

## NONPROFITS AND MICHIGAN REAL PROPERTY TRANSFER TAXES

In Michigan, a common misconception occurs when 501(c)(3) nonprofit corporations buy and sell real property. While nonprofit 501(c)(3) corporations can be exempt from paying real property taxes while retaining title to and occupying real property in Michigan, they can be subject to a real property *transfer tax* at the time title to its property is transferred. It is customary for a seller (or transferor) of real property to pay the transfer taxes at the time of transfer, but this tax can be negotiated as part of the transaction.

There are two types of real property transfer taxes in Michigan; county real estate transfer tax (CRETT), and state real estate transfer tax (SRETT). The CRETT was enacted in the 1960's as a source of revenue for Michigan counties. The amount of county tax applied to real property transferred in Michigan is \$0.55 per \$500 of the sale price (or fair market value of the real property).

The SRETT was enacted in 1993, and took effect in 1994, as a result of Proposal A, which limits the capped value from increasing by more than the lesser of 5% or the rate of inflation, unless an addition to value has been added or there has been a transfer of ownership in the preceding calendar year. The SRETT is a way for the State of Michigan to recover some of the lost tax revenue due to the enactment of Proposal A. Prior to Proposal A, the method of calculating a property tax levy was to multiply the state equalized value by the authorized millage rate. Tax billings are now computed by means of multiplying the taxable value by the authorized millage rate. The essential significance of this is that a taxable value generally may not increase by more than 5% in a given year. The amount of state tax applied to real property transferred in Michigan is \$3.75 per \$500 of the sale price (or fair market value of the real property).

The CRETT and the SRETT are often the topic of conversation prior to closing on the sale or purchase of real property for 501(c)(3) nonprofit corporations. Most nonprofits believe they are exempt from paying any and all taxes as they relate to real property because of their 501(c)(3) status. There is, however, a short list of exemptions to paying Michigan real property transfer taxes for both CRETT, and SRETT. The CRETT exemptions are listed in MCL 207.505, and the SRETT exemptions are listed in MCL 207.526. For example, both county and state statutes will exempt the seller (or transferor) from paying transfer taxes if the value of the consideration (or fair market value) of the real property is less than \$100, or where an instrument is recorded to confirm title already vested in a grantee, including a quit claim deed to correct a flaw in title.

There are only a few exemptions from paying real property transfer taxes in Michigan available to nonprofits. It is advisable for all property owners, including nonprofits, to seek the advice of an experienced real estate attorney first to determine if this tax applies to their transaction.