemption (PRE) that was not on the assessment roll for the current year and/or the three (3) previous years, but was not denied by the assessor, county treasurer or Michigan Department of Treasury. Assessors should submit and complete a separate adjustment form for each parcel number and distribute copies of this form to the County Treasurer, the County Equalization Department, and the treasurers of all other affected taxing authorities. Please retain a copy on file at the local unit.

PART 1: IDENTIFICATION			
Owner		Parcel Number	
Property Address		School District	
City	State	ZIP Code	Classification
PART 2: ADJUSTMENTS			
Tax Year	Original PRE	Adjusted Summer PRE	Adjusted Winter PRE
PART 3: ASSESSOR CERTIFICATION			
<i>I, the undersigned Assessor swear or affirm the above information is true to the best of my knowledge.</i>			
Signature			Date

Please supply a copy of the completed form to all affected Taxing Authorities. If granting the exemption results in an overpayment of the tax, a rebate, including any interest paid, shall be made to the taxpayer by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll within 30 days of the date the exemption is granted. The rebate shall be without interest.