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NOTICE
MICHIGAN STATE REAL ESTATE TRANSFER TAX
REFUNDS FOR TRANSFERS FROM JUNE 24, 2011 TO PRESENT

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On July 9, 2015, the Michigan Supreme Court issued its decision in *Gardner v Department of Treasury*, 498 Mich 1. At issue in the case was the qualification for an exemption from the State Real Estate Transfer Tax (SRETT) for transfers of principal residences. The Department of Treasury denied the refund requested by the sellers because the transfer did not meet the statutory criteria to qualify for the exemption. The Michigan Supreme Court found for the sellers, holding that to be entitled to the transfer tax exemption, a taxpayer must demonstrate that (1) the property at issue was the principal residence of the seller or transferor, (2) it had a state equalized value (SEV) at the time of conveyance that was less than or equal to the SEV at the time of acquisition, and (3) it was sold or transferred for a price at which a willing buyer and a willing seller would arrive through arm's-length negotiation.

In response to the *Gardner* decision, the Michigan Legislature passed 2015 PA 217, which – in part – codified the three requirements. It also permits refunds for eligible transfers on or after June 24, 2011, even if a refund was previously claimed and denied under the pre-*Gardner* standards.

A seller or a buyer who paid SRETT on behalf of a seller, may file for a SRETT refund if the above requirements are met. If you believe your conveyance qualifies for a SRETT refund, please file a completed Form 2796, Application for State Real Estate Transfer Tax Refund, with the required documentation to have your eligibility for a refund reviewed by the Department. Form 2796, Application for SRETT Refund, is available online at www.michigan.gov/treasury.