

Michigan Property Tax Appeals For 2008

Our Michigan property tax clients will soon be receiving our letter regarding new property tax appeals for 2008. **We need your prompt response to that letter.** Key parts of that letter are as follows:

(1) Board of review protests are still required for classification appeals (see our August, 2007 Tax Appeals Alert attached). We intend to pursue appropriate classification appeals notwithstanding the State Tax Commission's advice to Assessors and Boards of Review that "nothing in the new laws merits any changes in classification of personal property."

(2) We need updated information on your Michigan properties including, but not limited to, properties acquired in 2007. Without this information we will be unable to file an appeal on your behalf.

(3) For income producing property, we need to review an income and expense statement for each of the last two years and a year-end rent roll. If you maintain a "rolling rent roll", please print a copy immediately and send it to us.

Timing Is Everything

When filing a master deed for a condominium development, timing is everything as it relates to property taxes payable on the units prior to sale. In the year after the master deed is filed, the condominium units will be assessed individually. If the taxable values of those units are not limited under proposal A, then a disaster is in the making and likely to occur with respect to the property taxes payable on the unsold units. We have recently witnessed taxpayers who have prematurely filed a master deed and unnecessarily increased their property tax liability on the unsold units. **If you are considering filing a master deed for a condominium conversion or new development, you should consider the property tax consequences.** We are available to advise you how to appropriately minimize your property taxes in that situation.

The Michigan Business Tax Takes Effect

The Michigan Business Tax ("MBT") took effect at midnight on January 1, 2008. Taxpayers are now faced with the obligation of timely filing MBT returns in compliance with the new law.

Estimated MBT returns must be filed by every taxpayer that reasonably expects liability for the tax year to exceed \$800. For calendar year taxpayers, the quarterly returns and estimated payments must be made on or before April 15th, July 15th, October 15th, and January 15th. Fiscal year taxpayers must file quarterly returns and make estimated payments 15 days after the close of each quarter of the fiscal year. The amount of the estimated payment must be for the estimated business income tax base and modified gross receipts tax base for the quarter or 25% of the estimated annual liability. Each succeeding quarterly payment must then be adjusted to correct for underpayments or overpayments from the previous quarter estimated payment. Taxpayers can avoid the assessment of interest for underpayment of estimated tax if the sum of the estimated payments equals at least 85% of the liability and the amount of each estimated payment reasonably approximates the tax liability incurred during the quarter for which the estimated payment was made. If the first tax year is less than 12 months, the amounts paid with each estimated return must be proportional to the number of payments made in the first tax year. **Honigman has developed a proprietary calculator for the MBT for Honigman clients that need assistance calculating estimated payments and annual liability.**

The annual MBT return is due on the last day of the fourth month after the end of the taxpayer's tax year. For a calendar year taxpayer, this means April 30th. The due date for filing the annual MBT return may be extended by application.

HONIGMAN is the Michigan member firm of the American Property Tax Counsel, The National Affiliation of Property Tax Attorneys. For more information about this organization, visit www.aptcnet.com.

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August 1, 2007

PROPER PROPERTY CLASSIFICATION CAN CUT YOUR PROPERTY TAX LIABILITY

Last month Governor Granholm signed into law the Michigan Business Tax, which replaces the Single Business Tax. The new tax package includes a significant reduction in both industrial personal property taxes and commercial personal property taxes. Taxpayers should take advantage of the full benefit of these new tax reductions by making sure all property that can lawfully be classified as personal property is so classified and that all personal property that can lawfully be classified industrial is classified in that manner.

Beginning with the 2008 tax year (*i.e.*, next year), the tax rate for industrial personal property will be reduced by 24 mills and the rate for commercial personal property will be reduced by 12 mills. In addition to the millage reduction, the Michigan Business Tax (MBT) includes a refundable credit equal to 35% of the remaining property taxes paid on industrial personal property. (There are also special provisions for land line telephone companies and natural gas pipeline property.)

Neither the millage reductions nor the MBT credit negatively impacts local revenues. The millage reductions will be subtracted from school tax rates, but the local schools will be reimbursed by the State.

This new taxation system obviously makes the distinction between real and personal property very important. In the past, there have been instances where taxpayers and the local assessor just "agree" to treat certain assets as real or personal for the sake of convenience or consistency. Because, in each taxing jurisdiction, the tax rates applicable to real and personal property have been the same, there has been no difference in tax liability based on classification for property assessed at a given amount. However, the millage reduction and tax credit in the new law make

worthwhile diligent pursuit of assets properly classified as personal property.

A simple example is the taxation of apartments. Many apartment complexes are assessed solely as real property. However, some of the property contributing to the value of an apartment complex is personal property, which should be separately assessed as such.

Not only is the real versus personal issue more important than ever before, but the classification of property as industrial or commercial within the personal property category is critical. Based on statewide average tax rates, industrial personal property taxes will be reduced by 65%, while commercial personal property taxes will be reduced by only 23%. Utility personal property taxes will not be reduced (except for land line telephone companies and natural gas pipeline property).

If you have issues, concerns or questions regarding the classification of real property versus personal property or the classification of personal property as industrial or commercial, please let us know.

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