



# Willson & Pechacek, P.L.C. Newsletter



General Edition

August, 2013

## SIGNIFICANT CHANGES IN PROPERTY TAX LAWS

On June 12, 2013, Governor Branstad signed into law what is being hailed as the largest property tax cut in Iowa history. Every Republican voted for the bill, as did all but 6 Senate Democrats and 13 House Democrats. The bi-partisan bill makes significant changes to the property tax system. This article highlights some of the changes.

♦ Creates a new property tax credit for businesses. Beginning July 1, 2014, \$50 million is appropriated to a new business property tax credit fund to be used for business property tax credits; on July 1, 2015, it increases to \$100 million; on July 1, 2016, it increases to \$125 million. Each person who wishes to claim the credit must ob-

tain the appropriate forms from the assessor. For the January 1, 2013 assessment, claims must be filed by January 1, 2014. Beginning with the January 1, 2014 assessment, claims must be filed by March 15 preceding the fiscal year during which the taxes for which the credit is claimed are due and payable.

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## NEBRASKA TRANSFER ON DEATH DEED

Beginning January 1, 2013, Nebraska landowners have a new method of transferring ownership of real estate upon the event of the death of the transferor. Nebraska can now use a revocable transfer on death deed ("TOD DEED"). The Nebraska statute on TOD Deeds is based upon the uniform law but has several modifications that are unique to Nebraska. It should be noted that at the time of this publication, Iowa does NOT recognize transfer on death deeds.

The statutory requirements for a TOD Deed include that the transferor signs the TOD Deed or that the TOD Deed be signed by a person designated by the transferor by his or her direction. There must be two (2) witnesses present who see the transferor sign. The deed must be notarized by a Notary Public present who sees the two (2) witnesses and transferor sign the deed.

After the TOD deed is properly signed and notarized, it must be filed of record within

thirty (30) days of signing in the county where the real estate is located. Technically, if the deed is recorded after thirty (30) days, it is statutorily invalid. An untimely recorded deed is not effective to transfer title at death. Another requirement is that the deed be recorded before the death of the transferor. Until the time of death of the transferor, the transferor can revoke the deed.

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### **PROPERTY TAX LAWS**

For example, a claim for credit for the 1/1/2014 assessment must be filed by 3/15/2015 since the property taxes from the 1/1/2014 assessment are due half on 9/1/2015 and half on 3/1/2016. A claim filed after the deadline will be considered as a claim for the following year. Once a claim for credit is approved, the credit will be allowed for following years without having to refile as long as the property remains classified as commercial, industrial or railway property. However, if the property is sold, the new owner who wishes to receive the credit must refile the claim.

- Rolls back the amount of value of commercial property that is taxed. For the assessment year beginning 1/1/2013, the percentage of actual value at which commercial and industrial property will be assessed is 95%. Beginning 1/1/2014, the percentage decreases to 90%.

- Provides a standing appropriation for payments to local governments to partially offset the revenue loss from reduced property taxes. The Legislative Services Agency estimates that the law will reduce property tax revenues by about \$3.87 billion over 10 years, with the state general

fund paying \$3.13 billion to cover the losses. That leaves about \$740 million in projected revenue reductions over the next decade, much of which will be shouldered by cities and counties

- Lowers the cap on the amount that residential and agricultural property taxes can grow. For valuations established as of 1/1/2013, and each assessment year thereafter, increases in the assessed value of residential and agricultural property are limited to 3%, which is down from the present rate of 4%.

- Creates a new "multi-residential" class of property. Beginning 1/1/2015, property primarily used or intended for human habitation containing 3 or more separate dwelling units (i.e., apartments), mobile home parks, manufactured home communities, land-leased communities, and assisted living facilities will be valued as a separate class of property known as multi-residential property. Over the next 10 years, these properties will see a projected 50% cut in their property taxes.

- Makes changes to the Property Assessment Appeal Board. The life of the PAAB is extended to 1/31/2017. Two members of

the PAAB must now be certified real property appraisers (previous law required only one such member). There is no longer a requirement that one member must be a professional with experience in the field of accounting or finance and with experience in state and local taxation matters. Members' salaries are now set by the governor within a range established by the legislature (previous law set salary equivalent to a district court judge).

- Changes the method of protesting and appealing assessments. Prior to filing a protest with the local board of review, taxpayers are authorized to contact the assessor between April 1 and May 4 of the year of the assessment to request an informal review of the assessment. For assessment years beginning 1/1/2014, the board of review may allow taxpayers to file an assessment protest by electronic means. If electronic filing is available in a county, it must be clearly indicated on the assessment roll notices provided to taxpayers. Likewise, beginning 1/1/2014, the PAAB is allowed to accept appeals by electronic means.

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PROPERTY TAX LAWS

• Creates an income tax credit funded through the Taxpayers Trust fund. Beginning 1/1/2014, an income tax credit will be issued to individuals who timely file individual income tax returns if the balance of the Taxpayers Trust Fund equals or exceeds \$30 million.

• Increases the Earned Income Tax Credit. Beginning January 1, 2013, the Iowa EITC is doubled from 7% to 14% of the federal earned income credit. Beginning January 1, 2014, the Iowa EITC increases to 15%.

This law affects all Iowans in one way or another. If you have any questions or would like additional information about the law or its impact on you, you should contact your attorney.

*BY JAMIE L. COX*

NEBRASKA TRANSFER ON DEATH DEED

Once the transferor dies, it will be necessary to record the death certificate to establish title.

A Nebraska TOD Deed does not affect any interest or right of a transferor or any other owner during the lifetime of the transferor, including the right to mortgage the property. It does not affect the interest or title of the transferee of the real estate. This applies even if the transferee has actual or constructive knowledge of the TOD Deed. A transfer of the real estate, by sale, will terminate a TOD Deed beneficiary designation.

Nebraska also added a survivorship provision to the Uniform Act. This survivorship provision uses the standard 120 hours or five days for the determination of survivorship. This survivorship provision can be changed in the TOD Deed itself.

The Nebraska TOD statute also allows the transferor to designate the disposition of the growing crops

if the transferor dies after the crops have been planted, but before the crops have been harvested. If there is no designation, the common law doctrine is followed, which allows the crops to belong to the estate of the transferor.

After the death of the transferor, and all survival requirements have been met, the ownership of the real estate will transfer to the named beneficiary on the deed.

If you have questions or would like more information about Nebraska's Transfer on Death Deed, please contact our office.

*BY LONNY L. KOLLN II*

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### **OAKLAND OFFICE HAS MOVED**

The firm's office in Oakland, Iowa has moved, effective July 31, 2013. The new office is located at 101 North Main, the former City Hall building.

The new office is a brick building located south of our former office. The phone number is the same.

We look forward to seeing you in our new location.

### **NEW ASSOCIATE—BEN WISCHNOWSKI**

Willson & Pechacek, P.L.C. is pleased to announce that Ben Wischnowski has joined the firm as an associate attorney. Ben graduated summa cum laude from the University of Pittsburgh in 2009. Ben obtained his Juris Doctor with Special Honors, With Distinction from the University of Iowa in May, 2012. While at the University of Iowa, Ben was the Note & Comment Editor (2011-2012) of the Iowa Law Review. Ben is currently licensed to practice law in Iowa and Nebraska. Ben will be working primarily in the areas of taxation, estate planning and probate, business law and real estate. Ben is a member of the Iowa State Bar Association, Nebraska State Bar Association and Pottawatomie County Bar Association.

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