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Personal Property Tax Phase-out to be Proposed

Michigan's current administration has made the phase-out of the personal property tax a top legislative priority for the fall. The tax is widely viewed as a disincentive for business investment in Michigan. However, eliminating the tax will pose several challenges, including how local taxing units recoup lost revenue. Expect a legislative proposal before the end of the year.

Proposal to Repeal Property Tax "Vacancy Losses" for Income Property

In 2001, the Michigan Supreme Court ruled for Honigman that the statute that permitted taxable value to rise beyond inflation when the occupancy of an income property increases is unconstitutional. However, the Court did not strike the provision that allowed for a "loss" when occupancy decreased. Since the case was decided, there have been efforts on behalf of taxing jurisdictions to amend the statute to strike the "loss" provision. Because of declining values and resulting lower assessments, the "loss" problem relating to vacancy has had limited impact on taxable values. A new proposal to eliminate losses for vacancy effective for the 2012 tax year has been introduced in House Bill 4602, as well as in a companion Senate Bill.

New Medical Claims Tax Enacted

On August 24, 2011, the Legislature finalized a new 1% medical claims tax as PA 142 of 2011. The new tax, effective January 1, 2012, is imposed upon insurance carriers or their third party administrators on all claims paid for medical services rendered to a Michigan resident in Michigan. Exempt from the tax are claims paid for federal Medicare, employee and veterans administration claims, as well as fee-for-service Medicaid claims. Out of pocket co-pays, deductibles and coinsurance for individuals, and casualty insurance payments are not subject to the tax.

Deadline to File MBT Returns for Disregarded Entities Extended

The Michigan Department of Treasury has further extended the due date for federally disregarded entities to file Michigan Business Tax (MBT) returns to December 31, 2011 (previously the due date was October 31, 2011). Returns filed after this revised date will be assessed penalties. Legislation has been introduced as SB 658 that would provide for retroactive conformity to the federal check the box rule to eliminate the need for federally disregarded entities to file separate returns.

Under Michigan's Individual Income Tax, Tiered Partnerships May Apply the Unitary Business Principle to Determine Apportioned Income

On October 24, 2011, the Michigan Supreme Court entered an order leaving in place Honigman's win in a published Court of Appeals decision holding that: 1) the unitary business principle applies to the individual income tax, and 2) it is appropriate to calculate business income from a tiered group of partnerships under the unitary business principle using a combined tax base and combined factors of all the unitary partnerships.

A Master Manuscript Is Tangible Property for Federal Income Tax and Single Business Tax Purposes

The Michigan Court of Claims granted Honigman's Motion for Summary Disposition, and a refund, to the taxpayer, ruling that costs incurred by the taxpayer in acquiring a master manuscript for a book, are costs of acquiring tangible property and thus eligible for the Capital Acquisition Deduction under Michigan's Single Business Tax.

Michigan Court of Appeals Rejects Attempt to Recapture Deduction Not Taken Under the Single Business Tax

The Michigan Court of Appeals has affirmed a Honigman Court of Claims victory that rejected an attempt by Treasury to require a taxpayer to recapture a deduction never taken with regard to assets that did not qualify for the deduction. The Court said the deduction and recapture provisions must be read together in determining what assets qualify for deduction, and thus, recapture upon disposition of the asset.