



ESA Topic:

Changes to EMPP Exemption Claims Beginning in 2023

On December 23, 2021, Governor Whitmer signed into law Public Acts 153 through 156, amending the General Property Tax Act of 1893, the State Essential Services Act of 2014 and the Alternate State Essential Services Act of 2014.

These Acts amend the requirement for taxpayers to claim the exemption of eligible manufacturing personal property (EMPP) on an annual basis and instead allow taxpayers to claim the exemption only in 2023 or the first year that the property is eligible. The amendatory acts also allow the Department of Treasury to annually generate Essential Services Assessment (ESA) statements utilizing information from the immediately preceding year's ESA Statement.

Claiming the EMPP Exemption in 2023

As in previous years, it is necessary to timely file the Combined Document (Form 5278) in order to claim the exemption in 2023.

Any eligible claimant that wishes to receive the EMPP exemption on an eligible parcel in 2023 is required to file the Combined Document (Form 5278) with the assessor of the local unit in which the property is located. The deadline to file is February 21, 2023 (February 20 is a state holiday). The exemption claim is considered filed timely if it is postmarked on or before February 21.

If the deadline to file with the assessor is missed, the Combined Document (Form 5278) may be filed directly with the March Board of Review prior to its adjournment.

If no Combined Document (Form 5278) is timely filed with either the assessor or March Board of Review, the parcel is ineligible for the exemption in 2023 and must be assessed on the local roll. This is true regardless of whether the exemption was granted in any previous year.

Changes to the Combined Document (Form 5278)

Because all EMPP is exempt beginning in 2023, the Combined Document (Form 5278) has been updated to remove the Personal Property Statement portion (previously Part 2) and acquisition costs for all parcel on eligible parcels must now be reported in the

new Part 2 (previously Part 3). Eligible Claimants must report the acquisition costs of all personal property in all acquisition years in Section B of Part 2.

Claiming the EMPP Exemption in 2024 and later

Beginning in 2024, changes to Sections 9m and 9n of the General Property Tax Act eliminate the requirement to claim the EMPP exemption annually and instead require the taxpayer to file the Combined Document (Form 5278) with the assessor of the local unit in which the personal property is located only in the first year that property is eligible for the exemption.

If the EMPP exemption is granted in 2023, no claim is required to receive the exemption in 2024 or later years.

The February 20 filing deadline to claim the exemption on previously non-exempt parcels remains the same, with all forms postmarked by that date being considered timely filed. If the February 20 deadline is missed, eligible claimants may file the Combined Document (Form 5278) with the March Board of Review prior to its adjournment.

Appeal rights remain unchanged for all years.

If the EMPP exemption is granted for 2023 or any year thereafter, the taxpayer will not be required to report personal property to the local unit of government in following years unless the property ceases to be eligible for the EMPP exemption. Should the property become ineligible, taxpayers will be required to file a rescission affidavit (Form 5677) with the assessor by February 20 of the year in which the property is no longer eligible. At the same time, taxpayers should also file a Personal Property Statement, L-4175.

The assessor will be required to remove the exemption from the assessment roll for that year and inform Treasury of the action no later than April 1.

Extended Industrial Facility Tax (IFT) and New Personal Property (PA 328) Certificates

Beginning in 2023, all EMPP is exempt regardless of the year in which it was acquired by the first owner. Because all acquisition years are exempt under MCL 211.9m or 9n, no IFT or PA 328 certificate that expired in any previous year will qualify to be extended. From 2023 onward, all IFT and PA 328 certificates will expire on the date provided on the original or amended certificate.

EMPP that is subject to an unexpired IFT certificate that was in effect prior to January 1, 2013 will continue to benefit from the 50% reduction of true market value in calculating ESA liability until that certificate expires.

Essential Services Assessment

Changes made to Section 7 of the State Essential Services Assessment Act allow Treasury, beginning in 2024, to generate current year ESA Statements utilizing acquisition costs reported on the eligible claimant's previous year ESA Statement.

Treasury will still be required to generate ESA statements by May 1 each year and will be utilizing account and parcel information from the previous year to do so. Assessors will be required to submit information from any Combined Document (Form 5278) filed for new parcels that year. Treasury will add these parcels to the ESA Statement for taxpayers to review and certify.

Eligible Claimants will have from May 1 through August 15 to review and certify their ESA Statements and electronically pay ESA in full without incurring late payment penalty. Late Payment Penalty remains 3% per month or part of a month in which ESA liability is not paid in full. Failure to pay ESA liability in full by April 15 of the year immediately following the assessment year will result in an order of rescission of the EMPP exemption being issued for any affected parcel(s).

NOTE: If certifying via Michigan Treasury Online (MTO), it will be necessary for eligible claimants to annually review each parcel on their ESA Statement. Beginning in 2023, Construction in Progress and the most recent year will be null and require entry of a value before the return can be submitted.

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

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