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STATE OF MICHIGAN
IN THE SUPREME COURT

SIXARP, LLC d/b/a PRAXIS PACAKAGING SOLUTIONS,

Petitioner-Appellee,

v.

TOWNSHIP OF BYRON,

Respondent-Appellant.

______________________________________/

Supreme Court No. 166190

Court of Appeals Case No. 361888

Tax Tribunal No. 21-000523-TT

INDEX OF EXHIBITS TO AMICUS BRIEF OF THE MICHIGAN MANUFACTURERS ASSOCIATION

1. House Legislative Analysis, HB 6022, 6024-6026, SB 1065-1071 (March 1, 2013)
2. Pat Schellenbarger, *Business, Republican Leaders Express Confidence in Personal Property Tax Repeal*, Bridge Michigan (April 19, 2012)
3. Anderson Economic Group White Paper 2011-02, *The Michigan Personal Property Tax: Effects of Repeal on Michigan's Economy and Tax Revenues* (November 17, 2011)
4. Mackinac Center for Public Policy, Policy Brief, *Proposal 1 of 2014: Summary and Assessment* (July 2, 2014)
5. Mich State Tax Comm'n, *Assessor Guide to Eligible Manufacturing Personal Property Tax Exemption and ESA* (revised February 2019)

EXHIBIT 1

Legislative Analysis

HOUSE FISCAL AGENCY
Mary Ann Cleary, Director
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http://www.house.mi.gov/hfa

PERSONAL PROPERTY TAX PACKAGE

House Bills 6022, 6024-6026
Public Acts 404, 406-408
Sponsor: Rep. Jud Gilbert

Senate Bill 1065
Public Act 397 of 2012
Sponsor: Sen. Jack Brandenburg

Senate Bills 1066 & 1068
Public Acts 398 and 400 of 2012
Sponsor: Sen. Dave Robertson

Senate Bill 1069
Public Act 401 of 2012
Sponsor: Sen. Dave Hildenbrand

Senate Bill 1067
Public Act 399 of 2012
Sponsor: Sen. Bruce Caswell

Senate Bills 1070 & 1071
Public Acts 402 and 403 of 2012
Sponsor: Sen. Mike Nofs

Senate Committee: Finance
House Committee: Tax Policy

Complete to 3-1-13

A BRIEF SUMMARY OF THE BILLS AS ENACTED

This package of bills aims at phasing out the personal property tax for eligible manufacturing personal property (which includes both industrial property and certain commercial personal property) and providing a partial reimbursement of the revenue that is lost to local units of government. The reimbursements would be made from use tax revenue.

The package also allows local units, beginning in 2016, to impose a special assessment on industrial real property and commercial real property belonging to taxpayers claiming the eligible manufacturing personal property exemption to defray all or a portion of the cost of providing essential services (police, fire, ambulance services, and jail operations), and related equipment.

The proposed changes to the Use Tax Act (in House Bill 6026) would require approval of state voters at an August 2014 referendum. If the voters reject the proposal, the rest of the personal property tax legislation would not take effect.

The personal property tax is typically described as a tax on property not affixed to land, such as equipment, furniture, tools, and computers. It does not apply to inventory (which is not taxed). It is a tax that only businesses pay. The tax is paid primarily to local units of government (although the state receives personal property tax revenue from the 6-mill State Education Tax.) Local units vary greatly in the amount of personal property within their borders and, as a result, in how much they rely on personal property tax revenue.

Definition of "Eligible Manufacturing Personal Property" (Senate Bill 1071)

That term in this package of bills refers to all personal property located on real property where that personal property is used more than 50% of the time in industrial processing or in direct integrated support. Thus, since "eligible manufacturing personal property" is based on use rather than classification, it could include both commercial personal property and industrial personal property.

"Direct integrated support" means research and development, testing and quality control, engineering, and certain warehouse facilities. These are warehouses that directly support the entity engaged in industrial processing and store tangible personal property, as well as sorting and distribution centers that optimize transportation and use just-in-time inventory management and material handling for inputs to industrial processing.

Other personal property would remain subject to tax; generally speaking, this would be the personal property of business enterprises that are not engaged in industrial processing or support for industrial processing, if the value of that personal property is $40,000 or more.

Definition of "Municipality" (House Bill 6025)

The term "municipality" refers in this package to counties, cities, villages, townships, authorities (other than the metropolitan areas metropolitan authority), local school districts, intermediate school districts, community college districts, libraries, and other local and intergovernmental taxing units.

Personal Property Exemptions

- The proposed legislation provides an exemption, beginning December 31, 2013, for commercial and industrial personal property if the combined taxable value of all such property owned by the taxpayer is less than $40,000 in a particular local tax collecting unit. (Senate Bill 1070, Section 9o)

- The package of bills contains an exemption from personal property taxes, beginning December 31, 2015, for "qualified previously existing personal property." That term refers to eligible manufacturing property that, generally speaking, has been subject to or exempt from the collection of taxes for the immediately preceding 10 years, or would have been subject to taxes or exempt if located in the state for that period. (Senate Bill 1071, Section 9n)

  [Note that by defining "qualified previously existing personal property" in the above paragraph as property subject to taxes or exempt from taxes "for the immediately preceding 10 years," the proposal would phase in the exemption for existing personal property. In the first year of the exemption—2016—the exemption would apply only to eligible personal property subject to or exempt from taxation before 2006. In the next year, the exemption would apply, by going back 10 years, to personal property subject to or exempt from taxation before 2007 (and thus adding property first taxable or exempt in 2006). In the next year, personal property subject to tax before 2008 would qualify, and so on, until eventually all such property would become exempt in 2023.]

- The proposed legislation contains an exemption, beginning December 31, 2015, for "qualified new personal property." That term refers to eligible manufacturing property that is new personal property. New personal property is defined to apply to property that has met all of the following conditions: (1) was not, before January 1, 2013, subject to or exempt from taxation and was not in use or placed in service in the state; (2) before January 1, 2013, was not in use or placed in service outside of the state; and (3) was initially purchased from a vendor of new property after December 31, 2012. (Senate Bill 1069, Section 9m)

Reimbursement of Local Units for Lost PPT Revenue (House Bill 6025)

- Local units would receive partial reimbursement of the personal property tax revenues lost from the exemptions, with the reimbursement to be paid out of a portion of Use Tax revenues, to be known as the Metropolitan Areas Component Tax.

  Except for local and intermediate school districts and community colleges, this reimbursement only applies to a municipality that has experienced a reduction in taxable value of over 2.3% as a result of the personal property tax exemptions. Generally, municipalities that experience a reduction in revenue of 2.3% or less would not be reimbursed.

  The metropolitan areas portion of the use tax would be levied by a newly created Michigan Metropolitan Areas Metropolitan Authority.

  Reimbursement would be as follows:

  - 100% of a municipality's school debt loss (from debt incurred before January 1, 2013), 100% of school operating loss not reimbursed by the State School Aid Fund, 100% of ISD revenue lost, and 100% of community college revenue lost would be reimbursed. This applies to all local and intermediate school districts and community colleges without regard to the 2.3% threshold. (Reimbursement for revenue losses related to school district sinking funds and school district recreation millages would not be reimbursed at 100%, but would be reimbursed like other municipal losses.)

  - A percentage (intended to be about 80%, according to the Department of Treasury) of other foregone revenues for "non-essential" services would be reimbursed, distributed according to formulas contained in the legislation. There would be no reimbursement for "essential services";

instead those would be covered by a new special assessment levied at the local level, described later.

- Other than the school revenue loss described above and losses to a community college district, there would be no reimbursement of foregone personal property tax revenues in any municipality that experienced a reduction in taxable value of 2.3% or less as a result of the exemption of industrial personal property and commercial personal property. Such a municipality would not be considered a "qualified municipality" for purposes of reimbursement.

- A new special assessment, more fully described later, could be levied by local units for "essential services." This would apply to police services, fire services, ambulance services, associated equipment, and jail operations. The special assessment would be levied on the real property of those companies with more than $40,000 in personal property that are receiving the personal property exemption. This assessment could be levied by counties, townships, villages, cities, and all authorities created to provide essential services.

Use Tax Provisions (House Bill 6026)

- The existing use tax would be divided into two components: (1) the metropolitan areas component levied by the metropolitan authority and (2) the state component levied by the state. The total of the two would equal 6%, the maximum allowed by the State Constitution. The rate of each component would be calculated annually by Treasury. The state component would be the portion of the rate remaining after sufficient revenues had been generated by the metropolitan areas component as specified in the bill. (See Fiscal Impact section for the amounts that would be levied by the metropolitan authority for each fiscal year for reimbursement purposes.)

- Two percentage points of the use tax rate is constitutionally dedicated to the School Aid Fund and so would not be part of the calculations. It would remain part of the state component tax.

- The amendment to the Use Tax Act would not take effect unless approved by a majority of voters at a statewide election to be held at the August regular election date in 2014. If approved, it would take effect January 1, 2015.

- If the voters reject the amendment, none of the elements of personal property tax proposal would take effect.

Special Authority (House Bill 6025)

- The legislation creates the Michigan Metropolitan Areas Metropolitan Authority. The authority would have the exclusive power to levy the metropolitan areas component tax under the Use Tax Act. Its stated purpose is "to promote the public health, safety, welfare, convenience, and prosperity of this state and its metropolitan areas."

- The authority would be established as a metropolitan government under Section 27 of Article VII of the State Constitution. It would be a public body corporate and a special authority. It would not be an agency or instrumentality of state government.

- The powers, duties, functions, and responsibilities of the authority would be vested in a Metropolitan Areas Council consisting of five residents of the state appointed by the governor. (At least three would have to be residents of separate metropolitan areas.) After initial staggered terms, members would be appointed for six-year terms. The Council would be subject to the Open Meetings Act and Freedom of Information Act. It would be tax exempt.

- The bill creating the new authority contains a statement of "findings." Among them are (1) "that there exists . . . a continuing need to strengthen and revitalize the economy of this state and to organize the activities of local government in metropolitan areas in a manner that reduces governmental barriers to economic growth, facilitates economic development, preserves communities and strengthens neighborhoods, prevents or reduces unemployment, and creates new employment opportunities"; and (2) "that it is necessary and appropriate for the promotion of the health, safety, and welfare of the people of this state to enable the formation of metropolitan governments designed to perform multipurpose functions." The bill does not define "metropolitan" or "metropolitan areas."

<u>Special Assessment for Essential Services</u> (House Bill 6024)

- Beginning in 2016, the legislative body of a county, township, or city could by resolution provide that all or a portion of the cost of providing essential services (police, fire, ambulance services, and jail operations), and related equipment, including maintenance of that equipment, be defrayed by a special assessment levied on industrial real property and commercial real property belonging to the taxpayers claiming the eligible manufacturing personal property exemption located in the local unit. The assessment would be collected like property taxes on the July tax bill.

- The local unit would have to hold a hearing on the question of creating the special assessment district, subject to the Open Meetings Act. (The special assessment district boundaries would be coterminous with the boundaries of the local unit.) The creation of the district and levy of the special assessment could not be subject to a referendum by voters in the local unit.

- The special assessment would not be levied on companies that were exempt from personal property taxes because the combined taxable value of all personal property owned by the taxpayer in a local unit was less than $40,000.

- The legislation contains the formula for local units to use to calculate the amount of the special assessment levy. It also contains a cap on the levy. The cap generally speaking limits the levy to the result of the following formula: (1) Multiply the lowest general operating millage rate levied by the local unit between 2012 and the current year by the percentage of the general operating millage used to fund essential services and essential services equipment in the 2012 fiscal year; (2) add to that result the lowest millage rate for a millage dedicated solely for essential services and essential services equipment between 2012 and the current year; (3) multiply the result of that calculation by 50 percent of the true cash value of all exempt personal property.

- The bill specifies that "it is the intent of the Legislature that the special assessment . . . results in a proportionate allocation of the financial cost of essential services and essential services equipment across all classes of real property and the amount . . levied . . .accurately corresponds to the benefit received by the . . . property that is conclusively presumed to be benefited by the . . . services provided."

Brief Bill-by-Bill Description

House Bill 6022 would amend the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act to give the powers to the authority established in that act to the new Metropolitan Areas Metropolitan Authority.

House Bill 6024 would create a new act, the Local Unit of Government Essential Services Special Assessment Act.

House Bill 6025 would create a new act, the Michigan Metropolitan Areas Metropolitan Authority Act, under which, among other things, the authority would levy and distribute the metropolitan component tax portion of the use tax.

House Bill 6026 would amend the Use Tax Act.

Senate Bills 1067 and 1069-1071 would each amend the General Property Tax Act to provide an exemption from the personal property tax.

Senate Bill 1069 would apply beginning December 31, 2015, to eligible manufacturing personal property purchased after December 31, 2012. Senate Bill 1070 would apply, beginning December 31, 2013, for commercial and industrial personal property if the combined taxable value of all such property owned by the taxpayer were less than $40,000 in the local tax collecting unit. Senate Bill 1071 would apply, beginning December 31, 2015, to eligible manufacturing personal property that had been subject to or exempt from taxation for 10 years. Senate Bill 1067 would apply to currently exempt new personal property that was eligible manufacturing personal property to remain exempt until it was otherwise exempt under Senate Bills 1069, 1070, or 1071.

Senate Bills 1065, 1066, and 1068 would amend the Plant Rehabilitation and Industrial Development Act (also known as P.A. 198), the Technology Park Development Act, and the Enterprise Zone Act, respectively, to provide for eligible manufacturing personal property to remain subject to a specific tax, and exempt from the property tax, until the property became exempt under Senate Bill 1069, 1070, or 1071.

FISCAL IMPACT:

As written, the bills will reduce revenues for both state and local governments by unknown amounts. The final impact on state-level revenues would be on the state General Fund. Local units of government for which revenues would be reduced include cities, villages, townships, counties, school districts, intermediate school districts, community colleges, and libraries. Because there are too many factors that cannot be determined and detailed taxable value data on personal property by taxpayer is not available, it is not possible to provide accurate fiscal estimates of the various losses to these taxing units. A general description of losses by taxing unit is provided below.

State General Fund
State use tax (and therefore General Fund) revenue will be reduced annually by the amounts that the metropolitan authority is permitted to levy. These amounts, specified in House Bill 6026, are listed below:

FY 2015-16	$41.7 million
FY 2016-17	$257.5 million
FY 2017-18	$277.1 million
FY 2018-19	$293.8 million
FY 2019-20	$311.3 million
FY 2020-21	$326.8 million
FY 2021-22	$345.2 million
FY 2022-23	$362.4 million

After FY 2022-23, the amount is equal to the prior year amount adjusted by a growth factor.

In addition to the direct use tax reduction, House Bill 6026 also stipulates that an amount of use tax revenue equal to the loss arising from the exemption of commercial personal property from the 6-mill State Education tax and the local 6-mill school operating levy shall be deposited in the School Aid Fund (SAF). The magnitude of this reduction cannot be determined because there are no data available regarding the value of commercial personal property that would be exempted where commercial and industrial personal property equal less than $40,000 or the value of commercial personal property that would be exempted based on manufacturing use.

Expiring certificated business tax credits have been identified by proponents of the legislation as a source of revenue to offset the reduction in the use tax. Under current law, any additional revenue realized from the expiring credits will accrue to the General Fund with or without the enactment of these bills, and will be available as discretionary revenue to be utilized for this purpose or any other purpose designed by the Legislature (subject to the normal appropriation process absent statutory action). The reduction in use tax revenue under this package represents a net loss to the state General Fund relative to current law.

All Local Governments
Local government revenues will decline due to several provisions contained in the bills. First, any revenue loss arising from the under-$40,000 exemption on commercial and industrial personal property will not be reimbursed by the metropolitan authority.

Second, any local government for which eligible manufacturing personal property is 2.3% or less of its total taxable value will not be eligible for a reimbursement from the metropolitan authority. It is anticipated that a large number of local governments will be affected by this provision.

Third, to the extent that a local government exceeds the 2.3% threshold, it is eligible to receive a reimbursement from the metropolitan authority for a portion of the revenue loss attributable to non-essential services. Although the reimbursement is intended to offset 80% of the revenue loss, the total reimbursement is capped by the amount of use tax the authority is permitted to levy, and in practice will not guarantee any predetermined percentage of the lost revenue.

Fourth, although local governments will be permitted to levy an essential services assessment on the real property of those taxpayers claiming the exempt manufacturing personal property, because the amount any single taxpayer can be assessed is capped, it is possible that less than 100% of the essential services revenue loss would be offset.

K-12 School Districts
General operations will be held harmless by the state transfer of use tax (General Fund) revenue to the School Aid Fund as described under the state General Fund impact. In addition, existing school bond debt will be held harmless by the municipal authority. However, any new school bond debt will not be eligible for reimbursement.

Sinking fund and recreational millage losses will be treated in the same manner as non-essential services of local governments in that they will be eligible for partial reimbursement from the metropolitan authority, subject to the overall use tax levy.

Intermediate School Districts (ISD)
In general, ISD bond debt will be held harmless by the same provisions as for K-12 school districts, although it appears that most ISD bond debt consists of general obligation limited tax pledges from their existing millage authorization rather than unlimited tax pledges supported by specific voter-approved millages and would therefore

be subject to reimbursement from the metropolitan authority rather than being held harmless.

ISD millages for general operations, special education, and vocational education, as well as the regional enhancement millage (distributed to constituent school districts), would be eligible for partial reimbursement from the metropolitan authority in the same manner as non-essential services.

Other Local Taxing Entities
Libraries and other local and intergovernmental taxing authorities would be eligible for the same partial reimbursement for non-essential services as other local governments.

Legislative Analyst: Chris Couch
Fiscal Analyst: Jim Stansell
Bethany Wicksall
Mark Wolf

EXHIBIT 2

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Michigan Government

Business, Republican leaders express confidence in personal property tax repeal

April 19, 2012

Pat Shellenbarger

Michigan Government

Michigan Chamber of Commerce, Michigan Manufacturers Association, Michigan Municipal League, personal property tax, Rick Snyder

In the looming battle over Gov. Rick Snyder's proposed personal property tax repeal, both sides agree on one thing: It's a tax neither particularly likes.

"This is an investment penalty," said Lt. Governor Brian Calley before a Senate committee Wednesday. "The more you invest, the more you pay."

The Michigan Chamber of Commerce and the Michigan Manufacturers Association, among others, echo that view, saying the PPT discourages new businesses from moving to Michigan and existing companies from expanding.

"Our members don't love it either," said Summer Minnick, director of state affairs for the Michigan Municipal League. "It's a hard tax to collect and to audit."

Since the personal property tax is assessed on equipment inside those buildings, local governments rely on businesses to report when they buy machines, desks, computers and other furnishings. As Hamtramck Mayor Karen Majewski said at a rally to protect local government funds generated by the PPT, "The personal property tax is cumbersome."

Calculating the taxable value of equipment is time-consuming and expensive for business and government, partly because Michigan uses a different set of depreciation tables than the federal government, a recent study by the Anderson Economic Group found. Complying with the personal property tax costs businesses on average 37 percent of the revenue the tax generates, the study found. In some cases, it costs businesses more to comply with the law than the amount of personal property tax they pay.

“We are not aware of any other major statewide tax that has compliance costs of this magnitude,” the study’s authors wrote.

The plan to phase out the personal property tax on large industrial companies and exempt smaller industrial and commercial businesses with taxable assets of less than $40,000 appears to have strong support among Republicans, who control both houses of the Legislature.

“I can tell you in the Senate there’s a lot of support for it,” said Sen. Mike Nofs, R-Battle Creek, sponsor of bills phasing out the tax. “Everybody up here, at least on the Republican side, campaigned on a promise to create jobs. That’s what got us elected.”

The repeal has similarly strong support in the House, said Ari Adler, a spokesman for House Speaker Jase Bolger, R-Marshall.

“I think we have significant momentum behind this,” said Mike Johnston, the Michigan Manufacturers Association’s vice president for government affairs.

That’s one reason organizations representing local governments and public schools aren’t so much opposing repeal as they are pushing a constitutional amendment to guarantee the lost revenue will be replaced.

That approach, however, drew a chilly response during the first hearing on PPT repeal in Lansing Wednesday.

Senate Finance Committee Chairman Jack Brandenburg, R-Harrison Township, told a representative of the Michigan Association of Counties, which backs an amendment, that he found the sentiment "troubling." Sen. John Pappageorge, R-Troy, was even more direct:

"I beg you to drop off this constitutional amendment stuff."

A constitutional amendment requires a two-thirds vote of both houses to place it on a statewide ballot and majority approval ofMichiganvoters. If the Legislature fails to approve the amendment, backers could try to force a statewide vote, but first would need to gather some 258,000 valid petition signatures.

Senate Minority Leader Gretchen Whitmer, D-East Lansing, said lawmakers might come up with a way of guaranteeing replacement revenue short of a constitutional amendment.

“I think as a piece of legislation starts to move through the process, we’re going to fight every step of the way to be sure the replacement revenue is there,” she said, adding she does not oppose repealing the personal property tax.

“Actually, an argument can be made that the personal property tax should have been the first reform” before last year’s replacement of the Michigan Business Tax with a new Corporate Income Tax, she said, “because it would have benefited Michigan business and only Michigan business.”

Passage of the personal property tax repeal “depends on whether the governor gets out and rolls up his sleeves and gets to work,” she said. “He likes to put out obscure objectives without a clear plan.”

Snyder is committed to seeing the repeal through, his spokesman, Ken Silfven, said. “The sooner the better,” he said. “This has been on our radar screen for a long time. I think there is, for the most part, a widespread recognition that this tax does nothing to help Michigan and is a pretty significant obstacle to growth.”

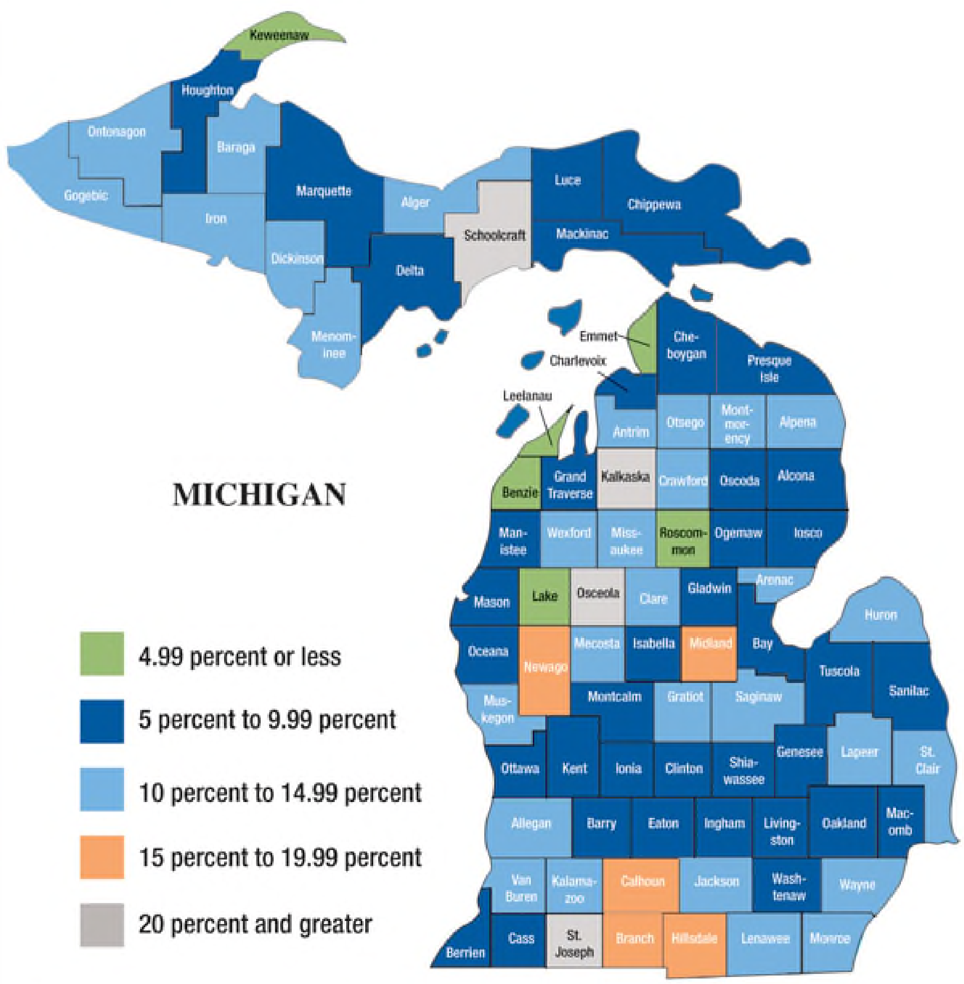
During Wednesday's hearing, Sen. Mark Jansen, R-Gaines Township, may have summarized the state of play over the issue:

"At the end of the day, everyone's going to have indigestion."

Pat Shellenbarger is a freelance writer based in West Michigan. He previously was a reporter and editor at the Detroit News, the St. Petersburg Times and the Grand Rapids Press.

WHERE THE PERSONAL PROPERTY TAX HITS

A little more than a dollar of every $10 in property taxes in Michigan comes from the Personal Property Tax. But the impact of the PPT varies across the state. In St. Joseph County in southwest Michigan, 23 percent of property taxes come from the PPT. By contrast, Leelanau County received less than 2 percent of its property tax total from the PPT.



Source: Michigan Municipal League analysis of Treasury Department figures (all figures for 2010)

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EXHIBIT 3

November 17, 2011

The Michigan Personal Property Tax: Effects of Repeal on Michigan's Economy and Tax Revenues

Alex L. Rosaen, Consultant
Jason Horwitz, Senior Analyst
Greg Chojnacki, Analyst

Anderson Economic Group White Paper 2011-02

EXECUTIVE SUMMARY

The Michigan Personal Property Tax (PPT) has attracted consistent criticism from Michigan's business community. The pressure for reform has increased since a business tax credit worth 35% of PPT liability was repealed as part of this year's business tax overhaul, which led to the creation of the new corporate income tax (CIT). The purpose of this report is twofold: to qualitatively discuss the effect of repealing the PPT on Michigan's economy, and to describe the effects of repeal on local and state government tax revenues.

Summary of Findings

1. *Repeal of the PPT would improve the state's competitive position relative to other states, even if most of the lost revenue were replaced by other taxes.*

Currently, the personal property tax raises the cost of owning machinery and equipment in the state. In turn, this lowers the returns on investment in certain types of capital, particularly for industrial firms. This lower return discourages investment in Michigan, affecting Michigan's competitive position among its peers who do not have a personal property tax. This is especially true for attracting manufacturers, who tend to bring relatively high-paying jobs to the state.

In addition, the PPT's high compliance costs add to the cost of doing business in Michigan in all sectors. Furthermore, many local and state economic development agencies offer credits and exemptions to lower PPT liability and attract firms. Eliminating the PPT improves Michigan's competitiveness and eliminates some costs associated with implementing these incentives.[1] See "The PPT Discourages Investment in High-Wage Industries" on page 6.

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2. *Many businesses will see their PPT liability increase in January 2012 due to repeal of the Michigan Business Tax (MBT) this year.*

Under current law, some companies will see a rise in the net costs imposed by the PPT starting in January 2012 because a key MBT tax credit tied to a firm's PPT liability is not included in the new CIT plan. This credit provided an estimated $137 million in tax relief for Michigan firms in FY 2011.[2] Nevertheless, other reforms passed in 2007 exempting industrial and commercial personal property from some school property taxes will remain in place, leaving the cost of the PPT significantly lower than it was before the MBT was enacted. See "Personal Property Tax Overview and Effective Rates" on page 4.

3. *The PPT provides, in aggregate, 2.7% of total non-school local government revenue and just over 1% of revenue for schools.*

The PPT provided statewide aggregate local government revenues, not including revenues to schools, of $705 million in 2008, with significant variation among communities.[3] To put this figure into context, this is the amount of revenue that would have been collected by a hypothetical 2.1-mill statewide tax on real property. (In 2010, the statewide average tax rate was 35.9 mills for residential property and 48.9 mills for nonresidential property.[4]) The PPT also provided aggregate revenue totaling $311 million for school operating purposes in 2008. Through local millages, the PPT funded 1.2% of school operating expenditures. The PPT also provided 1.0% of revenues to the state's School Aid Fund. See "PPT Is an Important Funding Source for Local Government" on page 10.

4. *Certain local governments and school districts would be disproportionately affected by elimination of the PPT. Replacing at least several years of lost PPT revenue for these entities would be an important aspect of any reform.*

For the majority of Michigan townships and cities, personal property made up less than 6% of the property tax base in 2010. On the other end of the spectrum, 31 communities had over 30% of their property tax base coming from personal property and 8 communities had over 40%. (There were a total of 1,534 townships and cities in the state in 2010.[5]) In these communities, public officials and voters would need time to consider and implement spending and tax changes if personal property were no longer taxable. See "PPT Is an Important Funding Source for Local Government" on page 10.

1. Two initiatives that currently offset industrial PPT liability are PA 198 and PA 328. Our 2010 report on Michigan business tax incentives found these to be effective at job creation, in part because PPT relief can affect business location decisions. See P. Anderson, et al, "Effectiveness of Michigan's Key Business Tax Incentives," Anderson Economic Group, March 2010.
2. Michigan Department of Treasury, "Executive Budget Appendix on Tax Credits, Deductions, and Exemptions Fiscal Year 2011."
3. School districts are local units of government, but in this report we use "local governments" to refer to non-school units, including cities, villages, townships, and counties.
4. For all property, we use Michigan Department of Treasury, "2010 Ad Valorem Property Tax Report." For nonresidential property, we use Michigan Department of Treasury, "2010 Commercial, Industrial and Utility Property Tax Report."
5. This is the number of townships and cities for which the Michigan Treasury has provided property tax data.

5. *Maximum allowable millage rates for local governments and school districts would not be affected by reform of the PPT.*

Some local governments may consider higher property tax rates on real property as part of a long-term revenue replacement plan in the event of PPT reform. Any discussion of changing property tax rates must consider the limits imposed by the Headlee Amendment to the Michigan Constitution, which established a maximum allowable millage rate for local governments. Michigan law and the State Constitution require that any increase of millage rates above this maximum value (which varies by jurisdiction) be approved by a popular vote.[6]

Legislative implementation of the Headlee Amendment initially allowed for "rollups" in the maximum rate to occur when the value of the local tax base fell. In other words, local governments could increase the millage rate to raise the same amount of revenue on a smaller tax base. A Blue Ribbon Commission found this practice to be inconsistent with the language of the Amendment,[7] and the practice was ended by reforms to the tax code in early 1995.[8] Therefore, though some units of local government would see a considerable reduction in their tax base due to PPT reform, local governments and school districts in Michigan would continue to face the same constraints on allowable millage rates. See "PPT Repeal and the Headlee Amendment" on page 13.

OUTLINE OF REPORT

The remainder of this report begins with a description of the personal property tax in Michigan and how it has evolved over the years. We show how recent changes have affected the effective personal property tax rate for businesses in various industries. Next, we summarize the effects of the personal property tax on Michigan's economy, explaining how it puts the state at a competitive disadvantage and places the greatest burden on some of the state's most productive and high-paying industries. Finally, we discuss the effect that PPT reform would have on revenue for local governments and school districts.

In order to assess the impact of repealing the state PPT, this report focuses on the consequences of repeal for state and local government revenues, and Michigan businesses and workers. The scope of our discussion of economic impact is limited to a qualitative summary of the effects of PPT repeal according to economic theory. We do not attempt to quantify the impact of any economic benefits of PPT reform on output, employment, or tax revenues. We also do not recommend or evaluate any particular spending or tax reform that might occur in the wake of PPT reforms, though we acknowledge that some communities rely on the PPT for a substantial portion of their revenue. For a summary of methods and data, see the appendix, "Data and Methods" on page 18.

6. There is an exception to this rule for millages that are used to pay off debts. There is no maximum allowable rate on taxes used to pay the principal and interest of voter-approved bonds.
7. "Headlee Blue Ribbon Commission, A Report to Governor John Engler," September 1994.
8. "The General Property Tax Act," Act 206 of 1893, Section 211.34d(8)-(11), Michigan Compiled Laws. The relevant amendments took effect on April 28, 2005.

PERSONAL PROPERTY TAX OVERVIEW AND EFFECTIVE RATES

Tax law distinguishes between two major classes of property: "real" property, comprising land and the buildings on it, and "personal" property, denoting every other type of possession, from household effects to business machinery. The Michigan Personal Property Tax dates to the General Property Tax Act of 1893, although lawmakers have revised it extensively since its enactment.

Businesses typically own one of three types of personal property whose value is assessed by local tax assessors: commercial, industrial and utility property. The *locally-assessed* utility personal property includes pipelines, generators, and electricity transmission equipment. There is also a different "utility property tax" on the real and personal property of railroad and telecommunications firms, whose property is assessed and taxed by the state government instead of local governments. The state collected $85 million from the statewide utility property tax in 2008, all going to the state's General Fund.[9]

As states neighboring Michigan have continued to reduce their personal property tax, the PPT has seen perennial attempts at reduction or repeal in Michigan. Legislation to lower businesses' PPT liability has resulted in reductions in industrial property taxes in particular.

One such change occurred in 1974, when the state established the "industrial facilities" tax (under Public Act 198 of 1974). Upon constructing, renovating, or replacing a facility, industrial firms may apply to local governments for an industrial facilities exemption or reduced rate in lieu of general property taxes. The industrial facilities tax freezes the taxable value of newly improved industrial sites at the pre-improvement level for up to twelve years following changes, and offers a 50% rate reduction for new facilities.

Two further reforms were passed in 2007 after Michigan voters petitioned to repeal the Single Business Tax (SBT).[10] The SBT was replaced by the Michigan Business Tax (MBT), which introduced a tax credit worth 35% of the tax liability on industrial personal property. This credit significantly reduced the marginal tax rate faced by manufacturers and other industrial property owners. In concert with passage of the MBT, the Michigan legislature passed Public Acts 37 and 38 of 2008, which exempted industrial personal property from up to 18 mills of local school levies as well as the 6-mill state education tax. PA 37 also exempted commercial personal property from up to 12 mills of local school levies.[11] Due to these reforms, the statewide effective property tax rate on industrial personal property decreased from 56 mills in 2004 to 20 mills in 2008, according to our estimates.[12]

9. Michigan Treasury Annual Report, Fiscal Year 2008-09.
10. The SBT was repealed by an initiated law brought to the legislature by a petition of the voters of Michigan. After the legislature adopted the measure, it became PA 325 of 2006 and replaced the SBT effective December 31, 2007.
11. State Tax Commission, "Michigan Business Tax Bulletin No. 7," October 2, 2007.
12. See the discussion below and the calculation in "Data and Methods" on page 18.

In May 2011, the MBT was repealed. Its replacement, the corporate income tax (CIT), takes effect starting January 1, 2012. Repeal of the MBT will eliminate the 35% credit for industrial personal property, but the tax exemptions for personal property included in PA 37 and PA 38 will remain in effect. As a result, the effective rate paid by industrial property owners will soon increase from current levels, but will remain below 2004 levels.

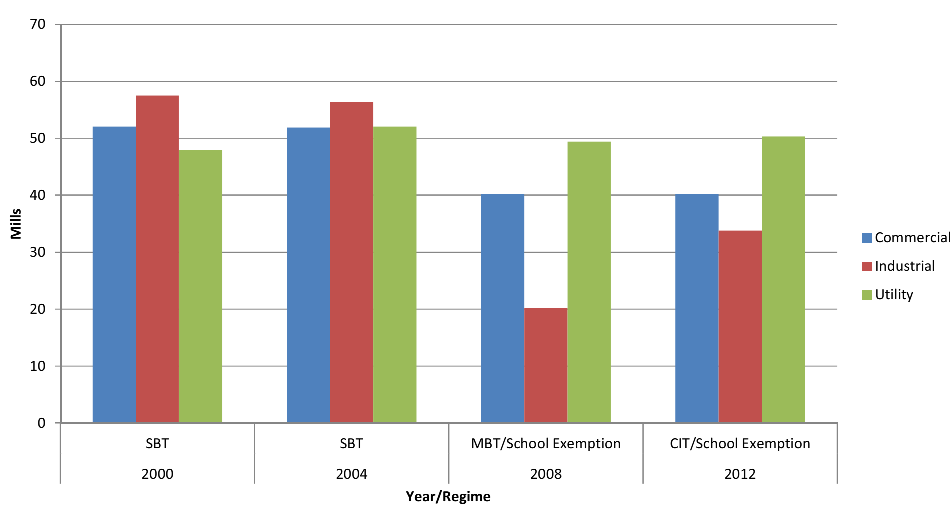
The statewide effective property tax rate on personal property shown in Figure 1 on page 5 was estimated as follows:

- Starting with the total statewide levies by all taxing authorities on locally-assessed personal property.
- Adding levies from both the Industrial Facilities Tax and the statewide Utility Property Tax (to account for firms paying these taxes in lieu of property taxes under PA 198 and PA 282, respectively).
- Subtracting MBT credits.
- Dividing the resulting total amount of tax paid on personal property by the total taxable value of personal property.

(For more information on how we calculated the effective tax rate, see the appendix, "Data and Methods" on page 18.)

We project that the effective PPT rate on industrial property will increase to approximately 34 mills under the new CIT structure, more than a 50% increase over the current effective rate.

FIGURE 1. Statewide Effective PPT Rates by Type of Property, 2000-2012



Sources: Michigan Treasury Office of Revenue and Tax Analysis. The Michigan Property Tax Real and Personal, 2002, and statistical updates, 2005, 2008; Treasurer's Annual Report, 2008-09. Analysis: Anderson Economic Group
Note: Effective tax rate is calculated by dividing tax collections less credits for personal property by taxable value. The effective tax rate in 2012 is based on AEG projections. See Appendix.

THE PPT DISCOURAGES INVESTMENT IN HIGH-WAGE INDUSTRIES

In this section, we discuss the implications of taxing personal property for the Michigan economy. What follows is not an empirical study of the effects of personal property taxation on businesses, nor is it a predictive model that would quantify the potential costs and benefits of repealing or replacing the personal property tax. Rather, this section discusses the economics behind taxation of personal property and its effect on incentives for businesses. We discuss how business response to altered incentives might in turn affect the general health of Michigan's economy.

Table 1 on page 6 compares the value of the commercial, industrial, and utility sector's total output in 2008 with its PPT base. The comparison illustrates that inputs classified as personal property represent more important factors in industrial production than in the commercial sector. In addition, it represents a very important contribution to utility production.

TABLE 1. Michigan GDP and Personal Property Tax Base, by Sector, 2008

	Commercial	Industrial	Utility (Locally-Assessed)[a]
Sector GDP ($ millions)	$194,189	$60,534	$7,916
Personal Property Tax Base ($ millions)	$10,293	$11,102	$7,252
Memo: Personal Property per Million Dollars of Output	*$53,005*	*$183,401*	*$916,119*

Sources: Bureau of Economic Analysis, Michigan Treasury Property Tax Real and Personal 2008 Statistical Update
Analysis: Anderson Economic Group, LLC
Note: Personal Property Tax Base is in terms of taxable value.

a. The tax base shown here for "utility" property includes only utility property assessed by local property assessors. It does not include personal property that is assessed for the statewide utility property tax, which includes personal property of railroad and telecommunications firms.

The utility sector accounted for over 25% of the locally-assessed personal property tax base in 2008, which doesn't include the telecommunications and rail property taxed at the state level (as discussed above in "Personal Property Tax Overview and Effective Rates" on page 4). In general, utility businesses have much less scope for deciding between in- and out-of-state facility location decisions than industrial and commercial businesses. Nevertheless, the PPT likely affects utility companies' investment decisions and cost structure. As some of this property is owned by regulated industries with limited competition, it is likely that much of this tax is passed on to utility users, including both businesses and households, though some of the burden may be shared with the shareholders and employees of the firms in this sector. In addition to revenues from the state utility property tax, $362 million in personal property tax was paid on locally-assessed utility property in 2008.[13]

The remainder of this section discusses the PPT's effects on other private businesses.

The PPT and High-Wage Industries

Taxes affect industrial development by altering the relative return on investment across different industries in a way that affects businesses' incentives to invest in the state. Ideally, investors will allocate investment capital to those enterprises that provide the highest available return on their money. The PPT taxes production inputs such as machinery, computers, and other equipment. By raising their production costs, the tax reduces profit margins, particularly in those industries that rely most on capital inputs, such as manufacturing, mining and energy supply.[14]

The PPT's effect on the cost of capital inputs can have real consequences for Michigan's economy. First, the PPT causes the returns on investment in capital-intensive industries in Michigan to be lower, relative to alternative industries.[15] This means that capital-intensive operations in Michigan have more difficulty attracting the investment needed to expand or maintain production levels and employment relative to industries in the state that require fewer machines and equipment.

Second, locating in other states becomes more attractive due to the PPT. With the exception of Indiana, Michigan's neighbors either do not tax personal property or exempt a substantial portion of the base.[16] As Michigan struggles to maintain employment and national market share in manufacturing, policy makers must consider the effects of increased costs of capital inputs due to the PPT.

The effect of taxing personal property on the incentives faced by capital-intensive industries have always been present, but Michigan has nevertheless taxed personal property for decades. Part of the reason for this decision may have been related to Michigan's former status as one of the premier locations in the world for manufacturing businesses. In the same way that states such as California and New York have elected high individual income taxes to gain revenue from their location-specific champion industries (finance in New York and electronics and IT in California's Silicon Valley), Michigan's imposition of a PPT may have been less damaging economically when firms wishing to produce cars and other manufactured goods gained an unmatchable advantage from locating

13. Michigan Treasury Property Tax Real and Personal 2008 Statistical Update.

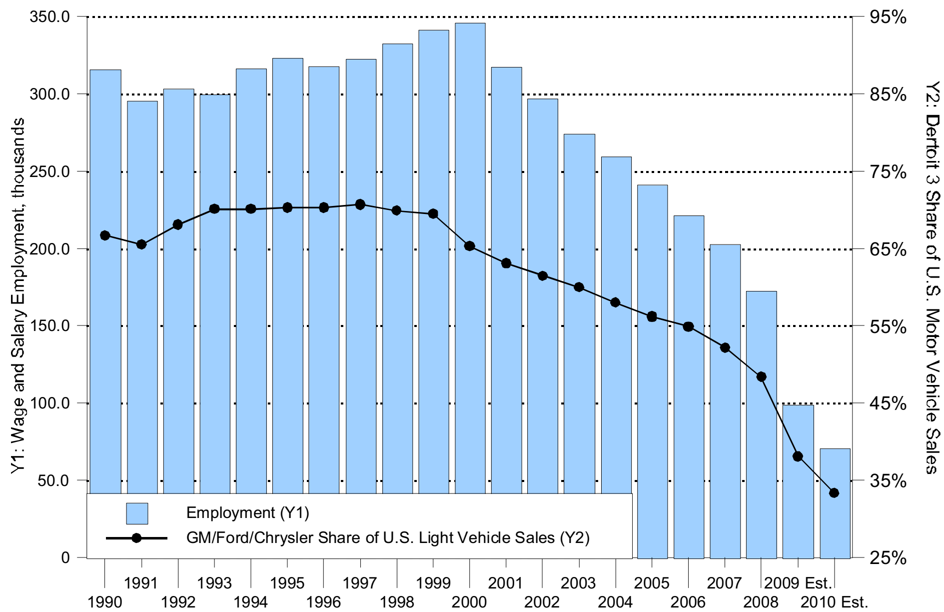
14. While the firm may pass some of the costs of taxation on to consumers in the form of higher prices, price-sensitive consumers will respond by buying less or buying from a lower-priced competitor, including competitors operating in lower-cost states.

15. "Capital-intensive" industries are industries that depend heavily on non-labor inputs, such as equipment and machines.

16. Michigan Department of Treasury, "Michigan Property Tax Real and Personal 2005 Statistical Update," Bureau of Tax and Economic Policy, Tax Analysis Division, 2006.
In 2005, Ohio began phasing out its personal property tax, and 2010 marked the tax's final year. (From Ohio Department of Taxation, "Property Tax - Tangible Personal Property," 2010.)

near Michigan’s cluster of thriving manufacturing businesses. Whatever the merits of this decision in the past, Michigan's competitive situation has radically changed. Figure 2 on page 8 shows that manufacturing employment in the state’s automotive sector and the domestic market share for the Big Three have declined precipitously.

FIGURE 2. Michigan Transportation Equipment Manufacturing Employment and Big Three Share of National Auto Sales, 1990 - 2010



Source: “Michigan’s Economic Outlook and Budget Review,” Senate Fiscal Agency, May 13, 2009. Their sources include Bureau of Labor Statistics, Ward’s Automotive Yearbook, Automotive News, and Senate Fiscal Agency.

Michigan economic policy has explicitly attempted to target growth in manufacturing for multiple reasons, including the state’s history of success in the sector, perceived competitive advantages from the existing stock of skilled workers and capital, and the history of jobs in the sector supporting a higher standard of living in the state.

Manufacturing and other capital-intensive industries in Michigan tend to pay higher wages than others due to several factors. Output from manufacturing workers tends to be higher as workers effectively leverage the productive capacity of machines. Also, manufacturing professions sometimes require specialized skills for which firms are willing to pay a premium. Michigan’s manufacturing industries have also historically had higher wages due in part to bargaining by unions at the firm and industry level.

As shown in Table 2 on page 9, capital-intensive manufacturing jobs in Michigan pay above-average weekly wages. Michigan manufacturing jobs have higher average wages than many service sectors with low capital intensity. (Exceptions within the service sector include jobs in which workers supply valuable and unique human capital due to technical training and expertise, such as in engineering professions.)

TABLE 2. Average Weekly Wages by Selected Industries, 2008-2010

Industry	Annual Average Weekly Wage ($)		
	2008	2009	2010
All Industries, Public and Private	*851*	*839*	*855*
Manufacturing	1,150	1,128	1,149
Service Providing	773	765	778
Information	1,104	1,069	1,096
Financial Activities	1,020	1,024	1,052
Professional and Business Services	1,088	1,064	1,061
Education and Health Services	792	809	815
Leisure and Hospitality	303	305	311
Other Services	523	513	513

Source: BEA Quarterly Census of Employment and Wages
Analysis: Anderson Economic Group, LLC

To the extent that state and local governments choose to replace the PPT with some other source of tax revenue, this would marginally discourage investment in some other way. Nevertheless, since capital-intensive industries pay higher wages than the statewide average, the PPT has a more pernicious effect on the statewide economy than many replacement taxes might.

THE PPT HAS HIGH COMPLIANCE COSTS

All taxes create costs for taxpayers through the liability that must be paid, as well as through compliance costs, such as those incurred in calculating tax liability, preparing documentation, and processing payment. Yet a third category of costs from taxation is the cost to the government of administering and complying with the tax. PPT liability is calculated as a share of assets' acquisition cost, adjusted for depreciation. The tables used in this depreciation estimate were created by the Michigan state government and are distinct from IRS depreciation tables. This necessitates a time-consuming, and therefore costly, recalculation of taxable value that could be eliminated by simply allowing businesses to calculate depreciated value once for state and federal taxes.

Secondly, because there is not a minimum filing threshold, even a business with PPT liability that predictably falls below the cost of filing must pay the tax. A 1998 Anderson Economic Group report on the PPT concluded that businesses with personal property at a combined acquisition cost of less than $25,000 may incur compliance costs that exceed the tax revenue generated by their PPT liability.[17] If compliance costs have grown at the rate of inflation since then,

17. Patrick L. Anderson, "The Personal Property Tax in Michigan: Abolish or Reform?" Prepared for the Michigan Chamber of Commerce, Anderson Economic Group, 1998.

today's companies with personal property worth $35,000 or less at acquisition are spending more on compliance than the value of their tax liability.

The same Anderson Economic Group study estimated the public and private costs of complying with the tax. The results suggest that the private sector incurs compliance costs equal to roughly 37% of revenue collected by the tax, while the cost to the government of administering the tax falls between four and five percent of revenue collected. We are not aware of any other major statewide tax that has compliance costs of this magnitude. While elements of the PPT have changed since then, the key elements that influence its compliance cost have not, though improvements in software do allow for quicker liability calculation, document preparation, and payment processing.

PPT IS AN IMPORTANT FUNDING SOURCE FOR LOCAL GOVERNMENT

General property taxes represent the principal revenue source for services administered by local government, accounting for 52.9% of local revenues from own sources (excluding federal and state transfers) in 2008.[18] The PPT accounts for 7.9% of the total general property tax levy statewide. As shown in Table 3 on page 11, the majority of PPT collections fund local government, including counties, cities, townships, and villages. The personal property tax accounts for approximately 2.7% of total non-school local government revenue in Michigan. In addition, through local millages, the PPT funded 1.2% of school operating expenditures. Finally, PPT collections accounted for 1.0% of revenues to the state's School Aid Fund.

For all local governments and school districts combined, the personal property tax represented over $1.1 billion in revenues. To put this amount in context, this is equivalent to a statewide tax of 3.42 mills on real property. In other words, if all local governments throughout the state were to replace all revenue lost by eliminating personal property from the property tax base with an increase in real property tax rates, the result would be an increase of 3.42 mills on the remaining property tax base, on average. (See "PPT Repeal and the Headlee Amendment"

18. U.S. Census Bureau, 2008 Annual Survey of State and Local Government Finances.

on page 13 for an explanation of property tax rate limitations that would prevent this from actually occurring in practice.) The statewide average property tax rate for all taxing authorities was 48.9 mills for non-homestead property and 35.9 mills for homestead property in 2010. The statewide average property tax rate for all property (both homestead and non-homestead) was 39.7 mills in 2010.

TABLE 3. PPT Revenue Compared to Resources of Local Units of Government, 2008

Taxing Entity and Use	Total Revenue From All Sources ($ millions)	Personal Property Tax Levy ($ millions)	PPT as % of Total Revenue	PPT, Shown as Equivalent Statewide Tax on Real Property
Local governments - All Uses, excluding School Districts	26,033.9	705.4	2.71%	2.10 mills
School District - Operating	15,950.0[a]	192.3	1.21%	0.57 mills
School District - Debt & Capital	3,716.6[a]	135.1	3.64%	0.40 mills
State - School Aid Fund[b]	12,180.8	118.8	0.98%	0.35 mills
Total		*1,151.6*		*3.42 mills*

Source: Michigan Property Tax Real and Personal 2008 Statistical Update, Michigan Dept. of Education Revised 2007-08 Bulletin 1011, Michigan Comprehensive Annual Financial Report FY2008, AEG Estimates
Analysis: Anderson Economic Group
Note: Local governments and the school aid fund receive levies worth a combined $41.5 million from the industrial facilities tax. The remainder ($1,110.1 billion) comes from ad valorem property taxes on the personal property base. $85 million in revenues from the utility property tax are not included because it goes to the state's General Fund. Total revenues are not additive because some school district operating revenues come from the school aid fund.

a. We use 2008 total expenditures as a proxy for aggregate revenue here. On average revenue and expenditures will match over time.

b. The school aid fund receives PPT revenues from the State Education Tax and part of the proceeds from the Industrial Facilities Tax.

The Impact of PPT Reform on School Districts

Local school districts rely on both statewide and local property taxes to fund operating expenses. In addition, local property taxes pay for principal and interest on debt issued by school districts to pay for capital expenditures.

There are two important features of Michigan's system of school finance that will determine the effect of PPT reform on operating funding for local school districts. First, districts are guaranteed a minimum per-pupil foundation allowance that is set by the legislature. This means that almost no district would have its per-pupil operating funding reduced as a result of personal property being removed from the tax rolls. Even though some districts would have a much greater drop in revenue from local operating millages than others (as discussed in "Variation in the Importance of PPT Revenues" on page 12), Michigan's system is designed such that the entire difference would be made up by state government appropriations from the School Aid Fund (SAF), bringing the per-pupil funding back to where it would have been before personal property was removed from the base. The only exceptions to this outcome might occur in districts designated as "hold harmless" districts under the Proposal A reforms of

1994. These districts are allowed to provide local operating funding above the state per-pupil allowance, so their funding per pupil could be affected by changes in local revenues.

The second important feature of Michigan's school finance system is that state legislators choose the minimum per-pupil allowance. The two main sources of funding for the per-pupil allowance are local operating millages and the state's SAF. Elimination of personal property from the tax base would affect both of these sources because, as discussed above, the PPT contributes 1.2% of locally-provided school operating revenue and 1% of revenue to the SAF. Over time, however, the economic growth associated with PPT reform (see Finding 1) would increase the revenue collected by other taxes, such as those on income and sales, that provide funds for the SAF. In addition, the legislature may choose to combine PPT reform with other spending and tax changes that affect the amount of revenue in the SAF. In the end, the amount of revenue from school operating millages and the SAF will influence the per-pupil minimum set by the legislature.

Unlike operating funding, funding for capital expenditures are not subject to a statewide system with statewide guaranteed minimums. In particular, voter-approved bonds are required by state law and by Article IX of the state Constitution to be paid in full. There is no limit on debt millages to pay principal and interest on voter-approved bonds. This suggests that an average, long-term increase of 0.4 mills on real property may occur to compensate for lost revenue dedicated to school debts alone. This could be an over- or underestimate depending on individual districts' level of bond fund reserves, how they choose to react to the elimination of personal property from their property tax base, future changes in the tax base, and any changes in debt payments already scheduled to occur.

Variation in the Importance of PPT Revenues

The importance of personal property tax revenue in local government finance differs across municipalities and school districts. As shown in Figure 3 on page 15, the share of property in a county that can be defined as "personal property" varies dramatically across the state. For example, the counties with the greatest share of personal property as a percentage of all property are in the Upper Peninsula, where there is little property in aggregate, but quarries and mines with extensive personal property dot the landscape.

Even within counties, there is a great amount of variation. In the suburbs of Detroit, bedroom communities are adjacent to large manufacturing centers but overseen by separate units of local government. The machines housed in manufacturing facilities are taxed as personal property, while household items, generally, are not subject to taxation. Local governments that oversee manufacturing and other industrial centers depend much more on personal property tax revenues than those that preside over primarily residential communities.

In 2010, personal property made up less than 6% of the property tax base in the majority of townships and cities. On the other end of the spectrum, 31 communities had over 30% of their property tax base in personal property, including eight with over 40%. (There were 1,534 cities and townships in the state in 2010, according to Michigan Treasury data.) Table 4 below shows the ten communities that rely the most on personal property for their property tax base.

TABLE 4. Personal Property as % of Total Taxable Value, Top 10 Michigan Communities, 2010

Name	Type	County Where Located	Personal Property Taxable Value ($)	Total Taxable Value ($)	Personal Property as % of Total Taxable Value
Winterfield	Township	Clare	27,462,732	44,317,260	62.0%
River Rouge	City	Wayne	183,638,417	323,261,285	56.8%
Blue Lake	Township	Kalkaska	63,794,100	113,007,968	56.5%
Wakefield	Township	Gogebic	14,221,952	27,096,241	52.5%
Chandler	Township	Charlevoix	10,217,400	19,791,423	51.6%
Litchfield	City	Hillsdale	28,113,051	56,252,032	50.0%
Ecorse	City	Wayne	121,064,208	264,256,682	45.8%
Goodwell	Township	Newaygo	12,210,000	30,440,699	40.1%
Sheridan	Township	Calhoun	29,609,342	74,244,947	39.9%
Wells	Township	Marquette	9,639,134	25,006,331	38.5%

Source: Michigan Department of Treasury
Analysis: Anderson Economic Group

PPT REPEAL AND THE HEADLEE AMENDMENT

Some local governments will probably consider using higher property tax rates on real property as part of a long-term revenue replacement plan in the event of a PPT repeal. Many of these governments, however, will find their efforts to do so constrained. Local governments in Michigan are subject to a maximum allowable tax rate as calculated under Article IX, Section 31 of the Michigan Constitution, otherwise known as the Headlee Amendment. Increases above the maximum allowable tax rate can only occur if they are approved by a popular vote.[19]

The maximum allowable rate would change annually based on changes to the tax base. The allowable rate would be "rolled back" as the taxable value of properties in a region increase faster than inflation (not counting for net additions to the property base). "Rollbacks" are still required by current Michigan law and the state's Constitution. Before 1995, municipalities could also "roll up" the rate when the tax base shrunk. A 1994 report issued by the Headlee Amendment Blue Ribbon Commission found these so-called Headlee "rollups" were inconsistent with the language of the Headlee Amendment.[20]

19. There is one exception to this rule. There is no maximum rate for taxes that are specifically tied to payment of debts. Once voters have approved a bond issue, there is no limit on the millage rates administered in order to repay that debt.

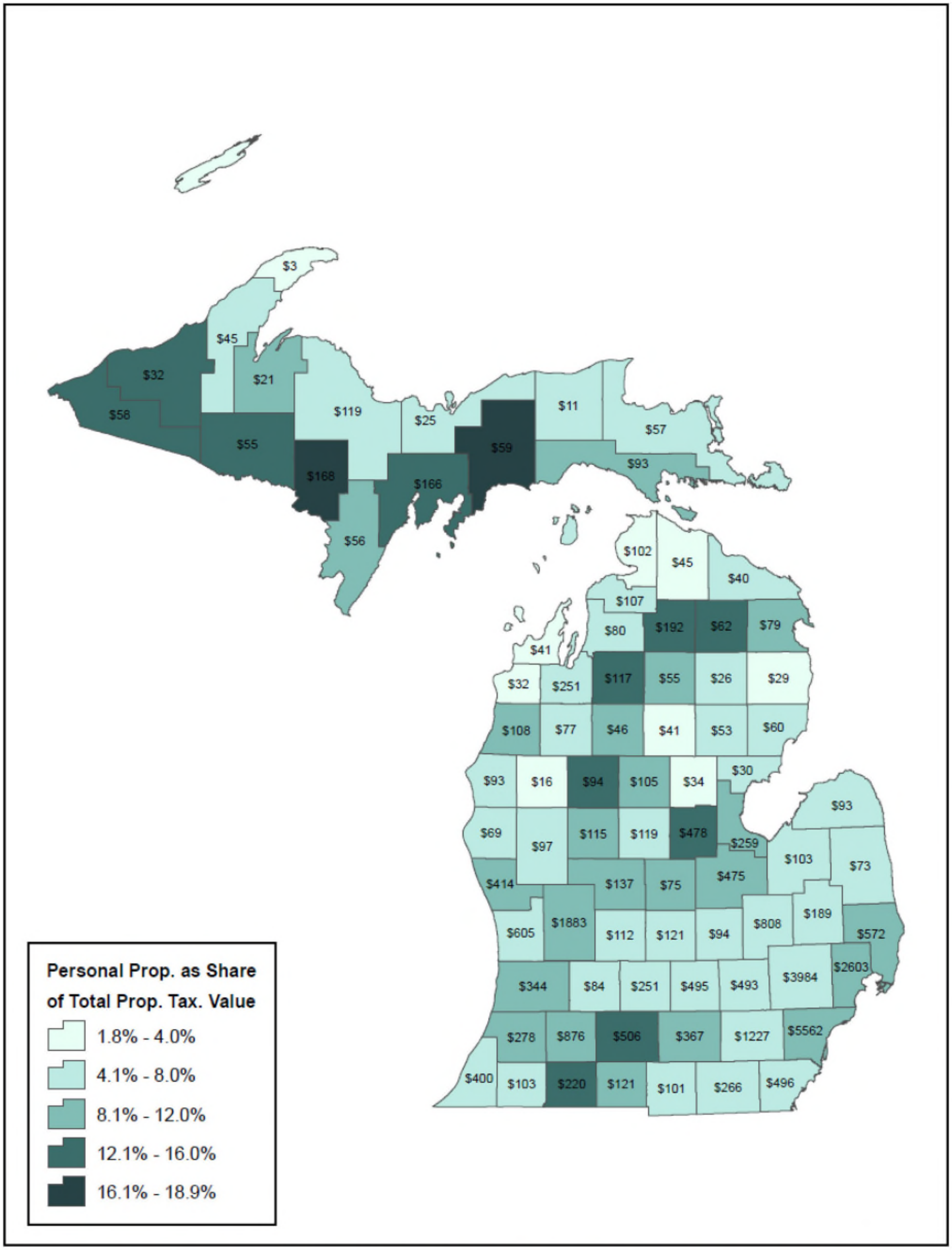
Due to changes made to the General Property Tax Act in 1995, municipalities cannot raise the maximum allowable tax rate in response to statewide changes that narrow the tax base.[21] In other words, the maximum allowable tax rate for local governments would not increase due to the removal of personal property from the tax base.[22] Therefore, in the event of PPT repeal, local units of government will face the same constraints as before, despite the fact that their tax base will have shrunk. Governments that are not currently taxing at their maximum allowable rate would have some room to maneuver, but the many governments that are already at their maximum rate would require voter approval for any increases.

20. "Headlee Blue Ribbon Commission, A Report to Governor John Engler," September 1994.

21. "The General Property Tax Act," Act 206 of 1893, Section 211.34d(8)-(11), Michigan Compiled Laws. The relevant amendments took effect on April 28, 2005.

22. In fact, Michigan tax law would preclude a rollup from occurring due to PPT repeal in any case. The tax code requires rollbacks in the maximum allowable tax rate based on the increase in taxable value of *only* the property that is taxable in both the current year and the previous year. If personal property is deemed no longer taxable, then it would simply not be included in the formula that determines the change in the maximum allowable rate for the upcoming year.

FIGURE 3. Personal Property Taxable Value as a Share of Total Property Taxable Value



Source: ESRI, Inc.; Michigan Treasury Department, "Michigan Property Tax Real and Personal Statistical Update, 2008"
Analysis: Anderson Economic Group, LLC

Note: Labels in each county show the taxable value of personal property in the county, in millions of dollars.

ABOUT ANDERSON ECONOMIC GROUP

Anderson Economic Group LLC is a research and consulting firm that specializes in economics, public policy, finance, market analysis, and land use economics. AEG has offices in East Lansing, Michigan and Chicago, Illinois. AEG's past clients include:

- *Governments*, such as the states of Michigan, North Carolina, and Wisconsin; the cities of Detroit, MI, Cincinnati, OH, Norfolk, VA, and Fort Wayne, IN; counties such as Oakland County, Michigan, and Collier County, Florida; and authorities such as the Detroit-Wayne County Port Authority;
- *Corporations* such as GM, Ford, Delphi, Honda, Metaldyne, Taubman Centers, The Detroit Lions, PG&E Generating; SBC, Gambrinus, Labatt USA, and InBev USA; automobile dealers and dealership groups representing Toyota, Honda, Chrysler, Mercedes-Benz, and other brands;
- *Nonprofit organizations*, such as Michigan's University Research Corridor, Michigan State University, Wayne State University, Van Andel Institute, the Michigan Manufacturers Association, International Mass Retailers Association, American Automobile Manufacturers Association, Automation Alley, and the Michigan Chamber of Commerce.

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Appendix. Data and Methods

ESTIMATING EFFECTIVE RATES

To estimate the "effective" PPT rates, we divided the net tax levied on businesses (subtracting tax credits for PPT liability) by the total personal property tax base. Specifically, we took the following steps:

- To determine the effective tax rate for industrial personal property, we added the share of the industrial facilities tax that is for personal property to the ad valorem tax levy on industrial personal property. We then subtracted the total amount of MBT credit for industrial personal property.[23] This results in an estimate of the total tax collections on industrial personal property. We then divided this amount by the taxable value of industrial personal property to determine an effective rate.[24] See Table A below.

TABLE A. Calculating Effective Personal Property Tax Rates, Industrial

Tax	2004	2008	2012 (est.)[a]
Ad Valorem Tax Levy, Industrial Personal Property	$571.4	$333.9	$333.9
Industrial Facilities Tax[b]	$54.3	$41.5	$41.5
MBT Credits, Industrial Personal Property	$0	($151.4)	$0
Estimated PPT Collections, Industrial Property	$625.7	$224.0	$375.4
Total Taxable Value, Industrial Personal Property	*$11,095.5*	*$11,102.3*	*$11,102.3*
Effective Tax Rate on Industrial Personal Property	***56.4 mills***	***20.2 mills***	***33.8 mills***

Sources: Michigan Property Tax Real and Personal 2008 Statistical Update; 2007-08 Annual Report of the State Treasurer; Executive Budget Appendix on Tax Credits, Deductions, and Exemptions, FY2008; AEG Estimates
Analysis: Anderson Economic Group, LLC

a. For our 2012 estimate, note that we do not project a distinct levy or size of the tax base. We merely use the values from 2008, while removing the credits from the MBT that will no longer be in effect. We assume that this provides a good proxy for the effective tax rate on personal property in 2012 for the purposes of comparing it to the effective rate under the state's policies in 2008.

b. This line shows only the tax collected on personal property, estimated by assuming that the proportion of all property that was personal property was the same for facilities covered by the industrial facilities tax as for the broader industrial base.

- For commercial personal property, we divided the tax levy on personal property by the taxable value of that property.

23. Total amount awarded for the MBT credit on industrial personal property is based on the "Executive Budget Appendix on Tax Credits, Deductions, and Exemptions," published annually by the State of Michigan. Our estimate for 2008 is greater than the published figure because the MBT credit was only in force for part of the year. For purposes of comparison, we have projected a total for the entire year.

24. Taxable value State Equalized Value (SEV) for personal property not significantly different. In 2008 the aggregate amount of taxable value for all personal property in Michigan was 99.8% of the aggregate amount of SEV. See Michigan Department of Treasury, "Michigan Property Tax Real and Personal 2008 Statistical Update."

- For utility personal property, we added the revenue collected from the statewide utility property tax to the levy on utility personal property, and then subtracted the small credit for utility property contained in the MBT (or the SBT, for previous years). Then, we divided by the total taxable value of utility personal property under the general property tax plus our estimate for the total taxable value of property subject to the statewide utility property tax. As no estimate for the taxable value of property subject to the statewide utility property tax was available from Treasury documents, we estimated it by dividing tax collections by the previous year's average property tax rate for businesses. Note that including the statewide utility property tax introduces some real property to both the numerator and denominator of the effective PPT rate calculation.[25]
- In making our estimate for the effective tax rate in the year 2012, we assumed that there will be no other major changes to the personal property tax other than the elimination of MBT credits for personal property. Our estimate for the effective tax rate on industrial personal property in 2012 consists of simply adding back the money that was provided to businesses through MBT credits on personal property liability. In doing so, we assume that the ratio of future collections to taxable value will be the same as in 2008. (We also add back some collections for utilities due to elimination of a credit worth $8 million in 2008.)
- As the purpose of our estimate was to compare the tax burden change as a share of value over time, we chose the consistent base of taxable value. There are, however, some differences between taxable value and State Equalized Value.

DATA SOURCES

Information about tax levies and their distribution across different industries and counties was gleaned from data published by the Michigan State Department of Treasury. Every three years, the Treasury publishes statistics on real and personal property taxes levied in the state by county, industry, and type of property. Most of the data presented in this report is for the year 2008, as that is the most recent year for which comprehensive statewide property tax data is available.

To put personal property tax revenues in context, we look at them as a share of industrial output, as well as their share of total revenues for various government entities. For industrial output, we use state GDP, as presented by the Bureau of Economic Analysis. For local government and school district revenues, AEG estimated 2008 figures using projections based on statewide data (from the state's Comprehensive Annual Financial Report) and local government data from previous years (as published by the U.S. Census Bureau Survey of State and Local Government Finances).

25. Since the telecommunications and rail businesses subject to the statewide utility tax are likely very capital intensive, we chose to include this tax to capture the effect of property taxation on the investment decisions of firms in these industries rather than not including them at all.

State financial data and data on school expenditures are from the state's Comprehensive Annual Financial Report and the Department of Education Bulletin 1011, respectively.

REVISIONS

The following revisions have been made to this document since its release on November 16, 2011.

Date	Section	Page	Revision
11/17/2011	Personal Property Tax Overview and Effective Rates	p. 4	Language has been added clarifying the difference between locally-assessed general property taxes and the distinct, statewide utility property tax. We now explicitly state the amount of revenue from the statewide utility property tax.
		p. 5	Figure 1 revised to reflect a change in how the effective rate for utility personal property accounts for the statewide utility property tax. Previously, the statewide utility property tax collections were included in the tax levy, but not the taxable value of the base for those collections. In order to make this change we have estimated the taxable value of the base for the statewide utility property tax, and have inserted that into our calculation. See "Data and Methods" on page 18. The result is that the effective tax rates for utility personal property shown in Figure 1 in each year are slightly lower than in the previous version of the report. In addition, language in the paragraph accompanying this figure has been updated to state the process that we use to calculate effective tax rates more clearly.
	The PPT Discourages Investment in High-Wage Industries	p. 6	A footnote was added to Table 1 to clarify that figures in this table for sector GDP and personal property tax base for utility personal property do not include that for firms that are excluded from the locally-assessed general property tax, but are instead subject to the statewide utility property tax. These firms include primarily railroad and telecommunications companies. In addition, language in the paragraph accompanying this table has been updated to discuss the table accurately as it has been revised. Also on this page, some language defining different classes of personal property has been moved and is part of the revisions described on page 5.
	Appendix: Estimating Effective Rates	p. 19	The bullet point describing our calculation of effective rates for utility companies now explains that we have added an estimate for the tax base of the statewide utility property tax to the denominator.

<u>EXHIBIT 4</u>

Policy Brief

MACKINAC CENTER FOR PUBLIC POLICY

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Proposal 1 of 2014: Summary and Assessment

By James Hohman

Executive Summary

On Aug. 5 Michigan voters will be asked to approve or reject Proposal 1, which would modify the state's personal property tax. Personal property taxes are levied on business equipment and machinery, and raise about $1.286 billion, most of which funds local government units such as counties, cities, schools and community colleges. Personal property taxes are widely considered to have a disproportionately negative impact on economic growth. By taxing business equipment and machinery, they discourage businesses from investing in expansion and growth.

The legislation that would go into effect if Proposal 1 were approved by voters creates three new exemptions for certain businesses that are currently subject to the personal property tax; it does not eliminate the personal property tax. One exemption is a de minimis, or "small parcel exemption," that frees businesses with less than $80,000 worth of personal property from this tax liability. Another exemption phases in relief for manufacturing personal property that has been subject to the tax for at least 10 years, and a third exempts all new manufacturing personal property. These exemptions amount to an estimated $600 million tax cut when fully implemented.

The package of bills that would become state law if Proposal 1 is approved includes a mechanism for reimbursing local government units for the revenue lost from these new exemptions. The state would set aside a portion of the statewide Use tax revenue, and use this revenue to reimburse local governments. It is estimated that local governments will be reimbursed for the entirety of the revenue lost due to the personal property tax cuts.

The state would also levy a new, but relatively small, tax on manufacturing personal property that qualifies for one of the exemptions described above, except the small parcel exemption. The state estimates this to raise $117.5 million, making the overall net tax cut of the legislation package worth about $500 million.

Proposal 1 asks voters to approve or reject a package of bills already approved by the Michigan Legislature. These reforms would provide a net tax cut to businesses with manufacturing personal property, and provide a different source of funding for local governments.

Introduction

The Aug. 5 primary election decision pertains to legislation designed to reduce some of Michigan's personal property taxes and replace the tax revenue with other means. The proposal eliminates taxes on personal property for small businesses, and phases them out for manufacturing companies. It also replaces tax revenue for local units of government, which have been the recipients of these personal property taxes.

Michigan's personal property taxes are only paid by businesses and assessed based on the value of their equipment. This tax revenue supports the state and most forms of local governments, including counties,

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cities, school districts, community colleges, libraries, villages, townships and intermediate school districts.[1]

The text of the ballot question can be found in Appendix A.

Background of Personal Property Taxes

The personal property tax is levied on the value of property not tied to land or buildings, such as equipment, machinery or furniture. The tax is paid in addition to "real" property taxes, those levied on land and buildings.

Most states levy taxes on personal property — only 10 do not. Generally, only businesses pay personal property taxes,[*] but there are some differences among the states as to which firms pay the tax. For instance, Minnesota exempts from personal property taxes all but utilities, North Dakota only taxes utilities and oil and gas refineries, and Wisconsin exempts most personal property from taxation.[2] Only Virginia and Oklahoma allow for local governments to tax the personal property of households, but only a handful of counties among those two states assess it.[3]

For the purposes of levying this tax, Michigan classifies all businesses into three types: industrial, commercial and utility.[4] Taxes are assessed based on the value of the personal property on Dec. 31.[5]

Local taxing authorities — cities, villages, townships, counties, school districts, intermediate school districts, community colleges and other authorities — levy taxes on personal property at the same rates as those for real property.[†] The state also levies a six-mill property tax to fund public schools, and a utility property tax.[‡,6]

Unfortunately, the state does not report personal property tax revenue specifically — most state reports on property taxes aggregate both real and personal property tax revenues. A 2010 Treasury Department report finds that Michigan's personal property tax raised $1.1 billion in 2008.[7] A 2011 Senate Fiscal Agency report lists total state and local revenue from the personal property taxes at $1.286 billion in 2010.[8] Graphic 1 lists these revenues by recipient:

Graphic 1: Personal Property Tax Revenues, 2010 (in millions)

Municipality	2010
County/City/Township	$490.2
School District	$366.7
State	$250.5
Intermediate School District	$98.2
Community College	$49.0
Other	$31.2
Total:	**$1,285.8**

Source: Author's calculations based on data from David Zin, "The State and Local Impact of Property Taxes Levied on Michigan Personal Property" (Michigan Senate Fiscal Agency, 2011), 10, http://goo.gl/WLc2i (accessed May 22, 2014). Only county, cities and townships report taxable values for utility personal property, so values had to be imputed for school district, community college and ISD. Likewise, villages do not report taxable values by class of property and are not included in this table.

Business property values vary greatly by location, so local units of government face vastly different exposure to changes in personal property taxes. For instance, 62 percent of the property tax revenue for Clare County's Winterfield Township comes from personal property taxes, whereas some small rural townships and school districts report not having any personal property tax revenue.[9]

Personal property tax rates also differ substantially from one place to another. These differences, in fact, provide an opportunity for businesses to relocate

* Note that this is a simple distinction about which entity turns over the revenue from the tax. Taxes can influence prices and behavior, and the party that ultimately bears the burden of the tax can be different from the party that pays the tax.

† Personal property is exempt from special assessments levied by cities, villages and townships. Industrial personal property is exempt from the 18-mill local school district operating millage and commercial personal property is exempt from 12 of those 18 mills. David Zin, "The State and Local Impact of Property Taxes Levied on Michigan Personal Property" (Michigan Senate Fiscal Agency, 2011), 3–4, http://goo.gl/WLc2i (accessed May 22, 2014).

‡ After 2007, the state exempted industrial personal property from the 6-mill state education tax. "Public Act 40 of 2007" (State of Michigan, July 12, 2007), http://goo.gl/AM8rk4 (accessed June 16, 2014).

their mobile personal property to areas with lower rates and reduce their tax liability. For instance, one contractor mentioned in a legislative committee hearing that he could pay double his tax rates depending on where his equipment resided at the end of the year.[10] Not every kind of business equipment is easily moved, however, and this opportunity is not available to all businesses equally.

Personal property taxes are often targeted for elimination due to their negative economic effects.[11] Delaware, Hawaii, Iowa, Illinois, New York, Ohio and Pennsylvania have repealed their personal property taxes.[12] A general economic understanding of tax policy is that taxes on capital have a dollar-for-dollar greater impact on the economy.

Taxing an item generally discourages its use. For instance, one intended consequence of a tobacco tax is to get people to stop smoking.[*] Taxing income provides less of an incentive to work. The same applies with personal property — taxes on these capital goods discourage businesses to invest in tools, machinery and other equipment. Since businesses typically invest in these goods with the intention of expanding or becoming more efficient, these taxes may have a disproportionately negative impact on economic growth.

State policy has attempted to mitigate some of these economic effects. A 1974 law established the ability of Michigan local governments to award special reductions in real and personal property taxes to companies that were expanding.[13] Over time, additional property tax abatements have been made available to other growing businesses and to other firms that develop certain kinds of properties. On top of these, there has also been an increase in other types of property tax abatements for altogether different purposes.[14]

In addition to these targeted tax abatements and exemptions, Michigan also offers broader exemptions for certain kinds of personal property for some portions of property taxes.[15] For example, industrial personal property is exempt from the six-mill State Education Tax and the 18-mill local school operating levies.[16]

The Michigan Business Tax, before it was ended in 2011, also provided some tax credits based on the amount of personal property tax businesses paid. Companies could take a credit worth 35 percent of their industrial personal property taxes, 13.5 percent of telephone personal property taxes and 10 percent of eligible utility property taxes.[17]

History of Recent Personal Property Tax Legislation

In 2011, Michigan legislators began discussing a complete elimination of the personal property tax. Sen. Mike Nofs, R-Battle Creek, introduced a bill that would end the tax outright, but mentioned that these tax cuts could be phased in so as to mitigate shocks to local government revenue.[18]

At the same time, the Legislature was also discussing the elimination of the Michigan Business Tax, one of newly-elected Gov. Rick Snyder's top initiatives.[19] Since businesses could earn credits on their MBT liability based on how much they paid in personal property taxes, replacing the MBT with a new tax might increase a firm's overall tax liability.[20] After the Legislature replaced the MBT with a Corporate Income Tax that did not provide such credits in May 2011, Gov. Snyder stated that he hoped to address the personal property tax later that same year.[21]

* One of the unintended consequences of tobacco taxes is to encourage people to smuggle cigarettes, as shown in Michael D. LaFaive and Todd Nesbit, "Cigarette Taxes and Smuggling 2010" (Mackinac Center for Public Policy, 2010), http://goo.gl/CtXSnA (accessed May 22, 2014).

Discussion continued well into 2012. Proponents of reforming the personal property tax limited their initiative to personal property taxes on manufacturing equipment and minimum taxable values — that is, to exempt companies that own less than a certain value of personal property in a taxing jurisdiction, also known as a de minimis requirement or a "small parcel exemption." They also discussed whether to phase in these new exemptions. Opponents of the proposed reforms wanted a guaranteed replacement of revenue for local government units.[22]

The Michigan Senate passed a bill to reform the personal property tax on May 10, 2012. It provided a small parcel exemption for industrial and commercial personal property (but not utility personal property), and phased-in exemptions for manufacturing personal property. "Manufacturing" covers industrial personal property and also some commercial personal property if it is used as "eligible manufacturing personal property."[23]

Manufacturing personal property would be exempt in two ways. All new personal property would be exempt and existing personal property would be exempt if it had been subject to the tax for 10 years.[24]

Finally, the Senate created a replacement fund that would reimburse local governments for lost revenue. These revenues would be "derived from an anticipated revenue increase resulting from the elimination of certain tax expenditures upon the expiration of certificated credits."[25] Other provisions would halt the personal property tax reductions if the Legislature failed to appropriate the funds.[26]

The House passed a version in December of 2012 (during the "lame-duck" session) with the same small parcel exemption and phased-in manufacturing exemptions, but changed the revenue replacement mechanism. Instead of increased revenues from expiring tax credits going to replace local government personal property tax revenue, the House essentially earmarked a portion of the state's Use tax as replacement revenue.[27] The state would allow a separate authority to levy a local Use tax, and for every dollar of revenue this local Use tax raised, the state would offset this increase be reducing its statewide Use tax levy, making the plan revenue-neutral to Use taxpayers.

The Use tax is similar to a sales tax — both are assessed on the price of a purchased product. The difference is that a sales tax is levied on the sellers of goods and services, whereas a Use tax is levied on the user of a good or service. Some items that are subject to Michigan's Use tax include vehicles, boats, snowmobiles and aircraft, in addition to goods purchased over the Internet or via catalog.

While the exemptions would begin to be implemented in 2012, this Use tax replacement mechanism would not start until fiscal year 2016 (Oct. 1, 2015). It would generate $41.7 million in local Use taxes in the first year, ramping up to $362.4 million in 2023 when all the manufacturing personal property exemptions would be fully implemented. Revenue in subsequent years would rise based on a commercial and industrial "property growth factor."[28]

In addition, the bills also allowed local units that provide ambulance, fire, police and jail services to levy an additional property tax assessment on industrial real property (not exempt per the small parcel exemption) to replace lost revenue starting in 2016.[29] The provisions that could halt the phased-in reductions were eliminated in the House version.

Also in this version, reimbursement for debt mills — property taxes that go to pay the borrowing costs for voter-approved projects — would begin immediately, but losses from operational mills would start in fiscal 2016. Counties, cities, villages and townships that lost more than 2.3 percent of the value of taxable property in their area as a result of the changes to the personal property tax would receive reimbursement from the state for their losses, minus any revenue they could have levied from the additional property tax replacement assessment.[30] It was estimated that local units of government would recover about 80 percent of the revenue they would lose as a result of changes to the personal property tax, and 100 percent of the cost of ambulance, police, fire and jail services.[31]

Finally, the House called for a public vote to certify the changes in the August 2014 primary election. The Headlee Amendment of Michigan's constitution requires "direct voter approval" to create new local taxes or increase local taxes above existing voter-approved limits.[32] The House's plan to replace local revenue rests on a new authority levying a new local Use tax.[*]

The Senate concurred with the House's version of personal property tax reform, and Gov. Snyder signed the bills into law in December of 2012. He called the tax the state's "second dumbest," the first being the MBT that had been eliminated the previous year.[33]

In February 2014, the Legislature revisited the personal property tax issue, perhaps responding to concerns from local units of government about not getting enough replacement revenue.[34] In addition to some minor changes, the Legislature voted to increase the state Use tax amounts that would be designated for reimbursing local governments. There would be $96.1 million going to this fund in fiscal 2016, increasing to $572.6 million by fiscal 2028, and increasing automatically by a 1 percent growth factor thereafter.[†] The bill also eliminated the option for local units of government to levy an additional real property tax assessment.[35]

Instead of local governments assessing replacement millages, the state itself would levy a special local property tax. The revenue from this would go to offset some of the state's losses from devoting a portion of the state's Use tax revenue to reimbursing local governments.[36] The state would tax this otherwise-exempt manufacturing personal property at 2.4 mills of its acquisition cost in its first five years of taxation, 1.25 mills after in years six through 10, and 0.9 mills thereafter.[37] Since the tax would be based on acquisition cost and not the depreciating value of business equipment, these decreasing rates were intended to simulate the decrease in taxable value under a depreciation schedule.

The Legislature also added a provision that allows the state's economic development agency, the Michigan Strategic Fund Authority, to exempt certain manufacturing property from this tax altogether or to assess an "alternative" tax at half those rates on that property.[38] These assessments do not apply to property owned by taxpayers under the small parcel exemption thresholds.

The rates for this replacement revenue mechanism still represent a substantial personal property tax decrease,[‡] considering the average tax rate on commercial personal property is 40 mills, and the average tax rate on industrial personal property is 28 mills.[39] While manufacturing firms subject to the personal property tax will have a smaller tax liability, overall the state expects that these replacement taxes will raise $117.5 million when fully implemented.[40]

The Michigan Strategic Fund Authority can influence how much these replacement taxes raise. There are no limits to the abatements it can approve, although there is one condition firms must meet in order to qualify —

* Note that this new "local" authority established by the legislation claims jurisdiction over the entire state, and the tax it levies applies statewide.

† The growth factor is "the average annual growth rate for industrial and commercial personal property taxable value from 1996 to 2012 rounded up to the nearest tenth of a percent, which is 1.0 percent." "Public Act 80 of 2014" (State of Michigan, March 28, 2014), sec. 3(5)(a)–(n), http://goo.gl/w0gQqH (accessed June 20, 2014).

‡ While the 0.9 mill tax rate is considerably lower than the current average levy on manufacturing personal property, it is possible that over time some businesses may pay more than they otherwise would have.

the business must invest in at least $25 million worth of personal property.[41]

Overall, this reform package is expected to reimburse local units of government for revenue lost as a result of this reduction in the personal property tax. The replacement revenue will come from the new "local" Use tax revenues, which are offset by equal reductions in the state Use tax. The reduction in state Use tax revenue is expected to lower state coffers by $502.2 million by fiscal year 2028.[42] Currently, the state's general fund is $9.5 billion, the total state budget is $51.4 billion and state spending from state resources is $29.0 billion.[43] Even without inflating this to the size of future budgets, this package would have a relatively small impact on the state budget.

Even then, the legislation notes an intent to fund some replacement revenue through an expected increase in state revenue due to expiring business tax credits. There is no mechanism to ensure that this expected revenue be used exclusively to replace the redirected Use tax revenue, but the legislative intent is clear that no area of the state budget will face cuts due to the personal property tax reforms.[44]

The three new exemptions to the personal property tax will result in a tax cut of an estimated $600 million by 2024. The new special assessment levied by the state on exempt manufacturing personal property is estimated to raise about $117.5 million by 2028. In the end, this legislation package creates a net tax cut of about $500 million for Michigan businesses, when all elements are fully implemented.[45]

This new package of bills was signed into law in April 2014.

Key Provisions of Personal Property Tax Legislation

- Exempts new manufacturing equipment from personal property taxes
- Phases out personal property taxes on existing manufacturing equipment
- Exempts business establishments with less than $80,000 in equipment in a local tax-collecting unit from personal property taxes
- Creates a taxing authority that will reimburse local government units with revenue from a new "local" Use tax, with the state's Use tax rate being decreased based on local Use tax revenue.
- A new, but smaller tax levied on exempted manufacturing personal property to defray some of the revenue impact to the state budget.

Analysis and Future Issues

If approved, this reform package will result in an estimated $500 million cut in the personal property tax for manufacturing firms and other companies that own relatively small amounts of personal property. The state replaced the revenue that local government units will lose from these tax cuts, but the replacement will not dip further into taxpayer pockets. The state budget will largely be responsible for sparing local units of government from significant revenue losses, but even this effect will be mild. Still, there are some important considerations about the end result of this package of tax reforms.

The cuts are structured to improve growth prospects. The key economic growth considerations are those influencing a business's investment opportunities. When a business runs financial projections for an expansion, it will consider the new costs of capital. Personal property taxes increase those costs. Eliminating this tax on new personal property reduces the cost of expanding for Michigan businesses. This reform influences those investment decisions.

Some tax relief will be phased in for owners of existing personal property. The manufacturing businesses that already made the decision to expand under the older personal property tax rules will see their personal property taxes reduced over the 10-year phase-out period. This tax relief may also provide economic benefits of a different kind than those that influence the decision on whether or not to invest in new equipment.

This benefits only manufacturing firms, however. Non-manufacturing firms will continue to pay taxes on both new and existing personal property. Arguably, excluding these businesses from tax relief was a trade-off intended to maximize the economic benefits of personal property tax cuts while minimizing their impact on government revenue. Proponents of the reform may point out that replacing the Michigan Business Tax with the Corporate Income Tax in 2011 already provided substantial tax relief to many non-manufacturing enterprises, while large manufacturing businesses may not have experienced as much benefit because of substantial credits towards their MBT liability based on what they paid in personal property taxes.

New industrial investment decisions may be more footloose — that is, industrial companies may be more able than commercial or utility businesses to move their taxable personal property to low tax jurisdictions. In other words, industrial firms may be able to take advantage of differing taxation rates across the country compared to commercial enterprises that often service a particular market or customer base.

Tax reductions for utility personal property would also likely have a smaller economic impact than they would have for industrial property. As David Zin of the Michigan Senate Fiscal Agency observed, utilities in Michigan are highly regulated enterprises that can pass increased capital costs onto their customers.[46] Lowering a utility's costs of capital may decrease the rates they charge customers, but it is not likely to have much impact on utilities' investment decisions.

One of the complaints about personal property taxes are their costs of compliance. Businesses need to estimate the value of all their equipment and this can be onerous. Business equipment can range from paper clips to industrial molding machines to junkyard dogs (as Patrick Anderson has observed).[47]

The legislation put before voters provides some relief from this compliance burden. Businesses under the small parcel exemption will only need to judge whether they own less than $80,000 in personal property and file an annual affidavit with their local assessor.[48] New manufacturing personal property will no longer have to calculate the depreciated value of their equipment, just the acquisition costs (which they currently do). Assessors will still have the obligation to ensure that companies are complying with the law and may still conduct audits.

By tying local government and school district revenues to the Use taxes, there may be greater demand to increase Use tax collections in the future. For example, the state is currently under discussions to expand its taxing authority to items purchased over the Internet from out-of-state sellers. In fact, there was an amendment that was introduced but rejected that would have tied the personal property tax reform to this Use tax expansion, meaning that neither would become law unless the other was also passed.[49]

While these goods are currently subject to the state Use tax, and taxpayers should remit those taxes to the state treasury, widespread noncompliance is suspected. Bills have been introduced that would push retailers that sell to Michigan residents to collect Use taxes, and all the new beneficiaries of Use taxes — local government units — might find it in their interest to support such bills.[50]

The personal property tax reforms going before voters mitigates this factor, because local governments are set to receive a pre-defined, fixed dollar amount out of Use tax revenues.[51] After phasing in the full amounts, the 1 percent annual increase in the "local" Use tax revenue is expected to be a decreasing proportion of total state and local Use tax revenue.[52] These government units, however, might still find that their Use-tax-based payments are more secure with a larger revenue base.

Whether these ongoing payments will continue is a difficult question. A statute cannot bind the Legislature to appropriate money. Local governments already know this, based on their experience with the state's revenue sharing policies. The Glenn Steil State Revenue Sharing Act requires the state to contribute 14.2 percent of its sales tax collections to local governments, but these amounts are not approved in annual state budget bills.[53]

One of the ways that this legislation attempts to secure future payments is to keep the replacement revenue out of the appropriations process. Although the overall rate will remain the same, the Use tax will be split into two portions — a local Use tax and a state Use tax. The local portion is paid directly to the newly created authority, whose sole intent is to reimburse local government units. This local portion of the Use tax will not require annual legislative approval. Further, this funding mechanism also reduces revenue volatility for local government units that are being reimbursed, since their revenue will be based on fixed amounts set by statute rather than the value of the personal property residing in their jurisdiction on Dec. 31.

However, this separation of the Use tax between state and local entities is far from being iron-clad. Future legislators could possibly amend that statute or eliminate it altogether through the normal legislative process.

The package is subject to a public vote in August because of the requirements under the Headlee Amendment in Michigan's constitution.* This vote can offer ancillary protection from changes to the local government replacement revenue mechanism. Elected representatives may be hesitant to change a policy that has won a popular vote, but it is difficult to speculate on this issue.

Technically, the local Use tax replacement mechanism is the only portion of the reform package that voters are being asked to approve on the August ballot. However, the legislation contains sections specifying that the package will not take effect if voters reject the Use tax replacement. This package provides some tax relief to a group of taxpayers that have what is believed to be a concentrated impact on the economy. This tax relief has budgetary impact on the state and alters local government revenue sources. Voters will be asked to certify a replacement revenue mechanism that lowers state government revenue to replace local government revenue. The estimated $500 million tax cut was also designed to have a larger dollar-for-dollar impact on the state economy.

* There is some question about whether or not the new authority is "local," considering it has statewide jurisdiction and levies a statewide tax. If it were a state entity, it would be subject to different constitutional limits.

Appendix A: Language Voters Will See on the August Ballot

PROPOSAL 14-1

APPROVAL OR DISAPPROVAL OF AMENDATORY ACT TO REDUCE STATE USE TAX AND REPLACE WITH A LOCAL COMMUNITY STABILIZATION SHARE TO MODERNIZE THE TAX SYSTEM TO HELP SMALL BUSINESSES GROW AND CREATE JOBS

The amendatory act adopted by the Legislature would:

1. Reduce the state use tax and replace with a local community stabilization share of the tax for the purpose of modernizing the tax system to help small businesses grow and create jobs in Michigan.

2. Require Local Community Stabilization Authority to provide revenue to local governments dedicated for local purposes, including police safety, fire protection, and ambulance emergency services.

3. Increase portion of state use tax dedicated for aid to local school districts.

4. Prohibit Authority from increasing taxes.

5. Prohibit total use tax rate from exceeding existing constitutional 6% limitation.

Should this law be approved?

Endnotes

1 "Public Act 86 of 2014" (State of Michigan, April 1, 2014), sec. 5(r)(i)–5(r)(x), http://goo.gl/X16r56 (accessed June 30, 2014).

2 David Zin, "The State and Local Impact of Property Taxes Levied on Michigan Personal Property" (Michigan Senate Fiscal Agency, 2011), Table 16, http://goo.gl/WLc2i (accessed May 22, 2014); "Summary of Tax Exemption Devices" (Wisconsin Department of Revenue, Feb. 2013), http://goo.gl/hxnJng (accessed June 12, 2014).

3 Joyce Errecart, Ed Gerrish and Scott Drenkard, "States Moving Away From Taxes on Tangible Personal Property" (Tax Foundation, 2012), 2, http://goo.gl/NLz5LD (accessed May 22, 2014).

4 David Zin, "The State and Local Impact of Property Taxes Levied on Michigan Personal Property" (Michigan Senate Fiscal Agency, 2011), 2, http://goo.gl/WLc2i (accessed May 22, 2014).

5 MCL § 211.14(7).

6 MCL § 211.901-906; MCL § 207.1-27.

7 "The Michigan Property Tax Real and Personal 2008 Statistical Update" (Michigan Department of Treasury, Sep. 2010), 19, http://goo.gl/Ucaie2 (accessed May 22, 2014).

8 David Zin, "The State and Local Impact of Property Taxes Levied on Michigan Personal Property" (Michigan Senate Fiscal Agency, 2011), 10, http://goo.gl/WLc2i (accessed May 22, 2014).

9 Ibid., Table 13 – Page 5.

10 James Hohman, "Eliminate the Personal Property Tax Without Replacement" (Michigan Capitol Confidential, Oct. 7, 2011), http://goo.gl/eI6Fh8 (accessed May 22, 2014).

11 Joyce Errecart, Ed Gerrish and Scott Drenkard, "States Moving Away From Taxes on Tangible Personal Property" (Tax Foundation, 2012), 7–9, http://goo.gl/NLz5LD (accessed May 22, 2014).

12 Ibid., 11.

13 MCL § 207.551-572.

14 "Property Tax Exemptions" (Michigan Department of Treasury), http://goo.gl/ppHro6 (accessed May 22, 2014).

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EXHIBIT 5

State Tax Commission

Assessor Guide to Eligible Manufacturing Personal Property Tax Exemption and ESA

Revised February 2019

Table of Contents

Introduction:

"I've heard Business Personal Property Taxes are all being eliminated", is one of the most frequently asked questions received by the STC. While significant changes to Business Personal Property Taxes began in 2016, not all personal property tax is being eliminated.

In December of 2012, initial legislation was passed that significantly changed the taxation of personal property. The Acts, as amended, exempt about ½ of personal property from ad valorem taxation through two main provisions: 1) Small Business Taxpayer Exemption (MCL 211.9o) and 2) Eligible Manufacturing Personal Property Exemption (MCL 211.9m and MCL 211.9n). The Acts also identified a replacement specific tax on personal property, Essential Services Assessment (ESA) and reimbursement for local units lost revenue.

This Guide will focus on detailed information that assessors need to know about the Eligible Manufacturing Personal Property Tax Exemption, ESA, and Special Act changes and will provide resource material and contact information. The Small Business Taxpayer Exemption will not be covered in this material; the Guide to the Small Business Taxpayer Exemption can be found on the PPT website at www.michigan.gov/pptreimbursement.

Additionally, the Personal Property Tax (PPT) reimbursements to municipalities will not be covered in this guide. More information on the municipality reimbursements can be found on the Personal Property Tax Reimbursements website at www.michigan.gov/pptreimbursement.

Statutory Review:

MCL 211.9m and MCL 211.9n provide the statutory authority for the Eligible Manufacturing Personal Property Tax Exemption. ESA statutory authority is contained in P.A. 92, which will be covered in a separate section.

MCL 211.9m and MCL 211.9n are essentially identical except for the "type" of personal property they exempt.

MCL 211.9m exempts Qualified New Personal Property**.** Qualified New Personal Property is defined as 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).

Effectively this means any eligible manufacturing personal property placed in service in 2013 and after is exempt from ad valorem personal property taxation and subject only to the ESA.

MCL 211.9n exempts Qualified Previously Existing Personal Property. Qualified Previously existing personal property means 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).

Effectively this means that in 2016, EMPP placed in service in 2005 and earlier is exempt from ad valorem personal property taxation and subject only to the ESA. In 2017, EMPP placed in service in 2006 and earlier is exempt from ad valorem personal property taxation and subject only to the ESA.

This phase in of the exemption continues with all new EMPP placed in service being exempt and all existing EMPP phasing into exempt status each year beginning with 2005 and working up to EMPP placed in service in 2012 becoming exempt by 2023. In 2023, all EMPP will be exempt.

Please see the following phase out chart:

Personal Property Phase Out Chart						
						October 22, 2015
Tax Year	**Exempt and Subject to ESA**	**Pays Ad Valorem**		**Tax Year**	**Exempt and Subject to ESA**	**Pays Ad Valorem**
Tax Year 2016	2015			**Tax Year 2017**	2016	
	2014				2015	
	2013				2014	
		2012			2013	
		2011				2012
		2010				2011
		2009				2010
		2008				2009
		2007				2008
		2006				2007
	2005 and Earlier				2006 and Earlier	
Tax Year	**Exempt and Subject to ESA**	**Pays Ad Valorem**		**Tax Year**	**Exempt and Subject to ESA**	**Pays Ad Valorem**
Tax Year 2018	2017			**Tax Year 2019**	2018	
	2016				2017	
	2015				2016	
	2014				2015	
	2013				2014	
		2012			2013	
		2011				2012
		2010				2011
		2009				2010
		2008				2009
	2007 and Earlier				2008 and Earlier	

Tax Year	Exempt and Subject to ESA	Pays Ad Valorem
Tax Year 2020	2019	
	2018	
	2017	
	2016	
	2015	
	2014	
	2013	
		2012
		2011
		2010
	2009 and Earlier	

Tax Year	Exempt and Subject to ESA	Pays Ad Valorem
Tax Year 2021	2020	
	2019	
	2018	
	2017	
	2016	
	2015	
	2014	
	2013	
		2012
		2011
	2010 and Earlier	

Tax Year	Exempt and Subject to ESA	Pays Ad Valorem
Tax Year 2022	2021	
	2020	
	2019	
	2018	
	2017	
	2016	
	2015	
	2014	
	2013	
		2012
	2011 and Earlier	

After 2023, All Eligible Personal Property is subject to the ESA Specific Tax

Key to the definition of both Qualified New Personal Property and Qualified Previously Existing Personal Property is that both must be Eligible Manufacturing Personal Property.

Eligible Manufacturing Personal Property (EMPP) is statutorily defined as all personal property located on occupied real property if that personal property is predominantly used in industrial processing or direct integrated support. Let's examine in more detail each component of the definition of EMPP beginning with the definition of *occupied real property*.

Occupied Real Property is defined in MCL 211.9m as all of the following: (*i*) A parcel of real property that is entirely owned, leased, or otherwise occupied by a person claiming an exemption under section 9m or 9n. (*ii*) Contiguous parcels of real property that are entirely owned, leased, or otherwise occupied by a person claiming an exemption under section 9m or 9n and that host a single, integrated business operation engaged primarily in industrial processing, direct integrated support, or both. A business operation is not engaged primarily in industrial processing, direct integrated support, or both if it engages in significant business activities that are not directly related to industrial processing or direct integrated support. Contiguity is not broken by a boundary between local tax collecting units, a road, a right-of-way, or property purchased or taken under condemnation proceedings by a public utility for power transmission lines if the 2 parcels separated by the purchased or condemned property were a single parcel prior to the sale or condemnation. As used in this subparagraph, "single, integrated business operation" means a company that combines 1 or more related operations or divisions and operates as a single business unit. (*iii*) The portion of a parcel of real property that is owned, leased, or otherwise occupied by a person claiming the exemption section 9m or 9n or by an affiliated person.

To this point, we have covered that in order to be eligible to receive the exemption, EMPP must have been placed in service in 2013 and later or more than 10 years before the current year, for example in 2017 that would include EMPP placed in service in 2006 and earlier.

The personal property must be located on an occupied real property parcel, which is a parcel or part of a parcel owned or leased or occupied by the person claiming the exemption or contiguous parcels. That property must be predominantly used in industrial processing or direct integrated support. Please note: the classification of the property is not a determining factor in eligibility for the exemption. Nor is the fact that the personal property may be located in an industrial district or subject to an IFT.

Industrial Processing is defined in MCL 211.9M as: that term as defined in section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Industrial processing does not include the generation, transmission, or distribution of electricity for sale. MCL 205.54t and MCL 205.94o both contain the same definition of industrial processing and indicates that industrial processing includes the following activities:

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 materials 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.

For a more detailed definition of industrial processing and exclusions please review:

RAB 2000-4: http://www.michigan.gov/documents/rab-2000-4_108793_7.pdf and

MCL 205.54t:
http://www.legislature.mi.gov/(S(ld2ybk4njhsrfjyuikfljxyc))/documents/mcl/pdf/mcl-205-54t.pdf

Direct Integrated Support is defined in MCL 211.9m as any of the following:

(*i*) Research and development related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(*ii*) Testing and quality control functions related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(*iii*) Engineering related to goods produced in industrial processing and conducted in furtherance of that industrial processing.

(*iv*) 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.

(*v*) 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 business that produced the inventory.

(*vi*) Sorting, distributing, or sequencing functions that optimize transportation and just-in-time inventory management and material handling for inputs to industrial processing.

These activities do not have to occur on the same site as the industrial processing nor do they have to be conducted by a related entity.

The final key piece of the definition is that the personal property located on occupied real property is **predominantly used** in industrial processing or direct integrated support. The determination of predominant use is a mathematical calculation. Property is determined to be predominantly used if the result of the following calculation is more than 50%:

> *(i)*Multiply the original cost of all personal property that is subject to the collection of taxes under this act and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9m, 9n, and 9o that is located on that occupied real property and that is not construction in progress by its percentage of use in industrial processing or in direct integrated support.
>
> Personal property is used in industrial processing if it is not used to generate, transmit, or distribute electricity for sale, if it is not utility personal property as described in section 34c(3)(e), and if its purchase or use by the person claiming the exemption would be eligible for exemption under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. For an item of personal property that is used in industrial processing, its percentage of use in industrial processing shall equal the percentage of the exemption the property would be eligible for under section 4t of the general sales tax act, 1933 PA 167, MCL 205.54t, or section 4o of the use tax act, 1937 PA 94, MCL 205.94o. Utility personal property as described in section 34c(3)(e) is not used in direct integrated support.

(*ii*) Divide the result of the calculation under subparagraph (*i*) by the total original cost of all personal property that is subject to the collection of taxes under this act and all personal property that is exempt from the collection of taxes under sections 7k, 9b, 9f, 9m, 9n, and 9o that is located on that occupied real property and that is not construction in progress.

A graphic representation of this formula is:

Personal Property Original Cost on occupied real property times the percentage of use in industrial processing or direct integrated support ***----------------------Divided by--------------------------*** Personal Property Original Cost on occupied real property

For this calculation:

Personal property includes all taxable personal property, personal property exempt under IFT (211.7k), exempt special tooling (211.9b), exempt under PA 328 (211.9f), exempt under the Small Business Taxpayer Exemption (211.9o) and exempt as EMPP under MCL 211.9m and 211.9n. Subtract the cost of construction in progress.

Original Cost means the fair market value of personal property at the time of acquisition by the first owner.

Example 1: Sample Calculation

Personal Property	Status	Original Cost	% of use in IP or DIS	IP/DIS Eligible Cost
Machine 1	IFT Exempt	$500,000	100%	$500,000
Office Furniture	GPTA Taxable	$100,000	0%	$0
Shipping container	GPTA Taxable	$50,000	30%	$15,000
Die/Mold	Special Tool	$250,000	100%	$250,000
Machine Foundation	GPTA Taxable	$100,000	50%	$50,000
Computers	GPTA Taxable	$35,000	60%	$21,000
Machine 2	328 Exempt	$250,000	50%	$125,000
Machine 3	IFT Exempt	$350,000	100%	$350,000
Machine 4	GPTA Taxable	$150,000	100%	$150,000
Totals		$1,785,000		$1,461,000
$1,461,000 divided by $1,785,000 = 82%				

Each item of personal property is individually identified, the status determined, as well as the original cost and percent of use in industrial processing or direct integrated support. The original cost of each item of personal property is multiplied by its percentage of use in industrial processing or direct integrated support to determine an eligible cost. The total eligible cost is then divided by the total original cost to determine the percent of predominant use. Because the result of the calculation is greater than 50%, all personal property on this occupied real property would qualify for the EMPP exemption and be subject to ESA.

If the result of the calculation would have been less than 50%, then none of the personal property on this occupied real property would qualify for the EMPP exemption.

Example 2: Contiguous Properties

Combining the EMPP calculation for contiguous parcels involved in a single integrated business operation can expand the exemption to parcels that would not qualify on their own.

For example 3 contiguous parcels that host a single integrated business operation:

Parcel A: Total Eligible Cost $12 M divided by Total Original Cost $15 M = 80%

Parcel B: Total Eligible Cost $1 M divided by Total Original Cost $5 M = 20%

Parcel C: Total Eligible Cost $10 divided by Total Original Cost $12M = 83%%

Combined = Total Eligible Cost $23 M divided by Total Original Cost $32 M = 72%

Therefore, personal property on all three parcels would qualify for the exemption.

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.

Utility personal property as described in section 34c(3)(e) and personal property used in the generation, transmission, or distribution of electricity for sale are not eligible manufacturing personal property.

Assessors are responsible for the determination that personal property meets the definition in order to be exempt. Due to the number of variables involved in the definition to qualify for the exemption, the State Tax Commission or the Department of Treasury cannot provide a determination that any individual entity or "type" of business would qualify for the exemption.

Claiming the Exemption, Review of Form 5278:

Taxpayers claim the exemption by filing Form 5278 *Eligible Manufacturing Personal Property Exemption Claim, Personal Property Statement, and Report of Fair Market Value of Qualified New and Previously Existing Personal Property (Combined Document)* with the local unit where the personal property is located no later than February 20th. The February 20th date will move to the next business day when February 20th falls on a weekend or a holiday. Form 5278 must be postmarked on or before February 20th.

Form 5278 contains three parts: Part 1, Form to Claim the Exemption, Part 2, Personal Property Statement and Part 3, Report of Fair Market Value of Qualified New and Previously Existing Personal Property. Together these three parts form the Combined Document.

Assessors must review the combined document carefully and in particular should pay attention to the following:

Form 5278 Part 1:

The form must be signed and dated.

Taxpayer name must be provided.

The personal property number must be correct, and the information provided match the information contained in your records.

The form must contain a nine-digit FEIN number in the following format: XX-XXXXXXX.

Was a separate Form 5278 filled out for each personal property parcel number? This is particularly important when there is an IFT or PA 328 exemption on the same real property parcel. Assessors should have established for 2016 a separate personal property parcel number for IFT Personal Property, PA 328 Personal Property and Ad Valorem Personal Property even if located on the same real property parcel. Failure to do so could result in incorrect calculation of the Ad Valorem Tax and/or ESA Tax that is due for that Personal Property.

If a form is filed without the FEIN, parcel number, if the taxpayer name is not provided or if the form was not signed and dated, then the form is not considered fully complete and should be denied. The STC strongly recommends that assessors contact taxpayers who have not fully completed Part 1 in an effort to obtain the missing information before issuance of a denial.

Please note that pursuant to statutory authority an electronic or facsimile signature may be used on Form 5278.

Form 5278 Part 2: This part of the Combined Document mirrors the personal property statement; however it contains reporting only for the non-exempt years. For example, in 2017 taxpayers will report EMPP placed in service in 2007 through 2012 in Part 2 of the Combined Document. As with the personal property statement, taxpayers must include any “other” forms that they would normally file with their personal property statement.

These “other forms” include:

Form 633 Electric Distribution Cooperative Personal Property Statement
Form 3589 Cable Television and Utility Personal Property Report
Form 4565 Wind Energy System Report
Form 2698 Idle Equipment, Obsolete Equipment and Surplus Equipment Report
Form 4452 Cellular (Wireless) Site Equipment Personal Property Report
Form 4798 Automotive Manufacturing Equipment Personal Property Report

It is important to note that these forms should only include the non-exempt years. For example, in 2017, taxpayers should only report on these additional forms, EMPP placed in service in 2007 through 2012. Assessors should ensure that EMPP reported on these additional forms includes only the non-exempt years and all other years are reported on Part 3 of the Combined Document.

There are a few minor differences between the personal property statement and Form 5278. For example, Sections C and H from the personal property statement are not included on Form 5278. This is because the years that were included in those sections are now all “exempt” years.

Exempt special tooling retains their specific exemption under MCL 211.9b and MCL 211.9d. As a reminder, there are very few tools that fall into the exempt special tools category. Tooling that was previously reported in Section H will either now be exempt and subject to ESA and reported in Part 3 (in 2017 this would include year’s 2013, 2014, 2015 or 2016 and 2006 and prior) or be reported in Part 2 (in 2017 for years 2007 through 2012) in the corresponding table, we suggest using Table B.

Finally, construction in progress has been removed from Part 2 of the Form. In almost all cases, construction in progress would apply only to the immediately preceding year and two prior years. In the case of Form 5278, those years are all “exempt” years and are reported in Part 3 only.

As with Ad Valorem personal property statement filings, assessors should compare prior year(s) reporting to information reported on Form 5278 to ensure that the information filed appears accurate and complete. If the information filed on the Combined Document does not correspond with information previously filed, the assessor should contact the taxpayer to discuss the information filed to ensure the information filed on the Combined Document is accurate.

Form 5278 Part 3: This part of the Combined Document is the required Report of Fair Market Value of Qualified New and Previously Existing Personal Property. Taxpayers will begin by answering four questions regarding IFT’s, PA 328 Exemptions, Renaissance Zones and MSF Resolutions.

Finally, the taxpayers will report the Acquisition Cost of EMPP for the “exempt” years (in 2018 this will include 2013, 2014, 2015, 2016 and 2017 and 2007 and prior), with an exception related to extended IFT’s and PA 328 exemptions which will be covered in detail in a later section.

If a taxpayer includes an incorrect certificate number in any of these sections, assessors are asked to contact the taxpayer to correct the filing and ensure proper reporting and transmittal of information to the State of Michigan.

Some taxpayers may file Form 5278 when they have no property that is required to be reported on Part 3. This may be done in an effort to provide information to the assessor that this property qualifies for the exemption and will be subject to ESA at some future date. To that end, a checkbox has been included at the top of Part 3 for those taxpayers to indicate they have no current ESA liability for the personal property reported on the form.

Assessors are asked to review the following specific information in Part 3:

> IFT Certificate Number to ensure that is a valid certificate number, related to personal property within your local unit. Additionally, the format of the number must be verified to ensure it is in the correct format. IFT certificate numbers should follow the format of Year (4 digits) – Number (3 digits). Some certificate may end with a letter, but not all will contain this alpha character. Example Certificate Number: 2012-177.
>
> Assessors are also asked to verify the certificate begin and end date. As will be covered in a later section, the ESA Tax is reduced for some specific IFT certificates. The determination of qualification for that reduction is based on the effective dates of the certificate. Taxpayers are instructed to attach a copy of their certificate to make verification of this information easier for assessors.
>
> PA 328 Certificate Number to ensure that is a valid certificate number, related to personal property within your local unit. Additionally, the format of the number must be verified to ensure it is in the correct format. PA 328 certificate numbers should follow the format of Number (3 digits) - Year (4 digits). Example Certificate Number: 159-2012.
>
> Assessors are also asked to verify the certificate begin and end date. Taxpayers are instructed to attach a copy of their certificate to make verification of this information easier for assessors.
>
> MSF Certificate for Alternative ESA to ensure that is a valid certificate number, related to personal property within your local unit. Additionally, the format of the number must be verified to ensure it is in the correct format. MSF Alternative ESA certificate numbers should follow the format of Year (4 digits) – Number (3 digits). Example Certificate Number: 2016-001.

Assessors should note that MSF Certificates for Alternative ESA will be issued beginning in 2016. The certificate is not effective for Alternative ESA until the year following the issuance. Therefore, in 2018 only those certificates issued in 2016 or 2017 will qualify for Alternative ESA.

Assessors are also asked to verify the certificate begin and end date. Taxpayers are instructed to attach a copy of their certificate to make verification of this information easier for assessors.

Assessors are asked to verify the Renaissance Zone name and Expiration Date to ensure that both are correct and that the information entered reflects a valid Renaissance Zone related to personal property within your local unit.

Assessors should review the information regarding the acquisition cost and years placed in service, comparing this information to what has been previously filed by this taxpayer on their personal property statement. If the information filed on the Combined Document does not correspond with information previously filed, the assessor should contact the taxpayer to discuss the information filed to ensure the information filed on the Combined Document is accurate.

Transmitting Information to the State of Michigan:

Following review and verification, assessors are required to enter the information contained on Form 5278 into their computer assisted mass appraisal (CAMA) software. All information contained on the Form should be entered into the CAMA software, as submitted by the taxpayer or as amended after discussions with the taxpayer as referenced above.

Assessors should double check to ensure accuracy of the data entered, specifically: FEIN, Parcel Number, Taxpayer Name, Certificate Numbers and Acquisition Cost.

Assessors are statutorily required to transmit the information contained in the Combined Document no later than April 1 each year.

Information will be provided to assessors annually on how the information contained in Form 5278 is to be transmitted to the State of Michigan via the CAMA software. Information will also be provided annually to those assessing officers who do not use CAMA software on how to transmit Form 5278 directly to the State of Michigan.

Common Errors:

1. Skipping a line when entering acquisition cost. For example, entering 2014 values in 2015, 2013 in 2014, etc. Assessors should be mindful of the inclusion of the Construction in Progress line, which is not present on the 632 and has resulted in many instances of misreported acquisition costs.

2. Missing information that was reported on Form 5278 when transmitting the information to the Department of Treasury. If the information has been included on the Form 5278, it should be forwarded.

3. Failing to submit the information from Form 5278 to the Department of Treasury or failing to timely submit the information from Form 5278 to the Department of Treasury. Filing Form 5278 is just part of the EMPP exemption, taxpayers have to pay ESA and in order to generate a statement the assessor must timely transmit the information to the Department of Treasury *as required by statute (MCL 211.9m(2)(f).*

4. The parcel entered by the taxpayer in MTO or e-file does not match the parcel number submitted by CAMA software, requiring the taxpayer to reference previous personal property assessment notices or to contact the assessor. Taxpayers are unable to register for MTO if the number entered does not match exactly what was reported by the assessor in their CAMA software.

5. Taxpayer must enter the parcel number in the exact format utilized by and uploaded through the CAMA software. If the taxpayer reports dashes or spaces or differently that is entered in the CAMA software, the taxpayer will encounter difficulties when they try to register to view their statement in MTO.

6. Incorrect FEINs. FEINs are nine digits long in the format XX-XXXXXXX (entered into CAMA software <u>without</u> the dash). If a taxpayer submits Form 5278 with an FEIN that is longer or shorter, the assessor should contact the taxpayer to obtain the correct FEIN.

7. Changing values reported by the taxpayer in Part 3. While assessors should verify that the value entered in Part 3 correspond to prior year reporting, it is important that those values are not changed without notification to and discussion with the taxpayer. Taxpayers are able to update these values themselves when logging into MTO. If the assessor changes values without taxpayer notification and input, it may cause a problem with the taxpayer gaining access to their electronic statement.

8. Reporting incomplete 5278s to the Department of Treasury. Missing fields sometimes affect Treasury's ability to generate a statement. For example, if there is no FEIN, the department cannot apply a parcel to a taxpayer's account. As a reminder, taxpayers can amend an incomplete 5278 by appealing an assessor's denial of the Form when it is once filed. If a taxpayer does not appeal the denial of an incomplete form, there is no recourse available to grant the EMPP.

9. Reporting values in the wrong *part* of Form 5278. Property placed in service in 9m/9n years (and any property subject to an extended IFT or P.A. 328) is reported in Part 3. Property placed in service during phase-in years is reported in Part 2.

10. Reporting values for the same year in *both parts* of Form 5278, unless that property is subject to an extended IFT. In effect, this will result in a taxpayer being taxed at both the local and state levels for the same property. Taxpayers with an extended IFT pay both the IFT Specific Tax and the ESA Specific Tax, therefore they are required to report values in both Parts 1 and 2 of the form.

11. Incorrect certificate format. Assessors should verify that the certification number is valid, entered into the correction section (IFT in IFT and 328 in 328) and the correct format is used: IFT is YYYY-### and 328 is ###-YYYY.

Denials, Appeals, Amended Forms, Misplaced/Missed Forms, Late Filings and the 154 Process

The appeal and denial process for the exemption is detailed in MCL 211.9m:

> The combined document prescribed in this section, shall be completed and delivered to the assessor of the township or city in which the qualified new personal property is located by February 20 of each year. However, if February 20 of a year is a Saturday, Sunday, or legal holiday, the delivery deadline for that year is the next day that is not a Saturday, Sunday, or legal holiday. For purposes of a combined document delivered by the United States Postal Service, the delivery is timely if the postmark date is on or before the delivery deadline prescribed in this subdivision. If the combined document prescribed in this section is not timely delivered to the assessor of the township or city, a late application may be filed directly with the March board of review before its final adjournment by submitting the combined document prescribed in this section. The board of review shall not accept a filing after adjournment of its March meeting. An appeal of a denial by the March board of review may be made by filing a petition with the Michigan tax tribunal within 35 days of the denial notice.
>
> If the assessor of the township or city believes that personal property for which the form claiming an exemption is timely filed each year under subsection (2)(c) is not qualified new personal property or the form filed was incomplete, the assessor may deny that claim for exemption by notifying the person that filed the form in writing of the reason for the denial and advising the person that the denial shall be appealed to the board of review under section 30 by filing a combined document as prescribed under subsection (2). If the denial is issued after the first meeting of the March board of review that follows the organizational meeting, the appeal of the denial is either to the March board of review or the Michigan tax tribunal by filing a petition and a completed combined document as prescribed under subsection (2), within 35 days of the denial notice. The assessor may deny a claim for exemption under this subsection for the current year only. If the assessor denies a claim for exemption, the assessor shall remove the exemption of that personal property and amend the tax roll to reflect the denial and the local treasurer shall within 30 days of the date of the denial issue a corrected tax bill for any additional taxes.

Let's review in detail each component of the statutory requirement.

First, if an assessor believes that a property does not qualify for the exemption or if the form is filed incomplete, then the assessor must deny that claim for exemption. As discussed earlier, if a form is filed without the FEIN, taxpayer name, parcel number or if it was not signed and dated, then the form is not considered fully complete and should be denied. However, the STC strongly recommends that assessors communicate with taxpayers who have not fully completed Form 5278 in an effort to obtain the missing information before issuance of a denial.

Denials are issued for the current year only. Denials must be issued in writing and should be issued as soon as possible in order to afford the taxpayer all available rights of appeal.

If the written denial is issued prior to the first meeting of the March Board of Review that follows the organizational meeting, the taxpayer must appeal to the March Board of Review by filing a completed Combined Document (Form 5278).

If the written denial is issued by the assessor after the first meeting of the March Board of Review that follows the organizational meeting, then the taxpayer may appeal to the March Board or they may appeal directly to the Michigan Tax Tribunal. Taxpayers would appeal directly to the Michigan Tax Tribunal by filing a petition within 35 days of the issuance of a denial.

March Board of Review Authorities:

The March Board of Review has the authority to hear the denial of an exemption by the assessor or to review a late filed Form 5278. This also includes denial due to the filing of an incomplete Form 5278. If the taxpayer presents a fully completed Form 5278 to the March Board of Review and the Board believes the property meets the exemption requirements, then the Board may grant the exemption, again this includes a late filed form.

The March Board of Review also has the authority to review and accept an amended filing by the taxpayer as long as the taxpayer properly claimed the exemption by timely and completely filing Form 5278.

Finally, taxpayers who do not timely file by February 20th may claim the exemption by filing directly with the March Board of Review. The March Board of Review should grant the exemption if the taxpayer meets all other statutory requirements.

Late filing with the March Board of Review may require an in-person appearance by the taxpayer or their representative. Taxpayers should contact the local unit where the personal property is located for more information. MCL 211.30 indicates:

> A **nonresident taxpayer** may file his or her appearance, protest, and papers in support of the protest by letter, and his or her personal appearance is not required.
>
> The governing body of the township or city may authorize, by adoption of an ordinance or resolution, **a resident taxpayer** to file his or her protest before the board of review by letter without a personal appearance by the taxpayer or his or her agent. If that ordinance or resolution is adopted, the township or city shall include a statement notifying taxpayers of this option in each assessment notice under section 24c and on each notice or publication of the meeting of the board of review.

If the March Board of Review approves the exemption, the Board is statutorily required to remove the personal property from the assessment roll and the Board of Review shall file an affidavit with the proper officials involved in the assessment and collection of taxes and all affected official records shall be corrected.

Taxpayers appeal a denial by the March Board of Review directly to the Michigan Tax Tribunal.

July or December Board of Review Authorities:

The July and December Boards of Review **<u>have no authority</u>** over the exemptions in MCL 211.9m or MCL 211.9n.

If an assessor misplaces or missed a timely filed Form 5278, that **<u>is not</u>** considered a clerical error or mutual mistake and cannot be considered by the July or December Board of Review.

A taxpayer who filed Form 632 and later believe they qualify for the exemption cannot appeal to the July or December Board of Review. Failure to properly claim the exemption **<u>is not</u>** a qualified error under MCL 211.53b.

Amended Forms:

Assessors are encouraged to work with taxpayers regarding any missing information on Form 5278 and any concerns that the assessor may have regarding the accuracy of reported acquisition cost.

An assessor may accept an amended form from a taxpayer up until they turn their assessment roll over to the March Board of Review.

The March Board of Review also has the authority to review and accept an amended filing by the taxpayer as long as the taxpayer properly claimed the exemption by timely and completely filing Form 5278.

Misplaced or Missing Forms:

The ESA unit is frequently contacted by taxpayers who, once they log into their electronic statement, find a parcel or parcels missing for which they timely and completely filed Form 5278 with the proper local unit. When contacted, the assessor may determine that the Form was timely filed but was misplaced or is missing.

The assessor has no authority following submission of their assessment roll to the March Board of Review to grant the exemption. At the point that the taxpayer timely filed for the exemption and the assessor did not change their assessment roll to reflect that exemption, the assessor has effectively denied the exemption and the taxpayer should appeal to the Michigan Tax Tribunal.

Late Filed Forms:

Taxpayers claim the exemption by filing Form 5278 *Combined Document* with the local unit where the personal property is located no later than February 20th. The February 20th date will move to the next business day when February 20th falls on a weekend or a holiday, postmark is acceptable.

Forms that are received or postmarked after the due date should not be accepted, however the taxpayer should immediately be notified that they may file directly with the March Board of Review to claim the exemption (see March Board of Review authorities on page 16). If the taxpayer meets all other statutory requirements for the exemption, the Board of Review should grant the exemption.

MCL 211.154 Petitions

The MCL 211.154 process can be used in a few limited instances to correct issues with Part 2 (Ad Valorem) Reporting from Form 5278.

The first situation is to correct an error in failing to extend an IFT Certificate. MCL 207.561a indicates in part:

> If a facility was subject to an industrial facilities exemption certificate on or after December 31, 2012, notwithstanding any other provision of this act to the contrary, that portion of the facility that is eligible manufacturing personal property shall remain subject to the industrial facilities tax and shall remain exempt from ad valorem property taxes as provided in section 8 until that eligible manufacturing personal property would otherwise be exempt from the collection of taxes under section 9m, 9n, or 9o of the general property tax act.

Following statute, the assessor should have extended any IFT that was in effect on or after December 31, 2012 and would expire before the personal property on that IFT becomes exempt under MCL 211.9m or MCL 211.9n. For example: An IFT was approved effective December 31, 2007 with an expiration date of December 30, 2017. The personal property was placed in service in 2008 and 2009. Because personal property placed in service in 2009 will not be exempt until 2020, the IFT will be extended from 2017 until 2020.

The second situation is when an assessor extended an IFT Certificate under the presumption that the taxpayer was going to claim the exemption, however the taxpayer does not file Form 5278 to claim the exemption.

Example: An IFT was approved effective December 31, 2010 with an expiration date of December 30, 2014. The personal property was placed in service in 2010. Because personal property placed in service in 2010 will not be exempt until 2021, the assessor extended the IFT from 2014 until 2021. The taxpayer filed Form 5278 in both 2016 and 2017 but, did not file in 2018 to claim the exemption. At that point, the assessor is placed on notice that the IFT should not have been extended and should place the property on the Ad Valorem roll for the 2018 year.

The third situation is when a change is made in Part 3 of the ESA statement that would affect the Ad Valorem reporting in Part 2 of the statement. This may occur because the information transmitted to the Department included years that do not qualify for exemption under 9m or 9n – in which case a *Combined Document (Form 5278) Reporting Error* will be issued upon ESA Statement generation – or if the taxpayer removes from their ESA Statement, value for property placed in service during the non-eligible years.

Example: A taxpayer logs into MTO in 2018 and realizes they accidentally reported 2008 and 2009 personal property in Part 3 on the 2015 line. They make the change in MTO to reduce the 2015 line in Part 3. A notice is sent to the assessor after September 15th, indicating the taxpayer reduced their Part 3 filing and why. The assessor should immediately file a MCL 211.154 petition to return the 2008 and 2009 property to the Ad Valorem roll for the 2018 year. **Please note**: the July and/or December Boards of Review would no authority to make the change to the 2018 roll.

More information on the MCL 211.154 Petition process is available at www.michigan.gov/taxes.

Essential Services Assessment (ESA)

The Essential Services Assessment (ESA) is a state-specific tax on *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). Essentially, ESA is a specific tax replacement for the Ad Valorem personal property tax for exempt personal property.

As indicated in the statutory definition, personal property subject to ESA is defined as *eligible personal property*. Eligible personal property means all of the following:

Personal property exempt under MCL 211.9m or MCL 211.9n.

Personal property exempt under MCL 211.9f (328 Exemption) 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, and

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) (328 Exemption).

The calculation of the ESA specific tax is relatively simple. MCL 211.1055 indicates:

1. Beginning January 1, 2016, the state essential services assessment is levied on all eligible personal property as provided in this section.

2. The assessment under this section is a state specific tax on the 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 and shall be calculated as follows:

   a. For eligible personal property acquired by the first owner in a year 1 to 5 years before the assessment year, multiply the acquisition cost of the eligible personal property by 2.4 mills.
   b. For eligible personal property acquired by the first owner in a year 6 to 10 years before the assessment year, multiply the acquisition cost of the eligible personal property by 1.25 mills.
   c. For eligible personal property acquired by the first owner in a year more than 10 years before the assessment year, multiply the acquisition cost of the eligible personal property by 0.9 mills.

The statute does contain some reductions in the ESA specific tax in certain circumstances:

1. The acquisition cost reported is reduced for EMPP subject to **IFT Certificates** that were in effect before January 1, 2013. Specifically, this eligible personal property that is exempt under MCL 211.9m or MCL 211.9n and was previously subject to the IFT certificate, will pay the ESA Specific Tax at ½ the Fair Market Value at the time of acquisition by the first owner (Acquisition Cost) until that IFT Certificate

expires. More specific information will be provided on IFT certificates later in this Guide.

2. Personal Property located in a **Renaissance Zone** is 100% exempt (the acquisition cost is zero) 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 in a Renaissance Zone is multiplied by the percentage reduction as outlined by MCL 125.2689:

    a. For the tax year that is 2 years before the final year of designation as a renaissance zone, the percentage shall be 25%.
    b. For the tax year immediately preceding the final year of designation as a renaissance zone, the percentage shall be 50%.
    c. For the tax year that is the final year of designation as a renaissance zone, the percentage shall be 75%.

3. MCL 211.1071 provides that the Michigan Strategic Fund Board (MSF) may adopt a resolution to exempt from the assessment eligible personal property and either make the property subject to the **Alternative ESA** (P.A. 93 of 2014, as amended) or to exempt the property from both ESA and the Alternative ESA. Like ESA, the Alternative Essential Services Assessment is a state-specific tax on the 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.

    An eligible claimant may be exempt from ESA and would instead qualify for the Alternative Essential Services Assessment if the board of the Michigan Strategic Fund adopts a resolution to exempt the eligible claimant from ESA and instead states the eligible personal property is subject to assessment under the Alternative Essential Services Assessment.

    The Alternative Essential Services Assessment is calculated by multiplying the acquisition cost of the eligible personal property by the following millage based upon the year the property was placed into service:

    Multiply the acquisition cost by 1.2 mills if the property was placed into service 1 to 5 years before the assessment year

    Multiply the acquisition cost by 0.625 mills if the property was placed into service 6 to 10 years before the assessment year

    Multiply the acquisition cost by 0.45 mills if the property was placed into service more than 10 years before the assessment year

    An eligible claimant must present a business plan or demonstrate that a minimum of $25,000,000.00 will be invested in additional eligible personal property in this state during the duration of the written agreement.

Statute also requires that the MSF Board consider the following criteria when approving an exemption:

a. Out-of-state competition.
b. Net-positive return to this state.
c. Level of investment made by the eligible claimant.
d. Business diversification.
e. Reuse of existing facilities.
f. Near-term job creation or significant job retention as a result of the investment made in eligible personal property.
g. Strong links to Michigan suppliers.
h. Whether the project is in a local unit of government that contains an eligible distressed area as that term is defined in section 11 of the state housing development authority act of 1966, 1966 PA 346, MCL 125.1411.

4. The Department may provide guidelines for circumstances in which the actual acquisition price is not determinative of acquisition cost and the basis of determining acquisition cost in those circumstances.

   When the acquisition cost, year of acquisition by the first owner, or both are unknown, the Department may provide guidelines for estimating the acquisition cost and year of acquisition by the first owner. The Department may issue guidelines that allow for the reduction of acquisition cost for property that is idle, is obsolete or has material obsolescence, or is surplus.

   To date, the Department has not issued guidance in these areas.

5. Beginning with the 2017 assessment year, for property that is **construction in progress**, "acquisition cost" means 1/2 of the fair market value at the time *acquired by* the first owner, including the cost of freight, sales tax, and installation.

   In terms of reporting for ESA purposes, for property that is construction in progress, "acquired by" in the preceding definition, means the year the property is first reported on the Combined Document in Part 3.

ESA Due Dates:

An eligible claimant is required to make payment in full, by using MTO or Electronic Funds Transfer (EFT) credit, by August 15 without penalty. Payments **cannot** be mailed to the Department of Treasury, any funds received via check will be refunded and not applied to the ESA account.

An eligible claimant who fails to submit a certified statement and electronically pay ESA in full via MTO or e-file by August 15 shall be subject to late penalty, assessed by the Department, at a rate of 3% per month or part of a month, up to a maximum of 27%, of the total amount due and unpaid.

For an eligible claimant's first assessment year, the penalty is waived by the Department if the statement is certified and full payment is submitted by September 15.

Eligible claimants who fail to submit a certified statement and pay ESA liability and late payment penalty in full by April 15th of the year immediately following the assessment year via MTO or e-file are subject to rescission of their eligible manufacturing personal property tax exemption. Should the eligible manufacturing personal property tax exemption be rescinded on property subject to an extended IFT or extended PA 328 exemption, the extended IFT or PA 328 exemption will be rescinded by the State Tax Commission.

If an ESA due date falls on a weekend or state holiday, the date will **not** change.

ESA Electronic System to Certify and Pay:

Once an eligible claimant has properly claimed the eligible manufacturing personal property tax exemption by filing the Form 5278 with the local unit assessor no later than February 20th and the assessor has transmitted the information contained in Form 5278 to the Michigan Department of Treasury, the Department of Treasury will create an *Electronic ESA Statement (Statement)* from the information contained in Form 5278. That *Statement* will be made available through Michigan Treasury Online (MTO) not later than May 1. Statements are not made available via paper form and are not sent directly to taxpayers.

Eligible claimants are statutorily required to submit a certified *Statement* either through MTO or through e-File (paper S*tatements* are not available and paper *Returns* are not accepted). Prior to certifying the ESA Statement, a taxpayer may amend a return through MTO or e-File. Returns can only be amended up to and until September 15 of the tax year. Examples of amending returns include but are not limited to: adding a parcel, removing a parcel, changing the values reported from Part 3 of Form 5278 or correcting an incorrect certificate number.

Eligible claimants or their authorized preparer must utilize MTO to view their *Statement*, view correspondence from Treasury, make changes to their *Statement*, certify their *Statement* and pay the ESA tax. The Department will not send copies of any ESA Statement by mail or electronically.

An eligible claimant is required to make payment in full, by using MTO, Electronic Funds Transfer (EFT) credit, or via e-File by August 15 without penalty. Check payments **cannot** be mailed to the Department of Treasury ESA payments received by mail will not be applied to the ESA account but refunded to the taxpayer.

ESA Letters to Assessors:

The ESA System will automatically generate copies to assessors of letters sent to taxpayers when a taxpayer makes a change to certain information in the system, including when a parcel is added or removed from a taxpayer's filing or when a certification (IFT, PA 328, MSF) or renaissance zone is added or removed because the certificate is not valid or has been entered incorrectly.

A Summary of Change letter is issued to all assessors in local units of government in which EMPP was claimed once the September 15th deadline to amend certified ESA statements has passed. This summary includes detailed information as to individual years that have been removed from any ESA Statement.

These letters are sent to ensure that assessors have all available information to guarantee proper ad valorem personal property taxation. Assessors have no authority, nor do they have any responsibility, to use the MTO system to make corrections to any item for taxpayers. Taxpayers alone have authority to update their statements in response to letters. Assessors are only required to ensure their personal property tax roll is correct. Please see the section on MCL 211.154 Petitions above.

If assessors are concerned that a taxpayer's ESA Statement contains incorrect information or should be reviewed by the Department, they should submit their concerns *in writing* to the Department who may review the account.

Rescissions and Appeal Rights:

Assessors will also receive a copy of the rescission when one is issued to the taxpayer by the Department of Treasury

Statute requires that, for any assessment year in which a taxpayer does not submit payment of ESA liability and any late payment penalty due in full by April 15th of the year immediately following the assessment year, the Department of Treasury rescind the EMPP exemption on that parcel(s). The Department must rescind the exemption no later than the first Monday in June following the April 15th deadline.

In addition to rescinding the EMPP exemption, the Department will also ask the STC to revoke any exemption under section 9f of the general property tax act which was approved after 2013, any extended exemption for eligible personal property under section 9f(8)(a) and any exemption for eligible personal property subject to an extended industrial facilities exemption certificate under MCL 211.561a.

After the Department rescinds the exemption, the taxpayer, assessor, and treasurer will be notified that the exemption has been rescinded. The taxpayer will be notified that they must file with the assessor of the Township or City within 30 days of the date of the rescission a personal property statement (Form 632), for all property for which the exemption has been rescinded.

Assessors must ensure that they correct their assessment roll to return the personal property to the Ad Valorem roll. It is **<u>not necessary</u>** for an assessor to take this matter to any Board of Review; the determination of the Department is the necessary authority to correct the assessment roll.

Within 60 days of the date of the rescission, the treasurer of the local tax collecting unit shall issue amended tax bills for any taxes, including penalty and interest, that were not billed under the general property tax act and that are owed as a result of the order of rescission.

An eligible claimant may appeal a rescission by filing a petition with the MTT not later than December 31 of the year in which the rescission was issued.

An eligible claimant may appeal a rescission, as a result of an audit by filing a petition with the MTT within 30 days of the date of that assessment's issuance.

An eligible claimant may appeal an assessment levied or a late payment penalty to the MTT by filing a petition not later than December 31 of the year in which the assessment was levied, or the late payment penalty applied.

An eligible claimant may appeal an assessment issued, including penalties or interest as a result of an audit conducted by filing a petition with the MTT within 30 days of the date of that assessment's issuance.

Key Things Assessors Need to Know About ESA:

- ESA is a specific tax replacement for Personal Property Tax for Eligible Personal Property.
- The specific tax is calculated based upon the year of acquisition **by the first owner**.
- ESA is reduced under specific circumstances for certain property, including certain IFT property, property in renaissance zones, property subject to Alternative ESA by the MSF and for construction in progress (CIP).
- Most taxpayers will continue to pay Ad Valorem and/or IFT taxes and will also pay the ESA specific tax until the phase out is complete in 2023.
- ESA has specific statutory dates for taxpayers to certify their ESA statement and make payment using the on-line ESA system.
- Failure to meet the ESA due dates will result in rescission of the exemption and require the assessor to return the personal property to the local personal property roll and for local unit Treasurers to bill the taxpayer for those local property taxes.
- Appeal of rescissions or the ESA tax levied are to the MTT.
- Assessors will receive copies of notification letters for changes made in the ESA system. These letters are to help assessors ensure proper local Ad Valorem and/or IFT taxation.
- Assessor will receive a Summary of Changes letter after the filing deadline has passed, detailing relevant changes to the ESA statement.
- Assessors will also receive copies of rescissions issued by the Department.

Special Circumstances:

Assessors need to be aware of several special circumstances that may affect both the Ad Valorem and ESA filings for taxpayers.

1. **Renaissance Zones:** As indicated in P.A. 92, the acquisition cost for personal property exempt under the Michigan renaissance zone act is $0.00 except for the 3 years immediately preceding the expiration of the exemption of that personal property, during which period of time the acquisition cost for that personal property means the fair market value of that 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 capitalized interest, multiplied by the percentage reduction in the exemption as provided in section 9(3) of the Michigan renaissance zone act, 1996 PA 376, MCL 125.2689.

   Additionally, P.A. 92 indicates: For eligible personal property exempt under the Michigan Renaissance Zone Act, 1996 PA 376, MCL 125.2681 to 125.2696, an eligible claimant shall report the fair market value of that personal property at the time of acquisition by the first owner, including the cost of freight, sales tax, installation, and other capitalized costs, except capitalized interest.

   Taxpayers were advised of the following for 2016 Renaissance Zone Eligible Manufacturing Personal Property (RZ EMPP) Reporting:

   > If all the RZ EMPP was first placed in service in 2006 – 2012 and <u>is not</u> subject to an extended IFT or PA 328 exemption, we recommend they file Form 632, the personal property statement until the property becomes exempt under MCL 211.9m or MCL 211.9n. At that time, the taxpayer will file Form 5278.
   >
   > If the RZ EMPP <u>is not</u> subject to an extended IFT or PA 328 exemption and the RZ EMPP was first placed in service before 2006 or after 2012 and in 2006-2012, taxpayers will file Form 5278.
   >
   > If the RZ EMPP <u>is</u> subject to an extended IFT or PA 328 exemption and if all the RZ EMPP was first placed in service in 2006 – 2012, taxpayers will file Form 5278.
   >
   > If the RZ EMPP <u>is</u> subject to an extended IFT or PA 328 exemption and the RZ EMPP was first placed in service before 2006 or after 2012 and in 2006-2012, taxpayers will file Form 5278.
   >
   > If all the RZ EMPP was first placed in service before 2006 or after 2012, taxpayers will file Form 5278.

A company who resides in a Renaissance Zone, that properly and timely files a Form 5278 for their EMPP first placed in service before 2006 or after 2012 (exempt under 211.9m or 211.9n) will be exempt from all millages and exempt from ESA unless the Renaissance Zone is in the 3-year phase-out period.

Taxpayers filing Form 5278 for RZ EMPP have been asked to fill in the acquisition cost, meaning the fair market value of that 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 capitalized interest. The ESA system will calculate the appropriate percentage reduction for that RZ EMPP Property, including a 100% reduction for property not in the 3-year phase-out period.

2. **Leased Personal Property:** Leasing companies are not eligible to receive the EMPP exemption and may not use the Combined Document. However, MCL 211.9m does provide for lessees and lessors to make an election to allow the lessee to report the personal property under a lease agreement and pay the Ad Valorem and any ESA specific tax on that property. Specifically, MCL 211.9m indicates:

   With respect to personal property that is the subject of a lease agreement, regardless of whether the agreement constitutes a lease for financial or tax purposes, all of the following apply:

   (i) If the personal property is eligible manufacturing personal property, the lessee and lessor may elect that the lessee report the leased personal property on the combined document.

   (ii) An election made by the lessee and the lessor under this subdivision shall be made in a form and manner approved by the department.

   (iii) Absent an election, the personal property shall be reported by the lessor on the personal property statement unless the exemption for eligible manufacturing personal property is claimed by the lessee on the combined document.

   The Department has designed Form 5467, Election of Lessee Report of Eligible Manufacturing Personal Property, which will be filed with Form 5278 when the lessee and lessor elect for the lessee to report the personal property. This form will include all parcels statewide for which the election is being made for a specific lessee and lessor. That list will be attached to each Form 5278 filed where the election has been made. The form will also include the lease agreement expiration date, so the assessor knows when the lease agreement ends.

The election will remain in place until rescinded by the lessee or lessor. The list of parcels/lease agreements will be updated annually and attached to Form 5278 for each election made.

3. **P.A. 328:** How P.A. 328 (MCL 211.9f) property is treated with the changes to the personal property tax can be confusing. MCL 211.9f(8) indicates:

Notwithstanding any other provision of this section to the contrary, if new personal property exempt under MCL 211.9f on or after December 31, 2012 is eligible manufacturing personal property, that eligible manufacturing personal property shall remain exempt under this section until the later of the following:

(a) The date that eligible manufacturing personal property would otherwise be exempt from the collection of taxes under this act under section 9m, 9n, or 9o.

(b) The date that eligible manufacturing personal property is no longer exempt under the resolution adopted under subsection (1).

Simply put: Eligible Manufacturing Personal property (EMPP) that was subject to a P.A. 328 exemption on or after December 31, 2012 but before December 31, 2014, shall remain exempt until whichever of the following is later:

a. The personal property is exempt under MCL 211.9m, 9n or 9o
b. The P.A. 328 exemption expires.

The definition of new personal property under P.A. 328 does not include EMPP for a resolution adopted after December 31, 2014.

Please note, an extension of the P.A. 328 Certificate until the personal property is exempt under MCL 211.9m, 9n or 9o does not allow for the continued addition of new personal property to the P.A. 328 exemption.

Example 1: (Non-Extended P.A. 328)

A P.A. 328 exemption was approved in 2000 and effective for 2001 through 2030 (expires 12/30/30). The personal property is Eligible Manufacturing Personal Property (EMPP).

The exemption does not need to be extended because the exemption is valid until 2031.

The personal property will remain exempt under P.A. 328 until 2031 and will not be subject to the Essential Services Assessment (ESA) until 2031. The taxpayer is not required to file Form 5278 until 2031 when the property is no longer exempt under P.A. 328.

Example 2: (Extended P.A. 328)

A P.A. 328 exemption was effective 12/31/2012 and expires on 12/30/20. The personal property was placed in service in 2011, 2012, 2013 and 2014. The personal property is Eligible Manufacturing Personal Property (EMPP).

The law will extend the P.A. 328 exemption from Ad Valorem assessment through 2023. Property placed in service in 2012 will be considered eligible personal property in 2023 under MCL 211.1053(e)(i).

Beginning in 2021, the year following the original certificate expiration date, the property will pay the full Essential Services Assessment (ESA).

Year Property First Placed in Service	TY 2016	TY 2017	TY 2018	TY 2019	TY 2020	TY 2021	TY 2022	TY 2023
2011	328	328	328	328	328	Ext 328 - Full ESA	Ext 328 - Full ESA	9N - Full ESA
2012	328	328	328	328	328	Ext 328 - Full ESA	Ext 328 - Full ESA	9N - Full ESA
2013	328	328	328	328	328	Ext 328 - Full ESA	Ext 328 - Full ESA	9N - Full ESA
2014	328	328	328	328	328	Ext 328 - Full ESA	Ext 328 - Full ESA	9N - Full ESA

Example 3: (Extended P.A. 328 – Complex Example)

A P.A. 328 exemption was effective 12/31/2007 and expires 12/30/15. The personal property was placed in service in 2006, 2007, 2008 and 2009. The personal property is Eligible Manufacturing Personal Property (EMPP).

Eligible Manufacturing Personal property (EMPP) that was subject to a P.A. 328 exemption on or after December 31, 2012 but before December 31, 2014, shall remain exempt until the later of the following:

a. The personal property is exempt under MCL 211.9m, 9n or 9o
b. The P.A. 328 exemption expires.

The P.A. 328 exemption was in effect on or after December 31, 2012. Therefore, the exemption is extended until 2020, when the property placed in service in 2009 becomes exempt. The property shall remain exempt from Ad Valorem taxation under P.A. 328 until the personal property is exempt under MCL 211.9m, 9n or 9o.

This property will be subject to the full payment of the Essential Services Assessment (ESA) because MCL 211.1053 defines eligible personal property (which is property subject to pay the ESA) as both EMPP that is subject to an extended exemption under MCL 211.9f(8)(a) and EMPP exempt under MCL 211.9m or 9n.

Year Property First Placed in Service	TY 2016	TY 2017	TY 2018	TY 2019	TY 2020
2006	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	9N - Full ESA
2007	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	9N - Full ESA
2008	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	9N - Full ESA
2009	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	EXT 328 - Full ESA	9N - Full ESA

P.A. 328 Additional Information: The full ESA must be paid for all P.A. 328 exemptions approved in 2014 unless the application was filed before August 5, 2014 and the resolution approving the exemption projected costs to be at least $25 million. The taxpayer will fill out Form 5278 Part 3.

4. **IFT (P.A. 198 Exemptions):** How IFT (P.A. 198) property is treated with the changes to the personal property tax is one of the more complex and confusing parts of the statutory changes. Discussions regarding the treatment of IFT property begins with the taxpayer answering two questions:

    1. Is my property subject to an IFT Certificate that was in effect before January 1, 2013?
    2. Is my property subject to an IFT Certificate which was in effect on or after December 31, 2012 and therefore was extended under the provisions of MCL 207.561a?

    Simply put, if the answer is yes to question 1, then property exempt under MCL 211.9m or MCL 211.9n will pay the ESA Specific Tax at ½ the Fair Market Value at the time of acquisition by the first owner (Acquisition Cost) until that IFT Certificate expires.

    If the answer is yes to question 2, the IFT certificate may qualify to be extended and not expire until all the property covered under that IFT certificate is exempt under MCL 211.9m and MCL 211.9n. To be extended, it is necessary for the taxpayer to annually report EMPP subject to the IFT certificate by filing Form 5278. Failure to file Form 5278, failure to report EMPP subject to the IFT certificate that is not yet exempt under 9m or 9n, or rescission of the EMPP exemption on the parcel disqualifies an IFT certificate from being extended. Once the certificate expires, then the property will pay ESA on the full Acquisition Cost.

    How does an assessor or taxpayer determine if an IFT certificate can or should be extended? That can be answered by asking a few simple questions:

    1. Was the IFT certificate in effect **on or after December 31, 2012**?

        If yes, then the IFT certificate can be extended.
        If no, the personal property should have been returned to the Ad Valorem roll upon expiration of the IFT certificate (see MCL 211.154 Petitions section

above. Depending on the year first placed in service, the property is reported in Part 2 (non-exempt) and Part 3 (exempt) of Form 5278.

2. Is the end date of the IFT certificate before or after the personal property is exempt under MCL 211.9m or MCL 211.9n? (See personal property phase out chart.)

   If the end date of the IFT certificate is before the personal property is exempt under MCL 211.9m or MCL 211.9n, then the IFT certificate may qualify to be extended until the personal property is exempt under MCL 211.9m or MCL 211.9n if the EMPP exemption is annually claimed and not rescinded in any year.

   If the end date of the IFT certificate is after the personal property is exempt under MCL 211.9m or MCL 211.9n, then the IFT certificate is not extended.

Example 1: (Extended IFT)

A six-year IFT Certificate was approved in 2010 and in effect for 2011 through 2016 (expires 12/30/16). The personal property under this certificate was placed in service in 2010 and is Eligible Manufacturing Personal Property (EMPP). As a reminder, personal property that was first placed in service in 2010 will become exempt under MCL 211.9n in 2021.

We will begin with two simple questions:

1. Is the property subject to an IFT Certificate that was in effect before January 1, 2013? **Yes**
2. Is the property subject to an IFT Certificate which was in effect on or after December 31, 2012 and, therefore, may be qualified to be extended under the provisions of MCL 207.561a? **Yes**

Because the answer to question 2 was Yes, the IFT Certificate may qualify to be extended in 2017, 2018, 2019, and 2020 under the provisions of MCL 207.561a if the EMPP exemption is annually claimed and not rescinded in any year.

During the extended term, the property remains subject to the IFT tax and will be reported in the appropriate table in Part 2 of the Form but beginning in 2016 will also be subject to the ESA Specific Tax and will also have to be reported in Part 3 of the Form.

However, because the answer to question 1 was Yes, in 2016, 2017, 2018, 2019, and 2020, the personal property will be subject to ESA at ½ the Fair Market Value at the time of acquisition by the first owner (MCL 211.1053a). Note: The Fair Market Value at the time of acquisition by the first owner should be reported at 100% on Form 5278; the ESA Specific Tax at ½ the Fair Market Value at the time of acquisition by the first owner (Acquisition Cost) will be calculated on the statement subsequently filed with the Department of Treasury, not on Form 5278.

Since the property becomes exempt under MCL 211.9n in 2021 the property is now subject to the full ESA Specific Tax and reported on Form 5278 on Part 3.

Year Property First Placed in Service	TY 2017	TY 2018	TY 2019	TY 2020	TY 2021
2010	EXT - IFT + 50% ESA	EXT - IFT + 50% ESA	EXT - IFT + 50% ESA	EXT - IFT + 50% ESA	9N - 1/2 ESA

Year Property First Placed in Service	TY 2016	TY 2017	TY 2018
2007	EXT - IFT + 50% ESA	EXT - IFT + 50% ESA	Full ESA

Example 2: (Non Extended IFT)

A twelve year IFT Certificate was approved in 2009 and in effect for 2010 through 2021 (expires 12/30/21). The personal property was placed in service in 2009 and is Eligible Manufacturing Personal Property (EMPP). As a reminder, personal property that was first placed in service in 2009 will become exempt under MCL 211.9n in 2020.

Going back to our two simple questions:

1. Is the property subject to an IFT Certificate that was in effect before January 1, 2013? Yes

2. Is the property subject to an IFT Certificate which was in effect on or after December 31, 2012 and, therefore, was extended under the provisions of MCL 207.561a? **No**

The answer to question 2 is No, because the personal property covered under the IFT Certificate will become exempt under MCL 211.9n <u>before</u> the certificate was scheduled to expire. For 2016 through 2019 the personal property will be subject to the IFT Specific Tax and will be reported on Form 5278 Part 2 only and will not pay ESA Specific Tax.

However, because the answer to question 1 was Yes, the taxpayer will report the property on Part 3 starting in 2020. In 2020 and in 2021 the personal property is subject to the ESA Specific Tax at ½ the Fair Market Value at the time of acquisition by the first owner. **Note: In this case the assessor must retain the IFT parcel number until 2022 and not move the property to the Ad Valorem parcel for purposes of ESA reporting.**

Since the property is exempt under MCL 211.9m and 9n and the IFT Certificate that would have been in effect for the parcel has expired, in 2022 the property is subject to the full ESA Specific Tax and reported on Form 5278 on Part 3.

Year Property First Placed in Service	TY 2016	TY 2017	TY 2018	TY 2019	TY 2020	TY 2021	TY 2022
2009	IFT	IFT	IFT	IFT	1/2 ESA	1/2 ESA	Full ESA

Example 3: (New IFT)

A six year IFT Certificate was approved in 2013 and in effect for 2014 through 2019 (expires 12/30/19). The personal property was placed in service in 2013 and is Eligible Manufacturing Personal Property (EMPP). As a reminder, personal property that was first placed in service in 2013 will become exempt under MCL 211.9m in 2016. Going back to our two simple questions:

1. Is the property subject to an IFT Certificate that was in effect before January 1, 2013? **No**
2. Is my property subject to an IFT Certificate which was in effect on or after December 31, 2012 and, therefore, was extended under the provisions of MCL 207.561a? **No**

Because in 2016, EMPP first placed in service after 2012 is exempt, the IFT Certificate expires and the personal property is reported on Form 5278 Part 3.

Because the answer to question 1 was No, the personal property is subject to the ESA Specific Tax at the full Acquisition Cost.

Example 4: (Extended IFT – A Complex Example)

An IFT Certificate was approved in 2007 and in effect for 2008 through 2018 (expires 12/30/18). The personal property was placed in service in 2007, 2008, 2009 and 2010 and is Eligible Manufacturing Personal Property (EMPP). We will begin with our two simple questions:

1. Is my property subject to an IFT Certificate that was in effect before January 1, 2013? **Yes**

2. Is my property subject to an IFT Certificate which was in effect on or after December 31, 2012 and, therefore, may qualify to be extended under the provisions of MCL 207.561a? **Yes**

Because the answer to question 2 was Yes, the IFT Certificate may qualify to be extended in 2019 and 2020 under the provisions of MCL 207.561a if the EMPP exemption is annually claimed and not rescinded in any year. Because this is a complex example, we will go through the reporting year by year:

In 2018, the taxpayer will report the property placed in service in 2007 on Part 3 Section 2 of the form. Because the answer to question 1 was yes, the personal property will be subject to ESA at ½ the Fair Market Value at the time of acquisition by the first owner. The taxpayer will report the property placed in service in 2008, 2009 and 2010 in Part 2 of Form 5278 and this property will be subject to the IFT Specific Tax only.

In 2019, the taxpayer will report the property placed in service in 2007 and 2008 (combined under 2008 and prior) on Part 3 Section B of Form 5278. Because the answer to question 1 was yes, the personal property will be subject to ESA at ½ the Fair Market Value at the time of acquisition by the first owner. The taxpayer will report the property placed in service in 2009 and 2010 in both Part 2 and Part 3 Section B of Form 5278. This property will be subject to the IFT Specific Tax for 2009 and 2010 and one-half ESA for both years.

In 2020, the taxpayer will report the property placed in service in 2007, 2008 and 2009 (combined under 2009 and prior) on Part 3 Section B of Form 5278. Because the answer to question 1 was Yes, the personal property will be subject to ESA at ½ the Fair Market Value at the time of acquisition by the first owner. The taxpayer will report the property placed in service in 2010 in both Part 2 and Part 3 Section B of Form 5278. This property will be subject to the IFT Specific Tax and one-half ESA for 2010.

Beginning in 2021 all the property is subject to the full ESA Specific Tax and reported on Form 5278 on Part 3 Section B.

Year Property First Placed in Service	TY 2018	TY 2019	TY 2020	TY 2021
2007	9N - 1/2 ESA	9N - 1/2 ESA	9N - 1/2 ESA	9N - Full ESA
2008	IFT	9N - 1/2 ESA	9N - 1/2 ESA	9N - Full ESA
2009	IFT	EXT - IFT + 50% ESA	9N - 1/2 ESA	9N - Full ESA
2010	IFT	EXT - IFT + 50% ESA	EXT - IFT + 50% ESA	9N - Full ESA

If, in some year after 2018, the taxpayer fails to file Form 5278 or the IFT certificate is revoked by the State Tax Commission, the IFT certificate expires on December 30 of the previous year. In that year and subsequent years, the IFT certificate will no longer be valid and therefore not receive any benefit under ESA.

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