**Poverty Exemption Information:** **MCL 211.7u** (1) The principal residence 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. [*Excerpt*]

## Test 1: Poverty Income Guidelines

**What's involved:**

### "Table 1"

How Much Income a Person Can Receive Per Year and Be Eligible for the Poverty Exemption

**What the Law Says:**

**2020 Federal Poverty Income Guidelines**

| Size of Family/ Household | Maximum Total Income |
|---|---|
| 1 | $12,490 |
| 2 | $16,910 |
| 3 | $21,330 |
| 4 | $25,750 |
| 5 | $30,170 |
| 6 | $34,590 |
| 7 | $39,010 |
| 8 | $43,430 |
| Additional person | $4,420 |

**Note**: The township board can adopt maximum income levels higher than the federal poverty guidelines. A township board can make it easier for a person to be eligible for the poverty exemption, but it cannot make it harder (by adopting lower income levels).

For example, a township board could say that a one-person household could have a total annual income of $15,000 and still be eligible for a poverty exemption. Or, for example, the board could establish its levels at 1.35 (or other number) times the federal levels.

## Test 2: Asset Test (if the applicant meets the poverty income guidelines)

### "Table 2"

List of Things of Value That a Person Can Own and Still Be Granted a Poverty Exemption

The law protects the applicant's residence. Townships cannot use the equity of an applicant's home as part of the asset test.

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."

However, a township can determine a "footprint" for the home and consider any additional land as an asset. For example, the applicant is allowed their home plus five acres around their home as a 'footprint.' Their home sits on 40 acres. Therefore, 35 acres can be considered as an asset towards the total assets.

Monies received from claiming a homestead property tax credit are not "income." *Ferrero v. Walton Township*, 295 Mich. App. 475, 2012.

### "Table 3"

List of Things of Value That the BOR Can Consider to Decide What Percent Exemption to Grant

Every township must adopt an asset test, but no specific test is mandated by law. The township board should set a maximum asset amount—in other words, a total value of assets that will likely result in receiving a 0% exemption. This can be either a dollar amount or a percentage of total income. For example, a township board could decide that applicants with a total value of assets of $15,000 or more will receive a 0% exemption, even though they meet the income guidelines in Test 1. Or, another township could decide that its maximum value of assets eligible for the exemption is $150,000.

**Based on the assets listed on a poverty exemption application, the Board of Review may grant the applicant a 0% to 100% exemption.**

A township ***cannot*** consider the homestead property tax credit that the applicant is eligible for to calculate the percentage of poverty exemption to be granted.

**MCL 211.7u (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."

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.

| | Test 1: Poverty Income Guidelines | Test 2: Asset Test (if the applicant meets the poverty income guidelines) | |
|---|---|---|---|
| | | **Things of Value That a Person Can Own and Still Be Granted a Poverty Exemption** | **Things of Value That the BOR Can Consider to Decide What Percent Exemption to Grant** |
| **Examples:** | According to the U.S. Census Bureau, "income" includes:<br>• Money, wages and salaries before any deductions, regular contributions from persons not living in the residence.<br>• Net receipts from nonfarm or farm self-employment (receipts from a person's own business, professional enterprise, or partnership, after business expense deductions).<br>• Regular payments from social security, railroad retirement, unemployment, workers' compensation, veterans' payments, public assistance, supplemental security income (SSI).<br>• Alimony, child support, military family allotments.<br>• Private and governmental retirement and disability pensions, regular insurance, annuity payments.<br>• College or university scholarships, grants, fellowships, assistantships.<br>• Dividends, interest, net income from rentals, royalties, estates, trusts, gambling or lottery winnings. | The township board has the option to allow a person to own other things, in addition to the principle residence, and still receive a poverty exemption. Possible examples include, but are not limited to:<br>• Additional vehicles<br>• More land than a minimum "footprint" for the home<br>• Equipment or other personal property of value, including recreational vehicles (campers, motor homes, boats, ATVs, etc.)<br>• Bank account(s) up to a specified amount (a maximum amount should be specified).<br>• Other ... | The following is a list of assets that may be included in the annual guidelines. A township is not required to ask an applicant to list all of these types of assets to apply for a poverty exemption, but it may choose to do so:<br>• A second home, land, vehicles<br>• Recreational vehicles (campers, motor homes, boats, ATVs, etc.)<br>• Buildings other than the residence<br>• Jewelry, antiques, artwork<br>• Equipment, other personal property of value<br>• Bank accounts (over a specified amount), stocks<br>• 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).<br>• Withdrawals of bank deposits and borrowed money.<br>• Gifts, loans, lump-sum inheritances and one-time insurance payments<br>• Food or housing received in lieu of wages and the value of food and fuel produced and consumed on farms.<br>• Federal non-cash benefits programs such as Medicare, Medicaid, food stamps, school lunches. |

**Notes:** See State Tax Commission Bulletin 6 of 2017 for more information. What the township board is really establishing is a definition of "poverty" in that township, based on the federal thresholds, plus a local determination of assets that a person can own and still be considered to be unable to contribute to the public charge—in that township.

One way to look at the asset test is that the township board is stating what property a person should "sell" to pay the taxes or be able to keep and still get the poverty exemption. A person is not required to actually sell assets to receive a poverty exemption—but the asset test is a list of things the board of review will consider to determine if it will be a full 100% exemption or less than 100%.

Remember, the idea is not to give everyone a break on their taxes. The state will look closely at overly generous definitions or boards of review that don't follow the township's guidelines and asset test.

Note that MCL 211.7u(5) does allow the board of review to deviate, for "substantial and compelling reasons," from the township board's guidelines and asset test: "(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."

The asset test can be a list of the types of items, or a total value of the assets that the township will look at to determine if someone really is impoverished. This can vary from township to township. As applied, it will likely also vary on a case by case basis, depending on the applicant's circumstances.

For example, if an elderly widow has an annual household income of $10,000 (less than the federal poverty guideline for one person) and lives alone in the home that she owns, she meets the poverty guidelines for income—and would likely be considered "impoverished" just about anywhere in Michigan.

But what if she also owns the 100 acres of land that her house sits on, plus a lakefront cottage up north, a pontoon boat, a Cadillac worth $30,000, $100,000 in antiques and art, and a condo in Florida? One township might consider her even more eligible for the poverty exemption because her property taxes are higher than if she didn't own some of those things, but they would not expect her to give up things that were purchased years ago because her income has now been permanently reduced. But another township might determine that a person in her circumstances should be able to pay the taxes. The townships' asset tests can be designed to represent each township's perception of "poverty," and the boards of review have the ability to deviate from the guidelines for substantial and compelling reasons.

Now substitute in the example above a 30-year-old person who recently acquired all of the same property, is still employed as a real estate agent, reports an annual income of $10,000 due to income tax credits from business losses, and now claims that he or she is unable to pay the taxes.

| | **Township A** | **Township B** | **Township C** | **Township D** |
|---|---|---|---|---|
| **Guidelines & Asset Test** | The township board has established higher income levels for its poverty guidelines, so an individual could have an income of $12,000 and still qualify. This township also considers how long the applicant has owned the property. | The township board has taken a very strict approach to poverty exemptions, and has adopted the federal income guidelines and an asset test that limits an applicant's eligible assets to the house and one car with a value of $15,000 or less. | The township's asset test says that, in addition to being at or below the federal poverty guideline for income, an applicant can own up to $100,000 in real and personal property. | The township has adopted the federal income guidelines, and an applicant can own one car, but must list any additional vehicles, any boats, any real estate not included in the homestead, etc. |
| **Example A: Widow** | The widow could be granted up to a 100% exemption. | In this township, the widow might not receive a poverty exemption, or might receive a small percentage of a total exemption, such as a 10% exemption because she owns far more than the asset test would allow. But the board of review might decide there are substantial and compelling reasons to deviate from the guidelines. | In this township the widow might not receive a poverty exemption or might receive a percentage of a total exemption, such as a 10% exemption because she owns far more than the asset test would allow. But the board of review might decide there are substantial and compelling reasons to deviate from the guidelines. | Here, the widow could be eligible for an exemption based on her income, but might receive a percentage of a full exemption. |
| **Example B: Real Estate Agent** | You decide ... ! | You decide ... ! | You decide ... ! | You decide ... ! |

**THE GENERAL PROPERTY TAX ACT (EXCERPT—As Amended by PA 135 of 2012)**
**Act 206 of 1893**

**211.7u Principal residence of persons in poverty; exemption from taxation; applicability of section to property of corporation; eligibility for exemption; application; policy and guidelines to be used by local assessing unit; duties of board of review; appeal of property assessment; "principal residence" defined.**

Sec. 7u.

(1) The principal residence 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 principal residence 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 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 [Treasury Form 4988]. 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 guidelines updated annually in the federal register by the United States department of health and human services under authority of section 673 of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 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.

(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, "principal residence" means principal residence or qualified agricultural property as those terms are defined in section 7dd.

**History:** Add. 1980, Act 142, Imd. Eff. June 2, 1980 ;-- Am. 1993, Act 313, Eff. Mar. 15, 1994 ;-- Am. 1994, Act 390, Imd. Eff. Dec. 29, 1994 ;-- Am. 2002, Act 620, Imd. Eff. Dec. 23, 2002 ;-- Am. 2003, Act 140, Eff. Jan. 1, 2004 ;-- Am. 2012, Act 135, Imd. Eff. May 16, 2012. ***[Current as of 2/10/20]***