

# 35.01.03 – Property Tax Administrative Rules

## 000. LEGAL AUTHORITY.

In accordance with Section 63-105 and 63-105A, Idaho Code, the Tax Commission has promulgated rules implementing the provisions of the Idaho Statutes relating to the property tax laws and related statutes, Chapters 1 through 17 and Chapters 28, 30, 35, 36, and 45, Title 63, Idaho Code. Rules relating to the market value of recreational vehicles are authorized by Section 49-446, Idaho Code. (7-1-24)

*(BREAK IN CONTINUITY OF SECTIONS)*

## 418. KILOWATT HOURS AND THERMS TAX.

Sections 63-405, 63-3503C, Idaho Code

**01. Recalculation of Allocation Proportions Following a Certain Taxing District, Unit, or Urban Renewal Revenue Allocation Area Boundary Change.** Description of recalculation given the following boundary changes:

- (a) When a taxing district or unit, or urban renewal revenue allocation area, splits, and the combined boundary of the successor taxing district or unit, or urban renewal revenue allocation area, is identical to the original boundary, the proportional allocation will be changed by determining the proportion of the taxable value of the splitting taxing district or unit, or urban renewal revenue allocation area, within each successor taxing district or unit or urban renewal revenue allocation area. The county will be notified of these changes by the first Monday of March in the year immediately following the boundary changes.
- (b) When taxing districts or units, or urban renewal revenue allocation areas, consolidate, the allocation proportions will equal the sum of the most recent proportions prior to consolidation.

## 419. -- 508. (RESERVED)

*(BREAK IN CONTINUITY OF SECTIONS)*

## 609. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD.

Sections 63-602G, 63-701, 63-703, and 63-3077, Idaho Code

**01. Homestead Exemption.** Granted in 63-602G, Idaho Code. (7-1-24)

**02. Partial Ownership.** Any partial ownership is ownership for determining qualification for the homestead exemption. The amount of the exemption is equal to the percentage of ownership. If a person has five percent (5%) or greater ownership interest in a limited partnership, limited liability company or a shareholder of a corporation, there is no partial ownership adjustment to the homestead exemption. See homestead calculation examples at <https://tax.idaho.gov>. (7-1-24)

**03. Part Year Ownership.** For qualifying taxpayers who claimed the homestead exemption on an eligible property, the homestead that qualified on January 1 of the current tax year will continue to receive the exemption in the current year. (7-1-24)

**04. Determination of Residency.** The Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county board of equalization for the sole purpose of providing one (1) indicator of eligibility for the homestead exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure. (7-1-24)

**05. Notification of Erroneous Claims.** When it is determined that an exemption granted under this Section to a taxpayer who has also received property tax relief under Chapter 7, Idaho Code, should not have been

granted, the county assessor will notify the Tax Commission of the determination. (7-1-24)

**610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS.**

Sections 63-602G, 63-701(2), Idaho Code

**01. Scope.** This rule addresses issues relating to the homestead exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases. The principles established may apply to the resolution of situations not addressed in the rule. (7-1-24)

**02. Definitions.** The following definitions apply to this rule: (7-1-24)

**a.** As used in this rule, dual residency couple means a married couple, each of whom has established a different dwelling place as their primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.03 of these rules. (7-1-24)

**b.** Multidwelling or Multipurpose Building means a building which is the primary dwelling place of the owner and which has a portion used for any purpose other than the primary dwelling place of the owner. (7-1-24)

**c.** Related Land means land, not to exceed one (1) acre, that is reasonably necessary for the use of the dwelling as a home. (7-1-24)

**03. Dual Residency Couples -- General Principles.** (7-1-24)

**a.** Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homestead exemption. The test to be applied is the general test set out in Subsection 609.03 of these rules. (7-1-24)

**b.** If a residential improvement is community property, either spouse can file an application for the homestead exemption regarding community property on their own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-24)

**c.** Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homestead exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homestead exemption. For purposes of the exemption, a community property interest is treated the same as a full ownership interest. (7-1-24)

**d.** An owner may apply only once for the homestead exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (7-1-24)

**04. Both Residences are Community Property.** (7-1-24)

**a.** Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homestead exemption for the residence in which he or she resides. (7-1-24)

**b.** The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homestead exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (7-1-24)

**05. One Residence Is Community Property, the Other Is Separate Property.** (7-1-24)

**a.** Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homestead exemption for the residence in which he or she resides. (7-1-24)

**b.** The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The homestead exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (7-1-24)

**06. Both Residences are Separate Property.** (7-1-24)

**a.** Each member of a dual residency couple maintains their primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as their separate property. Each applies for the homestead exemption for the residence in which he or she resides. (7-1-24)

**b.** Both residential improvements qualify for the full homestead exemption. Neither application is a second application by the same owner. Each spouse is the sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-24)

**07. Apportionment of Homestead Exemption by Dual Residency Couples.** Both spouses of a dual residency couple may elect to equally apportion the homestead exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement is entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties will not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (7-1-24)

**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 married couple and to an adult child of theirs, the married couple hold a community property interest in the improvement and the child is a tenant-in-common provided ownership interests are not specified in the deed. 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. Ownership interests specified in the deed supersede this guidance. Qualification of the property for the homestead exemption is as follows: (7-1-24)

**a.** If the residential improvement is the primary dwelling of the married couple but not the child, the homestead exemption applies to one-half (1/2) of the value of the improvement. (7-1-24)

**b.** If the residential improvement is the primary dwelling of the child, but not either spouse, the homestead exemption applies to one-half (1/2) of the value of the improvement. (7-1-24)

**c.** If the residential improvement is the primary dwelling of the married couple and child, the homestead exemption applies to the full value of the improvement. (7-1-24)

**d.** If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homestead 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 homestead 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.

(7-1-24)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homestead exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homestead exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. (7-1-24)

**09. Determining the Qualifying Portion of a Multidwelling or Multipurpose Building and the Related Land.** The portion of a Multidwelling or Multipurpose Building and Related Land used for the primary dwelling place of the owner qualifies for the homestead exemption. When determining the value of the qualifying portion, the assessor will include the Related Land value. (7-1-24)

*(BREAK IN CONTINUITY OF SECTIONS)*

**618. (RESERVED)**

*(BREAK IN CONTINUITY OF SECTIONS)*

**996. -- 999. (RESERVED)**