

# Essential Services Assessment Frequently Asked Questions

## General Information and Definitions

### What is ESA?

The Essential Services Assessment (ESA) is a state-specific tax on personal property that has received an exemption from local property taxes because it is *eligible personal property* owned by, leased to, or in the possession of an eligible claimant on December 31 of the year immediately preceding the assessment year. MCL 211.1055(2).

### What is eligible personal property?

Eligible personal property includes all of the following:

- Personal property exempt under MCL 211.9m or MCL 211.9n.
- Personal property exempt under MCL 211.9f (PA 328) approved after 2013 unless both of the following conditions are satisfied:
  1. The application for the 328 exemption under MCL 211.9f was filed before August 5, 2014
  2. The resolution approving the exemption states that the project is expected to have total new personal property of over \$25 million within 5 years of the adoption of the resolution by the local assessing district or the Next Michigan Development Corporation.
- Personal property subject to an extended Industrial Facilities Exemption Certificate under MCL 207.561a (IFT exemption).
- Personal property subject to an extended exemption under MCL 211.9f(8)(a) (PA 328 exemption).

### What is qualified new personal property?

Qualified New Personal Property is defined as personal property that was initially placed in service in this state or outside of this state **after** December 31, 2012 or that was construction in progress on or after December 31, 2012 (that had not been placed in service in this state or outside of this state before 2013) **and** is eligible manufacturing personal property (EMPP).

### What is qualified previously existing personal property?

Qualified Previously Existing Personal Property is defined as personal property that was first placed in service within this state or outside of this state more than 10 years before the current calendar year **and** is eligible manufacturing personal property (EMPP). For 2018, this is all EMPP originally placed in service before January 1, 2008.

### What is eligible manufacturing personal property (EMPP)?

EMPP means all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support. EMPP also includes personal property that is construction in progress or part of a new facility

not in operation, if the personal property will be predominantly used in industrial processing when the facility becomes operational. Until the personal property is placed in service, it is “construction in progress” (CIP). Construction in progress does qualify as EMPP if the property will qualify as EMPP when it is placed in service.

### **What is industrial processing?**

Industrial processing is defined in MCL 205.54t of the General Sales Tax Act and MCL 205.94o of the Use Tax Act. It includes:

- a) Production or assembly.
- b) Research or experimental activities.
- c) Engineering related to industrial processing.
- d) Inspection, quality control, or testing to determine whether particular units of material or products or processes conform to specified parameters at any time before materials or products first come to rest in finished goods inventory storage.
- e) Planning, scheduling, supervision, or control of production or other exempt activities.
- f) Design, construction, or maintenance of production or other exempt machinery, equipment, and tooling.
- g) Remanufacturing.
- h) Processing of production scrap and waste up to the point it is stored for removal from the plant of origin.
- i) Recycling of used materials for ultimate sale at retail or reuse.
- j) Production material handling.
- k) Storage of in-process materials.

### **What is direct integrated support?**

Direct integrated support means any of the following:

- 1) Research and development related to goods produced in industrial processing and conducted in furtherance of that industrial processing.
- 2) Testing and quality control functions related to goods produced in industrial processing and conducted in furtherance of that industrial processing.
- 3) Engineering related to goods produced in industrial processing and conducted in furtherance of that industrial processing.
- 4) Receiving or storing equipment, materials, supplies, parts, or components for industrial processing, or scrap materials or waste resulting from industrial processing, at the industrial processing site or at another site owned or leased by the owner or lessee of the industrial processing site.
- 5) Storing of finished goods inventory if the inventory was produced by a business engaged primarily in industrial processing and if the inventory is stored either at the site where it was produced or at another site owned or leased by the owner or lessee of the industrial processing site.
- 6) Sorting, distributing, or sequencing functions that optimize transportation and just-in-time inventory management and material handling for inputs to industrial processing.

## Eligibility

### **How do I determine if my personal property is eligible for the exemption?**

It is suggested that you begin by visiting the ESA web site which has significant information regarding the exemption, including statutory definitions that are referenced above. The ESA web site can be accessed at [www.michigan.gov/esa](http://www.michigan.gov/esa).

### **Are only manufacturers eligible for the exemption?**

Eligible Manufacturing Personal Property (EMPP) means all personal property located on occupied real property if that personal property is predominantly used in *industrial processing or direct integrated support*. Non-manufacturers may qualify for the exemption. Please see the definitions section of the ESA web site for specific definitions regarding those activities.

### **Do I have to be manufacturing within Michigan to qualify for the exemption?**

No. Property can be direct integrated support to a manufacturing activity not located within the State of Michigan.

### **Can EMPP be located at another facility or site?**

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 placed on occupied real property solely to qualify the personal property for an exemption under MCL 211.9m or 211.9n is not EMPP.

### **When does industrial processing begin and end?**

Industrial processing begins when tangible personal property moves from raw materials storage to start industrial processing. It ends when finished goods first come to rest in finished goods inventory storage.

### **Can previously owned equipment qualify for EMPP?**

Yes. The equipment will be treated based upon the year it was first placed into service *by its first user*, who is not necessarily the current owner. The original cost for used equipment is the acquisition cost to the *first owner*, including sales tax, freight, and installation.

### **Can self-constructed equipment qualify for EMPP?**

Self-constructed equipment may qualify for ESA. The key factors will be the tax year that the equipment was placed in service and whether the equipment would otherwise qualify as EMPP.

### **Is property that is exempt as special tooling now required to pay ESA?**

No, exempt special tooling will remain exempt under MCL 211.9b.

**Is property that is subject to an Air Pollution Control or Water Pollution Control Exemption now EMPP and subject to ESA?**

No, that property will remain exempt under the Air or Water Pollution Control exemption.

**What is acquisition cost?**

Acquisition cost means the fair market value of the personal property at the time of acquisition by the first owner, including the cost of freight, sales tax, and installation, and other capitalized costs, except for capitalized interest.

For certain property, acquisition cost is defined by statute as a portion of the fair market value of the personal property at the time of acquisition by the first owner. However, eligible claimants of the EMPP exemption should report the full fair market value of the personal property on Form 5278 and their ESA return. The Department of Treasury will calculate the appropriate acquisition cost on which ESA is liable.

**I bought the personal property used. Can I report the year and cost for which I purchased the property?**

No. If the property was originally placed into service prior to your acquisition of the property, you must use the year it was placed into service by its original owner as well as its original cost, including sales tax, freight, and installation costs. This applies even if the property was re-booked for accounting purposes.

## **Form 5278 Filing Requirements**

### **Do I have to file Form 5278 in order to claim the EMPP exemption?**

Yes. Statute requires that eligible claimants timely file the Combined Document (Form 5278) with the local assessor of the local unit of government in which the personal property is located. The Combined Document must be postmarked by February 20th. If the Combined Document is not delivered by February 20th, the Combined Document may be filed directly with the March Board of Review of the local unit of government in which the personal property is located.

### **I'm filing a form for a New Parcel and does not have a parcel number yet. What should I put for the parcel number?**

Each form must have a personal property parcel number reported. Contact your local unit to find out if your parcel has been assigned a number. If not, request that one be assigned so that you may properly claim the EMPP exemption.

### **Why do you need my real property number?**

EMPP means all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support. Since part of the definition for EMPP involves the property being located on occupied real property, we require the taxpayer to report the real property parcel number.

### **How do I find out what my real property parcel number is?**

The Department of Treasury does not maintain a list of real property parcels or has the means to determine them. To determine the real property parcel number, it is necessary to contact the local unit of government in which the property is located. Many local units have a way to search property information on their website.

### **Can a taxpayer use a Social Security number if they do not have a FEIN?**

No. A taxpayer must have a valid Federal Employer Identification Number to file an ESA statement. MCL 211.1053(a).

### **Where can I send my Combined Document (Form 5278)?**

To claim the EMPP exemption, a fully completed Form 5278 must be delivered to the Assessor of the local unit where the property is located no later February 20. If February 20 falls on a Saturday, Sunday, or legal holiday, the Combined Document must be delivered to the Assessor by the next day that is not a Saturday, Sunday, or legal holiday.

### **Is a Combined Document (Form 5278) postmarked by the deadline considered timely?**

For the purposes of a combined document sent via the United States Postal Service, the delivery is timely if the postmark date is on or before the delivery deadline date.

**If I missed the February 20th filing deadline with the local assessor, is there another way to claim the EMPP exemption?**

If the combined document is not timely delivered to the assessor of the township or city in which the personal property is located, a late application may be made directly to the March Board of Review by filing Form 5278 with the March Board of Review prior to their final adjournment.

**I mailed my Combined Document to the wrong local unit and the correct local unit did not receive it until after the filing deadline, is it considered timely filed?**

No. Statute requires that the Combined Document be filed with the local unit in which the personal property is located by the filing deadline in order to be timely filed. Eligible claimants should make sure they are sending Form 5278 to the local unit of government from which they received the Personal Property Statement (Form L-4175) for that parcel.

**Are there any penalties for falsely claiming the EMPP exemption?**

Yes. Pursuant to MCL 211.21, an assessor shall report to the prosecuting attorney where the property is located any individual suspected of fraudulently claiming the exemption. Any individual who fraudulently claims an exemption is guilty of a misdemeanor punishable by not less than 30 days and not more than 6 months in jail and/or a fine of not less than \$500 or not more than \$2,500.

**I filed Form 5278, why am I getting a bill from my local unit?**

Part 2 of Form 5278 mirrors the personal property statement, however it contains reporting only for the non-exempt years (For 2018, 2008-2012). Part 2 is utilized by the local unit to determine local property tax liability and they will send a bill for non-exempt years. Taxpayers with an extended IFT certificate pay both IFT specific tax and ESA, therefore they will report in both part 2 and part 3 of Form 5278.

**What do I do when my property no longer qualifies for the exemption?**

If, prior to filing Form 5278, it is determined that the parcel no longer qualifies for the exemption, form 632 may be filed for this parcel instead of Form 5278.

If Form 5278 has already been filed, taxpayers may remove the parcel from their ESA statement through MTO or e-file, but it is recommended that they contact ESA staff if there is any value on this parcel. Parcels that are removed from an ESA statement are rescinded after October 15<sup>th</sup> and before the First Monday in December. Taxpayers may also file Form 5277, *Affidavit to Rescind Exemption of Eligible Manufacturing Personal Property Defined in MCL 211.9(m) and 211.9(n)*, with the assessor of the local tax collecting unit where the personal property is located no later than December 31 of the year in which the exempted property is no longer eligible for the exemption.

## Statement Certification

### **I have determined I am eligible for the EMPP exemption. I have timely filed Form 5278 with my local unit assessor. What happens now?**

Once an eligible claimant has properly claimed the personal property tax exemption by filing 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) with the local unit assessor, the assessor will transmit the information contained in Form 5278 to the Michigan Department of Treasury by April 1st.

The Department of Treasury will create an *Electronic ESA Statement (Statement)* from the information contained in Form 5278 and will make that *Statement* available through Michigan Treasury Online (MTO) not later than May 1st. Eligible claimants must submit a certified *Statement* either through MTO or through e-file (paper *Statements* are not accepted).

### **When can I begin reviewing and certifying my ESA statement?**

Beginning May 1st of the tax year, eligible claimants may view and certify the Electronic Statement via Michigan Treasury Online (MTO) and or E-file.

### **I already certified Form 5278 when I gave it to my assessor earlier this year. Why do I have to electronically certify it?**

Form 5278 is the claim for the EMPP exemption and the reporting instrument for eligible and ineligible personal property. The Department creates an ESA statement based on the information provided in parts 1 and 3 of Form 5278. EMPP claimants must review this statement, make changes if necessary, and electronically certify and submit the statement by the statutory deadline of October 15<sup>th</sup> in order to correctly file the ESA tax.

### **Do I have to sign up for MTO to view my statement, certify, and pay?**

Eligible claimants or their authorized preparer may utilize MTO to view their *Statement*, view correspondence from Treasury, make changes to their *Statement*, Certify their *Statement*, and pay the ESA tax.

Eligible claimants and/or authorized preparers that utilize third-party preparation software may certify the *Statement* by filing a return electronically through the Modernized e-File System (MeF). MeF allows eligible claimants or their authorized preparers to use the approved software developer of their choice to file their return. Eligible claimants choosing to e-file are advised to still log into MTO to review their ESA statement as third-party preparation software providers do not provide final determinations made by the Department.

### **When is my payment due?**

An eligible claimant is required to make payment in full, by using MTO, e-File, or Electronic Funds Transfer (EFT) credit, by August 15<sup>th</sup> in order to avoid penalty. Payments **cannot** be mailed to the Department of Treasury.

**Separate facilities operated by my company are responsible to make tax payments on their own parcels. May partial payment be made to apply to a specific parcel?**

No. All payments made are applied to the entire liability of the ESA return. Payments are automatically applied to fully pay the parcel with the highest liability first with the remaining balance always applying to the next highest liability parcel that may be fully paid off.

**What if I don't certify my *Statement* or make payment in full by August 15th?**

An eligible claimant who fails to submit a certified *Statement* and pay ESA in full via MTO or e-file by August 15th shall be subject to late payment penalty at a rate of 1% per week, up to a maximum of 5%, of the total amount due and unpaid. For an eligible claimant's first assessment year, the penalty shall be waived if the *Statement* and full payment are submitted by September 15th.

**What if I don't certify my *Statement* or make payment by October 15th?**

Eligible claimants who fail to submit a certified *Statement* and pay ESA liability and late payment penalty in full via MTO or e-file by October 15th shall be subject to rescission of their personal property tax exemption. More information on appeals and rescission can be found in the ESA Topic on rescission and appeals, available on the ESA website.



## **Michigan Treasury Online (MTO)**

### **If I'm planning to use MTO, do I have to register?**

Yes. You can register year-round to use MTO. However, ESA specific registration will not be available until Mid-to-late April, after the information from Form 5278 is transferred to the State from the local unit assessor. If you already have an MTO account for use with other taxes, you do not need to create another MTO account; however, you will need to complete ESA specific registration if you have not done so in a previous year.

### **Why do I have to wait to complete my ESA specific registration?**

The shared secrets which are part of the ESA registration are based upon information contained in the Form 5278 and therefore cannot be created until those forms are transmitted to the State.

### **Does MTO allow multiple users from one company and can all users see the information in MTO? Will they all have different passwords?**

A company can allow multiple registrants to have an MTO business relationship with ESA. They will all have access to the same information. Each user would have their own password.

### **Why aren't my answers to the security questions working?**

Verify that you are submitting the correct information from Part 3 of Form 5278. You may also want to contact your local unit assessor to verify that the information you are inputting is what has been submitted to the State. If you are still having trouble, you may call the ESA mainline at 517-241-0310 or e-mail for assistance at [esaquestions@michigan.gov](mailto:esaquestions@michigan.gov).

### **Why is nothing loading when I am clicking on my business card or access rights in MTO and all that is showing is a blue bar across the screen?**

Contact Business Registration at 517-636-6925.

### **The information in MTO does not match the information I reported on my Combined Document.**

Corrections may be made in MTO for some information. If uncertain, you may want to call your local unit assessor to determine if they made a correction to your information or an error when submitting the information to the State.

### **I do not see a parcel on which I had claimed the EMPP exemption, what do I do?**

Eligible claimants are advised to review the Combined Document to ensure that the FEIN was reported properly when filing the exemption claim. If it was reported incorrectly on Form 5278, a request to move the parcel from the incorrect ESA statement to the correct statement may be made to [ESAQuestions@michigan.gov](mailto:ESAQuestions@michigan.gov).

If the correct FEIN was reported on Form 5278 correctly, eligible claimants should contact ESA staff who will determine what steps are necessary.

**Can I add a parcel to my ESA statement in MTO?**

ESA is only due on eligible personal property that has been exempted from local property taxes. Only parcels on which the EMPP exemption was claimed by filing Form 5278 before the filing deadline may be added to an ESA statement. If a Form 5278 was timely filed with the local unit assessor but the parcel does not appear on the return, the parcel may be added through MTO, though the addition of the parcel to the ESA statement is pursuant upon review of the parcel by ESA staff.

**Can I make changes to the information in the Electronic Statement?**

An eligible claimant may amend a return through MTO on or before September 15th of the tax year.

**Why am I being told to remove my parcel from my ESA return?**

Any parcel that has zero value entered for acquisition cost for all years and did not have the Zero Acquisition Checkbox selected in Part 3 of Form 5278 will receive this removal prompt.

**Why can't I see my liability on MTO?**

The phrase "Not Yet Certified" will be present in lieu of liability until the return is certified. In order to certify, select the blue "File" button. You will need to certify or correct the information in MTO, and submit the certification before your liability will be available.

## Modernized e-File System (MeF)

### **Is there anything I need to know if I'm using E-File?**

The electronic *Statement* must be signed by an authorized person, the Electronic Return Originator (ERO), if applicable, as well as any paid tax preparer. The *Statement* must be signed using Form MI-5352 (*E-file Authorization for the Essential Services Assessment (ESA) MI-5352*). Returns are signed by entering the taxpayer PIN in the software after reading the perjury statement displayed in the software. The taxpayer PIN will be selected by the taxpayer, or the taxpayer may authorize his or her tax preparer to select the taxpayer PIN. The MI-5352 will be printed and contain the taxpayer PIN. The tax preparer will retain Form MI-5352 in his or her records as part of the taxpayer's printed return. ESA e-filings submitted without a taxpayer PIN will be rejected by Treasury.

**Do not** mail Form MI-5352 to Treasury.

**Do not** include Form MI-5352 as an attachment to a return.

A "Tax Preparer Handbook for Electronic Filing Programs" as well as more information, program updates and a list of approved software developers is available on the Treasury web site at [www.Mifastfile.org](http://www.Mifastfile.org).

### **Can I make changes to the information in the Electronic Statement?**

An eligible claimant may amend a return through e-file on or before September 15th of the tax year.

### **Can I add a parcel to my ESA statement via e-file?**

ESA is only due on eligible personal property that has been exempted from local property taxes. Only parcels on which the EMPP exemption was claimed by filing Form 5278 before the filing deadline may be added to an ESA statement. If a Form 5278 was timely filed with the local unit assessor but the parcel does not appear on the return, the parcel may be added through e-file, though the addition of the parcel to the ESA statement is pursuant upon review of the parcel by ESA staff.

## Calculation of the Tax and ESA Payments

### How much is the ESA tax?

The ESA tax is calculated by multiplying the acquisition cost of the eligible personal property by the following millage based upon the year the property was first placed into service:

- Multiply the acquisition cost by 2.4 mills if the property was placed into service 1 to 5 years before the assessment year
- Multiply the acquisition cost by 1.25 mills if the property was placed into service 6 to 10 years before the assessment year
- Multiply the acquisition cost by 0.9 mills if the property was placed into service more than 10 years before the assessment year

### When can I make payment of my ESA liability?

Statements will be available in MTO by May 1st. Electronic payments can be made May 1st through August 15th without late payment penalties. Payments made after August 15th through October 15th will need to include a late payment penalty of 1% per week to a maximum of 5%.

### How do I pay my ESA liability?

Payment of ESA liability may be made via e-file software, through ACH payment, or online through MTO. All payments must be made electronically, checks and wire transfers are not accepted. In order to make an ACH payment, please see the payment instructions on the ESA website.

### I made the full payment on the MTO site but the system still shows liability due, what should I do?

Please allow 2-3 business days for payments to post. If your payment has not posted after 2-3 business days, contact the ESA unit directly at 517-241-0310 or e-mail [esaquestions@michigan.gov](mailto:esaquestions@michigan.gov) with proof of payment, date of payment, amount paid, and confirmation number.

### Can you waive my late payment penalty amount?

The Department of Treasury has no statutory authority to waive late payment penalties except for first year ESA filers and then only if payment is made *in full* by September 15th. If you believe you should have your late payment penalty waived, you may file an appeal with the Michigan Tax Tribunal no later than December 31<sup>st</sup> of the tax year in which late payment penalty has accrued.

### When can I expect to receive a refund for overpayment of the ESA tax?

Refunds of overpayments on fully and timely paid ESA statements are generally held until September 15<sup>th</sup>. However, you may contact ESA directly at 517-241-0310 or send an e-mail request to [esaquestions@michigan.gov](mailto:esaquestions@michigan.gov) to arrange an earlier refund.

**Is there anything I can do to reduce my ESA tax?**

As described above, the acquisition cost reported is reduced for certain IFT Certificates. Property located in a Renaissance Zone is 100% exempt from ESA until the three (3) years immediately preceding the expiration of the exemption of that personal property. During the last 3 years, the acquisition cost of the personal property is multiplied by the percentage reduction as outlined by MCL 125.2689.

Additionally, the Michigan Strategic Fund Board (MSF) may adopt a resolution to exempt from the assessment under this act eligible personal property (Alternative ESA).

## **RESCISSION AND APPEAL RIGHTS**

### **Where can a taxpayer appeal a denial of exemption made by the assessor?**

Taxpayers who timely and properly file Form 5278 may appeal a denial of the exemption to the March Board of Review.

### **What do I do next if the EMPP exemption on my Parcel(s) is rescinded?**

Within 30 days of the date of the Order of Rescission, the claimant of the rescinded EMPP exemption is required to file a Personal Property Statement (Form 632) with the assessor of the local tax collecting unit in which the property was located on Tax Day. A taxpayer who disagrees with an Order of Rescission of an EMPP exemption issued by the Department or the rescission of an extended IFT or extended PA 328 certificate issued by the State Tax Commission may appeal that rescission to the Michigan Tax Tribunal by December 31<sup>st</sup> of the tax year claimed. See MCL 211.1057(7).