

TAX**MICHIGAN TAX NEWS**

by Robert F. Rhoades

Michigan Property Tax and the EMPP Exemption

2018 Deadline for Claiming Qualified Eligible Manufacturing Personal Property Exemption is February 20, 2018

Qualified new and used personal property (as defined by MCL 211.9m and 211.9n) is exempt from ad valorem taxation, but the taxpayer must file a timely claim to receive the exemption. To claim this exemption, a fully completed form 5278 must be received by the Assessor of the local unit of government where the qualified personal property is located no later than February 20. Owners of personal property subject to this exemption do not pay the property tax, but pay a much lower Essential Services Assessment. The form is at this site: https://www.michigan.gov/documents/taxes/5278_500796_7.pdf

This is the new personal property exemption that began being phased in two years ago. Briefly, if more than 50% of the personal property on a single occupied real property site (which can include multiple contiguous parcels) is used for either manufacturing or direct integrated support activities then all the personal property on the site (with exceptions for utility property and property used to generate or transmit electricity) is eligible manufacturing personal property (EMPP). EMPP qualifies for the exemption if it is either new (in service after December 31, 2012) or old (first placed in service more than 10 years) before the current calendar year. This provides a phase in of the exemption. The exemption for personal property placed in service between 2013 and 2007 phases in through 2023.

If the personal property on the site meets the “more than 50%” test, all the property on that site will be reported on the form 5278. If the property on the site does not meet the exemption test, a standard personal property statement (form 4175) is filed for the personal property on that site and that form is also due on February 20.

We can assist you if you have questions about your company's qualifications for this substantial tax benefit.

Michigan Property Tax Appeals

2018 Assessment Notices are in the Mail and Appeals Should be Considered.

Assessment notices are required to be sent 14 days before the Local Board of Review meets in March, so owners will be receiving them between now and mid-February and they must rather quickly determine whether the assessments are correct and whether an appeal should be filed. Here are a few thoughts on that decision and upcoming deadlines.

The assessment notice will state the “assessed value” and the tentative “state equalized value” (SEV) for both this year and the prior year. Those

values should not exceed 50% of market value. While a substantial increase in assessed value warrants scrutiny, the assessment can be appealed whether or not it was increased. Recent sales of either the subject property or comparable properties are often persuasive evidence of value. Changes in condition or obsolescence are sometimes unknown to the assessor or overlooked and can warrant an assessment reduction. All applicable appraisal approaches can be considered, but an appraisal is not required to start the appeal process. Assessments should also be uniform. If other similar properties are assessed lower than your property without justification, there may be a uniformity issue which can warrant an assessment reduction.

The assessment notice will also state the “taxable value” (TV) for the prior and present year and whether the property was transferred as to uncap the TV. Taxable value is the lesser of SEV and the previous year's taxable value adjusted for inflation, with adjustments for additions and losses. The taxable value is uncapped and reset at SEV when a property transfers. Disputes sometimes arise concerning whether or when a property was transferred or the value of additions. The tax rates are applied to the taxable value when the tax bills are generated later in the year. Tax savings are generated from a value or uniformity appeal when a required reduction of SEV also requires a reduction of TV.

The assessment notices also contain the assessor's classification of real property. Classifications are used for three purposes: (i) use in equalization (typically of little interest to taxpayers); (ii) to determine deadlines for appealing valuation or classification issues; and (iii) classifications control the application of certain exemptions (for example, industrial personal property is exempt from the 6 mill State Education Tax and up to 18 mills of local school district operating millage. Commercial personal property is exempt from up to 12 mills of local school district operating millage). Classification appeals are first made at the Local Board of Review in March and further appeal is then allowed to the State Tax Commission by June 30.

Every city and township has a Local Board of Review (LBOR) that reviews the roll and hears appeals. These local boards meet beginning in early March. The meeting dates and prerequisites vary by jurisdiction. Appeals of assessments on some classes of property, such as residential property, must be initiated in the local board of review; for other classes, including commercial and industrial property, a LBOR appeal is optional.

The Michigan Tax Tribunal hears property tax appeals contesting the assessments as confirmed by the LBOR. Most assessment appeals must be filed by either May 31 or July 31 depending on the classification of the property involved.

- May 31 is the filing deadline for appeals to Tax Tribunal for commercial, industrial and developmental real property and commercial, industrial, or utility personal property. LBOR appeals for these is permitted but not required.
- July 31 is the filing deadline for appeals to Tax Tribunal of

agricultural, residential or timber-cutover real property, or agricultural personal property. LBOR appeals are a prerequisite for these appeals.

There is a Tax Tribunal Small Claims Division which can be used for residential and small appeals. Disputes of more substance are generally filed in the Entire Tribunal Division, which functions much like a circuit court. Representation is advised. If you are reviewing your assessment notice and would like to discuss the possibility of such an appeal please call us. We are familiar with many different types of commercial and industrial properties and the value principles which will likely be applied. We can assist you in determining whether to appeal and represent you in the appeal.

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