



ESA Topics: Leased Equipment

A common question received by the ESA Mailbox is the treatment of leased equipment that is **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.

Form 5278 specifically indicates this form cannot be filed by leasing companies and further indicates *“Leasing companies are not eligible to receive the EMPP exemption and may not use this form. Leased equipment is reported by the lessor on Form 632 Personal Property Statement, until such time as the personal property becomes exempt and is reported as EMPP in Part 3 of this Affidavit and Statement by the lessee.”*

The instructions contained in Form 632 – page 7 indicate: *“Lessors do not report Eligible Manufacturing Personal Property (EMPP), which is instead reported by the lessee on Form 5278”*. In this context, Eligible Manufacturing Personal Property (EMPP) should be read as *Exempt Eligible Manufacturing Personal Property*.

Practically, this means that, for the 2016 year, EMPP placed in service during the years 2006 through 2012 will be listed, for information purposes only, by the Lessee on Form 5278, Part 2 under J and K and reported for in-service years 2005 and prior and 2013 and later on Part 3 for ESA purposes. The Lessee will pay the ESA on the leased equipment it reports on Form 5278 Part 3.

The Lessor will report on Form 632 the equipment placed in service during 2006 through 2012 and pay the Ad Valorem tax for those specific years.

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 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.