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MICHIGAN'S NEW EXCEPTION ON THE "TRANSFER OF OWNERSHIP"

In the state of Michigan, the taxable value of a piece of property is one of the components used to determine the appropriate property taxes. With the passage of Proposal A in 1994, it was determined that annual increases in property taxes would be "capped" at 5% or the current inflation rate, whichever is less at the time of the valuation. While the property value may increase significantly over time, the taxable value may only gradually increase. Property owners in the state of Michigan are able to see the discrepancy between the state equalized value (SEV) and the taxable value on their annual notice of assessment.

When a piece of property is transferred in accordance with the definitions provided by Michigan statutes, the assessor "uncaps" the property taxes and the SEV at the time of the transfer will be the adjusted amount used to calculate the property taxes for the new owner. The following example may prove helpful in illustrating this concept:

> Owen has owned and lived at his lakefront property since 1980. He originally purchased the home for $100,000.00. Recently retired, Owen is now looking to sell the property and move south. Though the market has fluctuated over the past several years, the SEV is currently $250,000.00. When Amy agrees to purchase the property, her property taxes will be based on the current SEV as opposed to the property value that Owen's taxes were based on.

Legally speaking, the property taxes on Amy's new property have been uncapped. A closer look at MCL 211.27a reveals exactly what the state considers a transfer of ownership that would trigger such an uncapping. The statute also allows for a number of exceptions that would prevent uncapping. Though specific qualifications must be met for each to apply, these qualifications include but are not limited to: parcels classified as qualified agricultural properties; properties conveyed to a trust of which the grantor has sole discretion and authority; and as of January 2015, properties transferred within the transferor's lineage to the first degree.

This recent development in the statutory line of exceptions can be found in MCL 211.27a (7)(t)-(u). When transferring a residential property, the conveyance will not be considered a transfer of ownership for the determination of property taxes if it comes from an individual or a trust and the new owner is the transferor's "spouse, mother, father, brother, sister, son, daughter, adopted son, adopted daughter, grandson or granddaughter, and the property is not used for any commercial purpose following the conveyance." Revisiting the example above, if Amy was Owen's daughter and the property sale took place on or after January 1, 2015, the property taxes on the lakefront property would not be uncapped. Subject to inflation, Amy would continue paying the property taxes based on the property value that her father, Owen, had been paying on.

This exception has already had and will certainly continue to have a significant and lasting impact in estate planning and elder law.

Disclaimer: This article regarding current Michigan law is for the purpose of information only and should not be regarded as legal advice. Firm employees have conducted no exhaustive legal study on this issue and the applicability of these statutes may vary depending on individual circumstances. You should consult an attorney for advice regarding your specific situation.