
SENATE BILL No. 229

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-10.2; IC 6-2.5-10-1.

Synopsis: Exemption of business personal property. Provides that business personal property located in a county may be exempted from property taxation: (1) through the adoption of an ordinance by majority vote of the county fiscal body; or (2) if the county fiscal body has not adopted such an ordinance, through the passage of a local public question by county voters. Requires the department of state revenue to separately account for sales tax collections that occur in or are otherwise sourced to a county in which business personal property is exempted from property taxation under these provisions. Requires the treasurer of state to distribute monthly to the county treasurer an amount equal to 5% of the sales tax collected during the preceding month on retail transactions that occur in or are otherwise sourced to the county. Provides that a county treasurer receiving such a distribution of sales tax: (1) shall deposit the taxes in a special fund; and (2) shall before the end of the month in which the taxes are received apportion and distribute the taxes among the taxing units of the county. Requires the department of local government finance to reduce the maximum permissible property tax levy of each taxing unit in a county in which a business personal property tax exemption has been established. Specifies that the amount of the reduction is equal to the amount of property taxes on business personal property that is first due and payable to the taxing unit in the year containing the assessment date for which the exemption first applies.

Effective: July 1, 2012.

Smith J

January 4, 2012, read first time and referred to Committee on Tax and Fiscal Policy.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 229



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 6-1.1-10.2 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2012]:
- 4 **Chapter 10.2. Exemption of Business Personal Property Within**
- 5 **a County**
- 6 **Sec. 1. As used in this chapter, "business personal property"**
- 7 **means personal property that:**
- 8 **(1) is otherwise subject to assessment and taxation under this**
- 9 **article; and**
- 10 **(2) is used in a trade or business or otherwise held, used, or**
- 11 **consumed in connection with the production of income.**
- 12 **Sec. 2. As used in this chapter, "county fiscal body" refers to the**
- 13 **fiscal body of a county as specified in IC 36-1-2-6.**
- 14 **Sec. 3. As used in this chapter, "exemption" refers to an**
- 15 **exemption authorized in an exemption ordinance adopted under**
- 16 **this chapter.**
- 17 **Sec. 4. As used in this chapter, "exemption ordinance" refers to**



1 an ordinance adopted under section 6 of this chapter by the county
2 fiscal body.

3 **Sec. 5. Business personal property located in a county may be**
4 **exempted under this chapter from property taxation:**

5 (1) through the adoption of an exemption ordinance by the
6 county fiscal body under section 6 of this chapter; or

7 (2) through the passage of a local public question in the
8 county under section 7 of this chapter.

9 **Sec. 6. (a) A county fiscal body may adopt an ordinance that**
10 **exempts business personal property located in the county from**
11 **property taxation. Such an ordinance must be passed by a majority**
12 **vote of the county fiscal body, as provided in IC 36-2-4-5.**

13 (b) Before adopting an exemption ordinance under this section,
14 a county fiscal body must conduct a public hearing on the proposed
15 exemption ordinance. The county fiscal body must:

16 (1) publish notice of the public hearing in accordance with
17 IC 5-3-1; and

18 (2) not later than ten (10) days before the public hearing, file
19 the notice with each taxing unit in the county.

20 (c) An exemption ordinance must provide for the uniform
21 exemption of all business personal property located in the county
22 from property taxation.

23 (d) The county fiscal body shall provide a certified copy of an
24 adopted exemption ordinance to:

25 (1) the department of local government finance;

26 (2) the department of state revenue; and

27 (3) the county auditor.

28 (e) After an exemption ordinance is adopted under this section,
29 the exemption ordinance may not be repealed or amended in a
30 manner that eliminates the exemption for business personal
31 property or otherwise limits the exemption for business personal
32 property in the county.

33 **Sec. 7. (a) This section applies after December 31, 2012.**

34 (b) If a county fiscal body has not adopted an exemption
35 ordinance under this chapter, the question of whether business
36 personal property in the county should be exempted from property
37 taxation may be submitted to county voters by a local public
38 question. The local public question may be placed on the ballot
39 only if a petition requesting the local public question:

40 (1) is signed by at least the number of county voters equal to
41 two percent (2%) of the votes cast in the last election for
42 secretary of state in the county; and

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(2) is submitted to the county auditor.
(c) If a petition submitted under subsection (b) has a sufficient number of signatures, the county auditor shall certify the results to the county election board, and the county election board shall place the following question on the ballot in accordance with IC 3-10-9:

"Shall business personal property be exempted from property taxation in _____ (insert name of county)?"

(d) The county election board shall place the local public question on the ballot during the next general election or primary election for which the question may be certified under IC 3-10-9-3.

(e) After an election on the local public question, the circuit court clerk of the county shall:

- (1) make a certified copy of the election returns; and
- (2) not later than five (5) days after the election, file the copy with:
 - (A) the department of local government finance;
 - (B) the department of state revenue; and
 - (C) the county auditor.

(f) If a majority of the votes cast on the local public question by the voters of the county are in favor of the exemption, business personal property in the county shall be exempt from property taxation as provided in this chapter.

(g) If a majority of the votes cast on the local public question by county voters are not in favor of the exemption:

- (1) business personal property in the county is not exempted from property taxation under this section; and
- (2) another local public question under this section may not be held during the following four (4) years.

The county fiscal body is not prohibited from adopting an exemption ordinance under section 6 of this chapter by the defeat of the local public question.

Sec. 8. An exemption established under this chapter applies beginning with the first assessment date that occurs after:

- (1) an exemption ordinance is adopted by the county fiscal body; or
- (2) a local public question is approved under section 7 of this chapter by county voters.

Sec. 9. (a) A taxpayer is not required to file an application to qualify for an exemption established under this chapter.

(b) The department of local government finance shall incorporate an exemption established under this chapter in the

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1 personal property return form to be used each year for filing under
 2 this article. The return form must permit a taxpayer to enter the
 3 exemption on the return form. If a taxpayer that is entitled to the
 4 exemption fails to enter the exemption on the return form, the
 5 township assessor, the county assessor, if there is no township
 6 assessor for the township, or the department of local government
 7 finance, if the department of local government finance assesses the
 8 business personal property, shall:

- 9 (1) determine the amount of the exemption; and
 10 (2) within the period established in IC 6-1.1-16-1, issue a
 11 notice of assessment to the taxpayer that reflects the
 12 application of the exemption to the taxpayer's business
 13 personal property.

14 **Sec. 10.** An exemption established under this chapter must be
 15 applied to any business personal property assessment made by:

- 16 (1) an assessing official;
 17 (2) a county property tax board of appeals; or
 18 (3) the department of local government finance.

19 **Sec. 11.** (a) If an exemption has been established under this
 20 chapter for business personal property in a county, the taxing units
 21 of the county are entitled to receive a distribution of state gross
 22 retail and use taxes as provided in this section and IC 6-2.5-10-1(c).

23 (b) A county treasurer receiving a distribution of state gross
 24 retail and use taxes under IC 6-2.5-10-1(c):

- 25 (1) shall deposit the taxes in a special fund; and
 26 (2) shall before the end of the month in which the taxes are
 27 received apportion and distribute the taxes among the taxing
 28 units of the county in the proportion that the maximum
 29 permissible ad valorem property tax levies of the taxing units
 30 are reduced under section 12 of this chapter.

31 (c) A distribution of state gross retail and use taxes received by
 32 a taxing unit under subsection (b)(2) shall be treated as part of the
 33 taxing unit's property tax levy for purposes of determining the
 34 distribution of:

- 35 (1) any taxes; or
 36 (2) any other funds;

37 that are distributed on the basis of property tax levies. However,
 38 the distribution of state gross retail and use taxes shall not be
 39 limited by the maximum permissible ad valorem property tax levy
 40 limits under IC 6-1.1-18.5 and shall not be considered for purposes
 41 of calculating those limits.

42 **Sec. 12.** The department of local government finance shall

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1 **reduce the maximum permissible ad valorem property tax levy of**
 2 **each taxing unit in a county in which a business personal property**
 3 **tax exemption has been established under this chapter. The**
 4 **reduction shall be effective for property taxes first due and payable**
 5 **in the year following the year containing the assessment date for**
 6 **which the exemption first applies. The amount of the reduction is**
 7 **equal to the amount of property taxes on business personal**
 8 **property that is first due and payable to the taxing unit in the year**
 9 **containing the assessment date for which the exemption first**
 10 **applies.**

11 SECTION 2. IC 6-2.5-10-1, AS AMENDED BY P.L.229-2011,
 12 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 1. (a) The department shall account for all state
 14 gross retail and use taxes that it collects.

15 (b) **After making the distributions required by subsection (c), the**
 16 **department shall deposit those collections in the following manner:**

17 (1) **Ninety-nine and eight hundred forty-eight thousandths percent**
 18 **(99.848%) of the collections shall be paid into the state general**
 19 **fund.**

20 (2) **Twenty-nine thousandths of one percent (0.029%) of the**
 21 **collections shall be deposited into the industrial rail service fund**
 22 **established under IC 8-3-1.7-2.**

23 (3) **One hundred twenty-three thousandths of one percent**
 24 **(0.123%) of the collections shall be deposited into the commuter**
 25 **rail service fund established under IC 8-3-1.5-20.5.**

26 (c) **The department shall separately account for collections from**
 27 **retail transactions that occur in or are otherwise sourced to a**
 28 **county in which business personal property is exempted from**
 29 **property taxation under IC 6-1.1-10.2. Beginning in December of**
 30 **the year containing the first assessment date to which the property**
 31 **tax exemption first applies, the treasurer of state shall each month**
 32 **distribute to the county treasurer an amount equal to five percent**
 33 **(5%) of the state gross retail and use taxes collected during the**
 34 **preceding month on retail transactions that occur in or are**
 35 **otherwise sourced to the county. The treasurer of state shall make**
 36 **each monthly distribution under this subsection to the county**
 37 **treasurer not later than the fifteenth day of the month.**

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