RESOLUTION IN FAVOR OF TANGIBLE PERSONAL PROPERTY TAX REPEAL

Summary

Taxes on business personal property, a type of tax that is levied in many states, violate common principles of taxation (such as neutrality, efficiency, transparency, or benefits received). They distort markets by discouraging capital investment, expansion, and replacement, and impose high administrative and compliance costs. Personal property taxes are primarily a local revenue source, and as a result the current business personal property tax system is characterized by inconsistency within states regarding property classification, assessment methods and ratios, and other rules, creating complexity and confusion for taxpayers. In recognition of the economic and tax policy flaws inherent with personal property taxes, most states have acted to eliminate or limit them. This resolution calls upon state legislators to repeal tangible personal property taxes where they continue to be imposed. If taxes cannot be eliminated completely, they should at the very least be eliminated on inventory and inherently mobile property.

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WHEREAS, personal property taxes are ad valorem taxes on all property other than real property (i.e., property that is unaffixed or movable); and

WHEREAS, though the name suggests that personal property taxes are paid by individuals, the majority of the tax liability falls on business due to the broad exemptions that exist in most states for household personal property, for motor vehicles, and for intangible property (e.g., good will, cash, and bonds); and

WHEREAS, business personal property tends to be divided into several classes, often with different rules, rates, and base calculations for each; and

WHEREAS, unlike real property (which is typically valued by an assessor working for the government), personal property taxes are self-reporting, requiring taxpayers to file annual reports detailing their assets and income; and

WHEREAS, taxes on business personal property violate common principles of taxation; distort markets by discouraging capital investment, expansion, and replacement; and impose high administrative and compliance costs; and

WHEREAS, since property taxes are primarily a local revenue source, the current business personal property tax system is characterized by inconsistency within states, creating complexity and confusion for taxpayers; and

WHEREAS, recognizing the economically detrimental nature of personal property taxes, most states have acted to eliminate or limit these taxes.

NOW THEREFORE BE IT RESOLVED, that the American Legislative Exchange Council recommends that states wishing to ensure that their tax system remains neutral and does not deter business investment should explore opportunities to eliminate or limit business personal property taxes.

If repeal of these taxes is not feasible in the short term, the American Legislative Exchange Council recommends that states consider intermediate reforms and administrative simplifications to ease the compliance burden imposed on business personal property taxpayers. States seeking to limit the distortive effects of a tax on capital investment should consider:

- Providing a de minimis exemption (exempting property valued under a specific dollar threshold) and indexing such exemptions for inflation;
- Providing an exemption for all types of business inventory, and defining inventory broadly to reflect different forms of inventory (e.g., rental equipment that is or ultimately will be offered for sale or spare parts retained in a storage facility);
- Prohibiting exempt personal property from being recategorized as real property; and
- Allowing local options to reduce or repeal personal property taxes.

States working to reduce the high compliance costs imposed on businesses subject to personal property taxation should:

- Carefully define the different types or classes of personal property to provide clarity for businesses when they are self-reporting personal property;
- Ensure that definitions are applied on a statewide basis to simplify compliance for businesses with personal property in multiple jurisdictions within the state and that final oversight authority lies with the state;
- Require and provide uniform filing forms, valuation standards, assessment standards, and depreciation and obsolescence schedules that do not differ based on locality;
- Provide the option for business to calculate and remit taxes electronically;
- Provide (but not mandate the use of) a state portal in which taxpayers may file all local personal property taxes online at no cost to them;
- Ensure all filing dates and other deadlines are uniform throughout the state; and
- Consider administrative accommodations or substitute taxes for taxpayers with highly mobile property that will be used in multiple locations (within the state or in multiple states) throughout the tax year (e.g., heavy equipment rentals).

To promote transparency for taxpayers, states should:

- Ensure that all forms, assessment standards, depreciation schedules, and definitions are updated and provided annually;
- Ensure that notice of any updates to forms, assessment standards, depreciation schedules, definitions, and important dates are provided to taxpayers and practitioners to review and provide input in a timely manner;
- Provide a detailed statewide manual of instructions, guidelines, and best practices for listing and valuing personal property to all taxpayers annually and free of charge;
- Revise outdated manuals and valuation schedules to recognize that the costs of new technology equipment (e.g., computer and communications equipment) declines over time and assure that cost indices and depreciation schedules fit the characteristics of these assets; and
- Ensure that lists of exempt and non-exempt property are updated and provided annually.