

2010 Legislative Session Report

State Tax Commission

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April 13 – Coeur d’Alene

April 15 – Pocatello

April 16 – Twin Falls

PROPERTY TAX RELATED



Idaho State Tax Commission

Property Tax Policy

- Our Roles and Responsibilities:
 - Initiate legislation (limited)
 - Technical assistance with legislation.
 - During the session we track and report on the status of bills relating to property tax as they move through the Legislature.
 - When we believe that a bill may pass we look more carefully at the bill to see if an administrative rule (temporary or proposed permanent) may need to be written in order to clarify the provisions.
 - Finally before drafting any clarifying rule we solicit input from folks like you.

During the 2010 Session we tracked 16 plus bills ranging in topics from new construction reporting to urban renewal issues.

HB490	HB 536	HB596	HB629	HB645	567
568	569	570	571	572	578
HB672	HB691	HB209	SB1276		

Bills that have been sent to the Governor

Bill No.	Subject Matter	Effective Date
HB – 490	Amendments to § 63-602NN Idaho Code, a local option property tax exemption for plant and building facilities.	Retro to January 1, 2010
HB – 596	Amendments to § 63-602E Idaho Code, the property tax exemption for property used for non-profit educational purposes and § 63-301A, new construction roll.	Retro to January 1, 2010
HB – 645	Amendments to § 63-301A Idaho Code, new construction roll.	Retro to January 1, 2010
HB – 691	Amendments to § 31-3908 Idaho Code, ambulance service.	On the day after Passage

I.C. §63-602NN Before HB-490 County Commissioners may exempt certain New Plant/Buildings from Property Tax

- In 2008 County Commissioners were given authority to grant full or partial exemption for up to 5 years for new qualified investments of at least \$3,000,000.
- New qualified investments plus new investments in plant and building facilities are eligible for exemption.
- Qualifying project sites must have been in rural development zone designated by U.S. Department of Agriculture.
- Taxpayer must also show that significant economic benefits would accrue to the county.
- The exemption amount of the related improvements are not put on the new construction roll until the exemption expires.

HB 490 – Amends Section 602NN Idaho Code (New Version)

- Removes the requirement that the project be located in a rural development area.
- Provides that the exemption does not require annual approval.
- Clarifies that personal property can be included in the exemption
- Note: Rule 631 still stands: Land is excluded from the investment criteria and the exemption

(HB 596) Exempts certain possessory interest located on college or university lands

- BSU requested this legislation to help out with a public-private relationship.
- Private company is to build student housing. Upon completion the University would own both the buildings and the land. The University will lease back to the company who will operate the buildings. A possessory interest in the buildings would most likely be created.
- Under the old code this possessory interest may have been taxable.

(HB 596) Amends § 63-602E Idaho Code, the exemption for property used for non-profit educational purposes

- Adds Section 3: “ Possessory interests in improvements on state college or state university land used exclusively for student housing, college or university operated dining, or other educated related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university shall be exempt from taxation.”
- Amends §63-301A - This legislation clearly makes the possessory interest exempt. It also provides that the value would go on the new construction roll when and if the project becomes non-exempt.

HB 645 Amends § 63-301A Idaho Code, new construction roll.

- Why do you care about New Construction?
- Because it increases property tax budget capacity! The product of the New Construction Roll times the previous year's non-exempt levy rate is added to the 3% budget allowance. (If you don't use it you may increase foregone budget authority for the future.)

What is New Construction?

- (I.C. § 63-301A) New Construction may include value increases from:
 - Construction of new structures
 - Additions/Alterations to existing nonresidential structures
 - New or used manufactured housing
 - Change of land use classification
 - First taxable houses (I.C. § 63-602W)
 - Electric generation facilities that are not operating properties
 - Accumulated RAA (Urban Renewal) increment from December 31, 2006
- Does not include value increases from inflation.

(HB-645) Required deductions from the New Construction Roll Effective 1-1-2010

I.C. §63-301A (f) New Construction Roll:

The amount of taxable market value to be deducted

- (i) Any **board of tax appeals or court ordered value change**, if property has a taxable value lower than that shown on any previous new construction roll;*
- (ii) Any value change resulting from correction of value improperly included on any previous new construction roll as a result of **double or otherwise erroneous assessment**;*
- (iii) Any value change resulting from a **change of land use classification**.*

A value reduction due to change of land use classification

- This reduction pertains to land value only
- This reduction is to be made only if there was a previous value increase due to change of land use classification reported on any new construction roll

Basis for Change of Land Use Classification Deductions

- Example:
 - Dry grazing parcel assessed at \$10,000 in 2008
 - Changes to commercial category and was assessed at \$50,000 in 2009
 - 2009 new construction roll included \$40,000 for this parcel
 - Parcel reclassified as dry grazing in 2010 and assessed for \$15,000
 - 2010 new construction roll shows deduction of \$40,000 (unrelated to inflation of dry grazing value)

Reporting Deductions (part of draft temporary rule 802)

Reporting the amount of taxable market value to be deducted. For each taxing district or unit the new construction roll listing shall separately identify the total amount of taxable market value to be deducted as required in Section 63-301A(1)(f), Idaho Code.

Sample New Construction Roll Listing showing deductions

Taxing district	New Construction Roll Value	New Construction Roll Value Deduction	New Construction Roll Value Total
Adams County	24,748,104	(100,000)	24,648,104
Cities:			-
Council City	250,958	(10,000)	240,958
New Meadows City	257,429		257,429
Schools:			-
# 11 Meadows Valley	13,669,154		13,669,154
# 13 Council	7,801,803	(100,000)	7,701,803
#243 Salmon River	15,375		15,375
#421 McCall-Donnelly	1,985,276		1,985,276
#432 Cambridge	1,276,496		1,276,496
Ambulance:	-		-
Council Valley Ambulance	9,048,794	(10,000)	9,038,794

Note: All values shown are net taxable.

For demonstration purposes only.

(HB-645) Another Change to I.C. §63-301A –Missed Property

Part of section (3)

(h) New construction previously allowable but never included on a new *construction roll*, *provided however, that, for such property, the value on the new construction roll shall reflect the taxable value that would have been included on the new construction roll for the first year in which the property should have been included.*

Rule 802t (part) New Construction Roll – Land Use Classification Deductions

b. Value decreases. Certain related land value decreases are to be included on the new construction roll and subtracted from total new construction value for any taxing district.

i. Value decreases are to be reported only for land for which taxable market value had previously been added to any new construction roll.

ii. If the current land category is the same as the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted shall equal the amount originally added. For example, a dry grazing land parcel that would have had a value of \$10,000 became commercial land and was assessed at \$50,000. The \$40,000 difference was reported on the new construction roll in year 1. In year 2, the parcel is reclassified as dry grazing land and is to be assessed at \$15,000. The \$40,000 that was added to the year 1 new construction roll must be deducted from the value shown on the new construction roll in year 2.

iii. If the current land category is different than the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted shall be the lesser of the amount originally added or the amount that would have been added had the first change in land use been from the current land category. For example, a dry grazing land parcel that would have had a value of \$10,000 became commercial land and was assessed at \$50,000. The \$40,000 difference was reported on the new construction roll in year 1. In year 2, the parcel is reclassified as irrigated agricultural land and would have had a value in year 1 of \$20,000. The amount to be subtracted from the value shown on the new construction roll in year 2 is \$30,000.

iv. Value decreases resulting from previously included land value becoming exempt are to be reported and subtracted. (1-01-10)

HB 691

- Amends Section 31-3908, Idaho Code
- Permits certain ambulance districts to have a maximum levy rate of 0.06% instead of 0.04%
- Restrictions built in to statute likely limit application to one ambulance district
- Election required – 2/3 majority vote to pass

Personal Property Exemption Unchanged

- \$100,000 exemption will be effective the year after state revenues increase by 5% or more over the 2008 fiscal year revenues.
 - Effective when state revenues reach \$3,055,340,000.
 - DFM's projected revenues for FY10 \$2,349,100,000.
- Operating Property is not eligible for this exemption.
- Annual reporting of personal property is required.

Future Full Exemption?

- IAC has developed eight key elements in order to move forward with full exemption.

“Legislation shall contain a mechanism whereby inflation or growth is accounted for in the revenue replacement.....”

- A real growth factor would not be possible. Replacement revenues from any new large projects consisting of a lot of personal property would not be realized.

“The legislature must fix the operating property exclusion and constitutional problems whereby business owners are treated differently”.

- In order to fix the operating property exclusion the legislature would need to improve definitions distinguishing personal property from real property. For example in New York State the assets of railroads and public utilities are defined as real property. Our current operating property appraisal process makes no distinction. Any estimates used in the past for fiscal impact analysis have been broad-brush percentages by industry.

In current statute -Personal and Real Property Defined

- The focus is on the definition of the word “Fixture”.
- If an item satisfies all three tests it is a fixture and therefore real property- and not personal property.
 - 1. Annexation:** It become a part of an improvement to real property and removing would cause material damage.
 - 2. Adaptation:** The use or purpose is integral to the use of the real property to which it is affixed.
 - 3. Intent:** The item would be personal property unless a (reasonable) person would intend to make the article a permanent addition to the real property.

But then the final sentence in I.C. §63-201(9)

- “Fixtures does not include machinery, equipment or other articles that are affixed to real property to enable the proper utilization of such articles.”

Do we want to use the definition of Real Property? [I.C. § 63-201(23)]

- “Real property” means land and all rights and privileges thereto belonging or any way appertaining,.....,and all other property which the law defines, **or the courts may interpret**, declare and hold to be real property under the letter, spirit, intent and meaning of the law, improvements.....”

Urban Renewal Concerns

Relating to proposed 2010 legislation

- Whether RAAs should be allowed to expand?
- Whether new RAAs should get property tax funds for preexisting bonds, etc.?
- How and when is the 10% base value cap tested and reported?