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MICHIGAN PROPERTY TAX

An important part of our state's tax structure has traditionally been the reliance on the general property tax for the funding of school districts, townships, villages, cities, and counties of the state. It has been the largest yielding tax of all of Michigan's state and local taxes, and it has long been a major source of revenue for the financing of the operating expenses of schools. With the passage of 1993 PA 145, however,

local property taxes were eliminated as a source of funding for K-12 and intermediate school district school

operating funding. With approximately 64% of the $10.2 billion in total funding for schools eliminated, it became necessary to look for a new way to restructure Michigan's tax system. In 1994, the voters of the state of Michigan approved ballot Proposal A by a margin of 1,681,541 to 750,952 in a special election held on March 15, 1994. This proposal (Senate Joint Resolution S), in part, imposed an additional 2% rate

on the sales and use taxes and capped the rate of annual increases in taxable value to the rate of inflation or

5%, whichever is less. When the property is transferred, it is assessed in the following year at one half of true cash value. For 2009, the inflation rate of –.3% was negative.

In addition, 1993 PA 331 created the State Education Tax Act, imposing a six-mill state education tax levy on all property subject to the general property tax. Public Act 312 of 1993 allows local school districts

to levy not more than 18 mills for school operating purposes or the number of mills levied in 1993 for school operating purposes, whichever is less. Principal residences and, pursuant to 1994 PA 136, qualified agricultural property are exempt from the 18-mill levy. A homeowner's principal residence is defined, in part, to mean that portion of a dwelling or unit in a multiple dwelling owned and occupied as the owner's principal residence. A homestead also includes all of an owner's unoccupied residential property adjoining or contiguous to the dwelling owned and used as the owner's principal residence, any portion of a principal residence rented or leased as a residence to another as long as that portion rented or leased is less than 50% of the dwelling's total square footage of living space, a life care facility, or property owned by a cooperative housing corporation and occupied as a principal residence by tenant stockholders.

Qualified agricultural property, in part, means unoccupied property and related buildings classified as agricultural or other unoccupied property and related buildings on that property devoted primarily to agricultural use. Property used for commercial storage, processing, distribution, marketing, or shipping is not qualified agricultural property, and an owner will not receive an exemption for that portion of the taxable value of the property used for a commercial or industrial purpose.

To be eligible for the homeowner's principal residence/qualified agricultural use property exemption in 2010, an owner of property must have claimed an exemption by filing an affidavit with the local tax collecting unit on or before May 1. Exemptions filed in prior years are valid until revoked. A husband and wife, filing income tax returns jointly, are generally entitled to no more than one principal residence exemption, although 2008 PA 96 allows a temporary, additional exemption for up to 3 years on an unsold homestead, and 2008 PA 43 allows a member of the Armed Forces to retain their exemption if they rent their home while away on active duty. To be eligible for the agricultural use property exemption on land classified for assessment purposes as agricultural, it is not necessary to file an affidavit unless the assessor requests it.

In addition to the 18 mills in local, nonhomestead property tax permitted to be levied under 1993 PA 312, a limited number of high-revenue school districts may levy supplemental “hold harmless” mills on a principal residence and, in some circumstances, on nonhomestead property. With voter approval, an intermediate school district may also levy up to three “regional enhancement” mills on all property for school operating purposes. School districts may, with voter approval, levy up to five mills for the creation of a sinking fund to construct and repair school buildings, and a school district operating a community college may continue to levy taxes for operation at a rate equal to the mills formerly authorized. With the expiration of such authorization, the district, with voter approval, may renew the millage authorization, levy additional millage, or both. Finally, an intermediate school district, pursuant to 1994 PA 258, may authorize certain millage for operating expenses, funding vocational-technical education programs, and special education programs.

When looking at the property tax changes in Michigan, it is helpful to realize that, with the exception of the state education tax, the property tax is really a general term for all the property taxes imposed by townships, school districts, counties, cities or villages, and other local units of government, which are all local in nature. Money raised through property taxes goes toward financing local services, such as police and fire protection; public education; the operation of city, village, township, and county governments; and financing special projects such as sewers, streets, or parks. All property taxes collected by local units of government, other than the state education tax which is sent to the School Aid Fund for distribution, are kept locally, and no part of that revenue is sent to or used by the state.

The property tax may be collected in the summer or the winter, or in some combination. Townships traditionally collected property taxes in the winter after the agricultural harvest, but most cities now collect

city property taxes in a summer levy. School boards or intermediate school districts can request that a city

or township collect half or all of their school taxes in the summer. If they fail to reach an agreement, the

county treasurer or the school district treasurer can collect the summer school taxes. Community college

levies are billed in December, but may be billed in July if the local tax collecting unit collects a summer

tax. County extra-voted millage will continue to be collected in the winter.

In addition, under 2002 PA 244, the six-mill State Education Tax is now collected in the summer.

Beginning with the July 2005 property tax billing, most of the county portion of property taxes is being

collected in the summer rather than in the winter. This shift took place incrementally over a period of three

years. As of July 2007, all of the county general property tax is collected in a summer tax levy.

The following is intended to provide you with general information about this tax, the assessment of

property, the equalization process, what to do if you feel your assessment is too high, and property tax

rates, as well as important dates as to when tax rates are determined, assessments are made, and taxpayers

can appeal.

YOUR PROPERTY TAX ASSESSMENT

Property subject to taxation by local units of government is classified as either real or personal property.

Real property consists of land and any improvements to the land, such as buildings and water and sewer

facilities. In contrast, personal property includes tangible items such as furniture, machines, and equipment

belonging to a business and those items not permanently attached to land or buildings. Customary household

goods such as furnishings, clothing, and cars are some of the items that have been exempted from this tax.

Real property has been further divided into the following classifications: agricultural, commercial,

developmental, industrial, residential, and timber cutover; while personal property has been classified as

either agricultural, commercial, industrial, residential, or utility personal property.

In 1954, the Michigan Supreme Court ruled that the “assessed value” of property shall be the value

placed upon the property by the local assessing officer, as equalized by the county and finally by the

state. Equalization is needed to ensure that property owners in all parts of the county or school district pay their fair share of that unit's taxes. Equalization provides that all similar properties are equally and uniformly assessed and serves to ensure that a school district, city, township, or village in which property is underassessed does not get more than its fair share of state aid. The Michigan Constitution requires that property be assessed uniformly at a rate not to exceed 50% of true cash value. In 1965, the Michigan Legislature set the assessment rate at 50% of true cash value, as authorized by the Constitution.

Property assessment is an annual, three-step process. First, the local assessor determines the assessed value of property based on the condition of the property on December 31 of the previous year. Second, the board of commissioners in each county applies an adjustment factor to the assessments of each city and township in which assessments are above or below the required level. Third, the State Tax Commission applies an adjustment factor to the assessments of a county when its assessments, after the county adjustments, still fail to meet the required level.

Furthermore, the law also requires that the local assessor send to each owner or person or persons listed on the assessment roll of the property a notice, by first-class mail, of an increase in the tentative state equalized valuation (SEV) or the tentative taxable value for the year. The tentative taxable value is the value used to calculate property taxes under the requirements of Proposal A. This notice must be sent at least ten days before the meeting of the local board of review, and it must specify each parcel of property, the tentative taxable value for the current year, and the taxable value for the immediately preceding year.

The notice must also include the SEV for the immediately preceding year, the tentative SEV for the current year, the net change between the tentative SEV for the current year and the SEV for the immediately preceding year, the classification of the property, the inflation rate for the immediately preceding year, and a statement explaining the relationship between SEV and taxable value. The notice must also include a

reminder that, if the owner purchased the principal residence after May 1 of the prior year, the owner must

file a homeowner's principal residence exemption claim on or before May 1.

The Michigan Constitution requires uniform assessments and because, prior to 1981, some taxing

jurisdictions had not assessed property at 50% of true cash value, counties and the state had equalized the

assessment roll by multiplying the assessed value by a factor designed to bring the total assessed value of

all real or personal property on the roll to 50% of true cash value. In carrying out this annual equalization

process, it became apparent that among the six different classes of real property and five different classes

of personal property, which local units combined for assessment and equalization purposes, some were being

assessed at or near the 50% rate, while others were being assessed at a considerably lower rate. This meant

that when the local unit of government combined the different classes to determine what rate was needed

to bring the total assessed valuation of all property up to the prescribed 50% rate, those classes that were

already at or near it would be carrying a greater tax burden than those classes that were at a lower rate.

The process of equalization is now done separately for personal property and for each class of real

property within each of the assessing units and the counties. Therefore, if, within an assessing unit, a

particular classification of real property, such as residential, has been assessed at the proper percentage of

true cash value, no equalization factor will be necessary. The 1981 equalization process was the first year

in which the separate equalization by class was accomplished.

As a further step to encourage local assessors to assess property at 50% of its true cash value, 1981

PA 213 was enacted. This law has required a city or township, when its state equalized valuation exceeds

its assessed valuation, to reduce its maximum authorized millage rate to produce the same amount of

property tax dollars which would have been generated on the assessed valuation.

When looking at your property tax assessment, it is important to remember that property has been

assessed on the basis of its usual selling price (true cash value). For tax purposes, property has traditionally

been assessed at 50% of the true cash value and, on equalization, this resulted in the determination of the

property's state equalized valuation (SEV). With the passage of Proposal A in March of 1994, however,

the annual increase in a property's value for tax purposes, adjusted for all additions or losses, was capped

at the rate of inflation or 5%, whichever is less. Taxable value is now the basis for the property tax

assessment and, under 1998 PA 542, is the basis for the levy of special assessments that are levied on a

millage rate basis. Therefore, a property will have both an SEV and a taxable value. Assuming that your

property's true cash value rises faster than the rate of inflation or 5%, whichever is less, over time the

property's taxable value may grow at a rate that is significantly lower than the rate of growth of its SEV.

Although increases in taxable value were limited under Proposal A, the taxable value of property

cannot decrease absent the property's suffering of a loss due to destruction, environmental contamination,

etc. (MCL § 211.34d) or deflation as reflected by the consumer price index. The taxable value must

increase by the rate of inflation (or decrease by the rate of deflation) regardless of whether or not the SEV

remains the same or decreases, unless the SEV actually decreases to an amount less than the preceding

year's taxable value multiplied by the inflation rate. At this point, the taxable value will decrease to the

SEV, but no further. The inflation rate used to calculate 2010 taxable values is –0.3%. Therefore taxable

values will decline by at least –0.3% even if the SEV is higher unless ownership of the property was

transferred in 2009 or the value increased because of new construction or other additions.

When a property is transferred, however, the following year's SEV becomes the property's taxable

value. A transfer of ownership occurs when a title or present interest in the property is transferred by,

but not limited to, conveyance by deed, land contract, trust, distribution under a will, and certain leases.

Transfers of property from one spouse to the other spouse or from a decedent to a surviving spouse, among

other exceptions, are not considered to be a transfer of ownership.

In addition, legislation enacted in 2000 eliminated the pop-up from taxable value to SEV when eligible farmland is transferred to new owners. Part of an agricultural preservation package recommended by the Senate Agricultural Preservation Task Force, 2000 PA 260 provided that when someone purchases eligible farmland they may file an affidavit testifying that the property would remain in agricultural use for at least seven years, and the transfer would not trigger the pop-up from taxable value to SEV for assessment purposes.

Applicable for all transfers of agricultural property since January 1, 2000, the pop-up elimination assures that the property will be assessed on taxable value as if the transfer did not occur. If the property has a change in use out of agricultural production, however, 2000 PA 261 provides that a portion of the benefits of the property tax pop-up elimination will be recaptured. The proceeds of the recapture are dedicated to the Agricultural Preservation Fund for local property development rights preservation programs under 2000 PA 262. A similar law was enacted in 2006 (2006 PA 446). It exempts from the pop-up transfers of land subject to a conservation easement