# STATE OF MICHIGAN

# COURT OF APPEALS

SUE A. WILKS and MATTHEW W. WILKS,

Petitioners-Appellees,

v

DEPARTMENT OF TREASURY,

Respondent-Appellant.

FOR PUBLICATION
August 14, 2026
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No. 375272
Tax Tribunal
LC No. 24-000806

Before: KOROBKIN, P.J., and RIORDAN and MARIANI, JJ.

KOROBKIN, P.J.

In this case under the General Property Tax Act, MCL 211.1 *et seq.*, respondent, the Department of Treasury, appeals by right the judgment of the Michigan Tax Tribunal granting a principal residence exemption (PRE) to petitioners, Sue Anne and Matthew Wilks.[1] Under MCL 211.7cc(3)(c), a property owner generally may not qualify for an exemption if they have "filed a nonresident Michigan income tax return." We consider as a matter of first impression whether a property owner may claim a PRE when they initially filed a nonresident tax return but later filed an amended resident tax return. We conclude that the statute allows property owners to do so. Accordingly, the Tax Tribunal did not err by allowing petitioners to claim the exemption, and we therefore affirm.

## I. BACKGROUND AND FACTS

In 2019, petitioners purchased property in Sault Sainte Marie, Michigan (the Michigan property). Petitioners resided together in the State of Washington until the beginning of the COVID-19 pandemic in April 2020 when Sue Anne moved into the Michigan property to care for her elderly parents. Matthew remained in Washington. Shortly after Sue Anne was able to obtain a Michigan driver's license in September 2020, petitioners claimed a PRE for the Michigan

[1] Because petitioners share the same last name, we will refer to them individually by their first names.

property on the basis of Sue Anne's residency. Sue Anne continued to live at the Michigan property and petitioners claimed a PRE for 2020, 2021, 2022, and 2023.

Respondent sent a letter in October 2024 retroactively denying petitioners' PRE claims for 2020 through 2023. Petitioners appealed this denial. Following an informal conference, respondent issued a decision and order of determination upholding the PRE denial on the grounds that petitioners did not submit sufficient evidence to prove that the property was Sue Anne's principal residence during the tax years at issue and that petitioners filed a nonresident tax return in 2021.

Petitioners filed a petition in the Tax Tribunal contesting respondent's denial of their claimed PRE. At the hearing, petitioners explained that they did not file a tax return in 2020 and that they filed joint tax returns in 2021, 2022, and 2023. Initially, petitioners mistakenly filed a nonresident income tax return in 2021 and did not realize their mistake until after the previous hearing with respondent. That is, petitioners had correctly indicated that Matthew was a nonresident but forgot to check the box to indicate that Sue Anne was a Michigan resident.[2] Petitioners later amended their 2021 income tax return to reflect that Sue Anne was a Michigan resident and that Matthew was a nonresident. Additionally, petitioners noted that they did not file a tax return in Washington, which does not have a state income tax, or receive a tax exemption similar to a PRE there.

In response, respondent conceded that the PRE should have been granted in 2022 and 2023 because the original issues related to occupancy had been resolved. Respondent also conceded that there was "no issue with ownership or occupancy in 2020 and 2021," but respondent argued that the Tax Tribunal should uphold the denial for 2020 and 2021 because petitioners filed a nonresident tax return in Michigan in 2021.[3]

In an opinion and judgment issued February 6, 2025, the Tax Tribunal reversed respondent's denial of petitioners' PRE claim, finding that the property was entitled to a PRE of 100% for tax years 2020 to 2023. The Tax Tribunal explained its reasoning as follows:

> Petitioners contend that [Sue Anne] qualifies for the exemption. In the brief supporting the answer, Respondent alleges three reasons to uphold the PRE denial. One reason, involving [Sue Anne] purportedly living in Leavenworth, Washington,

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[2] Spouses who file joint income tax returns but have different residency statuses are instructed to check a residency status for each spouse. See Michigan Department of Treasury, *2021 Michigan MI-1040 Individual Income Tax Forms and Instructions* <https://www.michigan.gov/taxes/-/media/Project/Websites/taxes/Forms/IIT/TY2021/Book-1040-Instructions-Only.pdf> (accessed June 5, 2026), p 9 ("Line 8: Residency. Check the box that describes your Michigan residency . . . . If you and your spouse had a different residency status during the year, check a box for each of you.")

[3] Respondent also alleged that petitioners filed an income tax return as Washington residents in 2020, but the Tax Tribunal determined that petitioners did not file a 2020 income tax return in any state.

> and not at the subject property, was waived at hearing. A second reason was that Petitioners purportedly filed an income tax return in a state other than Michigan, and that state was Washington. However, as indicated by Petitioners in unrebutted testimony at the hearing, there is no income tax in the State of Washington.
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> The third reason for denial was Respondent's contention that Petitioners filed a nonresident Michigan income tax return for tax year 2021. Respondent's evidence shows that the original 2021 return shows non-resident status, contrary to statute. However, Petitioners filed an amended return. The amended return splits residency status, indicating that Sue Ann[e] was a resident and Matthew was a non-resident. The amended return is supported by substantial evidence filed by Petitioners to demonstrate Sue Ann[e]'s occupancy of the subject property in 2021, including driver's license, voter registration, and many personal documents. Regarding the amended tax return, the Tribunal finds it is not prohibited. The Legislature presumably sought to permit a party to amend the residency status of their tax return. MCL 211.7cc(3)(a), by contrast, prohibits amending the status of a substantially similar property tax credit in another state. The amended tax return was timely filed and presumed to have been accepted.
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> All other elements of the exemption are shown to be met or not contested by Respondent. Petitioners credibly testified that no 2020 income tax return was filed. Given the above, Petitioners have demonstrated entitlement to the PRE for each tax year at issue.

Respondent subsequently moved for reconsideration, arguing that the Tax Tribunal erred by granting the PRE because petitioners had filed a nonresident tax return in 2021 in violation of MCL 211.7cc(3). The Tax Tribunal denied the motion for reconsideration, concluding that respondent had raised the same arguments previously presented.

This appeal followed.

## II. STANDARD OF REVIEW

An appellate court's "review of Michigan Tax Tribunal decisions is limited." *Campbell v Dep't of Treasury*, 509 Mich 230, 237; 984 NW2d 13 (2022). "In the absence of fraud, this Court reviews a decision by the tribunal for misapplication of the law or adoption of a wrong principle." *Wilson v Grand Rapids*, 345 Mich App 484, 490; 7 NW3d 87 (2023) (quotation marks and citation omitted). The Tax Tribunal's "[f]actual findings are conclusive if supported by competent, material, and substantial evidence on the whole record." *Id.* (quotation marks and citation omitted). However, this Court reviews the Tax Tribunal's decision de novo if the case involves matters of statutory interpretation. *Id.*

## III. ANALYSIS

### A. INCOME TAX RETURN

Respondent argues that the Tax Tribunal erred by granting the PRE for 2021 because petitioners were automatically disqualified from claiming a PRE when they filed a nonresident income tax return in 2021. Respondent further argues that even though petitioners cured the error by filing an amended return indicating that Sue Anne was a Michigan resident, filing the amended return did not allow them to claim the PRE. We disagree.

In Michigan, the PRE "is governed by §§ 7cc and 7dd of the General Property Tax Act, MCL 211.7cc and MCL 211.7dd." *Estate of Schubert v Dep't of Treasury*, 322 Mich App 439, 448; 912 NW2d 569 (2017) (quotation marks and citation omitted). MCL 211.7cc(1) provides that "[a] principal residence is exempt from the tax levied by a local school district for school operating purposes . . . if an owner of that principal residence claims an exemption as provided in this section."

MCL 211.7cc(3) lists several "conditions in which a person otherwise qualified to receive the PRE in Subsection (1) is disqualified from doing so." *Foster v Van Buren Co*, 332 Mich App 273, 281; 956 NW2d 554 (2020). The disqualifying factor relevant to this appeal is MCL 211.7cc(3)(c), which provides that:

> (3) . . . [A] person is not entitled to an exemption under this section in any calendar year in which any of the following conditions occur:
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> * * *
>
> (c) *That person has filed a nonresident Michigan income tax return*, except active duty military personnel stationed in this state with his or her principal residence in this state. [Emphasis added.]

To determine whether petitioners are disqualified from receiving a PRE under MCL 211.7cc(3)(c), this Court must interpret the statute to "give effect to the Legislature's intent as expressed in its words and phrases according to their plain meaning." *Campbell*, 509 Mich at 237. "Although the Tax Tribunal's interpretation of a tax statute is entitled to respectful consideration, [this Court] will enforce an unambiguous statute as written." *Id.* (quotation marks and citation omitted). Furthermore, "[a] statute must be read as a whole." *Resort Props Coop v Waterloo Twp*, 349 Mich App 166, 172; 27 NW2d 116 (2023). And "the Legislature is presumed to be aware of existing law when drafting new laws." *Rogers v Wcisel*, 312 Mich App 79, 95; 877 NW2d 169 (2015).

Respondent argues that the Michigan property did not qualify for a PRE because petitioners filed a nonresident Michigan tax return in 2021.[4] Petitioners do not dispute that they initially filed a nonresident tax return for tax year 2021. Instead, they argue that they qualify for a PRE because after realizing the residency status error, they amended their 2021 tax return to correctly reflect Sue Anne's status as a Michigan resident. Respondent counters that the plain language of MCL 211.7cc(3)(c)—stating that a petitioner is disqualified from claiming a PRE for any tax year in which "[t]hat person has filed a nonresident Michigan income tax return"—automatically disqualifies any petitioner who has filed a nonresident tax return, regardless of any clerical errors subsequently cured by filing an amended return.

The interpretative dispute therefore concerns whether "has filed" in MCL 211.7cc(3)(c) refers to the physical act of filing a return, as respondent urges, or to the operative return in question, as petitioners urge. Resolving this question requires an understanding of how amended tax returns work. Respondent's published forms and instructions direct taxpayers who need to make corrections to their returns to file a new MI-1040 form.[5] Taxpayers whose adjusted gross income or exemptions are affected by changes to their federal return are also directed to file an amended Michigan return and must include payment of any tax or interest due as a result.[6] Accordingly, just as a litigant is bound by their most recently filed amended pleading, which supersedes the original pleading, *Grzesick v Cepela*, 237 Mich App 554, 562-563; 603 NW2d 809 (1999), an amended return effectively replaces the original return.[7] The Legislature was presumably aware that taxpayers are permitted to amend their returns after filing when it drafted the exception. See *Rogers*, 312 Mich App at 95. We therefore see no reason why an amended state return should not be treated as superseding and replacing the initially filed return for purposes of MCL 211.7cc(3)(c). Thus, we read the exception as referring to the taxpayer's operative return, which includes an amended return, if applicable.

This interpretation is also supported by language in a neighboring exception, MCL 211.7cc(3)(a), which prohibits a property owner from claiming a tax benefit in Michigan if they have obtained a substantially similar tax benefit in another state. That provision provides, in relevant part:

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[4] There is no dispute that neither petitioner is active-duty military personnel with a principal residence in Michigan who would be entitled to claim the exemption notwithstanding filing a nonresident return. See MCL 211.7cc(3)(c).

[5] Michigan Department of Treasury, *2025 MI-1040 Individual Income Tax Forms and Instructions* <https://www.michigan.gov/taxes/-/media/Project/Websites/taxes/Forms/IIT/TY2025/MI-1040-Book.pdf> (accessed June 5, 2026), p 8.

[6] Michigan Department of Treasury, *When Should I Amend My Michigan Return?* <https://www.michigan.gov/taxes/questions/iit/accordion/amended/when-should-i-amend-my-michigan-return> (accessed June 5, 2026).

[7] See *id.* Similarly, the Internal Revenue Service explains to federal taxpayers that "[y]our [amended] return will replace your original return." Internal Revenue Service, *File an Amended Return* <https://www.irs.gov/filing/file-an-amended-return> (accessed June 5, 2026).

> (3) . . . [A] person is not entitled to an exemption under this section in any calendar year in which any of the following conditions occur:
>
> (a) That person has claimed a substantially similar exemption, deduction, or credit, regardless of amount, on property in another state. . . . A claim for a substantially similar exemption, deduction, or credit in another state occurs at the time of the filing or granting of a substantially similar exemption, deduction, or credit in another state. *If the assessor of the local tax collecting unit, the department of treasury, or the county denies an existing claim for exemption under this section, an owner of the property subject to that denial cannot rescind a substantially similar exemption, deduction, or credit claimed in another state in order to qualify for the exemption under this section for any of the years denied*. . . . [MCL 211.7cc(3)(a) (emphasis added).]

As our Supreme Court recognized, this exception was amended by the Legislature following a Tax Tribunal decision that allowed property owners to rescind an out-of-state tax benefit to claim a benefit in Michigan. *Campbell*, 509 Mich at 243, citing *Walczak Trust v Berrien Co*, unpublished opinion of the Michigan Tax Tribunal, issued January 10, 2017 (Docket No. 16-001208), p 2. The Legislature added the italicized language to make clear that a "property owner is not entitled to a PRE 'in any calendar year in which' that owner claims a substantially similar tax benefit in another state—regardless of whether the out-of-state benefit is rescinded." *Campbell*, 509 Mich at 243-244, quoting 2017 PA 121 (emphasis omitted).

We are guided by the principle that "[g]enerally, when language is included in one section of a statute but omitted from another section, it is presumed that the drafters acted intentionally and purposely in their inclusion or exclusion." *Animal Partisan v Univ of Mich Bd of Regents*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket No. 374669); slip op at 10 (quotation marks and citation omitted). MCL 211.7cc(3) provides a list of conditions under which property owners may not obtain a PRE. Thus, the inclusion of language in MCL 211.7cc(3)(a) that forbids property owners from amending an out-of-state tax return to obtain a tax benefit, and the absence of similar language in MCL 211.7cc(3)(c) to forbid property owners from amending a Michigan tax return to obtain a tax benefit, suggests that the Legislature did not intend to automatically disqualify property owners who amend an erroneously-filed nonresident Michigan tax return. See *id.*

Respondent also suggests that the Tax Tribunal's ruling promotes financial gamesmanship. It is true that by amending MCL 211.7cc(3)(a), our Legislature sought to prevent taxpayers from amending their taxes to seek the most beneficial combination of tax exemptions from different states. See *Campbell*, 509 Mich at 243-244. Similarly, MCL 211.7cc(3)(c) furthers the Legislature's aim to prevent double-dipping in multiple states by preventing property owners from claiming a PRE when they have filed a nonresident return in Michigan. But under these facts, petitioners' amendment of their tax return to correctly reflect Sue Anne's status as a Michigan resident did not create a possibility for financial gain in more than one state. Petitioners did not stand to gain any tax benefit from filing the 2021 return as Washington residents because Washington does not offer any exemptions comparable to Michigan's PRE. Nor did petitioners claim a PRE in any other state. Finally, there is no indication in the record that petitioners amended their tax return for a fraudulent purpose or engaged in gamesmanship. Instead, it appears that petitioners merely fixed a clerical error that resulted from forgetting to check a box on their 2021 income tax form.

Because petitioners filed an amended return to correct Sue Anne's residency status, that return is the operative return. Thus, we agree with the Tax Tribunal that petitioners are not disqualified from a PRE on account of having "filed a nonresident tax return." MCL 211.7cc(3)(c). Consequently, the Tax Tribunal did not err by reversing respondent's denial of the PRE claim because it correctly determined that petitioners' amended 2021 income tax return, rather than the initially filed return, reflects petitioners' residency status.

## B. INTENT TO ESTABLISH RESIDENCY

Respondent also disputes whether Sue Anne occupied the Michigan property as a principal residence in tax years 2020 and 2021, arguing that the Tax Tribunal failed to address whether Sue Anne intended to establish residency in Michigan. Because this issue is waived, we decline to address it.

Generally, issues raised before the Tax Tribunal are preserved for appellate review. *Glasker-Davis v Auvenshine*, 333 Mich App 222, 227; NW2d 809 (2020). This Court has no obligation to consider an issue that a litigant failed to raise before the lower court or tribunal. *Tolas Oil & Gas Co v Bach Servs & Mfg*, 347 Mich App 280, 289; 14 NW3d 472 (2023). Moreover, a party cannot concede or waive an issue in the trial court and then raise the issue on appeal. *Marshall Lasser, PC v George*, 252 Mich App 104, 109; 651 NW2d 158 (2002); see also *Kohn v Ford Motor Co*, 151 Mich App 300, 310; 390 NW2d 709 (1986). " 'Waiver is the intentional relinquishment of a known right. The usual manner of waiving a right is by acts which indicate an intention to relinquish it, or by so neglecting and failing to act as to induce a belief that it was the intention and purpose to waive.' " *The Cadle Co v City of Kentwood*, 285 Mich App 240, 254-255; 776 NW2d 145 (2009), quoting *Book Furniture Co v Chance*, 352 Mich 521, 526-527; 90 NW2d 651 (1958). And "waiver eliminates any error." *The Cadle Co*, 285 Mich App at 255.

Respondent waived this issue below. That is, respondent conceded at the Tax Tribunal hearing that it did not dispute petitioners' ownership or occupancy for 2020 or 2021 and that the sole reason for denying the PRE was petitioners' filing of a nonresident Michigan tax return. Respondent may not now claim that Sue Anne lacked the intent necessary to claim a principal residence. Because respondent has waived this issue, there is no error for us to review. See *id.*

## IV. CONCLUSION

For the reasons discussed, MCL 211.7cc(3)(c) does not prohibit property owners from obtaining a PRE when they have amended an erroneously-filed nonresident tax return to reflect resident status. Accordingly, the Tax Tribunal did not err by reversing respondent's denial of petitioners' claimed PRE. Further, respondent's argument that the Tax Tribunal failed to address Sue Anne's intent is waived.

The judgment of the Tax Tribunal is therefore affirmed. Petitioners, as prevailing parties, may tax costs. MCR 7.219(A).

/s/ Daniel S. Korobkin
/s/ Philip P. Mariani

**S T A T E  O F  M I C H I G A N**

**C O U R T  O F  A P P E A L S**

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RIORDAN, J. (*dissenting*).

I respectfully dissent. The applicable statute is straightforward and unambiguous, and the Michigan Tax Tribunal has misapplied it in the matter before us.

MCL 211.7cc, which concerns the principal residence exemption (PRE), provides:

> (3) . . . [A] person is not entitled to an exemption under this section in any calendar year in which any of the following conditions occur:
>
> (a) That person has claimed a substantially similar exemption, deduction, or credit, regardless of amount, on property in another state. . . . A claim for a substantially similar exemption, deduction, or credit in another state occurs at the time of the filing or granting of a substantially similar exemption, deduction, or credit in another state. *If the assessor of the local tax collecting unit, the department of treasury, or the county denies an existing claim for exemption under this section, an owner of the property subject to that denial cannot rescind a substantially similar exemption, deduction, or credit claimed in another state in order to qualify for the exemption under this section for any of the years denied. . . .*

* * *

> (c) *That person has filed a nonresident Michigan income tax return*, except active duty military personnel stationed in this state with his or her principal residence in this state.[1] [Emphasis added.]

Thus, MCL 211.7cc(3)(c) provides that a person is ineligible for the PRE when "[t]hat person has filed a nonresident Michigan income tax return," which originally occurred here for the tax years in question. Further, there is no language in MCL 211.7cc to provide that a person may amend his or her tax return to change the filing status from nonresident to resident in order to become retroactively eligible for the PRE.

As our Supreme Court recognizes, in 2017, the Legislature added the italicized language in MCL 211.7cc(3)(a) "to preclude property owners from obtaining the benefit of the PRE and a similar out-of-state tax benefit in the same year." *Campbell v Dep't of Treasury*, 509 Mich 230, 243-244; 984 NW2d 13 (2022) (discussing MCL 211.7cc, as amended by 2017 PA 121). The Legislature clearly indicated its reason for adding the anti-rescission language of MCL 211.7cc(3)(a) was " 'to correct any misinterpretation of legislative intent' " regarding an earlier case in which the Tax Tribunal allowed property owners to rescind an out-of-state PRE equivalent to claim a Michigan PRE. *Campbell*, 509 Mich at 243 n 5, quoting 2017 PA 121, enacting § 2.[2]

Petitioners Sue A. and Matthew W. Wilk, who do not dispute that they filed a nonresident tax return in 2021 listing Sue as not being a resident of Michigan, argue that they still qualify for a Michigan PRE for tax years 2020 and 2021 because they amended their 2021 tax return after they learned that they had "mistakenly" only checked the box for Matthew's residency status in Washington. By ruling that the statute now allows petitioners a PRE for tax years 2020 and 2021, Respondent Department of Treasury contends that the Tax Tribunal misapplied MCL 211.7cc(3)(a) and (c) and is endorsing financial gaming by allowing petitioners to potentially claim dual state tax benefits from the states of Washington and Michigan. I agree with the Department of Treasury's contention.

By revising MCL 211.7cc(3)(a), our Legislature specifically sought to prevent taxpayers from amending their taxes to seek the most beneficial combination of exemptions from different states in hindsight. See *Campbell*, 509 Mich at 243-244. While, as the majority correctly points out, petitioner Sue's action of declaring residency in the State of Washington may not have resulted in her gaining an income tax advantage as Washington does not have an income tax on individuals, there still is a very real possibility she and her husband Matthew may have benefited in other ways such as by claiming the Washington Working Families Tax Credit, gaining an avoidance of state taxes on retirement income, by accessing local property tax exemptions, or by achieving some other combination of tax benefits.[3] Regardless, by its language, MCL 211.7cc(3)(c) prohibits

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[1] The record does not reflect that petitioner Sue A. Wilk was an active-duty member of the military, and the parties do not make any argument regarding the military personnel exception.

[2] See *Walczak Trust v Berrien Co*, unpublished opinion of the Michigan Tax Tribunal, issued January 10, 2017 (Docket No. 16-001208).

[3] The record does not show that the Tax Tribunal considered these potentially advantageous alternative reasons for petitioner Sue to declare herself a Michigan nonresident.

petitioners from amending their 2021 return to retroactively change petitioner Sue's residency status from Washington to Michigan and, therefore, the Tax Tribunal erred by reversing respondent's denial of petitioners' PRE claim for tax years 2020 and 2021. By allowing petitioners' amendment to show a 2020 and 2021 residency in Michigan, the Tax Tribunal opened the door for potential gamesmanship resulting in the reaping of financial benefits from two states. See *Campbell*, 509 Mich at 236.

The majority reasons that "just as a litigant is bound by their most recently filed amended pleading, which supersedes the original pleading, an amended return effectively replaces the original return." (Internal citation omitted.) Thus, the majority reasons, petitioners' amended tax return supersedes the original tax return for residency purposes. However, while I do not dispute that amended returns are similar to amended pleadings in certain general respects, I believe that this analogy goes too far. For example, MCL 205.27a(2) provides that a person who, fraudulently or otherwise, fails to notify the Department of Treasury of an upward "modification of federal tax liability" is subject to both the additional state tax owed, as well as penalties and interest, upon proceedings initiated by the Department. In that case, I doubt that an amended return would supersede the original return, thereby allowing the taxpayer to avoid penalties and interest. Presumably, this is why our tax statutes expressly contemplate the filing of amended returns in certain instances and provide for the specific effects of doing so.[4] MCL 211.7cc includes no such language that would allow petitioners to file an amended tax return to retroactively claim the PRE.

Nor does MCL 211.7cc include any other procedure that would allow petitioners to do so. The absence of such a procedure is particularly noteworthy because MCL 211.7cc does provide a procedure for rescinding a PRE claim. See MCL 211.7cc(5) ("[N]ot more than 90 days after exempted property is no longer used as a principal residence by the owner claiming an exemption, that owner shall rescind the claim of exemption by filing with the local tax collecting unit a rescission form prescribed by the department of treasury."). Arguably, the fact that the Legislature included a specific procedure for rescinding a PRE claim, but did not include a comparable procedure for retroactively claiming the PRE, suggests that it did not intend to allow for such retroactive claims. See *People v Lewis*, 503 Mich 162, 165-166; 926 NW2d 796 (2018) ("[W]hen

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[4] See, e.g., MCL 205.238(1) ("If the federal authorities increase or decrease the amount of the federal transfer tax, *an amended return shall be filed* with the department showing all changes made in the original return and the amount of increase or decrease in the federal transfer tax within 60 days after a final determination if there is an increase in the amount owed the state, or within 1 year after a final determination if there is a refund owed by the state.") (emphasis added); MCL 205.21 ("If a taxpayer does not satisfy a tax liability or makes an excessive claim for a refund as a result of reliance on erroneous current written information provided by the department, the state treasurer shall waive all criminal and civil penalties provided by law . . . if the taxpayer makes a written request for a waiver, *files a return or an amended return*, and makes full payment of the tax and interest.") (emphasis added). See also *Clarke-Gravely Corp v Dep't of Treasury*, 412 Mich 484, 488; 315 NW2d 517 (1982) (holding the taxpayers' "right to interest on the refunds generated by the 1972 and 1973 amended returns extends only from the time the tax commissioner accepted those amended returns").

the Legislature includes language in one part of a statute that it omits in another, it is assumed that the omission was intentional.”).

To summarize, petitioners’ PRE for tax years 2020 and 2021 should be denied because petitioner Sue claimed to be a resident of the State of Washington and declared on her 2021 Michigan tax return that she was a nonresident of this state. The plain language of MCL 211.7cc(3)(a) and (c) is directly on point and governs the outcome of the matter before us. The Michigan Tax Tribunal has misapplied the law, and its decision should be reversed.[5]

/s/ Michael J. Riordan

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[5] Further, the establishment of a new principal residence requires the abandonment of the intent to return to the former property as a permanent home. See MCL 211.7dd(c). There can be only one principal residence. *Id*. Given the facts of this case, the Tax Tribunal should have determined whether petitioner Sue’s Michigan property met the definition of a principal residence under MCL 211.7dd(c). Here, that inquiry requires a determination of the state that Sue intended to return to, and when and if that intent changed. Her occupancy of property in Michigan does not answer the question of whether she established a new principal residence as defined by Michigan property law. See *id*. Nor does it address the Department of Treasury’s contention that petitioner Sue failed to “occupy the property as a principal residence.” See *Schubert v Dep’t of Treasury*, 322 Mich App 439, 453-454; 912 NW2d 569 (2017). The Tax Tribunal’s failure to resolve the question of her intent regarding residency further requires reversal.