

# ESA Topics: P.A. 328 Property Reporting and Treatment



How P.A. 328 (MCL 211.9f) property is treated with the changes to the personal property tax can be confusing. This ESA Topic will focus on how P.A. 328 property is treated and will provide some basic examples that should allow taxpayers and assessors to gain a better understanding of how these properties should be reported and how they will be treated for property taxation purposes. A separate ESA Topic has been released that focuses on P.A. 198 property.

First and most importantly, it is critical that taxpayers carefully read the instructions for Form 5278 and particularly for Part 3 of the Statement. Taxpayers must ensure that when filling out Part 3 of the Statement, they do not inadvertently report costs in both Section 1 and Section 2. In Part 3, only one section may be filled out for a particular parcel. Questions 1 through 7 on Part 3 guide you to which section you will be using to report your personal property.

MCL 211.9f(8) indicates:

Notwithstanding any other provision of this section to the contrary, if new personal property exempt under this section on or after December 31, 2012 is eligible manufacturing personal property, that eligible manufacturing personal property shall remain exempt under this section until the later of the following:

- (a) The date that eligible manufacturing personal property would otherwise be exempt from the collection of taxes under this act under section 9m, 9n, or 9o.
- (b) The date that eligible manufacturing personal property is no longer exempt under the resolution adopted under subsection (1).

Simply put: Eligible Manufacturing Personal Property (EMPP) that was subject to a P.A. 328 exemption on or after December 31, 2012 but before December 31, 2014, shall remain exempt until the later of the following:

- a. The personal property is exempt under MCL 211.9m, 9n or 9o
- b. The P.A. 328 exemption expires.

The definition of new personal property under P.A. 328 does not include EMPP for a resolution adopted after December 31, 2014.

### **Example 1: (Non-Extended P.A. 328)**

A P.A. 328 exemption was approved in 2000 and effective for 2001 through 2030 (expires 12/30/30).

The personal property is Eligible Manufacturing Personal Property (EMPP).

The exemption does not need to be extended because the exemption is valid until 2031.

The personal property will remain exempt under P.A. 328 until 2031 and will not be subject to the Essential Services Assessment (ESA) until 2031. The taxpayer is not required to file Form 5278 until 2031 when the property is no longer exempt under P.A. 328.

### **Example 2: (Extended P.A. 328)**

A P.A. 328 exemption was approved in 2003 and effective for 2004 through 2013 (expires 12/30/13).

The personal property was placed in service in 2004 and 2005

The personal property is Eligible Manufacturing Personal Property (EMPP).

The law will extend the P.A. 328 exemption through 2015. Property placed in service in 2004 and 2005 will be considered eligible personal property in 2016 under MCL 211.1053(e)(i).

Beginning in 2016 the property will pay the full Essential Services Assessment (ESA). The taxpayer will fill out Form 5278 Part 3 Section 1.

### **Example 3: (Extended P.A. 328 – Complex Example)**

A P.A. 328 exemption was approved in 2010 and effective for 2010 through 2015 (expires 12/30/15).

The personal property was placed in service in 2011, 2012 and 2013.

The personal property is Eligible Manufacturing Personal Property (EMPP).

Eligible Manufacturing Personal property (EMPP) that was subject to a P.A. 328 exemption on or after December 31, 2012 but before December 31, 2014, shall remain exempt until the later of the following:

- a. The personal property is exempt under MCL 211.9m, 9n or 9o
- b. The P.A. 328 exemption expires.

The P.A. 328 exemption was in effect on or after December 31, 2012. Therefore, the P.A. 328 exemption is extended until 2023 and the property shall remain exempt under P.A. 328 until the personal property is exempt under MCL 211.9m, 9n or 9o. ( property first placed in service in 2012 becomes exempt under MCL 211.9n in 2023).

This property will be reported on Form 5278 Part 3 Section 2.

This property will be subject to the full payment of the Essential Services Assessment (ESA) because MCL 211.1053 defines eligible personal property (which is property subject to pay the ESA) as both EMPP that is subject to an extended exemption under MCL 211.9f(8)(a) and EMPP exempt under MCL 211.9m or 9n.

### **P.A. 328 Additional Information**

The full ESA must be paid for all P.A. 328 exemptions approved in 2014 unless the application was filed before August 5, 2014 and the resolution approving the exemption projected costs to be at least \$25 million. The taxpayer will fill out Form 5278 Part 3 Section 2.

For additional ESA information, links to statutes, forms, and to sign up for the ESA List Serv, please visit [www.michigan.gov/esa](http://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.