

Principal Residence Exemption Requirements - How to Use It Or Lose It

If a home qualifies for a principal residence exemption (“PRE”), it is exempt from a portion of the real property taxes – specifically that portion of the tax levied by the local school district for school operating purposes. MCL 211.7cc; 211.7dd.

Definition/Qualification

A “principal residence” is defined as “the one place where a person has his or her true, fixed and permanent home to which, whenever absent, he or she intends to return.” As a practical matter, Treasury looks at things like the address on a person’s driver’s license, his or her voting registration card and income tax records.

It is not the case that everyone is entitled to an exemption on one Michigan property. A person could own several homes in Michigan, none of which qualify as a principal residence. For example, if a person rents an apartment in Lansing, where he lives, works, votes and sends his children to school but owns a home in Petoskey, he cannot claim an exemption on the Petoskey home because it is not his “principal residence.”

Spouses who maintain separate principal residences may each claim an exemption unless they file joint federal and state income tax returns. If a person conveys his home to a wholly owned limited liability company, he or she will no longer qualify for the exemption.

Property adjoining a principal residence also qualifies for the exemption regardless of its size and whether or not the parcel has a separate tax parcel number so long as it is unoccupied and contiguous or adjacent. Contiguity is not broken by a road or right-of-way. The property must be classified as either residential or timber-cutover. (“Qualified agricultural property” has its own exemption – see discussion below.)

Where an individual is in a nursing home or assisted living facility, his home continues to qualify for a PRE so long as it is not occupied, is not leased or used for any commercial purpose. The owner must be providing for the maintenance of the home while residing in the nursing home or assisted living facility.

Where a person rents his or her home, if more than 50% of the home is used as a principal residence, it qualifies for 100% exemption. If less than 50% of the home is used as a principal residence, then a person is entitled to a percentage exemption equal to the percentage of the home that is actually used as a principal residence. If a portion of the parcel for which a person claims an exemption is used to operate a business, the person may claim an exemption for the portion of the parcel used as a principal residence.

Timing

An affidavit filed on or before June 1 will qualify for the summer tax bill (and future tax bills); an affidavit filed by November 1 will qualify for the winter tax bill (and future tax bills). If a person qualified for the exemption on May 1 (or November 1) but did not file the affidavit by that date, he or she may file an appeal with the board of review any time within the next three years. The three-year limitation does not apply where the absence of the exemption was the result of an error on the part of the tax collecting unit.

Rescission

If a home with a principal residence exemption is sold, the seller must file a rescission within 90 days. If they qualify for the exemption, the buyers will have to file their own affidavit. Even if the buyers do not qualify for an exemption, the current exemption will remain in effect until December 31 of that year.

A person who purchases a home but has not sold his or her prior home can, under certain circumstances, claim an exemption on both homes. In this scenario, the prior home receives what is called a “conditional rescission.” In order to qualify for a “conditional rescission” on a prior home, a person must be claiming a principal residence exemption on his

new residence. A person who is currently renting a home or has moved outside of the state will not qualify for an exemption on the prior, unsold residence. In order to qualify for an exemption, the prior home must be unoccupied, for sale, not leased and not used for any business or commercial purpose. The prior home must have previously qualified for an exemption – *i.e.*, the prior home must have been the owner’s principal residence. If the prior, unsold home qualifies, it can receive a conditional principal residence exemption for up to three years. If, at any time, the prior home is leased, it no longer qualifies for the exemption.

Denial

An assessor who believes a home for which an exemption was claimed was not, in fact, a principal residence may deny a claim. The assessor may deny a claim for the current year and the three immediately preceding calendar years.

If the home has been sold to a bonafide purchaser for value before the additional taxes were billed to the seller as a result of the denial of a claim for an exemption, the taxes, interest and penalties are not a lien on the home and are not billed to the purchaser. In other words, the seller is responsible for all additional taxes, interest and penalties for years up to and including the year of the sale if the purchaser is a bonafide purchaser.

Legislation enacted in 2012 allows a bank or other lending institution to retain the principal residence exemption on foreclosed property for up to three years if the home was exempt immediately before the foreclosure, is for sale and is not occupied by anyone other than the person who is being foreclosed against. A bank can file for such exemption in order to make certain that purchasers of the home will be taxed at the non-homestead rate. However, during the time the lender owns the home, the lender must still pay an amount equal to what would have been levied if the exemption had not been retained.

Qualified Agricultural Property

The qualified agricultural exemption is also an exemption from that portion of the real property taxes levied for school operating purposes. MCL 211.7ee. A parcel qualifies if either: (a) the parcel is classified on the current assessment roll as “agricultural”; or (b) more than 50% of the parcel is devoted to agricultural uses. Qualified agricultural property includes related buildings such as a “residence occupied by a person involved in the agricultural use.” A transfer of qualified agricultural property is not considered a “transfer of ownership” for purposes of reassessment if both of the following are true: (a) the parcel remains qualified agricultural property after the transfer; AND (b) the new owner files Form 3676 with the assessor and the register of deeds stating that the parcel will remain qualified agricultural property. MCL 211.27a(7)(o).

Unlike the PRE exemption, qualified agricultural property may be owned by a limited liability company and/or leased to a third party (so long as the third party uses the property for agricultural purposes). For purposes of satisfying the “more than 50% agricultural use” requirement, each parcel is considered separately. Note that the requirement is more than 50% of the total acreage and that “total acreage” includes, for example, rights-of-way for roads or drainage purposes and property that is not tillable.