

# ESA Topics: Predominantly Used Calculation



Effective December 31, 2015, for the 2016 assessment year, Qualified New Personal Property and Qualified Previously Existing Personal Property is exempt from taxation. Key to the definition of both Qualified New and Qualified Previously Existing Personal Property is that the personal property must be **Eligible Manufacturing Personal Property**.

Eligible Manufacturing Personal Property (EMPP) is defined as all personal property located on *occupied real property* if that personal property is ***predominantly used*** in *industrial processing* or *direct integrated support*. For personal property that is construction in progress and part of a new facility not in operation, EMPP means all personal property that is part of that new facility if that personal property will be *predominantly used* in *industrial processing* when the facility becomes operational. Personal property that is not owned, leased or used by the person who owns or leases *occupied real property* where the personal property is located is not EMPP unless the personal property is located on the *occupied real property* to carry on a current on-site business activity. Personal property that is placed on *occupied real property* solely to qualify the personal property for an exemption under 9m or 9n is not EMPP.

This ESA topic will focus on the calculation to meet the **predominantly used** test.

MCL 211.9m indicates the following:

Personal property located on occupied real property is predominantly used in industrial processing or direct integrated support if the result of the following calculation is more than 50%:

(i) Multiply the original cost of all personal property that is subject to the collection of taxes under this act [PA 206 of 1893, as amended] and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9n, and 9o and this section that is located on that occupied real property and that is not construction in progress by its percentage of use in industrial processing or in direct integrated support.

Personal property is used in industrial processing if it is not used to generate, transmit, or distribute electricity for sale, if it is not utility personal property as described in section 34c(3)(e), and if its purchase or use by the person claiming the exemption would be eligible for exemption under section 4t of the general sales

tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. For an item of personal property that is used in industrial processing, its percentage of use in industrial processing shall equal the percentage of the exemption the property would be eligible for under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Utility personal property as described in section 34c(3)(e) is not used in direct integrated support.

(ii) Divide the result of the calculation under subparagraph (i) by the total original cost of all personal property that is subject to the collection of taxes under this act [PA 206 of 1893, as amended] and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9n, and 9o and this section that is located on that occupied real property and that is not construction in progress.

A graphic representation of this formula is:

**Personal Property Original Cost on occupied real property times the percentage of use in industrial processing or direct integrated support**

***Divided by***

**Personal Property Original Cost on occupied real property**

\* For this calculation:

Personal property includes all taxable personal property, personal property exempt under IFT (211.7k), exempt special tooling (211.9b), exempt under PA 328 (211.9f), exempt under the Small Business Taxpayer Exemption (211.9o) and exempt as EMPP under MCL 211.9m and 211.9n. Subtract the cost of construction in progress.

Original Cost means the fair market value of personal property at the time of acquisition by the first owner.

### Example 1: Sample Calculation

Personal Property	Status	Original Cost	% of use in IP or DIS	IP/DIS Eligible Cost
Machine 1	IFT Exempt	\$500,000	100%	\$500,000
Office Furniture	GPTA Taxable	\$100,000	0%	\$0
Shipping container	GPTA Taxable	\$50,000	30%	\$15,000
Die/Mold	Special Tool	\$250,000	100%	\$250,000
Machine Foundation	GPTA Taxable	\$100,000	50%	\$50,000
Computers	GPTA Taxable	\$35,000	60%	\$21,000
Machine 2	328 Exempt	\$250,000	50%	\$125,000
Machine 3	IFT Exempt	\$350,000	100%	\$350,000
Mahine 4	GPTA Taxable	\$150,000	100%	\$150,000
Totals		\$1,785,000		\$1,461,000
<b>\$1,461,000 divided by \$1,785,000 = 82%</b>				

Each item of personal property is individually identified, the status determined, as well as the original cost and percent of use in industrial processing or direct integrated support. The original cost of each item of personal property is multiplied by its percentage of use in *industrial processing or direct integrated support* to determine an eligible cost. The total eligible cost is then divided by the total original cost to determine the percent of predominant use. Because the result of the calculation is greater than 50%, all personal property on this occupied real property would qualify for the EMPP exemption and be subject to ESA.

If the result of the calculation would have been less than 50%, then none of the personal property on this occupied real property would qualify for the EMPP exemption.

### Example 2: Contiguous Properties

Occupied real property is defined in MCL 211.9m as all of the following:

- (i) A parcel of real property that is entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section or under section 9n.
- (ii) Contiguous parcels of real property that are entirely owned, leased, or otherwise occupied by a person claiming an exemption under this section or under [PA 206 of 1893, as amended] section 9n and that host a single, integrated business operation engaged primarily in industrial processing, direct integrated support, or both. A business operation is not engaged primarily in industrial processing, direct integrated support, or both if it engages in significant business activities that are not directly related to industrial processing or direct integrated support.

(iii) The portion of a parcel of real property that is owned, leased, or otherwise occupied by a person claiming the exemption under this section or under section 9n or by an affiliated person.

A single integrated business operation was not defined in statute therefore we would look to the common language definition: A term used to define a company that combines two or more operations or divisions and operates as a single business unit.

MCL 211.9m also did not provide a definition of contiguous property, therefore we will look to the definition contained in MCL 211.7dd: Contiguity is not broken by boundary between local tax collecting units, a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2 parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation.

Therefore, combining the EMPP calculation for contiguous parcels involved in a single integrated business operation can expand the exemption to parcels that would not qualify on their own.

**For example** 3 contiguous parcels that host a single integrated business operation:

Parcel A: Total Eligible Cost \$12 M divided by Total Original Cost \$15 M = 80%

Parcel B: Total Eligible Cost \$1 M divided by Total Original Cost \$5 M = 20%

Parcel C: Total Eligible Cost \$10 divided by Total Original Cost \$12M = 83%%

**Combined = Total Eligible Cost \$23 M divided by Total Original Cost \$32 M = 72%**

Since the result of the calculation is greater than 50%, personal property on all three parcels would qualify for the exemption and be subject to ESA.

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