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**MICHIGAN LEGISLATIVE UPDATE**  
**January 13, 2017**

The subject of property taxes on Michigan real estate, particularly vacation property, has received a great deal of attention lately. Because of recent changes in the property tax system in Michigan, it is now possible to transfer ownership of family vacation property from one generation of family members to the next without incurring the steep increase in property taxes that would otherwise result from such a transfer. There are many conditions and requirements for taking advantage of these new rules, but it is now possible to keep family vacation property in the family from generation to generation without the property taxes going up by a factor of 2, 3, 4 or more for the new owners of the property.

Unfortunately, these new rules do NOT apply to transfers of ownership of limited liability companies (LLCs) that own Michigan property. I have been part of a task force of Michigan lawyers that has worked for several years to include such property in the exemptions from uncapping. We have introduced bills in both houses of the Michigan legislature to change the laws accordingly, but both bills “died” when the Senate failed to deal with the bill before December 31. We will start over on this effort this year, but, for the time being at least, property owned by an LLC will still uncap in value when more than 50% of the ownership of the LLC is transferred, regardless of the relationship between the new and previous LLC owners. I am not optimistic that this will change in the foreseeable future.

Not all families will see property tax increases when ownership is transferred. Families that have recently acquired property or families whose property has had little increase in market value will not see a big impact on property taxes if ownership is transferred. However, for those families that will see a large increase in property taxes when the property is transferred, it is critical that they immediately address the issue of transferring ownership to their children.

For those families that have previously transferred the ownership of their family property into an LLC, it is possible to remove the property from the LLC under certain conditions without “uncapping” the property value and increasing the taxes. This has to be done carefully so as to comply with the current regulations on uncapping, and it is critical that it be done by a knowledgeable person who is familiar with these rules. In addition, it is unclear how long this “window of opportunity” to remove property from an LLC will remain open, so prompt action by LLC owners cannot be over-emphasized.

Fortunately, there are ways to structure transfers of ownership to younger generations without raising property taxes. The use of a cottage trust is one way this can be done. While using a trust does not have all of the management advantages of the LLC, some sacrifice in administrative certainty and convenience may be worthwhile if saving thousands of dollars in property taxes each year is achievable as a result.

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