



Do B&B Owners Want This After-Christmas Present?

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Calling all bed & breakfast owners! The Michigan Legislature has given B&B owners a Christmas present but it may turn out to be a lump of coal. Here's why...

Michigan's property tax laws benefit owners of a principal residence (also known as a homestead). Owners of homesteads do not pay the 18 mills levied for school operating purposes. Usually, whether a house is one's homestead or not is clear. However, a B&B, by definition, includes blends homestead and commercial uses: the owner has exclusive use of a few rooms, guests have exclusive use of some rooms, and all share common areas like the kitchen. This has led to some confusion and abuse in claiming homestead exemptions. The law allowed a partial homestead exemption but provided no direction on determining what percentage would apply to a particular B&B. In reviewing homestead claims, Grand Traverse County discovered that *all* of its B&Bs were claiming a 100% homestead exemption and thus receiving a tax benefit they were not intended to have.

Before Michigan's property tax law provided that "if the principal residence is . . . a dwelling unit in a multiple-purpose structure, an owner shall claim an exemption for only that portion of the total taxable value of the property used as the principal residence of that owner in a manner prescribed by the Department of Treasury." The Department of Treasury never prescribed the manner for determining "the portion of the taxable value used as the principal residence." Without direction, many B&B owners claimed a 100% homestead exemption.

As of January 10, 2007, the law finally provides the missing method of determining the portion of the homestead exemption that would apply to a particular B&B. In general, the homestead applies 100% to areas exclusive to the owner, 0% to areas exclusive to guests, and 50% to common areas. The new law still leaves unanswered a number of questions. The term "common areas" is identified as *including but not limited to* kitchens, living rooms, dining areas, spas. There is no indication if the yard is included or not. There is a formula for B&Bs open 90 or fewer days each year and another for those open more than 90 days each year. There may be property tax savings in being open no more than 90 days in a year.

Why might this be a lump of coal? Because before, with no manner of apportioning the homestead being prescribed, many townships tolerated B&B owners claiming a 100% homestead. Not anymore. Each B&B owner will need to calculate the portion of the homestead that applies to his or her B&B, determine which of the two formulae applies, and file a new homestead exemption affidavit with the township assessor by May 1. If later on the allocation of areas to guests versus owners changes or the number of days of operation changes, the owner will need to file another new homestead exemption affidavit.

Bear in mind that some assessors may seek to rescind previously-claimed homestead exemptions, at least in part, if the percentage claimed now is less than what was claimed before, although B&B owners may have some defenses to such action.

Cunningham Dalman, P.C. is a full service law firm located in Douglas, Michigan, as well as in Holland, Michigan. Our attorneys possess skill and experience in a broad spectrum of areas of practice, and have proudly served the lakeshore community for over 100 years. Contact us at 269-857-7879.