State Tax Commission Bulletin No. 9 of 1998
September 18, 1998
Exemption of "New Personal Property"

DATE: September 18, 1998
TO: Assessing Officers
FROM: State Tax Commission

RE: Exemption of NEW PERSONAL PROPERTY

Attached is a copy of Public Act (PA) 328 of 1998 which was signed by the Governor on 8/6/98 with an effective date of 8/7/98. PA 328 of 1998 exempts certain PERSONAL PROPERTY when certain specific conditions are met. The purpose of this bulletin is to explain this new personal property exemption which takes effect for the first time in the 1999 assessment year.

PA 328 of 1998 states that the governing body of an ELIGIBLE LOCAL ASSESSING DISTRICT may adopt a resolution which provides for the exemption of ALL NEW PERSONAL PROPERTY of an ELIGIBLE BUSINESS located in an ELIGIBLE DISTRICT OR DISTRICTS designated in the resolution.

The words in the paragraph above which are printed in capitalized letters will be defined later in this bulletin.

To repeat, PA 328 of 1998 provides for the exemption of certain personal property provided ALL of the following conditions are met:

1. The personal property must be NEW PERSONAL PROPERTY (defined later in this bulletin).
2. The personal property must be located in an ELIGIBLE LOCAL ASSESSING DISTRICT (defined later in this bulletin)
3. The eligible local assessing district must adopt a resolution which provides for the exemption.
4. The new personal property must be owned or leased by an ELIGIBLE BUSINESS (defined later in this bulletin).
5. The new personal property and the eligible business must be located in an ELIGIBLE DISTRICT (defined later in this bulletin) on tax day. An example of an ELIGIBLE DISTRICT is an Industrial Development District.

Each of these five conditions will be discussed separately in the next part of this bulletin.

Condition #1: The personal property must be NEW PERSONAL PROPERTY

NEW PERSONAL PROPERTY must meet BOTH of the following **2** requirements:

> **Requirement #1:** It must be personal property that was NOT previously subject to tax under the General Property Tax Act. The following are examples of personal property that was NOT previously subject to tax under the General Property Tax Act.

a. New (versus used) personal property which was not subject to the personal property tax before because it did not exist as of a prior tax day.
b. Used personal property which was not subject to personal property tax before because it was previously exempt. An example would be office equipment previously exempt because it was owned by the State of Michigan which has been sold to an ELIGIBLE BUSINESS.
c. Used personal property which was not subject to personal property tax before because it was previously located in another State other than Michigan.

Requirement #2: It must be personal property that was placed in the ELIGIBLE DISTRICT (such as an Industrial Development District) **after** the local assessing district adopts the resolution which provides for the exemption. Therefore, personal property which was located in the ELIGIBLE DISTRICT prior to the adoption of the resolution would not qualify for the exemption.

IMPORTANT NOTE: The exemption provided by PA 328 of 1998 applies to all NEW PERSONAL PROPERTY placed in the ELIGIBLE DISTRICT after the local assessing district adopts the resolution and prior to Jan. 1 of the last year of the exemption. Therefore, if an exemption were granted for a 10 year period, the NEW PERSONAL PROPERTY purchased in the 9th year of the exemption would be exempt for 1 year only.

IMPORTANT NOTE: The State Tax Commission advises that the assessor should require that 2 personal property statements be filed each year by an ELIGIBLE BUSINESSES which receives this exemption. One statement is for the exempt NEW PERSONAL PROPERTY and the other is for all other personal property.

Condition #2: The personal property must be located in an ELIGIBLE LOCAL ASSESSING DISTRICT

ELIGIBLE LOCAL ASSESSING DISTRICT is defined in PA 328 of 1998 as a city, village, or township that contains an ELIGIBLE DISTRESSED AREA. ELIGIBLE DISTRESSED AREA is defined in Michigan Compiled Law (MCL) 125.1411(u). A copy of the definition is contained in the addendum to this bulletin on page 9. A list of those cities and townships which met the definition of ELIGIBLE DISTRESSED AREA as of January 1, 1998 is also contained in the addendum on page 10 of this bulletin. As of the date of this bulletin, there are no villages which qualify as ELIGIBLE LOCAL ASSESSING DISTRICTS because none of them contain an ELIGIBLE DISTRESSED AREA.

Important Note: PA 328 of 1998 requires that there be an ELIGIBLE DISTRESSED AREA in the city, village, or township which grants the exemption. The law does NOT require that the new personal property be actually located in the ELIGIBLE DISTRESSED AREA.

Condition #3: The eligible LOCAL ASSESSING DISTRICT must adopt a resolution which

provides for the exemption.

Contents of the Resolution: The following are required to be contained in the resolution adopted by the local assessing district.

a. The ELIGIBLE DISTRICT (defined later in this bulletin) must be identified or created.
b. The period during which the new personal property is exempt must be specified. The governing body of the local assessing district may grant the exemption for any number of years that it chooses as long as a specific ending date is named.
c. The ELIGIBLE BUSINESS must be identified.

Condition #4: **The NEW PERSONAL PROPERTY must be owned or leased by an ELIGIBLE BUSINESS.**

ELIGIBLE BUSINESS is defined in MCL 207.803(c) as follows:

> "Eligible business" means a business that proposes to create qualified jobs in this state after the effective date of this act in manufacturing, mining, research and development, wholesale and trade, or office operations. An eligible business does not include retail establishments, professional sports stadiums, or that portion of an eligible business used exclusively for retail sales.
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> The Local Unit is responsible for requiring that a particular business is an "eligible business". The local unit must:
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> a. indicate which category the business fits into, that is manufacturing, mining, research and development, wholesale and trade, or office operations.
> b. Determine that the business is "proposing to create qualified jobs". (The Tax Commission interprets the term "qualified jobs" to mean jobs that conform with State and Federal minimum wage laws.)

Condition #5: **The NEW PERSONAL PROPERTY and the ELIGIBLE BUSINESS must be located in an ELIGIBLE DISTRICT**

An eligible district means any of the following:

> a. An Industrial Development District as that term is defined in 1974 PA 198, MCL 207.551 to 207.572.
> b. A Renaissance Zone as that term is defined in the Michigan Renaissance Zone Act, 1996 PA 376, MCL 125.2681 to 125.2696.
> c. An Enterprise Zone as that term is defined in the Enterprise Zone Act, 1985

PA 224, MCL 125.2101 to 125.2123.

d. A Brownfield Redevelopment Zone as that term is defined in the Brownfield Redevelopment Financing Act, 1996 PA 381, MCL 125.2651 to 125.2672.
e. An Empowerment Zone designated under subchapter U of Chapter 1 of the Internal Revenue Code of 1986, 26 U.S.C. 1391 to 1397F.
f. An Authority District or a Development Area as those terms are defined in the Tax Increment Finance Authority Act, 1980 PA 450, MCL 125.1801 to 125.1830.
g. An Authority District as that term is defined in the Local Development Financing Act, 1986 PA 281, MCL 125.2151 to 125.2174.
h. A Downtown District or a Development Area as those terms are defined in 1975 PA 197, MCL 125.1651 to 125.1681.

The next part of this bulletin will discuss the procedures used to obtain the exemption provided by PA 328 of 1998.

Briefly the procedure is a 4-step process.

1. An ELIGIBLE BUSINESS submits an application for the exemption to the governing body of an ELIGIBLE LOCAL ASSESSING DISTRICT.
2. The governing body of an ELIGIBLE LOCAL ASSESSING DISTRICT adopts a resolution which provides for the exemption.
3. The State Treasurer, with the written concurrence of the Michigan Jobs Commission advises the State Tax Commission as to whether exempting the NEW PERSONAL PROPERTY of the ELIGIBLE BUSINESS is necessary to reduce unemployment, promote economic growth, and increase capital investment in the State.
4. The State Tax Commission approves or disapproves the resolution.

The following is a discussion of each of these steps:

STEP 1 Application for the Exemption

An ELIGIBLE BUSINESS which is seeking the exemption provided by PA 328 of 1998 must fill out the application developed by the State Tax Commission and submit it to the governing body of an ELIGIBLE LOCAL ASSESSING DISTRICT. A copy of the application prescribed by the State Tax Commission is contained in the addendum to this bulletin.

STEP 2 Adoption of the Resolution

The governing body of an ELIGIBLE LOCAL ASSESSING DISTRICT must adopt a resolution which provides for the exemption.

As stated earlier in this bulletin, the following are required to be contained in the resolution adopted by the ELIGIBLE LOCAL ASSESSING DISTRICT:

1. The ELIGIBLE DISTRICT must be identified or created.
2. The period during which the personal property is exempt must be specified including an ending date.
3. The ELIGIBLE BUSINESS must be identified.

STEP 3 The State Treasurer and the Michigan Jobs Commission Advises the State Tax Commission

PA 328 of 1998 provides that the State Treasurer, with the written concurrence of the Michigan Jobs Commission, shall advise the State Tax Commission as to whether exempting the NEW PERSONAL PROPERTY of the ELIGIBLE BUSINESS is necessary to reduce unemployment, promote economic growth, and increase capitol investment in Michigan.

STEP 4 The State Tax Commission Approves or Disapproves

PA 328 of 1998 provides that the exemption of NEW PERSONAL PROPERTY becomes effective on December 31 next following the approval of the resolution by the governing body of the LOCAL ASSESSING DISTRICT.

However, the law also provides that a copy of the resolution shall be filed with the State Tax Commission and that the exemption shall not become effective unless approved by the State Tax Commission. The State Tax Commission must approve or disapprove the resolution within 60 days of receipt of the resolution from the governing body of the ELIGIBLE LOCAL ASSESSING DISTRICT.

This means, for example, that a governing body could adopt a resolution on December 30, 1998 and it would not be effective for the 1999 assessment year unless the State Tax Commission approved the resolution. In this example, the Tax Commission's approval or disapproval could occur as late as February 1999 for an exemption on the 1999 assessment roll.

NOTE: Each business receiving an exemption under this act must be identified in a resolution. A separate resolution must be passed by the local unit before an eligible business, not identified in the original or subsequent resolutions, may receive an exemption. This situation may arise if an eligible business locates in an eligible district after a resolution for a different company has already been passed, or if a business within an eligible district becomes an eligible business after a resolution for a different company has already been passed.
