Nebraska Department of
REVENUE
PROPERTY ASSESSMENT

DIRECTIVE 15-5

September 1, 2015

Personal Property Tax Relief Act

Purpose

This directive advises county assessors and county treasurers of their responsibilities for implementing the Personal Property Tax Relief Act (Act), Neb. Rev. Stat. §§ 77-1237 to 77-1239. This Act provides an exemption of the first $10,000 of tangible personal property value for each tax district in which a personal property return is filed by a taxpayer, and an exemption factor for centrally assessed taxpayers. The Act also provides a reimbursement mechanism for any taxes lost by the county and political subdivisions as a result of the exemption.

Procedure and Implementation

Personal Property Return

On or before May 1 each year, taxpayers file personal property returns with the county assessor. The county assessor will apply an exemption of up to $10,000 to each return timely filed. Failure to report tangible personal property on the personal property return will result in a forfeiture of the exemption for any personal property not timely reported for that year.

Note: All of the examples in this Directive assume a local consolidated tax rate for the current year of 1.4% in each tax district in the county.

> **Example 1.** Smith files a personal property return listing personal property with a net book value of $4,000 on April 30. Smith will receive an exemption of $4,000 of net book personal property value.
>
> **Example 2.** Smith files a personal property return listing personal property with a net book value of $16,000 on April 28. Smith will receive an exemption on the net book value of $10,000 of personal property; the remaining $6,000 of net book personal property value will be subject to taxation.
>
> **Example 3.** Smith files a personal property return listing personal property with a net book value of $4,000 on May 1. On May 7, Smith reports (or the county assessor discovers) an additional net book value of $12,000 of personal property. Smith will only receive an exemption on the net book value of $4,000 of personal property. The additional net book value of $12,000 will be subject to taxation with penalty and interest.

Neb. Rev. Stat. § 77-1202 provides: "Taxable tangible personal property shall be listed and assessed where it has acquired tax situs as defined in section 77-125." Section 77-125 defines "tax situs," in relevant part, as "the tax district wherein … taxable tangible personal property is located for fifty percent or more of the calendar year. Taxable tangible personal property of a business shall be assessed at the location of the business unless the property has acquired tax situs elsewhere."

It is imperative that taxpayers only file one tax return per tax district. If multiple tax returns are filed in the same tax district by the same taxpayer, the filed personal property returns will be combined on the personal property tax rolls and the $10,000 exemption will only be granted once.

> **Example 4.** Johnson owns property at multiple business locations. Johnson owns personal property with a net book value of $25,000 at two locations in tax district 001, personal property with a net book value of $8,000 at one location in tax district 003, and personal property with a net book value of $12,000 at three locations in tax district 004. On or before May 1, Johnson files two personal property returns in tax district 001, one personal property return in tax district 003, and three personal property returns in tax district 004. Johnson should have only filed three personal property returns – one for each tax district in which property is owned. Johnson will receive an exemption of $10,000 for the personal property in tax district 001, and the remaining net book value of $15,000 will be taxable; Johnson will receive an exemption of $8,000 for the personal property in tax district 003; and Johnson will receive an exemption of $10,000 for the personal property in tax district 004, and the remaining net book value of $2,000 will be taxable.

> **Example 4A.** Continuing from the prior example, Johnson filed two personal property returns in tax district 001: the first return is for personal property with a net book value of $7,000; the second return is for personal property with a net book value of $18,000. The county assessor will record $7,000 of exempt value on the first personal property return filed in tax district 001. The county assessor will then record the remaining $3,000 of exempt value, and $15,000 of taxable value, on the second return filed in tax district 001. The county assessor will enter $10,000 of exempt value and $15,000 of taxable value in the personal property tax roll for tax district 001 in that county for that year.

There may be some taxpayers filing personal property returns and also claiming an exemption under the Beginning Farmer Tax Credit Act, and others also claiming an exemption under the Employment and Investment Growth Act and the Nebraska Advantage Act (the incentives acts). The $10,000 exemption is applied prior to granting exemptions for beginning farmers or the incentives acts. Exemptions for beginning farmers and the incentives acts are not reimbursable.

The personal property return has been redesigned for the county assessor to note how much value will be exempted for each return. Space has been provided for county assessors to note how much value has been exempted due to the Act, and how much value has been exempted due to the

Beginning Farmer Tax Credit Act. **Counties may only claim reimbursement for tax loss from value that has been exempted because of the Act.**

> **Example 5.** Reynolds is a qualified beginning farmer. He owns personal property with a net book value of $295,000. Reynolds lists his personal property on a personal property return filed on April 29. Reynolds will receive an exemption on net book value of $10,000 under the Act, and an exemption on net book value of $100,000 under the Beginning Farmer Tax Credit Act. The remaining $185,000 of personal property net book value will be subject to taxation. The county assessor and county treasurer will report a tax loss of $140 (10,000 x 1.4%) for Reynolds' personal property.

> **Example 6.** XYZ Corp. is eligible for exemption of its qualified personal property under the Nebraska Advantage Act. On May 1, XYZ Corp. timely files a personal property return listing $4,600,000 of taxable tangible personal property located at its project in that county. On the same day, XYZ Corp. also files a Form 312P claiming exemption of personal property with a net book value of $12,100,000. The county assessor enters the personal property from both documents, totaling $16,700,000 of personal property value, onto the personal property tax rolls for that county. On July 29, the Nebraska Department of Revenue (Department) certifies an exemption under the incentives act of $11,850,000 of net book value of XYZ Corp.'s personal property. The county assessor will exempt $11,860,000 (incentives act exemptions of $11,850,000 plus a personal property exemption of $10,000) of net book value of XYZ Corp.'s a personal property. The remaining $4,840,000 of net book value of XYZ Corp.'s personal property will be subject to taxation. The county assessor and county treasurer will report a tax loss of $140 ($10,000 x 1.4%) for XYZ Corp.'s personal property.

Acceleration of Taxes

Personal property tax is due and collectible when: (1) the taxpayer attempts to sell all or a substantial part of his or her taxable tangible personal property; (2) a levy of attachment is made upon taxable tangible personal property; or (3) a person attempts to remove or removes taxable tangible personal property from the county. The property tax is calculated on the basis of the prior year's levy. Any personal property which has had the tax accelerated is ineligible for the exemption.

> **Example 7.** On January 1, Williams owns personal property with a net book value of $25,000. On April 19, Williams attempts to move all of his personal property out of the county. The consolidated tax rate for the prior year in Williams's tax district was 1.43%. The county treasurer will collect accelerated personal property tax in the amount of $357.50 ($25,000 x 1.43%). Williams' personal property is not eligible for an exemption under the Act.

> **Example 8.** On January 1, Williams owns personal property with a net book value of \$25,000. On April 19, Williams attempts to move some of his personal property, with a net book value of \$12,000, out of the county. The consolidated tax rate for the prior year in Williams's tax district was 1.43%. The county treasurer will collect accelerated personal property tax in the amount of \$171.60 (\$12,000 x 1.43%). Williams will receive an exemption of \$10,000, and will pay personal property tax on the remaining \$3,000.

Personal Property Abstract and Summary Certificate

On or before July 20 of each year, the county assessor must electronically file a personal property abstract with the Property Tax Administrator. **It is imperative that the personal property abstract reflect the total value and the total exempt value of all timely filed personal property returns.** The personal property abstract is used to calculate a compensating exemption factor for centrally assessed taxpayers. Any personal property value and personal property exemptions added after July 20 which alters the compensating exemption factor could result in recertifications of value, tax list corrections, and refunds being due to centrally assessed taxpayers. Amended personal property abstracts will only be accepted through August 2 of each year. **Personal property abstracts may only be amended for changes made by the Department to the exemptions claimed by companies applying under the incentives acts.**

> **Example 9.** The county assessor submits a personal property abstract on July 19 which reports a total county personal property net book value (prior to the exemption provided by the Act) of \$40,000,000, and a total exempt value of \$4,000,000. On August 1, the county assessor amends the personal property abstract to report a total county personal property value (prior to the exemption provided by the Act) of \$43,000,000, and a total exempt value of \$4,178,000. On November 22, the county assessor and county treasurer certify an exempt personal property value of \$4,178,000, and a total tax loss of \$58,492 for locally assessed personal property.

The county assessor must report county totals for the following information on the personal property abstract for both commercial and agricultural personal property exemptions granted to all taxpayers:

1. The total number of personal property returns submitted, and the total number of personal property returns with exempt value per the Act;
2. The total taxable net book personal property value reported, and the total exempt net book personal property value per the Act; and
3. The number of personal property returns submitted by beginning farmers, and the total of exempt value pursuant to the Beginning Farmer Tax Credit Act.

On or before November 30 of each year, the county assessor and county treasurer will certify to the Tax Commissioner the total tax revenue that will be lost to all taxing subdivisions within the county due to the exemptions provided by the Act. A Tax Loss Summary Certificate, Form 259P, has been designed for this purpose. The Form must be filed electronically. **The total value lost should match what was reported on the personal property abstract.** Any personal property value and personal property exemptions added after July 20 could result in recertifications of value, tax list corrections, and refunds being due to centrally assessed taxpayers.

> **Example 10.** The county assessor submits a personal property abstract on July 19 which reports a total county personal property net book value (prior to the exemption provided by the Act) of $40,000,000, and a total exempt net book value of $4,000,000. On November 22, the county assessor and county treasurer certify an exempt personal property net book value of $4,000,000, and a total tax loss of $56,000 for locally assessed personal property.

Through May 30 of the following year, the county assessor and county treasurer may amend the certification of total personal property tax loss. An Amended Tax Loss Summary Certificate, Form 259X, has been designed for this purpose. The form must be filed electronically.

Personal Property Value Certification, Tax List, and Tax Statements

For purposes of certifying value to the political subdivisions for levy setting, the county assessor must include the following:

1. The total taxable value of all tangible personal property before the exemption under this Act;
2. The total taxable value of real property; and
3. The certified centrally assessed values.

For each filed personal property return, the personal property tax list must display:

1. The total taxable personal property value before exemption;
2. Exempt value under the Act;
3. The net taxable value;
4. Total taxes levied before the exemption;
5. Taxes attributable to the exempt value under the Act; and
6. The net taxes due.

Each taxpayer's personal property tax statement must display the same amounts as the tax list shows for that taxpayer.

Reimbursement of Locally Assessed Personal Property Tax Loss

On or before January 1 of each year, the Tax Commissioner will certify the tax loss claimed from the locally assessed personal property exemption in each county to the Director of Administrative Services (Director). The Director will issue warrants against the funds available for reimbursement for each county in two approximately equal installments on the last business days of February and June each year. From the amount received, the county treasurer will deposit 1% into the county's general fund, and will distribute to each of the taxing subdivisions in the county the amount of tax lost by each subdivision, reduced by the 1% that was deposited into the county's general fund. Nonpayment of personal property taxes by a taxpayer does not affect the reimbursement claim or state monies paid for the tax loss reimbursement.

Personal Property Exemption for Centrally Assessed Value

After receiving the personal property abstracts from all of the counties, the Property Tax Administrator will determine the compensating exemption factor for the state by taking the state total amount of locally assessed tangible personal property after exemption divided by the total amount of locally assessed tangible personal before the exemption. The compensating exemption factor will be applied to the centrally assessed company's taxable net book personal property value. Centrally assessed companies include railroads, public service entities, car line companies, and air carriers.

> **Example 11.** On July 20, the personal property abstract filed by every Nebraska county is received by the Property Tax Administrator. The Property Tax Administrator determines that $10,000,000,000 of taxable tangible personal property had been listed on personal property returns statewide, and that the total amount subject to tax after application of the Act exemption is $9,500,000,000. The Property Tax Administrator will multiply the net book tangible personal property value of each centrally assessed company by a compensating exemption factor of 0.95 ($9,500,000,000/$10,000,000,000).

The Property Tax Administrator will reduce the centrally assessed company's value by multiplying the compensating exemption factor by the company's taxable net book personal property value.

For railroads and public service entities, the Property Tax Administrator will certify the taxable value to the counties on or before August 10, which will reflect personal property value reduced by the compensating exemption factor. The county assessor will place the certified centrally assessed valuations on the local tax lists and no other calculations are required.

For car lines and air carriers, the Property Tax Administrator will reduce the taxable net book personal property value, calculate the tax due, and collect taxes.

Reimbursement for Centrally Assessed Personal Property Tax Loss

On or before January 15 of each year, the Property Tax Administrator will determine the statewide average tax rate by taking the total property taxes levied in the state divided by the total taxable value of all taxable property in the state as reported on the Certificate of Taxes Levied Report.

On or before January 30 of each year, the Tax Commissioner will certify to the Director of Administrative Services (Director) the total amount of value lost to all taxing subdivisions. This amount, multiplied by the average tax rate, will be the tax revenue reimbursed to the taxing subdivisions by the state. On or before February 15 of each year, the Director will draw warrants against funds available for reimbursement of public service entity and railroad taxes lost.

Reimbursement of the taxes lost for car lines and air carriers will be included in the distribution of taxes for those companies.

For railroads, the personal property tax loss will be distributed to the various political subdivisions based on the ratio of total railroad taxes levied in the county or subdivision compared to the state's total railroad taxes levied, based on the Certificate of Taxes Levied Report.

For public service entities, the personal property tax loss will be distributed to the various political subdivisions based on the ratio of the total public service entity taxes levied in the county or subdivisions compared to the state's total public service entity taxes levied, based on the Certificate of Taxes Levied Report.

On or before February 15, the Property Tax Administrator will electronically certify to county treasurers the tax loss reimbursement distribution reports for railroads (if applicable) and public service entities, and the reports will be posted to the Property Assessment Division's (Division) website.

The amount of car line personal property tax loss will be added to the taxes collected and distributed to the various political subdivisions based on the ratio of total railroad taxes levied in the county or subdivision compared to the state's total railroad taxes levied. The amount of air carrier tax loss will be added to the taxes collected and distributed to the credit of the county's general fund proportionate to the amount the total property taxes levied in the county bears to the total property taxes levied in the state as a whole. The Property Tax Administrator will certify to county treasurers the car line and air carrier taxes, including the tax loss reimbursement amount, during the first week of April and August, and reports will be posted to the Division's website.

County treasurers will **not** retain a 1% collection fee for distributing personal property tax loss reimbursement monies for any of the centrally assessed companies.

The operative date of the Act is January 1, 2016. County assessors and county treasurers are urged to contact their computer system vendors so any necessary programming changes can be made in advance of the operative date.

APPROVED:

/s

Ruth A. Sorensen
Property Tax Administrator
September 1, 2015

APPROVED:

/s

Leonard J. Sloup
Acting Tax Commissioner
September 1, 2015

This Directive is promulgated under the authority of Neb. Rev. Stat. § 77-1330. It will be designated for inclusion in Title 350, Neb. Admin. Code, Chapter 20 upon the next revision of that regulation.