
STATE OF INDIANA



TO: County Auditors

FROM: Tera Klutz, Auditor of State
Paul Joyce, State Examiner, State Board of Accounts
Wesley R. Bennett, Commissioner, Department of Local Government
Finance

RE: Business Personal Property Exemption: Local Service Fee & Late
Assessment Penalty Distribution (updated from September 22, 2017)

DATE: December 7, 2017

This memorandum is an update to the memorandum released on September 22, 2017 regarding the business personal property exemption. This guidance applies to all counties that have assessed a \$25 late assessment penalty under IC 6-1.1-37-7(f) for taxpayers failing to timely file for the business personal property tax exemption. It also gives more guidance to those counties that imposed a local service fee on the filing of certain business personal property exemptions as allowed under Indiana Code 6-1.1-3-7.3 for the 2016 pay 2017 tax year.

This joint memorandum from the Auditor of State (“AOS”), Department of Local Government Finance (“DLGF”), and State Board of Accounts (“SBOA”) is provided to assist county auditors with the allocation of the late assessment penalty and the optional local service fee for certain exempt personal property.

Pursuant to IC 6-1.1-3-7.2, a taxpayer’s business personal property (BPP) is exempt from taxation if its total acquisition cost within a county is less than \$20,000. The statute further requires the taxpayer to indicate their eligibility for the exemption on the taxpayer’s business personal property tax return.

IC 6-1.1-37-7(f) requires a county auditor to impose a \$25 late assessment penalty (LAP) on taxpayers who fail to timely file under the requirements of IC 6-1.1-3-7.2. The LAP must be paid by the taxpayer with the next property tax installment that is collected. This revenue is treated like property tax and should be apportioned with tax rates to the appropriate taxing units and included in the property tax distribution at settlement.

IC 6-1.1-3-7.3 grants county fiscal bodies the option to impose a local service fee (LSF) on each person that indicates that his or her personal property is exempt under IC 6-1.1-3-7.2. The ordinance fee imposed may not exceed \$50. The LSF is due and payable at the same time that property taxes are due and payable, meaning that a fee imposed for the 2016 assessment date

would be collected at the same time as 2017 tax bill payments are collected. LSF revenue is fee based and is not a tax. This revenue should be distributed separately from property tax.

Current Guidance and exceptions -

Due to the manner in which the business personal property exemption under IC 6-1.1-3-7.2 is to be filed with the county, county assessors/auditors are not able to associate revenue collected from the LAP or LSF with a particular taxing district. As a result, our collective guidance is outlined below.

If a determination can be made on the location/tax district for the BPP for either the LSF or the LAP, then we will not take exception if:

- 1. the LAP is included and apportioned in settlement to the appropriate taxing units, or**
- 2. the LSF is allocated to the tax units pro rata based upon tax rates within the identified tax district.**

Note that the LSF should not be apportioned with property tax settlement distribution, but distributed as separate fee revenue.

Allocation of Unidentified Late Assessment Penalty -

If a LAP is collected and neither the county assessor/county auditor has been able to identify a tax district for the BPP, the revenue collected should be deposited into fund 6053 BPP Late Assessment Penalty and held and included in the next settlement distribution when a determination on the location can be made or further guidance has been given through legislative changes. **Any information you can gather that can help identify the location of the BPP in the future should be saved.**

Allocation of Local Service Fee Revenue -

IC 6-1.1-3-7.3(d) states that “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.”

Based on this, the countywide fee revenue may be allocated to applicable taxing units based on a taxing unit’s proportion of the countywide property tax levy. **As stated earlier, we will not take exception to a county using tax district rates if the location of the BPP can be determined and property assigned to a tax district.**

Counties should receipt revenue collected from this LSF into Fund 6052 per SBOA’s chart of accounts using revenue code R506. The total countywide revenue is to be held in Fund 6052

until the county auditor allocates and distributes this revenue to each applicable taxing unit according to the instructions below.

To allocate the LSF, a county should calculate a factor for each taxing unit. The factor is the taxing unit's certified levy for the calendar year divided by the overall certified levy for all taxing units in the county for the same calendar year. To determine a taxing unit's proportion of the county's overall revenue from a fee imposed under IC 6-1.1-3-7.3, the factor should be multiplied by the total money available for distribution.

An Excel file is provided with this memorandum to assist counties with calculations for 2017. Counties that have not yet distributed money collected for a fee imposed under IC 6-1.1-3-7.3 are encouraged to do so as soon as possible for spring settlement. When distributing the fee revenue, the county auditor should provide documentation to the taxing units on the amount being distributed to the unit, specifically identifying it as revenue from the LSF. This documentation may be accomplished using a Form 22 or could be in some other format. County auditors should maintain a copy of the allocation calculation and distribution documentation for SBOA review.

To assist with tracking, DLGF asks that county auditors email a copy of an ordinance adopted by any county fiscal body choosing to impose a LSF, if they have not already done so. DLGF maintains a webpage listing counties that have imposed the fee, with a copy of each ordinance available for review by taxpayers. These ordinances can be found at <http://in.gov/dlgef/7576.htm>.

LAP reported on Settlement Forms -

For LAP that is UNIDENTIFIABLE, you will record the LAP as follows:

- **The delinquent (the difference between billed and collected) Fall BPPE LAP will be included on Form 105 Section A1 Line 30 – “All Penalties and Interest Unpaid (Except Lines 26, 27 and 28)”.**
- **An adjustment indicating total Spring and Fall BPPE LAP will be made as a positive value manually entered by the counties on Form 105 Section A1 Line 41 – “Add or Less: Other Before Apportionment Adjustments”. (The math embedded into the form will actually reduce the amount to be distributed.)**
- **The Fall BPPE Late Assessment Fees will be included in the values shown in the Form 49TC Column 1 – “Total Current and Delinquent Tax, Penalties and Interest Collected, and Less Late Payment Penalty Collections on Special Assessments”, but by making a “Pre-Appportionment Adjustment” on the Form 105 Section A1 Line 41, the amount in Form 49TC Column 1 will still balance with Form 105 Section A1 Line 37, allowing the county to balance between forms.**
- **The BPPE LAP will be Quietus to the Fund 6053 BPP Late Assessment Penalty Fund and recorded on the Quietus Workbook under the “Additional Quietus” tab and the Form 49TC “Other Collections” section.**

For LAP that is IDENTIFIABLE, you will record the LAP in the same manner as property tax penalties.

Because of the timing of this memo, if you mistakenly apportioned unidentifiable LAP in the spring, and a correction needs to be made in the fall, you will follow the same method of recording as unidentifiable LAP.

LSF reported on Settlement Forms -

The LSF is not to be included with the property tax distribution on Settlement. The LSF will be recorded on the Quietus Workbook under “Additional Property Tax” and on the Form 49TC “Other Collections” section.

Contact Information

Questions may be directed to any of the following:

- Auditor of State: Local Government Division team. (317) 232-3309 or settlements@auditor.in.gov.
- DLGF: Matthew Parkinson, Deputy Commissioner. (317) 232-3759. mparkinson@dlgf.in.gov.
- SBOA: Lori Rogers, County Director. (317) 232-2512. lrogers@sboa.in.gov.