



STATE OF MICHIGAN TAX EXEMPTIONS FOR DIVORCE RELATED TRANSFERS OF REAL PROPERTY

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General

For most Michigan transfers of ownership of real property, there are two tax adverse consequences:

1. The Michigan Real Estate Transfer Tax imposes a tax of \$3.75 for every \$500 of value transferred. Additionally, the county transfer tax rate is \$.55 for every \$500 of value transferred.

So, the total transfer tax on \$50,000 of property transferred is \$2,150.

2. Transfers of Ownership result in the “uncapping” of the taxable value of the transferred property.

This can be significant since the annual increase in taxable value for property tax purposes is otherwise limited by law to 5% or the rate of inflation, whichever is lower.

So, for property held for several years which has appreciated significantly in value, a transfer will likely result in a substantial increase its taxable value for property tax purposes.

In such an instance, no consideration should be *specifically* provided for the transfer.

2. And, if relying on the “pursuant to judgment” exemption, it seems advisable to provide for the transfer in the divorce judgment instead of, or in addition to, the property settlement agreement.

About the Author

Joe Cunningham has over 25 years of experience specializing in financial and tax aspects of divorce, including business valuation, valuing and dividing retirement benefits, and developing settlement proposals. He has lectured extensively for ICLE, the Family Law Section, and the MACPA. Joe is also the author of numerous journal articles and chapters in family law treatises. His office is in Troy, though his practice is statewide.

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Exemptions Applicable to Divorce Related Transfers

The following are exemptions that avoid both (1) imposition of a transfer tax and (2) the uncapping of taxable value.

1. Transfers pursuant to a judgment **provided** no money is ordered by the court to be paid as consideration for the transfer are exempt. *MCL 207.526(l); MCL 211.27a(7)(h)*
2. Transfers between spouses creating or disjoining a tenancy by the entireties are also exempt. *MCL 207.526(j); MCL 211.27a(7)*

Observations

1. Apparently, a divorce related transfer occurring *after* divorce—when the parties are no longer spouses—for which money consideration is paid—does **not** fall within either exemption.