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MICHIGAN'S NEW INHERITANCE TAX

By: Matt W. Zeigler, Esq.

Effective October 1, 1993, Michigan will have a new schedule of inheritance taxes to be paid upon the death of a Michigan resident. Governor Engler signed the House Bill on June 3, 1993 that replaces Michigan's old inheritance tax law with a newer and simpler form of legislation that incorporates the part of the federal estate tax law. Michigan now falls into line with about 28 other states that have followed the federal exemption amount for the calculation of state inheritance taxes.

For a long time, Michigan residents have complained that the amount of inheritance tax paid on the transfer of property depended upon the recipients' relationship to the decedent. For example, inheritance taxes paid by the surviving spouse began at a 2% rate after applying a \$60,000 exemption on the value of the property transferred. For a child of the decedent, there was only a \$10,000 exemption applying to property transferred, and the tax rate on amounts over \$10,000 began at a 2% rate up to a 10% rate. For nephews or nieces of the decedent, there was no exempted amount, and the inheritance tax rates began at a 12% rate up to a 17% rate.

For Michigan residents with Michigan property who die after September 30th, the new Michigan Estate Tax Act will reduce, if not eliminate, in most cases, the amount of inheritance taxes paid by the smaller estates that are valued at less than \$600,000. The inheritance tax for these smaller estates will be almost nothing.

The amount of the new tax will be the greater of (1) a new inheritance tax structure and (2) a "pick-up" tax that is equal to the amount of the credit that Michigan residents receive from the federal estate tax structure.

For example, for an only child who inherits up to \$600,000 of Michigan property from deceased Michigan parents, the amount of inheritance taxes and the "pick-up" tax would be \$0.

Larger Estates, and Non-Resident Decedents. For estates that have a value of in excess of \$600,000 and those estates that have property outside the State of Michigan, or for non-resident decedents, some of the new items in the law are as follows:

- **Exempt Amounts:** For all lineal ascendants and descendants, which now include stepchildren of lineal descendants, if the relationship with the stepchild began before the child's 17th birthday and continued until the death of the decedent, there is an exemption from estate taxation for the transfer of property in the following amounts:

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If the death occurs after October 1, 1993 and before December 31, 1993, the exempt amount is **\$15,000**;

If the death occurs after January 1, 1994 and before December 31, 1994, the exempt amount is **\$25,000**; and

If the death occurs after January 1, 1995 the new exempt amount is **\$50,000**.

- The **surviving spouse**, is entitled to an exemption of **\$65,000**;
- For each minor child of the decedent, the **surviving spouse** receives an **additional exemption** of **\$5,000** per minor child.

NEW TAX TABLES. The rate of taxation for amounts exceeding the exemption above but less than \$50,000, the tax rate is 2% on the excess amount of the property transferred over the applicable exemption. The new tax table looks like this:

<u>Amount transferred</u>	<u>Tax rate</u>
up to 50,000	2%
50,000 to 250,000	4%
250,000 to 500,000	7%
500,000 to 750,000	8%
over 750,000	10%

These exemptions are, as under the old law, not a tax on the estate, but rather a tax on the amount that the beneficiary receives. The federal government does not tax the beneficiary, but rather places its estate tax on the value of the estate of the decedent.

The surviving spouse will continue to receive a marital deduction for the amounts transferred.

For More Distant Relatives. For beneficiaries other than those covered by the broad definition of lineal ascendants and descendants, above, the new rates of taxation are as follows:

<u>Amount transferred</u>	<u>Tax rate</u>
up to 50,000	12%
50,000 to 500,000	14%
over 500,000	17%

STATUTORY LIEN. The property actually transferred to the beneficiary will have a statutory lien on the amount received which is not released until the tax is paid. Further, the personal representative of the estate is personally liable for the payment of any of the tax and any interest or penalties levied on the property transferred.

GOOD NEWS and EXEMPTIONS. There is good news in the new law. For family owned businesses or farms, the real property or personal property transferred to an heir at law is not subject to tax under the new Michigan act.

More good news. Recently the State of Michigan changed the law to require the filing and payment of the Michigan Inheritance Tax to 105 days following the date of death of the decedent. That has created a burden on those that must calculate and pay the tax. The new law extends the time frame to 9 months following the date of death, which corresponds to the time frame when the federal estate tax return is due.

ON THE HORIZON.

Since the new Michigan law related to the amount of the federal exemption, if the federal exemption amount changes, then so, too, does the Michigan exemption. Our U.S. Congress, in the Fall of 1992, proposed to reduce the allowable federal exemption from the current \$600,000 to \$200,000. That change is **not** yet of part of the Omnibus Budget Reconciliation Act of 1993 signed by President Clinton in August, 1993.