



Municipal Law News

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MICHIGAN LEGISLATURE CHANGES TAXABLE VALUE “UNCAPPING” RULES FOR FAMILY TRANSFERS

-Laura J. Genovich & Leslie A. Dickinson (Law Clerk)

Under Michigan law, a transfer of ownership of property results in an “uncapping” of the property’s taxable value – meaning that annual increases in the property’s taxable value are not limited to the lesser of 5 percent or the inflation rate, as they otherwise would be. But certain transfers of ownership are exempt from the uncapping rules, including transfers from one spouse to another or transfers intended solely to create or terminate a tenancy by the entireties. The uncapping rules and exemptions are set forth in MCL 211.27a.

In 2012, the Michigan Legislature amended the statute to exempt transfers of property to family members related “by blood or affinity to the first degree” if the use of the residential property does not change following the transfer of ownership. (Public Act 497 of 2012.) But the 2012 law created uncertainty about which transferees were related “by blood or affinity to the first degree,” leaving the State Tax Commission (“STC”) to interpret the language. In a 2013 bulletin, the STC concluded that the new exemption did not apply to trusts, LLCs, or probate distributions. (Bulletin 23 of 2013.)

Now, the Legislature has again amended the statute to clarify its intent and impact. Public Act 310 of 2014 provides that, after December 31, 2014, a residential parcel’s taxable value will not be uncapped if it is transferred to the transferor’s or the transferor’s spouse’s “mother, father, brother, sister, son, daughter, adopted son, adopted daughter, grandson, or granddaughter,” and if the use of that residential real property

does not change. This eliminates the confusion about who is related “by blood or affinity to the first degree.”

Additionally, after December 31, 2014, the following transfers of residential property will not result in an uncapping if the beneficiary or distributee (as applicable) is the settlor’s “mother, father, brother, sister, son, daughter, adopted son, adopted daughter, grandson, or granddaughter,” and if the use of that residential real property does not change:

- A conveyance to a trust.
- A conveyance by distribution from a trust.
- A change in the sole present beneficiary or beneficiaries of a trust.
- A conveyance by distribution under a will or by intestate succession.

The new law also establishes additional reporting requirements. The beneficiaries must provide proof to the Department of Treasury or the assessor that they meet the above requirements within 30 days of the transfer, or else they may face a \$200 fine.

Because the uncapping rules and exemptions have been the subject of new legislation as well as numerous State Tax Commission bulletins and judicial decisions, assessors should consult with legal counsel before determining whether and when to uncap a parcel’s taxable value.



MARK YOUR CALENDARS FOR THE ANNUAL MTA CONFERENCE JANUARY 29, 2015

Foster Swift is a proud sponsor of this year's MTA Conference in Grand Rapids. Join us on Thursday, January 29 for the Michigan Township Association's themed dinner party. We are sponsoring the Country & Western room. Enjoy a delicious food buffet, line dance to country classics or learn to swing dance from trained instructors. We are looking forward to this evening of fun following a full day of educational sessions. Our attorneys are excited to see you at the conference!

HIGHLIGHTS

- 2015 MTA Expo | Jan. 28 and Jan. 29
- Opening Session | Jan. 28
- MTA's VIP Legislative Reception | Jan. 29
- MTA Themed Dinner Party | Jan. 29
- MTA Annual Meeting | Jan. 30

AT THE PODIUM

John Kamins will be a panelist on bond credit enhancements at the CDFA National Development Finance Summit in Scottsdale, Arizona on November 20, 2014, in their Ask the Experts showcase.

Anne Seuryneck and **Mike Homier** will present this year at the MTA Conference in Grand Rapids January 29, 2015. Anne will present on Library Law and Mike will discuss Special Assessments. Are you planning on attending? Register Here: <http://www.michigantownships.org/conference.asp>

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