



STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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**BULLETIN NO. 7
OCTOBER 2, 2007
MICHIGAN BUSINESS TAX**

TO: Assessing Officers, County Equalization Directors and Treasurers

FROM: State Tax Commission

RE: Michigan Business Tax and Personal Property Exemptions

On July 12, 2007 Governor Granholm signed into law Public Act 36 of 2007, the Michigan Business Tax Act (MBTA), which takes effect January 1, 2008. The MBTA provides the following refundable credits for property taxes levied after 2007 and paid in the tax year: for industrial personal property, 35%; for natural gas pipeline personal property, 10%, and for telephone personal property subject to the State Utility Tax, 23% for 2008 and 13.5% thereafter.

Public Acts 37, 38, 39, and 40 of 2007, tie-barred to the MBTA, exempt Industrial Personal Property from the 6 mill State Education Tax and up to 18 mills of local school district operating millage; and exempt Commercial Personal Property from up to 12 mills of local school district operating millage. The acts do not change the definitions of industrial and commercial personal property contained in MCL 211.34c, which are used to determine the aforementioned exemptions. **Assessors are advised that nothing in the new laws merits any changes in classification of personal property.** Assessors are also reminded that, MCL 211.34c(5) provides that "if the total usage of a parcel includes more than 1 classification, the assessor shall determine the classification that most significantly influences the total valuation of the parcel."

➤ **Treatment of property classified as Industrial Personal Property:**

Public Act 38 of 2007 amended MCL 211.903, to exempt all property classified as Industrial Personal Property from payment of the State Education Tax (SET). Public Act 37 of 2007 amended MCL 380.1211 to exempt Industrial Personal Property from up to 18 mills of school operating millage. The exemption under Public Act 37 may be less than 18 mills if the school district's operating millage levied in 1993 was less than 18 mills. In that case, the exemption will be equal to that 1993 operating millage. This is similar to the treatment given under the Principal Residence Exemption, the Qualified Agricultural Property Exemption and the Qualified Forest Exemption. Also similar to the treatment under the aforementioned exemptions, the Industrial Personal Property Exemption is subject to being reduced in so-called hold-harmless school districts that had a foundation allowance of more than \$6,500 in the State's 1994-95 fiscal year. In hold-harmless school districts, one calculation will be made to determine the identical reduction in exemption for principal residence, qualified agricultural, qualified forest, and industrial personal property.

The definition of Industrial Property as contained in MCL 211.34c did not change and is as follows:

Industrial personal property includes the following:

- (i) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law.
- (ii) Personal property of mining companies valued by the state geologist.

Industrial real property includes the following:

- (i) Platted or unplatted parcels used for manufacturing and processing purposes, with or without buildings.
- (ii) Parcels used for utilities sites for generating plants, pumping stations, switches, substations, compressing stations, warehouses, rights-of-way, flowage land, and storage areas.
- (iii) Parcels used for removal or processing of gravel, stone, or mineral ores, whether valued by the local assessor or by the state geologist.
- (iv) For taxes levied after December 31, 2002, buildings on leased land used for industrial purposes.
- (v) For taxes levied after December 31, 2002, buildings on leased land for utility purposes.

Public Act 39 of 2007 amends MCL 207.564 and MCL 207.564a to provide that the personal property component of a facility that benefits from an Industrial Facilities Exemption certificate for a New Facility or a Speculative Building (but not a Rehabilitation) and that is sited on real property classified as industrial will now qualify for a specific tax operating millage exemption equal to the ad valorem school operating millage in the school district. Further, the personal property component of the property also qualifies for a specific tax SET exemption equal to the SET millage.

➤ **Treatment of property classified as Commercial Personal Property:**

Public Act 37 of 2007 amended MCL 380.1211 to exempt Commercial Personal Property from up to 12 mills of local school district operating millage. However, in a hold-harmless school district, the 12 mill exemption will be reduced by the same number of mills as the Industrial Personal Property exemption reduction, as described in the section above.

The definition of Commercial Property as contained in MCL 211.34c did not change and is as follows:

Commercial personal property includes the following:

- (i) All equipment, furniture, and fixtures on commercial parcels, and inventories not exempt by law.
- (ii) All outdoor advertising signs and billboards.
- (iii) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for operation while the vehicle is moving on the highway.
- (iv) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary permits.

Commercial real property includes the following:

- (i) Platted or unplatted parcels used for commercial purposes, whether wholesale, retail, or service, with or without buildings.
- (ii) Parcels used by fraternal societies.
- (iii) Parcels used as golf courses, boat clubs, ski areas, or apartment buildings with more than 4 units.
- (iv) For taxes levied after December 31, 2002, buildings on leased land used for commercial purposes.

➤ **Additional Classifications:**

The MBT did not change the definition of Utility Personal Property as contained in MCL 211.34c:

Utility personal property includes the following:

- (i) Electric transmission and distribution systems, substation equipment, spare parts, gas distribution systems, and water transmission and distribution systems.
- (ii) Oil wells and allied equipment such as tanks, gathering lines, field pump units, and buildings.
- (iii) Inventories not exempt by law.
- (iv) Gas wells with allied equipment and gathering lines.
- (v) Oil or gas field equipment stored in the open or in warehouses such as drilling rigs, motors, pipes, and parts.
- (vi) Gas storage equipment.
- (vii) Transmission lines of gas or oil transporting companies.

➤ **Information Regarding Reporting for School District Taxable Value:**

County treasurers currently report to the Department of Education (MDE) the taxable values of each school district, separated into two classes:

1. Principal residence, qualified agricultural, and qualified forest property; exempt from local school operating millage; and
2. All other, "non homestead" property, not exempt from local school operating millage.

To implement PA 37 of 2007, beginning with calendar year 2008 (FY 09), the value of Industrial Personal Property will be switched from the second, "non homestead" class to the first class that is exempt from local school operating millage. A new, third class will have to be created, however, for Commercial Personal Property, that will be exempt from (up to) the first 12 mills of local school operating taxes, but subject to the remaining six mills (or more) of local school operating taxes.

For estimating state education tax revenue, it will be necessary to know the taxable value of Industrial Personal Property that will now be exempt from the SET. This information is not needed by the Department of Education. Beginning in 2008, local assessors and treasurers and county equalization directors will have to adjust their tax rolls to account for ad valorem property exempt from the SET and local school operating mills (Industrial Personal Property) and ad valorem property exempt from only (up to) the first 12 mills of local school district operating taxes (Commercial Personal Property).

➤ **How do the exemptions established affect the assessment process?**

Although in the past, personal property classification was not of critical importance, for the reason that all personal property has been equalized as one class, with the passage of the MBT, incorrect classification can lead to incorrect payment of property taxes and MBT by taxpayers. Assessors must be aware that it is important that personal property be classified correctly.

We anticipate an increase in the number of classification appeals filed with the March Board of Review as well an increase in the number of taxpayers that contact assessors and ask the assessor to make the classification changes. On average, classification of personal property as Industrial Personal Property will result in a 65% reduction from the current personal property tax liability, while classification of personal property as Commercial Personal Property will result in an average 23% reduction from the current tax liability. Classification of personal property as Utility Personal Property will result in no reduction of taxpayer's liability. **Assessors are again advised that nothing in the new laws merits any changes in classification of personal property.** Assessors may also see requests to combine or split current personal property assessments, so that a favorable classification result is reached. Requests to split assessments should not be granted unless the personal property is located at different physical locations. Requests to combine personal property assessments should not be granted unless the real property parcels have the same classification under section 211.34c.

➤ **Additional Information:**

Assessors need to ensure that they are dealing with the “right” question when reviewing requests to change classification to Commercial or Industrial. The issue may not be classification of Commercial or Industrial but should the property be real or personal. An example would be equipment related to electrical generating plants. Some of this equipment may currently be classified as Utility Personal, when it should be classed as Industrial Real.

Assessors are advised that the personal property of a leasing company is Commercial Personal and the classification is not related to the classification of the real property where the leased equipment is located. As an example: A leasing company leases assessable personal property to both commercial and industrial property owners. Specifically, they lease copiers to owners of both commercial and industrial businesses. They also lease manufacturing equipment to owners of industrial sites. The leasing company is properly classified as a commercial business. The classification property owned by the leasing company is not determined by the lessees of the property using the equipment. Property owned by the leasing company shall not be classified as industrial in whole, or in part.

In addition to the classification of the real property, assessors may want to look at the zoning of the real property to help provide clues as to the determination of the classification of the personal property. Discrepancies may exist for non-conforming properties. The assessor should also consider the current use of the property when determining the classification of personal property for non-conforming properties. As an example: An automotive company, typically considered as industrial for assessment and income tax purposes, opens business offices in a commercial or business district of a municipality. The office location is properly classified as commercial. The assessor should review the zoning and use of the real estate to help determine the classification of the personal property (except for leasing companies). The zoning in this example would be commercial and the assessable personal property at that location should also be commercial.

It is important for assessors and equalization departments to note that for K-12 school millage rollback calculations, both commercial personal property and industrial personal property will now be treated with the “homestead” group that receives a full or partial “principle residence” or “qualified agricultural” exemption. This is consistent with the policy for treating parcels that receive a partial exemption from the up to 18 school operating mills with the “homestead group”. In other words, both commercial personal property and industrial personal property taxable values will no longer be reported in the “non homestead” group, but will be included in the “homestead group”. Some of the affected forms include Forms 609 (L-4025), 610 (L-4025 SEV), 612 (L-4028), 613 (L-4028IC), 2166 (L-4034), and 2795 (L-4046). The rollback calculations for “All Properties” are unchanged by these statutory changes.