205 (Rev. 11-94)

Bulletin No. 5
January 23, 1995
Poverty Exemptions

STATE OF MICHIGAN

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TO: Assessors
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FROM: State Tax Commission

RE: **POVERTY EXEMPTIONS UNDER MCL 211.7U, NEW REQUIREMENTS**

Public Act (PA) 390 of 1994 was signed by the Governor on December 29, 1994 and was ordered to take immediate effect. PA 390 of 1994 makes significant changes to the poverty exemption found in section 211.7u of the Michigan Compiled Laws (MCL). Attached is a copy of the Act.

A) **Poverty Exemptions for Homesteads and Qualified Agricultural Property**

Starting in 1995, PA 390 of 1994 states that poverty exemptions may be granted by the Board of Review to claimants that are owners of homesteads only. In the past, poverty exemptions were available for any real and personal property.

According to PA 390 homestead means homestead or qualified agricultural property as those terms are defined in MCL 211.7dd. The following are those definitions:

"Homestead" means that portion of a dwelling or unit in a multiple-unit dwelling that is subject to ad valorem taxes and is owned and occupied as a principal residence by an owner of the dwelling or unit. Homestead also includes all of an owner's unoccupied property classified as residential that is adjoining or contiguous to the dwelling subject to ad valorem taxes and that is owned and occupied as a principal residence by the owner. Contiguity is not broken by a road or a right-of-way. Homestead also includes any portion of a principal residence of an owner that is rented or leased to another person as a residence as long as that portion of the principal residence that is rented or leased is less than 50% of the total square footage of living space in that principal residence. Homestead also includes a life care facility registered under the living care disclosure act, Act No. 440 of the Public Acts of 1976, being sections 554.801 to 554.844 of the Michigan Compiled Laws. Homestead also includes property owned by a cooperative housing corporation and occupied as a principal residence by tenant stockholders.

"Qualified agricultural property" means unoccupied property and related buildings classified as agricultural, or other unoccupied property and related buildings located on that property devoted primarily to agricultural use as defined in section 2 of the farmland and open space

preservation act, Act No. 116 of the Public Acts of 1974, being section 554.702 of the Michigan Compiled Laws. Related buildings include a residence occupied by a person employed in or actively involved in the agricultural use and who has not claimed a homestead exemption on other property. Property used for commercial storage, commercial processing, commercial distribution, commercial marketing, or commercial shipping operations or other commercial or industrial purposes is not qualified agricultural property. A parcel of property is devoted primarily to agricultural use only if more than 50% of the parcel's acreage is devoted to agricultural use. An owner shall not receive an exemption for that portion of the total state equalized valuation of the property that is used for a commercial or industrial purpose or that is a residence that is not a related building.

PA 390 of 1994 states that the poverty exemption shall not be granted to property owned by a corporation. This means that no property owned by a corporation may receive the poverty exemption even if it meets the definition of a homestead or of qualified agricultural property.

B) Partial Poverty Exemption

Starting in 1995, PA 390 of 1994 authorizes 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.

C) Poverty Exemption Guidelines

Starting in 1995, PA 390 of 1994 states that the governing body of the local assessing unit shall determine the policies and guidelines which the local assessing unit will use when deciding whether to grant poverty exemptions.

These guidelines shall include but are not limited to the specific income and asset levels for the person claiming the exemption and also anyone else who is a part of the household. The income levels cannot be set lower than the federal poverty income standards as defined and determined annually by the United States Office of Management and Budget. (These federal income standards will be discussed later in this bulletin under the heading "Federal Poverty Income Standards") Income levels higher than the federal poverty income standards may be set by the governing body of the local assessing unit.

PA 390 requires that the poverty exemption guidelines include the asset levels of the entire household. The determination of the amount of the asset levels is left to the discretion of the local governing body.

Local governing bodies are required by the Act to set income and asset levels for their poverty exemption guidelines. They may also require additional tests that they feel are appropriate. For more information, please refer to the next section of this bulletin labeled "Options Available to the Governing Body."

In order to qualify for the poverty exemption, the claimant must meet all of the tests set by the local governing body. For example, it is possible that a claimant might meet the income test for the poverty exemption but not meet the asset level test or some other test set by the local governing body. In this situation the claimant would not qualify for the exemption even though the income test was met.

PA 390 requires that local assessing units make available to the public their policies and guidelines for the granting of poverty exemptions.

The Board of Review shall follow the policies and guidelines of the local assessing unit when granting or denying a poverty exemption. The same standards shall apply to each claimant in the unit for the assessment year "unless the board of review determines there are substantial and compelling reasons why there should be a deviation from the policy and guidelines and the substantial and compelling reasons are communicated in writing to the claimant."

D) Options Available to the Governing Body

PA 390 requires that the poverty exemption guidelines set by the governing body of the local assessing unit include income and asset levels. The Act further requires that the income levels not be set lower than the federal poverty income standards.

However, the Act does allow the governing body some discretion. The following are some examples:

1) The amount of the asset level test is set by the governing body.

2) The governing body may establish its own requirements in addition to the mandated income and asset level tests.

3) Since partial poverty exemptions are allowed, a governing body could limit its poverty exemptions to partial exemptions or to minimum or maximum exemptions of their choosing.

E) Filing 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 homestead the property for which the exemption is requested. Homestead is defined in part A of this bulletin.

2) File a claim with the supervisor or the board of review after January 1 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 homestead including any property tax credit returns. These income tax returns may be those filed in the current year or in the immediately preceding year.

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 required by the supervisor or board of review.

6) a) Meet the federal poverty income standards as defined and determined annually by the United States Office of Management and Budget which will be discussed later in this bulletin under the heading "Federal Poverty Income Standards" OR

b) Meet alternative income standards adopted by the governing body of the local assessing unit. **IMPORTANT: ALTERNATIVE GUIDELINES SHALL NOT REQUIRE LESS INCOME TO QUALIFY FOR THE EXEMPTION THAN THE FEDERAL GUIDELINES REQUIRE.**

7) Meet the asset levels set by the governing body of the local assessing unit.

8) Meet any other tests that may be set by the governing body.

F) A Claimant May Request a Poverty Exemption and Appeal the Property's Assessment to the March Board of Review

PA 390 of 1994 states that a person who files a claim to the Board of Review for a poverty exemption may also appeal the assessment of the property to the board of review in the same year.

G) Federal Poverty Income Standards

The following are the federal poverty income standards which the United States Office of Management and Budget recommends that federal departments and agencies use.

The standards are actually compiled and published by the Bureau of the Census which refers to them as "Poverty Thresholds."

The following are the Poverty Thresholds as of 12-31-94 for use in setting poverty exemption guidelines for 1995 assessments:

No. of Persons Residing in Homestead	Poverty Threshold
1 person (if age not considered)	$ 7,363
1 person Under 65 years	7,518
1 person 65 years and over	6,930

2 persons (if age not considered)	$ 9,414
2 persons with householder being under 65 years . .	9,728
2 persons with householder being 65 years and over .	8,740
3 persons	$11,522
4 persons	14,763
5 persons	17,449
6 persons	19,718
7 persons	22,383
8 persons	24,838
9 persons or more	29,529

The governing body of the local assessing unit has the option of considering the age of the resident(s) when establishing their guidelines. This provision only applies when 1 or 2 persons reside in the homestead because there are no age related thresholds for 3 persons or more in the homestead.

In the above table, the term "householder" is used when there are 2 persons residing in the homestead. If a house is owned jointly by a husband and wife, either the husband or wife may be listed as the householder.

The Bureau of the Census defines income to <u>include</u> the following:

1) Money wages and salaries before any deductions.

2) Net receipts from <u>nonfarm</u> self-employment. These are receipts from a person's own business, professional enterprise, or partnership, <u>after</u> <u>deductions</u> for business expenses.

3) Net receipts from <u>farm</u> self-employment. These are receipts from a farm which one operates as an owner, renter, or sharecropper, <u>after</u> <u>deductions</u> for farm operating expenses.

4) Regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-Federally-funded General Assistance or General Relief money payments).

5) Alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household.

6) Private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments.

7) College or university scholarships, grants, fellowships, and assistantships.

8) Dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

Income does not include the following:

1) Money received from the sale of property such as stocks, bonds, a house, or a car unless a person is in the business of selling such property.

2) Withdrawals of bank deposits and borrowed money.

3) Tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments.

4) Food or housing received in lieu of wages and the value of food and fuel produced and consumed on farms.

5) Federal noncash benefit programs such as Medicare, Medicaid, food stamps, school lunches.

H) Appeal of Poverty Exemptions to the Michigan Tax Tribunal

A property owner may appeal the March Board of Review's decision on a poverty exemption to the Michigan Tax Tribunal. This appeal must be made by June 30. An assessor may also appeal the March Board of Review's decision on a poverty exemption to the Michigan Tax Tribunal.

I) Comments by the State Tax Commission

The State Tax Commission is concerned regarding the apparent trend toward abuse of the poverty exemption. The rules and guidelines that this new Act provides 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.

Act No. 390
Public Acts of 1994
Approved by the Governor
December 29, 1994
Filed with Secretary of State
December 29, 1994

STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994

Introduced by Reps. Bullard, Dobb, Kukuk and Galloway

ENROLLED HOUSE BILL No. 5019

AN ACT to amend section 7u of Act No. 206 of the Public Acts of 1893, entitled as amended "An act to provide for the assessment of rights and interests, including leasehold interests, in property and the levy and collection of taxes thereon, and for the collection of taxes levied; making such taxes a lien on the property taxed, establishing and continuing the lien, providing for the sale and conveyance of property delinquent for taxes, and for the inspection and disposition of lands bid off to the state and not redeemed or purchased; to provide for the establishment of a delinquent tax revolving fund and the borrowing of money by counties and the issuance of notes; to define and limit the jurisdiction of the courts in proceedings in connection therewith; to limit the time within which actions may be brought; to prescribe certain limitations with respect to rates of taxation; to prescribe certain powers and duties of certain officers, departments, agencies, and political subdivisions of this state; to provide for certain reimbursements of certain expenses incurred by units of local government; to provide penalties for the violation of this act; and to repeal certain acts and parts of acts in anywise contravening any of the provisions of this act," as amended by Act No. 313 of the Public Acts of 1993, being section 211.7u of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 7u of Act No. 206 of the Public Acts of 1893, as amended by Act No. 313 of the Public Acts of 1993, being section 211.7u of the Michigan Compiled Laws, is amended to read as follows:

Sec. 7u. (1) The homestead of persons who, in the judgment of the supervisor and board of review, by reason of poverty, are unable to contribute toward the public charges is eligible for exemption in whole or in part from taxation under this act. This section does not apply to the property of a corporation.

(2) To be eligible for exemption under this section, a person shall do all of the following on an annual basis:

(a) Be an owner of and occupy as a homestead the property for which an exemption is requested.

(b) File a claim with the supervisor or board of review on a form provided by the local assessing unit, accompanied by federal and state income tax returns for all persons residing in the homestead, including any property tax credit returns, filed in the immediately preceding year or in the current year. 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.

(c) Produce a valid driver's license or other form of identification if requested by the supervisor or board of review.

(d) 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.

(e) Meet the federal poverty income standards as defined and determined annually by the United States office of management and budget 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.

(3) The application for an exemption under this section shall be filed after January 1 but before the day prior to the last day of the board of review.

(4) The governing body of the local assessing unit shall determine and make available to the public the policy and guidelines the local assessing unit uses for the granting of exemptions under this section. The guidelines shall include but not be limited to the specific income and asset levels of the claimant and total household income and assets.

(5) The board of review shall follow the policy and guidelines of the local assessing unit in granting or denying an exemption under this section unless the board of review determines there are substantial and compelling reasons why there should be a deviation from the policy and guidelines and the substantial and compelling reasons are communicated in writing to the claimant.

(6) A person who files a claim under this section is not prohibited from also appealing the assessment on the property for which that claim is made before the board of review in the same year.

(7) As used in this section, "homestead" means homestead or qualified agricultural property as those terms are defined in section 7dd.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved _____

_____
Governor.

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