

SENATE BILL No. 378

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1.

Synopsis: Assessment of business personal property. Increases the acquisition cost threshold for the business personal property tax exemption from \$80,000 to \$250,000. Provides an exemption for business personal property regardless of the acquisition cost that applies only if the property is placed in service in calendar year 2023. Allows the exemption for the entire useful life of the property. Requires the department of local government finance to adopt rules to amend the Indiana Administrative Code to reduce the minimum valuation percentage for depreciable personal property from 30% to 27.5% for the 2023 assessment date, and to 25% for assessment dates beginning in 2024 and thereafter. Amends the county option exemption for business personal property to allow counties to adopt an exemption ordinance that applies only to the first five year period after new business personal property is placed in service and that would require the personal property to be placed back on the tax rolls beginning in the sixth year of its useful life. Makes conforming changes.

Effective: Upon passage; January 1, 2023; July 1, 2023.

Buchanan, Rogers

January 10, 2022, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 378



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 6-1.1-2-7, AS AMENDED BY P.L.234-2019,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2023]: Sec. 7. (a) As used in this section, "nonbusiness
4 personal property" means personal property that is not:
5 (1) held for sale in the ordinary course of a trade or business;
6 (2) held, used, or consumed in connection with the production of
7 income; or
8 (3) held as an investment.
9 (b) The following property is not subject to assessment and taxation
10 under this article:
11 (1) A commercial vessel that is subject to the net tonnage tax
12 imposed under IC 6-6-6.
13 (2) A vehicle that is subject to the vehicle excise tax imposed
14 under IC 6-6-5.
15 (3) A motorized boat or sailboat that is subject to the boat excise
16 tax imposed under IC 6-6-11.
17 (4) Property used by a cemetery (as defined in IC 23-14-33-7) if



- 1 the cemetery:
- 2 (A) does not have a board of directors, board of trustees, or
- 3 other governing authority other than the state or a political
- 4 subdivision; and
- 5 (B) has had no business transaction during the preceding
- 6 calendar year.
- 7 (5) A commercial vehicle that is subject to the annual excise tax
- 8 imposed under IC 6-6-5.5.
- 9 (6) Inventory.
- 10 (7) A recreational vehicle or truck camper that is subject to the
- 11 annual excise tax imposed under IC 6-6-5.1.
- 12 (8) The following types of nonbusiness personal property:
- 13 (A) All-terrain vehicles.
- 14 (B) Snowmobiles.
- 15 (C) Rowboats, canoes, kayaks, and other human powered
- 16 boats.
- 17 (D) Invalid chairs.
- 18 (E) Yard and garden tractors.
- 19 (F) Trailers that are not subject to an excise tax under:
- 20 (i) IC 6-6-5;
- 21 (ii) IC 6-6-5.1; or
- 22 (iii) IC 6-6-5.5.
- 23 (9) For an assessment date after December 31, 2018, heavy rental
- 24 equipment (as defined in IC 6-6-15-2) that is rented or held for
- 25 rental or sale, the rental of which is or would be subject to the
- 26 heavy equipment rental excise tax provisions under IC 6-6-15;
- 27 provided, however, that a rentee that is exempt under
- 28 IC 6-6-15-4(a)(3) from such excise tax shall be subject to the
- 29 provisions of this article on such equipment.
- 30 **(10) Business personal property (as defined in IC 6-1.1-10.2-3)**
- 31 **that is exempt from assessment and taxation under**
- 32 **IC 6-1.1-10.2.**
- 33 SECTION 2. IC 6-1.1-3-7.2, AS AMENDED BY P.L.153-2021,
- 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 35 JANUARY 1, 2023]: Sec. 7.2. (a) This section applies to assessment
- 36 dates occurring after December 31, 2015.
- 37 (b) As used in this section, "affiliate" means an entity that
- 38 effectively controls or is controlled by a taxpayer or is associated with
- 39 a taxpayer under common ownership or control, whether by
- 40 shareholdings or other means.
- 41 (c) As used in this section, "business personal property" means
- 42 personal property that:



- 1 (1) is otherwise subject to assessment and taxation under this
 2 article;
 3 (2) is used in a trade or business or otherwise held, used, or
 4 consumed in connection with the production of income; and
 5 (3) was:
 6 (A) acquired by the taxpayer in an arms length transaction
 7 from an entity that is not an affiliate of the taxpayer, if the
 8 personal property has been previously used in Indiana before
 9 being placed in service in the county; or
 10 (B) acquired in any manner, if the personal property has never
 11 been previously used in Indiana before being placed in service
 12 in the county.

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

23 (d) Notwithstanding section 7 of this chapter, if the acquisition cost
 24 of a taxpayer's total business personal property in a county is less than
 25 ~~eighty thousand dollars (\$80,000)~~ **two hundred fifty thousand dollars**
 26 **(\$250,000)** for that assessment date, the taxpayer's business personal
 27 property in the county for that assessment date is exempt from taxation.

28 (e) A taxpayer that is eligible for the exemption under this section
 29 for an assessment date shall include the following information on the
 30 taxpayer's personal property tax return:

- 31 (1) A declaration that the taxpayer's business personal property in
 32 the county is exempt from property taxation.
 33 (2) Whether the taxpayer's business personal property within the
 34 county is in one (1) location or multiple locations.
 35 (3) An address for the location of the property.

36 If the business personal property is in multiple locations within a
 37 county, the taxpayer shall provide an address for the location where the
 38 sum of acquisition costs for business personal property is greatest. If
 39 two (2) or more addresses contain the greatest equivalent sum of
 40 acquisition costs for business personal property within a given county,
 41 the taxpayer shall choose only one (1) address to list on the return.

42 SECTION 3. IC 6-1.1-3-22, AS AMENDED BY P.L.159-2020,



1 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 22. (a) Except to the extent that it conflicts
3 with a statute and subject to subsection (f), 50 IAC 4.2 (as in effect
4 January 1, 2001), which was formerly incorporated by reference into
5 this section, is reinstated as a rule.

6 (b) Tangible personal property within the scope of 50 IAC 4.2 (as
7 in effect January 1, 2001) shall be assessed on the assessment dates in
8 calendar years 2003 and thereafter in conformity with 50 IAC 4.2 (as
9 in effect January 1, 2001).

10 (c) The publisher of the Indiana Administrative Code shall publish
11 50 IAC 4.2 (as in effect January 1, 2001) in the Indiana Administrative
12 Code.

13 (d) 50 IAC 4.3 and any other rule to the extent that it conflicts with
14 this section is void.

15 (e) A reference in 50 IAC 4.2 to a governmental entity that has been
16 terminated or a statute that has been repealed or amended shall be
17 treated as a reference to its successor.

18 (f) The department of local government finance may not amend or
19 repeal the following (all as in effect January 1, 2001):

20 (1) 50 IAC 4.2-4-3(f).

21 (2) 50 IAC 4.2-4-7.

22 ~~(3) 50 IAC 4.2-4-9.~~

23 ~~(4) (3) 50 IAC 4.2-5-7.~~

24 ~~(5) (4) 50 IAC 4.2-5-13.~~

25 ~~(6) (5) 50 IAC 4.2-6-1.~~

26 ~~(7) (6) 50 IAC 4.2-6-2.~~

27 ~~(8) (7) 50 IAC 4.2-8-9.~~

28 However, the department of local government finance may amend
29 these rules to conform with statutory changes.

30 (g) Notwithstanding any other provision of this section, 50
31 IAC 4.2-4-6(c) is void effective July 1, 2015. The publisher of the
32 Indiana Administrative Code and the Indiana Register shall remove this
33 provision from the Indiana Administrative Code.

34 **(h) Notwithstanding any other provision of this section, the**
35 **department of local government finance shall adopt emergency**
36 **rules in the manner prescribed under IC 4-22-2-37.1, and**
37 **subsequently adopt rules under IC 4-22-2, to amend 50**
38 **IAC 4.2-4-9(a) to reduce the minimum valuation percentage of the**
39 **adjusted cost of depreciable personal property from thirty percent**
40 **(30%) to:**

41 **(1) twenty-seven and five-tenths percent (27.5%) for an**
42 **assessment date after December 31, 2022, and before January**



1 **1, 2024; and**
 2 **(2) twenty-five percent (25%) for assessment dates after**
 3 **December 31, 2023.**

4 SECTION 4. IC 6-1.1-8-44, AS AMENDED BY P.L.38-2021,
 5 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 44. (a) Except to the extent that it conflicts
 7 with a statute and subject to subsection (f), 50 IAC 5.1 (as in effect
 8 January 1, 2001), which was formerly incorporated by reference into
 9 this section, is reinstated as a rule.

10 (b) Tangible personal property within the scope of 50 IAC 5.1 (as
 11 in effect January 1, 2001) shall be assessed on the assessment dates in
 12 calendar years 2003 and thereafter in conformity with 50 IAC 5.1 (as
 13 in effect January 1, 2001).

14 (c) The publisher of the Indiana Administrative Code shall publish
 15 50 IAC 5.1 (as in effect January 1, 2001) in the Indiana Administrative
 16 Code.

17 (d) 50 IAC 5.2 and any other rule to the extent that it conflicts with
 18 this section is void.

19 (e) A reference in 50 IAC 5.1 to a governmental entity that has been
 20 terminated or a statute that has been repealed or amended shall be
 21 treated as a reference to its successor.

22 (f) The department of local government finance may not amend or
 23 repeal the following (all as in effect January 1, 2001):

- 24 (1) 50 IAC 5.1-6-6.
- 25 (2) 50 IAC 5.1-6-7.
- 26 (3) 50 IAC 5.1-6-8.
- 27 ~~(4) 50 IAC 5.1-6-9.~~
- 28 ~~(5) (4) 50 IAC 5.1-8-1.~~
- 29 ~~(6) (5) 50 IAC 5.1-9-1.~~
- 30 ~~(7) (6) 50 IAC 5.1-9-2.~~

31 However, the department of local government finance may amend
 32 these rules to reflect statutory changes.

33 **(g) Notwithstanding any other provision of this section, the**
 34 **department of local government finance shall adopt emergency**
 35 **rules in the manner prescribed under IC 4-22-2-37.1, and**
 36 **subsequently adopt rules under IC 4-22-2, to amend 50 IAC 5.1-6-9**
 37 **to reduce the minimum valuation percentage of the adjusted cost**
 38 **of depreciable personal property from thirty percent (30%) to:**

- 39 **(1) twenty-seven and five-tenths percent (27.5%) for an**
 40 **assessment date after December 31, 2022, and before January**
 41 **1, 2024; and**
 42 **(2) twenty-five percent (25%) for assessment dates after**



1 **December 31, 2023.**

2 SECTION 5. IC 6-1.1-10.2 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2023]:

5 **Chapter 10.2. Property Tax Exemption for Business Personal**
6 **Property**

7 **Sec. 1. This chapter applies only to business personal property**
8 **that is:**

9 **(1) first placed in service after December 31, 2022, and before**
10 **January 1, 2024; and**

11 **(2) not otherwise eligible for the property tax exemption for**
12 **business personal property under IC 6-1.1-3-7.2.**

13 **Sec. 2. As used in this chapter, "affiliate" means an entity that**
14 **effectively controls or is controlled by a taxpayer or is associated**
15 **with a taxpayer under common ownership or control, whether by**
16 **shareholdings or other means.**

17 **Sec. 3. As used in this chapter, "business personal property"**
18 **means personal property that:**

19 **(1) is otherwise subject to assessment and taxation under this**
20 **article;**

21 **(2) is used in a trade or business or otherwise held, used, or**
22 **consumed in connection with the production of income; and**

23 **(3) was:**

24 **(A) acquired by the taxpayer in an arms length transaction**
25 **from an entity that is not an affiliate of the taxpayer, if the**
26 **personal property has been previously used in Indiana**
27 **before being placed in service in the county after**
28 **December 31, 2022, and before January 1, 2024; or**

29 **(B) acquired in any manner, if the personal property has**
30 **never been previously used in Indiana before being placed**
31 **in service in the county after December 31, 2022, and**
32 **before January 1, 2024.**

33 **The term does not include mobile homes assessed under IC 6-1.1-7,**
34 **personal property held as an investment, or personal property that**
35 **is assessed under IC 6-1.1-8 and is owned by a public utility subject**
36 **to regulation by the Indiana utility regulatory commission.**
37 **However, the term does include the personal property of a**
38 **telephone company or a communications service provider if that**
39 **personal property meets the requirements of subdivisions (1)**
40 **through (3), regardless of whether that personal property is**
41 **assessed under IC 6-1.1-8 and regardless of whether the telephone**
42 **company or communications service provider is subject to**



1 regulation by the Indiana utility regulatory commission.

2 **Sec. 4. Notwithstanding any other law, a taxpayer's business**
 3 **personal property that is first placed in service after December 31,**
 4 **2022, and before January 1, 2024, is exempt from property**
 5 **taxation for the 2023 assessment date and each assessment date**
 6 **thereafter.**

7 **Sec. 5. A taxpayer is not required to file an application to**
 8 **qualify for the exemption provided by this chapter. However, a**
 9 **taxpayer claiming the exemption must report the exemption on a**
 10 **personal property tax return on or before each filing date. The**
 11 **department shall amend the applicable personal property tax**
 12 **return forms to allow proper reporting of exempt personal**
 13 **property under this section.**

14 SECTION 6. IC 6-1.1-10.3-6, AS ADDED BY P.L.80-2014,
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2023]: Sec. 6. (a) An exemption ordinance adopted under this
 17 chapter must exempt all new personal property.

18 (b) An exemption ordinance may limit the exemption adopted
 19 under this chapter to a five (5) year period after which the new
 20 personal property shall be subject to assessment and taxation
 21 beginning in the sixth year after the new personal property was
 22 placed in service. The cost basis of new personal property that is
 23 placed back on the tax rolls after the expiration of a five (5) year
 24 period of an exemption ordinance shall be determined by taking
 25 into consideration the depreciation cost adjustments of the
 26 property during each of the five (5) years of the exemption.

27 SECTION 7. IC 6-1.1-11-4, AS AMENDED BY P.L.159-2020,
 28 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JANUARY 1, 2023]: Sec. 4. (a) The exemption application referred to
 30 in section 3 of this chapter is not required if the exempt property is
 31 owned by the United States, the state, an agency of this state, or a
 32 political subdivision (as defined in IC 36-1-2-13). However, this
 33 subsection applies only when the property is used, and in the case of
 34 real property occupied, by the owner.

35 (b) The exemption application referred to in section 3 of this chapter
 36 is not required if the exempt property is a cemetery:

37 (1) described by IC 6-1.1-2-7; or

38 (2) maintained by a township executive under IC 23-14-68.

39 (c) The exemption application referred to in section 3 of this chapter
 40 is not required if the exempt property is owned by the bureau of motor
 41 vehicles commission established under IC 9-14-9.

42 (d) The exemption application referred to in section 3 or 3.5 of this



- 1 chapter is not required if:
- 2 (1) the exempt property is:
- 3 (A) tangible property used for religious purposes described in
- 4 IC 6-1.1-10-21;
- 5 (B) tangible property owned by a church or religious society
- 6 used for educational purposes described in IC 6-1.1-10-16;
- 7 (C) other tangible property owned, occupied, and used by a
- 8 person for educational, literary, scientific, religious, or
- 9 charitable purposes described in IC 6-1.1-10-16; or
- 10 (D) other tangible property owned by a fraternity or sorority
- 11 (as defined in IC 6-1.1-10-24);
- 12 (2) the exemption application referred to in section 3 or 3.5 of this
- 13 chapter was filed properly at least once for a religious use under
- 14 IC 6-1.1-10-21, an educational, literary, scientific, religious, or
- 15 charitable use under IC 6-1.1-10-16, or use by a fraternity or
- 16 sorority under IC 6-1.1-10-24; and
- 17 (3) the property continues to meet the requirements for an
- 18 exemption under IC 6-1.1-10-16, IC 6-1.1-10-21, or
- 19 IC 6-1.1-10-24.
- 20 (e) If, after an assessment date, an exempt property is transferred or
- 21 its use is changed resulting in its ineligibility for an exemption under
- 22 IC 6-1.1-10, the county assessor shall terminate the exemption for the
- 23 next assessment date. However, if the property remains eligible for an
- 24 exemption under IC 6-1.1-10 following the transfer or change in use,
- 25 the exemption shall be left in place for that assessment date. For the
- 26 following assessment date, the person that obtained the exemption or
- 27 the current owner of the property, as applicable, shall, under section 3
- 28 of this chapter and except as provided in this section, file a certified
- 29 application in duplicate with the county assessor of the county in which
- 30 the property that is the subject of the exemption is located. In all cases,
- 31 the person that obtained the exemption or the current owner of the
- 32 property shall notify the county assessor for the county where the
- 33 tangible property is located of the change in ownership or use in the
- 34 year that the change occurs. The notice must be in the form prescribed
- 35 by the department of local government finance.
- 36 (f) If the county assessor discovers that title to or use of property
- 37 granted an exemption under IC 6-1.1-10 has changed, the county
- 38 assessor shall notify the persons entitled to a tax statement under
- 39 IC 6-1.1-22-8.1 for the property of the change in title or use and
- 40 indicate that the county auditor will suspend the exemption for the
- 41 property until the persons provide the county assessor with an affidavit,
- 42 signed under penalties of perjury, that identifies the new owners or use



1 of the property and indicates whether the property continues to meet
2 the requirements for an exemption under IC 6-1.1-10. Upon receipt of
3 the affidavit, the county assessor shall reinstate the exemption under
4 IC 6-1.1-15-12.1. However, a claim under IC 6-1.1-26-1.1 for a refund
5 of all or a part of a tax installment paid and any correction of error
6 under IC 6-1.1-15-12.1 must be filed not later than three (3) years after
7 the taxes are first due.

8 **(g) Beginning with assessment dates occurring after December**
9 **31, 2022, the exemption application referred to in section 3 of this**
10 **chapter is not required if the exempt property is business personal**
11 **property (as defined in IC 6-1.1-10.2-3).**

12 SECTION 8. An emergency is declared for this act.

