



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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Personal Property Tax Exemption

TO: Assessors, Equalization Directors and Interested Parties

FROM: State Tax Commission

SUBJECT: MCL 211.9m: Qualified New Personal Property Tax Exemption
MCL 211.9n: Qualified Previously Existing Personal Property Tax Exemption

Beginning December 31, 2015 qualified new personal property and qualified previously existing personal property is exempt from taxation.

Qualified New Personal Property is defined as property that was initially placed in service in this state or outside of this state *after* December 31, 2012 or that was construction in progress on or after December 31, 2012 that had not been placed in service in this state or outside of this state before 2013 **and** is eligible manufacturing personal property (EMPP).

Qualified Previously Existing Personal Property means personal property that was first placed in service within this state or outside of this state more than 10 years before the current calendar year **and** is eligible manufacturing personal property (EMPP).

A. Definitions

Eligible Manufacturing Personal Property (EMPP) means all personal property located on *occupied real property* if that personal property is *predominantly used* in *industrial processing* or *direct integrated support*. For personal property that is construction in progress and part of a new facility not in operation, EMPP means all personal property that is part of that new facility if that personal property will be *predominantly used* in *industrial processing* when the facility becomes operational. Personal property that is not owned, leased or used by the person who owns or leases *occupied real property* where the personal property is located is not EMPP unless the personal property is located on the *occupied real property* to carry on a current on-site business activity. Personal property that is placed on *occupied real property* solely to qualify the personal property for an exemption under 9m or 9n is not EMPP.

Occupied Real Property means **all** of the following:

A parcel of real property that is entirely owned, leased or otherwise occupied by a person claiming the exemption under 9m or 9n **or**

Contiguous parcels of real property that are entirely owned, leased or otherwise occupied by a person claiming the exemption and that host a single, integrated business operation engaged primarily in industrial processing, direct integrated support or both **or**

The portion of a parcel of real property that is owned, leased or otherwise occupied by the person claiming the exemption or by an affiliated person. *Person* is defined as an individual, partnership, corporation, association, Limited Liability Company or any other legal entity. *Affiliated person* is defined as a sole proprietorship, partnership, limited liability company, corporation, association, flow-through entity, member of a unitary business group, or other entity related to a person claiming the exemption.

Eligible Manufacturing Personal Property is determined to be *predominately used* in industrial processing or direct integrated support if the result of the following calculation is more than 50%:

(i) Multiply the *original cost* of all personal property that is subject to the collection of taxes under the GPTA and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9m, 9n and 9o that is located on that occupied real property and is not construction in progress, by its percentage of use in industrial processing or in direct integrated support. *Note: This is a weighted average calculation where each item of personal property is multiplied by the percentage of its use in industrial processing or direct integrated support, all items are added together and divided by the total original cost as described in (ii).*

Personal property is used in industrial processing if it is not used to generate, transmit, or distribute electricity for sale, if it is not utility personal property and if its purchase or use by the person claiming the exemption would be eligible for the industrial processing exemption under section 4t of the general sales tax act or section 4o of the use tax act. For an item of personal property that is used in industrial processing, its percentage of use in industrial processing shall equal the percentage of the exemption the property would be eligible for under section 4t of the general sales tax act or section 4o of the use tax act based on its current use.

Utility personal property (*as defined in MCL 211.34c*) is not used in direct integrated support.

(ii) Divide the result of the calculation under subparagraph (i) by the total original cost of all personal property that is subject to the collection of taxes under the GPTA and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9m, 9n and 9o that is located on that occupied real property and is not construction in progress.

Original cost is defined as the fair market value of EMPP at the time of acquisition by the first owner (the owner who first placed the property in service). There is a rebuttable presumption that the acquisition price paid by the first owner reflects the fair market value of that EMPP.

Industrial Processing is defined in MCL 205.54t and MCL 205.94o: "Industrial processing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, combination, or character of the property for ultimate sale at retail or for use in the manufacturing of a product to be ultimately sold at retail. Industrial processing begins when tangible personal property begins movement from raw materials storage to begin industrial processing and ends when finished goods first come to rest in finished goods inventory storage.

Industrial processing does not include the generation of electricity for sale.

Direct Integrated Support is defined as:

- (i) Research and development related to goods produced in industrial processing and conducted in furtherance of that industrial processing.
- (ii) Testing and quality control functions related to goods produced in industrial processing and conducted in furtherance of that industrial processing.
- (iii) Engineering related to goods produced in industrial processing and conducted in furtherance of that industrial processing.
- (iv) Receiving or storing equipment, materials, supplies, parts, or components for industrial processing, or scrap materials or waste resulting from industrial processing, at the industrial processing site or at another site owned or leased by the owner or lessee of the industrial processing site.
- (v) Storing of finished goods inventory if the inventory was produced by a business engaged primarily in industrial processing and if the inventory is stored either at the site where it was produced or at another site owned or leased by the business that produced the inventory.
- (vi) Sorting, distributing, or sequencing functions that optimize transportation and just-in-time inventory management and material handling for inputs to industrial processing.

B. Taxpayer Responsibilities

1. The person claiming the exemption for the qualified new personal property and/or qualified previously existing personal property must properly file Form 5278 – Eligible Manufacturing Personal Property Affidavit and Statement for Personal Property and Essential Services Assessment (hereafter referred to as Form 5278) with the assessor of the Township or City where the personal property is located. Properly filed means the form must be filled out in its entirety and must be properly mailed to the assessor of the Township or City where the personal property is located. Form 5278 contains that affidavit to claim the exemption, the personal property statement for property that does not yet qualify for the exemption and the required Essential Services Assessment filing (See Bulletin 9 of 2015)
2. Form 5278 must be filed **not later than February 20**. The State Tax Commission has determined that **filed not later than February 20** means received by the local unit where the personal property is located **on or before February 20**. The State Tax Commission has also determined that late filed

affidavits should not be accepted by the local unit. Affidavits that are not properly filed or are late filed are not considered denied by the assessing officer for purposes of appeal rights.

3. Form 5278 must be filed for each personal property parcel for which the exemption is being claimed.
4. A rescission affidavit (form 5277) shall be filed with the assessor of the Township or City in which the personal property is located, no later than December 31 of the year in which the exempted property is no longer eligible for the exemption.
5. A taxpayer that timely files Form 5278 in 2016 and timely filed a personal property statement in 2015 that identified EMPP, does not have to file Form 632 (personal property statement) in 2016 or subsequent years. Form 5278 must be filed for property that does not or does not yet qualify for the exemption. This does not apply to personal property that was subject to a P.A. 198 of 1974 or P.A. 328 of 1998 exemption in 2015 or if the personal property was first acquired in 2015. If form 5278 is not filed, a personal property statement – Form 632 must be filed and the property is not exempt.
6. The affidavit section of Form 5278 is only required to be filed once and applies to all existing and subsequently acquired qualified new personal property or previously existing personal property for that parcel.
7. Taxpayers are required to maintain adequate books and records after filing an affidavit claiming the exemption. At a minimum, those records shall include: the location and description, date of purchase, lease or acquisition; the purchase price, lease amount or value of that personal property; the customary industrial use for that personal property; and the asset classification grouping of that personal property as applied in mass appraisal techniques for assessing purposes until that personal property is no longer eligible for exemption under section 9m or 9n. If the taxpayer is not the first owner, they must keep information regarding the acquisition cost of the first owner and how that was determined.
8. Taxpayers shall provide access to their books and records if requested by the local unit assessing officer, County Equalization Department or Department of Treasury for any year in which they claim the exemption under 9m or 9n.
9. An assessor shall report to the prosecuting attorney where the property is located any individual suspected of fraudulently claiming the exemption. Any individual who fraudulently claims an exemption is guilty of a misdemeanor punishable by not less than 30 days and not more than 6 months in jail and a fine of not less than \$500 or not more than \$2,500 or both pursuant to MCL 211.21.

C. Assessor Responsibilities

1. Assessors are advised that in order to claim an exemption under MCL 211.9m or MCL 211.9n, Form 5278 must be filed. This is true regardless if the property is on the ad valorem roll or a special act roll.
2. Assessors are required to annually provide a copy of Form 5278 and Form 5277 (rescission affidavit) and other parcel information required by the Department of Treasury in a form and manner required by the Department of Treasury no later than April 1 of each year.

3. Assessors must ensure that they do not require a property owner who files Form 5278 to also file Form 632 - personal property statement **for the property that is EMPP.**
4. Assessors must deny an exemption for personal property that is determined not to meet the eligibility requirements.
5. Assessors must notify the taxpayer of the denial and of their rights to appeal as described under item D.
6. An assessor may deny a claim for exemption for the **current year only** for any property that does not meet the exemption requirements.
7. If the assessor denies the exemption they must remove the exemption from the roll and the local treasurer must issue a corrected tax bill within 30 days of the date of the denial.
8. Assessors who deny the exemption should request the taxpayer file a personal property statement. In the absence of a personal property statement, assessors are advised to use the best information available to them in order to estimate the assessment.
9. Assessors and/or Supervisors are still required to annually send a personal property statement to any taxpayer they believe has personal property in their possession in their local unit. The personal property statement has been revised to meet the notice requirements in the Act. Form 632 - Personal Property Statements **must be sent or delivered no later than January 10** each year.
10. Assessors should ensure a copy of Form 5278 is kept on file for not less than four years after the completion of the assessment roll for which affidavits are filed. The State Tax Commission recommends that assessors review this requirement and determine if it may be necessary to retain the form for a longer period of time.
11. Assessors are advised to retain a copy of the 2015 personal property statement and form 5201 for a minimum of four years.

D. Appeal Rights

Taxpayers who timely and properly file Form 5278 may appeal a denial of the exemption to the March Board of Review. In the case of a qualified error, as defined in MCL 211.53b, an appeal may also be made to the July Board of Review or December Board of Review. The July or December Boards of Review may not hear an appeal of a denial of the exemption from the March Board of Review.

The decision of the March, July or December Boards of Review may be appealed to the Residential and Small Claims Division of the Michigan Tax Tribunal for the year of the denial only. Michigan Tax Tribunal appeal forms are available at www.michigan.gov/taxtrib.

Taxpayers are advised that if they have not provided a personal property statement to the assessor following denial of their exemption, they should include a completed personal property statement with their appeal to the Board of Review.

E. Exemption Information By Year

Tax Year 2016: EMPP first placed in service in 2005 or earlier and property first placed in service after 2012 is exempt

Tax Year 2017: EMPP first placed in service in 2006 or earlier and property first placed in service after 2012 is exempt

Tax Year 2018: EMPP first placed in service in 2007 or earlier and property first placed in service after 2012 is exempt

Tax Year 2019: EMPP first placed in service in 2008 or earlier and property first placed in service after 2012 is exempt

Tax Year 2020: EMPP first placed in service in 2009 or earlier and property first placed in service after 2012 is exempt

Tax Year 2021: EMPP first placed in service in 2010 or earlier and property first placed in service after 2012 is exempt

Tax Year 2022: EMPP first placed in service in 2011 or earlier and property first placed in service after 2012 is exempt

Tax Year 2023: All Eligible Manufacturing Personal Property is exempt