

**PROPERTY TAX RULES COMMITTEE MEETING AGENDA**  
**Tuesday, January 24, 2012**  
**9:30 A.M.**  
**STATE TAX COMMISSION**  
**1<sup>st</sup> FLOOR CONFERENCE ROOM (1CR5)**

Pages

**GENERAL BUSINESS:**

Introductions – Attendance sign-in sheet [*Alan Dornfest*]

Approval: Meetings’ minutes: June 16, 2011, July 21, 2011, and November 29, 2011 [*Alan Dornfest*].....2,7,10

Legislative Update [*Alan Dornfest*]

Rules Status Report – January 24, 2012 [*Rick Anderson*].....14

Subcommittee Report: Park model mobile homes [*Rick Anderson*]

**OLD BUSINESS:**

Proposed Rule 612 – Property exempt from taxation – Motor vehicles and vessels properly registered (adds reference to recreational vehicles) [*Rick Anderson*] .....16,19

Proposed Rule 995 – Certification of Sales Tax Distribution (Incorporated city identified) [*Rick Anderson, Betty Dressen*] .....20,21

Proposed Rule 605 Property exempt from taxation - Property used for School or Educational Purposes- I.C. Section 63-602E [*Alan Dornfest*] .....23,24

**NEW BUSINESS:**

Proposed Rule 000 – Legal Authority [*Rick Anderson, Erick Shaner*] .....25,27

Proposed Rule 003 – Administrative Appeals [*Rick Anderson, Erick Shaner*] .....28,32

Proposed Rule 313 - Assessment of Transient Personal Property (Out of state transient property) [*Rick Anderson*] ..... 33-40

Discussion: Foreclosure sales / Ratio studies - Rule 131 [*Alan Dornfest*] .....41,47

Discussion: Need for definition of improvements vs. improved property [*Rick Anderson, Alan Dornfest*].....50

Set next meeting date and time [*Alan Dornfest*]

Adjourn

Idaho State Tax Commission  
**PROPERTY TAX RULES COMMITTEE**  
Meeting Minutes  
June 16, 2011  
9:00 am – 12:00 pm, 1CR5

**ATTENDEES:** Alan Dornfest, Rick Anderson, Erick Shaner, Gene Kuehn, Brenda Richards, Christopher Rich, Greg Heinrich, Kathlynn Ireland, Shelley Sheridan, Janet James, Bob McQuade, June Fullmer, Linda Jones, Brent Adamson, Ron Fisher, Sharon Worley, Terry Accordino, Dale Reynolds, Rick Smith

**MINUTES:** Gene Kuehn made a motion to approve meeting minutes of March 1, 2011, April 5, 2011, and May 17, 2011. Brenda Richards seconded the motion. The motion passed.

**RULES STATUS REPORT:**

- Rule 004: Public Records: On agenda.
- Rule 006: Updates standard reference manuals and guides: Tabled until July.
- Rule 115: Requirement to submit abstracts – includes districts that do not levy: On agenda
- Rule 219: Provides parcel numbering for lots crossing section lines: Approved by committee pending PARF approval.
- Rule 225: Documentation for newly organized taxing districts: On agenda.
- Rule 312: Clarifies exempted property related to estate property: On agenda.
- Rule 313: Relating to transient personal property: On agenda.
- Rule 314: Includes IAAO standard on mass appraisal: Approved by committee pending PARF approval.
- Rule 400: Public records: On agenda.
- Rule 509: Abstracts of value/Report urban renewal increments: On agenda.
- Rule 630: New Capital investments exemption: On agenda.
- Rule 701: Property tax reduction – claimants lawfully in U.S.: Approved by committee pending PARF approval.
- Rule 717: Property tax reduction – procedure after claim approval: Approved by committee pending PARF approval.
- Rule 802: New construction look-back limit to 5 years: On agenda.
- Rule 804: Temporary and Proposed. Urban Renewal Base Adjustments for changes in exempt status: On agenda.
- Rule 808: New rule. Documentation districts authorized to levy only on portion otherwise taxable property: On agenda.
- Rule 988: Denial of QIE/Election to participate in QIE. Define assessor. On agenda.

Alan noted that all PARFs have been approved by DFM with the exception of four that were sent this week.

**OLD BUSINESS:**

Rules 004, 400, 988 Rule 004 addresses records that are and are not considered public records. Rick Anderson stated a working group was established involving Terry Accordino and Rick Smith to create draft 1 of Rule 004. Rick Anderson noted that personal property declarations were not previously subject to the public records act, and Rule 004 also covers transient personal property. Rule 400 is being repealed, portions of which are captured in Rule 004. Subsection 988.15 will also be relocated to Rule 004.

Rick noted Subsection 004.03 was modified slightly since Terry and Rick Smith worked on it. Terry Accordino and Rick Smith agreed the language was acceptable. The Operating Property Division of the State Tax Commission also agreed with the language.

Bob McQuade clarified that the notices are stamped or marked “confidential.”

Alan suggested striking “any” in Subsection 004.03 when referring to documents provided to the assessor without the taxpayer’s permission as the term is too broad.

MOTION: Rick Anderson made a motion to approve Rule 004 as amended and the repeal of Rule 400. Gene Kuehn seconded the motion. The motion carried.

Rules 115, 509, 808 Rules 115, 509, and 808 address abstracts and documentation reporting for district levying on a portion of the taxable property. Alan is asking for compliance even though the law is not mandated until 2012. The assessors are mandated to develop abstracts, and the clerks, which will be harder to do, are mandated to obtain the documentation.

Alan modified Rule 808 per Katrina Basye’s suggestion that the public utilities within fire districts submit their agreements in writing. Alan noted that the fire districts levy on part of the property then go before the county commissioners for an ordinance. Sometimes the needed documentation is within the formation documentation. Rule 808 states the Tax Commission will also accept the formation documents. Gene confirmed no issues with Canyon County Clerk.

Alan has not received a response from Katrina regarding the amendments to the rule, and the fire districts have not reviewed the rule. Alan suggested the Tax Commission follow up with the fire districts once the rule is published.

MOTION: Gene Kuehn made a motion to approve Rules 115, 509, and 808 as amended. Brenda Richards seconded the motion. The motion carried.

Rule 225 House Bill 95 changes the maximum life of a RAA from 24 years to 20 years. Language in Paragraphs 225.03.d. and e. starts the one year clock to provide formal notification of the dissolution of a taxing district. A paper trail is needed. With no formal procedure, there will be a risk of levies being set wrong.

House Bill 95 also states that a Revenue Allocation Area can do one annexation. Paragraph 225.06.d. provides that Revenue Allocation Areas will be given one free pass after July 1, 2011. Gene requested a copy of the notification be sent to the counties.

Brent Adamson noted that Subsection 225.10 states the Tax Commission will furnish one free copy of tax code area maps. He thought that was stopped. Janet James agreed but stated a copy would be provided upon request. Alan suggested adding that the Tax Commission would provide a copy either digitally or in printed form. Janet will review with Jeff Servatius and possibly draft language.

Rule 225 will be tabled until July.

Rule 312 Rick noted the addition of "Congress" to Subsection 312.02 and provisions of Section 63-602Y, Idaho Code, relating to property transferred from an urban renewal agency to a private owner. Alan asked if the term congress included HUD properties. Rick confirmed it did. Alan also suggested the added language be added to the Assessors' Manual.

Rick noted that under the constitution, government owned property was exempt. Janet asked if treasurers needed to be notified. Rick will prepare and send an email.

MOTION: Rick Anderson made a motion to approve Rule 312. Gene Kuehn seconded the motion. The motion carried.

Rule 802 Language was added to Rule 802 to be consistent with House Bill 124 which provides a time limit backwards to recapture property not on new construction roll, changed land use downward, changed negative/positive adjustments to 5 years, and a 5-year lookback including assessments and appeals. Alan asked how the counties counted years.

Language was also added to Subsection 802.02 relating to House Bill 95a which provides that new construction related to change of land use classification in a Revenue Allocation Area cannot be added to any new construction roll.

Alan noted there a proviso with regard to appeals. When does the 5-year clock start? What happens when a property is on the new construction roll in 2005 and an appeal is satisfied in 2013. He noted the portion of House Bill 95a relating to urban renewal is retroactive, however the 5-year clause is not.

Rule 802 was sent to the assessors with no comment.

MOTION: Gene Kuehn made a motion to approve Rule 802. Brenda Richards seconded the motion. The motion carried.

Rule 804 Rule 804 was adopted as a temporary rule as required by House Bill 95aa.

Language was added to Subparagraph 804.02.d.iv. to clarify that no changes will be done to the base value because adjustments to value. Subparagraph 804.02.d.iv does not qualify as temporary, but will be included in the proposed version of Rule 804.

MOTION: Gene Kuehn made a motion to approve Rules 115, 509, and 808 as amended. Brenda Richards seconded the motion. The motion carried.

Rule 988 Added language in Paragraph 988.07.a. was modified to state property tax exemption instead of the term “relief.” Alan suggested stating the assessor shall notify the taxpayer and “if applicable” send a copy to the Tax Commission.

Subparagraph 988.07.c. was previously Subsection 988.14 addressing procedures for denial of QIE. Subsection 988.15 was stricken and is now in Rule 004.

MOTION: Rick Anderson made a motion to approve Rule 988 as amended. Gene Kuehn seconded the motion. The motion carried.

Rule 313 Gene stated a subcommittee has been formed to discuss transient personal property. A meeting will be held once the Board of Equalization is over and assessment notices have been sent.

Gene noted counties would like to see collection of tax dollars from transient personal property. A definition of transient personal property is needed. Clarification needs to be made to avoid situations of double taxation.

Rick noted the term “specifically” in statute. The subcommittee will discuss further, possibly not until late July.

Gene will report back in October.

Rule 630T Rule 630 is a temporary rule to conform to statute which is retroactive, January 1, 2011, and was prompted upon request of the exemption by a taxpayer. Taxpayer has requested the rules committee hold the rule until it can be reviewed. Rule 630 will be the permanent version if no additional changes are made. No comments have been received. Alan intends to move ahead with the Rule 630 in July.

**NEW BUSINESS:**

Ratio Study Consulting appraisers met with Alan to discuss category 11 with regard to recreational use. A clearer definition is needed and perhaps a new category.

Appeals at County Board Equalization Who has standing to appeal exemptions at the County Board of Equalization. The law states “taxpayer,” however at county level, the definition is much broader: exemptions can be appealed by “claimants” – whatever that means. Legal staff has indicated that the county prosecutor needs to decide to challenge appellant and commissioners’ decision. Erick noted the subject has been given a lot of attention, however no rules are being considered. Tax Commission advises to fall back on county prosecutor.

Tax Estimator The Tax Estimator is now live on the Tax Commission’s website. Counties were encouraged to check it out.

**NEXT MEETING:** July 19, 2011, @ 9:00 a.m. in 1CR5.

**ADJOURNMENT:** There being no further business, the meeting was adjourned.

**Alan Dornfest**  
**Chairman**

**Shelley Sheridan**  
**Committee Secretary**

Idaho State Tax Commission  
**PROPERTY TAX RULES COMMITTEE**  
Meeting Minutes  
July 21, 2011  
9:00 am – 12:00 pm, 1CR5

**ATTENDEES:** Alan Dornfest, Rick Anderson, Dwayne Hines, Erick Shaner, Gene Kuehn, Brenda Richards, Betty Dressen, Tom Katsilometes, Kathlynn Ireland, Shelley Sheridan, Janet James, Bob McQuade, June Fullmer, Brett Endicott, Brent Adamson, Ron Fisher, Sharon Worley, Terry Accordino, Katrina Basye, Rick Smith, Pat Sullivan, Robert Poyser, Jeff Servatius

**MINUTES:** Gene Kuehn made a motion to approve meeting minutes of March 1, 2011, April 5, 2011, and May 17, 2011. Brenda Richards seconded the motion. The motion passed.

**RULES STATUS REPORT:** Rule 004: Approved by committee on 6/16/2011  
Rule 115: Requirement to submit abstracts – includes districts that do not levy; Approved by committee on 6/16/2011  
Rule 219: Provides parcel numbering for lots crossing section lines: Approved by committee pending PARF approval.  
Rule 312: Clarifies exempted property related to government property; Approved by committee.  
Rule 313: Transient Personal Property – discussion tabled.  
Rule 314: Includes IAAO standard on mass appraisal: Approved by committee pending PARF approval.  
Rule 400: Public records; Approved by committee 6/16/2011  
Rule 509: Abstracts of value/Report urban renewal increments: Approved by committee 6/16/2011  
Rule 701: Property tax reduction – claimants lawfully in U.S.: Approved by committee pending PARF approval.  
Rule 717: Property tax reduction – procedure after claim approval: Approved by committee pending PARF approval.  
Rule 802: New construction look-back limit to 5 years: Approved by committee 6/16/2011  
Rule 804: Temporary and Proposed. Urban Renewal Base Adjustments for changes in exempt status: Approved by committee 6/16/2011  
Rule 808: New rule. Documentation districts authorized to levy only on portion otherwise taxable property: Approved by committee 6/16/2011  
Rule 988: Denial of QIE/Election to participate in QIE. Define assessor. On agenda. Approved by committee 6/16/2011  
  
Rules 006, 225, 630T, and 995 are on the agenda.

**OLD BUSINESS:**

Rule 006 Rule 006 provides updated links to the IAAO's standards and updates dates of publications.

MOTION: Gene Kuehn made a motion to approve Rule 006. Brenda Richards seconded the motion. The motion carried.

Rule 225 Subsection 225.10 was simplified to clearly state that one hardcopy map would be provided by the Tax Commission upon request. Additionally, the following information would be posted on the Tax Commission's website: (a) updated tax code area maps, (b) updated taxing district maps, (c) updated urban renewal districts/revenue allocations area maps, and (d) documentation of changes related to a., b., and c.

Paragraph 225.06.d. provides that levy requests from RAAs with one previous annexation on or after July 1, 2011, and requesting annexation of additional area will be denied and the area established prior would comprise the entire RAA.

MOTION: Gene Kuehn made a motion to approve Rule 225. Brenda Richards seconded the motion. The motion carried.

Rule 630 Proposed Rule 630 provides that the notification to the county of the new capital investment would be no sooner than the first inspection

MOTION: Gene Kuehn made a motion to approve Rule 630. Rick Anderson seconded the motion. The motion carried.

Discussion of Attachments to Operator's Statements Rick asked if attachments to operator's statements were exempt from disclosure and noted that once the new law was in effect, a temporary rule will be needed.

**NEW BUSINESS:**

Rule 995 Rule 995 will be a temporary rule addressing the special election fund as provided in Section 63-3638(8), Idaho Code. Subsection 995.10 states the fund shall be adjusted for 2012 based on the July 2012 consumer price index, U.S. city average, and bureau labor statistics. The statute has a July 1, 2011, effective date.

A PARF has been submitted for DFM's approval.

MOTION: Betty Dressen made a motion to approve Rule 995, pending approval by DFM. Gene Kuehn seconded the motion. The motion carried.

Transient Personal Subcommittee will meet August 9 at the Tax Commission, 5CR4 at 9:30  
Property a.m. Gene Kuehn will report back to the committee.

**NEXT MEETING:** TBD

**ADJOURNMENT:** There being no further business, the meeting was adjourned.

**Alan Dornfest**  
**Chairman**

**Shelley Sheridan**  
**Committee Secretary**

Idaho State Tax Commission  
**PROPERTY TAX RULES COMMITTEE**  
Meeting Minutes  
November 29, 2011  
9:30 am – 12:30 pm, 1CR5

**ATTENDEES:** Alan Dornfest, Rick Anderson, Dwayne Hines, Steve Fiscus, Erick Shaner, Gene Kuehn, Betty Dressen, Christopher Rich, Tom Katsilometes, Greg Heinrich, Kathlynn Ireland, Jan Barnard, Shelley Sheridan, Janet James, Bob McQuade, June Fullmer, Brett Endicott, Dwight Davis, Linda Jones, Brent Adamson, Ron Fisher, Sharon Worley, Terry Accordino, Katrina Basye, Greg Himes, Glenna Young, Brent Saurey

**MINUTES:** Minutes from the June 16, 2011, and July 21, 2011, meetings were deferred.

**RULES STATUS REPORT:** On the agenda:  
Rule 006: Adopts by reference – updates standard reference manuals and guides  
Rule 220: Correction was made by the Department of Administration; will no longer be on status report.  
Rule 604: Exemption of recreational vehicles  
Rule 995: Definition of incorporated city for sales tax distribution purposes.

Rick noted the status report was preliminary and approvals from Dan John or DFM have not been obtained.

Alan requested that unresolved issues from last rules' season be included in the status report.

**RULES REVIEW:** Alan noted the rules approved by the committee for the 2012 legislature were reviewed before the tax commissioners. All rules were approved to go before the legislature.

**OLD BUSINESS:**  
Transient Personal Property – Subcommittee Report: Kathlynn Ireland stated that the subcommittee met several times and concluded that questions regarding transient personal property could be resolved through education and a rule or legislation was not necessary. Counties will take types of property and put on the transient construction/logging/mining property sub roll so it can be tracked and to avoid double taxation. Alan asked if that was already taking place. Kathlynn clarified that some counties are putting the property on the primary roll. Gene noted the taxpayer would be notified by putting the property on the sub roll.

Kathlynn noted the education is already underway; Boise is done, Northern Idaho in January, and Pocatello in February.

Gene thanked Kathlynn for her work with the subcommittee and providing the education.

Personal Property Definition Report Alan stated the subject of defining personal property has been bouncing around. IACI has been working to develop a clearer definition as to what it is and to provide a clearer fiscal note. A small group, headed by Dan John was developed to carve out definitions. Rick Anderson was tasked to look into the “list” of items from previous drafts of rules. The purpose of the small group was to come up with a broad definition to provide clarity. Alan asked if anyone knew the status of the small group.

Terry Accordino stated that IACI took their recommended legislative correction to their board in early October. Its assumed the board approved their recommendation. The recommended change included a new definition in Section 63-602KK; no definition of real or personal property but using the term “commercially related property.” The recommendation also did not include a list of items.

Rule 006 Rule 006 provides the updates to IAAO publication dates. Alan noted that minor changes to all standards will be before IAAO board. There were some variations in the language in sections of standard, so updates were being made for consistency. Rule 006 will be tabled to June for approval in case additional revisions need to be made.

Rule 604 Rick Anderson noted questions arose regarding park model vs. RVs. First question was whether the park model was taxable if taken to a lot and leased. The Tax Commission’s legal department said that the park model was taxable once it was taken out of inventory.

Second, was the definition of a recreational vehicle/park model. From a property tax standpoint, if the abode is licensed, it is exempt and therefore not taxable. Rule 020 provides for taxation of recreational vehicles. New Rule 604 clarifies property exempt from taxation - registered motor vehicles.

Greg Himes liked the rule as it ties to Rule 020, however suggested a better definition of a park model be included. Greg referenced a memo from 2002 from ITD stating that if it cannot be defined, it would be up to the assessor to determine. Greg suggested a rule provide more guidance.

Steve Fiscus stated a definition would be difficult to provide because of ITD’s requirements for licensing, for example, recreation vehicles must be licensed in 8 feet or under. Gene stated if a vehicle is licensed, its valued.

Alan reiterated the issue of licensing. ITD is responsible for deciding whether to license a vehicle or not. The problem is that ITD is shifting responsibility to the assessor.

Greg noted that some models don’t fit the definition of RV or park model. He suggested ITD get involved the rulemaking process to address the issue. Alan agreed and recommended a group be formed. Rick will chair the committee. Alan noted that Rule 220 only addresses recreational vehicles, but what about motor vehicles? Steve also suggested the group include chairs of rules within the Assessors.

Commissioner Jackson confirmed the topic has been discussed at least two CPA meetings. Alan confirmed a subcommittee will need to be formed to discuss the issue. Rick will report back at the next rules meeting. Alan requested at least one meeting be held by mid-winter. Gene will also discuss the issue at mid-winter and report back.

Rule 995 Subsection 995.04 provides the definition of incorporated city as having a duly elected mayor and city council and be recognized for the outdated Federal Revenue Sharing Program purposes by the Census Bureau. The problem is smaller cities have alternative forms of government that may not be recognized by the Census Bureau. Language in Subsection 995.04 about being recognized by the Census Bureau was stricken. Alan suggested sending draft of Rule 995 to Association of Counties for comment. Betty will also send to the clerks.

Betty added that the Secretary of State does not require abstracts for city elections. Alan suggested the topic be discussed at mid-winter. Steve suggested adding an escape clause if a city does not have an election, as Subsection 995.04 provides the mayor and city council be “duly elected.”

Alan noted concern about how far the Tax Commission should get involved. Erick Shaner will look into it from a legal perspective.

Section 63-313(3),  
Idaho Code, and  
Rule 313 Rick asked, based on 63-313(3) and Rule 313, can out-of-state property, not taxed in another state, be counted by the home county in Idaho? The legal department confirmed that property not taxed should be picked up on the transient personal property sub roll. Alan added that the goal is to avoid double taxation.

Alan noted concern about property being in Idaho, for example, 200 days and out 165. If not taxed while out of Idaho, can the home county tax for the 365 days? Steve noted the statute states that if property is taxed in another state, it cannot be taxed. Alan stated if there is no evidence to prove the property was taxed in another state, its taxed by home county. The taxpayer has the burden to prove the property was taxed elsewhere.

Rick and Kathlynn will draft language for next meeting. Examples in existing Rule 313 need to be clarified.

Section 63-602E,  
Idaho Code Alan noted two possible issues with 63-602E. First issue, charter schools using leased space; un-owned. Section 1 requires exclusive use for nonprofit schools, but is less clear regarding charter schools. Gene suggested carving out that portion of the property used; not ownership.

Second issue, students given laptops for online classes. Ownership rests with leasor. Laptops are leased to the school, then the school gives the laptops to the students. Alan stated that laptops must be used for educational use only, however, unless there are use controls, the laptops may not be eligible for the education exemption.

Gene stated that if exclusive use cannot be proven, its taxable.

Alan suggested writing rule to state the laptops are taxable because of the inability to prove exclusive use. Alan will draft language, review it with legal, and discuss in next rules committee meeting. Gene will also discuss with the assessors.

**NEXT MEETING:** January 5, 2012, at 9:30 a.m. (January meeting was subsequently moved to January 24, 2012, at 9:30 a.m.)

**ADJOURNMENT:** There being no further business, the meeting was adjourned.

**Alan Dornfest**  
**Chairman**

**Shelley Sheridan**  
**Committee Secretary**

**2012-2013  
Property Tax Rules Status Report  
January 24, 2012**

Rule #	Date Approved By DJ	Date DFM Sent (ISTC Number)	Date Approved By DFM	Rule Status	Date of Draft	Comments	Date Sent For Publication
000				1 <sup>st</sup> Agenda	Draft 1, January 24, 2012	Legal authority - update to note new chapters within title 63, other?	
003				1 <sup>st</sup> Agenda		Administrative Appeals; correct/update code refs.	
006				Tabled until June	Draft 1, Nov 29, 2011	Adopt by reference – updates standard reference manuals and guides <b>New Map. Ref.</b>	
313				1 <sup>st</sup> Agenda	Draft 1, January 24, 2012	Transient Personal Prop. –Count time of out of state but tax not paid to the other state	
<del>604</del> <u>612</u>				2 <sup>st</sup> Agenda	Draft 1, <del>Nov. 29, 2011</del> January 24, 2012	602J – exemption for recreational vehicles – Park Model Mobile Homes	
605				1 <sup>st</sup> Agenda	Draft 1, January 24, 2012	I.C. Section 63-602E – Property exempt from taxation - Property used for School or Educational Purposes	
995				2 <sup>st</sup> Agenda	Draft 1, Nov. 29, 2011	Define incorporated city for sales tax distribution purposes. Copy sent to Betty for Clerks review	

**Discussion Issues**

Issue	Disposition (open, closed, etc.)
<b>Rule 220</b> – Sec. 42, Low income properties - In both Ex. 2 and 3, Step 4 the label reads “Monthly Feasible Gross Rent” and should read “Annual Feasible Gross Rent Per Unit”. The descriptions used and the calculation make it obvious that this is how it should read. These examples appear on page 30 and 31 of our Unofficial Code and Rules Book	Closed – Resolved by Shelley and the Dept. of Admin - Official rules changed – we need to change our unofficial rules book.
<b>Rule 225</b> - may need to address that urban renewal agencies formed after July 1, 2011 need to be approved by the voters	Open -

<b>Improvements</b> v. improved property	Open
<b>Rule 131</b> – use of foreclosure sales in ratio studies	Open - Discussion item Jan. 24 agenda
<b>New Rule</b> to define or explain “sufficient equity” as used in the property tax deferral program	Open – rule to be drafted

**From:** Rick Anderson  
**To:** "[Mellisa Stewart](#)"  
**Subject:** RE: Park Model RVs  
**Date:** Friday, November 18, 2011 2:07:00 PM

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Thanks Melissa,

I will consult with others here and see if we can offer more clear direction.

**Rick Anderson • Property Tax Policy Specialist**

Idaho State Tax Commission • Property Tax Division

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**From:** Mellisa Stewart [mailto:[mstewart@clearwatercounty.org](mailto:mstewart@clearwatercounty.org)]  
**Sent:** Friday, November 18, 2011 11:54 AM  
**To:** Rick Anderson  
**Cc:** Greg Himes  
**Subject:** RE: Park Model RVs

Rick,

The taxpayer states that he has a sales tax number and will be reporting the rental income and paying sales tax on that income. He says the STC told him he could do this and still keep the park model as inventory without a title. He believes that I would be double taxing him if I determine it is not inventory and put it on the tax rolls.

Since Park Models are over 8 ½ feet wide they don't meet the definitions of Park trailer, Recreational vehicles, Travel trailer nor Manufactured home (not HUD codes), according to ITD Vehicle Services 2011 Guide. Can they be licensed and registered since they require a special moving permit (which park trailers and travel trailers don't require) or as a manufactured home (which they don't meet HUD code)?

We need a clear direction on how to assess these Park Models. My taxpayer was under the impression that they were exempt.

Thanks  
Mellisa

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**From:** Rick Anderson [mailto:[Rick.Anderson@tax.idaho.gov](mailto:Rick.Anderson@tax.idaho.gov)]  
**Sent:** Friday, November 18, 2011 9:34 AM  
**To:** Mellisa Stewart  
**Cc:** Greg Himes; Alan Dornfest  
**Subject:** RE: Park Model RVs

Mellisa,

Pertaining to your first question, I would agree with the host of attorneys that once the property is rented out, and for the duration of the rental period it would be taxable. However I believe we

would still need to consider whether or not this park model has paid the license or registration fees. I would expect that a park model that is leased would be subject to the same fees as one that is owned. I think we all agree that park models are to be treated as recreational vehicles and therefore Rule 20, paragraph 04 would apply. The owner gets to choose whether he pays the license fee or the property tax. Gee, but then the owner (dealer) would not be eligible for the homeowner's exemption. I do not know who the dealer spoke to within the STC. If I did I would discuss this question with him and possibly gain some additional insight.

I wonder if the owner of the 11 ½ foot unit can give us a reference for the federal regs to which he is referring. What is his purpose? Does he believe these regs exempt him from property tax? Because of the width I believe you are correct in putting it on the roll as a mobile home rather than a recreational vehicle that would be able to be licensed as such. As you noted, this property is so wide that it would require a special movement permit so would be excluded from the definition of a park trailer under IC 49-121(6).

Let me know if you have additional questions.

**Rick Anderson • Property Tax Policy Specialist**

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**From:** Mellisa Stewart [mailto:mstewart@clearwatercounty.org]

**Sent:** Wednesday, November 16, 2011 6:56 PM

**To:** Rick Anderson

**Cc:** Greg Himes

**Subject:** Park Model RVs

Rick,

I have an issue that seems to be growing every day. Carl Olsson felt that the Xerox case and IC 63-602Y answered my question on a dealer renting a park model and wanting it to remain under inventory. I and Carl felt (also my Prosecutor), that once it was rented I need to put it on the tax rolls for the period of time it is rented. The dealer says he has talked to the STC and as long as he pays sales tax on the rental income, the unit will remain in his inventory. Can you find out if this is correct and let me know?

Another issue concerns park models being able to be registered and licensed yearly. All the memos from ITD say if the unit is over 8 1/2 feet wide it can only get a temporary 30 day license and the Assessor can treat it as a manufactured home for classification purposes. IC 49-121 (6) d defines a park trailer and says it can't require a special moving permit. The unit I am dealing with is 11.6 feet wide and my DMV supervisor will not issue a license or registration per ITD procedure, titles handbook which says it is too wide to be registered and licensed yearly. That being said, I would have to put it on the tax rolls when it is occupied. The unit owner says that Federal Regulations consider the park model an RV and Idaho law can't restrict the registration and licensing of the unit as an RV. The Federal Regulation issue is outside of my limited knowledge and I was wondering if

your department can provide some guidance.

Thanks for your help.

Mellisa

**612. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES, RECREATIONAL VEHICLES AND VESSELS PROPERLY REGISTERED (RULE 612).**

Sections 49-123, 49-401, 49-402A, 49-422, 49-432, 49-445, 49-446 and 63-602J, Idaho Code.

(4-11-06)

**01. Motor Vehicle Defined.** Motor vehicle means any vehicle as defined in Section 49-123(2)(g), Idaho Code, and any personal property permanently affixed to that vehicle.

(4-11-06)

**02. Exempt Motor Vehicles.** Except as provided in Subsection 612.03 of this rule, any motor vehicle, as defined in Subsection 612.01 of this rule, registered for any part of the previous year under Chapter 4, Title 49, Idaho Code, is exempt from property taxation under Sections 49-401 and 63-602J, Idaho Code.

(4-11-06)

**03. Taxable Vehicles.** The following registered or permitted vehicles are taxable and not eligible for the exemption under Sections 49-401 and 63-602J, Idaho Code.

(4-11-06)

**a.** Any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code.

(4-11-06)

**b.** Any manufactured home registered under Section 49-422, Idaho Code.

(4-11-06)

**04. Exempt Permanently Affixed Personal Property.** Except as provided in Subsection 612.05 of this rule, any personal property permanently affixed to any motor vehicle registered as described in Subsection 612.02 of this rule is part of that vehicle. Hence, that permanently affixed personal property is exempt from property taxation under Section 63-602J, Idaho Code.

(4-11-06)

**05. Taxable Personal Property.** The following personal property, not otherwise exempt under Chapter 6, Title 63, Idaho Code, is taxable and not eligible for the exemption under Section 63-602J, Idaho Code.

(4-11-06)

**a.** Any personal property on, but not permanently affixed to, any motor vehicle registered as described in Subsection 612.02 of this rule.

(4-11-06)

**b.** Any personal property on or affixed, permanently or otherwise, to any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code.

(4-11-06)

**c.** Any personal property on or affixed, permanently or otherwise, to any utility trailer registered under Section 49-402A, Idaho Code.

(4-11-06)

**06. Recreational Vehicles.** The owner of a recreational vehicle must pay a recreational vehicle annual license fee as authorized by Section 49-445, Idaho Code and computed in accordance with Rule 020 of these rules in order to be exempt under Section 63-602J, Idaho Code.

( )

**Rick Anderson**

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**From:** Rick Anderson  
**Sent:** Tuesday, December 20, 2011 3:28 PM  
**To:** Betty Dressen  
**Cc:** Alan Dornfest  
**Subject:** First Draft of Proposed Rule 995  
**Attachments:** Rule 995,draft 1 Nov. 29, 2011.docx

Hi Betty,

Attached is a copy of this rule. As you know we are deleting the reference to the outdated general revenue sharing program but we will continue to define “incorporated City” as having a duly elected mayor. I believe in the course of our discussion we discovered that duly elected mayors are not currently being reported to the Sec. of State’s office or any other place. I think the question is whether or not there is a need for the reporting of each future duly elected mayor to the Tax Commission and if this reporting could be done by the Clerk after each election.

Thanks for your input on this matter.

**Rick Anderson • Property Tax Policy Specialist**  
Idaho State Tax Commission • Property Tax Division  
phone: (208) 332-6624 • fax: (208) 334-7741  
e-mail: [rick.anderson@tax.idaho.gov](mailto:rick.anderson@tax.idaho.gov) • website: [tax.idaho.gov](http://tax.idaho.gov)

**995. CERTIFICATION OF SALES TAX DISTRIBUTION (RULE 995).**

Section 63-3638, Idaho Code.

(5-3-03)

**01. Most Current Census.** Population shall be from the most current population census or estimate available from the Bureau of the Census during the quarter of the year for which any distribution of sales tax money is to be made. (3-24-94)

**02. Market Value for Assessment Purposes.** Market value for assessment purposes shall mean the market value certified to the State Tax Commission pursuant to Section 63-510, Idaho Code, and shall include homeowner's exemptions, and the amount of real and personal property value which exceeds the assessed value shown on the base assessment roll for a revenue allocation area as defined in Section 50-2903(15), Idaho Code, for the calendar year immediately preceding the current fiscal year. (5-3-03)

**03. Current Fiscal Year.** For the purposes of this section, current fiscal year shall mean the current fiscal year of the state of Idaho. For distribution purposes, the current fiscal year shall begin with the distribution made in October, following collection of sales taxes in July, August, and September. (3-30-01)

**04. Incorporated City.** Incorporated city shall, for the current fiscal year, have a duly elected mayor and city council, ~~and be recognized by the Bureau of the Census, U.S. Department of Commerce, for the distribution of federal general revenue sharing monies.~~ (3-24-94) ( )

**05. Population and Valuation Estimates.** Population and valuation estimates for distribution of revenue sharing monies shall be updated at least annually. Updated estimates shall be used beginning with the October distribution. (3-24-94)

**06. Determination Date and Eligibility.** The eligibility of each city for revenue sharing monies pursuant to Section 63-3638(10)(a), Idaho Code, shall be determined as of July 1 of the current year. Cities formed after January 1, 2001, shall also be entitled to a share of the money pursuant to the provisions of Section 63-3638(10)(c), Idaho Code. (4-6-05)

**07. Quarterly Certification.** The State Tax Commission shall certify quarterly to each county clerk the base and excess shares of the distributions required pursuant to Section 63-3638(10)(c) and 63-3638(10)(d), Idaho Code, and the distributions to cities and counties required pursuant to Section 63-3638(10)(a) and 63-3638(10)(b), Idaho Code. Each county clerk shall calculate and certify the distribution of these monies to the eligible taxing districts based on the directives of the State Tax Commission. (4-6-05)

**a. City and County Base Shares.** For cities and counties, the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. In addition, the initial base share shall be adjusted proportionally to reflect increases that become available or decreases that occur, unless increases exceed five percent (5%) of the initial base share. (3-30-01)

**b.** Special Purpose Taxing District Base Shares. For special purpose taxing districts the initial base share shall be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. Special purpose taxing district initial base shares shall be proportionally reduced to reflect decreases in the amount of sales tax available to be distributed. (3-30-01)

**c.** Excess Shares. Excess shares shall be any amounts above the base share that any city, county or special purpose taxing district is entitled to receive pursuant to Section 63-3638(10)(c) or 63-3638(10)(d), Idaho Code. These amounts shall not be subject to redistribution provisions of Section 40-801, Idaho Code. (4-6-05)

**d.** Shares Pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code. Shares to be distributed pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code, shall be termed "revenue sharing." Such shares shall be subject to quarterly distribution and for this purpose, the one million three hundred twenty thousand dollars (\$1,320,000) distribution pursuant to Section 63-3638(10)(b)(i), Idaho Code, shall be considered an annual amount and shall be divided into four (4) equal shares. (4-6-05)

**08. Notification of Value.** The county auditor shall notify the State Tax Commission of the value of each taxing district and unit as specified in Section 63-510, Idaho Code. (3-30-01)

**09. Corrections.** (3-30-01)

**a.** When distributions have been made erroneously, corrections shall be made to the following quarterly distribution(s) so as to provide the quickest practicable restitution to affected taxing districts. Corrections shall be made to reconcile erroneous distributions made for the current fiscal year. Errors made in distributions for the last quarter of the current fiscal year shall be corrected as soon as practicable in distributions made for the following fiscal year. (4-6-05)

**b.** The State Tax Commission shall notify affected county clerks when the State Tax Commission becomes aware of an error in the distribution of the base or excess shares. (3-30-01)

**c.** The State Tax Commission shall notify affected cities or county clerks when the State Tax Commission becomes aware of an error in the distribution of city or county revenue sharing monies. (3-30-01)

**63-602E. Property exempt from taxation – property used for school or educational purposes.**

1) The following property is exempt from taxation: all property used exclusively for nonprofit school or educational purposes, property used for charter school purposes, and all property from which no profit is derived and which is held or used exclusively for endowment, building or maintenance purposes of schools or educational institutions.

2) If property is used primarily for nonprofit school purposes or charter school purposes and for business purposes from which a revenue is derived, which revenue is not related to the educational purpose for which the nonprofit school or charter school exists, the assessor shall determine the value of the entire property, of the part used for nonprofit school purposes or charter school purposes, and of the part used for such unrelated business purposes. The portion of the building used for nonprofit school purposes or charter school purposes and for business and administration of the nonprofit school or charter school shall be exempt from taxation.

(3) Possessory interests in improvements on state college or state university owned land used exclusively for student housing, college or university operated dining, or other education related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university shall be exempt from taxation.

**Possible issues re 63-602E**

- a. Section 1 requires exclusive use for nonprofit schools, but is less clear regarding charter schools.
- b. Issues have been raised regarding personal property leased to charter schools.
- c. How does a charter school prove it is such?
- d. Section 2 requires pro-ration, but it is not clear whether this applies to buildings or all property.
- e. Other?

**605. PROPERTY EXEMPT FROM TAXATION – PROPERTY USED FOR SCHOOL OR EDUCATIONAL PURPOSES (RULE 605).**

Section 63-602E, Idaho Code. ( )

**01. Eligibility of Leased Property.** Leased property used exclusively for nonprofit school or educational purposes, including charter school purposes, shall be eligible for the exemption provided in section 63-602E, Idaho Code, provided the following criteria are met: ( )

**a.** Leased real property must be exclusively used for the educational purposes identified in subsection 01 of this rule. Such leased real property may be part of a multi-use property, in which case only the property used for the educational purposes shall be eligible for the exemption. ( )

**b.** Leased personal property must be exclusively used for the educational purposes identified in subsection 01 of this rule. To be considered exclusively used in this manner, such personal property must:( )

**i.** be used exclusively at a nonprofit school or charter school facility; or ( )

**ii.** have its use constrained or restricted in such a way as to effectively eliminate the possibility of use for other than educational purposes. ( )

**02. Application for exemption for leased personal property.** Only the owner of leased personal property can apply for this exemption. Proof of compliance with the requirements of subsection 01.b may be provided by the lessee. ( )



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**000. LEGAL AUTHORITY (RULE 000).**

In accordance with Section 63-105 and 63-105A, Idaho Code, the State Tax Commission shall promulgate rules implementing the provisions of the Idaho Statutes relating to the property tax laws and related statutes, Chapters 1 through ~~22~~17 and Chapters 27, 28, 30 ~~and~~ 35, 36 and 45, Title 63, Idaho Code. Rules relating to the market value of recreational vehicles are authorized by Section 49-445, Idaho Code. Rules relating to taxation of newly constructed improvements are authorized by Section 63-105A, Idaho Code. (~~7-1-98~~)(    )

## Rick Anderson

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**From:** Ted Spangler  
**Sent:** Wednesday, December 21, 2011 10:42 AM  
**To:** Erick Shaner; Carl Olsson  
**Cc:** Bill von Tagen; George R. Brown; Rick Anderson; Shelley Sheridan  
**Subject:** RE: Property Tax Rule 002 and Rule 003

The Idaho Administrative Procedures Act, in section 67-5206, Idaho Code, requires the State Administrative Rules Coordinator to promulgate rules implementing the rulemaking provisions of the APA. I call these “the rules on rules.” [Rule 101.02 \(IDAPA 44.01.01.101.02\)](#) sets out the required content of the first seven rules in any chapter of rules. I will address our Property Tax Rules 002 and 003 separately. The former seems OK to me; Rule 003 is badly out dated and requires attention.

### Rule 002

Rule 101 of the rules on rules provides:

d. The third required section of each rule chapter (“002”) is entitled “Written Interpretations.” This section must indicate if the agency has or relies on any written interpretive statements, or guidance documents, as described in 67-5250(2), Idaho Code, that are intended to guide agency actions affecting the rights or interests of persons outside the agency in accordance with Section 67-5201(19)(b)(iv), Idaho Code. (4-7-11)

Each of the Tax Commission’s sets of rules (each of which is a chapter of the Tax Commission’s Title of the Administrative Code – Title 35, the Property Tax Rules are Chapter 3) begins with these required standard rules. Property Tax Rule 002 says:

002.WRITTEN INTERPRETATIONS (RULE 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that these documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. (3-15-02)

Section 5201(19), Idaho Code, is the definition of the word “rule” as it is used in the APA. It establishes what kinds of agency statements of policy or interpretation of law need to be promulgated as rules in order to be effective. Paragraph (b)(4) excludes certain documents that are not required to be promulgated as rules. These are:

- (iv) Any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with a rule.

The purpose of Rule 002 is to give public notice that the agency has such written statements and that they are available to the public unless some other law makes them confidential. This, of course, is consistent with the Idaho’s public records law which says the same thing. The most obvious example of a document that may not be public is an analysis regarding a particular taxpayer’s qualification for circuit breaker property tax relief.

That’s a long explanation for something actually pretty simple – and something that would be true under the public records law even if Rule 002 did not exist. Never the less the rules on rules require we have this rule. Except for that requirement, I would be inclined to not have the rule at all, because it just states the obvious.

### **Rule 003**

Rule 003 is also a required rule. The coordinator’s Rule 101 says:

- e. The fourth required section of each rule chapter (“003”) is entitled “Administrative Appeals.” This section must describe any appeal or hearing rights for affected individuals relating to the programs or services described in the rule chapter. (4-7-11)

In compliance with this Rule, the Tax Commission’s Property Tax Rule 003 says:

#### 003.ADMINISTRATIVE APPEALS (RULE 003).

This chapter does allow administrative relief of certain provisions outlined herein. These rules relate to proceedings pursuant to Sections 63-112 and 63-710, Idaho Code. (7-1-93)

This rule was last amended in 1993. The property tax sections of Title 63 were recodified in 1996. Thus, these references to the Idaho Code are seriously out of date. This section needs to be updated.

The current section 63-112 was enacted in 1996 (H.B. 783). Prior to 1996, section 63-112 contained the definition of “land actively devoted to agriculture.” At that time, the exemption for the speculative portion of the value of land actively devoted to agriculture was found in 63-105CC. Both sections received new sections numbers in the recodification. Why the 1993 version of rule 003 referred to section 63-112 is confusing, since at that time the section had nothing to do with any administrative appeals and never did. The reference seems to have been an error. My guess is that it meant to refer to section 63-121 which contained the appeal procedures relating to circuit breaker relief.

In 1993, section 63-710 provided the hearing rights for centrally assessed taxpayers. That provision was moved as part of the 1996 recodification and is now in 63-407.

I recommend the rule be amended to refer to sections 63-407 (central assessed property) and section 63-707 (property tax relief).

Note: my opinion has been that the centrally assessed property tax hearing in August are not technically appeals. The State BOE makes the original assessments based on recommendations in the staff appraisal or on evidence introduced at the hearing. The staff appraisal is not itself an assessment notice like county assessors send out. If that is correct, then it may be unnecessary to refer to rules under section 63-707 in Rule 003. It may also be harmless to do so.

Ted Spangler

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**From:** Erick Shaner  
**Sent:** Tuesday, December 20, 2011 5:04 PM  
**To:** Ted Spangler; Carl Olsson  
**Cc:** Bill von Tagen; George R. Brown; Rick Anderson  
**Subject:** FW: Property Tax Rule 002 and Rule 003

Hello Ted and Carl,

Below are some questions from Rick Anderson.

His first question is in regards to Property Tax Rule 2. I wonder along with Rick what exactly this rule refers to or what I.C. 67-5201(19)iv refers to as “written interpretations.” I would assume such would be disclosed pursuant to a public records unless exempt under Idaho Code 9-340A through 9-340H, the new law pertaining to operators’ statements, etc.

As to Rule 3, I would agree that it appears that this rule should be removed or updated to include what is was meant to include, perhaps 63-407 and perhaps others?

Does anyone recall or have further insight about these particular rules?

Thanks,

Erick

P.S. I think I heard George was doing some research on policy statements in the Tax Commission and their legal importance. That research may be helpful in regards to the question above regarding Rule 2?

---

**From:** Rick Anderson  
**Sent:** Tuesday, December 20, 2011 2:42 PM  
**To:** Erick Shaner  
**Cc:** Alan Dornfest  
**Subject:** Property Tax Rule 002 and Rule 003

Hi Erick, I am working on materials for a rules seminar to be held Jan. 12 and Jan 13 during winter school.

I am confused. What does Rule 002 [written interpretations] say. I used to think I could read but sometimes I wonder. The “written statements” defined in 67-5201(19)iv, I believe, are excluded from being part of a rule. O.K., we do have written statements (Alan’s or Steve various memoranda?) and they are open to the public.

So what is the purpose of Rule 002, written interpretations. I do note that this is a “standard” rule that is shown in our rule drafter’s manual, but I confess I have no idea of what the purpose of this rule is.

**002. WRITTEN INTERPRETATIONS (RULE 002).**

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code, which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that these documents are not confidential by statute or rule, the documents are available for public inspection and copying at the main office of the State Tax Commission. See Rule 005 of these rules for the main office address. (3-15-02)

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Rule 003 [Administrative appeals] – again I am not sure of the reason for the reference to 63-112 [payments for assistance with property tax assessment] and 63-710 [procedures after reimbursement]. Perhaps these refer to the pre-recodification (1996) references which would be the current 63-604 [Land actively devoted to agriculture defined] and 63-407 [appeal of operating property assessments] . At any rate I am not sure why these rules exist and wonder if you can shed some light on these for me.

**003. ADMINISTRATIVE APPEALS (RULE 003).**

This chapter does allow administrative relief of certain provisions outlined herein. These rules relate to proceedings pursuant to Sections 63-112 and 63-710, Idaho Code. (7-1-93)

Thanks,

**Rick Anderson • Property Tax Policy Specialist**

**003. ADMINISTRATIVE APPEALS (RULE 003).**

This chapter does allow administrative relief of certain provisions outlined herein. These rules relate to proceedings pursuant to Sections ~~63-112407~~ and ~~63-710707~~, Idaho Code. ~~(7-1-93)~~  
( )

**313. ASSESSMENT OF TRANSIENT PERSONAL PROPERTY (RULE 313).**

Sections 63-213, 63-313, and 63-602KK, Idaho Code. (5-8-09)

**01. Definitions.** The following definitions apply for the assessment of transient personal property. (5-3-03)

**a. Home County.** Home county is identified in Section 63-313, Idaho Code, as the county selected by the owner of any transient personal property as that county where that transient personal property is usually kept. That county selected by the owner shall be a county in the state of Idaho. (5-3-03)

**b. Periods of Thirty (30) Days or More.** Periods of thirty (30) days or more mean increments of no less than thirty (30) consecutive, uninterrupted days, during which any transient personal property is located in any one (1) Idaho county or in another state where the property was not taxed. For any period of less than thirty (30) days, the property owner shall report the transient personal property as being in the home county; ~~resulting in that transient personal property being assessed in the home county for the entire year or the entire portion of the year the property has been in taxable status and not been outside the state of Idaho.~~ (5-3-03)

**c. Prorated Assessment.** Prorated assessment means the ratio of the number of days, exceeding twenty-nine (29), to three hundred sixty-five (365) days multiplied by the total market value of the transient personal property. For additional clarification, refer to the following examples. (5-3-03)

i. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (5-3-03)

ii. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the total market value in the second county and for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. (5-3-03)

iii. If located in a second Idaho county (not the home county) for thirty-one (31) consecutive, uninterrupted days, in a third Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, and in the home county for the remainder of the year, the transient personal property should be assessed for thirty-one/three hundred sixty-five (31/365) of the total market value in the second county, fifty-nine/three hundred sixty-five (59/365) of the total market value in the third county, and two hundred seventy-five/three hundred sixty-five (275/365) of the total market value in the home county. (5-3-03)

iv. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and later in that same county for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal

property should be assessed for the total market value in the home county. (5-3-03)

v. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty-five (35) days and taxed in the other state, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the value in the second county and for two hundred seventy-one/three hundred sixty-five (271/365) of the total market value in the home county. However if the property in this example that was outside the state of Idaho for thirty-five (35) but was not taxed in the other state, the property should be assessed for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. (5-3-03)

vi. If located in another state for twenty (20) days in February and Ten (10) days in August and the owner of the property did not pay property taxes for this property to the other state, and was also located in a second Idaho county (not the owner's main place of business) for fifteen (15) days in March and twenty-five (25) days in September and was located in the county of the owner's main place of business for the remainder to the year, the property would not meet the definition of transient property found in Idaho Code Section 63-201 and would be assessed at its total market value in the county in which the owner has his main place of business.

d. Transient Personal Property. Transient personal property is defined in Section 63-201, Idaho Code.

**02. Overassessment Prohibited.** Section 63-213, Idaho Code, prohibits the assessment of any property in any one (1) county for the same period of time that property has been assessed in another county. The sum of the assessments of transient personal property in the home county and each other county where the property has been located shall not exceed the market value of the property. (5-3-03)

**03. Nontaxable Transient Personal Property.** (3-20-04)

a. Transient Personal Property in Transit. Under Subsection 63-313(4), Idaho Code, any transient personal property only in transit through the home county or any other county and not remaining in any county for the purpose of use is not subject to property taxation. (3-20-04)

b. Sold Transient Personal Property on Which Taxes Have Been Paid. Under Subsection 63-313(4), Idaho Code, any transient personal property, which was sold by the owner in the home county and upon which the full current year's property taxes were paid, is not subject to property taxation for the current year in any other county regardless of whether that property is to be used in or only in transit through any other county. (3-20-04)

c. Qualified Investment Exemption. For information and directions relating to the qualified investment exemption, see Rule 988 of these rules. (3-20-04)

**04. Exempt Transient Personal Property.** (5-8-09)

**a.** Section 63-602KK, Idaho Code, when applicable provides for exemption of each eligible taxpayer's personal property to the extent of one hundred thousand dollars (\$100,000) within each county. The limit on the exemption shall apply to the sum of the taxpayer's non-transient personal property and transient personal property. Prior to applying the exemption, transient personal property shall be allocated among the counties based on the prorated value as provided in Subsection 63-313(2), Idaho Code. (5-8-09)

**b.** In cases where the taxpayer has transient personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply. Should the taxpayer not make an election as to where to apply the exemption, the county shall have discretion regarding the property to which the exemption shall apply. (5-8-09)

Transient Personal Property in another state:

Idaho Code §63-313(3) reads: "In the event that any transient personal property has been or will be taxed for the current year in another state, the property shall be taxed for only that portion of the year that the transient personal property is kept and does remain in the state of Idaho."

I believe that the spirit and intent of this section three (3) is to prevent property from being taxed more than once. I realize the above section 3 does not prevent double taxation. For example, if a road grader was located in Washington state on January 1 and was picked up by the WA. assessor and taxed for the entire year ( I don't believe WA. law allows for partial year taxation) and then came home to Idaho in February, should it again be taxed by Idaho for any portion of the year? The law (§63-313(3) is written as if every state offers the pro-rata assessment concept and allows for the property to be taxed by Idaho for that portion of time the property is in Idaho. I believe that the intent of (3) is to not tax twice. Therefore I wonder if we need a rule that references both I.C. §s 63-311 and 63-602Y that says that the property can only be taxed in Idaho for the time that it is not taxed in another state.

RA 10/27/11

## Rick Anderson

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**From:** Rick Anderson  
**Sent:** Friday, November 04, 2011 2:29 PM  
**To:** Alan Dornfest  
**Cc:** Carl Olsson  
**Subject:** FW: transient personal property

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>
	Alan Dornfest	
	Carl Olsson	Read: 11/6/2011 9:46 AM

Alan,  
This is more information on the question of whether or not the home county should count the time that transient personal property is out of Idaho as being taxable in the home county. Kathlynn has pointed out to me that this issue is addressed in the example given in Rule 313.c.v. This example show that an item of transient personal property "outside the state of Idaho for any thirty-five (35) days and taxed in the other state" it clear that the days out of state are not counted by the home county (or any other county) in determining the prorated assessment **if** that property is taxed in the other state.

My question to Carl is: If the transient personal property is out of state, the time that it is out of state should not be counted for purposes of proration regardless of whether or not it was taxed in the other state – Right or wrong? The confusion seems to be in both the law [Idaho Code §63-313(3)] and the rule (Rule 313.c.v) which indicates that the property be taxed in the other state in order for it not to be picked up by the home county.

### **Rick Anderson • Property Tax Policy Specialist**

Idaho State Tax Commission • Property Tax Division  
phone: (208) 332-6624 • fax: (208) 334-7741  
e-mail: [rick.anderson@tax.idaho.gov](mailto:rick.anderson@tax.idaho.gov) • website: [tax.idaho.gov](http://tax.idaho.gov)

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**From:** Dave Ryals [mailto:dryals@boundarycountyid.org]  
**Sent:** Thursday, October 27, 2011 3:33 PM  
**To:** Rick Anderson  
**Subject:** Re: transient personal property

Thanks Rick!

Dave

----- Original Message -----

**From:** [Rick Anderson](mailto:rick.anderson@tax.idaho.gov)  
**To:** [Dave Ryals](mailto:dryals@boundarycountyid.org)  
**Cc:** [Alan Dornfest](mailto:alan.dornfest@tax.idaho.gov) ; [Carl Olsson](mailto:carl.olsson@tax.idaho.gov)  
**Sent:** Thursday, October 27, 2011 1:44 PM  
**Subject:** RE: transient personal property

Hi Dave,

This truly is an interesting question. I will discuss this with Alan when he returns from the ratio study seminar and suspect we may need a clarifying rule. I know of at least one county that does not count the time that the property is out of state (different from Bonner). We need to get on the same page so maybe the rule process is the way to go.

**Idaho Code §63-313(3) reads: “In the event that any transient personal property has been or will be taxed for the current year in another state, the property shall be taxed for only that portion of the year that the transient personal property is kept and does remain in the state of Idaho.”**

This section helps with the second question. If the equipment is being taxed by another state with the tax being based on the number of days that it resides in that state, then those days for sure would not be picked up by the home county. The question “so what if it resides for a time in a state that does not tax it, should it be taxed in Idaho for the time it did not reside in Idaho?” is not answered; and that is your no. 1 question.

The plain reading of section 3 is difficult to follow. The first part “In the event that any transient personal property has been or will be taxed for the current year in another state” provides the condition upon which the property may only be taxed for the portion of the year that it resides in Idaho. So this seems to prevent taxation based on those days that it is not residing in Idaho. However I notice that Idaho Code §63-602Y does provide for proration in a manner that allows personal property to be taxed for almost three months while not residing in Idaho. However Rule 312 (referencing 63-602Y) addresses “any non-transient personal property” which leads me to think that since transit personal property is not covered by any proration schedule, it must be covered by the transient declaration of the taxpayer. In other words if it is reported out of state it should **not be counted** as time in the home county.

Please let me know your thoughts on this matter.

Thanks,

**Rick Anderson • Property Tax Policy Specialist**

Idaho State Tax Commission • Property Tax Division

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**From:** Dave Ryals [mailto:[dryals@boundarycountyid.org](mailto:dryals@boundarycountyid.org)]

**Sent:** Thursday, October 27, 2011 9:17 AM

**To:** Rick Anderson

**Subject:** transient personal property

Hi Rick. I need an opinion on a couple of things and I guess you got stuck with me. Sorry.....

1. Is transient personal property operating outside of the state still under the jurisdiction of a home county that is in Idaho? In other words, do we count the time outside of the state as still being part of the home county total number of days, weeks, months?

2. Does that still apply if the equipment is being taxed in that state for the number of days, weeks, months that it is operating there?

We have never come across this, but understand that at least Bonner County does count out of state time as home county time. What is your opinion? Thanks!

Dave Ryals

\_\_\_\_\_ Information from ESET NOD32 Antivirus, version of virus signature database 6579 (20111027)

\_\_\_\_\_ The message was checked by ESET NOD32 Antivirus.

Rules committee discussion item:

Based on the statute and rule shown below can out of state property that was not taxed in the other state be counted by the home county in Idaho.

### Idaho Code 313 – Transient of Personal Property

(3) In the event that any transient personal property has been or will be **taxed for the current year** in another state, the property shall be taxed for only that portion of the year that the transient personal property is kept and does remain in the state of Idaho.

### Rule 313, Assessment of Transient Personal Property – Prorated Assessment.

v. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty-five (35) days **and taxed in the other state**, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the value in the second county and for two hundred seventy-one/three hundred sixty-five (271/365) of the total market value in the home county. (5-3-03)



## Illinois Department of Revenue

101 W. Jefferson St.  
Springfield, IL 62702

September 30, 2010

To: Chief County Assessment Officers  
From: Kara Moretto, Manager  
Local Government Services Bureau  
RE: Public Act 96-1083 (Senate Bill 3334)

Public Act 96-1083 (Senate Bill 3334) amends the Property Tax Code to make changes related to the downturn in the economy specifically related to compulsory property sales.

### Key Provisions

Key elements of this enactment are listed below.

#### **“Compulsory sale” definition**

The definition of a compulsory sale has been codified to include both of the following:

- 1) a **“short sale”** — the mortgagor or lender agrees to allow the property to be sold for less than the amount owed instead of foreclosing on the property; or
- 2) a **“bank REO”** (real-estate owned) property — the first sale of real estate owned by a financial institution resulting from judgment of foreclosure, transfer in lieu of foreclosure, or consent judgment occurring after the foreclosure is complete.

**Note:** Although both types of transactions are specifically identified in the statutory definition, other transactions – sale in lieu of foreclosure, court-ordered sale, and condemnation are still considered “compulsory” for purposes of identifying the type of sale on the Illinois Real Estate Transfer Declaration (Form PTAX-203).

#### **Equalization**

In assessment year 2011 (taxes paid in 2012) county boards of review, along with the chief county assessment officer, must determine if the percentage of qualifying 2010 short sales and bank REOs sales was at least 25 percent of all property sales within a property class (residential, commercial, industrial). Short sales and bank REO sales which meet the following two conditions are included in the percentage calculation.

- The property characteristics and condition are the same as when the 2010 value was determined (the property has not been damaged, substantially altered, *etc.*).
- The property transfer otherwise would have been an “arm’s length” transaction. In other words, the only reason the sale would be excluded from the sales ratio study is because it was a short sale or bank REO sale – it was a warranty or trustee deed, was advertised for sale, was not a sale between related parties, *etc.*

The county Board of Review may equalize by a geographic region of its own choice – neighborhood, township, multi-township assessment district, or other geographic region. This action will help to ensure that only those areas affected by the downturn in the market are adjusted to reflect this market value change.

If the short sales and bank REO sales are at least 25 percent of the total sales within the geographic area, the Board of Review must calculate 1) the median assessment level of all arm's length transactions for that property classification, and 2) the median assessment level of short sales and bank REO sales for that property classification.

If the median assessment level of short sales and bank REO sales is **higher** than the arm's length transactions, then the short sales and bank REO sales must be included and a new median assessment level must be calculated. Assessed values of properties within the jurisdiction must be revised so that no property is assessed higher than the median assessment level. The combined median assessment level is the basis for intra-county equalization for that geographic region. As the equalizing authority for the county at this point in the assessment cycle, the county board of review should then proceed with usual equalization to ensure that the assessment level, on average is 33 1/3 percent.

## County Equalization Process

**Step 1:** Identify all 2010 short sales and bank REO sales.

**Step 2:** Identify all arm's length transactions.

**Step 3:** For each short sale and bank REO sale, determine if the property characteristics and condition were the same at the time of the sale as those used to make the 2010 assessment. Eliminate sales that do not meet this criterion.

**Step 4:** For each short sale and bank REO sale, determine if the sale would otherwise be an arm's length transaction using accepted sales ratio standards (warranty or trustee deed, advertised for sale, not a sale between related parties, etc). Eliminate sales that do not meet this criterion.

**Step 5:** After eliminating any sales as described in Step 3 and Step 4, determine if the total remaining sales are at least 25 percent of all arm's length transactions. If not, no additional work is needed. The county board of review should proceed with intra-county equalization if needed. If the remaining sales are at least 25 percent, proceed to Step 6.

**Step 6:** Calculate the median assessment level for the arm's length transactions group.

**Step 7:** Calculate the median assessment level for the short sales and bank REO sales group.

**Step 8:** Compare the median assessment levels for both groups. If the median assessment level for the short sales and bank REO sales group is the same or less than the arm's length transactions group, stop. No additional

work is required. The county board of review should proceed with any intra-county equalization needed. If the median assessment level of the short sales and bank REO sales group is higher than the median assessment level for the arm's length transaction group, proceed to Step 9.

**Step 9:** Combine the arm's length transactions group and the short sales and bank REO sales group. Calculate the median assessment level. Use this assessment level to ensure that all property within that classification is uniformly assessed. Proceed with any intra-county equalization needed.

### Example:

#### Township A (Residential sales)

2010 total sales: 100

2010 arm's length transactions: 50; median assessment level is 33.33 percent

2010 short sales and bank REO sales meeting qualifications: 25; median assessment level is 38.00 percent

In this example, the number of qualifying compulsory sales is 25 percent of all sales in the township and the median assessment level of short sales and bank REO sales is higher than the median assessment level of arm's length transactions. The Board of Review adds these 25 transfers to the 50 arm's length transactions (total 75 transfers) and calculates a new median assessment level. The new median assessment level is used to determine the intra-county equalization factor for Township A.

The department recommends that the county board of review document that it has complied with this provision of the statute.

## Assessment Appeals

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In all counties except Cook County, county boards of review must include short sales and bank REO sales when they review and correct assessments, including those submitted by the taxpayer, if the board determines that the comparable sale properties have the same condition and characteristics as those used to make the assessment. The board of review must also consider if the short sale and bank REO sale would otherwise be an arm's length transaction.

The Illinois Property Tax Appeal Board is directed to consider short sales and bank REO sales of comparable properties as part of its work to revise and correct assessments, including sales of comparable properties the taxpayer submits.

Although the assessment appeals verbiage is newly enacted, this is, in fact, current practice with respect to individual property assessment appeals based on a contention of market value. The fair cash value of a property is "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (Section 1-50 of the Property Tax Code) This type of sale is commonly referred to as an "arm's length transaction". Because short sales, deed transfers in lieu of foreclosure, and foreclosure sales are often sold under duress, they do not meet this statutory definition. As a result, some county boards of review did not approve a lower assessed value if a property owner submitted these types of sales as evidence to substantiate a reduction in market value.

Illinois courts have generally stated that the selling price of a property in an arm's length transaction is often the best indicator of its true market value. Some have asserted that the high number of "foreclosure sales" in a geographic area indicates that these sales "*have become*" the market. (An argument can also be made that the arm's length sale prices of non-compulsory sales will adjust to reflect this type of activity.) The newly codified verbiage is intended to direct county boards of review and the Illinois Property Tax Appeal Board to include short sales and bank REO sales as evidence when the sale/transfer is compulsory but would have been an arm's length transaction absent the compulsory nature of the sale. Counties are urged to monitor comparable sales to ensure that the "compulsory sale" qualifications are met.

Note that the new enactment does not specify a particular assessment year for revising individual assessments. The effective date of the new enactment is July 16, 2010. Boards of review in session on or after the effective date should comply with this new provision.

## Sales Ratio Studies

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The department is required to include short sales and bank REO sales in the sales ratio study, assuming they are otherwise arm's length sales, beginning with sales on or after January 1, 2011. The Illinois Real Estate Transfer Declaration (Form PTAX-203) is being updated to delineate between the types of compulsory sales. The revised form must be used for all transfers occurring on or after January 1, 2011.

Counties using the electronic filing system should note that the system will be modified to accommodate the change as well. "Code 46" will no longer be a valid exclusion code for sales ratio study purposes; instead, new codes will be used to identify the type of compulsory sale. We will send these new codes to all chief county assessment officers by separate memorandum.

The department will use its normal editing process. If all other system edits are passed, short sales and bank REO sales will be included in the study.

## Effective date

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Public Act 96-1083 became effective July 16, 2010. The new enactment contains two effective dates internally, however.

- The county board of review equalization procedure applies in assessment year 2011 only.
- The mandate that the department include compulsory sales in its sales ratio study applies to sales on or after January 1, 2011.

Although the Department of Revenue is required to provide guidance on property tax matters, you still should consult with your state's attorney regarding this advice as he or she is the person who will defend your actions.

I hope that this information is helpful. If you have any questions, please contact the Property Tax Division at 217.782.3627. The text from Public Act 96-1083 follows in its entirety.

# Public Act 96-1083

AN ACT concerning revenue.

**Be it enacted by the People of the State of Illinois, represented in the General Assembly:**

Section 5. The Property Tax Code is amended by changing Sections 16-55, 16-65, 17-10, and 31-25 and by adding Sections 1-23 and 16-183 as follows:

(35 ILCS 200/1-23 new)

Sec. 1-23. Compulsory sale. "Compulsory sale" means (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

(35 ILCS 200/16-55)

Sec. 16-55. Complaints. On written complaint that any property is overassessed or underassessed, the board shall review the assessment, and correct it, as appears to be just, but in no case shall the property be assessed at a higher percentage of fair cash value than other property in the assessment district prior to equalization by the board or the Department. The board shall include compulsory sales in reviewing and correcting assessments, including, but not limited to, those compulsory sales submitted by the taxpayer, if the board determines that those sales reflect the same property characteristics and condition as those originally used to make the assessment. The board shall also consider whether the compulsory sale would otherwise be considered an arm's length transaction. A complaint to affect the assessment for the current year shall be filed on or before the 10th day of August in counties with less than 150,000 inhabitants and on or before the 10th day of September in counties with 150,000 or more but less than 3,000,000 inhabitants, except if the assessment books containing the assessment complained of are not filed with the board of review by the 10th day of July in a county with fewer than 150,000 inhabitants or by the 10th day of August in a county with 150,000 or more but less than 3,000,000 inhabitants, then the complaint shall be filed on or before 30 calendar days after the date of publication of the assessment list under Section 12-10. The board may also, at any time before its revision of the assessments is completed in every year, increase, reduce or otherwise adjust the assessment of any property, making changes in the valuation as may be just, and shall have full power over the assessment of any person and

may do anything in regard thereto that it may deem necessary to make a just assessment, but the property shall not be assessed at a higher percentage of fair cash value than the assessed valuation of other property in the assessment district prior to equalization by the board or the Department. No assessment shall be increased until the person to be affected has been notified and given an opportunity to be heard, except as provided below. Before making any reduction in assessments of its own motion, the board of review shall give notice to the assessor or chief county assessment officer who certified the assessment, and give the assessor or chief county assessment officer an opportunity to be heard thereon. All complaints of errors in assessments of property shall be in writing, and shall be filed by the complaining party with the board of review, in duplicate. The duplicate shall be filed by the board of review with the assessor or chief county assessment officer who certified the assessment. In all cases where a change in assessed valuation of \$100,000 or more is sought, the board of review shall also serve a copy of the petition on all taxing districts as shown on the last available tax bill at least 14 days prior to the hearing on the complaint. All taxing districts shall have an opportunity to be heard on the complaint. Complaints shall be classified by townships or taxing districts by the clerk of the board of review. All classes of complaints shall be docketed numerically, each in its own class, in the order in which they are presented, in books kept for that purpose, which books shall be open to public inspection. Complaints shall be considered by townships or taxing districts until all complaints have been heard and passed upon by the board.

(Source: P.A. 86-345; 86-413; 86-1028; 86-1481; 88-455.)

(35 ILCS 200/16-65)

Sec. 16-65. Equalization process. The board of review shall act as an equalizing authority, if after equalization by the supervisor of assessments the equalized assessed value of property in the county is not 33 1/3% of the total fair cash value. The board shall, after notice and hearing as required by Section 12-40, lower or raise the total assessed value of property in any assessment district within the county so that the property, other than farm and coal property assessed under Sections 10-110 through 10-140 and Sections 10-170 through 10-200, will be assessed at 33 1/3% of its fair cash value.

For each assessment district of the county, the board of review shall annually determine the percentage relationship between the valuations at which property other than farm and coal property is listed and the estimated 33 1/3% of the fair cash value of such property. To make this analysis, the

board shall use at least 25 property transfers, or a combination of at least 25 property transfers and property appraisals, such information as may be submitted by interested taxing bodies, or any other means as it deems proper and reasonable. If there are not 25 property transfers available, or if these 25 property transfers do not represent a fair sample of the types of properties and their proportional distribution in the assessment district, the board shall select a random sample of properties of a number necessary to provide a combination of at least 25 property transfers and property appraisals as much as possible representative of the entire assessment district, and provide for their appraisal. The township or multi-township assessor shall be notified of and participate in the deliberations and determinations.

In assessment year 2011, the board of review shall consider compulsory sales in its equalization process.

The board of review, in conjunction with the chief county assessment officer, shall determine the number of compulsory sales from the prior year for the purpose of revising and correcting assessments. The board of review shall determine if the number of compulsory sales is at least 25% of all property transfers within the neighborhood, township, multi-township assessment district, or other specific geographic region in the county for that class of property, but shall exclude from the calculation (i) all property transfers for which the property characteristics and condition are not the same as those characteristics and condition used to determine the assessed value and (ii) any property transfer that is not an arm's length transaction based on existing sales ratio study standards (except for compulsory sales). If the board determines that the number of compulsory sales is at least 25% of all property transfers within the defined geographic region for that class of property, then the board of review must determine (i) the median assessment level of arm's length transactions and (ii) the median assessment level of compulsory sales. If the median assessment level of compulsory sales is higher than the median assessment level of arm's length transactions, then compulsory sales shall be included in the arm's length transaction study and the board must calculate the new median assessment level. Assessed values of properties within the specific geographic area for that class of property must be revised to reflect this new median assessment level. The revised median assessment level shall be the basis for equalization as otherwise provided in this Section.

With the ratio determined for each assessment district, the board shall ascertain the amount to be added or deducted from the aggregate assessment on property subject to local assessment jurisdiction, other than farm and coal property, to produce a ratio of assessed value to 33 1/3% of the fair cash value equivalent to 100%. However, in determining the amount to be added to the aggregate assessment on property subject to local jurisdiction in order to produce a ratio of assessed value to 33 1/3% of the fair cash value

equivalent to 100%, the board shall not, in any one year, increase or decrease the aggregate assessment of any assessment district by more than 25% of the equalized valuation of the district for the previous year, except that additions, deletions or depletions to the taxable property shall be excluded in computing the 25% limitation. The board shall complete the equalization by the date prescribed in Section 16-35 for the board's adjournment, and, within 10 days thereafter, shall report the results of its work under this Section to the Department. At least 30 days prior to its adjournment, the board shall publish a notice declaring whether it intends to equalize assessments as provided in this Section. The notice shall be published in a newspaper of general circulation in the county. If the board fails to report to the Department within the required time, or if the report discloses that the board has failed to make a proper and adequate equalization of assessments, the Department shall direct, determine, and supervise the assessment so that all assessments of property are relatively just and equal as provided in Section 8-5.

(Source: P.A. 84-1343; 88-455.)

(35 ILCS 200/16-183 new)

Sec. 16-183. Compulsory sales. The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

(35 ILCS 200/17-10)

Sec. 17-10. Sales ratio studies. The Department shall monitor the quality of local assessments by designing, preparing and using ratio studies, and shall use the results as the basis for equalization decisions. In compiling sales ratio studies, the Department shall exclude from the reported sales price of any property any amounts included for personal property and, for sales occurring through December 31, 1999, shall exclude seller paid points. The Department shall not include in its sales ratio studies sales of property which have been platted and for which an increase in the assessed valuation is restricted by Section 10-30. The Department shall not include in its sales ratio studies the initial sale of residential property that has been converted to condominium property. The Department shall include compulsory sales occurring on or after January 1, 2011 in its sales ratio studies. The Department shall also consider whether the compulsory sale would otherwise be considered an arm's length transaction, based on existing sales ratio study standards.

When the declaration required under the Real Estate Transfer Tax Law contains financing information required under Section 31-25, the Department shall adjust sales prices to exclude seller-paid points and shall adjust sales prices to "cash value" when seller related financing is used that is

different than the prevailing cost of cash. The prevailing cost of cash for sales occurring on or after January 1, 1992 shall be established as the monthly average 30-year fixed Primary Mortgage Market Survey rate for the North Central Region as published weekly by the Federal Home Loan Mortgage Corporation, as computed by the Department, or such other rate as determined by the Department. This rate shall be known as the survey rate. For sales occurring on or after January 1, 1992, through December 31, 1999, adjustments in the prevailing cost of cash shall be made only after the survey rate has been at or above 13% for 12 consecutive months and will continue until the survey rate has been below 13% for 12 consecutive months. For sales occurring on or after January 1, 2000, adjustments for seller paid points and adjustments in the prevailing cost of cash shall be made only after the survey rate has been at or above 13% for 12 consecutive months and will continue until the survey rate has been below 13% for 12 consecutive months. The Department shall make public its adjustment procedure upon request.

(Source: P.A. 91-555, eff. 1-1-00.)

(35 ILCS 200/31-25)

Sec. 31-25. Transfer declaration. At the time a deed, a document transferring a controlling interest in real property, or trust document is presented for recordation, or within 3 business days after the transfer is effected, whichever is earlier, there shall also be presented to the recorder or registrar of titles a declaration, signed by at least one of the sellers and also signed by at least one of the buyers in the transaction or by the attorneys or agents for the sellers or buyers. The declaration shall state information including, but not limited to: (a) the value of the real property or beneficial interest in real property located in Illinois so transferred; (b) the parcel identifying number of the property; (c) the legal description of the property; (d) the date of the deed, the date the transfer was effected, or the date of the trust document; (e) the type of deed, transfer, or trust document; (f) the address of the property; (g) the type of improvement, if any, on the property; (h) information as to whether the transfer is between related individuals or corporate affiliates or is a compulsory transaction; (i) the lot size or acreage; (j) the value of personal property sold with the real estate; (k) the year the contract was initiated if an installment sale; (l) any homestead exemptions, as provided in Sections 15-170, 15-172, 15-175, and 15-176 as reflected on the most recent annual tax bill; and (m) the name, address, and telephone number of the person preparing the declaration; and (n) whether the transfer is pursuant to compulsory sale. Except as provided in Section 31-45, a deed, a document transferring a controlling interest in real property, or trust document shall not be accepted for recordation unless it is accompanied by a declaration containing all the information requested in the declaration. When the declaration is signed by an attorney or agent on behalf of sellers or buyers who have the power of

direction to deal with the title to the real estate under a land trust agreement, the trustee being the mere repository of record legal title with a duty of conveying the real estate only when and if directed in writing by the beneficiary or beneficiaries having the power of direction, the attorneys or agents executing the declaration on behalf of the sellers or buyers need identify only the land trust that is the repository of record legal title and not the beneficiary or beneficiaries having the power of direction under the land trust agreement. The declaration form shall be prescribed by the Department and shall contain sales information questions. For sales occurring during a period in which the provisions of Section 17-10 require the Department to adjust sale prices for seller paid points and prevailing cost of cash, the declaration form shall contain questions regarding the financing of the sale. The subject of the financing questions shall include any direct seller participation in the financing of the sale or information on financing that is unconventional so as to affect the fair cash value received by the seller. The intent of the sales and financing questions is to aid in the reduction in the number of buyers required to provide financing information necessary for the adjustment outlined in Section 17-10. For sales occurring during a period in which the provisions of Section 17-10 require the Department to adjust sale prices for seller paid points and prevailing cost of cash, the declaration form shall include, at a minimum, the following data: (a) seller paid points, (b) the sales price, (c) type of financing (conventional, VA, FHA, seller-financed, or other), (d) down payment, (e) term, (f) interest rate, (g) type and description of interest rate (fixed, adjustable or renegotiable), and (h) an appropriate place for the inclusion of special facts or circumstances, if any. The Department shall provide an adequate supply of forms to each recorder and registrar of titles in the State.

(Source: P.A. 93-657, eff. 6-1-04; 94-489, eff. 8-8-05.)

Section 99. Effective date. This Act takes effect upon becoming law.

**Effective Date:** 7/16/2010

**131. USE OF RATIO STUDY TO TEST FOR EQUALIZATION IN COUNTIES (RULE 131).**

Section 63-109, Idaho Code.

(3-30-07)

**01. Equalization Ratio Study.** Each year the State Tax Commission shall conduct a ratio study to assist in the equalization of assessments of property within and among the primary categories established in Rule 130 of these rules. The ratio study shall be conducted in accordance with the “Standard on Ratio Studies” referenced in Rule 006 of these rules. The annual ratio study shall test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The State Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. Equalization ratio studies must consist of at least five (5) sales and/or appraisals. The State Tax Commission may delete sales when necessary to improve representativeness. The study shall be completed in February following the end of the period studied. The appropriate ratio study statistical measure of level shall be the median. (4-7-11)

**02. Tested For Equalization.** Except as provided in Subsection 131.03 of this rule, categories to be tested for equalization purposes are the primary categories, described in Subsections 130.02 through 130.06 of these rules, provided adequate samples can be obtained. (4-7-11)

**03. Follow-Up Ratio Study.** When indicated, based on criteria in Paragraph 131.03.a. and 131.03.b. of this rule, a follow-up ratio study shall be conducted to test the assessments for January 1 of the year following the year tested by the annual ratio study and shall be based on property sales occurring during the calendar year immediately preceding that date. A follow-up ratio study shall be indicated whenever: (4-2-08)

**a.** The annual ratio study, provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule; or (4-2-08)

**b.** The State Tax Commission is informed after the county board of equalization adjourns and before the state board of equalization adjourns of the implementation of assessment changes likely to result in a finding that a category found in compliance with equalization standards following the annual ratio study would be found out of compliance with these standards for the current year’s assessments. The follow-up ratio study authorized under this option shall be conducted for the primary category likely to be out of compliance with equalization standards and for any secondary categories comprising the primary category, provided adequate samples can be obtained. (4-7-11)

**04. Notice of Follow-Up Ratio Study.** The State Tax Commission shall notify the

county assessor of the reason for and results of the follow-up ratio study. If the follow-up ratio study is conducted as provided in Paragraph 131.03.b. of this rule, the notice shall be sent to the county board of equalization and county assessor and shall describe the assessment changes that resulted in the need for the follow-up ratio study. The notice shall indicate whether any adjustments will be considered by the State Tax Commission at its next equalization meeting in August based on either the annual, or any follow-up ratio study, and the reason for the proposed adjustments. (4-2-08)

**05. Use of Ratio Study Results.** The results of the annual ratio study or any follow-up ratio study shall be one (1) source of information upon which the State Tax Commission may rely when testing assessments for equalization purposes under Section 63-109, Idaho Code. When the results of any ratio study on any primary, or, if applicable under the provisions of Subsection 131.03.b. of this rule, secondary category, described in Subsections 130.02 through 130.07 of these rules, show, with reasonable statistical certainty as defined in Subsection 131.09 of this rule, that the appropriate measure of level of the category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that category may be considered not equalized. When this occurs, the State Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in the category or any portion of the category included in the analysis conducted in an amount the State Tax Commission finds necessary to accomplish equalization of assessments of property. Within any primary category, except as provided in Subsection 131.06 of this rule, adjustment will not be considered for any secondary category, described in Rule 510, 511, or 512 of these rules, that does not have at least one (1) observation in the ratio study conducted for that primary category. (4-7-11)

**06. Exception from Requirement for at Least One (1) Observation for Use of Secondary Category in Adjusted Value Determination.** Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment shall be applied to any assessed value in secondary category 10, provided there is at least one observation (sale) of property identified in either secondary category 12 or 15. Such adjustment shall also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. (3-30-07)

**07. Use of Alternate Ratio Study.** When the follow-up ratio study required by Subsection 131.03 of this rule does not measure the true assessment level, the State Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the State Tax Commission has reason to question the representativeness of the sample used in an annual or follow-up ratio study conducted on any primary category, the State Tax Commission may delay implementation of any order to adjust property values until two (2) successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%). (3-30-07)

**08. Submission of Additional Information.** Any party may petition the State Tax Commission to consider any information or studies relevant to equalization. The petition shall include a description of the information to be presented and the petitioner's conclusions drawn from the information. (4-5-95)

**09. Reasonable Statistical Certainty.** For the purposes of Rule 131 and equalization pursuant to Section 63-109, Idaho Code, "reasonable statistical certainty" that any primary category is not equalized shall mean that the appropriate measure of level determined by the ratio study for any category tested for equalization must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Such a determination shall occur if: (4-7-11)

**a.** The appropriate measure of level for the category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or (4-7-11)

**b.** The appropriate measure of level for the category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). No ratio study completed prior to August 31, 2007 will be considered as one of the most recent previous two (2) ratio studies. (4-7-11)

**10. Cross References.** The primary categories are described in Subsections 130.02 through 130.06 of these rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. (3-30-07)

The following definitions were taken from Colorado's Land Manual.

**"Vacant land"** means any lot, parcel, site, or tract of land upon which no buildings or fixtures, other than minor structures, are located.

"Vacant land" may include land with site improvements.

~~"Vacant land" includes land that is part of a development tract or subdivision when using present worth discounting in the market approach to appraisal; however, "vacant land" shall not include any lots within such subdivision or any portion of such development tract that~~ improvements, other than site improvements or minor structures, have been erected upon or affixed thereto.

"Vacant land" does not include agricultural land, producing oil and gas properties, severed mineral interests, and all mines, whether producing or nonproducing.

**"Minor structures"** means improvements that do not add value to the land on which they are located and that are not suitable to be used for and are not actually used for any commercial, residential, or agricultural purpose.

**"Site improvements"** means streets with curbs and gutters, culverts and other sewage and drainage facilities, and utility easements and hookups for individual lots or parcels.

Improvements are defined in I. C. Section 205.2(c):

Idaho Property Tax Rule 620.02(c) says: Improvements included in land value. Improvements included in land value, such as septic tanks, wells, improvements designed to provide utility services or access, and other similar improvements shall not qualify for the exemption. [Never Occupied Residential Improvements]