

**PROPERTY TAX RULES COMMITTEE
AGENDA**

The Committee convenes on Tuesday January 23, 2018, at **9:30 a.m.** at:

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

Welcome & Introductions	<i>Committee Chair Alan Dornfest</i>	
Approval of Minutes – November 7, 2017 Meeting	<i>Committee Chair Alan Dornfest</i>	2
Legislative Report – Pending Rules / New Legislation	<i>Committee Chair Alan Dornfest</i>	
Rules Status Reports – January 23, 2018	<i>Rick Anderson</i>	4

Discussion of open items:

- 1) New districts or districts newly annexed into RAAs with respect to increment value to be added as new construction later 5
- 2) Application of I.C. 63-602Y to property owned by the government transferred to private party 8
- 3) Assessor’s request to re-examine operating property value must be filed before July 15 11
- 4) Clarification that HOE and Circuit Breaker partial ownership rules apply only when the deed does not contain specific allocation percentages 12
- 5) Application of the maximum homeowner’s exemption to each parcel/account or to each individual (based on ownership interest) 13
- 6) Determination or verification that the personal property owned does not exceed the exemption amount 14

Set next meeting date

Meeting adjourned

For more information, please contact the Committee Chair, or the Rules Coordinator at sherry.briscoe@tax.idaho.gov or at 208.334.7544. All agendas and rules related documents are posted on our website under the appropriate committee.

DRAFT

Idaho State Tax Commission
PROPERTY TAX RULES COMMITTEE
Meeting Minutes
November 7, 2017
9:00 a.m. -Room 1CR5

ATTENDEES:

Committee Members:	Alan Dornfest, Rick Anderson, Betty Dressen, Brian Stender, Glenna Young, Kathlynn Ireland, Steve Fiscus
Commissioners:	Tom Katsilometes
Administrative Assistant 2:	Pat Surline
State Tax Commission Staff:	George Brown, Jerott Rudd, Mat Cundiff, Shaunna Roeber, Sherry Briscoe
Guests:	Brad Vanderpool, Brandee Kline, Joe Cox, Linda Jones, Miguel Legarreta, Sally Finlaep, Sharon Worley, and by phone – June Fullmer, Charity Catlin, Bob Bingham, Dennis Engelhardt, and Mike McDowell

Minutes from the August 1, 2017, meeting were approved (motion by Betty, second by Brian). Rick gave a brief review of the Rules Status Report, no discussion.

OLD BUSINESS:

1. **RULE 631** – Tax Exemption for Investment in New Plant and Building Facilities Upon County Commissioners’ Approval.
 - For clarity, a proposal to add new language to Subsection 631.02 “...Real property improvements owned or leased, and personal property owned, by the taxpayer applying for the exemption may be granted the exemption...”
 - Proposing to remove the reference to “non-residential” in Subsection 631.02.c.
 - As of today, no comments have been received via mail
 - Comments can be emailed or mailed to Sherry Briscoe or attend the public meeting on November 20, 2017, at 9:00 a.m., in Room 1CR5
2. **RULE 803** – Budget Certification – Budget Certification Form (L-2 Form)
 - Proposed changes to Subsection 803.03.b. to remove “...from the immediate prior year’s amount...” and add a table that illustrates a calculation of the maximum forgone amount.
 - Commissioner Bob Bingham would like to clarify in Step 4 “...tax budgeted (certified) is...” to state “...tax budgeted (to be submitted for certification) is...”
 - Steve would like an adjustment to Step 3 to add “...\$11,000 (not including the previous the \$200).”
 - Betty stated that the Payette County board approved all proposed rules
 - Changes will be ready for the November 20 meeting.

DRAFT

NEW BUSINESS:

1. **RULE 802** – Budget Certification Relating to New Construction and Annexation
 - Discussion on the deficiency on annexation de-annexed revenue allocation areas (RAAs)
 - Mike would like to add to Subsection 802.06.e. the language “...the taxing district or at the time annexation into the...” Alan will take into consideration Mike’s request and re-evaluate and clarify the language.
2. **RULE 312** – Partial Year Assessment of Real and Personal Property
 - Received email concerning the transfer property from government to private sector. Discussion on the law and how to collect the tax during the redemption period. Alan requested feedback from Mike on the committee discussion. Alan will put this on for discussion in future meetings.
3. Appraisal Program
 - 20% of property is appraised every year. How did we calculate the numbers? Do we include or exclude the occupancy? Discussion on the process to appraise occupancy. Should this be pursued and do we need clarification on occupancy in the rule? Steve recommended we meet with the consulting appraisers to be on the same page as the counties. Alan requested that Steve report back to committee on the input from the consulting appraisers. Alan decided that we revisit this as necessary, this discussion will be placed on hold.
4. Administrative Issue – End of Budget Cycle – Central Registration
 - Betty voiced her concern on the changes and impact to the clerks from Legislative Services Office (LSO) on the process of the audit and the L-2 report timeframe. Alan stated that the Tax Commission is sensitive to each side of this process. LSO has a cutoff date of September 1. The Tax Commission administers the penalty for those out of compliance. Discussion on the Tax Commission’s process to find errors on the L-2 form. This will be the third year of the LSO requirements. Prior to the law change 35% were in compliance. Alan will considering a cutoff date of September 1. This may have ramifications the first year and the Tax Commission would bring this up during the workshops and also meet with both clerks and treasurers to get their opinion.

CONCLUSION:

Alan will take the advice he received today to make amendments for the consideration of the Tax Commission at the November 20 meeting. Alan requested that Brian or his substitute be able to attend the hearings at the legislature. We will contact him or his designee as soon as we hear about the Legislative hearings. Mike requested information on Idaho Code section 63-602Y issue that George addressed. Alan requested George send out a brief email to the committee and Mike.

Next Meeting Date: January 23, 2018, at 9:30 a.m.

Alan Dornfest
Chairman

Sherry Briscoe
Rules Coordinator

Pat Surline
Administrative Assistant 2

**Property Tax Rules Status Report
2018 – 2019 Rules
January 23, 2018**

Rule No.	Neg? notice date	Subject Matter	Date Sent/ DFM Track No.	Date- DFM- ARRF	Rule Status	Most Recent Draft	Comments	Date Sent For Publication
006	No, None	Incorporation by Reference		None		None	Standard updates – prepare synopsis of change	
Other Open Items for Discussion								
Issue					Rule			
The problem of new districts or districts newly annexed into RAAs with respect to increment value to be added as new construction later					Rule 802 - Budget certification relating to new construction and annexation – Sample language and Mike’s comment			
Application of I.C. 63-602Y to property owned by the government transferred to private party					Rule 312 – Partial year assessment of real and personal property- Existing Rule 312 and George Brown’s comments			
Occupancy appraisals – in which year are they counted (in which year will the next appraisal be done for that parcel)					Rule 314 – County valuation plan – Placed on hold – revisit as necessary			
Assessor’s request to re-examine operating property value must be filed before July 15					Rule 408 – Re-examination of value – Complaint by the Assessor – Calendar and Rule 408			
HOE and Circuit Breaker Clarification: If specified in the deed, the ownership interest are determined as specified.					Rule 610 for HOE, Rule 709 for Circuit Breaker. See Rule 610.08			
Does the max. HOE apply to each parcel/account or should it be applied to each individual (based on ownership interest)					Rule 609 – Homeowner’s exemption – Sample Language			
Determination or verification that personal property owned does not exceed exemption amount					Rule 626 – Existing Rule 626 and I.C. 63-602KK			

Rule 802.06.e. - Sample wording for New districts or districts newly annexed into RAAs with respect to increment value to be added as new construction later

e. For taxing districts formed after December 31, 2006 or annexing into a revenue allocation area after that date, the amount of increment value to be added to the new construction roll will equal any positive difference between the increment value at the time of formation of the taxing district or annexation into the revenue allocation area and the increment value at the time of dissolution of the revenue allocation area or the increment value within the area deannexed from the revenue allocation area. ()

From the minutes of the November 7, Rules Meeting:

Mike would like to add to Subsection 802.06.e. the language "...the taxing district or at the time annexation into the..."

312. PARTIAL YEAR ASSESSMENT OF REAL AND PERSONAL PROPERTY (Rule 312).

Sections 63-311 and 63-602Y, Idaho Code

01. Quarterly Assessment. For each partial year assessment of any non-transient personal property, the assessment shall comply with the quarterly schedules provided in Sections 63-311 and 63-602Y, Idaho Code. (5-3-03)

02. Change of Status. The real or personal property that has a change of status as described in Section 63-602Y, Idaho Code, does not include federal or state of Idaho property. The property of the United States, except when taxation thereof is authorized by the Congress of the United States, the state, counties, cities, school districts, and other taxing districts that is transferred to a private owner continues to maintain a non-taxable status until January 1 of the year immediately after transfer. However, property owned by an urban renewal agency that is transferred to a private owner is subject to property tax according to the proration as described in Section 63-602Y, Idaho Code. (3-29-12)

03. Cross Reference. The partial year assessment of any non-transient personal property shall comply with the Idaho Supreme Court decision in *Xerox Corporation v. Ada County Assessor*, 101 Idaho 138, 609 P.2d 1129 (1980). When assessing all non-transient personal property, each assessor should be aware of the following quotation from this decision: "Where the county undertakes to update its initial (personal property) declarations during the course of the tax year, it cannot increase a taxpayer's tax burden to reflect the taxpayer's acquisition of non-exempt property without decreasing that tax burden to reflect the fact that property reported by the taxpayer in an earlier declaration was no longer subject to the county's ad valorem tax." (Clarification added.) (5-3-03)

From: George R. Brown [<mailto:George.Brown@tax.idaho.gov>]
Sent: Tuesday, November 14, 2017 10:45 AM
To: Mike McDowell <mmcdowell@kcgov.us>
Cc: Alan Dornfest <Alan.Dornfest@tax.idaho.gov>; Steve Fiscus (sfiscus@tax.idaho.gov) <sfiscus@tax.idaho.gov>; Richard Houser <rhouser@kcgov.us>
Subject: RE: Rule regarding 63-602Y

Hi Mike,

The question is: Does any Idaho law, besides current administrative rule, preclude the application of the provisions of Idaho Code 63-602Y to property transferred from government ownership into an otherwise non-exempt status at some point during the year.

I believe that it is legal for government property to be rolled on (for lack of a better term for pro rating a year when exempt status is lost) just like any other exempt property under Idaho Code 63-602Y, and property tax rules can be modified accordingly.

There has been a thought espoused that government property could not constitutionally be included under that provision, but I am unable to find where that thought is supported. One argument I continue to hear in support of that notion is that government property is “non-taxable” instead of being “exempt.” I’m not sure there is a legal difference in those two terms. That may be irrelevant, however, because both the Idaho Constitution and Idaho Code provide for an “exemption” for governmental property from taxation and both are otherwise silent on the issue.

My predecessor here at the Commission, Carl Olsson, is often identified as the precedent setter for this train of thought. I have not had a detailed conversation with him about it, but my understanding from those still at the Commission is that he identified *Hoover v. Minidoka County*, 50 Idaho 419 (1931) as determinative of the issue. That case discusses in fair detail (and, to its credit, fair modern English for an older case) the fact that prior and current taxes and associated liens are expunged on any property when it is transferred into government ownership. *Hoover* does discuss the issue at hand, albeit in broader terms, because that case really determined if a lien on land that was subsequently foreclosed by a governmental entity would spring back into being when the government transferred the land to a non-exempt owner. The *Hoover* Court correctly determined that, no, tax liens do not survive the government ownership and, while getting to that conclusion, cites its own precedent from a contemporary case, *Winton Lumber v. Shoshone County*, 294 P. 529 (1931) that concluded that property could not become taxable during a year in which it was originally exempt. The *Hoover* Court further quotes *Clearwater Timber Co. v. Nez Perce County* (C.C.) 155 F. 633 (Dist. Idaho, Northern Div., 1907) and identifies that case as establishing the doctrine it chose to follow in *Winton Lumber*. The judge in *Clearwater Timber* based that conclusion on a reasonable analysis of the policy involved and the fact that there was no statute allowing for assessment of property for only part of the year at that time. This may be where the divergence of my opinion and the basis of our current rule lies.

My understanding is the current rule disallowing part year assessment of property transferred away from government ownership is based on the reading of the case law above to deny such assessment. This is in conflict with the current Idaho Code 63-602Y, which allows for such part year assessment without any exclusion of property owned by the government. I think what has been missed is that the case law behind such a reading existed before the provisions of 63-602Y existed. The language of 63-602Y was originally promulgated as 63-105(20) in House Bill no. 231 in 1949, 18 years after the *Hoover*

case was decided. Before House Bill 231, any exemption of property would result in a full years exemption, regardless of transfers into non-exempt status during the year, unless there was some other statute governing the issue. The judge in *Clearwater Timber* points out that there were such statutes existing at the time, but not for transfers of real estate. Also, there was clearly not a differentiation in the law between property owned by the government and that owned by any other exempt entity at that time because the example he used in the *Clearwater* opinion was not a transfer from the government but, instead, a transfer of property exempted due to its ownership by a widow. Reading that case without taking into consideration the change in the law could lead to the conclusion that government ownership at any point during a year excludes property from taxability for the whole year.

There is a body of mostly federal case law I have dipped into that discusses government property being “non-taxable.” Those cases, in general, stand for the conclusion that property owned for “public purposes” is never taxable, but property owned by the government but not used for “public purposes” is taxable without further exemption. One could read into that body of law a difference in treatment of governmental property because if the property was owned by the government on the date of assessment (January 1) it would never be assessable for the year. Idaho Code 63-602Y only speaks to exempt property and not “non-taxable” property. One would have to make the leap that the non-taxable status (if it really exists as a separate status) would somehow create a situation that precluded a county from later picking up property to be taxed during the year. I cannot identify any precedent that would indicate the non-assessable nature of the property on the date of assessment would create a shield for what would otherwise be taxable property later in the year.

At this point, I see no reason to interpret 63-602Y as precluding the part year taxation of property the government transfers sometime during the year. That exception to 63-602Y exists only in administrative rule and, as has been discussed recently in the rules committee meetings here at the Tax Commission, doesn’t really make sense. I would enjoy hearing any other reading of this issue that someone might have out there before a decision on a new rule is made.

Thanks,

George R. Brown • Deputy Attorney General

Idaho Attorney General's Office

phone: (208) 334-7534 • fax: (208) 334-7844

e-mail: George.Brown@tax.idaho.gov • website: tax.idaho.gov

From: [Carl Olsson](#)
To: [Rick Anderson](#)
Subject: RE: Question from Bonneville County
Date: Friday, December 17, 2010 11:26:59 AM

No. Because it is superfluous

From: Rick Anderson
Sent: Friday, December 17, 2010 11:19 AM
To: Carl Olsson
Subject: RE: Question from Bonneville County

Carl,

I understand the technical problem. Can you believe that Illinois told us that personal property was **not** exempt and that it isn't taxable because in 1970 the folks passed a constitutional amendment saying that PP is not taxable? However, does §63-602A help at all—as you know it specifically calls out property belonging to the United States as being **exempt**?

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 • website: tax.idaho.gov

From: Carl Olsson
Sent: Friday, December 17, 2010 10:53 AM
To: Rick Anderson
Subject: RE: Question from Bonneville County

My problem with using 602Y is somewhat technical. Property owned by the government on Jan 1 is not exempt. Exemption is where the state owns has the power to impose tax, but chooses not to. Under the state and federal constitutions, state and federal property is not subject to taxation in the first place. If the state can't tax it, the state can't exempt it. 602Y applies only to exempt properties.

From: Rick Anderson
Sent: Friday, December 17, 2010 10:40 AM
To: Carl Olsson
Subject: RE: Question from Bonneville County

Carl,

Does § 63-602Y apply to property that is owned on Jan. 1 by the government and is then sold to a taxable entity in June? In other words would the purchaser be liable for the 75% taxes for the current tax year under 602Y or has the taxability (or non-taxability) been established as of Jan. 1?

Thanks!

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 • website: tax.idaho.gov

From: Carl Olsson

Sent: Friday, December 17, 2010 7:21 AM

To: Rick Anderson

Subject: RE: Question from Bonneville County

As soon as the property is in government hands, federal or state, all property taxes, current and delinquent, are expunged. I don't think 602Y applies here because the government "exemption" (it really is not an exemption – under the state and federal constitution there is no power to tax at all) is unlike other exemptions. When properties become exemption under the various code sections that provide for exemptions – e.g. charitable, religious – existing tax liabilities are not expunged.

HUD properties are not subject to tax. When HUD takes title, all taxes are gone until HUD conveys to an entity that can be taxed.

carl

From: Rick Anderson

Sent: Thursday, December 16, 2010 8:37 AM

To: Carl Olsson

Cc: Greg Cade; Alan Dornfest

Subject: FW: Question from Bonneville County

Hi Carl,

Chari's question concerns properties that have been foreclosed upon by HUD. She recognizes that these are "Federal Properties" and therefore not taxable however she asks how these should be handled when HUD quickly turns them over-resells them.

I think §63-602Y answers this question. Does it work like this?

If the parcel is in private ownership on Jan.1 the tax lien attaches to the property then the lien should stand until cleared either by payment of the tax or by tax sale by the county. If the property is in the name of HUD on Jan. 1 then the property is exempt for the period of time that it is held by HUD. If HUD resells the property before the 1st day of July then the property is assessed at $\frac{3}{4}$ market value and property taxes collected from the new owner.

Carl, is this how you see it.

Thanks,

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 • website: tax.idaho.gov

From: Claire Cunningham
Sent: Wednesday, December 15, 2010 4:51 PM
To: Rick Anderson; Greg Cade
Cc: Chari Hansen
Subject: Question from Bonneville County

Bonneville County has a question about exempt property in Chapter 6. Would one of you call Chari in Bonneville first thing in the morning 12/16 to help her with her questions.

208-529-1350 Extention 1620

Thank you.

Claire Cunningham • Property Tax Reduction Coordinator
Idaho State Tax Commission • Property Tax Division
phone: (208) 334-7736 • fax: (208) 334-7629
e-mail: claire.cunningham@tax.idaho.gov • website tax.idaho.gov

From the Assessor's Calendar		
FIRST WEEK IN JULY	<p>Notice of Operating Property Value – During this week, the state tax commission will notify each operating property owner of the value, appeal rights, and August 1 deadline for filing an appeal.</p> <p>Operating Property Values to Counties – During this week, the state tax commission will provide preliminary operating property values by district to county auditors and by county to assessors for examination.</p>	§ 63-407 Rule 407 § 63-408 Rule 408
JULY 15	Deadline to File for Re-Examination of Value – No later than this date, any assessor wanting to request a re-examination of the value of any operating property must submit a written request to the state tax commission.	§ 63-408 Rule 408
THIRD MONDAY IN JULY	Operating Property Annexation Values Reported – The state tax commission shall report to the county auditor the preliminary operating property annexation values.	Rule 800
Rule 408		
408. RE-EXAMINATION OF VALUE -- COMPLAINT BY ASSESSOR (RULE 408).		
<p>01. Request for Reexamination of Value. Section 63-408, Idaho Code, entitles the assessor (complainant) of any county in which the value of operating property is apportioned, to request that the State Tax Commission reexamine the valuation. (7-1-99)</p> <p>02. Information to be Provided by the State Tax Commission. After final values are established and sent to the respective taxpayers, the State Tax Commission shall send to each County Assessor a statement of the value allocated to Idaho for each centrally assessed taxpayer, together with the previous year's Idaho value for that taxpayer. (7-1-99)</p> <p>03. Complaint. On or before July 15, a complainant may file a complaint under Section 63-408, Idaho Code. A complaint by an assessor to the State Tax Commission to examine the valuation and allocation of value of operating property must be in writing and contain clear and concise questions regarding the valuation and allocation in question. The State Tax Commission shall send a copy of the complaint promptly to the taxpayer. (7-1-99)</p> <p>04. Meeting to Examine Valuation and Allocation. Upon receipt of a complaint under Section 63-408, Idaho Code, the staff of the State Tax Commission shall schedule a meeting between the staff appraiser(s) who performed the valuation and allocation and the complainant. Notice of this meeting shall be sent to the taxpayer in question. At this meeting, the staff appraiser(s) shall answer the complainant's questions to the best of his knowledge. The taxpayer or representative may participate in this meeting. (7-1-99)</p>		

08. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Qualification of the property for the homeowner's exemption is as follows: (7-1-99)

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the homeowner's exemption applies to one-half (1/2) of the value of the improvement. (3-15-02)

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the homeowner's exemption applies to one-half (1/2) of the value of the improvement. (3-15-02)

c. If the residential improvement is the primary dwelling of the husband, wife and child, the homeowner's exemption applies to the full value of the improvement. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homeowner's exemption applies to one-half (1/2) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The one-half (1/2) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Paragraph 610.03.c. of this rule. (4-7-11)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homeowner's exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. (3-15-02)

Rule 609 – possible language:

02. Maximum Amount of Homestead Exemption. The homestead exemption is limited to the lesser of fifty percent (50%) of assessed value or one-hundred thousand dollars (\$100,000). In cases where there are more than one owner of a single property, the qualified taxpayers may receive this exemption up to fifty percent (50%) of their ownership interest in the property limited to one-hundred thousand dollars (\$100,000) in total exemption for the single property.

(3-29-17)()

626. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY (RULE 626).

Sections 63-105(A), 63-201, 63-302, 63-308, 63-313, 63-602Y, and 63-602KK, Idaho Code

01. Locally Assessed Property - Application Required. (3-20-14)

a. The taxpayer must file one (1) or more of the lists of taxable personal property as required by Section 63-302, Section 63-313, or Section 63-602Y, Idaho Code if the total market value of the property to be listed is greater than one hundred thousand dollars (\$100,000). The filing of said list(s) shall constitute the filing of an application for exemption. For purposes of reporting personal property, the value is to be based on market value, not book value. (3-20-14)

b. Taxpayers establishing initial eligibility for the exemption provided in Section 63-602KK(2), Idaho Code, may in lieu of a list, file only an application attesting to ownership of otherwise taxable personal property having a cost of one hundred thousand dollars (\$100,000) or less. In providing such cost, newly acquired personal property items acquired at a price of three thousand dollars (\$3,000) or less, that are exempt pursuant to Section 63-602KK(1), Idaho Code, shall not be included. The application must be filed no later than April 15th of the first year for which the exemption is claimed. (3-20-14)

02. Locally Assessed Property - Taxpayers' Election of Property Location. (3-20-14)

a. Multiple Locations Within A County. In cases where the taxpayer has personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply by filing the "Idaho Personal Property Exemption Location Application Form" available from the State Tax Commission (Commission) for this purpose. To make the election for property required to otherwise be listed as provided in Section 63-302, Idaho Code, the form must be filed with the county assessor by April 15. For taxpayers with personal property required to be listed as provided in Sections 63-602Y and 63-313, Idaho Code, any application specifying the location of the property to which the exemption provided for in Section 63-602KK(2) will apply, must be filed by the dates specified for filing the lists required by these Sections. 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. However, to the extent possible and assuming the assessor is not aware of any changes in eligibility, the exemption will be first applied to the same property to which it applied in the immediate prior year. (3-20-14)

b. Multiple locations in different counties. The one hundred thousand dollar (\$100,000) limit on the exemption applies to a taxpayer's otherwise taxable personal property within any county. If the taxpayer owns qualifying personal property in more than one county, the limit is one hundred thousand dollars (\$100,000) in market value per county. (3-20-14)

03. Centrally Assessed Property - Application Required. (3-20-14)

a. Except for private railcar fleets, the taxpayer may file a list of personal property located in Idaho with the operator's statement filed pursuant to Rule 404 of these rules. The filing of such a list shall constitute the filing of an application for this exemption. Except as provided in Subsections 626.03.b. and 03.c. of this rule, for such personal property to be considered for the exemption, the operator's statement must include: (3-25-16)

- i. A description of the personal property located in Idaho; (3-25-16)
- ii. Cost and depreciated cost of the personal property located in Idaho. (3-25-16)

b. For private railcar fleets subject to assessment by the Commission, the Idaho taxable value shall be reduced by subtracting the lesser of the Idaho taxable value before the exemption or the product of one hundred thousand dollars (\$100,000) times the number of counties in Idaho in which the fleet operates. Provided that the remaining taxable value is five hundred thousand dollars (\$500,000) or more, this value is to be apportioned to each taxing district and urban renewal revenue allocation area in accordance with procedures described in Rule 415 of these rules. (3-25-16)

c. After subtraction of the personal property exemption calculated as provided in Subsection 626.03.b. of this rule, for private railcar fleets subject to assessment by the Commission, and having an Idaho taxable market value of less than five hundred thousand dollars (\$500,000), neither the final amount of the exemption nor the taxable value of the fleet shall be subject to apportionment, and the remaining taxable value shall be taxed as provided in Rule 415 of these rules. (3-25-16)

d. When operating property companies have locally assessed property, any exemption pursuant to Section 63-602KK(2), Idaho Code must be applied to the locally assessed property first. In this case, the county assessor must notify the Commission of the value of the exemption granted. If such exemption is entered on the property roll, such notification must be made by the third Monday in July. The Commission will then reduce the amount of the exemption otherwise to be granted to the centrally assessed operating property of the company by the exemption value reported by the assessor. The Commission will notify the company of the reduction in exemption by the fourth Monday in July. This reduction will be made before determining the company's Idaho taxable value. No additional exemption pursuant to Section 63-602KK(2), Idaho Code, will be granted for any locally assessed property of operating property companies. (3-25-16)

04. Valuation Assessment Notice. The valuation assessment notice required by Section 63-308, Idaho Code, must show the taxable market value before granting the exemption provided in Section 63-602KK(2), Idaho Code, the exempt market value pursuant to the exemption provided in Section 63-602KK(2), Idaho Code, and the net taxable market value of the personal property. After the year of initial eligibility, if the net taxable market value is zero, no valuation assessment notice is required. (4-11-15)

05. Correction of Personal Property Tax Replacement Amounts. If subsequent to finalization of the amount of replacement money to be paid to any county, an amount paid on

behalf of any taxpayer is disapproved by the county, the county shall so notify the Commission, which shall adjust the payment to the county. The county may begin proceedings to recover any remaining excessive amounts paid on behalf of any taxpayer, pursuant to the recovery procedures found in Section 63-602KK(7), Idaho Code. (4-11-15)

06. Limitation on Eligibility for the Exemption. (3-20-14)

a. Except for taxpayers claiming and receiving the exemption provided for in Section 63-4502, Idaho Code, taxpayers receiving the personal property exemption provided in Section 63-602KK, Idaho Code, may be eligible for, and are not precluded from, other applicable exemptions. (3-20-14)

b. Personal property exempt in accordance with statutes other than Section 63-602KK, Idaho Code, shall not be included in determining when the one hundred thousand dollar (\$100,000) limit provided in Section 63-602KK(2) is reached. (3-20-14)

c. Taxpayers with requirements to annually apply for, or list personal property for, which other statutorily provided personal property exemptions are sought, must continue to comply with the requirements of these statutes. (3-20-14)

d. Improvements, as defined or described in Sections 63-201 and 63-309, Idaho Code, shall not be eligible for the exemption provided in Section 63-602KK. Improvements shall be deemed to include mobile and manufactured homes and float homes, regardless of whether such property is considered personal property. Leasehold real properties and other leasehold improvements that are structures or buildings shall be considered improvements, and therefore ineligible for the exemption. Structures, such as cell towers, are improvements and therefore are not personal property eligible for the exemption. (3-20-14)

07. Special Rules for the Exemption Provided in Section 63-602KK(1), Idaho Code. (3-20-14)

a. Newly acquired items of personal property, exempt as provided in Section 63-602KK(1), are not to be reported on any list otherwise required pursuant to Sections 63-302, 63-602Y, and 63-313, Idaho Code. (3-20-14)

b. The exemption provided in Section 63-602KK(1), Idaho Code, is in addition to the one hundred thousand dollar (\$100,000) per taxpayer, per county exemption provided in Section 63-602KK(2), Idaho Code. (3-20-14)

c. No application for the exemption provided in Section 63-602KK(1), Idaho Code, is necessary. (3-20-14)

d. The requirement in Section 63-602KK(6) requiring the assessor to provide the application by no later than March 1, applies only to taxpayers who have an obligation to file any application. (3-20-14)

08. Limitation on Replacement Money. (3-20-14)

a. In addition to replacement money reductions due to corrections as provided in Subsection 626.06 of this rule, there may be changes and reductions as follow: (4-11-15)

i. If a taxing district dissolves, the state will make no payment of the amount previously certified for that district, and when an urban renewal district revenue allocation area dissolves and is no longer receiving any allocation of property tax revenues, the state will discontinue payment of amounts previously certified for that revenue allocation area, beginning with the next scheduled distribution. (3-20-14)

ii. If taxing districts or revenue allocation areas within urban renewal districts are consolidated, the amounts of replacement money attributed to each original district or revenue allocation area shall be summed and, in the future, distributed to the consolidated taxing or urban renewal district. (3-20-14)

iii. No urban renewal district shall receive replacement money based on exempt personal property within any revenue allocation area (RAA) established on or after January 1, 2013, or within any area added to an existing RAA on or after January 1, 2013. (3-20-14)

iv. Any payment made to the Idaho Department of Education, as provided in Subsection 626.09 of this rule shall be discontinued if the state authorized plant facilities levy is not certified in any year. Certification in subsequent years shall not cause any resumption of this payment. (3-25-16)

b. There shall be no adjustment to replacement money if personal property not receiving the exemption found in Section 63-602KK(2), Idaho Code, receives this exemption in the future. (4-11-15)

09. Special Provision For Replacement Money For State Authorized Plant Facilities Levy. The amount of replacement money calculated based on any 2013 state authorized plant facilities levy shall be remitted directly to the Idaho Department of Education for deposit to the Public School Cooperative Fund. (4-11-15)

10. Special Provision For Exempt Personal Property Within Urban Renewal Revenue Allocation Areas (RAAs). When personal property subject to the exemption in Section 63-602KK(2), Idaho Code, is within an RAA, any adjustment shall first be to the increment value, and there shall be no adjustment to the base value of the RAA unless the remaining taxable market value of the parcel is less than the most current base value of the parcel. In that case, the base value shall be reduced. The amount to be subtracted is to be determined on a parcel by parcel basis in accordance with procedures found in Rule 804 of these rules. (3-20-14)

11. No Reporting of Exempt Value. Beginning in 2014, taxing district values submitted to the Commission as required in Section 63-510, Idaho Code, shall not include or indicate the otherwise taxable value exempt pursuant to Section 63-602KK(2), Idaho Code. (4-11-15)

12. Cross Reference. For information on transient personal property, see Rule 313 of these rules. For information on the definition of personal property see Rule 205 of these rules. For information on the definition of a taxpayer, see Rule 627 of these rules. For the purpose of this rule, “taxpayer” means the claimant of the exemption pursuant to section 63-602KK(2), Idaho Code, and must be a person, as that term is defined in Section 63-201, Idaho Code. (3-25-16)

63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

(1) (a) An item of taxable personal property purchased on or after January 1, 2013, shall be exempt from property taxation if the item of taxable personal property has an acquisition price of three thousand dollars (\$3,000) or less.

(b) For purposes of this section, the term "acquisition cost" means all costs required to put an item of taxable personal property into service and includes:

- (i) The purchase price of a new or used item;
- (ii) The cost of freight and shipping;
- (iii) The cost of installation, engineering, erection or assembly; and
- (iv) Sales and use taxes.

(c) For purposes of this subsection, an "item of taxable personal property" means equipment, machinery, furniture or other personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable personal property is not an individual component part of a piece of equipment, machinery, furniture or other personal property as a whole. An item of taxable personal property does not include an improvement to real property, a part that will become an improvement, or anything defined as a fixture.

(2) On and after January 1, 2015, except as provided in subsection (8) of this section, each person's personal property, located in the county, which is not otherwise exempt, shall be exempt to the extent of one hundred thousand dollars (\$100,000). For the purposes of this section, a person includes two (2) or more people using the property in a common enterprise who are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code.

(3) (a) No later than the third Monday of November 2013, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (2) of this section, in that county for that year. The certification shall identify the property receiving tax reductions, the value of the property, the property's location, the amount of the tax levy applicable to personal property in the location, and the tax before and after the exemption allowed in subsection (2) of this section. The certification shall be in the form prescribed by the state tax commission and shall include such additional information as the commission may require by rule as needed to implement the purpose of this section. The certification shall be reviewed and, if necessary, corrected

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by the state tax commission.

(b) Except as provided in subsection (7) of this section, the year beginning January 1, 2014, and every year thereafter, the amount of annual replacement of property tax on personal property exempted pursuant to subsection (2) of this section shall be the amount approved by the state tax commission pursuant to paragraph (a) of this subsection.

(4) (a) Subject to the limitations of this section, the state tax commission shall reimburse from the amount appropriated for personal property tax replacement in section 63-3638, Idaho Code, the county treasurer of each county for the reduction on the certification provided in subsection (3) of this section. The county treasurer shall reimburse from the amount received to each taxing district within the county an amount in proportion to the

amount of reduction shown on the certification in subsection (3) of this section as corrected. The amount that would otherwise be attributable to tax revenues derived from tax levies on personal property exempted by this section within an existing revenue allocation area as defined in section 50-2903(15), Idaho Code, shall be paid directly by the county treasurer to such public body or agency entitled thereto, equal to the amounts that would have been distributed in accordance with the formula for such distribution set forth in section 50-2908, Idaho Code. Taxing districts created on or after January 1, 2013, shall not be eligible for the reimbursement provided for in this paragraph.

(b) The state tax commission shall pay one-half (1/2) of the reimbursement provided in this section no later than December 20 of each year, and the second one-half (1/2) shall be paid by no later than June 20 of the following year. The money received by the county tax collector under the provisions of this section may be considered by counties and other taxing districts and budgeted against at the same time, and in the same manner, and in the same year as revenues from taxation. The total amount paid to the county treasurers shall not exceed the amount certified to the state tax commission under subsection (3) of this section.

(c) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received from distributions pursuant to section 63-3638, Idaho Code, as property tax replacement for the taxable value of property exempt from taxation pursuant to this section shall be treated as property tax revenues.

(5) (a) Nothing contained in this section shall affect the taxation of forest lands or forest products pursuant to chapter 17, title 63, Idaho Code, or the taxation of the net profits of mines pursuant to chapter 28, title 63, Idaho Code.

(b) The exemption from personal property tax provided for in subsection (2) of this section shall not apply to motor vehicles, recreational vehicles, aircraft and boats that are not registered with the state of Idaho and for which required registration fees have not been paid.

(6) (a) The application for the exemption provided for in subsection (2) of this section shall be in the form prescribed by the state tax commission and shall include such information as the state tax commission may require by rule as needed to implement the purpose of this section including, but not limited to, a list of each item of personal property, the purchase date of each item of personal property, the unit cost of each item of personal property, if more than the exemption allowed in subsection (1) of this section, and the total cost of the items of personal property.

(b) The application for this exemption, if the county is capable of so providing, may be

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transmitted by the county assessor electronically, as that term is defined in section 63-115, Idaho Code, when requested by the taxpayer, or mailed by the county assessor to the taxpayer, or his agent or representative at the taxpayer's last known post office address, no later than March 1 of each year. The transmission or mailing of the application shall also include the taxpayer's application for the exemption allowed by this section for the last year in which the taxpayer filed an application.

(c) A taxpayer need only make application for the exemption in this section once as long as all of the following conditions are met:

(i) The taxpayer has received the exemption during the previous year as a result of him making a valid application as defined in this section.

- (ii) The amount of the exemption allowed by this section is more than the taxable value of personal property owned by the taxpayer.
- (iii) The taxpayer has not made purchases of personal property, excluding items of taxable personal property exempted pursuant to subsection (1) of this section, that would cause the taxable value of the personal property owned by the taxpayer to exceed the maximum amount allowed as an exemption by this section.
- (d) Knowingly failing to report changes in the taxable value of personal property that exceed the amount of the exemption allowed pursuant to this section shall subject the taxpayer to a fine not in excess of ten thousand dollars (\$10,000) in addition to other penalties set forth in this chapter.
- (7) Recovery of property tax exemptions allowed by this section but improperly claimed:
 - (a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed, the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.
 - (b) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning on the date the assessment notice reflecting the improperly claimed exemption was required to be mailed to the taxpayer.
 - (c) The taxpayer may appeal to the board of tax appeals the decision by the board of county commissioners to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.
 - (d) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year. In cases of fraud, the fine set forth in subsection (6)(d) of this section shall be assessed for each tax year.
 - (e) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.
 - (f) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes. If the recovery is for property tax for which the state provided replacement money, the amounts recovered shall be reported and remitted to the state tax commission, which shall reimburse the general fund. The state tax commission will then notify each affected taxing district or unit of its proportionate share of the recovered property tax, which amount shall be deducted from future payments to be made pursuant to subsection (3) of this section.
 - (g) Thirty (30) days after the taxpayer is notified, as provided in paragraph (a) of this subsection, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in paragraph (h) of this subsection, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days

of receiving such payment or within seven (7) business days of the county commissioners' decision granting the appeal.

(h) Any unpaid recovered property taxes shall become a lien upon the taxpayer's personal property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county treasurer sent the notice to the taxpayer pursuant to this section.

(i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

(8) For operating property with values apportioned to more than one (1) county, the personal property exemption shall be subtracted from the Idaho allocated value prior to apportionment and, for private railcar companies, prior to determining whether their values are to be apportioned. Notwithstanding amounts calculated as provided in subsection (1) of this section, the amount of the exemption otherwise provided in subsection (2) of this section shall be calculated as follows:

(a) Take the lesser amount of:

(i) The number of counties in which a company has operating property multiplied by one hundred thousand dollars (\$100,000); or

(ii) The total statewide value of eligible personal property reported by the company.

(b) Reduce the amount calculated in paragraph (a) of this subsection by the value of any nonoperating personal property granted the exemption otherwise found in subsection (2) of this section, as reported by county assessors.