

# ESA Topics: Business Personal Property Taxes



While significant changes to Business Personal Property Taxes begin in 2016, not all personal property tax is being eliminated.

In December of 2012, initial legislation was passed that significantly changed the taxation of personal property. The Acts, as amended, exempt about ½ of personal property from taxation through two main provisions: 1) Small Business Taxpayer Exemption (MCL 211.9o) and 2) Eligible Manufacturing Personal Property Exemption (MCL 211.9m and MCL 211.9n). The Acts also identified a replacement specific tax on personal property (Essential Services Assessment) and reimbursement for local units lost revenue.

The **Small Business Taxpayer Exemption (MCL 211.9o)** had an effective date of December 31, 2013 for the 2014 tax year. MCL 211.9o includes an exemption for eligible personal property which is defined as:

1. Personal property classified as industrial personal property or commercial personal property as defined in MCL 211.34c or would be classified as industrial personal property or commercial personal property if not exempt, **and**
2. The combined true cash value of all industrial personal property and commercial personal property owned by, leased by or in the possession of the owner or a related entity claiming the exemption is less than \$80,000 in the local tax collecting unit, **and**
3. The property is not leased to or used by a person that previously owned the property or a person that, directly or indirectly controls, is controlled by, or under common control with the person that previously owned the property.

In order to claim the exemption the owner must **annually** file an affidavit, Form 5076. A personal property statement (Form 632) is not required to be filed for property that is properly claimed using this affidavit. State Tax Commission (STC) Bulletin 11 of 2013 detailed this process and can be found on the ESA website at [www.michigan.gov/esa](http://www.michigan.gov/esa).

Effective December 31, 2015, for the 2016 assessment year, **Qualified New Personal Property and Qualified Previously Existing Personal Property** is exempt from taxation.

Qualified New Personal Property (MCL 211.9m) 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 (MCL 211.9n) 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).

Key to both of these definitions is that the Qualified New or Qualified Previously Existing personal property must be Eligible Manufacturing Personal Property.

**Eligible Manufacturing Personal Property (EMPP)** is defined 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 is not EMPP.

A more specific definition of EMPP, including the definitions of occupied real, predominantly used, industrial processing and direct integrated support can be found in STC Bulletin 7 of 2015, available on the ESA website at [www.michigan.gov/esa](http://www.michigan.gov/esa).

These EMPP exemptions will phase in beginning in 2016 through 2023 when all Eligible Manufacturing Personal Property is exempt from ad valorem personal property tax. For 2016, EMPP first placed in service before 2006 or after 2012 is exempt from ad valorem taxation, while EMPP first placed in service in 2006 through 2012 remains subject to ad valorem tax.

Taxpayers whose property qualifies as EMPP will claim the exemption by annually filing Form 5278 with the local unit assessor no later than February 20 (February 22 in 2016). This form contains three Parts; 1) an affidavit which certifies the property meets the definition of EMPP, 2) an ad valorem personal property statement with multipliers for the EMPP still subject to ad valorem tax, and 3) the Essential Services Assessment Statement.

The **Essential Services Assessment (ESA)** is a State specific tax on eligible personal property. In effect, this is a specific tax that replaces the personal property tax. Information regarding ESA is detailed in STC Bulletin 9 of 2015 available on the ESA website at [www.michigan.gov/esa](http://www.michigan.gov/esa).

Finally, the statutory changes affected some special act exemptions. These changes require that some exemption certificates remain in effect (are extended) until the EMPP

exempted by these certificates become exempt under MCL 211.9m or MCL 211.9n. Detailed information regarding how these special act exemptions are affected is covered in the ESA IFT Topic available on the ESA website at [www.michigan.gov/esa](http://www.michigan.gov/esa).

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