

Frequently Asked Questions
Water Pollution Control Tax Exemption
(1994 PA 451, Part 37, as amended)

The following frequently asked questions are being provided as a service to assessors and taxpayers to better inform them about the administration of 1994 Public Act, Part 37, as amended.

Note: The information contained in these frequently asked questions constitutes an analysis of one or more statutes and not legal advice. Since the analysis is limited to general statutory requirements, individual facts may result in different conclusions being reached. Therefore, individuals should consult legal counsel.

1. What is a Water Pollution Control Tax Exemption?

The Water Pollution Control Exemption, 1994 PA 451, Part 37, as amended, affords a 100% property and sales tax exemption to facilities that are designed and operated primarily for the control, capture and removal of industrial waste from the water. After review by the Community Services Division in Treasury and the Department of Environment, Great Lakes, and Energy (EGLE), a recommendation is made to the State Tax Commission (STC) regarding the qualifications of the application. The STC is responsible for final approval and issuance of certificates. Exemptions are not effective until approved by the STC.

2. How do I apply for a Water Pollution Control Tax Exemption Certificate?

Applications, including the required accompanying documents, are filed with the STC. Water Pollution Control Tax Exemption Certificate applications can be found on the Michigan Department of Treasury website at the following address: www.michigan.gov/propertytaxexemptions.

The accompanying documents required to be included with an application for a Water Pollution Control Tax Exemption Certificate are as follows:

- a. Plans and specifications of the facility, including all the materials incorporated or to be incorporated in the facility;
- b. A descriptive list of all equipment, components, ancillary equipment/components, and miscellaneous expenses, including individual costs, acquired or to be acquired by the applicant for the purpose of pollution control;
- c. The proposed operating procedure for the control facility; and
- d. A completed, signed, and sealed affidavit of an engineer's certification, unless the applicant is a farm, in which case the engineer's certification is not required.
- e. A detailed description of any miscellaneous costs included in the

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application with the justification for how such costs are a necessary part of the installation of pollution control equipment/component.

3. Who can file an application for a Water Pollution Control Tax Exemption Certificate and with whom is it filed?

Applications are filed by the company requesting the exemption on their qualified property with the STC.

4. What is the deadline for the filing an application for a Water Pollution Control Tax Exemption Certificate? What happens if the application is filed after the June 15th deadline?

Completed applications received by the Department of Treasury on or before June 15th will be processed. Applications received by the Department of Treasury after June 15th will be acted on as expeditiously as possible.

5. Who determines if a facility qualifies for a Water Pollution Control Tax Exemption Certificate?

Issuance of a Water Pollution Control Tax Exemption Certificate by the STC is based on a determination by EGLE that the facility meets the qualification requirements of 1994 PA 451, Part 37, as amended, and by a determination that the application is complete and meets statutory requirements.

6. What specific equipment/components would not qualify for a Water Pollution Control Tax Exemption Certificate?

An applicant should consult engineering professionals and legal counsel to review the proposed exemption request. The determination of the qualifications of a piece of equipment/component as a “facility” under the statute is based on the use of that equipment/component at the specific pollution control site.

7. Can an application for a Water Pollution Control Tax Exemption Certificate be denied?

Yes. An application can be denied if EGLE or the STC determines that the facility was not designed primarily for the purpose of reducing, controlling, or eliminating water pollution caused by industrial waste, does not meet the intent and purpose of Part 31, or if the application is incomplete.

8. Can a decision of the STC regarding a Water Pollution Control Tax Exemption Certificate be appealed?

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A party aggrieved by the issuance, refusal to issue, revocation, or modification of a Water Pollution Control Tax Exemption Certificate may appeal the decision of the STC as provided in the Administrative Procedures Act, PA 306 of 1996, as amended.

9. What is the term of a Water Pollution Control Tax Exemption Certificate?

A Water Pollution Control Tax Exemption Certificate approved by the STC remains in effect until the pollution equipment/component is no longer in place or no longer used for the primary purpose of pollution control.

10. What determines the starting date of a Water Pollution Control Tax Exemption Certificate?

The effective date of the certificate is the date the certificate is issued by the STC.

11. Does a Water Pollution Control Tax Exemption Certificate totally exempt me from real or personal property taxes?

For the period subsequent to the effective date of the certificate and continuing for as long as the certificate is in force, a facility covered by the certificate is exempt from real and personal property taxes imposed under the General Property Tax Act, 1893 PA 206, as amended.

12. Are special assessment millage rates impacted by the granting of a Water Pollution exemption?

Special assessment millage rates may be impacted. Millage-based special assessments levied under Public Act 33 of 1951, as amended, do not apply to property with a Water Pollution exemption. However, the special assessments would still be applicable to the land on which the Water Pollution exemption property is located. Conversely, for millage-based special assessments levied under public acts other than 1951 Public Act 33, as amended, property with a Water Pollution exemption pays on the full special assessment millage rate, the same as any "ad valorem" property.

13. If I have a Water Pollution Control Tax Exemption Certificate in place and I purchase new equipment/components to replace old, outdated equipment/components. Is this new equipment/component covered under the existing Certificate?

If equipment/component which is currently qualified under a Water Pollution Control Tax Exemption Certificate has become outdated and the company

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wishes to replace it, an amendment needs to be made to the existing certificate by application or a new application needs to be submitted.

14. If I have existing Water Pollution Control equipment/components on the tax roll, but have never previously applied for the tax exemption, will it qualify?

Yes, it may qualify pending the submission of a complete application and the review process.

15. What happens when an incomplete application for a Water Pollution Control Tax Exemption Certificate is received?

If the application is incomplete, it will not be forwarded to EGLE for review. The applicant will be contacted by Treasury staff to provide the missing or incomplete information. If the information is not received in the allotted time, the application may be considered withdrawn.

If, during the application review, EGLE determines that an application is incomplete or missing required information, they will notify the STC in writing. The applicant will need to provide any additional requested information within 30 days of a request from either the STC or EGLE. If the applicant fails to respond to the request for additional information within 30 days, the application may be considered withdrawn.

16. Can a Water Pollution Control Tax Exemption Certificate be transferred to a new owner?

Yes. An application must be completed for the transfer to be processed. Check the box on the application marked transfer and under source identification, list the company for which the transfer has been requested.

17. Can a Water Pollution Control Tax Exemption Certificate be revoked?

Yes. Upon notice by certified mail to the applicant and offering an opportunity for a hearing, the STC on its own initiative or upon complaint of the Department of Environmental Quality, the Department of Treasury, or the assessor of the taxing unit in which any property to which the certificate relates is located, shall modify or revoke the certificate for any of the following:

- a. The certificate was obtained by fraud or misrepresentation.
- b. The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of a facility or to operate the facility for the purpose and degree of control specified in the certification or an amended certificate; or

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- c. The facility covered by the certificate is no longer used for the primary purpose of pollution control and is being used for a different purpose.

Upon the notice of the STC modifying or revoking a Water Pollution Control Tax Exemption Certificate by certified mail to the certificate holder, the Department of Treasury, and the local assessor, the certificates shall cease to be in force or shall remain in force only as modified. If a certificate is revoked because it was obtained by fraud or misrepresentation, all taxes that would have been payable had the certificate not been issued are immediately due and payable with the maximum interest and penalties prescribed by applicable law. A statute of limitations shall not operate in the event of fraud or misrepresentation.

18. When does the revocation of a Water Pollution Control Tax Exemption Certificate take effect?

The revocation of a Water Pollution Control Tax Exemption Certificate is effective December 30th of the year in which the STC revokes the certificate.

19. What does the term “facility” mean and what types of facilities qualify for a Water Pollution Control Tax Exemption Certificate?

Per 1994 PA 451, Part 37, as amended:

“‘facility’ means any disposal system, including disposal wells, or any treatment works, appliance, equipment, machinery, or installation constructed, used, or placed in operation primarily for the purpose of reducing, controlling, or eliminating water pollution caused by industrial waste.”

The following are also defined in the statute:

- a. *“‘Industrial waste’ means any liquid, gaseous, or solid waste substance resulting from any process of industry, manufacture, trade, or business, or from the development, processing, or recovery of any paper or wood, which is capable of polluting the waters of the state.*
- b. *‘Treatment works’ means any plant, pumping station, incinerator, or other works or reservoir used primarily for the purpose of treating, stabilizing, isolating, or holding industrial waste.*
- c. *‘Disposal system’ means a system used primarily for disposing of or isolating industrial waste and includes pipelines or conduits, pumping stations and force mains, and all other constructions, devices,*

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appurtenances, and facilities used for collecting or conducting water-borne industrial waste to a point of disposal, treatment, or isolation, except that which is necessary to the manufacture of products.”

20. What constitutes “recovery”? How does it affect the exemption amount?

Recovery means the gross annual commercial or productive value derived from any materials captured or recovered by the water pollution control facility. The materials captured are then sold for a profit. The value to be exempt from property taxation as provided by 1994 PA 451, Part 37, as amended, for eligible water pollution control facilities shall be the cost of the facility entitled to exemption reduced by the gross annual commercial or productive value derived from any materials captured or recovered by the water pollution control facility. If a certificate is issued, the certificate-holder is responsible for annually reporting the recovery amount to the assessor of the local taxing authority.

21. How do you annually report equipment/components that have been granted a Water Pollution Control Tax Exemption Certificate?

Air and water pollution control facilities and/or wind or water energy conversion devices may qualify for exemption from taxation if an exemption certificate has been issued by the STC on or before December 30th the prior tax year. If you claim such an exemption, check “Yes” on Page 1, line 2 of the Treasury Form 632 (Personal Property Statement) and attach an itemized listing of the certificate numbers, dates of issuance and amounts.

22. Do I qualify for sales or use tax refund? If so, how do I apply for the refund?

The STC grants exemption of the sales and use tax through issuance of a certificate for qualified water or air pollution control facilities. This exemption may include portions of real property as well as equipment/component and other items of tangible personal property. The Department of Treasury will not allow an exemption until it has received a signed exemption certificate from the STC. However, after a certificate is granted, refunds will be authorized. Requests for refund review as well as other information may be obtained from the Technical Section of the Department’s Sales, Use and Withholding Taxes Division at (517) 636-6925.

23. Where can I obtain copies of previously issued Water Pollution Control Tax Exemption Certificates?

Copies of Certificates acted upon by the STC after January 1, 2013, are available on the Department of Treasury website at:
www.michigan.gov/propertytaxexemptions.

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Choose the exemption program under which the certificate was issued. Within the “Certificate Activity” link, the certificates are listed according to the date they were acted upon.