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# Taxation of Business Personal Property

Testimony to the Senate Finance Committee, December 3, 2019

*Study the economic dynamics of the current business personal property tax. Consider the economic and fiscal effects of increased exemptions to the business personal property tax, versus its elimination. Following such study, make recommended changes to law.*

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# Summary

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Texas has among the highest property taxes of any state in the nation—3<sup>rd</sup> highest on manufacturers in 2018, according to the Lincoln Institute of Land Policy. For a \$25 million industrial facility, Texas’ effective annual property tax burden would be \$1.2 million — 65 percent higher than the national average of \$0.7 million.

Texas’ property tax is especially burdensome in that not only are tax *rates* high, the base is *broader* than that of most states. Texas includes business personal property as a part of its tax base while 12 states do not (7 states fully exempt business personal property and another 5 generally exempt it). Further, most states, 36, exempt a key component of business personal property—inventories. Texas, like 7 other states, fully taxes inventories (6 offer partial general exemptions).

Texas does allow certain local jurisdictions to offer temporary property tax incentives for business personal property, but these incentives do not extend to inventories. Certain inventories may benefit from a “*goods in transit*” exemption for property in interstate commerce on a local option basis.

Taxation of business personal property is harmful to the economy and taxpayers because:

- It generates a higher tax bill, which puts Texas at a competitive disadvantage to many other states,
- Administering the tax on business personal property is extremely complex. Taxpayers are burdened with a high cost of administering their tax, and must pay even higher taxes to cover the government’s cost of administering the tax, and
- Higher tax bills mean Texas must place a greater emphasis on incentive and abatement programs in order to effectively compete for new investment.

Business personal property amounted to roughly 9.8 percent of the state’s school property tax base for the 2018 tax year. Inventories may account for roughly half of the amount of business personal property on the tax rolls.

Texas does provide a \$500 exemption for business personal property (Tax Code 11.145) and mineral interests (Tax Code 11.146). The \$500 level was set 20 years ago, in 1997, and has not kept pace with inflation. A \$500 exemption in today’s dollars is equivalent to \$312 in 1996 dollars.

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# Texas Property: What’s Subject to the Property Tax and What Isn’t

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Type of Property	Definition/ Examples	Business	Individually-Owned
Real Property	Fixed property (Land, buildings, and any structures affixed to real property)	Taxed	Taxed
Personal Property	Tangible property that can be touched and is moveable and not affixed to real property (raw materials, supplies, manufactured goods, furniture, computers, etc.)	Taxed	Not Taxed

Texas’ property tax applies to all real estate (land and improvements). Texas Constitution Article 8, Section 1(b).

Texas’s property tax also applies to tangible personal property, except that property “not used for the production of income,” (i.e. that owned by individuals), is exempt. Texas Constitution Article 8, Section 1(d). That means, for example, a business must pay property taxes on its tangible personal property, but individuals do not. Inventories of raw materials and finished products is a key part of business tangible personal property.

Provisions governing the property tax are found in the Texas Constitution, which provides (Article 8, Section 1(b) and (d)):

*All real property and tangible personal property in this State, unless exempt as required or permitted by this Constitution, whether owned by natural persons or corporations, other than municipal, shall be taxed in proportion to its value, which shall be ascertained as may be provided by law.... The Legislature by general law shall exempt from ad valorem taxation household goods not held or used for the production of income and personal effects not held or used for the production of income.*

# Business Property Taxes Across the States

State	Effective Tax Rate	Rank: Hight/Low	Tax on \$25 ml Indus Facility	BPP Taxable?	Inventory Taxable?
Alabama	1.15%	36	576,738	Yes	No
Alaska	1.58%	21	790,726	Yes	Partial
Arizona	2.26%	6	1,127,592	Yes	No
Arkansas	1.40%	27	700,474	Yes	Yes
California	0.96%	42	478,418	Yes	No
Colorado	1.77%	16	883,011	Yes	No
Connecticut	1.88%	14	942,096	Yes	No
Delaware	0.86%	45	427,709	No	No
Florida	1.35%	28	676,515	Yes	No
Georgia	1.41%	25	704,478	Yes	Partial
Hawaii	0.60%	50	298,437	No	No
Idaho	1.17%	35	586,761	Yes	No
Illinois	2.06%	10	1,027,913	No	No
Indiana	2.10%	9	1,050,918	Yes	No
Iowa	2.11%	8	1,052,957	No	No
Kansas	1.48%	24	739,174	Yes	No
Kentucky	0.72%	48	362,043	Yes	Yes
Louisiana	2.11%	7	1,055,643	Yes	Yes <sup>c</sup>
Maine	1.11%	37	556,380	Yes	No
Maryland	1.35%	29	675,315	Yes	Yes
Massachusetts	1.07%	39	535,500	Yes	Partial
Michigan	2.72%	2	1,361,323	Yes	Partial
Minnesota	1.63%	20	812,796	No <sup>b</sup>	No
Mississippi	2.80%	1	1,400,319	Yes	Yes
Missouri	2.28%	5	1,138,155	Yes	No
Montana	1.25%	33	624,852	Yes	No
Nebraska	1.67%	18	835,191	Yes	No
Nevada	0.91%	43	456,489	Yes	No
New Hampshire	1.06%	40	528,064	No <sup>b</sup>	No
New Jersey	1.48%	23	740,816	No <sup>b</sup>	No
New Mexico	1.20%	34	601,297	Yes	No
New York	1.33%	30	665,712	No	No
North Carolina	0.88%	44	441,848	Yes	No
North Dakota	0.58%	51	290,620	No <sup>b</sup>	No
Ohio	1.28%	31	637,482	No	No
Oklahoma	1.40%	26	701,910	No <sup>b</sup>	Yes
Oregon	1.96%	13	982,152	Yes	No

# Business Property Taxes Across the States, *continued*

Pennsylvania	1.27%	32	635,548	No	No
Rhode Island	2.03%	11	1,016,630	Yes	No
South Carolina	2.34%	4	1,167,320	Yes	No
South Dakota	0.81%	46	402,515	No <sup>b</sup>	No
Tennessee	1.10%	38	552,125	Yes	No
<b>Texas</b>	<b>2.39%</b>	<b>3</b>	<b>1,196,330</b>	<b>Yes</b>	<b>Yes</b>
Utah	1.04%	41	519,454	Yes	No
Vermont	1.66%	19	832,227	Yes	Partial
Virginia	0.49%	53	246,841	Yes	Partial
Washington	0.73%	47	364,076	Yes	No
West Virginia	1.67%	17	835,380	Yes	Yes
Wisconsin	1.50%	22	751,792	Yes	No
Wyoming	0.66%	49	328,992	Yes	No
50 States	1.45%	n.a.	727,085	Exempt: 7 Pt Exmt: 5 Taxable: 38	Exempt 36: Partial: 6 Taxable: 8

Notes: <sup>a</sup> Facility is assumed to be \$25 million of real estate value and \$25 million of business personal property value. <sup>b</sup> Most BPP is exempt except for select industries that are centrally assessed, such as public utilities or oil and natural gas refineries. <sup>c</sup> Louisiana offers a business tax credit for taxes paid on inventories.

Source: Lincoln Institute of Land Policy and Tax Foundation.

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# School Property Taxes by Type of Property

2018 Tax Year, Dollars are in Billions

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Type of Property	Market Value	Taxable Value	Percent Taxed	School Taxes Due
Single Family	\$1,606.1	\$1,256.7	78.2%	\$17.3
Multi Family	\$197.5	\$197.5	100.0%	\$2.7
Business Real Estate	\$864.8	\$827.2	95.6%	\$11.2
Business Personal Property	\$294.0	\$250.7	85.3%	\$3.4
Agricultural	\$295.4	\$17.2	5.8%	\$0.2
Total	\$3,257.8	\$2,549.3	78.2%	\$34.8

Business personal property accounts for 9.0 percent of the total market value of all property in the state, and 9.8 percent of all school taxable property in the state.

Even though it is taxable, business personal property can benefit from certain exemptions, subject to the approval of local taxing authorities:

- Property tax abatements under Chapter 312 of the Tax Code (except that inventories are not eligible)
- Taxable value limitations under Chapter 313 of the Tax Code (except that inventories are not eligible)
- Certain inventories of products may be eligible for a “*goods in transit*,” or “*freeport*” exemption if they are in the state on a temporary basis.

School taxes paid on business personal property totaled \$3.4 billion in Tax Year 2018.

Inventories may perhaps account for roughly half of the total value of business personal property in the state.

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# Rendition Forms

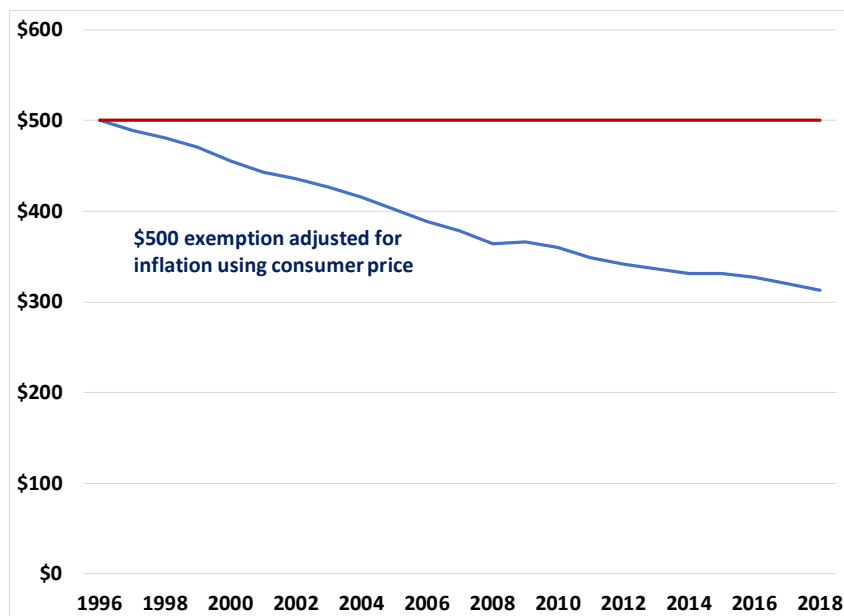
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<b>Form</b>	
<b><u>Number</u></b>	<b><u>Title</u></b>
50-127	Report of Decreased Value
50-141	General Real Property Rendition of Taxable Property
50-142	General Personal Property Rendition of Taxable Property
50-143	Rendition of Residential Real Property Inventory
50-144	Business Personal Property Rendition of Taxable Property
50-145	Rendition of Property Qualified for Allocation of Value
50-148	Report of Leased Space for Storage of Personal Property
50-149	Industrial Real Property Rendition of Taxable Property
50-150	Oil and Gas Property Rendition of Taxable Property
50-151	Mine and Quarry Rendition of Taxable Property
50-152	Telephone Company Rendition of Taxable Property
50-153	REA-Financed Telephone Company Rendition of Taxable Property
50-154	Electric Company and Electrical Cooperative Rendition of Taxable Property
50-155	Gas Distribution Utility Rendition of Taxable Property
50-156	Railroad Rendition of Taxable Property
50-157	Pipeline and Right of Way Rendition of Taxable Property
50-158	Watercraft Rendition of Taxable Property
50-159	Aircraft Rendition of Taxable Property
50-164	Application for September 1 Inventory Appraisal
50-288	Lessor's Rendition or Property Report for Leased Automobiles

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# \$500 Exemption for Business Personal Property and for Minerals Interests

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In 1995 voters approved an amendment to Art. VIII, Section 1 of the Texas Constitution, to allow the Legislature to exempt:

- *tangible personal property that is held or used for the production of income that has a taxable value of less than the minimum amount sufficient to recover the costs of the administration of the taxes on the property, and*
- *a mineral interest that has a taxable value of less than the minimum amount sufficient to recover the costs of the administration of the taxes on the interest.*

The Legislature enacted HB 366 in 1995 with an effective date of January 1, 1996 to provide an exemption of for an owner of tangible personal property valued at less than \$500.

A \$500 value generates about \$13 in total property taxes. While it does not cost that much to send a bill, the cost of collecting delinquent taxes and locating owners of BPP and mineral interests exceeds that amount.

The interim committee report of the Senate Finance Committee for the 85<sup>th</sup> Legislature reported that for Harris County, 67 % of the revenue generated from taxing small parcels of business personal property (valued above \$500 but less than \$2,500) went to cover the appraisal district's administrative cost.



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## Recommendations

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1. Texas should place a priority on exempting business personal property from the property tax, as revenues become available. Doing so will yield a positive economic response for business investment.
2. A first step in exempting business personal property would be to exempt business inventories from the school property tax, with an eye to extending the exemption to other local property taxes. With the fiscal implications likely high, the state could consider phasing in the exemption.
3. Texas should increase the amount of the \$500 exemption for both business personal property and for mineral interests to an appropriate level more commensurate with the cost of administering the tax.