

ESA Topics: Boards of Review



The March Board of Review plays dual roles in the evaluation of personal property for eligibility of the exemption of Eligible Manufacturing Personal Property (EMPP) outlined in MCL 211.9m and MCL 11.9n. The first of these roles is as a body responsible for hearing appeals of assessor denials. The second role is in determining eligibility for the EMPP exemption for claims made directly to the March Board of Review if the February 20th filing deadline was missed.

The July and December Boards of Review have no authority for granting the EMPP exemption or amending any information reported by the taxpayer when claiming the exemption.

Appeals of Assessor Denial

To receive the EMPP exemption, eligible claimants must annually file 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) in the local unit in which the personal property is located. The assessor has the statutory authority to deny the claim of any EMPP exemption that is timely delivered to the local unit in which the personal property is located by February 20th. "Timely delivered" includes any claim postmarked by the United States Postal Service on or before February 20th. Denials are issued for the current year only and must be issued in writing and should be issued as soon as possible in order to afford the taxpayer all available rights of appeal.

If the taxpayer can document that the Combined Document (Form 5278) was timely delivered by February 20th to the assessor of the local unit of government in which the personal property is located, the March Board of Review may have jurisdiction and may hear the appeal, depending on when the written denial was issued by the assessor:

- If the written denial is issued **prior** to the first meeting of the March Board of Review that follows the organizational meeting, the taxpayer **must** appeal to the March Board of Review.
- If the written denial is issued by the assessor **after** the first meeting of the March Board of Review that follows the organizational meeting, then the taxpayer may

appeal to the March Board of Review **or** they may appeal directly to the Michigan Tax Tribunal. If appealing to the Michigan Tax Tribunal directly, taxpayers must file a petition within 35 days of the issuance of a denial.

If the March Board of Review approves the appeal, the Board is statutorily required to remove the exempt eligible manufacturing personal property from the assessment roll. If the personal property is removed, the Board of Review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected.

If the March Board of Review denies the appeal, the taxpayer has the right to appeal the denial directly to the Michigan Tax Tribunal.

If the taxpayer does not have documentation showing the Combined Document (Form 5278) was timely delivered by February 20th in the local unit of government in which the property is located, the Board of Review does not have jurisdiction and should state such in their response to the petition to the Board. Eligible Claimants may instead file the Combined Document (Form 5278) directly with the March Board of Review, which has authority to grant the EMPP exemption

Review of Original Claims

Beginning in 2018, eligible claimants are able to file the Combined Document (Form 5278) directly to the March Board of Review in which the personal property is located, if the Combined Document was not timely delivered to the assessor. To have their claim considered, eligible claimants *must file the Combined Document (Form 5278) with the March Board of Review themselves*. Assessors are not responsible for forwarding to the March Board of Review any Combined Document delivered after the February 20 deadline.

Upon receipt of the Combined Document (Form 5278), the March Board of Review is required to review the claim and, if it meets the qualifications, grant the exemption. Eligible Claimants are advised that their physical appearance at the March Board of Review may be necessary for the board to consider their claim, depending on the policies and procedures in place in the local unit of government. Claimants are advised to contact the assessor to determine if an appearance is necessary.

The March Board of Review is not permitted to accept a Combined Document (Form 5278) delivered after adjournment of its annual meeting.

An appeal of a denial by the March Board of Review may be made by filing a petition with the Michigan tax tribunal within 35 days of the denial notice.

July and December Boards of Review

No errors made in granting the EMPP exemption or in reporting the information to the Department of Treasury are considered a “qualified error” under MCL 211.53b. Therefore, **the July and December Boards of Review have no authority** to grant the EMPP exemption nor modify any acquisition costs reported in qualifying years.

If an error is discovered related to the granting of the EMPP exemption or transmitting the Combined Document (Form 5278) to the Department of Treasury, assessors are advised to contact the ESA unit *immediately* at 517-241-0310 or ESAQuestions@michigan.gov.

If an error was made related to the reporting of acquisition costs on the Combined Document (Form 5278), the eligible claimant may correct the error themselves when reviewing and certifying their Essential Services Assessment (ESA) statement via Michigan Treasury Online (MTO) or e-file. Any changes made on the ESA statement will be reported to the assessor at the end of the ESA filing year.

More information regarding the denial of EMPP exemption claims and appeals, as well as the State Tax Commission’s *Assessor Guide to Eligible Manufacturing Personal Property Tax Exemption and ESA*, may be found on the ESA website at www.michigan.gov/ESA

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