



GUIDELINES

Manufacturing Machinery and Equipment (MME) Exemptions

As provided by §1281(72) and §12-94f of the Connecticut General Statutes (CGS)

Effective for the October 1, 2010 Grand List

Introduction

CGS §1281(72) allows a fiveyear, 100% property tax exemption for eligible machinery and equipment acquired and installed in a manufacturing or biotechnology facility. For the October 1, 2010 Grand List, eligible property must be acquired and installed in a facility on or after October 2, 2005. The State of Connecticut reimburses each municipality for tax losses due to this exemption. In accordance with CGS §12-94b, the Assessor of each town annually certifies to the Office of Policy and Management (OPM) the amount of exemptions reflected on the Grand List, by filing Form M-65a (Assessors Report of Property Tax Exemptions Granted For Newly Acquired Manufacturing Machinery and Equipment). For the October 1, 2010 Grand List, the Assessor must submit Form M-65a to OPM on or before March 15, 2011. The State of Connecticut remits reimbursement for 2010 Grand List exemptions in December 2011.

Pursuant to CGS §12-94b, OPM may audit 2010 Grand List reimbursement claims not later than December 15, 2012. The reimbursement a municipality receives in December of 2012 reflects changes due to the 2010 Grand List resulting from a modification OPM makes after December 15, 2011.

CGS §12-94c sets forth the method by which property eligible for this exemption is valued for assessment purposes. The value of such property (against which the 70% assessment ratio is applied) is its depreciated acquisition cost. Assessors must use the following depreciation schedule to establish the value of the machinery and equipment exempt under CGS §1281(72).

Assessment Year Following Acquisition/Installation	Depreciated Value as Percentage of Acquisition Cost Basis
1st year	90%
2nd year	80%
3rd year	70%
4th year	60%
5th year	50%

After the last assessment year in which manufacturing machinery and equipment is exempt under CGS §1281(72), it becomes eligible for exemption pursuant to CGS §12-94f. This legislation also allows a property tax exemption for certain machinery and equipment that is six years old or older as of October 1, 2006. (See questions #48 through #56, beginning on Page 9 of these *Guidelines*.)

Part I of these *Guidelines* (Questions # 1 to #56) contains machinery and equipment eligibility criteria and application provisions that should help taxpayers understand the requirements of these exemption programs. Part II of these *Guidelines* (i.e., Questions #57 to #99) contains information for taxpayers and assessors concerning the administration of these machinery and equipment exemption programs.

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PART I

MANUFACTURING MACHINERY AND EQUIPMENT (MME) EXEMPTION CRITERIA AND APPLICATION PROCEDURES UNDER CGS §12-81(72) AND CGS §12-94f

1. Are there eligibility changes to the 2010 Grand List MME exemption under CGS §12-81(72)?

No.

2. What are the criteria for the MME exemption under CGS §1281(72)?

In order to qualify for exemption the *property* must be:

- 1) "New" or "newly acquired" on or after October 2, 2005;
- 2) "Machinery" or "equipment" (as defined below);
- 3) Installed in a "manufacturing facility";
- 4) Tangible personal property, that is
- 5) Either 5 or 7 year property as defined by the IRS; and
- 6) Predominantly used for manufacturing purposes.

In order to qualify for exemption the *applicant* must:

- 1) Include such property (and the purchase price thereof) in a Personal Property Declaration submitted to the Assessor. Lessees are also required to file a Lessee's Report with the Assessor; and
- 2) Annually file Form M-65 (*Manufacturing Machinery and Equipment Exemption Claim*) with the Assessor of the municipality in which the machinery or equipment is installed by November 1, or obtain an extension of the filing date pursuant to the provisions of CGS 12-81k.

3. What is the definition of "machinery" for the purposes of this exemption?

"Machinery" means the basic machine itself, including all of its component parts and contrivances such as belts, pulleys, shafts, moving parts, operating structures and all equipment or devices used or required to control, regulate or operate the machinery, including, without limitation, computers and data processing equipment, together with all replacement and repair parts therefore, whether purchased separately or in conjunction with a complete machine, and regardless of whether the machine or component parts thereof are assembled by the taxpayer or another party.

4. What is the definition of "equipment" for the purposes of this exemption?

"Equipment" means any device separate from machinery but essential to a manufacturing, processing or fabricating process.

5. What is the difference between "new" and "newly-acquired"?

"New" describes newly produced (for example, brand new) and does not include rebuilt or refurbished equipment. "Newly-acquired" describes used or second-hand machinery or equipment, including rebuilt or refurbished machinery and equipment.

6. What does "acquired" mean?

"Acquired" means that the taxpayer takes physical possession of the property for which exempt status is sought. For example, a milling machine for which a purchase order was issued on August 16, 2007 may have been delivered to and installed in a manufacturing facility on January 23, 2008. Since the date of possession is subsequent to October 1, 2007, the milling machine will qualify for this exemption on the 2008 Grand List, provided all other eligibility criteria are met.

7. Is leased property eligible for this exemption?

Yes. CGS §1281(72) uses the word "acquired" rather than purchased, so a lessee of manufacturing machinery/equipment may qualify for the exemption, provided the lessee meets all other criteria.

8. If a manufacturer acquires machinery and equipment through a lease and subsequently buys the machinery and equipment, is the machinery and equipment eligible for another 5-year exemption term as "newly acquired"?

No. The property is eligible for the balance of the five-year exemption period if it has not enjoyed the entire term of exemption since its acquisition through the leasing process and is purchased by the original lessee. Once the full five-year exemption term under CGS §1281(72) expires, the machinery or equipment is eligible for exemption under the provisions of CGS § 12-94f.

9. Is property that has been sold to a financing institution and leased back to the (original lessee) manufacturer eligible for exemption?

Yes, but only for the balance of the initial five-year exemption term for which the original lessee (manufacturer) qualified. Any assets acquired by the manufacturer prior to the current five-year term are not eligible for a new term of exemption if they are part of the purchase/lease-back package.

See Question #47, Page 9, of these *Guidelines*.

10. Can machinery or equipment be acquired by other than purchase or lease?

Yes, such property may have been (1) constructed by the owner with brand new purchased parts or materials; or (2) developed and internally produced by the owner. These *Guidelines* refer to such property to as "selfconstructed".

11. What is the purchase price for self-constructed property?

The purchase price for self-constructed property is the "unit cost", which is determined in accordance with the following provisions:

(1) If new parts or materials are purchased and used by an owner to construct a machine which is installed in his manufacturing facility, the cost of acquisition includes the price paid for the new parts/materials, the cost to transport the parts to the facility and the cost of the labor to effect construction and installation; (the name and address of the vendor or contractor should be provided on the M-65 Claim by the applicant), or

(2) If machinery or equipment is internally developed, produced and installed by a manufacturer, the cost of acquisition is the total cost of development, production and installation (including the cost of labor) for each such item of machinery/equipment (the vendor or contractor from whom components or services were purchased should be listed on the M-65 Claim).

12. Is construction in progress, or "CIP," eligible for exemption under this program?

No, the machinery/equipment must be installed in a condition or state of readiness and availability for specifically assigned manufacturing functions.

Please note, however, that CGS §12-71(b) exempts CIP, under the following definition:

"...machinery or equipment which would be eligible for exemption under subsection (72) of section 12-81 once installed and which can not or which has not begun manufacturing, processing or fabricating; being used for research or development, including experimental or laboratory research and development, design or engineering directly related to manufacturing; the significant servicing, overhauling or rebuilding of machinery and equipment for industrial use or the significant overhauling or rebuilding of other products on a factory basis; measuring or testing or metal finishing; or being used in the production of motion pictures, video or sound recordings."

13. Does the term "tangible personal property" encompass the definition used for federal income tax purposes, or that used for local property tax purposes?

As this is a property tax exemption program, the Assessor's definition of tangible personal property is applicable. There may be areas of conflict, since a taxpayer may, for IRS purposes, depreciate certain items as personal property that the Assessor classifies as real property.

For example, a newspaper publisher purchases a large printing press that necessitates the installation of a reinforced concrete subfloor. The manufacturer regards the cost of the subfloor as part of the installation cost of the press and may combine the two costs and depreciate both as personal property on the federal level. The cost of the subfloor, however, would *not* be eligible for the exemption under CGS §1281(72), since it would be classified by the Assessor as a real property improvement.

14. What does "installed" mean?

The word "installed" means that the property has been placed in service in a manufacturing facility. A machine so installed is *in a condition or state of readiness and availability for specifically assigned manufacturing function(s)*.

15. What does "manufacturing facility" mean?

"Manufacturing facility" means that portion of a plant, building or other real property improvement used for any manufacturing purpose delineated in CGS §12-81(72).

16. What does "manufacturing" mean?

"Manufacturing" is the activity of converting or conditioning tangible personal property by changing the form, composition, quality or character of the property for ultimate sale at retail, or use in the manufacturing of a product to be ultimately sold at retail.

17. What are the allowable uses of machinery and equipment for purposes of this exemption?

The following uses are delineated in CGS §12-81(72):

- (1) Manufacturing, processing or fabricating;
- (2) Research and development, including experimental or laboratory research and development, design or engineering directly related to manufacturing;
- (3) The significant servicing, overhauling or rebuilding of machinery and equipment for industrial use;
- (4) The significant overhauling or rebuilding of other products on a factory basis;
- (5) Measuring or testing;
- (6) Metal finishing;
- (7) The production of motion pictures, video and sound recordings;
- (8) Biotechnology; and
- (9) Recycling (i.e., the processing of solid waste to reclaim material). Section 84 of Public Act 06-186 amended the provisions of CGS §12-81(72), as amended by Section 10 of Public Act 06-83, to make certain machinery and equipment acquired on or after July 1, 2006 and used in connection with recycling eligible for this exemption as of October 1, 2006. Pursuant to this legislation, "recycling" means the processing of solid waste to reclaim material, as defined in CGS §22a-260.

18. What does "predominant use" mean?

"Predominant use" means that the personal property, for which the exemption is sought, is used for a manufacturing purpose more than fifty percent (50%) of the time that it is actually used.

19. What does "5-year or 7-year property," mean?

According to §168(e) of the Internal Revenue Service (IRS) Code of 1986, property is classified under as follows:

Property shall be treated as: If it has a class life (in years) of:

5 year property.....more than 4 but less than 10
7 year property.....10 or more but less than 16

Note: Some assets used in qualified manufacturing activities have a short class life (and therefore a different IRS Classification), and do not qualify for exemption under the statutory requirement for IRS Classification applied to all manufacturing assets. OPM will request IRS filings with supporting detail in cases where exemption eligibility is in question.

20. What does "fabricating" mean?

"Fabricating" means to make, build, create, produce or assemble components or tangible personal property work in a new or different manner.

21. What does "processing" mean?

"Processing" means the physical application of the materials and labor in a manufacturing process.

22. What does "measuring or testing" mean?

"Measuring and testing" includes nondestructive and destructive measuring or testing and the alignment and calibration of machinery, equipment and tools, in the furtherance of the manufacturing, processing or fabricating of tangible personal property.

23. What does "biotechnology" mean?

"Biotechnology" means the application of technologies, including recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics and genetic engineering, biological cell fusion techniques, and new bioprocesses, using living organisms, or parts of organisms, to produce or modify products, to improve plants or animals, to develop microorganisms for specific uses, to identify targets for small molecule pharmaceutical development, to transform biological systems into useful processes and products or develop microorganisms for specific uses.

24. What does "recycling" mean?

"Recycling" means the processing of "unwanted or discarded solid, liquid, semisolid or contained gaseous material, including but not limited to, demolition debris, material burned or otherwise processed at a resources recovery facility or incinerator, material processed at a recycling facility..."

Under this definition, machinery or equipment that a Material Resource Recovery Facility or a Volume Reduction Plant uses in connection with recycling solid waste is eligible for exemption, provided the machinery and equipment that the facility or plant uses is acquired and installed on or after July 1, 2006. The Connecticut Department of Environmental Protection (DEP) issues permits for the operation of such facilities or plants.

Machinery or equipment located in a facility that incinerates solid waste and produces energy from the combustion process is not eligible for the exemption, since CGS §12-81(72) specifically excludes "any provider, directly or indirectly, of electricity, oil, water or gas" from exemption eligibility. As a result, machinery or equipment located in a tire-to-energy facility or in a Resource Recovery Facility (also known as a trash-to-energy facility) is not eligible for exemption.

Machinery and equipment used to process solid waste that is installed in a Material Resource Facility or Volume Reduction Plant is eligible for exemption, provided it is: (1) acquired and installed on or after July 1, 2006; (2) 5-year or 7-year property for IRS purposes; and (3) predominantly used in connection with recycling (i.e., the processing of solid waste to reclaim material from it).

Material Resource Recovery Facilities are currently located in Berlin, Danbury, Groton, Hartford, Stratford and Willimantic. Volume Reduction Plants are currently located in the following communities: Ansonia, Berlin, Branford, Bridgeport, Danbury, Deep River, East Windsor, Hartford, Middletown, Milford, New Haven, Norwalk, Old Saybrook, Plainville, Portland, Shelton, South Windsor, Stamford, Sterling, Stratford, Suffield, Waterbury, Waterford, Willimantic and Winchester.

25. Is pollution prevention machinery and equipment eligible for exemption under the provisions of this program?

No. Machinery and equipment must be used predominantly for manufacturing in order to qualify for this program. Pollution control equipment does not satisfy this requirement.

However, CGS §12-81(51) and CGS §12-81(52) allow property tax exemptions for eligible air and water pollution control equipment. The Commissioner of the Connecticut Department of Environmental Protection (DEP) must certify the equipment as eligible for these exemptions and the property's owner or lessee must apply for an exemption, on or before November 1, on a form the Assessor prescribes. A new exemption application must be filed if equipment is altered; a revised application is also required when there is a change in the name of the equipment owner or lessee.

Note: For information concerning certification of air or water pollution control equipment, contact the DEP, Director of Engineering and Enforcement, Bureau of Air Management at (860) 424-3028, or Permitting, Enforcement and Remediation, Water Management Bureau at (860) 424-3848.

26. What does "cost of acquisition" mean?

"Cost of acquisition" is the price paid for the personal property eligible for this exemption (including the value of any trade-in), together with all allowable costs related to its transportation and installation, excluding sales/use tax.

27. How does one determine the cost of acquisition in a situation involving a trade-in?

The dollar value of the trade-in is to be added to the price paid for the particular item of machinery or equipment. Cost of acquisition includes value-in-exchange (cash or its equivalency) as well as value-in-kind (trade-in value).

28. How does one determine the cost of acquisition for leased property?

The cost of acquisition for leased property is the owner's cost of acquisition plus the lessee's cost of transportation and installation. Financing costs should not be included in the costs reported.

29. In a situation involving a title transfer for leased property when the property remains eligible for an exemption due to a continuing lease, what is the cost of acquisition in the assessment year following the title transfer?

The purchase price or unit cost will always be that paid by the original owner/lessor.

30. If the lease contract cites a specific dollar amount for transportation and installation, but the lessee incurs additional costs related thereto, what amount should the lessee report?

The lessee should report the total cost of transportation and installation (i.e., the lessee's out-of-pocket cost plus the amount specified in the lease contract).

31. Is computer software eligible for the exemption provided in CGS §12-81(72)?

No. Software is considered intangible and is not subject to local property tax under the provisions of CGS §12-71(d)(1) as long as the cost of such software is separately stated in sales documents.

32. What is computer software?

CGS §12-71(d)(1) defines computer software as “any program or routine used to cause a computer to perform a specific task or set of tasks, including, without limitation, operational and application programs and all documentation related thereto.”

33. Are consumable supplies (e.g., paper, toner, film or fuel) eligible for exemption under the provisions of CGS §12-81(72) or CGS § 12-94f?

No. Consumable supplies are not eligible for either exemption.

34. Is the amount of sales or use tax included in the cost of acquisition?

No. The cost of acquisition is the price paid for an eligible machine or item of equipment plus shipping and installation, *excluding any applicable sales/use tax*.

35. Is proof of the cost of acquisition required at the time a taxpayer files Form M-65?

Not necessarily. Under the provisions of CGS §12-81(72), the person seeking this exemption *may* be required to furnish the following: (1) invoices; (2) bills of sale; (3) contracts for lease; (4) bills of lading; and (5) any other applicable supporting documentation. OPM may require the verification documents at any time from the time the M-65 Form is filed with the Assessor until the end of the audit period.

36. Is the cost of routine service or maintenance of machinery or equipment included as part of the cost for property that is eligible for exemption under this program?

No. While routine service or maintenance costs may be reportable for IRS purposes, they are not reportable for this program.

37. If a company moves from another state into Connecticut, does the company's manufacturing machinery and equipment qualify for benefits under CGS §12-81(72) as of the Connecticut installation date?

Not automatically. If the machinery and equipment qualify under all criteria including *acquisition and installation dates*, then it would be eligible for that portion of the five-year exemption term remaining. If the machinery and equipment was acquired five years prior to the current assessment date, it is not eligible for exemption under CGS §12-81(72), but is eligible for exemption under Section 13 of Public Act 06-83, as amended.

38. If a company moves from one town to another within Connecticut, or from one location to another in the same Connecticut town, does a new five-year exemption term start under CGS §12-81(72)?

No. The company's machinery and equipment is only eligible for the balance of its five-year exemption term.

39. Does the development of software or research and development related to the manufacture of software qualify for the exemption under CGS §12-81(72) or CGS §12-94f?

No. Software constitutes an intangible, intellectual works that is the product of artistic or intellectual effort. The creation of software is not a manufacturing process.

40. Does the design and sale of customized computer systems consisting of components that manufacturers already produce and make available in the form most suitable to meet software customers' needs, qualify for the exemption under CGS §12-81(72) or CGS § 12-94f?

No. The process of customizing the computer systems does not change the "form, composition, quality or character" of the components or the purpose for which they were manufactured.

41. Are public service companies eligible for the exemption under CGS §12-81(72) or CGS §12-94f?

No. Public service companies, as defined in CGS §16-1 (i.e., "electric, gas, telephone, telegraph, pipeline, sewage, water, and community antenna television companies owning, leasing, maintaining, operating, managing or controlling plants or parts of plants or equipment and all express companies having special privileges on railroads within this state . . . ") are not eligible for a manufacturing machinery and equipment exemption, pursuant to CGS §12-81(72) or CGS § 12-94f.

42. Are utility companies eligible for the exemption provided by CGS §12-81(72) or CGS §12-94f?

No. CGS §12-81(72) states that "any provider, directly or indirectly, of electricity, oil, water or gas" shall not be eligible for exemption. In addition to making direct producers of electricity, oil, water or gas ineligible for exemption, this provision also makes an indirect energy producer (e.g., trash-to energy facility or tire-to-energy facility) ineligible.

43. Is entering "same as last year" or "see last year," or simply entering the amount previously claimed on the front of the M-65 Form acceptable for purposes of qualifying for the exemption provided in CGS §12-81(72)?

No. CGS §12-81(72) requires an exemption applicant to file an itemized list of machinery or equipment (including information regarding total acquisition cost) on an annual basis. Indicating "same as last year" or not providing an itemized list of all machinery and equipment may result in the loss of the exemption and an additional tax liability for the applicant.

44. What activities do not qualify for the exemption under CGS §12-81(72)?

Activities for which exemption eligibility has been denied include, but are not limited to: auto body shops, commercial laundries and dry cleaning establishments, electricity generating plants, re-packing and warehousing operations. Also ineligible are services including, but not limited to: cleaning services, environmental testing, diagnostic medical testing, consultants, mailing/billing services; direct or indirect mail distribution services; and software development.

45. Are there items commonly included on M-65 Forms that are not eligible for exemption?

Yes. Generally, such items are non-production items or improvements to real estate, neither of which qualifies for the exemption provided in §12-81(72). Examples of such items are:

Non-production items: office furniture and fixtures (files, desks, conference room furnishings, chairs, copiers, fax machines, administrative computers, postal scales, manifest systems, phone systems, etc.), pollution control equipment, (which may be exempted through the DEP, see Question #25); intangibles such as software, sales tax, software licenses, training, overhead costs, "cost of money" or financing costs; and service, maintenance or repair charges (substantial rebuilding of machinery and equipment or extensive overhaul "resulting in a significantly greater service life than such property would have had in the absence of such overhaul or with significantly greater functionality within the original service life of the property, beyond merely restoring the original functionality for the original service life" is allowable).

Real estate improvements: "leasehold improvements", HVAC systems, fire suppression systems or sprinkler systems, lighting systems, fencing, paving, foundations, floors, doors, windows, roofs, drainage ditches, catch basins, loading docks, utility hookups, sewer upgrades, in-ground fuel tanks, and landscaping.

46. If an applicant has a facility in this state devoted to research and development, can an exemption be granted for machinery/equipment located in the Connecticut facility?

Yes. There is no statutory provision which would prohibit the granting of an exemption under the circumstance described above, provided the machinery and equipment located in Connecticut is used for research and development directly related to manufacturing, and all other eligibility criteria are met.

47. Is exempt machinery and equipment that has been sold eligible for the exemption under §12-81(72) for the next assessment year?

When **leased machinery or equipment** is sold to another lessor and additional years are left in the five-year exemption term, an exemption is granted in the following assessment year if the property continues to be used by the manufacturer who received the exemption in the preceding year. For example, if a lessor of machinery sells both the machinery and the lease to another entity, but the lessee who received the exemption is still using the machinery in a manufacturing operation, the exemption would continue for the *remainder* for the five-year exemption period at the original acquisition cost basis.

Machinery and equipment sold by a lessor to a lessee will be eligible for only the balance of the five-year exemption term (with proper annual application), if there is a balance left. The lessee will not start a new exemption term upon purchase of the machinery and equipment that has benefited from exemption as leased equipment.

CGS §12-81(72) provides that “machinery or equipment shall not be eligible for exemption upon transfer from a seller to a related business or from a lessor to a lessee except to the extent it would have been eligible for exemption by the seller or lessor, as the case may be.” This statute also defines related business, as:

“...(i) A corporation, limited liability company, partnership, association or trust controlled by the taxpayer; (ii) an individual, corporation, limited liability company, partnership, association or trust that is in control of the taxpayer; (iii) a corporation, limited liability company, partnership, association or trust controlled by an individual, corporation, limited liability company, partnership, association or trust that is in control of the taxpayer; or (iv) a member of the same controlled group as the taxpayer. For the purposes of this subdivision, “control”, with respect to a corporation, means ownership, directly or indirectly, of stock possessing fifty percent or more of the total combined voting power of all classes of the stock of such corporation entitled to vote. “Control”, with respect to a trust, means ownership, directly or indirectly, of fifty per cent or more of the beneficial interest in the principal or income of such trust. The ownership of stock in a corporation, or a capital or profits interest in a partnership or association or of a beneficial interest in a trust shall be determined in accordance with the rules for constructive ownership of stock provided in Section 267(c) of the Internal Revenue Code of 1986, or any subsequent time amended, other than paragraph (3) of said Section 267(c).”

If the purchaser is an **unrelated third party and the acquisition was an “arm’s length transaction”** (excluding acquisition through the purchase of stock), a new five-year term of exemption will be allowed, providing all qualifying criteria are met. All filing requirements must be met and documentation and verification of the terms of the acquisition/transfer of assets is usually required prior to granting of the exemption.

48. Once the five-year exemption term under §12-81(72) ends, does machinery and equipment continue to be eligible for an exemption?

Yes. CGS §12-94f creates a new exemption program that gradually reduces and eventually eliminates the property tax that property owners pay for most machinery and equipment used in manufacturing and biotechnology. For the October 1, 2006 Grand List, machinery and equipment that was exempt under §12-81(72) for the October 1, 2005 Grand List, is eligible for a 20% exemption. For the October 1, 2007 Grand List, it is eligible for a 40% exemption. For the October 1, 2008 Grand List, it is eligible for a 60% exemption. For the October 1, 2009 Grand List,

it is eligible for an exemption of 80%. For the October 1, 2010 Grand List and each Grand List thereafter, the machinery and equipment is eligible for an exemption of 100%.

49. Is machinery and equipment that did not receive an exemption under §12-81(72) eligible for an exemption as of October 1, 2006?

Yes. The provisions of CGS §12-94f cover machinery and equipment (except that used in connection with recycling), as defined in §12-81(72), that is six years old or older as of October 1, 2006. As long as the machinery or equipment is 5-year or 7-year property for federal tax purposes that is installed in a facility and predominantly used for manufacturing or in connection with biotechnology, it is eligible an exemption beginning with the October 1, 2006 Grand List.

50. What constitutes six year old or older machinery and equipment?

The acquisition date of machinery and equipment determines its age for purposes of this new exemption. For the October 1, 2010 Grand List, machinery or equipment acquired on or before October 1, 2005 is eligible for this new exemption, because the machinery or equipment is six years old or older as of October 1, 2010. The machinery and equipment must meet all the other criteria for exemption (e.g., class life, installation and predominant use).

51. Is the new exemption available on the October 1, 2006 Grand List for six year old or older machinery and equipment used in connection with recycling?

No. Machinery and equipment that is 5-year or 7-year property for IRS purposes and used in connection with recycling is eligible for an exemption under CGS §12-81(72) only if acquired and installed "on or after July 1, 2006." As a result, such machinery and equipment cannot be six years old or older as of the October 1, 2006 Grand List.

52. How does the owner of a facility engaged in manufacturing or biotechnology receive this new exemption for eligible machinery and equipment that is six years old or older?

Under the provisions of CGS § 12-94f, Assessors must provide a Supplemental Form along with the Personal Property Declaration they provide to each owner of a manufacturing facility and the owner of each facility engaged in biotechnology. The information that machinery and equipment owners provide on the Supplemental Form allows Assessors to identify property that is eligible for this new property tax exemption.

53. What happens if a property owner does not complete a Supplemental Form and submit it to the Assessor?

If the Assessor is not able to identify exemption-eligible machinery and equipment, the Assessor cannot apply the new exemption to an owner's property.

54. When does a property owner submit a Supplemental Form to the Assessor?

Since the Supplemental Form is part of the Personal Property Declaration, the filing deadline for the Supplemental Form is the same as the filing deadline for the Personal Property Declaration (i.e., November 1st, unless the Assessor grants a filing extension under CGS §12-42).

55. Is leased machinery and equipment that is six years old or older eligible for this exemption?

Yes. The property's owner (lessor) must complete a Supplemental Form in order to receive this exemption for older leased machinery and equipment. The Assessor is required to send a Supplemental Form to the owners of manufacturing or biotechnology facilities, but there is no requirement that the Assessor send a Supplemental Form to machinery and equipment owners who lease such property to owners of such facilities. **Therefore, the owner of the facility which leases machinery and equipment must make the lessor aware of the Supplemental Form reporting requirement.**

56. Who is responsible for the difference between the full property tax for machinery and equipment and actual tax resulting from the application of this exemption?

The property's owner pays a reduced tax for exempt machinery and equipment and the State reimburses municipalities for difference between the full tax and the actual amount the taxpayer pays. The following chart illustrates this.

Assessment Date	Fiscal Year Commencing	Tax Portion State Pays	Tax Portion Owner Pays
October 1, 2006	July 1, 2007	20%	80%
October 1, 2007	July 1, 2008	40%	60%
October 1, 2008	July 1, 2009	60%	40%
October 1, 2009	July 1, 2010	80%	20%
October 1, 2010	July 1, 2011	100%	0%
October 1, 2011	July 1, 2012	100%	0%

PART II

ADMINISTRATION OF MANUFACTURING MACHINERY AND EQUIPMENT (MME) EXEMPTION PROGRAMS UNDER CGS §12-81(72) AND CGS §12-94f.

57. Are there changes affecting MME exemption eligibility under CGS §12-81(72) for the October 1, 2010 Grand List?

No.

58. Are there any changes to CGS §12-81(72) of which the Assessor should be aware?

No.

59. Once the exemption under CGS §12-81(72) is no longer available, is new or newly-acquired machinery and equipment exempt from taxation?

Section 84 of Public Act 06-186 amended CGS §12-81(72), as amended by Section 10 of Public Act 06-83, by providing an end date (i.e., the October 1, 2010 Grand List) for this exemption program.

The provisions of Section 9 of Public Act 06-83 create a new subdivision (76) in CGS §12-81, pursuant to which all new and newly-acquired machinery and equipment, as defined in CGS §12-81(72), is totally exempt from taxation for assessment years commencing on and after October 1, 2011. There is no state reimbursement for the property tax loss due to the 100% exemption under CGS §12-81(76), which is first applicable to the October 1, 2011 Grand List.

60. Are there changes to CGS §12-94b of which the Assessor should be aware?

Yes. Public Act 09-7 allows for the reimbursement to be “reduced proportionately in the event that the total of such grants in such year exceeds the amount appropriated.” OPM will prorate the amount of reimbursement for machinery and equipment exempt under §12-81(72) and §12-94f in the event the appropriation is insufficient.

61. Do any other provisions of Public Act 06-83 affect Assessors?

Yes. Section 13 of Public Act 06-86 (as amended by Section 85 of Public Act 06-186) created a new tax relief program that gradually reduces and eventually eliminates the property tax that machinery and equipment owners pay (**CGS §12-94f**). Assessors administer this new program, under which a property tax exemption is available, beginning with the October 1, 2006 Grand List, for machinery and equipment defined in CGS §12-81(72), that is six years of age or older. The following exemption percentages apply for the Grand Lists specified:

Grand List	Exemption Percentage
2006	20%
2007	40%
2008	60%
2009	80%

2010 100%

2011 and after 100%

62. What is an Assessor's responsibility with respect to this new exemption program CGS §12-94f?

Assessors must provide a Supplemental Form along with the Personal Property Declaration they provide to each owner of a manufacturing facility and a facility engaged in biotechnology. Assessors will use the information that machinery and equipment owners submit on the Supplemental Form to identify machinery and equipment that is eligible for this new property tax exemption.

63. Who prescribes the Supplemental Form?

Assessors prescribe the Supplemental Form for their taxpayers, since the form is part of the Personal Property Declaration.

64. What happens if a taxpayer does not file a Supplemental Form?

If a taxpayer fails to file a Supplemental Form, the Assessor cannot identify machinery and equipment that is eligible for this new exemption. As a result, the taxpayer does not receive the exemption for that assessment year.

65. What happens if a taxpayer does not file a Supplemental Form with the Assessor on or before November 1st?

The Supplemental Form is part of the Personal Property Declaration. If the Assessor grants a taxpayer an extension to file the Personal Property Declaration under the provisions of CGS §12-42, there is an automatic extension of the date by which the taxpayer must submit the Supplemental Form.

66. Is there a statutory depreciation schedule for machinery and equipment that is exempt under this new program?

No. Unlike the provisions of CGS §12-94c, there is no statutory depreciation schedule for purposes of determining the value of machinery and equipment that is exempt under this new program. However, Assessors must determine the depreciated value of machinery and equipment for purposes of this program in accordance with the same method they used previously.

The amendments to CGS §12-63 contained in Section 287 of Public Act 06-196 and Section 11 of Public Act 06-83, prohibit an assessor from altering depreciation schedule(s) applicable to machinery and equipment that qualifies for this exemption in a way that would result in an assessment increase over the prior year's assessment for the same or similar property.

67. What Abstract Code does the Assessor utilize to reflect the new property tax exemption for machinery or equipment under CGS §12-94f?

'R' is the code for this personal property exemption.

68. What is the personal property code for machinery and equipment that is exempt under this new program?

The Personal Property Code is #15. There are two sub codes: #15a for manufacturing and #15b for biotechnology.

69. Why are there sub codes for Personal Property Code #15?

The use of two sub codes is necessary because some Assessors use a more accelerated depreciation schedule for certain machinery and equipment, such as that used in connection with the biotechnology or pharmaceutical industries, than they use for manufacturing machinery and equipment. Assessors who use a more accelerated depreciation schedule for technologically

advanced machinery and equipment in other types of manufacturing facilities must ensure that their taxpayers accurately report machinery and equipment for purposes of this new exemption.

For example, if an Assessor used a more accelerated depreciation schedule on the October 1, 2005 Grand List for technologically advanced machinery and equipment in a manufacturing facility that is not engaged in biotechnology and is not a pharmaceutical firm, a more accelerated depreciation schedule must be used for the same or similar machinery and equipment on the October 1, 2006 Grand List. The instructions the Assessor provides with the Supplemental Form must direct the taxpayer to report machinery or equipment in a way that values it using a schedule that does not result in an increase in its assessment over the prior year's assessment.

70. Does the Assessor have to provide a copy of each taxpayer's Supplemental Form to OPM?

Yes. The Assessor must submit a copy of each Supplemental Form to OPM at the same time the Assessor submits Form M-65a for the exemption granted under CGS §12-81(72). The summary information that Assessors will report to OPM on or before March 15, 2011 regarding 2010 Grand List exemptions under CGS §12-94f is similar to the information on Form M-65a.

71. Does a municipality receive reimbursement for property tax losses due to the exemption under CGS §12-94f?

Yes. For the October 2010 Grand List, the State's reimbursement for the tax losses municipalities sustain as a result of the 100% exemption for six year old or older machinery and equipment, will be remitted in December of 2011.

72. Does OPM have the ability to audit a municipality's claim for property tax losses due to the exemption under CGS § 12-94f?

Yes. For the October 2010 Grand List, OPM may audit such an exemption claim on or before December 15, 2012.

73. Is machinery and equipment that did not previously receive an exemption under CGS §12-81(72) eligible for an exemption under CGS §12-94f, as amended, for the October 1, 2010 Grand List?

Yes. Although the definitions of machinery and equipment under CGS §12-81(72) are applicable for the new exemption, the provisions of CGS §12-94f cover all eligible machinery and equipment (except that used in connection with recycling) that is six years old or older as of October 1, 2010

As long as machinery or equipment is installed and predominantly used for manufacturing or in connection with biotechnology, and is 5-year or 7-year property for IRS purposes, it is eligible for a 100% exemption on the October 1, 2010 Grand List.

74. What happens to machinery and equipment once the five-year exemption term ends under CGS §12-8(72)?

Section 85 of Public Act 06-186 provides that reimbursement to municipalities for tax losses due to exemptions under CGS §12-81(72) continue "...for five years from the date such machinery and equipment became eligible [for the exemption]." As exemption eligibility under CGS §12-81(72) ceases, machinery or equipment becomes eligible for the exemption under CGS §12-94f. The applicable exemption percentage varies depending on the Grand List for which machinery or equipment becomes exempt under CGS §12-94f.

For example, a qualified machine acquired and installed September 15, 2002 is eligible for an exemption of 100% under CGS §12-81(72) on the Grand List that corresponds to the following assessment dates: October 1, 2002, October 1, 2003, October 1, 2004, October 1, 2005 and October 1, 2006. For the October 1, 2010 Grand List, the provisions of CGS §12-94f provide that a 100% exemption is applicable to this machine.

The chart on Page 12 of these *Guidelines* (Question #61) reflects applicable percentages for various Grand Lists.

75. Will the State continue to reimburse municipalities for exempt machinery and equipment?

The provisions of Section 14 of Public Act 06-83 freeze the amount of the State's reimbursement to municipalities for tax losses due to exemptions under CGS §12-81(72) and exemptions under the provisions of CGS §12-94f at the amount of the tax that would have been received for the October 1, 2011 Grand List, except for such exemptions. Since CGS §12-81(72) provides a 100% exemption for machinery and equipment on the October 1, 2010 Grand List, for eligible machinery or equipment acquired and installed on or after October 2, 2005, and an exemption of 100% is applicable to six year old or older machinery and equipment on the October 1, 2010 Grand List, the grant will represent 100% of the tax loss due to the exempt status of all eligible manufacturing and biotechnology machinery and equipment.

In each fiscal year commencing on or after July 1, 2013, each municipality will receive the same amount as the grant amount payable in Fiscal Year 2012-13 (for the 2011 Grand List).

76. If property exempted under CGS §12-81(72) or CGS §12-94f is sold after the assessment date on which the exemption is granted, is the exemption to be prorated under the provisions of §12-81a?

No. CGS §12-81(72)(b) prohibits the proration of this exemption. Similarly, Assessors cannot prorate the exemption under CGS §12-94f.

77. Is the Assessor required to send Form M-65 to manufacturers so that they may file for the exemption under CGS §12-81(72)?

No, there is no statutory requirement to do so. If a taxpayer does not receive Form M-65 on or about October 1st, the taxpayer should immediately request the form from either the Assessor or from OPM.

78. Does the Assessor have the authority to deny the exemption provided by CGS §12-81(72) if the claimant is delinquent in a property tax payment to the municipality?

Yes. The Assessor must obtain the consent of the chief executive officer of the municipality and send written notice to the claimant regarding the exemption denial. The notice must state that the claimant may pay the tax or enter into an agreement to pay the tax by a date set forth in the notice, provided that date is at least thirty days after the date of the notice. A taxpayer's failure to pay the tax or enter into an agreement to pay the tax by the date set forth in the agreement results in the denial of the exemption.

Note: There is no mechanism to reinstate an exemption the Assessor denies if the taxpayer pays the delinquent tax *after* the date set forth in the notice or agreement.

79. Does the State or a municipality have a security interest in the exempt machinery and equipment?

Yes, CGS §12-81(72) provides that the State of Connecticut and the municipality in which the property is installed have a security interest in the exempt machinery or equipment. The security interest (equal to the state's reimbursement or the municipality's tax loss) is enforceable for a period of five years following the last assessment year in which the manufacturer receives the exemption.

The security interest is enforceable if the manufacturer ceases all manufacturing operations or moves the manufacturing operation in its entirety out of the State of Connecticut. Assessors must notify OPM of the cessation of operations or a move out of state any time after October 1st of the last assessment year in which a manufacturer receives the exemption and before the September 30th that is five years after the conclusion of that assessment year.

OPM may file a lien under CGS §12-35a to recover reimbursement or Connecticut's Attorney General may bring a civil action in a court of competent jurisdiction to recover such reimbursement.

80. Is the information contained on Form M-65 or on the Supplemental Form open for public inspection?

No. Commercial or financial information in any application or list filed under CGS §12-81(72) is not open for public inspection, provided such information is given in confidence, and is not available to the public from any other source.

The Supplemental Form is part of the Personal Property Declaration. Since taxpayers may request confidentiality of commercial or financial information they provide to Assessors on a Personal Property Declaration, the commercial or financial information on a Supplemental Form is also not open for public inspection, if given in confidence and not available to the public from any other source.

81. How will the 'three month rule' impact the exemption under CGS §12-81(72) and under the program that CGS §12-94f created?

The "three month rule" will serve to complicate matters. This is due to the fact that under the "three month rule," property is not necessarily taxed in the town where it is located on an assessment date. Instead, it is taxed in the town where the property's situs has been established in accordance with CGS §12-43 and CGS §12-59.

For example, FAX, Inc. (whose corporate headquarters is in Stamford) purchases a new manufacturing machine on July 15, 2010. On August 1, 2010, the machine is leased to the PDQ Company and installed in its manufacturing facility located in Hartford. On October 1, 2010, FAX, Inc. includes the machine in a Personal Property Declaration filed in Stamford. (As the machine was not located in any town for three or more of the twelve months preceding October 1, 2010, it is taxable in the town where the corporation has its principal place of business.) However, PDQ Company files Form M-65 in Hartford (the city in which its manufacturing facility is located). The 2010 Grand List exemption can only be applied in the municipality in which the machinery or equipment is taxed (that is, Stamford). Therefore, the Hartford Assessor must forward the company's Form M-65 to the Stamford Assessor upon receiving a request to do so.

82. If a manufacturer's facility is located in an Enterprise Zone in a municipality that has adopted the provisions of §32-71(e), does the Assessor exempt the manufacturer's new machinery and equipment in accordance with the local ordinance or with §12-81(72)?

An agreement to abate taxes on personal property located in an Enterprise Zone is essentially a tax incentive offered by a municipality seeking to encourage various types of business expansion. Such local option exemption or abatement (as well as non-reimbursed State mandated exemptions) take priority in application over any State reimbursable exemptions. Therefore, any new machinery and equipment owned by a manufacturer is exempt in accordance with the ordinance adopted pursuant to CGS §32-71(e).

83. Can a manufacturer who has been issued an Eligibility Certificate under the Distressed Municipality Program apply for the exemption for new machinery and equipment under §12-81(72)?

Yes. Only one exemption is applicable to new manufacturing machinery or equipment in any assessment year (i.e., an exemption under only one of the above mentioned subdivisions applies). A manufacturer must determine which exemption produces the best benefit.

While it may be to a manufacturer's advantage to apply for the 100% exemption under subdivision (72) of CGS §12-81, rather than applying for a lesser percentage of exemption under subdivision (60) or (70) of CGS §12-81, the manufacturer must consider the different eligibility criteria that apply. For example, certain property (such as 3-year property for IRS purposes) may qualify under CGS §12-81(60) but may not qualify under CGS §12-81(72).

Claim forms, documents, and certifications utilized for the Distressed Municipality Program are not acceptable substitutes for Form M-65. A manufacturer must complete and submit Form M-65 to obtain an exemption under CGS §12-81(72).

84. If a taxpayer acquires new machinery and equipment, files Form M-65 in the first year and fails to file Form M-65 for the property in the subsequent year, can the taxpayer apply for an exemption for the balance of the five years following the year of acquisition?

Yes. Since the exemption under CGS §12-81(72) is available during the five assessment years following the assessment year in which the property is acquired and installed, however, the manufacturer's failure to file Form M-65 for an assessment year means that the property cannot receive the exemption for five assessment years.

For example, a manufacturer acquires and installs eligible property on March 10, 2006 and files Form M-65 for the October 1, 2006 assessment year. The manufacturer does not file Form M-65 for the October 1, 2007 assessment year. The manufacturer waives the right to the exemption for the October 1, 2007 assessment year due to the failure to file Form M-65 for that year. The manufacturer may receive the exemption for the October 1, 2008, October 1, 2009 and October 1, 2010 assessment years, by filing Form M-65, as required, for each of those years. (The manufacturer must reflect the March 10, 2006 acquisition/installation date on each Form M-65 filed for these assessment years.)

The manufacturer's property is exempt for four assessment years only (i.e., 2006, 2008, 2009 and 2010). The manufacturer cannot add the "missed" year to the end of the exemption term (i.e., by claiming an exemption for the October 1, 2011 assessment year), since the five-year period from the date of acquisition and installation ends October 1, 2010.

85. What happens if a taxpayer does not file Form M-65 with the Assessor on or before November 1st?

CGS §12-81(72) provides that failure to file Form M-65 in a timely manner constitutes a waiver of the right to claim the exemption for the assessment year commencing October 1. However, an extension of the filing period may be granted by the Assessor, under the provisions of CGS §12-81k. The Assessor may grant an extension of the time to file Form M-65 "until the fifteenth day of December".

86. What happens if a taxpayer files Form M-65 with the Assessor on or before November 1st, and subsequently discovers that not all eligible machinery and equipment was included in Form M-65 as filed. Can the taxpayer file an amended Form M-65?

A taxpayer cannot file an original or amended Form M-65 after November 1st, without receiving a filing extension from the Assessor pursuant to CGS §12-81k. If a taxpayer does not receive a filing extension, the exemption will apply to the assessment of machinery and equipment that appears on Form M-65 as originally filed.

In no case does an Assessor have the authority to extend the date for filing an original or amended Form M-65 beyond December 15th. OPM may request proof of timely filing and a copy of the original Form M-65.

Note: In no case, does an Assessor have the authority to accept an amended Form M-65 after November 1st, in which there is an increase in the assessment over the assessment on the taxpayer's original Form M-65, unless the taxpayer has requested and received an extension to file. If the amendment to Form M-65 provides factual information that does not result in an increase in the assessment to which the exemption is applicable, the taxpayer does not have to receive a filing extension. The Assessor may accept such factual information and forward it to OPM at any time prior to the close of the audit period for the assessment year for which the taxpayer filed Form M-65.

87. Is there a penalty for late filing of Form M-65?

Yes. A person who receives an extension to file Form M-65 must pay a late filing fee to the municipality before the Assessor can accept the form. The fee ranges from \$50 to \$500, depending on the assessment of the property for which the person is seeking the exemption. The Assessor has the authority to waive the late filing fee.

The following chart reflects the amount of a late filing fee under the provisions of CGS §12-81k:

Assessment	Late Filing Fee
\$100,000 or less	Fifty dollars (\$50)
Between \$100,001 and \$249,999	One hundred fifty dollars (\$150)
Between \$250,000 and \$499,999	Two hundred fifty dollars (\$250)
\$500,000 or more	Five hundred dollars (\$500)

88. Is it necessary to request an extension to file Form M-65 if the Assessor grants an extension of the time to file the Personal Property Declaration?

A taxpayer who receives an extension from the Assessor to file the Personal Property Declaration under CGS §12-42, does not have to request an extension to file Form M-65. The provisions of CGS §12-81k automatically extend the filing date for Form M-65 when the Assessor grants a filing date extension for the Personal Property Declaration. Since Assessors may provide an extension that is less than the full 45 days the law allows, a taxpayer should confirm the extended due date for these filings with the Assessor. The taxpayer must also pay the late filing fee when submitting Form M-65 to the Assessor after November 1st.

89. To whom is the late filing fee payable?

The late filing fee is payable to the municipality. A person who receives an extension must make out a check payable to the municipality and submit the check to the Assessor when filing Form M-65.

90. If an Assessor changes the amount of an assessment a taxpayer submits on Form M-65, or a taxpayer changes the assessment by filing an amended Form M-65, does the Assessor adjust the amount of the late filing fee?

No. The basis of the fee is the assessed value of the machinery and equipment the taxpayer lists on Form M-65 (or on an amended Form M-65) for exemption purposes, when the form is submitted after November 1st and not later than December 15, due to receipt of a filing extension from the Assessor. There is no adjustment to the fee amount due to a change the Assessor or OPM makes to in terms of exemption approval.

If a taxpayer requests an extension in order to increase the amount of the assessment for exemption purposes, the amount of increase in the assessed value of machinery and equipment on the amended Form M-65 over the assessment of the property reported on the Form M-65 the taxpayer originally submitted, is the basis for the late filing fee.

91. Does the fact that the Assessor grants an extension of the time to file Form M-65 mean that the Assessor approves the exemption?

No. The Assessor may grant a filing extension to a taxpayer who meets the requirements of CGS §12-81k, but may deny the exemption subsequent to receiving Form M-65 on or before the extended filing date.

92. What Abstract Code does the Assessor utilize to reflect the property tax exemption for manufacturing machinery or equipment under CGS §12-81(72)?

'N' is the code for this personal property exemption.

93. If an Assessor denies an exemption for property listed on Form M-65 or on a Supplemental Form, what is the taxpayer's recourse?

The taxpayer may file an appeal with the Board of Assessment Appeals, in accordance with CGS §12-111. If the taxpayer is aggrieved by a decision the Board of Assessment Appeals renders, the taxpayer may file an appeal with the Superior Court, as provided in CGS §12-117a.

94. Are the exemptions under CGS §12-81(72) and CGS §12-94f applicable only in towns and cities?

No. These exemptions are applicable in any town, city, borough, consolidated town and city, consolidated town and borough, as well as any special taxing district as defined in Connecticut General Statutes § 7-324.

95. If an Assessor applies a 25% assessment penalty due to a property owner's failure to list property in accordance with the provisions of CGS §12-41, is the penalty assessment included in the municipality's reimbursement claims for the revenue loss due to the exemptions under CGS §12-81(72) and CGS §12-94f?

No. If an owner receives a penalty for failure to file a timely itemized listing of his personal property, the owner is responsible for the payment of that portion of tax liability, which the penalty represents. The figure the Assessor submits to OPM for reimbursement purposes is the eligible assessment from Form M-65 (for new and newly-acquired machinery and equipment less than six years old) or Code #15 (for six year old or older machinery and equipment).

96. What information must the Assessor provide to OPM on Form M-65a?

On Form M-65a, the Assessor must provide the name of the property owner, the assessed value of the exempt property, and the total amount of the exemption granted. **If more than one mill rate is applicable to the exemptions granted, the different districts must be identified and separate totals provided.** In substantiation of the claim, the Assessor should also forward the original Form M-65 with any attachments, as filed by each applicant/manufacture. The Assessor should retain a copy of the claim. A copy of any Form M-65 that was denied at the municipal level should also be included with the claim for reimbursement.

97. Who is responsible for filing Form M65a for a special taxing district that does not have an Assessor?

Either the Treasurer or Chief Executive Office of the district may file Form M-65a. Since the Assessor of the town in which the district is located submits each Form M-65 to OPM, copies do not have to be included with a district's Form M-65a.

98. How should an Assessor amend Form M-65a after it has been filed with OPM?

The Assessor should draw a single line through the amount of assessment originally reported on the Assessor's copy of Form M-65a. The Assessor should enter the correct amount in red, together with the notation "Amended". The Assessor should forward the amended Form M-65a to OPM along with a brief explanation concerning the reason for the change. If appropriate, the Assessor should also forward Form(s) M-65.

99. If any person is aggrieved by the decision of the OPM Secretary concerning the disposition of an appeal or the denial of an appeal hearing, what is the person's recourse?

Such person may, not later than 30 business days after receiving OPM's final notice related to the person's request for reconsideration of a modification or denial, appeal to the Superior Court for the judicial district in which the manufacturing facility is subject to property taxation, pursuant to CGS §12-120b.