

Conditional Rescission of Principal Residence Exemption (PRE) Frequently Asked Questions

Issued under the authority of Public Act 96 of 2008.

1. What is a conditional rescission?

A conditional rescission allows an owner to receive a PRE on his or her current property and on previously exempted property simultaneously if the previous principal residence (all must apply):

- is not occupied
- is for sale
- is not leased
- is not used for any business or commercial purpose.

2. How do I apply for a conditional rescission?

To apply for a conditional rescission, the owner must submit a Conditional Rescission of Principal Residence Exemption (Form 4640) to the assessor for the city or township in which the property is located on or before May 1 of the first year of the claim. For example, to qualify for a PRE in 2008 under a conditional rescission, the form must be submitted on or before May 1, 2008.

3. How long is a conditional rescission effective?

An owner may receive the PRE on the previous principal residence for up to three years if the property is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. The owner must annually submit Form 4640 on or before December 31 to verify to the assessor that the property for which the PRE is retained is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. For example, if an owner received a PRE in 2008 by submitting Form 4640, he or she would have to submit another Form 4640 by December 31, 2008, to qualify for a PRE in 2009.

4. Do the *Request to Rescind Principal Residence Exemption (Form 2602)* and Form 4640 both need to be filed?

No. If the conditional rescission requirements are met, Form 4640 would take the place of Form 2602.

5. If Form 2602 was filed in 2006 because I purchased a new home which became my new principal residence and the exemption on my previous principal residence was removed for the 2007 and 2008 tax years, can I submit Form 4640 and receive the PRE under a conditional rescission for the 2008 tax year?

The owner may receive a PRE for the 2008 tax year if Form 4640 is submitted by May 1, 2008, and the property is not occupied, is for sale, is not leased, and is not used for any business or commercial purpose. If the assessor determines the property qualifies for a PRE under a conditional rescission, the assessor would put the PRE back on the tax roll for the 2008 tax year the same as if an affidavit is filed for a new PRE.

6. If Form 2602 was filed in early 2008 and the exemption was removed effective for the 2009 tax year, can an owner submit Form 4640 and receive the PRE under a conditional rescission beginning for the 2009 tax year?

The owner may receive a PRE for the 2009 tax year if the Form 4640 is submitted by May 1, 2009, and the conditional rescission requirements are met. If the assessor determines the property qualifies for a PRE under a conditional rescission, the assessor would put the PRE back on the tax roll for the 2009 tax year the same as if an affidavit is filed for a new PRE.

7. Can the property be for sale by owner?

Yes.

8. Can I qualify for a conditional rescission if I was receiving a 60% PRE on my property since I rent out the other 40%?

The 60 percent that qualified for a PRE must not be occupied, must be for sale, must not be leased, and must not be used for business or commercial purposes. The property would qualify only for the 60 percent. Public Act 96 of 2008 states that the "owner may **retain** an exemption for not more than three tax years on property **previously exempt** as his or her principal residence..." (Emphasis added). Therefore, a taxpayer would be able to retain the 60 percent if all other requirements are met. In addition, if a taxpayer is receiving 100 percent PRE and then rents out 60 percent, he or she would not qualify for a conditional rescission since he or she is not retaining the 100 percent exemption previously exempt as his or her principal residence.

9. If an owner misses the May 1 or the December 31 deadline, can the Board of Review reinstate the PRE under a conditional rescission?

On July 10, 2008 Governor Granholm signed Senate Bill 1239, enacting Public Act 198 of 2008, which amended Section 211.7cc allowing the Board of Review to hear conditional rescission appeals in 2008 only if the property owner missed the May 1, 2008 deadline. Public Act 198 allows an owner of property eligible for a conditional rescission, who did not file a Conditional Rescission of Principal Residence Exemption (Form 4640) on or before May 1, 2008, to file an appeal with the 2008 July or 2008 December Board of Review to claim a conditional rescission for the 2008 tax year only. Except for the 2008 exemption, the Board of Review has no authority with regard to a conditional rescission and cannot institute a conditional rescission on behalf of an owner if a deadline is missed or for previous tax years. Specific deadlines were included in the statutory language which did not address missed deadlines in Section 19 of MCL 211.7cc. Section 19 specifically states "An owner who owned and occupied a principal residence on May 1 for which the exemption was not on the tax roll may file an appeal..." The inherent nature of a conditional rescission does not meet the requirements of Section 19 since the property is not occupied by the owner.

10. Does a conditional rescission apply to homes in foreclosure where the bank has taken possession but where the home is vacant and for sale?

Only the owner who previously occupied the property as his or her principal residence qualifies for the conditional rescission. Companies such as a bank do not qualify for a PRE regardless of the situation.

11. If a property is available for lease but is not for sale, does it qualify for a conditional rescission?

No. The property must be for sale. It may also be available for lease, but once the property is leased, it does not qualify. If a property is receiving a PRE under a conditional rescission, the local tax collecting unit shall deny the conditional rescission effective on December 31 of the year immediately preceding the year in which the property is leased. For example, if a person is receiving a PRE in 2008 under a conditional rescission and then leases the property in September 2008, the conditional rescission shall be denied effective December 31, 2007, resulting in the PRE being removed for the 2008 tax year.

12. Since my prior principal residence, which I still own, is for sale, is not occupied, is not leased, and is not used for any business or commercial purpose, and has been this way for all of 2006 and 2007, can I get my PRE put back on my property for 2006 and 2007 by submitting Form 4640?

No. A conditional rescission is not retroactive. The first year of eligibility is 2008 if the form is submitted on or before May 1, 2008.

13. If I leased my home for a period of time after it was no longer my principal residence but now it is not occupied, is for sale, is not leased, and is not used for any business or commercial purposes, can I qualify for a PRE under the conditional rescission requirements?

No. Once the property is leased, the opportunity to receive a conditional rescission is no longer available.

14. If I move to an apartment that I rent and my previous principal residence, which I own, is for sale, is not occupied, is not leased, and is not used for any business or commercial purposes, would I qualify for a PRE under the conditional rescission requirements?

No. The owner of the property must be eligible for and claim an exemption for his or her current principal residence. A person renting an apartment is not eligible for a PRE.

15. If I move to another state, can I qualify for a PRE under a conditional rescission?

No. If a person moves to another state, he or she would not qualify for a PRE since an exemption, as defined in MCL 211.7cc, cannot be claimed.

16. Can the estate of an owner qualify for a PRE under a conditional rescission?

No. In order to qualify, the owner of the property must be eligible for and claim an exemption for his or her current principal residence and have occupied the previously exempted property as his or her principal residence. A deceased person cannot be eligible for and claim an exemption on a current principal residence. In addition, if the beneficiaries did not occupy the previously exempted property as their principal residence, they would not qualify for a PRE under a conditional rescission.

17. Does an unoccupied parcel that was contiguous to the previous principal residence and thus was receiving a PRE, qualify for a PRE under a conditional rescission?

Yes. As the statute states, the "...owner may **retain** an exemption...on property **previously exempt** as his or her principal residence..." (Emphasis added). However, the contiguous parcel must not be occupied, must be for sale, must not be leased and must not be used for any business or commercial purpose.

18. As an assessor, what do I do with the completed Form 4640 after I have reviewed it for accuracy and have done due diligence to ensure the property qualifies for a conditional rescission?

Form 4640 must be submitted to the Michigan Department of Treasury on a quarterly basis, or the same time as when other PRE related forms are sent in. It is recommended that the assessor keep a copy of each Form 4640 for comparison during the annual renewal of the conditional rescission.

19. What responsibility does an assessor have to ensure the accuracy of a submitted Form 4640?

The owner(s) is certifying the information on the form upon signing the form. However, an assessor has the responsibility to do due diligence to verify the conditional rescission requirements are met as when any other PRE related form is submitted.

20. If I was issued a denial notice by the local assessor, county treasurer or the Department of Treasury, am I eligible to receive a conditional rescission?

A property owner who had the PRE on the prior principal residence denied or removed by an assessor, county treasurer, the Department of Treasury, Board of Review, or Michigan Tax Tribunal (MTT), is not eligible for a conditional rescission and the Board of Review does not have authority to hear an appeal. However, a property owner who voluntarily rescinded the exemption of the prior principal residence within 90 days of changing residences, as required by statute, may be eligible for a conditional rescission and may appeal to the 2008 Board of Review if the May 2008 deadline was missed.

21. I rescinded my PRE on my prior residence within 90 days of changing residences, as required by statute, am I eligible to receive a conditional rescission?

A property owner who voluntarily rescinded the exemption of the prior principal residence within 90 days of changing residences, as required by statute, may be eligible for a conditional rescission and may appeal to the 2008 Board of Review if the May 1, 2008 deadline was missed.

22. The assessor denied my conditional rescission request, what are my appeal rights?

A denial is issued in accordance with Section 6 of MCL 211.7cc. Therefore, an owner has appeal rights to the Michigan Tax Tribunal as detailed in Section 6.