

ESA Topics: Claiming the Exemption under MCL 211.9m and MCL 211.9n



To qualify for the Eligible Manufacturing Personal Property (EMPP) exemption, eligible claimants must file Form 5278 – 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)* – with the local tax collecting unit in which the property is located no later than February 20th. If February 20th falls on a Saturday, Sunday, or State holiday, the deadline is extended to the next day that is not a Saturday, Sunday, or holiday. Form 5278 must be delivered to the assessor of the local unit in which the property is located by the deadline. A Form 5278 sent by the United States Postal Service is considered delivered timely if it is postmarked by February 20th.

Forms sent to the incorrect local unit are not considered delivered timely unless they are forwarded or re-sent to the local unit in which the personal property is located prior to the filing deadline.

Taxpayers who fail to meet the February 20th filing deadline may file Form 5278 directly with the March Board of Review of the local unit in which the personal property is located. Form 5278 must be filed by the eligible claimant with the March Board of Review prior to its adjournment. Assessors are not required to forward any Form 5278 received after February 20th to the March Board of Review.

Form 5278 includes:

1. The form required to claim the EMPP exemption.
2. The personal property statement for those years for which the EMPP is not yet exempt and still pays local property taxes.
3. The report of Fair Market Values of Qualified New Personal Property and Qualified Previously Existing Personal Property utilized by the Department of Treasury to generate an Essential Services Assessment (ESA) statement for the taxpayer.

Incomplete forms will not be accepted by the assessor. If the form is filed without the FEIN, parcel number, if the taxpayer name is not provided, or if the form was not signed and dated, then the form is not considered fully complete and should be denied. Please note that pursuant to statutory authority an electronic or facsimile signature may be used on Form 5278.

A separate Form 5278 must be filed for each Parcel on which the exemption is being claimed. Personal property with an Industrial Facilities Tax (P.A. 198) exemption, New Personal Property (P.A. 328) exemption, or Michigan Strategic Fund (MSF) resolution allowing for exemption from ESA under P.A. 93 of 2014, should receive a parcel number separate from personal property that remains on the Ad Valorem assessment roll.

If the lessor and lessee of leased property elected that the lessee report the property as EMPP, Form 5467 *must* be attached to Form 5278. Additionally, the lessee should also be sure to check the box in Part 3 of Form 5278, indicating that the election was made.

Claimants may appeal a denial of the EMPP exemption by the assessor to the March Board of Review if the denial is issued on or before the statutory date of the first meeting of the March Board of Review that follows the organizational meeting (for 2019, March 11, 2019). If a denial is issued after that date, a claimant may appeal to the March Board of Review prior to its adjournment or to the Michigan Tax Tribunal within 35 days of the denial notice.

Failure to timely file a complete Form 5278 or failure of the local unit to exempt the personal property from the assessment roll does not meet the definition of qualified error under MCL 211.53b. As a result, the July and December Boards of Review do not have authority to accept Form 5278 or grant the EMPP exemption.

Taxpayers claiming the EMPP exemption by filing Form 5278 should not file Form 632 for the same parcel. Personal Property on the parcel that is to be assessed by the local tax collecting unit should be reported in Part 2 of the Form.

Form 5278 will not be mailed to taxpayers but instead is available on the ESA website at www.michigan.gov/esa.

More information regarding ESA, including instructions for subscribing to the ESA listserv may be found at www.michigan.gov/esa.

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