



# Real & Personal Property Tax Reduction Strategies

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# Agenda

- Real Property vs. Personal Property
- Personal Property Situs and Classification
- Leasehold Improvements
- MBT Credits and Millage Rate Exemptions
- Effect of Declining Real Estate Values
- Property Tax Exemptions and Abatements

# The Importance of Distinguishing Between Real and Personal Property

- Avoiding double assessment and taxation
- Valuing property accurately
- Taking advantage of MBT credits
- Taking advantage of millage rate exemptions

# Decisions Regarding Property Classification

- The issue of what is real and what is personal property must be addressed by:
  - Taxpayers
  - Assessors
  - Auditors
  - Michigan Tax Tribunal

# How to Distinguish Between Real and Personal Property

# STC Assessor's Manual

- “ . . . It should be emphasized that the treatment of an asset as real or personal property for accounting purposes does not control its status for assessment purposes.” STC Assessors' Manual , p 15-15.
- The STC Manual supports the use of the three part test to distinguish between Real and personal property.  
(STC Assessors' Manual, p 15-15 to 15-16)

# Real Property

- Three part test:
  - Annexation
    - Both actual and constructive
  - Adaptation
    - Necessary or useful when considering the purpose of the realty
  - Intention
    - Objective visible facts
    - Annexation and adaptation can establish intent

# Personal Property

**MCL 211.8. For the purposes of taxation, personal property includes all of the following:**

- (a) **All goods, chattels, and effects within this state.**
  
- (f) **All other personal property not enumerated in this section and not especially exempted by law.**

# STC Manual: Equipment Often so Attached as to Become Real Property

- boilers
- generators
- ash and coal handling equipment
- cooling towers
- power bus ducts
- truck or platform scales
- ovens
- Kilns
- press pits
- silos
- crane ways
- cupolas
- hoppers
- insulation and piping and compressors and heat exchanger in refrigerated rooms
- tanks
- vats
- spray booths
- underground tanks and piping

# Personal Property Situs and Classification

- Situs: The location of property
  - Property taxed by its situs jurisdiction as of December 31
- Classification:
  - Exempt Classes:
    - Licensed vehicles
    - Inventory
    - Manufacturing tooling
    - Certain software
  - Proper classification helps avoid overassessment

# Leasehold Improvements

- Leasehold improvements are often contentious item in personal property tax audits.
- MCL 211.8(h) provides: During the tenancy of a lessee, **leasehold improvements** and structures installed and constructed on real property by the lessee, provided and **to the extent the improvements or structures add to the true cash taxable value of the real property** notwithstanding that the real property is encumbered by a lease agreement, and the value added by the improvements or structures **is not otherwise included in the assessment of the real property or not otherwise assessable under subdivision (j)**. The cost of leasehold improvements and structures on real property shall not be the sole indicator of value. Leasehold improvements and structures assessed under this subdivision shall be assessed to the lessee.
- Issues –
  - Does the improvement add value to the real property?
  - Is the improvement already included in the real property assessment?
    - Some auditors add all leasehold improvements without even checking the real property assessments to see if the item was included in the assessment. Often the records do not permit one to discern whether or not it was included.
    - Some assessors, however, will settle such matters, upon receiving a description of the improvement as an item which is real property in nature on the assumption that they would have included that in the real property assessment.
  - Subsection j applies only to very old leasehold improvements

# MBT Credits and Millage Rate Exemptions

- Refundable Credits:
  - Industrial:
    - 35% of personal property taxes paid
  - Telephone companies
    - 13.5% of taxes paid
  - Natural gas pipeline companies
    - 10% of taxes paid
- Exemptions:
  - Industrial:
    - 18 mills school operating, plus 6 mills of SET
  - Commercial:
    - 12 mills school operating

# Tax Effect of Real Estate Values in a Declining Market

- Assessed Value should represent 50% of a property's fair market value
- Taxable Value set at the time a property changes ownership
- Taxable Value increases are limited to the lesser of 5% or CPI
- Taxable Value can not be more than Assessed Value

# Personal Property Exemptions Related to 1998 PA 328

- Public Act 328 of 1998 allows **distressed communities** to abate all **new personal property taxes** in certain **geographic areas** to stimulate economic development.
- Abatements include all millage, state and local taxes
- Abated Areas include:
  - industrial development district
  - renaissance zone
  - enterprise zone,
  - brownfield redevelopment zone
  - empowerment zone,
  - tax increment financing district
  - local development financing district
  - downtown redevelopment district.
- Approval:
  - Local → STC
- Eligible Projects:
  - Manufacturing
  - Mining
  - R & D
  - Wholesale Trade
  - Office Ops
- Property must be new to MI tax roll.

# Property Tax Abatements and Exemptions

- IFT Abatement:
  - 50% Industrial property tax reduction
- Pollution Control Facilities
  - Qualified property exempted from tax
- Next Energy
  - Alternative Energy Personal Property exempt from tax
  - Applied to single assets and entire companies
  - Sunset in 2013

# Questions?

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