

---

# Blood or Affinity...Finally, Clarity Regarding the Avoidance of Uncapping Property Taxes, but How Much?

By Geoffrey N. Taylor

Regular readers of the Maddin Hauser Tax Practice Group eNews know that my last article discussed uncapping Michigan real property and included a “teaser” for a future article about an amendment to the statute which exempts conveyances to persons who are related to the transferor by “blood or affinity.”

As a brief refresher, a transfer of ownership of Michigan real property “uncaps” the property’s taxable value, meaning annual increases in the property’s taxable value are not limited to the lesser of 5 percent or the inflation rate. However, certain transfers of ownership are exempt from uncapping.

Beginning December 31, 2013 through December 30, 2014, the statute exempted transfers of property to family members related “by blood or affinity to the first degree.” This fairly ambiguous language created considerable uncertainty among property owners and professionals regarding who is related by blood or affinity to the first degree.

The Michigan Legislature responded and clarified its intent by again amending the statute. Beginning December 31, 2014, the statute exempts (i) a conveyance of “residential real property” to certain permitted transferees and (ii) the following involving a permitted transferee:

- A distribution under a will or by intestacy
- A conveyance to a trust
- A distribution from a trust
- A change in the present beneficiary of a trust

Permitted transferees are the transferor’s or the transferor’s spouse’s mother,

---

father, brother, sister, son, daughter, adopted son, adopted daughter, grandson, or granddaughter. The exemption is conditioned on the use of the property not changing after the conveyance and requires the transferee, if requested, to provide proof the transferee meets the statutory requirement within 30 days of the transfer or be subject to a \$200 fine.

While the statute now provides much needed clarity regarding to whom the property may be conveyed without uncapping, questions remain. For example, can the property be rented and, if so, what is the maximum rental period before the rental activity triggers uncapping? For a conveyance by Will or intestacy, is the relevant date the decedent's date of death or the date the property is conveyed from the estate? The statute contains a number of discrepancies in using singular versus plural when referencing Permitted Transferees. Does this mean in some instances Dad can convey to daughter, but not to daughter and son and, if so, is there a way the property can ultimately end up with daughter and son without uncapping?

The foregoing are just a few examples of unresolved issues and additional questions invariably will arise. Understanding these issues and their potential impact is critical because property tax exemption statutes are strictly construed in favor of the taxing unit (and therefore against the property owner) and assessors are encouraged to challenge exemption claims aggressively. Maddin Hauser attorneys are experienced in counseling clients on avoiding uncapping of property taxes. If you are planning to convey real property and want to minimize taxes, please contact me and I would be happy to assist you.