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STATE AND LOCAL TAX NEWSLETTER

Business Strategists & Certified Public Accountants

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Problems with the Personal Property Tax Exemptions and Credits

GRAND RAPIDS, MI – Monday, November 12, 2007 - Last week at the Michigan Tax Conference I participated in a panel discussion on "SBT Issues That Won't Go Away". Far and away the most controversial issue at both sessions dealt with the personal property tax exemptions and credits.

First, The Law

A Single Business Tax (SBT) credit equal to 15% of personal property taxes paid on property classified as "industrial" has been available for tax years beginning on and after January 1, 2006. [MCL 208.35d]

A Michigan Business Tax (MBT) credit equal to 35% of personal property taxes paid on property classified as "industrial" is available for tax years beginning on and after January 1, 2008. [MCL 208 1413] In addition, telephone property and natural gas pipe line property also qualify for the credit.

Public Act 37 of 2007 and Public Act 38 of 2007 exempted property classified as "commercial" from 12 of the 18 school operating mills. Property classified as "industrial" is exempt from all 18 school operating mills and the 6 mill state education tax.

To claim the credit, the personal property taxpayer must timely file a Personal Property Statement with the assessor and pay the personal property tax in the year the credit is claimed. Proof of payment must be made available if requested.

What's Happening

1. Since discussions of the repeal of the personal property tax started, assessors have been busy reviewing and changing property classifications. In the past, the only use or purpose for property classifications was for equalization purposes. Now, the classification of property is important in determining the amount of exemption and if a MBT credit is available. Many parcels have been reclassified from "industrial" to "commercial". Also, many parcels have, in the past, been misclassified as "commercial" when they should have been classified as "industrial".
2. The Department of Treasury (Treasury) is disallowing a SBT credit on property classified as "commercial", even if in error. They rely exclusively on the assessor's classification, even if in error.
3. Treasury is disallowing the credit if the Personal Property Statement is filed after February 20th or if the taxpayer cannot provide proof that the tax was paid in the tax year claimed.
4. The State Tax Commission has stated that all personal property of a leasing company is classified as "commercial". This may not always be true.

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The Property Tax Act requires assessors to classify every item of assessable property: [MCL 211.34c]

- (1) **Not later than the first Monday in March in each year, the assessor shall classify every item of assessable property according to the definitions contained in this section. Following the March board of review, the assessor shall tabulate the total number of items and the valuations as approved by the board of review for each classification and for the totals of real and personal property in the local tax collecting unit. The assessor shall transmit to the county equalization department and to the state tax commission the tabulation of assessed valuations and other statistical information the state tax commission considers necessary to meet the requirements of this act and 1911 PA 44, MCL 209.1 to 209.8.**

The statutory descriptions of "commercial" property and "industrial" property are as follows:

- (2) **The classifications of assessable personal property are described as follows:**

(b) Commercial personal property includes the following:

- (i) All equipment, furniture, and fixtures on commercial parcels, and inventories not exempt by law.
- (ii) All outdoor advertising signs and billboards.
- (iii) Well drilling rigs and other equipment attached to a transporting vehicle but not designed for operation while the vehicle is moving on the highway.
- (iv) Unlicensed commercial vehicles or commercial vehicles licensed as special mobile equipment or by temporary permits.

(c) Industrial personal property includes the following:

- (i) All machinery and equipment, furniture and fixtures, and dies on industrial parcels, and inventories not exempt by law.
- (ii) Personal property of mining companies valued by the state geologist.

How to Appeal a Property Classification

The State Tax Commission issued BULLETIN No. 7 on October 2, 2007 on the Michigan Business Tax. In the bulletin they stated: "We anticipate an increase in the number of classification appeals". The assessors were advised "that nothing in the new laws merits any changes in classification of personal property."

Following is the statutory mandated process to appeal a property classification:

- (5) **An owner of any assessable property who disputes the classification of that parcel shall notify the assessor and may protest the assigned classification to the March board of review. An owner or assessor may appeal the decision of the March board of review by filing a petition with the state tax commission not later than June 30 in that tax year. The state tax commission shall arbitrate the petition based on the written petition and the written recommendations of the assessor and the state tax commission staff. An appeal may not be taken from the decision of the state tax commission regarding classification complaint petitions and the state tax commission's determination is final and binding for the year of the petition.**

- (6) **The department of treasury may appeal the classification of any assessable property to the residential and small claims division of the**

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Michigan tax tribunal not later than December 31 in the tax year for which the classification is appealed.

Please note that the appeal process starts with the assessor, then the March Board of Review and the State Tax Commission. The State Tax Commission's determination is final and binding for the year of the petition. However, the Department of Treasury, not the taxpayer, can appeal the classification to the Michigan Tax Tribunal. Not fair, but that's the law.

What the Taxpayer Must Do

First, file the Personal Property Statement on or before February 20 and retain proof of the date filed.

Second, look for the "Notice of Assessment" mailed by the assessor to every personal property taxpayer. In addition to a review of the assessable amount, also review the property classification.

Third, if either the assessable amount or the classification is wrong, contact the assessor and request changes be made.

Fourth, if the assessor will not make the requested changes, then appeal to the March Board of Review.

Fifth, if the Board of Review does not make the changes, appeal to the State Tax Commission in writing not later than June 30.

Please stay tuned for more news and follow the [MichiganStateAndLocalTax Blog](#) for information as it becomes available. December 1 is less than a month away.

If you have questions please feel free to contact me. I would be happy to be of assistance.

Sincerely,

Ed Kisscorni, CPA/MBA



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