

ESA Topics: 2016 Filing Deadline Extension



Recently, the Michigan legislature made changes to statute that affect the Essential Services Assessment (ESA). These changes include clarifying the reporting and filing requirements for EMPP, streamlining the appeals process, transferring the State Tax Commission's responsibilities to the Michigan Department of Treasury and, beginning with the 2017 tax year, defining acquisition cost for construction in progress as 50% of the fair market value at the time of acquisition by the first owner.

Of critical significance, the deadline for eligible taxpayers that failed to file or filed an incomplete Form 5278 with their local unit to claim the EMPP exemption for 2016 has been extended until Tuesday, May 31, 2016. **This extended deadline is for 2016 only.** Form 5278 must be filled out completely and be received by the local unit of government by the May 31, 2016 deadline. Postmarks are not acceptable. In 2017 and later years, the deadline will remain February 20.

The Department of Treasury will create a Statement from the information contained in Form 5278 and will make that Statement available through Michigan Treasury Online (MTO) by June 30, 2016. Taxpayers are reminded that they must electronically certify and pay ESA. Please note that no changes have been made to the August 15, 2016 deadline for a completed statement and full payment without penalty to be made to the Department of Treasury or the October 15, 2016 deadline for late filed statements and full payment with late payment penalty to be made. Failure to make full payment with late payment penalty by October 15, 2016 will result in rescission of the EMPP exemption by the Department of Treasury.

Form 5278 can be obtained online at the Michigan Department of Treasury's ESA website at www.michigan.gov/ESA. Eligible taxpayers should review the Form 5278 Filing Checklist also available at www.michigan.gov/ESA. Form 5278 must be filled out completely and accurately. Questions regarding EMPP or ESA can be sent directly to esaquestions@michigan.gov.

PA 107 of 2016 (HB 5525) and PA 109 of 2016 (HB 5545) amend the Essential Services Assessment Act and Alternative Essential Services Assessment Act respectively to provide definitions and address implementation issues associated with the ESA. Specifically the Acts:

1. Clarify the reporting for IFT property to ensure that all property associated with an IFT receives the same treatment when calculating the ESA tax.
2. Beginning in 2017, provide that construction in progress is reported at ½ the fair market value. This ensures consistent treatment with Ad Valorem reporting.
3. Provide clarity on how the ESA Statements are developed and taxpayer's requirements to certify the ESA Statement electronically.
4. Remove the State Tax Commission from the rescission and appeal process in order to simplify the process and remove a layer of unnecessary appeal.
5. Clarify the reporting of leased equipment and clearly specify that leasing companies are not eligible to receive the personal property exemption.
6. Clarify the reporting of renaissance zone property.
7. Require taxpayers to file a single form to claim the personal property tax exemption, report personal property still subject to ad valorem taxation and to report for their ESA statement.

PA 108 of 2016 (HB 5526) amends the General Property Tax Act to provide definitions and address implementation issues associated with the ESA.

Specifically the bill:

1. For 2016 only, allows taxpayers who did not timely file or filed an incomplete form to claim the exemption to claim the exemption by filing the required form by May 31, 2016. Because this was the first year of the exemption, opening this window to file will allow more taxpayers to take advantage of the personal property tax exemption.

2. Requires taxpayers to file a single form by February 20th each year to claim the personal property tax exemption, report personal property still subject to ad valorem taxation and to report for their ESA statement. Also allows for electronic or facsimile signature to be used on this form.
3. Clarifies the reporting of leased equipment and clearly specifies that leasing companies are not eligible to receive the personal property exemption.
4. Provides a mechanism for an appeal to the local Board of Review and then to the Michigan Tax Tribunal for taxpayers who are denied the personal property tax exemption because they filed an incomplete form to claim the exemption.
5. Requires taxpayers to first appeal a denial of the exemption first to the local March Board of Review. If the denial is issued after the first “appeal” meeting of the March Board of Board of Review, the taxpayer can appeal to the March Board of Review if the Board is still meeting or they can appeal directly to the Michigan Tax Tribunal.
6. Clarifies that Utility Personal Property is not eligible to receive the exemption and is not included in the calculation to determine a taxpayer’s eligibility for the exemption.
7. Defines fair market value and contiguous property to provide clarity to taxpayers.
8. Removes appeal to the July or December Boards of Review in order to eliminate confusion over appeals and ESA payment deadlines.
9. Strikes language applicable only to 2015.

PA 110 of 2016 (HB 5527) amends the Industrial Facilities Exemption Act to require taxpayers to file a single form by February 20th each year to claim the personal property tax exemption, report personal property still subject to ad valorem taxation and to report for their ESA statement.

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

This information constitutes an interpretation of one or more statues 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.