

# Michigan State Tax Commission



## Disabled Veterans Exemption

## Frequently Asked Questions

November 14, 2023

# Table of Contents

Eligibility Requirements.....	2
Unremarried Surviving Spouse .....	4
Applying for the Exemption .....	6
Property Eligible for the Exemption .....	8
Changes in the Property’s Status During the Assessment Year.....	10
Other Questions and Answers .....	12
Sample Summary of Benefits Letters.....	15

## Eligibility Requirements

MCL 211.7b(1)(a) provides an exemption from property taxes under the General Property Tax Act for real property owned and used as a homestead by a disabled veteran who served in the United States Armed Forces, including the reserve components, and was discharged or released under honorable conditions.

“Disabled veteran” is defined as a veteran who is a resident of this state and who meets 1 of the following criteria:

- (i) Has been determined by the United States Department of Veterans Affairs to be permanently and totally disabled as a result of military service and entitled to veterans’ benefits at the 100% rate.
- (ii) Has a certificate from the United States Department of Veterans Affairs certifying that the veteran is receiving or has received pecuniary assistance due to disability for specially adapted housing.
- (iii) Has been rated by the United States Department of Veterans Affairs as individually unemployable.

MCL 211.7b(1)(b) allows an unremarried surviving spouse of a qualifying disabled veteran to retain and claim the exemption:

A surviving spouse of a disabled veteran who, immediately before death, was eligible for the exemption under this section. An exemption under this subdivision continues as long as the surviving spouse does not remarry, and the exemption applies to any property used and owned as a homestead by the surviving spouse, including homestead property acquired after the decedent's death.

The disabled veteran must have documentation from the U.S. Department of Veterans Affairs which indicates the actual award of benefits under the program to qualify for the exemption. Award letters are generally released each November or December. The local unit should ask for the most recent award letter. The local unit should accept the most recent letter that the unremarried surviving spouse can provide. A letter from the County Department of Veterans Affairs indicating they have reviewed their records and the veteran meets the qualification is insufficient.

All three disability ratings from the Department of Veterans Affairs require that the veteran’s disability have been service-connected. The determinations which qualify for exemption under MCL 211.7b are not the same as other veteran’s programs which provide benefits based on a disability which is not service connected. A service-connected disability is a disability related to an injury or disease that developed during or was aggravated while on active duty or active duty for training.

### **What does “discharged or released under honorable conditions” mean?**

“Honorable conditions” means either an honorable discharge or a general discharge under honorable conditions. Other than honorable conditions (OTH) discharge or dishonorable discharge does not qualify.

### **How is a determination made that the disabled veteran is permanently and totally disabled as a result of military service and entitled to veterans’ benefits at the 100% rate?**

The Department of Veterans Affairs Schedule for Rating Disabilities is used to assess the medical conditions and illnesses incurred or aggravated during the veteran's military service and a percentage rating from 0% to 100% is assigned based on the severity of the disability. Individuals filing the affidavit for the exemption under criteria a) must provide a copy of the letter from the Department of Veterans Affairs indicating they have a 100% service-connected disability and are entitled to receive benefits. MCL 211.7b does not require the disabled veteran to have already received the benefit, it only requires that he or she has been determined to be permanently and totally disabled as a result of military service and entitled to veterans’ benefits at the 100% rate.

### **What is pecuniary assistance for specially adapted housing?**

The Department of Veterans Affairs provides veterans having certain specified permanent and total service-connected disabilities with financial assistance to purchase or construct an adapted home or modify an existing home to accommodate a disability. There are two grant programs: specially adapted housing grant (SAH) and the special housing adaptation grant (SHA). The State Tax Commission has determined that receipt of either grant would qualify an individual for the exemption under criteria b). Individuals filing the affidavit for the exemption under criteria b) must provide a copy of the certificate from the Department of Veterans Affairs indicating they are receiving or have received pecuniary assistance due to disability for specially adapted housing.

### **What does “individually unemployable” mean?**

Individual unemployability is part of the Department of Veterans Affairs disability compensation program. Under this program, veterans may receive compensation at the 100% rate even though their service-connected disability is not rated at 100%. The Department of Veterans Affairs determines eligibility and in order to be eligible, a veteran must prove they are unable to maintain substantially gainful employment as a result of their service-connected disability. In addition, the veteran must have one service-connected disability rated at 60% or more or two or more service-connected disabilities with at least one rated at 40% or more with a combined rating of 70% or more. Individuals filing the affidavit for the exemption under criteria c) must provide a copy of the letter from the Department of Veterans Affairs indicating they are individually unemployable. The assessor and Board of Review are not required to or permitted to assess the veteran’s qualifications independently. Instead, documentation issued by the Department of Veterans Affairs must form the basis for the evaluation and qualification for the exemption.

**Is there an asset test and/or means test to determine eligibility?**

No, there is no asset test and/or means test to determine eligibility. To be eligible, the disabled veteran must meet the requirements of MCL 211.7b regardless of the income or the value of the assets of the veteran or the unremarried surviving spouse.

**A disabled veteran already owns a qualifying homestead but has not yet obtained the necessary Department of Veterans Affairs determination letter, can the exemption be granted?**

No. However, when the determination letter is received, it can be submitted to the assessor, along with the other required documentation and the assessor may grant the exemption.

**Unremarried Surviving Spouse**

**I am an unremarried surviving spouse. How do I prove I qualify for the exemption?**

An unremarried surviving spouse qualifies for the exemption by their spouse having been qualified prior to their death. The unremarried surviving spouse must meet the same residency and ownership requirements as the veteran. In addition, the surviving spouse must have never remarried. Further, the disabled veteran must have been a Michigan resident at the time of his or her death, must have owned a Michigan homestead at the time of his or her death, and must be determined to have been qualified for disability benefits under one of the three specified criteria in MCL 211.7b prior to his or her death.

**If an unremarried surviving spouse is receiving dependency and indemnity compensation does make them eligible for the exemption?**

No. Qualification for benefits under other Department of Veterans Affairs programs does not qualify the unremarried surviving spouse to receive the exemption.

**If the unremarried surviving spouse purchases a new home either in the same local unit or another local unit, are they still eligible for the exemption?**

Yes. MCL 211.7b(1)(b) states that the exemption applies to any property used and owned as a homestead by the surviving spouse, including homestead property acquired after the veteran's death.

**Can an unremarried surviving spouse claim the exemption if he or she demolishes the existing home on the parcel and constructs a new home the veteran never occupied?**

Yes. MCL 211.7b(1)(b) states that the exemption applies to any property used and owned as a homestead by the surviving spouse, including homestead property acquired after the veteran's death.

**Can an unremarried surviving spouse split the parcel, build a new house on one parcel and rent the original house?**

Since the split creates a new parcel with just the new house and as long as the exemption is removed from the original/rented house the is now on its own parcel, yes. MCL 211.7b(1)(b) states that the exemption applies to any property used and owned as a homestead by the surviving spouse, including homestead property acquired after the veteran's death.

**If a surviving spouse of a qualified disabled veteran remarries and then divorces, or is again widowed, is he or she qualified as an unremarried surviving spouse?**

No. "Unremarried" means that the spouse has remained unmarried since the date of the veteran's death.

**Can a surviving spouse receive the exemption if the veteran was never declared permanently and totally disabled and receiving benefits at the 100% rate, was never declared individually employable, or was never receiving pecuniary assistance for specially adapted housing?**

No. The eligibility of the surviving spouse is conferred upon them by the veteran having been eligible prior to his or her death.

**If a surviving spouse was married to a person who died in the line of duty, does the surviving spouse qualify for the exemption?**

No. Unfortunately, the exemption is only available to unremarried surviving spouses of disabled veterans who have received the requisite determination from the Department of Veterans Affairs.

**Does an unremarried surviving spouse have to obtain a current award letter from the Department of Veterans Affairs to continue to receive the exemption?**

No. The unremarried surviving spouse may not be able to obtain an award letter after the veteran dies. The State Tax Commission advises that the assessor should accept the most recent letter that the unremarried surviving spouse can provide.

## **Applying for the Exemption**

### **How do I apply for the exemption?**

To apply for the exemption, the disabled veteran, their unremarried surviving spouse, or their legal designee must file Form 5107, *Affidavit for Disabled Veterans Exemption* with the city or township where the property is located. The disabled veteran (or unremarried surviving spouse) must file Form 5107 and supporting evidence with the local city or township assessor. Form 5107 **should not** be filed with the Department of Treasury or State Tax Commission.

### **Do I have to reapply for the exemption every year?**

For tax year 2023, 2024, and 2025 you must apply for the exemption each year. Under MCL 211.7c, beginning January 1, 2025, the exemption once granted, remains in effect without subsequent annual reapplication by the disabled veteran or unremarried surviving spouse. The exemption continues until rescinded by the property owner or revoked by the assessor.

### **Who has the authority to grant or deny the exemption?**

The assessor of the city or township can grant or deny the exemption if Form 5107 is received after January 1 and before December 31. The March, July, and December Boards of Review have no authority to consider an application for the exemption.

### **What is the authority of the July and December Board of Review regarding the exemption?**

The July and December Boards of Review, under MCL 211.53b, have the authority to grant a disabled veteran's exemption as a qualified error for any of the following:

- 1) An error made by the local tax collecting unit in the processing of a timely filed exemption affidavit.
- 2) A delay in the determination by the United States Department of Veterans Affairs that a veteran is permanently and totally disabled as a result of military service and entitled to veterans' benefits at the 100% rate.
- 3) **For tax year 2023 only**, a denial by the Board of Review of an exemption claimed by the unremarried surviving spouse.

### **If the exemption is granted by the July or December Board of Review, does it eliminate all the property taxes for that year?**

Yes, as long as the disabled veteran owned and occupied the property as a homestead for the entire year. For example, if the exemption is granted by the December Board of Review, then refunds would be issued for any summer taxes paid and no winter taxes would be due on the property.

**If a disabled veteran owned and lived in their home for the full year and receives a Veterans Affairs determination in August that they are 100% totally and permanently disabled, individually unemployable, or have been granted pecuniary assistance for specially adaptive housing, do they receive the exemption for the full year?**

Yes. If the disabled veteran files Form 5107 and all supporting documentation with the city or township after January 1 and before December 31, the assessor should grant the exemption for the entire year.

**Are special assessments eliminated when the Disabled Veterans Exemption is granted?**

No, unless the statutory provision for that specific special assessment states otherwise. In general, special assessments are not considered property taxes. MCL 211.7b specifically indicates that the property is exempt from the collection of taxes under the General Property Tax Act. If an exemption is granted under MCL 211.7b, a special assessment would not generally be eliminated and would still be required to be paid. Millage based special assessments, such as MCL 41.801 which provides funding for police and fire protection services, specifically provides that exempt properties are not subject to the special assessment. If the special assessment statute under states that it does not apply to exempt properties, then the property would not be subject to the special assessment once the exemption is granted.

**How do I get my refund if I escrow my taxes?**

Taxpayers are advised to contact their mortgage company or bank.

**I am a disabled veteran and I live with my mother now and pay the property taxes. My mother's home is in a life estate, and I will receive the home upon her death. Am I eligible for the exemption?**

No. Your mother is the owner of the home under the life estate, and you do not receive any ownership interest unless she still owns the home at the time of her death.

**My home is in a trust. Am I eligible for the exemption?**

That depends on the form of the trust. Any trust that shares ownership of the home (provides that there are additional current beneficiaries) other than the disabled veteran and/or his or her spouse or unremarried surviving spouse would not be eligible for the exemption. MCL 211.7b does not provide for a partial exemption in the situation where the veteran or unremarried surviving spouse are only a partial owner of a property.



## **Property Eligible for the Exemption**

### **What property is eligible for the exemption?**

Real property owned and used as a homestead by the disabled veteran or his or her unremarried surviving spouse is eligible for the exemption. Personal property is not eligible for the exemption.

### **What does “homestead” mean?**

A homestead is defined as any dwelling with its land and buildings where a family makes its home. A homestead within the meaning of the statute is the primary residence of a disabled veteran who is a Michigan resident or the primary residence of an unremarried surviving spouse who is a Michigan resident. To be a homestead, the residence must be owned by the disabled veteran or unremarried surviving spouse and must be the place where they always intend to return.

The disabled veteran or unremarried surviving spouse must have filed a Michigan income tax return claiming resident status or, if he or she is a new resident who has not yet been required to file a Michigan income tax return, he or she must intend to file a Michigan income tax return claiming resident status.

### **Does the veteran or unremarried surviving spouse have to be receiving a Principal Residence Exemption on the property in order to qualify for the exemption?**

No. MCL 21.7b does not require the veteran or unremarried surviving spouse to be receiving a Principal Residence Exemption. MCL 211.7b only requires them to own and use the property as their homestead.

### **Are parcels contiguous to the parcel I live on eligible for the exemption?**

No. MCL 211.7b is specific that the exemption is for real property owned and used as a homestead. A “Homestead” and a “Principal Residence” are not interchangeable terms. The criteria to qualify under the Principal Residence Exemption and to qualify for this exemption are not the same. Therefore, the qualification provided for contiguous vacant parcels under the Principal Residence Exemption does not apply.

### **Is the property eligible to receive a partial exemption if it is also used for a business purpose?**

No. The property either qualifies for a 100% exemption or it does not qualify at all. There are no partial exemptions granted. If the property is used for any business or commercial purpose, other than for farming, it will not qualify for the exemption.

The State Tax Commission has determined that a hobby business activity, which results in the minimal use of the parcel for hobby business purposes is not disqualifying.

**Is the property eligible to receive the exemption if there are other structures on the property which could be rented or used for a business purpose but are not currently being used?**

Yes. The Disabled Veterans Exemption is determined by the actual use of the property. Provided that there is no other actual use of the property, other than farming, the property can qualify as the disabled veteran's or unremarried surviving spouse's homestead, if all other requirements are met.

**If there is an unused commercial building, second residence or apartment on the parcel claimed as the homestead, is the parcel disqualified from receiving the exemption?**

No. Unlike the Principal Residence Exemption, the Disabled Veterans Exemption depends on their being no actual other use of the parcel. A potential alternative use is not automatically disqualifying.

**If I own the land and am in the process of building a home which will be my homestead, will the property qualify for an exemption?**

No. Until the property is actually occupied by the disabled veteran or unremarried surviving spouse, it cannot qualify for exemption. When the property is occupied, the disabled veteran or unremarried surviving spouse will be eligible for a part-year exemption.

**I am in the process of building a home and am living in a trailer on the property until the home is completed. Do I qualify for the exemption?**

Yes, as long as you own the trailer and are using it as your homestead and meet all other requirements for the exemption.

**I rent my home but pay property taxes as part of my rent, am I eligible?**

No. MCL 211.7b is specific that the property must be owned by the disabled veteran or by their unremarried surviving spouse.

**I am a disabled veteran who is a lifelong Michigan resident. In addition to my primary residence, I also own a summer home "up north". Are both of my homes eligible for the exemption?**

No. MCL 211.7b is specific that the property must be owned and used as a homestead. The statute does not provide for receiving more than one Disabled Veterans Exemption.

**If I own stock or a membership in a residential cooperative, does my unit qualify for the exemption?**

No. A membership or stock ownership in a cooperative is the ownership of an interest in a corporation, not the ownership of real property.

**If I have a life estate, life lease, or “lady bird” life interest in my residence and the remainder interest is held by others, can my property qualify as my homestead?**

Yes. If the other requirements for receiving the exemption are satisfied, then property occupied under a life estate, life lease, or “lady bird” life interest can qualify as the disabled veteran’s or unremarried surviving spouse’s homestead.

**If my home is in a joint tenancy or there are other co-owners, am I eligible for the exemption?**

No. MCL 211.7b(4) defines “own” or “owned” to require legal title to the property be held solely by the disabled veteran or jointly by the veteran and their spouse, or solely by the unremarried surviving spouse.

**If I am disqualified from receiving the exemption because there are other joint tenants or co-owners, can I remove the other owners from the deed and reapply for the exemption in a subsequent year?**

Yes. If a disabled veteran or unremarried surviving spouse applied for and was denied the exemption due to other joint tenants or co-owners, the disabled veteran or unremarried surviving spouse can execute a new deed that removes the other owners. However, once the exemption is denied in the current year, it cannot be resubmitted and granted during that same year.

**Changes in the Property’s Status During the Assessment Year**

**During the assessment year, if ownership of the property is *acquired* by a qualified disabled veteran how do the claimant and the assessor proceed?**

MCL 211.7b(3) states that once granted, the exemption applies to “all property taxes for the current year that have been paid by the individual who qualified for the exemption under subsection (1)(a) or (b) and all property taxes for the current tax year that would have been owed by that individual if the property was not exempt.”

If the property is not owned and used as a homestead for the entire tax year, MCL 211.7b(3) requires that the exemption be prorated. The individual must provide a copy of the closing statement or other purchase documents with Form 5107. The local treasurer must use this documentation, if provided, when calculating the amount of taxes to be exempted. There must be no refund of any property taxes not levied in the current tax year paid pursuant to the closing or other purchase documents to the seller by the individual who qualified for the exemption.

**What if the veteran is unable or unwilling to provide a closing statement when they sell or purchase a home? How is the property tax liability calculated?**

MCL 211.7b(3) states that if the closing statement or other purchase documents are not provided, the local treasurer must calculate the amount of taxes to be exempted by dividing the total property taxes levied in the year by 365 and then multiplying that number by the number of days the individual will use and own the property as a homestead.

**If the veteran purchases the property but does not immediately occupy the property as his or her homestead, does the property qualify for exemption?**

Yes. If the period between the closing and the date the property became the veteran's homestead is thirty days or less, then the proration of taxes shown on the closing statement may be used to determine the amount of taxes to be abated and/or refunded. If occupancy is delayed for more than thirty days after closing, the amount of taxes abated or refunded *shall be the lesser of* the amount that the veteran was required to pay according to the closing statement or the amount of current-year taxes which would normally be assigned to the purchaser, as calculated on a calendar-year basis.

**If a disabled veteran, or unremarried surviving spouse, has been granted the exemption for the current year and then sells or transfers the property, what steps should be taken by the assessor?**

The disabled veteran, or unremarried surviving spouse, shall rescind the claim of exemption within 45 days after the individual ceases to use and own as a homestead the property for which the exemption is granted. *Form 6054 Request to Rescind Disabled Veterans Exemption* must be filed with the assessor of the township or city in which the property is located. If a rescission is not filed, the assessor shall file *Form 6055 Notice of Denial of Disabled Veterans Exemption* to remove the exemption. For the current year, under MCL 211.7b(3)(c) the local treasurer shall calculate the amount of taxes levied in the current tax year to be exempted by dividing the total property taxes levied in the year by 365 and then multiplying that number by the number of days the individual, while qualified from the exemption, used and owned the property as a homestead.

**During the assessment year, if ownership of property is *surrendered*, how do the claimant and the assessor proceed?**

MCL 211.7b(3) states that based on a proration that takes into account the effective date of any removal of the exemption, which the assessor shall designate as the date of the relevant conveyance or disposition. Using that date, the local treasurer shall calculate the amount of property taxes levied in the current tax year to be exempted by dividing the total property taxes levied in the year by 365 and then multiplying that number by the number of days the individual, while qualified for the exemption, used and owned the property as a homestead.

**If a disabled veteran, or unremarried surviving spouse, is granted the exemption and then sells or transfer the property during the same year, what steps should be taken by the assessor?**

Assessors should obtain a copy of the closing statement to determine the actual amount of property taxes paid by the disabled veteran in the year of the sale. If there was not a formal proration of taxes included in the sale of the property, then it is likely the disabled veteran paid no taxes in the year of the sale and the amount of the current year exemption is zero dollars.

**Examples of Proration**

Assume a disabled veteran (DV) closes on a home purchase on June 1, 2023, and the property tax exemption is prorated based on how property taxes are prorated at closing.

- If at closing property taxes are prorated on a calendar year (CY) basis, the seller pays the DV 5/12 of the CY 2023 property taxes and the DV will receive a property tax exemption for 7/12 of the CY 2023 property taxes.
- If at closing property taxes are prorated as if paid in advance, the DV pays the seller 1/12 of the July 2022 taxes, the DV pays the seller 6/12 of the December 2022 taxes, and the DV is responsible for 100% of the taxes levied in 2023. The DV will receive a property tax exemption for 100% of the CY 2023 property taxes but will not receive a refund for the 2022 taxes paid at closing.

Assume a DV closes on a home purchased on October 1, 2023, the seller has paid the July 2023 bill, and the property tax exemption is prorated based on how property taxes are prorated at closing.

- If at closing property taxes are prorated on a calendar year basis, the seller is responsible for  $\frac{3}{4}$  of the 2023 property tax levy. If the July 2023 bill is more than  $\frac{3}{4}$  of the annual bill, the DV pays the seller the difference. If the July bill is less than  $\frac{3}{4}$  of the annual bill, the seller pays the DV the difference. The DV receives a property tax exemption for 25% of the 2023 taxes, applied equally to the July 2023 and December 2023 tax bills.
- If at closing property taxes are prorated as if paid in advance, the DV pays the seller 2/12 of the December 2022 tax bill, the DV pays the seller 9/12 of the July 2023 bill, and the DV is responsible for 100% of the December 2023 tax bill. The DV will receive a property tax exemption for 9/12 of the July 2023 bill and 100% of the December 2023 bill. The DV will not receive a refund for the 2022 taxes paid at closing.

**Audit, Revocation, and Rescission**

**Is the local unit required to audit exemptions that have been granted?**

Yes. The local unit is required to implement an audit program that includes all information required under MCL 211.7b(2). The audit may not occur more than once

every three years unless there is a reasonable belief the property no longer qualifies for the exemption.

**Is the property owner required to rescind the exemption if they no longer qualify?**

Yes. The disabled veteran or unremarried surviving spouse must file Form 6054 with the assessor for the city or township within 45 days of any of the following:

- 1) They cease to use and own as a homestead the property for which the exemption was granted.
- 2) They no longer meet the qualifications under MCL 211.7b to receive the exemption.

**Can the assessor revoke a granted exemption?**

Yes. Under the audit program, the assessor may deny a new claim for the exemption or an existing exemption. The assessor is required to notify the property owner of the denial in writing, using Form 6055, which includes the reason for the denial and the appeal rights.

The exemption can be denied for the current year and the three immediately preceding years. Once denied, the property owner will be liable for the taxes, plus applicable penalty and interest as stated in MCL 211.7c(d).

**Other Questions and Answers**

**How should an assessor proceed if it is determined that an exemption was granted when the claimant or property did not qualify, or that the claimant qualified but the exemption was mistakenly granted for a contiguous parcel?**

If a local unit determines that an exemption was granted under MCL 211.7b to an individual that was not eligible or was granted for non-eligible contiguous property, the assessor shall file *Form 6055 Notice of Denial of Disabled Veterans Exemption*. For the current year, if proration is needed, under MCL 211.7b(3)(c) the local treasurer shall calculate the amount of taxes levied in the current tax year to be exempted by dividing the total property taxes levied in the year by 365 and then multiplying that number by the number of days the individual, while qualified from the exemption, used and owned the property as a homestead.

**How should the assessor show the disabled veteran's exempt property on the roll and how should Headlee Additions and Losses, Capped value Addition and Loss, and Equalization New and Loss be handled?**

The handling of Headlee Additions and Losses, Capped Value Addition and Loss and Equalization New and Loss is the same as for the Poverty Exemption. When the property is returned to the roll, the Taxable Value is established in an amount calculated using the same procedures as are used for the Poverty Exemption.

**If the assessor is aware that a qualified disabled veteran or unremarried surviving spouse is in the process of selling the property claimed as his or her homestead, can they deny the exemption?**

Yes. If the assessor is aware that the claimant is in the process of selling the property, the State Tax Commission believes that this fact provides evidence that the claimant does not “always intend to return” to that property, and that the property is no longer the claimant’s homestead.

**Should the assessor deny the exemption if the letter supplied with the affidavit is not the Summary of Benefits letter we normally receive; however, it is on the Department of Veterans Affairs letterhead and it does have the necessary information needed to receive the exemption?**

No, the Department of Veterans Affairs does not have a standard letter they send to the veterans. The type of letter issued depends on which Veterans Affairs location the letter comes from. If the letter is from the Department of Veterans Affairs and has their logo, the exemption should be approved as long as the veteran meets one of three qualifications under MCL 211.7b.

**Sample Summary of Benefits Letters**