

MICHIGAN DEPARTMENT OF CONSUMER & INDUSTRY SERVICES
MICHIGAN TAX TRIBUNAL
SMALL CLAIMS DIVISION GUIDE
HOMESTEAD EXEMPTION APPEALS

The following has been prepared by the Michigan Tax Tribunal as a guide to the hearing process for homestead exemption appeals in the Tribunal's Small Claims Division. See also MCL 205.725(3).

What is the Michigan Tax Tribunal?

The Tribunal is a quasi-judicial administrative agency (i.e., tax court) located in the **Michigan Department of Consumer and Industry Services**. The Tribunal has jurisdiction over assessment disputes relative to both property and non-property tax matters, including the denial of a homestead exemption affidavit by the Michigan Department of Treasury. See MCL 211.7cc. To resolve such disputes (i.e., appeals), the Tribunal conducts hearings and renders written decisions based on the evidence properly submitted by all parties to a dispute.

The Tribunal is divided into two divisions - the Entire Tribunal and the Small Claims Division. All homestead exemption appeals must be filed in the Tribunal's Small Claims Division. See MCL 211.7cc.

The filing fee for all homestead exemption appeals is \$25.00 plus \$5.00 for each vacant, contiguous parcel, if any. See TTR 305.

The Tribunal's Small Claims Division utilizes an informal hearing process to resolve the majority of all appeals filed with the Tribunal. There is no formal record maintained of any Small Claims hearing and the parties typically represent themselves. In addition, Small Claims hearings are held in the county in which the property is located or in an adjoining county. The presiding judge is a hearing referee, an administrative law judge, or a Tribunal member.

What is the process for initiating a homestead exemption appeal in the Tribunal's Small Claims Division?

A taxpayer who receives a final notice of homestead exemption denial issued by the Michigan Department of Treasury and disagrees with the denial must submit a letter to the Tribunal appealing the denial. The letter must be postmarked by first-class mail or delivered in person no later than the 35th day after the date the final notice was issued. A facsimile is not sufficient to invoke the Tribunal's jurisdiction. See MCL 211.7cc.

A taxpayer who receives notice from his or her local unit of government denying a requested homestead exemption and disagrees with the denial must submit a letter to the Tribunal, appealing the denial. The letter must be postmarked by first-class mail or delivered in person no later than the 35th day after the date the notice was issued. A facsimile is not sufficient to invoke the Tribunal's jurisdiction. See MCL 211.7cc and 211.53b.

A taxpayer who is denied a homestead exemption as a result of a local unit of government's failure to properly process his or her affidavit or post the exemption must submit a letter to the Tribunal appealing that failure. The letter must be postmarked by first-class mail or delivered in person no later than the 35th day after the date the notice of the failure was issued (i.e., tax bill). A facsimile is not sufficient to invoke the Tribunal's jurisdiction. See MCL 211.7cc and 205.735.

After receipt of the initial appeal letter, the Tribunal processes the letter and sends the taxpayer a petition form. The petition form **must** be completed and returned to the Tribunal on or before the date specified on the form. Once the petition form has been completed and returned to the Tribunal, the Tribunal sends an answer form along with a copy of the petition to the Department of Treasury or the assessor of the local unit of government. The answer form **must also** be completed and returned to the Tribunal on or before the date specified on that form.

The case is then ready to be scheduled for a hearing.

How will you be notified of the hearing?

The Tribunal typically sends both the petitioner (i.e., **the taxpayer**) and the respondent (i.e., **the Department of Treasury or the local unit of government**) a notice at least 28 days prior to the scheduled date of the hearing indicating the date, time, and location of the hearing.

If a petitioner or respondent **cannot attend the hearing on the scheduled date**, the petitioner or respondent must contact the Tribunal in writing to request an adjournment of the hearing. A request for adjournment is considered a motion under TTR 1 1 1 and 230. Although there is a \$25.00 fee for the filing of motions, that fee is waived if the property under appeal has received a homestead exemption of at least 50% or more for the tax years under appeal.

Adjournments are granted upon a showing of "good cause," if the request for adjournment is submitted **more than 14 days** before the date of the scheduled hearing.

If the request for adjournment is submitted **14 days or less** before the date of the scheduled hearing, adjournments are granted only upon a showing of extenuating circumstances. If a hearing is adjourned based on a request submitted 14 or less days before the date of the scheduled hearing, the Tribunal may prohibit the submission of further documentary evidence. The exclusion of additional documentary evidence is designed to prevent undue prejudice which may result when the party requesting the adjournment attempts to take advantage of the opposing party's compliance with TTR 342, as explained below.

If a petitioner or respondent **cannot attend the hearing on the scheduled date, but does not want the hearing adjourned**, the petitioner or respondent must contact the Tribunal in writing **prior to the date of the scheduled hearing** to request the Tribunal to hear the case "on the file." See TTR 317. If a petitioner or respondent requests the Tribunal to hear a case "on the file," the Tribunal will conduct the hearing to take the testimony of the opposing party and then render a decision based on that testimony and all documentary evidence and written statements timely submitted by both parties.

If a petitioner or respondent **needs special assistance** under the Americans with disabilities Act, the petitioner or respondent must contact the Tribunal in writing or by telephone **7 or more days** before the date of the scheduled hearing- to make the necessary arrangements. See TTR 335. Documentation supporting a request for special assistance may be required.

How should you prepare for the hearing?

The petitioner has the burden of establishing, by a preponderance of the evidence, that he or she "owned an occupied the property as a principal residence" during the tax years at issue. See MCL 211.7cc. To demonstrate **ownership and occupancy**, it is important that the petitioner submit documentary or other tangible evidence

Inasmuch as testimony by itself is often insufficient to carry the burden. The type of evidence typically submitted in such cases includes, but is not limited to, (i) deeds, closing documents, land contracts, and/or life leases to establish the property's ownership, and (ii) income tax returns, driver's license, voter's registration, vehicle registration, utility bills, invoices, bank records, and/or affidavits from neighbors or local government officials to establish the property's occupancy as a principal residence during the tax years at issue. (**Note:** Please do **not** send original documents as the Tribunal is required to maintain a complete case file and, as such, is not able to return documents submitted as evidence.)

What are the requirements for the submission of evidence?

TTR 342 of the Tribunal's Rules of Practice and Procedure requires that "...written evidence shall be submitted to the opposing party and the Tribunal **not less than 14 days before the date of the hearing.**" The purpose of this rule is to avoid surprise, given both the informality of a Small Claims Division hearing and the length of time allocated to such hearings. The rule is designed to provide both parties an opportunity to review and prepare an oral response to the other party's evidence prior to the hearing. The Tribunal may, however, accept evidence not submitted to the opposing party 14 days before the hearing provided the Tribunal concludes that the evidence is not prejudicial in nature. This applies to both parties and is decided on a case-by-case basis. In making such decisions, the presiding judge must determine (i) whether the opposing party had access to the evidence, and/or (ii) whether that party has an ability to adequately respond to the evidence.

How will the hearing be conducted?

Hearings are usually scheduled for about one-half hour with the petitioner providing testimony in support of his or her contention as to ownership and occupancy, followed by the respondent's testimony. The Tribunal may then have questions for either party.

What if my case has settled or I wish to withdraw my appeal?

If the parties reach an agreement to settle the case (i.e. stipulation), the parties should notify the Tribunal immediately. The entire agreement must be provided to the Tribunal in writing for review and entry of a consent judgment, if appropriate. In that regard, a local unit of government has **no** authority to issue an exemption to property under appeal to the Tribunal given the Tribunal's original and exclusive jurisdiction over such appeal properties. See MCL 205.731. Further, there is a \$25.00 fee for the filing of a stipulation unless the property at issue is a homestead property, as indicated above. See also TTR I I I and 230.

Petitioners may request to withdraw their appeals and have their case dismissed. Such requests must be submitted in writing. There is a \$25.00 fee for the filing of a request to withdraw unless the property at issue is homestead property, as indicated above. See also TTR I I I and 230.

When will you receive the decision?

The hearing referees are required to submit their proposed decisions to the Tribunal **within 60 days of the hearing date.** The proposed decisions are reviewed by a supervising judge and then mailed to the parties. Most Small Claims decisions are mailed within 90 days of the hearing date.

What can be done if you are not satisfied with the decision?

A party may request a rehearing of a decision issued by a hearing referee. There is a fee of \$25.00 for the filing of the request unless the property at issue has a homestead exemption of at least 50% for the tax year or tax years under appeal, as indicated above.

The rehearing request must be in writing and state the reason or reasons in support of the request (i.e., "good cause"). The request must be submitted to the Tribunal within 20 days of the issuance of the decision. See MCL 205.762. Additionally, a copy of the request must also be sent to the opposing party, who then has 14 days within which to submit a response to the request.

The Tribunal will grant the request if "**good cause**" is shown. See MCL 205.762. "Good cause" relative to a rehearing request is generally defined as an error of law, mistake of fact, or fraud. See TTR 348. If a request for a rehearing is granted, the parties will receive another hearing and be allowed to submit additional evidence. If a request for a rehearing is denied, the decision may be appealed to the Michigan Court of Appeals, as provided by the Michigan General Court Rules.

What happens if the local unit of government does not comply with the Tribunal's decision?

The Michigan Court of Appeals has held that enforcement of Tribunal orders is "obtainable by application to the circuit court." See *Edros Corporation v City of Port Huron*, 8 Mich App 273, 278 (1977).

For a copy of the Tribunal's Rules of Practice and Procedure or more information, contact:

Michigan Tax Tribunal
P.O. Box 30232
Lansing, NE 48909
(517) 334-6521
<http://www.michigan.gov/cis>

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SAMPLE

INFORMAL CONFERENCE/LEGAL & HEARINGS
FACT AND DOCUMENTATION SHEET
HOMESTEAD TION AFFIDAVIT

NAME:
YEAR OF EXEMPTION UNDER REVIEW:
PIN(S):

HEARINGS DATE:
SSN:
DOCKET#:
SHARE CODE:

Property Address:

ISSUE UNDER DISPUTE:

TAXPAYERS INITIAL DISPUTE:

FACTS, LAW, AND DOCUMENTATION PRESENTED BY TAXPAYER:

FACTS, LAW, AND DOCUMENTATION PRESENTED BY DEPARTMENT:

MCL - 211.7cc and 211.7dd

OTHER

HEARING REFEREE COMMENTS:

ADDITIONAL CORRESPONDENCE/FACTS:

EXPECTED RESULTS:

SAMPLE