

Help is on the way...

Lansing is concerned about the effects of new tax policies on Michigan's economy and, consequently, is rooting for real estate like never before. As key legislators negotiate incentives, we are working hard to bring them together on sound policy principles to improve our markets and Michigan's economy as a whole. Your strong political involvement and the MAR's active presence at the Capitol have provided this industry with an integral role as advisors to the legislature on this all-important spring market.

Property Tax Relief

In early April, lawmakers got off on the right foot by adopting a bold plan to help home sellers deal with the stresses of losing their Principal Residence Exemption. After months of intense lobbying, one clear victory is legislation by Representative Ed Gaffney (R-Grosse Pointe Farms) that has been passed into law. This new law expands the Principal Residence Exemption to unsold homes, essentially allowing for two exemptions where homebuyers have their original property on the market but are now living in their new home elsewhere in the state.

As you know, the Principal Residence Exemption historically required that the home is the sole residence of the taxpayer. Unfortunately, particularly today, our struggling economy has forced some home sellers to relocate to other areas of the state, and, in some instances, leaving their first home on the market for over a year. As a result, that original home was no longer treated as a principal residence and the homeowner lost the Principal Residence Exemption. Allowing the tax exemption for both homes offers relief to sellers who have had to relocate for whatever reason. The MAR is grateful to Representative Gaffney for being receptive and originating this very important piece of property tax relief.

Various other proposals for boosting our market through property tax relief are getting

a lot of play. This type of energy is a good sign. Cynics might point out that this is an election year, and more than likely, candidates of every stripe will use these proposals in their campaigns before November 4th. Still, having worked with both the Speaker Andy Dillon (D-Redford) and the Senate Majority Leader Michael Bishop (R-Rochester), I can tell you that there is a sincere desire to boost Michigan's real estate markets as a means of invigorating Michigan's economy.

The latest effort has come from the Senate. That plan offers a 33-month window for homebuyers to beat the "pop-up" tax, now and for the duration of the buyer's ownership. It differs from the House plan because it refunds all "pop-up" liability with an income tax credit (and/or a check from the State) for the full amount of the "pop-up" paid, year after year, until the home is sold again or no longer the owner's principal residence. Obviously, this is a big undertaking, particularly against the backdrop of state budget wrangling in 2007.

You may recall that the idea of a "pop-up" freeze, more commonly known as the "Pop-up Tax Moratorium" was introduced in the House last year. The House plan would implement an 18-month buying window ("moratorium") in which buyers would never see a "pop-up" again, for the duration of ownership. Here, as in the Senate plan, that homebuyer enjoys the Proposal A cap on property tax increases thereafter. For better or worse, that plan did not make it out of Senate, so the relative merits of both plans are open for debate. Both represent a radical change in law to save homeowners and homebuyers money on their investment. Even with their differing approaches, it should inspire confidence that both chambers have identified the housing market as a key factor in the state's economic prosperity. Unfortunately, it hasn't been easy for the two sides to agree on much in the last year. At best, we can be cautiously optimistic that meaningful property tax relief will be here in 2008.

The important thing to note: both plans are

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retroactive. There is no reason for any home-buyer or seller to wait through this spring market to see what tax benefits might emerge.

The MBT and its negative effects on the Commercial Industry

As previously written, the new Michigan Business Tax (MBT), along with its 22% surcharge, truly hurts Michigan businesses. Although no one felt the effects of the new tax until they prepared their first quarterly filing, commercial practitioners, in particular, were impacted. The MBT devalues existing assets, punishes long-time investors, and discourages new investment in commercial real estate.

While Michigan attempts to recruit new business ventures, the treatment of commercial real estate under the MBT poses a significant disincentive to invest in our state. These negative effects will ultimately lead to declining economic growth and less tax revenue.

A Commercial MBT Task Force, chaired by REALTOR® Sam Cummings, was quickly brought together with brokers from around the state who first recognized the consequences that the MBT has on their customers. Since then, the Task Force identified 5 key areas where the MBT needs revision. These are:

- **Eliminate the 22% MBT Surcharge** As it stands, the MBT surcharge combined with all other inequalities in the tax devastates the commercial industry in this state.
- **Reinstate the 10-year Investment Tax Credit carryforward** Under the MBT, ITC not fully utilized in the year of acquisition is lost, yet businesses must pay back ITC in the year of sale *whether utilized or not*. A ten-year carryforward would allow most businesses to reap the intended benefit of the credit.
- **Include real estate in the definition of inventory for the purposes of "purchases from other firms"** Real estate held for development purposes and available for sale should be treated as inventory and counted against a property owner's gross receipts, just as a manufacturer can reduce their liability through their inventory of parts and product.
- **Allow Common Area Maintenance (CAM) to be deducted from gross receipts in calculating the new tax** Property owners should not be taxed on receipts that represent cost reimbursements rather than rental or fee income.
- **Offer a "fresh start" for allowed depreciation on all commercial real estate beginning January 1, 2008** The basis of each property should be given a "fresh start" to allow the property's MBT gain to be calculated based on depreciation deductions actually received for state tax purposes.

We have been working with leaders on both sides of the Capitol on legislation to alleviate these tax burdens.

Agency Responsibility Act

As reported in the previous Capitol Report, the Agency Responsibility Act (ARA) passed into law as Public Acts 90 and 91 of 2008. The legislation, sponsored by Representative Tonya Schuitmaker (R-Lawton) and Representative Barb Farrah (D-Southgate) requires real estate licensees entering into limited service relationships to provide a uniform statewide disclosure form. The implementation date for this form as well as the check-off waiver is July of this year. The MAR has already started the process to update the forms and we will keep you updated on any new procedures.

Important exemption to Michigan Transfer Tax

In early April, Michigan Attorney General Mike Cox issued an important opinion for real estate. At the MAR's urging, Representative Marty Griffin (D-Jackson) requested this opinion to clarify the proper application of a little-used exemption from the Michigan Transfer Tax Act. The opinion affords certain home sellers immediate financial relief.

Exemption "t", as designated in the Michigan Transfer Tax Act, sets forth that a seller may seek an exemption from paying the state transfer tax if the following certain criteria are met:

- The property have been a principle residence, classified as homestead property;
- The property's State Equalized Value ("SEV") for the calendar year in which the transfer is made must be less than or equal to the property's SEV for the calendar year in which the transferor acquired the property; and
- The property cannot sell for an amount more than double its SEV for the year of the sale.

Faced with the reality of declining value on their single greatest investment, homeowners are already in a tough situation, but the Attorney General's opinion offers them some great news.

It should be noted that *no similar exemption* exists in the County Real Estate Transfer Tax Act. You should also be cautioned that advising your clients on the applicability of this exemption could border on legal advice. You can best serve your client by making him/her aware of the exemption and telling them to consult a tax attorney or title company for applicability.

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