



ESA Topics: Leased Equipment

Eligible Manufacturing Personal Property (EMPP) is defined by MCL 211.9m and 211.9n as 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 does not qualify as EMPP.

Leasing companies are specifically excluded from receiving the exemption and may not complete the *Eligible Manufacturing Personal Property Tax Exemption Claim, Ad Valorem Personal Property Statement, and Report of Fair Market Value of Qualified New and Previously Existing Personal Property (Combined Document)* (Form 5278). Instead, leasing companies must complete the Personal Property Statement (Form 4175) when filing annually with the local tax collecting unit.

However, due to statutory changes made in 2016, lessees may now report leased personal property if the following qualifications are met. Sections 9m and 9n indicate:

With respect to personal property that is the subject of a lease agreement, regardless of whether the agreement constitutes a lease for financial or tax purposes, all of the following apply:

- (i) If the personal property is eligible manufacturing personal property, the lessee and lessor may elect that the lessee report the leased personal property on the combined document.

(ii) An election made by the lessee and the lessor under this subdivision shall be made in a form and manner approved by the department.

(iii) Absent an election, the personal property shall be reported by the lessor on the personal property statement unless the exemption for eligible manufacturing personal property is claimed by the lessee on the combined document.

Beginning in the 2017 tax year, Form 5467 (*Election of Lessee Report of Eligible Manufacturing Personal Property*) must be filed to make this election. Form 5467 must be signed by both the lessee and lessor and attached to any Combined Document reporting the leased equipment. A copy of the same signed Form 5467 may be attached to multiple Combined Documents in multiple local tax collecting units if the lease agreements result in personal property is located in multiple locations. The election will remain in place until revoked by the lessee or lessor or until the lease agreement expiration date

On Form 5467, the lessee will list the parcel number on which the leased personal property was reported for the prior year, the parcel number it will be reported on for the current year, the local unit and county where the personal property parcels are located and the associated lease agreement expiration date. All personal property under lease agreements between the two parties should be included on one Form 5467. Copies of Form 5467 are to be attached to the Combined Document (Form 5278) submitted in any jurisdiction in which property under the lease agreement is located.

New personal property reported for the first time, not previously reported by the lessor, will report only the current year parcel number where the personal property will be reported, the local unit, county and lease agreement expiration date. Note this election applies to all subsequently acquired personal property under the associated lease agreement.

Form 5467 will be filed once and the election will remain in place unless revoked or until the lease agreement expiration. Lessees will annually provide the Part 3 information with each Form 5278 filed.

Form 5467, which includes detailed instructions, is available on the ESA website at www.michigan.gov/esa.

For additional ESA information, links to statutes, forms, and to sign up for the ESA List Serv, please visit www.michigan.gov/esa.

This information constitutes an interpretation of one or more statutes administered by the Bureau of Local Government Services and not legal advice. As the interpretation reached in these examples are limited to the facts provided, any variation in those facts might result in a different interpretation being reached. Therefore, a taxpayer may wish to consult counsel before proceeding in this matter.