



Department of Local Government Finance

Personal Property – With A Twist

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Today's Presentation Will Cover:

- 30-Day Notice Postcard/Letter
- \$40,000 Personal Property Exemption
- Heavy Equipment Rental Excise Tax
- IBTR Decisions – PP Appeals for 2019
- Statutory Change for Valuing Like-Kind Exchanges



30-Day Notice Postcard/Letter

- IC 6-1.1-3-6 requires the assessor to send a notice to the taxpayers not later than 30 days before the filing date.
- The notice must include the filing date for the return, telephone number & email address of the assessor's office, and instructions on how to obtain the forms.
- The notice must be mailed unless the taxpayer consents to receiving it by email.



30-Day Notice Postcard/Letter FAQ

- Question: If a taxpayer has eight (8) locations in my county, am I required to send him 8 postcards?
- Answer: No, only one (1) notice per taxpayer within the county is required.



30-Day Notice Postcard/Letter FAQ

- Question: What happens if we have no knowledge of a new business locating in our county and we don't send that business a notice? Would this business be exempt from filing a return?
- Answer: No, 50 IAC 4.2-2-2 states that the obligation to file a return is not diminished by the failure of the assessor to provide the forms. The Department believes the same theory would apply to this notice.



30-Day Notice Postcard/Letter FAQ

- Question: Is there anything else that our county can do to educate the public concerning the requirements to file personal property returns?
- Answer: Yes, many counties exercise local control and decide what's best for their jurisdictions. For example, some counties place an article in their local newspaper while other counties place this information on their office's website or have handouts available on their counter.



\$40,000 Personal Property Exemption

- IC 6-1.1-3-7.2 was revised during the 2019 legislative session and increased the qualifying amount for this exemption from \$20,000 acquisition cost to \$40,000 acquisition cost.
- Another revision to the statute involved the reporting of cost information.



\$40,000 Personal Property Exemption

- Since cost information is confidential, it was decided that the use of the Form 104 should be required for both returns claiming the exemption and forms reporting an assessment.
- Language on the Form 104, Form 102, Form 103-Short, and Form 103-Long was changed to account for the change to the statutes.



\$40,000 Personal Property Exemption FAQ

- Question: Why didn't the Form 103-SR include the option to claim the \$40,000 Personal Property Exemption for 2020?
- Answer: The function of the Form 103-SR is to claim assessments for multiple locations within a county. If a business qualifies for the exemption, the filing of a Form 103-Long or Form 103-Short will meet the requirements.



Heavy Equipment Rental Excise Tax

- IC 6-6-15 is the statute that went into effect for the assessment date of January 1, 2019.
- A piece of equipment that qualifies for this excise tax is not taxable as personal property. All other personal property is still taxable as personal property and requires the filing of a return.
- The person that rents the heavy rental equipment collects the tax and files a return with the Indiana Department of Revenue.



Heavy Equipment Rental Excise Tax

IC 6-6-15-2 defines “heavy rental equipment” as
(3) "Heavy rental equipment" means personal property (including attachments used in conjunction with the personal property):

(A) that is owned by a person or business that:

- (i) is classified under 532412 of the NAICS Manual in effect on January 1, 2018; and
- (ii) is a retail merchant in the business of renting heavy equipment, including any attachments;



Heavy Equipment Rental Excise Tax

“Heavy rental equipment” definition – continued:

(B) is not intended to be permanently affixed to any real property;
and

(C) is not subject to registration under IC 9-18.1 for use on a public highway (as defined in IC 9-25-2-4).

- However, the term does not include heavy rental equipment that is rented for mining purposes or heavy rental equipment that is eligible for a property tax abatement deduction under IC 6-1.1-12.1 during the calendar year.



Heavy Equipment Rental Excise Tax

- Question: We have received phone calls and even amended returns where the taxpayer claims that he has filed amended federal income tax returns and changed his NAICS code number to the one required in the statute (532412). Do we handle this or does the Department of Revenue?



Heavy Equipment Rental Excise Tax

- Answer: The Department had a conference call with the Indiana Department of Revenue (DOR) and it was agreed that while the DOR had the authority to address the matter, it would be better for the counties to deal with these issues on a case-by-case basis since they could be fact sensitive. The assessor definitely has the authority to challenge if a taxpayer qualifies for this tax.



Heavy Equipment Rental Excise Tax

- Question: So how would the assessor do this?
- Answer: By either initiating a change in assessment by serving notice with the Form 113/PP or setting the taxpayer on audit. If either option was used, the taxpayer would have his statutory appeal rights.



Heavy Equipment Rental Excise Tax

- Question: Some taxpayers believe if they operate under the NAICS number of 532412, they are not required to file a personal property return.
- Answer: That would be an incorrect assumption. Only the equipment that qualifies for this excise tax is not required to be assessed as personal property. Personal property not covered under this section of the statutes would be assessable.



IBTR Decisions – Personal Property 2019

- Republic Services v. Vanderburgh County
- Issued on February 4, 2019
- https://www.in.gov/ibtr/files/Republic_Services_82-027-13-1-7-01258-17_etc.pdf
- The issue was if street sweepers were entirely covered with excise taxes paid or if the portion of them should be assessed personal property.



IBTR Decisions – Personal Property 2019

- Dalton Corporation v. Kosciusko County
- Issued on February 26, 2019
- https://www.in.gov/ibtr/files/Dalton_Corp_43-032-17-1-7-00590-18_Redacted.pdf
- The original issue was if the taxpayer qualified for an abnormal obsolescence adjustment but turned into if the county had timely processed an appeal by October 30 even though the appeal was timely filed in December.



IBTR Decisions – Personal Property 2019

- Fiserv Solutions v. Marion County
- Issued on April 10, 2019
- https://www.in.gov/ibtr/files/Fiserv_49-900-10-1-7-01264-17_etc.pdf
- The issue resulted from a TMA audit and if the return filed by the taxpayer was in substantial compliance.
- The taxpayer failed to establish a prima facie case and the results of the audit were upheld.



IBTR Decisions – Personal Property 2019

- Rebecca Reece v. Delaware County
- Issued on June 14, 2019
- https://www.in.gov/ibtr/files/Reece_18-003-15-1-7-00558-18_etc.pdf
- The issue was if the taxpayer could reduce the value of her tanning salon equipment because of declining sales. TMA conducted audits for three years but it was determined that timely notices were not given.



IBTR Decisions – Personal Property 2019

- Rivar's v. Delaware County
- Issued on June 14, 2019
- https://www.in.gov/ibtr/files/Rivars_Inc_18-005-07-1-7-00580-18_etc.pdf
- The issue was if the taxpayer properly reported his depreciable personal property. TMA conducted audits for three years but it was determined that timely notices were not given.



Like kind exchanges (basis with trade-ins)

IC 6-1.1-3-2.5 Like kind exchanges of depreciable personal property

Sec. 2.5. (a) This section applies to a like kind exchange of depreciable personal property for which:

- (1) the exchange would have been eligible for non-recognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017;



Like kind exchanges (basis with trade-ins)

- (2) the exchange is not eligible for non-recognition of gain or loss under Section 1031 of the Internal Revenue Code currently in effect; and
- (3) the taxpayer made an election to take deductions under Section 179 or Section 168(k) of the Internal Revenue Code with regard to the acquired property in the year that the property was placed into service.

(b) In determining the cost of the depreciable personal property described in subsection (a) that is used to determine the value of the...



Like kind exchanges (basis with trade-ins)

- ...depreciable personal property subject to an assessment, the acquisition cost of the depreciable personal property acquired in the like kind exchange shall be reported as:
 - (1) the net book value of the depreciable personal property traded in; plus
 - (2) any cash boot added to the exchange;
- as if the exchange was eligible for non-recognition of gain or loss under Section 1031 of the Internal Revenue Code in effect on January 1, 2017.



Questions?



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