



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Principles for the Taxation of Business Personal Property

Executive Committee Task Force on State and Local Taxation

Personal property taxes are *ad valorem* taxes on all property other than real property (*i.e.*, real property is land and permanent improvements affixed to land, while personal property is unaffixed or movable property). Although 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). Business personal property tends to be divided into several classes, often with different rules, rates, and base calculations for each. And 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.

Taxes on business personal property do not align with common principles of taxation (such as neutrality, efficiency, transparency, benefit, or ability-to-pay); distort markets by discouraging capital investment, expansion, and replacement; and impose high administrative and compliance costs. Since property taxes are primarily a local revenue source, 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.

Recognizing the economically detrimental nature of personal property taxes, most states have enacted provisions limiting their scope or simplifying administration, and several have eliminated them altogether.

The National Conference of State Legislatures' Executive Committee Task Force on State and Local Taxation has undertaken a process to study and better understand the taxation of business personal property. Based on this effort, the Task Force finds that to ensure that personal property taxation remains neutral and does not deter business investment, states should explore opportunities to reduce or eliminate business personal property taxes.

However, the Task Force recognizes that state-mandated repeal or limitation of business personal property taxes presents intergovernmental challenges. If repeal of these taxes is not feasible, the Task Force finds that states should consider administrative simplifications to ease the compliance burden imposed on business personal property taxpayers.

The Task Force recommends the following principles for consideration by states seeking to improve laws governing the taxation of business personal property.

1. 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;
- Exempting new business property for a fixed number of years (or alternatively, exempting new personal property from the tax indefinitely, as well as personal property classified as an expansion of an existing business);
- Providing an exemption for all types of business inventory, and defining inventory broadly to reflect different forms of inventory (*e.g.*, rental equipment offered for sale or spare parts retained in a storage facility);
- Allowing businesses to be exempted from the tax if they can show their cost of calculation and filing is higher than the amount of tax that would be owed;
- Prohibiting exempt personal property from being recategorized as real property; and
- Allowing local options to reduce or repeal personal property taxes.

2. 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).

3. 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.

*Adopted by the NCSL Executive Committee Task Force on State and Local Taxation
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