



ESA Topics: EMPP Rescissions and Appeals

The Michigan Department of Treasury (“Department”) is required to order the rescission of Eligible Manufacturing Personal Property (EMPP) exemptions if the claimant does not pay the annual Essential Services Assessment (ESA) and any applicable late payment penalty in full by April 15th of the year immediately following the assessment year or if the Department determines that the personal property is not eligible for an EMPP exemption. This ESA Topic covers rescissions of current year exemptions.

The Department may also rescind an EMPP exemption as a result of an audit. Information on appealing the findings – including rescission – based on an audit can be found in the ESA Topic covering audits.

Orders of Rescission

MCL 211.1057(5) requires that the EMPP exemption shall be rescinded on any parcel in which a claimant does not submit payment in full of the Essential Services Assessment (ESA) and applicable late payment penalty by April 15th of the year immediately following the year in which the exemption is claimed. The Department may also issue an Order of Rescission if it is determined that the property is not eligible for the EMPP exemption. The Order of Rescission shall be issued by the Department not later than the first Monday in June of the year immediately following the assessment year.

Once the Order of Rescission is issued, affected parcels will be removed from the ESA statement by the Department and the assessor ordered to return the parcel on the local assessment roll. The claimant will then be responsible for any personal property taxes levied on that parcel by the city or township for the tax year claimed. The rescission is for the assessment year noted on the Order of Rescission only and a rescission in one year does not prohibit the taxpayer from claiming the EMPP exception in subsequent years by timely filing the *Eligible Manufacturing Personal Property Tax Exemption Claim, Personal Property Statement, and Report of Fair Market Value of Qualified New and Previously Existing Personal Property (Combined Document)* (Form 5278). The EMPP exemption is granted on an annual basis, if the property is deemed eligible by the local tax collecting unit.

Within 30 days of the date of the Order of Rescission, the claimant of a rescinded EMPP exemption is required by statute to file a Personal Property Statement (Form

632) with the assessor of the local tax collecting unit in which the property was located on Tax Day.

Although statute does not require the assessor to provide a copy of the Personal Property Statement. The Department advises that assessors do so. Doing so serves as a reminder to taxpayers of their obligation as well as ensures that the correct annual version of the Personal Property Statement is submitted.

The Order of Rescission issued by the Department is the necessary authority for the assessor of the local unit to correct the current year assessment roll. It is not necessary for an assessor to take this matter to any Board of Review, as the July and December Boards of Review have no authority over EMPP or ESA.

Within 60 days of the date of the Order of Rescission, the treasurer of the local unit is required to issue amended tax bills to the taxpayer based upon the assessment entered on the assessment roll by the assessor. These tax bills are required to include all delinquent local property taxes, penalty, and interest.

The Department will hold any refunds on any partially paid rescissions until January of the subsequent year.

Extended IFT (PA 198) and Extended PA 328 Certificates

If the personal property located on a parcel on which the EMPP exemption has been rescinded is also subject to an extended IFT or extended PA 328 certificate, the Department is required to request the State Tax Commission to issue an order to rescind the extended certificate. If requested by the Department, the State Tax Commission must rescind the extended IFT or extended PA 328 certificate by the first Monday in June of the year immediately following the assessment year.

Appealing an Order of Rescission

A taxpayer who disagrees with an Order of Rescission of an EMPP exemption issued by the Department or the rescission of an extended IFT or extended PA 328 certificate issued by the State Tax Commission may appeal that rescission to the Michigan Tax Tribunal (MTT) by December 31st of the year in which the rescission is ordered. Appeals may be filed with the Michigan Tax Tribunal to dispute a rescission of, an assessment on, or late payment penalty calculated for an EMPP exemption under MCL 211.1057(7).

A taxpayer who wishes to appeal must submit a petition, along with proof of service and a filing fee, to the MTT following the instructions available on the Tribunal's website. Taxpayers do not need to contact the Department to communicate an intent to appeal.

The proof of service required by MTT is notification to the Department that an appeal has been filed. Claims may be eligible to be heard in either the MTT's Entire Tribunal or Small Claims divisions, depending on the amount in contention.

More information about MTT practice and procedures is available from MTT at their website www.michigan.gov/taxtrib, by email at taxtrib@michigan.gov, or by calling 517-335-9760.

This information constitutes an interpretation of one or more statutes administered by the Bureau of Local Government and School 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.