



January 22, 2016

HOUSE BILL No. 1169

DIGEST OF HB 1169 (Updated January 20, 2016 5:02 pm - DI 58)

Citations Affected: IC 6-1.1.

Synopsis: Business personal property tax exemption. Replaces the requirement that a taxpayer that is eligible for the business personal property tax exemption (exemption) submit to the county assessor a notarized statement each year affirming the taxpayer's eligibility for the exemption, subject to penalties for perjury, with a requirement that the taxpayer indicate on the taxpayer's personal property return that the taxpayer is eligible for the exemption for the assessment date. Reduces the maximum local service fee that may be imposed on a taxpayer each year that qualifies for the exemption from \$50 per year to \$25 per year. Eliminates the \$25 penalty applicable to a taxpayer that fails to file a notarized statement with the county assessor affirming the taxpayer's eligibility for the exemption. Changes the basis for valuing personal property for the exemption from acquisition cost to assessed value.

Effective: Upon passage.

Saunders

January 7, 2016, read first time and referred to Committee on Ways and Means.
January 21, 2016, amended, reported — Do Pass.

HB 1169—LS 6448/DI 92



January 22, 2016

Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1169

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-3-7.2, AS AMENDED BY P.L.249-2015,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 7.2. (a) This section applies to assessment
4 dates occurring after December 31, 2015.
5 (b) As used in this section, "affiliate" means an entity that
6 effectively controls or is controlled by a taxpayer or is associated with
7 a taxpayer under common ownership or control, whether by
8 shareholdings or other means.
9 (c) As used in this section, "business personal property" means
10 personal property that:
11 (1) is otherwise subject to assessment and taxation under this
12 article;
13 (2) is used in a trade or business or otherwise held, used, or
14 consumed in connection with the production of income; and
15 (3) was:
16 (A) acquired by the taxpayer in an arms length transaction
17 from an entity that is not an affiliate of the taxpayer, if the

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1 personal property has been previously used in Indiana before
2 being placed in service in the county; or

3 (B) acquired in any manner, if the personal property has never
4 been previously used in Indiana before being placed in service
5 in the county.

6 The term does not include mobile homes assessed under IC 6-1.1-7,
7 personal property held as an investment, or personal property that is
8 assessed under IC 6-1.1-8 and is owned by a public utility subject to
9 regulation by the Indiana utility regulatory commission. However, the
10 term does include the personal property of a telephone company or a
11 communications service provider if that personal property meets the
12 requirements of subdivisions (1) through (3), regardless of whether that
13 personal property is assessed under IC 6-1.1-8 and regardless of
14 whether the telephone company or communications service provider is
15 subject to regulation by the Indiana utility regulatory commission.

16 (d) Notwithstanding section 7 of this chapter, if the ~~acquisition cost~~
17 **assessed value** of a taxpayer's total business personal property in a
18 county is less than twenty thousand dollars (\$20,000) for that
19 assessment date, the taxpayer's business personal property in the county
20 for that assessment date is exempt from taxation.

21 (e) ~~A taxpayer that is eligible for the exemption under this section~~
22 ~~is not required to file a personal property return for the taxpayer's~~
23 ~~business personal property in the county for that assessment date.~~
24 ~~However, the taxpayer must, before May 15 of the calendar year in~~
25 ~~which the assessment date occurs, file with the county assessor an~~
26 ~~annual notarized certification signed under penalties for perjury stating~~
27 ~~that the taxpayer's business personal property in the county is exempt~~
28 ~~from taxation under this section for that assessment date. A taxpayer~~
29 ~~that is eligible for the exemption under this section for an~~
30 ~~assessment date shall indicate on the taxpayer's personal property~~
31 ~~return that the taxpayer's business personal property in the county~~
32 ~~is exempt from property taxation for the assessment date.~~

33 SECTION 2. IC 6-1.1-3-7.3, AS ADDED BY P.L.242-2015,
34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 UPON PASSAGE]: Sec. 7.3. (a) A county fiscal body may adopt an
36 ordinance to impose a local service fee on each person that ~~files an~~
37 ~~annual certification with the county assessor under section 7.2 of this~~
38 ~~chapter stating indicates on the person's personal property return~~
39 ~~that the person's business personal property in the county is exempt~~
40 ~~from taxation under section 7.2 of this chapter for an assessment date~~
41 ~~after December 31, 2015.~~

42 (b) The county fiscal body shall specify the amount of the local



1 service fee in the ordinance. A local service fee imposed on a person
 2 under this section may not exceed ~~forty~~ **twenty-five** dollars ~~(\$50)~~
 3 **(\$25)**.

4 (c) A local service fee imposed for an assessment date is due and
 5 payable at the same time that property taxes for that assessment date
 6 are due and payable. A county may collect a delinquent local service
 7 fee in the same manner as delinquent property taxes are collected.

8 (d) The revenue from a local service fee:

9 (1) shall be allocated in the same manner and proportion and at
 10 the same time as property taxes are allocated to each taxing unit
 11 in the county; and

12 (2) may be used by a taxing unit for any lawful purpose of the
 13 taxing unit.

14 SECTION 3. IC 6-1.1-37-7, AS AMENDED BY P.L.249-2015,
 15 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 7. (a) If a person fails to file a required
 17 personal property return on or before the due date, the county auditor
 18 shall add a penalty of twenty-five dollars (\$25) to the person's next
 19 property tax installment. The county auditor shall also add an
 20 additional penalty to the taxes payable by the person if the person fails
 21 to file the personal property return within thirty (30) days after the due
 22 date. The amount of the additional penalty is twenty percent (20%) of
 23 the taxes finally determined to be due with respect to the personal
 24 property which should have been reported on the return.

25 (b) For purposes of this section, a personal property return is not due
 26 until the expiration of any extension period granted by the township or
 27 county assessor under IC 6-1.1-3-7(b).

28 (c) The penalties prescribed under this section do not apply to an
 29 individual or the individual's dependents if the individual:

30 (1) is in the military or naval forces of the United States on the
 31 assessment date; and

32 (2) is covered by the federal Servicemembers Civil Relief Act (50
 33 U.S.C. App. 501 et seq.) or IC 10-16-20.

34 (d) If a person subject to IC 6-1.1-3-7(c) fails to include on a
 35 personal property return the information, if any, that the department of
 36 local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13,
 37 the county auditor shall add a penalty to the property tax installment
 38 next due for the return. The amount of the penalty is twenty-five dollars
 39 (\$25).

40 (e) If the total assessed value that a person reports on a personal
 41 property return is less than the total assessed value that the person is
 42 required by law to report and if the amount of the undervaluation



1 exceeds five percent (5%) of the value that should have been reported
 2 on the return, then the county auditor shall add a penalty of twenty
 3 percent (20%) of the additional taxes finally determined to be due as
 4 a result of the undervaluation. The penalty shall be added to the
 5 property tax installment next due for the return on which the property
 6 was undervalued. If a person has complied with all of the requirements
 7 for claiming a deduction, an exemption, or an adjustment for abnormal
 8 obsolescence, then the increase in assessed value that results from a
 9 denial of the deduction, exemption, or adjustment for abnormal
 10 obsolescence is not considered to result from an undervaluation for
 11 purposes of this subsection.

12 ~~(f) If a person required by IC 6-1.1-3-7.2(e) to file an annual~~
 13 ~~certification with the county assessor fails to timely file the annual~~
 14 ~~certification, the county auditor shall impose a penalty of twenty-five~~
 15 ~~dollars (\$25) that must be paid by the person with the next property tax~~
 16 ~~installment that is collected.~~

17 ~~(g) (f)~~ A penalty is due with an installment under subsection (a), (d),
 18 ~~or (e) or (f)~~ whether or not an appeal is filed under IC 6-1.1-15-5 with
 19 respect to the tax due on that installment.

20 **SECTION 4. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1169, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 16, strike "acquisition cost" and insert "**assessed value**".

Page 2, line 21, strike "A taxpayer that is eligible for the exemption under this section".

Page 2, strike lines 22 through 25.

Page 2, line 26, strike "annual".

Page 2, line 26, strike "certification signed under penalties for perjury stating".

Page 2, strike lines 27 through 28 and insert "**A taxpayer that is eligible for the exemption under this section for an assessment date shall indicate on the taxpayer's personal property return that the taxpayer's business personal property in the county is exempt from property taxation for the assessment date.**

SECTION 2. IC 6-1.1-3-7.3, AS ADDED BY P.L.242-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.3. (a) A county fiscal body may adopt an ordinance to impose a local service fee on each person that ~~files an annual certification with the county assessor under section 7.2 of this chapter stating~~ **indicates on the person's personal property return** that the person's business personal property in the county is exempt from taxation under section 7.2 of this chapter for an assessment date after December 31, 2015.

(b) The county fiscal body shall specify the amount of the local service fee in the ordinance. A local service fee imposed on a person under this section may not exceed ~~fifty twenty-five~~ **twenty-five** dollars ~~(\$50)~~ **(\$25)**.

(c) A local service fee imposed for an assessment date is due and payable at the same time that property taxes for that assessment date are due and payable. A county may collect a delinquent local service fee in the same manner as delinquent property taxes are collected.

(d) The revenue from a local service fee:

(1) shall be allocated in the same manner and proportion and at the same time as property taxes are allocated to each taxing unit in the county; and

(2) may be used by a taxing unit for any lawful purpose of the taxing unit.

SECTION 3. IC 6-1.1-37-7, AS AMENDED BY P.L.249-2015,



SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If a person fails to file a required personal property return on or before the due date, the county auditor shall add a penalty of twenty-five dollars (\$25) to the person's next property tax installment. The county auditor shall also add an additional penalty to the taxes payable by the person if the person fails to file the personal property return within thirty (30) days after the due date. The amount of the additional penalty is twenty percent (20%) of the taxes finally determined to be due with respect to the personal property which should have been reported on the return.

(b) For purposes of this section, a personal property return is not due until the expiration of any extension period granted by the township or county assessor under IC 6-1.1-3-7(b).

(c) The penalties prescribed under this section do not apply to an individual or the individual's dependents if the individual:

- (1) is in the military or naval forces of the United States on the assessment date; and
- (2) is covered by the federal Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) or IC 10-16-20.

(d) If a person subject to IC 6-1.1-3-7(c) fails to include on a personal property return the information, if any, that the department of local government finance requires under IC 6-1.1-3-9 or IC 6-1.1-5-13, the county auditor shall add a penalty to the property tax installment next due for the return. The amount of the penalty is twenty-five dollars (\$25).

(e) If the total assessed value that a person reports on a personal property return is less than the total assessed value that the person is required by law to report and if the amount of the undervaluation exceeds five percent (5%) of the value that should have been reported on the return, then the county auditor shall add a penalty of twenty percent (20%) of the additional taxes finally determined to be due as a result of the undervaluation. The penalty shall be added to the property tax installment next due for the return on which the property was undervalued. If a person has complied with all of the requirements for claiming a deduction, an exemption, or an adjustment for abnormal obsolescence, then the increase in assessed value that results from a denial of the deduction, exemption, or adjustment for abnormal obsolescence is not considered to result from an undervaluation for purposes of this subsection.

~~(f) If a person required by IC 6-1.1-3-7.2(e) to file an annual certification with the county assessor fails to timely file the annual certification, the county auditor shall impose a penalty of twenty-five~~



dollars (\$25) that must be paid by the person with the next property tax installment that is collected:

~~(g)~~ **(f)** A penalty is due with an installment under subsection (a), (d), **or** (e) ~~or (f)~~ whether or not an appeal is filed under IC 6-1.1-15-5 with respect to the tax due on that installment."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1169 as introduced.)

BROWN T

Committee Vote: yeas 16, nays 4.

