

Indiana

Department of Local Government Finance



Committed to a fair and equitable property tax system for Hoosier taxpayers.

New Assessor Training Personal Property

Barry Wood

Assessment Division Director

January 2019



General Concepts



Personal Property

Self-Assessment System

- Taxpayer is responsible for reporting/filing an assessment return.
- Assessors do not have the authority to file a return for the taxpayer; however, the assessor can assist the taxpayer.
- The taxpayer **MUST** sign the return.
- 50 IAC 4.2-2-9 (e)



Personal Property

Personal Property Defined

- 50 IAC 4.2-1-1.1 (g)

(g) “Depreciable personal property” means all tangible personal property that is used in a trade or business, used for the production of income, or held as an investment that should be or is subject to depreciation for federal income tax purposes.



Personal Property

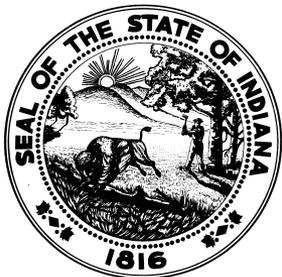
- “Depreciation may not be claimed until the property is placed in service for either the production of income or use in a trade or business. Depreciation of an asset ends when the asset is retired from service by sale, exchange, abandonment, or destruction.”
- US Master Depreciation Guide, Chapter 3



Personal Property

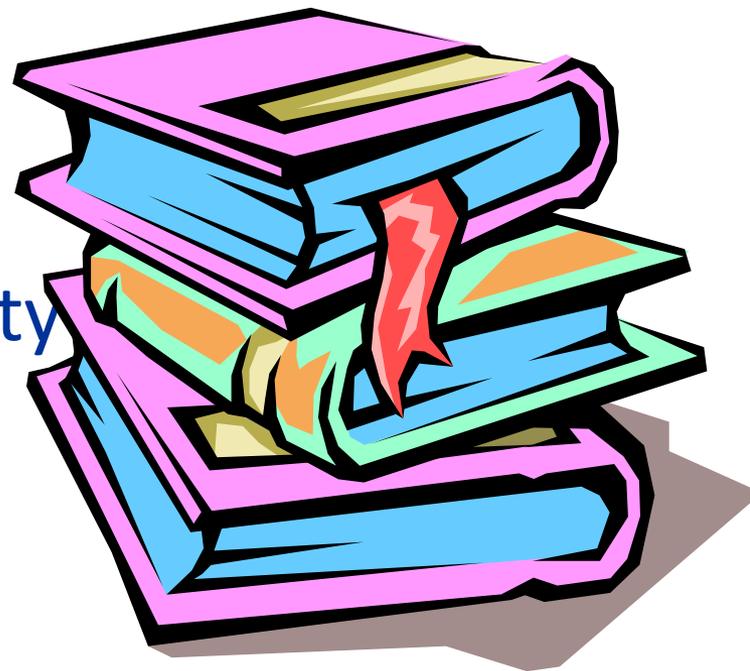
Real vs. Personal Property

- The determination of whether an asset is to be assessed as real or personal property, or as an intangible asset or is subject to excise tax is an important aspect of verifying the correctness of a return.



Personal Property

- Personal Property Manual
 - Rule 4 – Section 10
 - (50 IAC 4.2-4-10)
- 2011 (sic 2012) Real Property Guidelines
 - Chapter 1, Table 1-1





Personal Property

Excise Tax or Personal Property

- 50 IAC 4.2-1-1.1(l) states that non-automotive equipment attached to excise vehicles is classified as personal property.
- Through the joint efforts of the DLGF, the BMV, and the DOR-Motor Carrier Division, a memorandum on the topic was released on March 3, 2011.



Personal Property

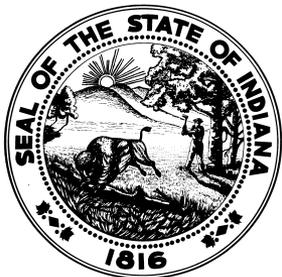
- A fundamental question to consider when making this determination involves the vehicle's "intended service use" and the equipment's function.
- Was the vehicle hauling a product from Point A to Point B or was a secondary service unrelated to the transportation aspect performed once the vehicle arrived at its destination?



Personal Property

Filing Requirements

- Anyone who owns, controls, or possesses personal property with a tax situs within the state must file a return.
- Possessory Interests (50 IAC 4.2-2-4): requires a taxpayer who holds or controls personal property on the assessment date to disclose whether they are liable for the taxes or if the owner is liable for the taxes.



Personal Property

- **Question:** If my business closed or I moved out of the county, do I have to file a return and inform the assessor of that?
- **Answer:** While the statutes do not require it, it could be helpful for the taxpayer to notify the assessor of this type of change since the assessor could assume the taxpayer simply failed to file a return and place an estimated assessment on the business.



Personal Property

Common Personal Property Forms

- Form 102
- Form 103 Long, Short, and Single Return
(Multiple forms are offered so that a taxpayer can file select the form that best fits his needs.)
- Form 104
- Forms available on DLGF Webpage,
<https://www.in.gov/dlgf/8516.htm>



Personal Property

- Form 102 – Farmer’s Tangible Personal Property Tax Return
- Is used by farmers to report their tangible depreciable personal property.
- This form is **CONFIDENTIAL**.



Personal Property

- Three versions:
 - Form 103-Short
 - Form 103-Long
 - Form 103-SR (Single Return)
- All three versions are **CONFIDENTIAL**.



Personal Property

Form 103-Short

- Can be used by a taxpayer to report their tangible business personal property if:
 - the taxpayer is not a manufacturer or processor.
 - the assessment is not \$150,000 or more.
 - the taxpayer is not claiming any exemptions, deductions, or special adjustments on it.
- The use of this form is an election and not mandatory for all small businesses.
- Taxpayers can file the Form 103-Long one year and file the Form 103-Short the following year if they are eligible.



Personal Property

Form 103-Long

- Filed:
 - by any business (large or small) including manufacturers or processors.
 - by taxpayers who are claiming exemptions, deductions, or special adjustments.
- SEA 436-2015 eliminated the need for a taxpayer to file in duplicate when the assessed value is greater than \$150,000. IC 6-1.1-3-7(c)



Personal Property

Form 103-SR (Single Return)

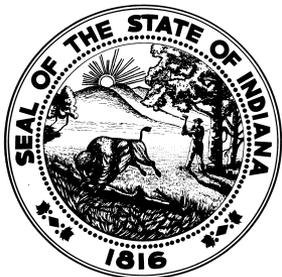
- Filed:
 - may be filed by any taxpayer with more than one location within a county.
 - by taxpayers who are not claiming exemptions, deductions, or special adjustments.
- Assessors can refuse to accept it if it is incomplete, but they cannot refuse the form because they would prefer the Form 103-Short is used in its place.



Personal Property

Supplemental Forms

- Examples:
 - Form 103 ERA (tax abatement)
 - Form 103 EL (tax abatement)
 - Form 103-N (not owned/leased)
 - Form 103-O (owned/leased)
 - Form 103-T (special tooling)
 - Form 103-P (pollution control)



Personal Property

Retention Schedule of Forms

- **Question:** How long are we required to keep personal property returns?
- **Answer:** The Indiana Archives and Records Administration (IARA f.k.a.-ICPR) says that personal property returns can be destroyed after five (5) calendar years and after receipt of the State Board of Accounts Audit Report and satisfaction of unsettled charges. Each county has a Public Records Commission, so an assessing official should consult with them before destroying any of these records.



Personal Property

- **Answer** (continued): This does not mean that an official must destroy these records after five years, only that he/she can begin the process of destroying them after five years have passed, if desired. Sometimes an assessor may desire to maintain personal property assessment records which contain a ten-year tax abatement deduction in case future reference is warranted.
- Records retention schedules are available at: http://www.in.gov/iara/files/county_assessing.pdf



Personal Property

Form 103-N and Form 103-O

- IC 6-1.1-2-4
- The owner of any tangible property on assessment date is liable for taxes.
- A person owning, holding, possessing, or controlling any tangible property is liable for taxes unless they establish the property is being assessed in the name of owner.



Personal Property

Operating Leases

- Operating leases remain the property of the leasing company at end of the lease.
- Lessee (Possessor) Must File Form 103-N Schedule 1.
- Lessor (Owner) Must File Form 103-O Schedule 1.



Personal Property

Capital Leases

- Title to asset will transfer at end of lease or the lease contains a purchase option and title can transfer at end of lease.
- Lessee (Possessor) Must File Form 103-N Schedule 2.
- Lessor (Owner) Must File Form 103-O Schedule 2.



Personal Property

Assessor Duties

- Furnish Forms (Order the forms, pay for the printing costs, and make available.)
- Review Returns & Verify Accuracy.
- Notify Taxpayer of Changes in Assessment on Form 113/PP.
- Pick Up Omitted and Undervalued Assessments.
- Process Requests for Filing Extension.



Personal Property

Filing Extension

- The township assessor or the county assessor may grant up to a 30 day extension to file a return (up to June 14.)
- The taxpayer must provide a written request for extension on or before May 15 to the assessor.



Personal Property

- The assessor must provide a written response granting or denying the taxpayer's request.
- If denying the request, do not delay in notifying the taxpayer.
- The decision to deny this request cannot be appealed.



Personal Property

Omitted and Undervalued Assessments

- The assessor may examine and verify the accuracy of each personal property return to ensure that no property has been omitted or undervalued. IC 6-1.1-3-14



Personal Property

- The assessing official **MUST** give the taxpayer written notice of the change and a statement of the taxpayer's right to appeal by use of the Form 113/PP. IC 6-1.1-3-20
- Failure to timely change a personal property assessment is an issue that has been challenged through the appeal's process with the taxpayer contending that the change in assessment was untimely and therefore invalid.



Personal Property

Assessment Calendar

- The taxpayer files a return by May 15 or the extended due date.
- The township assessor, if any, has until September 15 or 4 months from the extended due date to make any changes to the assessment (original personal property returns).



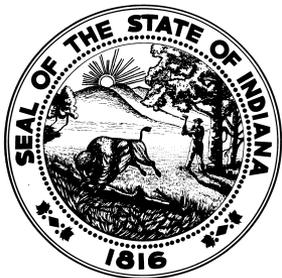
Personal Property

- Both the county assessor and the County Board of Appeals (PTABOA) have until October 30 or 5 months from the due date to change an assessment (original personal property returns).



Personal Property

- Taxpayer has until May 15 of the following year or 12 months from the extended due date to amend the original personal property return.
- Under 50 IAC 16-5-1, the assessor is required to provide the taxpayer with notice of initial review within 10 days of receiving an amended return.



Personal Property

- IC 6-1.1-9-3 also allows an assessor to make a change to an assessment within three years after the return is filed; however, it requires a full and complete audit of the taxpayer's books in order to determine if substantial compliance guidelines are met so the requirements to change an assessment are more exact.



Personal Property

- If the assessing official fails to change an assessment within the time prescribed, the assessed value claimed by the taxpayer is final.
- This section of the law is why it is very important for assessing officials to give notice of a change with the proper use of the Form 113/PP.



Personal Property

Penalties

- Return Not Filed by May 15 (up to June 14 with extension)
 - Penalty = \$ 25
- Return over 30 days late
 - Penalty = \$25 + 20% of taxes due
- Assessors do not have the statutory authority to waive penalties for the late filing of tax returns.



Personal Property

- Assessors should be prepared to defend a challenge by the taxpayer that the return was filed timely once the tax statements are mailed.
- Sometimes the date that the taxpayer signed the return indicates a late filing.
- Other times the postmarked envelope should be attached to the form as evidence. Note: A postage meter date stamp is not a postmark. IC 6-1.1-36-1.5
- Many assessors also place the date received on the return.



Personal Property

Amended Returns

- IC 6-1.1-3-7.5
- The return is filed by the taxpayer.
- The taxpayer files an amended return by writing **AMENDED** on top of the return.
- Legislation changed the filing period from six months to twelve months beginning with the assessment date of March 1, 2011. (For more information, see our June 1, 2011 memo.)



Personal Property

- Taxpayer may claim any deduction or exemption that could have been claimed on the “original personal property return.”
- Taxpayer may only amend the original personal property return one time. The statutes do not allow a taxpayer to amend an amended return.



Personal Property

- 50 IAC 4.2-1-1.1 (k) defines an "Original personal property return" as a personal property tax return filed with the proper assessing official by May 15 or, if an extension is granted, the extended filing date.
- Late returns or returns filed within the 30 days after a Form 113/PP is sent cannot be amended under IC 6-1.1-3-7.5. (See IBTR decision-Wayne Metals vs Wells Co. 10-2013)



Personal Property

Amended Return Deadlines

- May 15 of the following year, if no extension is granted.
- Up to June 14 of the following year, if a full 30-day extension was granted or twelve months from original return's extended due date, if a partial extension was granted.



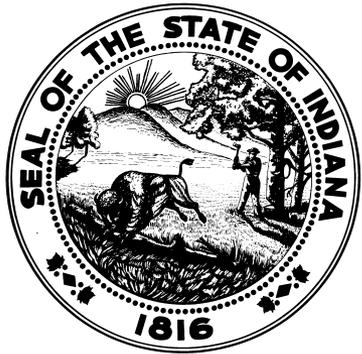
Personal Property

- A timely filed amended return becomes a taxpayer's assessment of record. The county assessor is required to provide the taxpayer with notice of an initial review within 10 days of receiving an amended return, which would need to indicate whether a change to the amended return is possible. (50 IAC 16-5-1)



Personal Property

- If a taxpayer files an amended return after the statutory deadlines have passed, assessors are encouraged to notify the taxpayer on a Form 113/PP of the defect so the taxpayer could challenge if desired.
- Is it required? The issue has not been challenged by an appeal.



Auditing A Personal Property Tax Return The Basic Steps



Personal Property

Classification of Assets

- Determine if the asset is Personal Property.
- Real vs. Personal Property. (50 IAC 4.2-4-10)
- Excise Vehicles. (IC 6-6-5-2)
- Intangible Computer Software. (50 IAC 4.2-4-3)
- Pollution Control Equipment. (IC 6-1.1-10-10)
- Not Placed In Service. (50 IAC 4.2-6-1)
- Special Adjustments such as:
 - Special Tooling. (50 IAC 4.2-6-2)
 - Permanently Retired Equipment. (50 IAC 4.2-4-3)



Personal Property

- Permanently retired equipment is defined as being removed from the process or service use on or before the assessment date and is awaiting disposition.
- Its cost is reported and deducted back off of the pooling schedule and then re-valued on the Form 106 along with a detailed explanation.
- It is valued at its net scrap value or net sale value (not an automatic 10%).



Personal Property

- Personal property not placed in service is defined as property which has not been depreciated and is not eligible for federal income tax depreciation.
- Construction in Process (CIP) is an example of equipment not placed in service. It is physically there on the assessment date but is not completely assembled and functioning.
- It is not reported in the pooling schedule and is valued at 10% of cost (Page 2 Form 103-Long).



Personal Property

- Fully depreciated personal property that has not been retired from use must be reported for assessment purposes.
- If the cost of these assets has been removed from the taxpayer's books and records or recorded at a nominal value, it should be added back as an adjustment in the space provided on the personal property tax return.



Personal Property

- Personal property that has been recorded on the books at a nominal or no value must be at its actual acquisition cost determined by reference to the insurable value in the year of acquisition.
- This includes the purchase or acquisition of a going-concern business.



Personal Property

- Computer Equipment and Software – 50 IAC 4.2-4-3 (f) & (g)
- The hardware is to be assessed as personal property.
- The operational software which is required to make the hardware function is assessed as personal property.
- The application software is used to achieve a specific objective and is classified as an intangible asset.



Personal Property

Outdoor Highway Sign Exemption

- IC 6-1.1-10-45 (a) Tangible personal property consisting of a sign that is manufactured for the Indiana Department of Transportation (INDOT) in order for the department to comply with 23 U.S.C. 131 is exempt from personal property taxation.



Personal Property

Outdoor Highway Sign Exemption

- These signs look like state highway signs and contain information on restaurants, hotels, and other local attractions. They are generally near exit ramps and are needed to keep INDOT in compliance with federal funding requirements.



Personal Property

Reviewing Returns

- Many assessors have a standard procedure for conducting desk reviews of personal property tax returns.
- They check for errors in calculations.
- They compare the current year's return to the prior year's return.
- They compare the return with returns filed by similar businesses.



Personal Property

- The assessor reviews any exemptions, adjustments, or deductions claimed to verify that they comply with the rules & regulations.
- A claim for abnormal obsolescence should be checked to see if it complies with 50 IAC 4.2-9. The DLGF has released memorandums on this topic on August 21, 2009 and April 19, 2011. IBTR decisions are available as well. (Applied Extrusion, Koppers Inc., & Evansville Courier)



Personal Property

- The most common mistake made by a taxpayer when claiming an adjustment for abnormal obsolescence is that he calculates the true tax value and then calculates a factor to drive the true tax value lower without ever establishing the documented net realizable value (or market value). The adjustment is the difference between the two numbers if the market value is lesser than the true tax value.



Personal Property

Review the Form 103-N's and Form 103-O's

- Since both the owner and the possessor of the property should be filing a form, assessors should verify the information on the forms.
- Sometimes the forms are filed so that neither party is being assessed while other times, the forms are filed so that both parties are being assessed. If fully disclosed by the taxpayers, this error should be discovered and corrected.



Personal Property

- Developing a system to verify that property has been properly assessed to the correct party is a very important part of the review process.
- One system used that seems effective is to copy the Form 103-N or O and to maintain a file. The assessor would then scratch the name of the business off once an assessment is received. After the filing date has passed, the remaining names would require further action (contact them or send an estimated assessment on the Form 113/PP).



Personal Property

Reviewing Returns with an Abatement Deduction

- While an in-depth discussion on the abatement process could cover a three-hour course of its own, the following slides can be considered to cover the process of reviewing a return that has an abatement deduction claimed on it.
- The first thing to understand is that an abatement is established at the local level by a designating body which is usually the county council, the town council or the city council.



Personal Property

- The taxpayer provides the designating body with a Form SB-1/PP to provide information to be used in the approval process.
- If desired, the designating body will proceed with a public hearing and adopt a resolution which declares the legal description of a piece of real estate to be an Economic Revitalization Area (ERA).
- The taxpayer can then begin installing the qualifying equipment.



Personal Property

- Once the qualifying equipment is installed, it will be reported for taxation on the next personal property tax return (Form 103-Long) and the deduction will be claimed on the abatement deduction schedule (Form 103-ERA).
- Other abatement forms such as the Form 103-EL and the Form CF-1/PP are also a part of the forms related to this deduction.



Personal Property

Form 103-ERA

- The important thing to understand about this form is that it is used to claim a deduction from the cost reported on the pooling schedule of the Form 103-Long.
- If a taxpayer reports a number greater on a particular line of the Form 103-ERA than what is reported on the pooling schedule of the Form 103-Long, that would require further consideration.



Personal Property

- Form 103-EL lists the assets that the taxpayer is claiming an abatement deduction in the first year.
- An assessing official should review this list to verify that the assets qualify for the deduction.
- For a manufacturing abatement, the equipment that qualifies for abatement begins with the equipment that handles the raw material as it enters the first production step and ends with the equipment that takes the finished product away.



Personal Property

- Effective July 1, 2015, IC 6-1.1-12.1-18 includes language which would allow a designating body to grant an enhanced abatement on qualifying personal property for up to twenty (20) years.
- This new statute began with the assessment date of January 1, 2016.



Personal Property

- Remember that IC 6-1.1-12.1-5.4 requires the taxpayer to file a timely return when claiming the abatement deduction so a return filed late which includes a Form 103-ERA should have the deduction denied immediately. (See IBTR decisions – HJM, LLC or Wayne Metals vs. Wells Co. 10-2013)
- IC 6-1.1-12.1-11.3 allows the designating body to hold a public hearing and adopt a resolution if they wish to waive non-compliance and allow the deduction on the late return.



Personal Property

- Form CF-1/PP is the form that the taxpayer files with the designating body annually. It acts as a report to show how the estimates listed on the Form SB-1/PP before the project began actually turned out once the project was complete.
- On page two of this form, the designating body **MAY** determine whether the taxpayer was compliant or not with their estimates before the project began.



Personal Property

Confidential Information

- IC 6-1.1-35-9 affects:
 - All assessing officials, employees, and anyone under contract to any assessing official.
 - All information that is related to earnings, income, profits, losses, or expenditures.
- Confidential information; disclosure will result in loss of job.
- What's public information? A/V



Personal Property

- IC 6-1.1-35-11 & 12 lists additional penalties for disclosing confidential information, including voiding a contract (if the vendor disclosed), as well as a potential cause of action for damages by the individual whose confidential information was disclosed.



Personal Property

- Any supplemental information or forms attached to a personal property return (Form 102 or 103) that support the return are subject to same confidential standard as that form itself.



Questions



Contact Us

- Barry Wood
 - Telephone: 317-232-3762
 - Fax: 317-974-1629
 - Email: bwood@dlgf.in.gov
- Website: www.in.gov/dlgf
 - “Contact Us”: www.in.gov/dlgf/2338.htm