

STATE OF INDIANA

DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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Frequently Asked Questions

Personal Property Exemption

August 14, 2015

- 1. Is the exemption for new purchases acquired by a certain date? Or does the exemption apply to all purchases regardless of the acquisition dates as long the total acquisition cost is less than \$20,000?**

The "under \$20,000" exemption applies to old and new personal property located in the county. For instance, if Acme Widgets has a total of three pieces of equipment in the county and the total acquisition cost of that equipment is \$15,000 as of the applicable assessment date, that property would be exempt from taxation regardless of when each piece was acquired. To be clear, all three pieces of equipment would have to have been acquired by the assessment date in question.

- 2. So this exemption would not apply to every taxpayer in the county, only the taxpayers with a countywide personal property assessment of less than \$20,000?**

Yes, that is correct.

- 3. Will the State issue further information or guidance for the Annual Certification that must be filed, notarized and signed under penalties for perjury by the taxpayer before May 15 of the calendar year in which the assessment date occurs or will this be the responsibility of the County Assessors?**

The Department has prepared a sample certification that taxpayers may use, which is available here: <http://in.gov/dlgf/7576.htm>. This certification template is an example only. Taxpayers do not have to use this particular template in order to satisfy state law. Taxpayers could submit the certification in another format. Doing so does not waive the exemption.

- 4. This exemption is effective July 1, 2015, which impacts personal property returns filed for the 2016 pay 2017 assessment cycle. However, the assessment date for personal property changes to January 1, 2016 for 2016 pay 2017 (although the forms are still due May 15, 2016). Would the annual certification still be due before May 15, 2016?**

Yes. The change in assessment date does not affect the statutory obligation of the taxpayer to file the certification before May 15.

- 5. Does the exemption apply per taxing district or is the aggregate total of "all locations" in the county what should be considered? In other words, if a taxpayer has a piece of equipment with an acquisition cost of \$10,000 in tax district A and a piece of equipment with an acquisition cost of \$15,000 in tax district B, is each tax district treated separately?**

You have to look at the total acquisition cost of all the taxpayer's property in the county. In the example above, you would look at the aggregate amount of \$25,000, which exceeds the eligibility threshold. Therefore, the taxpayer would not be eligible to claim the exemption and would be required to calculate an assessment for each taxing district.

- 6. Does a taxpayer need to complete a certification for each taxing district? An example would be a water softener company (water coolers located in all of our taxing districts in the county). They currently file a Form 103 for each taxing district, as they need to. Does the \$20,000 threshold apply to a county as a whole or to each individual taxing district? What if a company has the same taxpayer name and a different DBA/federal ID number?**

It would be one certification per county as the \$20,000 threshold applies to the county as a whole. The DLGF has advised that companies with different federal ID numbers are separate entities and stand alone. So if Acme Widgets owns Company A with a federal ID of 001 and Company B with federal ID 002, Company A and Company B could potentially each qualify for the exemption depending on the total acquisition cost of their respective personal property in the county.

- 7. What if a taxpayer completes the certification but does not submit it timely? If they file this certification late, is there a late fee?**

If a person fails to timely file the annual certification, the county auditor must impose a penalty of \$25 that must be paid by the person with the next property tax installment that is collected (see IC 6-1.1-37-7(f); this is not the same penalty imposed for an incomplete personal property return or a personal property return that is filed late).

- 8. So there are two different \$25 penalties in the context of personal property?**

There is a \$25 penalty imposed when a taxpayer files his notarized certification ("late-filing fee on the exemption") late. This is a new penalty introduced in the 2015 legislative session. For many years there has been a \$25 penalty imposed for an incomplete or late personal property return ("late-filing fee on the assessment"). The same taxpayer could not incur both penalties for the same assessment date.

- 9. What if we get the certification timely but it is not notarized? We probably would send a letter (or call them) and they would have to complete a new form and get their signature notarized. Do we complete a defect notice (giving them 30 days to correct) so we can give them a date in writing that the corrected notarized certification is due?**

The Department would encourage the assessor to reach out to the taxpayer and let them get the certification notarized. There is no statutory procedure for a defect notice or anything analogous, but arguably the \$25 penalty could be applied in this situation if the notarized certification is received after May 15.

10. Are farms included?

Yes, businesses and farmers who meet the statutory requirements for this exemption are eligible to receive it.

11. Will the DLGF address whether or not they are recommending that each Assessor's office have a notary on staff?

The *taxpayer* is the one responsible for having its signature notarized. Any person authorized by law to notarize a document may provide the notarization. Because the taxpayer can easily obtain a notarization on its own, it is probably not necessary to have a notary public on the assessor's staff. If the Assessor's office happens to have a notary public on staff, that person could notarize the exemption application. The notary public is merely notarizing or attesting that the person is signing the document, not attesting to the contents of the document.

12. How do we enforce and penalize those who file the application for the exemption, but are not really eligible? For example, will the DLGF recommend that we randomly audit them to ensure accuracy?

There is technically no "application" for this exemption (nothing analogous to a Form 136), but the taxpayer must file the notarized certification to ensure that the assessor does not treat the taxpayer's property as taxable. As discussed above, there is a fine for an untimely certification. In the event a person commits perjury in signing the certification, the county's recourse is to confer with its prosecuting attorney. State law does not establish an audit program specific to this exemption. If an assessor believes that the taxpayer was obligated to file a personal property tax return but failed to do so, IC 6-1.1-3-15 offers the options of either examining the taxpayer's book and records in order to make a determination or, as an alternative, the assessor may estimate the value and place an assessment on the taxpayer by sending him a Form 113/PP. If a Form 113/PP is sent, the taxpayer may elect to file a personal property tax return, which would replace the estimated assessment, or he could accept or challenge this assessment through the appeals process.

13. If the taxpayer doesn't file a certification and we assume they're eligible for the exemption, does that mean we bump unfiled, uncertified returns to \$20,000? How is this going to work?

If the county receives nothing from a particular taxpayer and the county's records indicate that the taxpayer's previous returns reflected personal property with an acquisition cost of less than \$20,000, it stands to reason the taxpayer didn't file a return because it believed its property is exempt. The county may want to reach out to the taxpayer to confirm this. The taxpayer is still obligated to file the certification and an untimely certification triggers the \$25 penalty. If the county has reason to believe the taxpayer is not eligible for the exemption because its personal property

has a total acquisition cost in excess of \$20,000, then the assessor has the remedies and procedures under IC 6-1.1-9 and 50 IAC 4.2 available to him or her.

14. If a taxpayer fails to file a timely certification, is there a notification process to let the taxpayer know that a penalty was applied? The Form 113/PP is used for changes to the assessment or a deduction claimed and doesn't seem to be the appropriate form to use, so perhaps the receipt of the tax bill would be the first notification?

State law technically does not require the county to notify a taxpayer that he has incurred the penalty for a late certification filing. Although the county could choose to notify the taxpayer if it wanted to, the penalty will appear on the taxpayer's tax statement, which will serve as the taxpayer's notice.

15. Is the application of the late filing penalty an appealable issue before the PTABOA and the IBTR?

The DLGF does not believe that the penalty can be appealed via the existing Form 130 or Form 133 appeals processes. A taxpayer might be able to challenge the penalty in court, however.

16. Can you explain what the \$50 service fee is in connection with this exemption?

House Enrolled Act 1472 introduced IC 6-1.1-3-7.3, effective July 1, 2015, so that a county fiscal body may adopt an ordinance to impose a local service fee on each person that files an annual certification with the county assessor. The county fiscal body must specify the amount of the local service fee in the ordinance. The fee may not exceed \$50. The fee imposed 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. The revenue from a local service fee must 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 may be used by a taxing unit for any lawful purpose of the taxing unit.

17. What if a county adopts the \$50 service fee and a taxpayer's past tax history was only \$20 annually; could the taxpayer opt-out of claiming the exemption and file personal property tax returns?

No, the exemption is automatic for those who qualify for it. Thus, a county contemplating imposing the \$50 fee may want to keep this type of situation in mind when doing so.

18. So it is possible for a taxpayer to fail to file a timely certification in a county that adopted the \$50 service fee and the taxpayer would receive a tax bill for \$75 (the \$50 fee and the \$25 penalty)?

Yes, that is correct.

19. Could you explain the exemption for new business personal property and how it differs from the exemption for business personal property with a total acquisition cost of less than \$20,000?

As a result of Senate Enrolled Act 1-2014, starting July 1, 2015, a county may adopt an ordinance to exempt from property taxation all new business personal property located in the county. "Business personal property" means personal property that is otherwise subject to assessment and taxation under IC 6-1.1; and that is used in a trade or business or otherwise held, used, or consumed in connection with the production of income. "New personal property" means business personal property that a taxpayer places in service after the later of the date the exemption ordinance is adopted or a date specified in the exemption ordinance; and that has not previously been used in Indiana before the taxpayer acquires the business personal property. A taxpayer is not required to file an application or a personal property tax return to qualify for this exemption. More information about this exemption is available here: <http://in.gov/dlgf/7576.htm>. Whereas this exemption is a county option, the exemption for business personal property with a total acquisition cost of less than \$20,000 is not. In addition, the exemption for business personal property with a total acquisition cost of less than \$20,000 applies to personal property regardless of whether it is "old" or "new," and requires the taxpayer to file a notarized certification. The optional exemption for new business personal property does not require the taxpayer to file any documentation.

20. What if a taxpayer does not learn of this new exemption and files timely personal property tax returns with a countywide total of less than \$20,000?

The assessor should follow the law and reduce those assessments to zero (\$ -0-) and then apply the \$25 penalty for failure to file a timely certification. A Form 113/PP should be sent to notify the taxpayer of this change in assessment.

PLEASE NOTE THAT THIS CERTIFICATION TEMPLATE IS AN EXAMPLE ONLY. TAXPAYERS DO NOT HAVE TO USE THIS PARTICULAR TEMPLATE IN ORDER TO SATISFY STATE LAW. TAXPAYERS COULD SUBMIT THE CERTIFICATION IN ANOTHER FORMAT. DOING SO DOES NOT WAIVE THE EXEMPTION.

**SAMPLE CERTIFICATION OF ELIGIBILITY FOR PERSONAL PROPERTY
EXEMPTION PURSUANT TO IC 6-1.1-3-7.2**

Beginning in 2016, IC 6-1.1-3-7.2 provides an automatic exemption for a taxpayer's business personal property in a county if the acquisition cost of that taxpayer's total business personal property in the county is less than \$20,000 for the assessment date.

For purposes of this exemption, "acquisition cost" means the cost of the business personal property:

- (1) acquired in an arms-length transaction from an entity that is not an affiliate of the taxpayer, if the personal property has been previously used in Indiana before being placed in service in the county; or
- (2) acquired in any manner, if the personal property has never been previously used in Indiana before being placed in service in the county. IC 6-1.1-3-7.2(c)(3).

A taxpayer that is eligible for the exemption is not required to file a personal property return for the taxpayer's business personal property in the county for that assessment date. However, the taxpayer must, before May 15 of the calendar year in which the assessment date occurs, file annually with the county assessor a notarized certification signed under penalties for perjury stating that the taxpayer's business personal property in the county is exempt from taxation for that assessment date.

A taxpayer believing he qualifies for this exemption is encouraged to review IC 6-1.1-3-7.2 in consultation with his legal counsel and/or financial advisor before signing this certification. Only one annual certification is required for each county where the taxpayer is eligible. If a person fails to timely file the annual certification, the county auditor must impose a penalty of \$25 that must be paid by the person with the next property tax installment that is collected.

TAXPAYER INFORMATION (TO BE COMPLETED BY TAXPAYER).

Full name of taxpayer: _____

Doing business as (DBA): _____

EIN: _____

Mailing address of taxpayer (number and street, city, state, ZIP code): _____

Phone number of taxpayer: _____

TAXING DISTRICT NUMBER(S): _____

PARCEL or PROPERTY ID NUMBER(S) (if known by taxpayer): _____

PROPERTY ADDRESS(ES) WHERE ASSETS ARE LOCATED: _____

ESTIMATED TOTAL ACQUISITION COST OF TAXPAYER'S PERSONAL PROPERTY IN THIS COUNTY: _____

(ATTACH ADDITIONAL PAGES AS NEEDED.)

CERTIFICATION STATEMENT

I, _____, under penalties of perjury, certify that the business personal property owned by _____ (insert name of taxpayer), acquired and placed in service in _____ County, Indiana, is exempt from taxation for the January 1, 20__ assessment date pursuant to IC 6-1.1-3-7.2.

Signature of the authorized person: _____ Date (month, day, year): _____

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

My commission expires: _____

(Name of Notary Public)

Resident of _____ County

PREPARER INFORMATION (TO BE COMPLETED BY PREPARER)

Full name of person signing certification statement above: _____

Relationship of person signing certification statement to taxpayer (e.g., "self," "agent," "attorney") (attach Power of Attorney, if applicable): _____

Mailing address of person signing certification statement, if different from address above (number and street, city, state, and ZIP code): _____

Phone number of person signing certification statement, if different from phone number above: _____

THIS SECTION RESERVED FOR ANY ADDITIONAL INFORMATION THE COUNTY ASSESSOR MAY NEED.