

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**