

MICHIGAN ESTATE TAX ACT (EXCERPT)
Act 188 of 1899

205.243 Tax as lien against gross estate; attachment to consideration received for property; waiver.

Sec. 43.

The tax imposed under section 32 is a lien upon the gross estate of the decedent until paid in full. Any part of the gross estate used for the payment of claims against the estate and expenses of its administration is divested of any lien for taxes. Any part of the gross estate, other than real estate, of a resident decedent transferred to a bona fide purchaser, mortgagee, or pledgee for an adequate and full consideration in money or money's worth is divested of the lien, and the lien then attaches to the consideration received for the property from the purchaser, mortgagee, or pledgee. Any real estate that is part of the gross estate of a decedent transferred to a bona fide purchaser or mortgagee is divested of the lien, the lien attaches to the consideration received for the real property, and the department shall issue a waiver releasing the property from the lien in a form recordable with the register of deeds if 1 or more of the following apply:

(a) The transfer of the real estate is necessary for payment of claims against the estate and expenses of administration even though other assets are then available for sale or mortgage.

(b) The department is satisfied that no tax liability exists or that the tax liability of an estate has been fully discharged or provided for.

(c) Except when the department has filed a notice of tax lien with the county in which the real estate is located, a partial payment is made with the department of an amount equal to either of the following, whichever is applicable:

(i) If the transfer occurs before the due date for the filing of the return including extensions, 8% of the net cash proceeds payable at closing to the seller for a sale or to the mortgagor for a mortgage.

(ii) If the transfer occurs after the due date for the filing of the return including extensions, 16% of the net cash proceeds payable at closing to the seller for a sale or to the mortgagor for a mortgage, or the amount of the unpaid tax as reflected on the return filed with the department, whichever is less.

(d) The seller, purchaser, or mortgagee makes a partial payment of an amount determined by the department to be sufficient to ensure payment of the tax.

(e) The seller, purchaser, or mortgagee makes a partial payment of an amount determined by the probate court to be sufficient to ensure payment of the tax.

(f) The seller or mortgagor is a person who holds the real property as a surviving joint tenant or tenant by the entirety.

History: Add. 1993, Act 54, Imd. Eff. June 3, 1993 ;-- Am. 1998, Act 277, Imd. Eff. July 27, 1998

Popular Name: Inheritance Tax