


Business Personal Property Tax Exemption & Local Service Fee



October 17, 2017  
Auditor of State

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Likely Impacts all 92 Counties

- \* Business Personal Property Tax Exemption (BPPE)
  - \* I.C. 6-1.1-3-7.2
- \* Local Service Fee (Optional)
  - \* I.C. 6-1.1-3-7.3
- \* Late assessment penalty
  - \* I.C. 6-1.1-37-7(f)

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Business Personal Property Tax Exemption

- \* I.C. 6-1.1-3-7.2(e-f)
  - \* Requires a taxpayer to indicate on BPP return or through a certification (for 16pay17 only) that the taxpayer's BPP in the county is exempt from property taxation for the assessment date.
- \* The acquisition costs of the taxpayer's total BPP must be less than \$20,000 and meet other criteria listed in section 7.2(c).

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### Local Service Fee

- \* I.C. 6-1-1-3-7.3
  - \* Permits a county fiscal body to adopt an ordinance to impose a local service fee, up to \$50, on taxpayers filing for the BPPE.
  - \* A local service fee for an assessment date is due and payable at the same time that property taxes for that assessment date are due and payable
  - \* A county may collect a delinquent local service fee in the same manner as delinquent property taxes are collected

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### Local Service Fee (continued)

- \* I.C. 6-1-1-3-7.3
  - \* The revenue from the local service fee:
    - \* Shall be allocated in the same manner and proportion and at the same time as property taxes are allocated to each unit in the county; and
    - \* May be used by a tax unit for any lawful purpose of the tax unit.

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### Late Assessment Penalty

- \* I.C. 6-1-1-37-7(f) (summarized)
  - \* If a person fails to file either the BPP tax return or the certification indicating their eligibility for the BPP exemption by the BPP return due date for an assessment year, the county auditor shall impose a penalty of \$25 that must be paid by the person with the next installment that is collected.

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## Challenges to Implementation

- \* Local Service Fee is a FEE not a TAX (should be distributed separately from property tax)
- \* Delinquent LSF – law allows, doesn't require, a county treasurer to collect delinquencies in the same manner as delinquent property tax collected
  - \* Assuming it is same process to collect delinquent personal property tax under I.C. 6-1-1-23
  - \* Late payment penalty is NOT applied
  - \* Delinquent LSF collected should be distributed separately from property tax
- \* Late Assessment Penalty is treated as a tax and should be apportioned with tax rates and included in the property tax distribution at settlement.

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## Challenges to Implementation

- \* Current law and BPP return forms allow a taxpayer to check a box indicating their BPP within the county is eligible for the exemption but does not indicate whether the BPP is contained in one location or is in more than one location within the county.
- \* Without the ability to assign the local service fee to a tax district, there is no ability to assign a delinquent penalty or a late assessment penalty to a tax district.

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## Current Guidance - LSF

- \* As a result of not being able to associate the local service fee (LSF) to a tax district, our collective recommendation for now is to allocate the total LSF collected within the county (whether current or delinquent) to taxing units within the county based upon a tax unit's proportion of the countywide property tax levy.
- \* As for late assessment penalties – we must go back to the Indiana legislature for guidance.

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### Current Guidance - LSF<sub>(continued)</sub>

- \* If a county auditor can make the association of the LSF to a specific tax district(s), then we will not take exception to the LSF being apportioned by the same tax rates used to apportion property tax within the specific district(s).
  
- \* This method would require the county auditor to have documentation showing how they were able to determine the associated tax district(s) contained all the BPP of the taxpayer.

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### What does this mean for now?

- \* With all the challenges outlined earlier, as long as the chosen process:
  1. Is Transparent and Consistent for similar types of property
  
  2. Can reasonably be attributed back to the statute as written

Then: Neither AOS/DLGF nor SBOA will take exception

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### Potential Solutions

- \* Request the law be changed to allow 100% of the local service fee billed/collected (whether current or delinquent), and late assessment penalty to be associated with the tax district (or location) where a majority of the property is located within the county.
  
- \* Change BPP Return Forms to include language to indicate whether all the personal property is in one location or multiple and where the majority of property is located.

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