

**PROPERTY TAX RULES COMMITTEE
MINUTES**

The Committee convened on Tuesday July 10, 2018, at 9:00 a.m. at:

Idaho State Tax Commission
Room 1CR5 / Plaza IV / 800 Park Ave / Boise, Idaho

Welcome & Introductions

Committee Chair Alan Dornfest

Approval of Minutes – April 3 & June 12, 2018

Committee Chair Alan Dornfest

Rules Status Report – as of July 12, 2018

Rick Anderson

Rules:

1. Rules 613, 614 – Speculative Value for Agricultural Land and Examples

The subcommittee met on 6/26. They discussed whether to use the 5 year rolling average of expenses as they had previously decided upon or the most previous year as requested by The Farm Bureau. They used the example from Twin Falls County proved by Ray Moore. They looked at how the numbers would come out statewide. They determined that 1/3 of Idaho counties could be affected. The subcommittee has changed their recommendation and decided to leave it at using the expenses from the most previous year for values and pairing that with using the 5 year rolling income average.

The chair asked the committee to go through the changes and give him any comments. Rick Anderson noted that the changes can be found where the effective date is blank. The chair asked if the irrigation rent in 02 was based on a one or five year calculation. Kathlynn Ireland, STC, head of the subcommittee for this rule, said it was a one year, annual calculation and an example would be added to show how to isolate rent income for deduction.

Ray Moore asked for the word “rent” to be taken out. He also asked to take out the word “cash” in 02 (a). The chair stated it was ok to leave in the word “cash” in that specific subsection, and the group concurred that it was proper there because it was a list. The chair asked Brian Stender, Canyon County Assessor, if there were any comments from the assessors. Brian stated he had an email from Commissioner Katsilometes about agricultural land values and there was a lot of discussion about reporting from the farmers. He stated there needed to be a decent example set in the rule. The chair stated that the issues, about requirements for current value, couldn’t be fixed by a rule. George Brown, AG, said we need legislation and to determine what needs to be legislated.

Steve Fiscus, STC, asked if we were creating a southern Idaho method for valuing land. The chair asked if it harmed the system. Steve stated it didn't but it's lengthy. The chair told Brian Stender he was sympathetic but couldn't fix the two issues the assessors raised with a rule. Brian agreed. The chair asked if this rule damaged the ability to assess. George Brown, AG, stated everyone brings in their numbers when it lowers their values, not when it raises them. The chair stated we still require data and asked does this rule hurt this process. Kathlynn Ireland, STC, pointed out this rule gives us a third party option if we don't get data. She said 03(b) was added to address this. The chair reviewed 3(b) with the group and agreed this gives new options. Linda Jones, Lincoln County assessor, noted that third party values are high. Kathlynn Ireland, STC, indicated it's based on a survey from the counties. The chair asked if the list in 03(b) was intended to be inclusive or intended to be options and asked if we should soften the language. George Brown, AG, suggested adding the word "including" before the general sources. The group discussed this and had consensus. The chair asked the subcommittee chair to add language to indicate the list is examples or options. Ray Moore, Twin Falls County Farmer, noted the cash rent for the multiple crops in southern Idaho is not available. He said this works in northern Idaho where they generally have only one crop. He also stated that specialty crops raise the cash rent average so assessors need to ask questions when figuring the cash rent. The chair asked the group if we should strike the word "individual" and did it make it more confusing. Ray Moore said it was his perception this wasn't written by a farmer. He stated he didn't have a problem leaving in or taking out the example but didn't agree with saying "cash rent". Kathlynn Ireland, STC, stated taking out the example would clean it up but it's been in the rule previously. The chair asked Kathlynn to work on this and then Brian Stender, Canyon County assessor, could take it to the assessors and he hoped that would help. Kathlynn stated that Ray Moore had given an example with more information and the subcommittee had tried to make it more specific.

Rick Anderson, STC, stated a new draft of 614 was passed out today to replace the one in the agenda. Rick stated that in section 03 they were striking the words "land only". The chair stated that much of agricultural (ag) equipment was exempted. Kathlynn Ireland, STC, stated the subcommittee added a reference to Rule 613. The chair stated the language "exempt equipment" was confusing and the language needed to be more specific. Rick Anderson, STC, stated the language "as defined in 613" was added. He reviewed the changes to this draft one by one, and the addition of all tables. The chair gave several grammatical edits. The chair asked Russ Hendricks, Idaho Farm Bureau, for his opinion on the draft. Russ said it was moving in the right direction. The chair asked for any comments from the representative from the grain producers who was on the phone but she was not still on the phone. The chair stated that July 19 was the last meeting and this rule was a go or no go at that time. He stated it could still play out and asked Kathlynn Ireland, STC, subcommittee chair, for a new version by the end of the week. The chair then addressed Ray Moore and said he appreciated all his comments and thanked him. Ray said this rule was vitally important because water costs really add up. The goal is to make it more clear, not to require more.

2. Rule 006 – Documents Incorporated by Reference

Rick Anderson stated that the changes to this rule were to make it be consistent with what is online. The chair noted that there were only two changes. Betty Dressen, Payette

County Clerk, made a motion to approve this rule draft. Steve Fiscus, State Tax Commission, seconded the motion. The motion was approved unanimously.

3. Rule 600 – Property tax exemption – Provisional exemption (HB459)

The chair stated this draft is identical to the temporary rule that was approved by the State Tax Commission except one date, a minor change. Commissioner Ken Roberts had asked the Attorney General’s office to weigh in. The response from George Brown, AG’s Office, was handed out at the meeting and is attached to these minutes. The chair stated originally this rule failed to pass at the open meeting, as a temporary rule, and it was redone and approved in June. The chair stated he added the April draft language back to 04 (a)(ii), before the word “renovation”. He stated the guidance on when it comes off the tax roll, after purchase, is now missing. Bob McQuade, Ada County assessor, stated he had not yet discussed it with others and asked the chair for clarification. George Brown stated the rule was a use based exemption, not an ownership exemption. The chair asked Brian Stender, between now and next week, to go through the draft and make sure there was general agreement from all the assessors. Steve Fiscus asked if the committee would leave 2 (a) alone and the chair affirmed. George Brown stated the exemption starts with the issue of a building permit or when construction begins. The chair agreed and stated it must be left in. Steve Fiscus asked for clarification on the timing. George Brown asked about a retroactive refund provision if the exemption was requested afterward. The chair stated this rule provides limited guidance and in view of legal reviews, might go further in a new draft.

4. Rule 630 – New Capital Investments – (adds operating property, HB591)

The chair stated that Ken McClure, Givens Pursley, was here to discuss this rule. He stated that this rule has gotten longer and longer. In 630.02 it was noted this date was chosen because it was the date the reports were due. Ken brought up that the rule should reference “qualifying period” instead “project period”. The chair stated that he knew 02 (b) was an issue for Ken and said he’d be glad to work with him. In 02 (b) and 03(b) the chair stated he could change the wording to ‘shall provide notice’. Jerott Rudd, STC, asked if this was vague. The chair stated that the corrections he was making would tie it all together. The group discussed if there were any examples where construction could be subject to both local and state taxes. Steve Fiscus, STC, brought up the example of Rathdrum Power. The chair clarified that the state was in first position and there were very little local taxes in these cases. Jerott Rudd, STC, agreed. The chair stated this wording was the only way the rule worked. Terry Accordino, Micron, said he thinks it works. Jerott Rudd, STC, said he wants clarity. The chair asked if he should add the word “qualification” and also the words property at the project site” or put a cross reference in 3(b). He asked for suggestions for new wording. Ken McClure, Givens Pursley, asked to see the new wording for 3(b) in writing. Terry Accordino, Micron, asked if there would be a case where the locally assessed portion would be over 400 million. Jerott Rudd, STC, and the chair both agreed it was not anticipated. Steve Fiscus, STC, stated the need to add 63-4502 exemptions to the abstract. There was some discussion about tracking the exemption. Janet James, STC, stated that she would just get the net value. Ken McClure, Givens Pursley, asked if the

word “qualifying” could be added so that it read “end of the qualifying period” in the new subsection d. After some discussion, Ken said he would send the chair some language for this. Janet James questioned when the county would know that it should come off the roll. The chair stated it would not come off unless it exceeded 400 million. There was discussion about the notification process to the counties between the chair and Terry Accordino, Micron,

Terry Accordino, Micron, suggested an edit for 630.06 (c).

For 630.07 the chair asked Ken McClure, Givens Pursley, if the 90 days would work. Ken stated it would. Jerott Rudd, STC, said the reference in subsections b and c were not correct. Ken and the chair will review 630.07.

For 630.08 (b) Ken McClure, Givens Pursley, asked which notification was meant and if it should say “either notification”. Jerott Rudd, STC, asked to discuss the necessity of the second half of subsection b. The chair stated it was a safety clause. Terry Accordino, Micron, said it was there because there are different tax rates and returns required and this tells the counties where to apply the exemption. Ken McClure, Givens Pursley, said there was a requirement to file a paper we don’t want to. Jerott Rudd, STC, asked what it meant to say “the highest”. The chair stated that the change “taxpayer’s operating property value within the county” was a good change. The chair asked Ken if he could give his edits within two days. Steve Fiscus, STC, noted Janet James, STC, had a point there was no guarantee the assessors would be notified, and the words ‘or assessors’ should be added. Jerott Rudd, STC, asked, in 8(b) would there ever be new construction that could be put on a roll in this case. The chair stated it could if it fit all of the “nots” in the law. Ken McClure, Givens Pursley, commented in agreement. Jerott and the chair continued to discuss that it depended if they filed the notice because they have to file the notice to qualify. The chair said that was “implicit”. The chair will finalize this draft for the next meeting.

5. Rule 702 – Veteran’s Benefit – Continued Eligibility After Death of Claimant

The chair asked Pam Waters, State Tax Commission, for comments. She pointed out one typo in section 02. Brian Stender made a motion to approve this draft with the one correction. Betty Dressen seconded the motion. The motion was approved by a unanimous vote.

6. Rule 802 – 1)HB559 deduct provisional exemption 2) New districts or districts newly annexed into RAAs with respect to increment value to be added as new construction later

The chair stated to Meghan Sullivan, Elam & Burke, that the change in 06 (a) dealt with the issue she raised. The chair stated that in principal we should provide the annexation value. Jerott Rudd, State Tax Commission, stated the counties would need to give us that information. The chair stated in principal they should provide it. The chair asked for further comments and there were none. The chair asked Brian Stender, Canyon County Assessor, if this rule had been provided to the assessors for review and he stated it had.

Brian Stender made a motion to approve this rule draft. Betty Dressen, Payette County Clerk, seconded the motion. The motion passed unanimously.

7. Rule 803 – 1) HB559 – provisional exemption 2) HB392 – change solar farm date 3) HB 567a- cemetery consolidation

The chair reviewed the changes to this rule. Betty Dressen, Payette County Clerk, made a motion to approve this rule draft. Brian Stender, Canyon County Assessor, seconded the motion. The motion passed unanimously.

8. Rule 804 – Definition of “base assessment roll” [(I.C. 50-2903(4)] in respect to exempt property(63-602NN) becoming taxable

The chair stated that this change was to address the issue raised by Meghan Sullivan, Elam & Burke. The group discussed this change and that most of the value ends up in the base value. Miguel Legarreta, Associated Taxpayers of Idaho, pointed out a correction to the title from “reviewal” to “renewal”. Betty Dressen, Payette County Clerk, made a motion to approve this rule with the one correction. Glenna Young, Valley County Treasurer, seconded the motion. The motion passed unanimously.

9. Rule 962 – (HB462)Forest Land Taxation Rule – Re-classification process to be determined by the Committee on Forest Land Taxation Methodology

The chair stated that this was an existing rule. He stated that the CFTM would advise this committee on the changes to this rule. He explained that, without this rule, the law places a hold on the assessors who cannot change land productivity classifications. He informed the group that the CFTM would have a conference call vote next week to see if their current draft can come to this committee. He stated the CFTM tried to incorporate the ideas brought up by corporations and assessors. It was noted that only Kootenai County had a qualified forester to help with values. The chair stated the value didn't require the certification of the appraiser and a mapper but he couldn't be more specific until the CFTM vote was done. He stated Commission Tom Katsilometes, chair of the CFTM, would hold the vote next Tuesday and he would bring their draft to the next meeting if it passed. The chair asked the group to pass this along to interested parties. He specifically addressed Brian Stender, Canyon County Assessor, stating it would be helpful if at least one assessor/member was on the phone for the July 19 meeting.

Next meeting announced: July 19, 2018 at 9:00 a.m.

Meeting Adjourned.

MEMORANDUM

TO: Commissioner Ken Roberts
FROM: George Brown
DATE: July 5, 2018
RE: Property Tax Temporary Rule 600

In an e-mail on June, 15, 2018 you requested an opinion from Phil Skinner regarding a proposed temporary rule that was presented to the Tax Commission. I have been assigned the task of answering your request.

QUESTION PRESENTED

Does the language in Property Tax Temporary Rule 600, Section 04.ii, as presented to the Commission in the proposed Resolution 18-01 during the Open Meeting of May 23, 2018, comply with the language of HB 559 from the 2018 Idaho Legislative Session and is the promulgation of such language a proper exercise of the Tax Commission's rule making authority?

SHORT ANSWER

The language in Property Tax Temporary Rule 600, Section 04.ii, as presented to the Commission in the proposed Resolution 18-01 during the Open Meeting of May 23, 2018 would likely be held an appropriate interpretation HB 559 if the rule came under judicial review.

BACKGROUND

Property Tax Temporary Rule 600 came before the Tax Commission in reaction to a new section of Idaho code, Idaho Code § 63-1305C, allowing for a "prospective" exemption on property being constructed or remodeled with the intent of fulfilling an exempt use upon completion. The language in that statute informative of the issue presented in this memo is:

63-1305C. TAXATION AND REFUND OF PROPERTY TAXES COLLECTED ON A TAX EXEMPT PROPERTY. (1) It is the intent of the legislature that property that is being constructed or renovated to fulfill a purpose that is exempt from taxation under the constitution or the laws of Idaho shall not be subject to property tax during the period of construction or renovation preparatory to its completion for a tax exempt use.

(2) A property owner may apply to the board of county commissioners for a provisional property tax exemption at the time that a building permit is applied for or at the time that construction or renovation of the property begins, whichever is earlier, or at any time thereafter during construction or renovation of the property. If the board of county commissioners finds that the intended use of the property, once construction or renovation has been completed, qualifies for a property tax exemption under the constitution or the laws of the state of Idaho, it shall grant a provisional property tax exemption, conditioned on the achievement of the intended tax exempt purpose. Any property with a provisional property tax exemption shall

not be included on the county assessor's new construction roll, and no taxes shall be assessed on the property during the period of its exemption.

Idaho Code § 63-1305C was introduced to ameliorate a perceived problem with the operation of Idaho Code § 63-301A and Property Tax Administrative Rule 802, which require property under construction to be added to the new construction roll by assessors at the value of the property on the date of assessment. Prior to the enactment of Idaho Code § 63-1305C, the operation of Idaho Code § 63-301A and Property Tax Administrative Rule 802 resulted in property being added to the new construction roll, thereby increasing taxing districts' budget authority, and being taxed, but then being exempted immediately upon completion and the beginning of exempt use.

When brought before the Commission for approval, Temporary Rule 600, Section 04.ii read:

ii. Land and existing buildings that will be considered exempt upon use of the property for exempt purposes, but that were taxable on January 1 of a tax year during which the provisional exemption was granted may be granted the provisional exemption beginning the immediately following tax year. Renovations and personal property related to the exempt purpose of the property, but that add value after the granting of the provisional exemption, shall not be taxed.

The Commission's discussion on Temporary Rule 600 revolved around competing interpretations of Idaho Code § 63-1305C. The first interpretation, recognized in the proposed change to Temporary Rule 600 included above, is that the new exemption applies to property that would otherwise be added to the new construction roll pursuant to Idaho Code § 63-301A, and that property already existing on a property roll would remain taxable until it fulfilled its exempt use. The alternative interpretation, conflicting with Temporary Rule 600, is that any property purchased in conjunction with construction of new property that is anticipated to have an exempt purpose becomes immediately exempt upon that purchase. The conflict about the interpretation of Idaho Code § 63-1305C resulted in Temporary Rule 600 not being approved by the Commission, and lead to the question presented in this memo.

PERTINENT LAW

The Tax Commission's Rulemaking Authority

Administrative rules have the force and effect of law, but do not rise to the level of statutory law. The enactment of statutory law is identified by the Constitution of the State of Idaho, Article III, Sections 1 and 15, as the exclusive responsibility of the legislature. Executive agencies are tasked with ensuring that legislatively enacted laws are properly executed, creating a separation of powers identified by the Idaho Supreme Court when it said:

“[T]he legislature may constitutionally leave to administrative agencies the selection of the means and the time and place of the execution of the legislative

purpose, and to that end may prescribe suitable rules and regulations.” State v. Taylor, 58 Idaho 656, 664, (1938). Administrative agencies do this by enacting rules and regulations.

Mead v. Arnell, 117 Idaho 660, 664, (1990). So, the legislature may delegate rulemaking authority to executive branch agencies in order for those agencies to police such laws as the legislature may enact.

The Idaho Legislature delegated rulemaking authority to the Tax Commission in Idaho Code § 63-105(2), which gives the agency the power and duty to “make, adopt and publish such rules as it may deem necessary and desirable to carry out the powers and duties imposed upon it by law. . .” In addition to this grant of authority, the legislature enacted the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code to govern the process of how administrative rules are promulgated by agencies, which the Tax Commission must follow.

Interpretation of Statute when Rulemaking:

New statutes often include language requiring an agency to promulgate specific administrative rules to define a process administering the more general requirements of the legislation. In the absence of such language, agencies must determine whether statutory language is specific enough in its direction and scope that no further guidance is necessary to comply with the law. Should the statutory language not rise to that level of specificity, the agency must promulgate rules to administer the law that comport with the legislature’s intent when enacting the statute. State agencies, then, have an implied authority to interpret statutes they are tasked with enforcing. Kopp v. State, 100 Idaho 160, 163, (1979). (“It is the general rule that an agency charged with the duty of administering an act is impliedly clothed with power to construe it as a necessary precedent to administrative action.”). When promulgating a rule, a state agency uses the same techniques to interpret the legislative intent of a statute as a court in the state would use when hearing a challenge of the statute or an administrative rule.

The beginning point of statutory analysis is “the literal language of the enactment.” Payette River Property Owners Ass’n v. Board of Comm’rs of Valley County, 132 Idaho 551, 557 (1999). If that language gives unambiguous direction “the clearly expressed intent of the legislative body must be given effect, and there is no occasion . . . to consider rules of statutory construction.” *Id* at 557. A statute is ambiguous as to an issue if its plain language does not sufficiently answer a question about the legislature’s intent on the treatment of the issue. Ambiguity, however, does not exist merely because a question about an issue is not fully answered. The Idaho Court of Appeals described when a statute is ambiguous in the following manner:

A statute is ambiguous when the meaning is so doubtful or obscure that “reasonable minds might be uncertain or disagree as to its meaning.” “However, ambiguity is not established merely because different possible interpretations are presented to a court. If this were the case then all statutes that are the subject of litigation could be considered ambiguous...[A] statute is not ambiguous merely because an astute mind can devise more than one interpretation of it.”

State v. Browning, 123 Idaho 748, 750 (Ct. App. 1993). *Internal citations omitted*. The previous Idaho Supreme Court cases quoted in the *State v. Browning* opinion identify a judicial rule that for a statute to be ambiguous it must contain language that cannot be read without finding more than one almost co-equal interpretation. If the first reading of a statute's language leaves the reader without immediate question as to what its intent is, it is not ambiguous and an agency can promulgate rules commensurate with that intent. If a statute is ambiguous then an agency must perform an analysis of available information to determine the legislative intent so that rulemaking can continue.

Principles found in tax law give an agency guidance on how to interpret legislative intent when a statute is facially ambiguous. In general, any ambiguity in a tax statute should be construed in favor of the taxpayer. Canty v. Idaho State Tax Com'n, 138 Idaho 178, 182 (2002). Tax statutes involving exemptions, credits, or deductions, however, must be read narrowly and strongly against the taxpayer. *See: Potlatch Corp. v. Idaho State Tax Comm'n*, 128 Idaho 387, 389 (1996) and Hecla Min. Co. v. Idaho State Tax Comm'n, 108 Idaho 147, 151 (1985). As a further limitation on the interpretation of tax statutes, deductions, exemptions, and tax credits cannot be implied from statutory language, even though the implication may be there. Idaho State Tax Comm'n v. Stang, 135 Idaho 800, 803 (2001), (“Any exemption from taxation must be created or conferred in clear and plain language and cannot be made out of inference or implication.”)

DISCUSSION

The crux of the issue presented is whether the provisional exemption in Idaho Code § 63-1305C applies only to property value added by construction or renovation that will be exempt upon completion or does the exemption apply to any property purchased with the intent of use for an exempt purpose. With that question answered, the Tax Commission can undertake rulemaking to administer the new exemption in the manner anticipated in the legislation.

The Tax Commission must first do a facial review of the statutory language to determine if it indicates the legislature's intent. In this case, the legislature's intent is likely to be found clear by a reading of the statute. The opening sentence of Idaho Code § 63-1305C identifies the legislative intent as “property that is being *constructed or renovated* to fulfill a purpose that is exempt from taxation . . . shall not be subject to taxation during the period of *construction or renovation*. . .” This statement explicitly limits the exemption to property that is being constructed or renovated.

Property being constructed, by common understanding, is not existing property. Therefore, the proposed language in Temporary Rule 600 clearly meets the legislature's intent when applied to property under construction. New property is added to the new construction roll pursuant to Idaho Code § 63-301A while under construction based on its value at the time of assessment. Idaho Code § 63-1305C precludes this from happening when the property will be used for an exempt purpose upon completion. While renovation, by common understanding, must be to existing property, the proposed language in Temporary Rule 600 is based on interpreting Idaho Code § 63-1305C to have a legislative intent that only property value being added to the new construction

roll (i.e., property that did not exist before construction) qualifies for the prospective exemption. This facial interpretation is based on the language in subsection 2 of Idaho Code § 63-1305C that discusses building permits and the new property roll. That language says:

(2) A property owner may apply to the board of county commissioners for a provisional property tax exemption *at the time that a building permit is applied for or at the time that construction or renovation of the property begins*, whichever is earlier, or at any time thereafter during construction or renovation of the property. . . *Any property with a provisional property tax exemption shall not be included on the county assessor's new construction roll*, and no taxes shall be assessed on the property during the period of its exemption.

Basing application for the exemption on the timing involved with the construction or renovation process is clear indication that the legislature intended the exemption to apply only to new property value, either from new construction or from an increase in value due to renovation. Had the legislative intent been to extend the exemption to any property acquired with an anticipated future exempt use, the application period would have necessarily started upon purchase, not construction. This interpretation is further supported by the exclusion of the property from the new construction roll, because the new construction roll only includes new property that did not formerly exist on any property roll. Property merely acquired to fulfill an exempt purpose would already be included on the property roll as taxable, unless it was coincidentally exempt for a different reason.

While several clauses in Idaho Code § 63-1305C identified above support the interpretation Temporary Rule 600 is based on, the second interpretation discussed by the Commission relies on the character of renovation and the lack of explicit direction in the statute to come to its conclusion. While there is an argument, embodied in second interpretation, that all property acquired for an exempt purpose becomes exempt when construction or renovation begins on it, that interpretation does not have enough logical weight to indicate a facial ambiguity in the statute. Discussion of the second interpretation before the Commission revolved around the character of renovations of property. The logical analysis in the second interpretation was that because property under renovation was included in the exemption, then the whole of that property must be exempt as soon as construction begins. That interpretation further lead to the assumption that the legislative intent behind Idaho Code § 63-1305C was as soon as property was acquired for an exempt use it should be exempt, regardless of its current character. However, the fact that renovation logically must be on something that exists already does not indicate an intent to exempt all of the property existing at the beginning of a project that is anticipated to eventually be exempt. The meaning of Idaho Code § 63-1305C is not likely so “doubtful or obscure” as to be considered ambiguous pursuant to the standard in *State v. Browning* because a “reasonable mind” logically follows the legislative intent on which Temporary Rule 600 is based.

The interpretation of statutes involving tax exemptions, in particular, is less likely to result in a finding of ambiguity because of the guidance found in the *Stang* case. That case stands for a heightened level of scrutiny when assigning statutory exemptions to property, because it requires that exemptions “be created or conferred in clear and plain language” and “not be made out of

inference or implication.” Idaho Code § 63-1305C clearly authorizes an exemption for “property that is being constructed or renovated” but is silent on property purchased for such use but already existing on a property roll, further indication that Rule 600 is a proper exercise of the Tax Commission’s rulemaking authority.

Because of the above reasons, Idaho Code § 63-1305C is unlikely to be found ambiguous if subject to judicial review and, therefore, the language at issue in Temporary Rule 600 is likely a valid interpretation of that statute. If, however, the competing interpretations of Idaho Code § 63-1305C did result in a finding that the statute was ambiguous, Temporary Rule 600 would likely still be found to be a valid interpretation of the statute because of the legal requirement that tax exemptions be construed narrowly and against the taxpayer. Of the two interpretations of Idaho Code § 63-1305C that have been discussed by the Commission, the interpretation represented by Temporary Rule 600 is the more narrowly construed. Temporary Rule 600 recognizes the exemption to apply to property added by new construction or by the value added to a property by the improvements made during a renovation. The competing interpretation would extend the exemption to additional property, the property acquired for an exempt purpose that already exists on the property roll in a taxable status. That increase in the exemption would go against the tenet set forth in the *Potlatch* and *Hecla Min. Co.* cases that statutes are read to limit exemptions, so the interpretation allowing the expanded exemption is likely invalid.

CONCLUSION

There is no facial ambiguity in the language of Idaho Code § 63-1305C and, even if there was, the tenets of statutory interpretation require the exemption in that code section be construed narrowly and against the taxpayer. Therefore, Property Tax Temporary Rule 600, Section 04.ii, as presented to the Commission in the proposed Resolution 18-01 during the Open Meeting of May 23, 2018, is likely a valid interpretation of HB 559, passed during the 2018 Idaho Legislative Session and codified in Idaho Code § 63-1305C, and would likely survive judicial review.