TITLE 50 DEPARTMENT OF LOCAL GOVERNMENT FINANCE

Final Rule
LSA Document #05-252(F)

DIGEST

Amends 50 IAC 4.2-4-3 to establish procedures for the valuation of computer application software in conformance with P.L.214-2005 (HEA 1120-2005). *NOTE: Under IC 4-22-2-40, LSA Document #05-252, printed at 29 IR 836, was recalled by the Department of Local Government Finance, resubmitted for publication, and reprinted at 29 IR 2596.* Effective 30 days after filing with the Publisher.

50 IAC 4.2-4-3

SECTION 1. 50 IAC 4.2-4-3 IS AMENDED TO READ AS FOLLOWS:

50 IAC 4.2-4-3 Fully depreciated, retired, or nominally valued property; computer equipment; report and valuation

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-1-11

Sec. 3. (a) Depreciable personal property, as defined in ~~50 IAC 4.2-1-1(h),~~ **50 IAC 4.2-1-1(i),** that has not been retired from use must be reported for personal property assessment purposes whether or not the cost of ~~such~~ **the** property has been:
(1) removed from; ~~the taxpayer's books and records, has been~~
(2) recorded on; ~~the taxpayer's books and records,~~ or ~~has been~~
(3) recorded at a nominal value on;
the taxpayer's books and records.

(b) ~~Restoration of depreciable personal property written off.~~ Any fully depreciated personal property that:
(1) has been written off the taxpayer's books and records; and
(2) is:
(A) on hand at the tax situs; and
(B) not permanently retired;
on the assessment date;
must be reported in the return. The cost of ~~such~~ **the** property must be clearly shown as an adjustment in the space provided on the tax return as provided in section 4 of this rule.

(c) ~~Permanently retired depreciable personal property defined.~~ "Permanently retired depreciable personal property" means depreciable personal property that has been removed from the manufacturing process on the assessment date, or has been removed from services other than manufacturing on the assessment date, and is awaiting disposition, and must be scheduled to be scrapped, removed, or disposed of and will be considered to be permanently retired providing the taxpayer actually scraps or sells such property.
~~Adjustment for permanently retired depreciable personal property.~~ **(1)** Depreciable personal property that is:
(A) on hand at the tax situs on the assessment date, included in the cost per books as reported by the taxpayer in their return; and
(B) permanently retired on the assessment date as herein defined;
is subject to an adjustment as herein provided if the taxpayer so elects.
~~Amount of adjustment.~~ **(2)** The cost per books of permanently retired depreciable property can be taken as an adjustment from book cost of depreciable property on the return provided the cost of ~~such~~ **the** property is included in the cost per books actually reported on the return.
~~Eligibility.~~ **(3)** In order to qualify for this adjustment, a taxpayer will need to substantiate that the property was:
(A) permanently retired; and
(B) not in use.

(d) ~~Valuation of permanently retired depreciable personal property.~~ Permanently retired depreciable personal property should be valued at its net scrap or net sale value. The valuation of this property:
(1) should be shown separately on the tax return; and

(2) will not be subject to the thirty percent (30%) limitation of original cost.

(e) ~~Valuation of depreciable personal property with a nominal value.~~ Depreciable personal property recorded on the books and records at a nominal or no value must be recorded at its actual acquisition cost determined by reference to the insurable value in the year of acquisition for Indiana property tax assessment purposes. This category of property would include, but not be limited to, bulk purchase or the acquisition of a going business concern.

(f) Valuation of computer equipment. Computers are made up of three (3) elements:
(1) hardware;
(2) operational software; and
(3) application software.
Computers (including hardware and operational software), must be reported at the actual acquisition cost regardless of how this property may be valued on the taxpayers books and records.

(g) Computers are made up of the following elements:
(1) Hardware. Hardware is composed of:
(A) mechanical;
(B) magnetic;
(C) electrical; and
(D) electronic;
devices and other components ~~which~~ **that** constitute the physical computer assembly.
(2) Operational software. The operational program:
(A) controls the hardware; ~~and~~
(B) actually makes the machine operational; ~~It~~
(C) is fundamental and necessary to the functioning of the computer hardware itself; ~~and~~
(D) performs such functions as loading, scheduling, supervision, and data management; ~~It~~
(E) represents the internalized instruction codes that translate information into a form usable by the equipment; ~~and~~
(F) controls the basic operations of the central processing unit to perform arithmetic ~~and/or~~ **or** logical operations, **or both,** automatically by means of programmed instructions; ~~It~~ **and**
(G) is not normally accessible or modifiable by the user.
(3) Application software. The application program is a written sequence of instructions which details the operations the equipment is to perform in order to achieve a specific objective of the user.

(h) If the value recorded on the books and records reflects charges for customer support services such as educational services, maintenance, or application software that relate to future periods and not to the value of the tangible personal property, ~~such~~ **the** charges may be deducted as nonassessable intangible personal property (to the extent that a separate charge or value can be identified).

(i) The true tax value at the time of acquisition of computer application software may be identified using the following:
(1) An independent, professional appraisal:
(A) must be made in conformance with generally accepted standards for appraisal practice;
(B) shall not be based on a contingent fee arrangement;
(C) shall include consideration of the cost, market, and income approaches; and
(D) shall distinguish the boundary in the equipment between exempt intangible application software and nonexempt tangible operational software.
The appraiser must have demonstrated competence in the valuation of software.
(2) In lieu of an independent professional appraisal, the taxpayer can evaluate existing assets already listed on its books and records and adjust them accordingly to reflect the software content using the valuation methods described in subdivision (1)(C).

~~(h)~~ **(j)** The allocation of interest incurred during construction and installation must be made (capitalized) for personal property tax purposes regardless of the fact that Section 263 of the Internal Revenue Code of 1986 is not applicable in certain cases.

(Department of Local Government Finance; 50 IAC 4.2-4-3; filed Dec 7, 1988, 9:35 a.m.: 12 IR 840, eff Mar 1, 1989; reinstated by IC 6-1.1-3-22, eff Jul 1, 2003; filed Jul 31, 2006, 8:30 a.m.: 20060830-IR-050050252FRA)

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