STATE OF MICHIGAN
DEPARTMENT OF TREASURY
LANSING

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Eligible Personal Property Tax Exemption

TO: Assessors, Equalization Directors and Interested Parties

FROM: State Tax Commission

SUBJECT: P.A. 402 of 2012, Eligible Personal Property Exemption

In December of 2012, Governor Snyder signed into law eleven bills affecting the taxation of personal property. The majority of these Acts do not take effect until December 31, 2015 for the 2016 Tax Year; further guidance on those Acts will be provided at a later date. The purpose of this Bulletin is to provide guidance only on P.A. 402 of 2012 as amended by P.A. 153 of 2013, MCL 211.9o, which is effective December 31, 2013 for the 2014 Tax Year.

Beginning December 31, 2013 eligible personal property is exempt from taxation.

A. Definitions

Eligible Personal Property: In order to be eligible personal property and qualify for the exemption, the personal property must meet all of the following conditions:

The exemption must be properly claimed **and**

The personal property must be classified as industrial personal property or commercial personal property as defined in MCL 211.34c or would be classified as industrial personal property or commercial personal property if not exempt **and**

The combined true cash value of all industrial personal property and commercial personal property owned by, leased by or in the possession of the owner or a related entity claiming the exemption is less than $80,000 in the local tax collecting unit **and**

The property is not leased to or used by a person that previously owned the property or a person that, directly or indirectly controls, is controlled by, or under common control with the person that previously owned the property.

Industrial personal property is defined in MCL 211.34c as:
(i) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law.
(ii) Personal property of mining companies.

Commercial personal property is defined in MCL 211.34c as:

(i) All equipment, furniture, and fixtures on commercial parcels, and inventories not exempt by law.

(ii) All outdoor advertising signs and billboards.

(iii) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for operation while the vehicle is moving on the highway.

(iv) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary permits.

True Cash Value is defined in MCL 211.27: As used in this act, "true cash value" means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale, and not at auction sale except as otherwise provided in this section, or at forced sale.

Person means an individual, partnership, corporation, association, limited liability company or other legal entity.

Related entity means a person that directly or indirectly, controls, is controlled by or is under the common control with the person claiming the exemption.

Control, Controlled By and Under Common Control with means the possession of the power to direct or cause the direction of the management and policies of a related entity, directly or indirectly, whether derived from a management position, official office, or corporate office held by an individual; by an ownership interest, beneficial interest, or equitable interest; or by contractual agreement or other similar arrangement. There is a rebuttable presumption that control exists if any person, directly or indirectly, owns, controls, or holds the power to vote, directly or by proxy, 10% or more of the ownership interest of any other person or has contributed more than 10% of the capital of the other person. Indirect ownership includes ownership through attribution or through one or more intermediary entities.

B. Taxpayer Responsibilities

In order to claim the exemption, **the owner** of the eligible personal property must **annually file** an affidavit, (Form 5076), with the local tax collecting unit where the property is located **not later than February 10** each tax year that the exemption is claimed. If an affidavit is filed, the owner is not required to file a personal property statement in that tax year.

The State Tax Commission has determined that **annually filed by February 10**, means **postmarked by February 10**. The State Tax Commission has also determined that late filed affidavits should not be accepted by the local unit, with the exception of the 2014 year, which is detailed in Item D. Taxpayer appeal rights are detailed in Item D.

Taxpayers are required to maintain books and records for four years after filing an affidavit claiming the exemption. At a minimum those records shall include the date of purchase, lease or acquisition, purchase price, lease amount or value of all industrial personal property and commercial personal property owned by, leased by or in the possession of that personal or a related entity. They shall provide access to those books and records if requested by the local unit assessing officer, County Equalization Department or Department of Treasury for the four years immediately after filing 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 a file of not less than $500 or not more than $2,500 or both.

C. Assessor Responsibilities

Assessors must ensure that eligible personal property of a property owner who annually files the affidavit (Form 5076) is shown as exempt on the assessment roll.

Assessors must deny an exemption for personal property that is determined not eligible to meet the exemption requirements and notify the taxpayer of the denial and of their rights to appeal as described under item D. An assessor may deny a claim for exemption for the current year and for the three immediately preceding calendar years for any property that does not meet the exemption requirements. Interest shall be computed as defined in the Act.

Assessors must ensure that they do not require a property owner who files an affidavit to also file a personal property statement.

Assessors and/or Supervisors are still required to annually send a personal property statement to any person they believe has personal property in their possession in their local unit. The personal property statement has been revised to meet the notice requirements in the Act. Personal Property Statements **must be sent or delivered no later than January 10** each year.

Assessors should ensure a copy of the affidavit is kept on file by the local unit for not less than four years after the completion of the assessment roll for which the affidavits are filed. The State Tax Commission recommends that assessors review this requirement and determine if it may be necessary to retain the affidavits for a longer period of time.

If a property owner files an affidavit in one tax year and does not file the affidavit in the following tax year, the assessor must remove the exemption from the property on the assessment roll and ensure that a personal property statement is filed by the owner.

D. Appeal Rights

For the 2014 year only, any owner of eligible personal property **who did not timely file** an affidavit to claim the exemption may file an appeal with the March 2014 Board of Review to claim the exemption.

Owners who timely file the affidavit may appeal denial of the exemption to the March Board of Review or in the case of a qualified error to the July Board of Review or December Board of Review. The July or December Boards of Review may not hear an appeal of a denial of the exemption from the March Board of Review. This Act has amended the definition of Qualified Errors to include an error made in the denial of a claim of exemption for personal property under section 9o.

The decision of the March, July or December Boards of Review may be appealed for the year in which the appeal was filed and the immediately preceding three tax years to the Residential and Small Claims Division of the Michigan Tax Tribunal on a form approved by the Michigan Tax Tribunal. Michigan Tax Tribunal forms are available at www.michigan.gov/taxtrib.

E. Additional Information

- Determination of eligibility for this exemption is different than determination of tax liability. Determination of eligibility for the exemption includes items, such as leased personal property, which would not be used in the determination of tax liability. It is possible that a taxpayer may have under $80,000 true cash value for determination of tax liability and not be eligible for the exemption because of items they may lease or have in their possession but do not own.

- This Act is repealed if not approved by a majority of the qualified electors of this State who will vote on the question at an election in August 2014. If repealed, assessors should remove the exemption from the property on the assessment roll for 2015.

- Information regarding the effect of the change on the Headlee Rollback will be discussed in the Headlee Rollback Bulletin issued in early 2014.