Proposal Personal Property Reporting Summary

Problem: Current consensus among County Assessors is that businesses are not fully reporting and that it is worthwhile to work toward better reporting.

How to get better reporting?

Should Wyoming remove the problem by not taxing personal property? Currently, 12 states exempt all personal property. All others have some level of exemption and include penalties, incentives or both. Eliminating the personal property tax may lead to greater equity but will necessitate replacement of that tax revenue, which is not realistic for Wyoming at this time. Eliminating the personal property tax is beyond the scope of this dialogue. Penalties and incentives may improve reporting.

Penalties

Currently, Wyoming personal property declarations threaten a fine of up to $500 and up to 90 days in jail. Statutes also allow for the seizure of personal property and the seizure of real property associated with that personal property. Other states have a variety of penalties. There are proposals in Wyoming to enhance existing penalties, which may improve the level of reporting and are worth considering.

Incentives

To paraphrase Benjamin Franklin, "A spoonful of honey will catch more flies than a gallon of vinegar."

Before the gallon of vinegar (or penalties) it may be wise for Wyoming to incentivize reporting and offer "a spoonful of honey." Many jurisdictions offer incentives to report that Wyoming could emulate.

There are 13 states with direct incentives to report. Within some states, jurisdictions offer different exemptions, so there are more than 13 potential examples and 15 have been examined.

By comparison to other states, the Wyoming Personal Property declaration and process is relatively simple. In keeping with that, this proposal remains simple. Both Florida and Nebraska offer an exemption if a business files by the due date. In Florida, the exemption is for the first $25,000 of value if reporting by February 1. In Nebraska, the exemption is S10,000. Exemption amounts are based on original installed cost (reported cost) before other exemptions such as pollution and fire control exemptions are deducted.

Simple Proposal

Create one small change to personal property declarations in Wyoming by exempting the first $35,000 of original cost. The process:

1. Send out declarations to all businesses as usual. New businesses will be assigned a $35,000 value that owners should edit and itemize when reporting.
2. Any business that returns their declaration by March 1 will receive a $35,000 exemption.
3. If they do not return, then, the best information available is that the business-owner concedes that the cost of their equipment is at least $35,000 and their tax bill will reflect that value. The cost of equipment may be higher if the Assessor has information to that effect.
4. Assessor's offices will use their auditing practices to determine the accuracy of reporting or non-reporting.

<u>Questions that may arise:</u>

How to choose an exemption amount?

It is difficult to determine the source of the exemption amounts. Arizona's exemption is based on annual DOR calculations. Others are unknown. To derive an exemption amount for Wyoming of $35,000, Park County's personal property was used as the sample data. Leasing companies, large chain retail businesses, industry and other large businesses were removed from the sample by looking at NAICS codes. Using the remaining account values, median and mean values were analyzed for clustering of values and, in three of the chosen methods, there is a clustering of values near $35,000. There are other possibilities for analysis of values.

Can we be flexible about the reporting date?

Assessors have the latitude to use their own judgment, however, for this exemption to be effective it must be seen as a reward for reporting on time. It may be worthwhile to consider some flexibility in the first year.

Do they have to report every year?

Alaska, Florida, Montana and others do not require future reporting until business personal property value exceeds the exempt amount. In Idaho, taxpayers file an application annually once they've established initial eligibility. In Florida, the taxpayers receive a notice in future years that they were exempt in the previous year. A postcard may be effective for these businesses in Wyoming and be less of a nuisance than reporting annually for Mom & Pop businesses. Any business with a value near the exemption amount could be contacted for verification that they did not buy more equipment.

How to explain $35,000?

Although many businesses possess equipment with a value much lower than $35,000, they will be exempt upon reporting. It is a reasonable assumption that any business not reporting agrees with the best information (BIA) amount given by the assessor if they do not return the rendition. It is frequently the case that businesses do not bother to report in detail because they consider the given value derived from BIA to be reasonable. There are other methods of arriving at BIA, including using NAICS codes to model similar businesses.

Is the exemption off of original cost?

Yes. Some states have more complex formulas for applying exemptions. Exempting original reported cost may be the simplest way of applying the exemption. If a manufacturer's installed cost for all equipment was $100,000, the $35,000 exemption means that their total taxable value is $65,000 after the exemption. If a book store opens on the corner and their installed cost for all equipment is $15,000, they will pay no personal property tax when they report on time.

Will there still be penalties?

To be determined by current proposed legislation.

What if the equipment is worth more than $35,000? Does it get the exemption?

Yes, all businesses that report on time get a $35,000 exemption. If they report late, they do not get the exemption, even if their value is higher than $35,000.

Will the counties lose a significant amount of revenue over this?

Using 2019 statewide values taken from the CAMA database, with a $35,000 exemption of value from all personal property accounts, both Industrial and Commercial, the estimated loss is 2.3 percent. This may be over 5 million dollars of nearly 190 million tax dollars. These amounts are derived by using the model to estimate Original Reported Cost of equipment statewide based on "Actual Value" figures from the Department of Revenue. It does not take into consideration the likelihood that some will not take advantage of the exemption and some will see their minimum value increase to $35,000. The loss is likely to be somewhat lower and economic theory suggests that it will encourage capital investment.

Why would Wyoming do this?

Poor reporting begs the question of why there is poor reporting. It is believed that many Mom & Pop businesses consider the Personal Property tax to be a burden and a disincentive to businesses. Consider this from the Burlington, Vermont government website:

"In 2016 a task force for the National Conference for State Legislatures (NCSL) found that taxes on business personal property distort markets by discouraging capital investment, expansion, and replacement while imposing high administrative and compliance costs.[1] A 2012 paper by the Tax Foundation agreed that states are moving away from BPP (business personal property) *taxation because the tax's complexity, non- transparency, economic distortions, and harm to economic growth make it less desirable than other forms of taxation.[2] The paper suggests that taxing personal property is more distortionary than taxes on real property since mobile capital (e.g. machinery and equipment) can more easily flow out of higher tax jurisdictions to those with lower tax rates. Another common complaint is that this tax arbitrarily falls more heavily on asset-heavy businesses without consideration of revenue or ability-to-pay."*

1 *NCSL "Principles for the Taxation of Business Personal Property" January 2016.*
2 *Tax Foundation "States Moving Away from Taxes on Tangible Personal Property" Oct 2012.*

The goal is to encourage businesses to report when those businesses are big enough to justify the expense of potentially rigorous audits and to encourage economic growth by removing one small obstacle to investment. This incentive is pro-business and will lead to economic growth in Wyoming.