

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 381

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; REPEALING CHAPTER 4, TITLE 14, IDAHO CODE, RELATING
2 TO THE ESTATE AND TRANSFER TAX REFORM ACT OF 1988; AND AMENDING SECTION
3 63-701, IDAHO CODE, TO REVISE THE REQUIREMENTS FOR A CLAIMANT FOR PROP-
4 ERTY TAX REDUCTION AND TO MAKE A TECHNICAL CORRECTION.
5

6 Be It Enacted by the Legislature of the State of Idaho:

7 SECTION 1. That Chapter 4, Title 14, Idaho Code, be, and the same is
8 hereby repealed.

9 SECTION 2. That Section 63-701, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 63-701. DEFINITIONS. As used in this chapter:

12 (1) "Claimant" means a person who has filed an application under sec-
13 tion 63-602G, Idaho Code, and has filed a claim under the provisions of
14 sections 63-701 through 63-710, Idaho Code. Except as provided in section
15 63-702(2), Idaho Code, on January 1 or before April 15 of the year in which
16 the claimant first filed a claim on the homestead in question, a claimant
17 must be an owner of the homestead, a claimant must have lawful presence in the
18 United States pursuant to section 67-7903, Idaho Code, and on January 1 of
19 said year a claimant must be:

20 (a) Not less than sixty-five (65) years old; or

21 (b) A child under the age of eighteen (18) years who is fatherless or
22 motherless or who has been abandoned by any surviving parent or parents;
23 or

24 (c) A widow or widower; or

25 (d) A disabled person who is recognized as disabled by the social se-
26 curity administration pursuant to title 42 of the United States Code,
27 or by the railroad retirement board pursuant to title 45 of the United
28 States Code, or by the office of management and budget pursuant to title
29 5 of the United States Code, or, if a person is not within the purview of,
30 and is therefore not recognized as disabled by, any other entity listed
31 in this paragraph, then by the public employee retirement system or pub-
32 lic employee disability plan in which the person participates that may
33 be of any state, local unit of government or other jurisdiction in the
34 United States of America; or

35 (e) A disabled veteran of any war engaged in by the United States, whose
36 disability is recognized as a service-connected disability of a degree
37 of ten percent (10%) or more, or who has a pension for nonservice-con-
38 nected disabilities, in accordance with laws and regulations adminis-
39 tered by the United States department of veterans affairs; or

1 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled
2 to receive benefits because he is known to have been taken by a hostile
3 force as a prisoner, hostage or otherwise; or

4 (g) Blind.

5 (2) "Homestead" means the dwelling, owner-occupied by the claimant
6 as described in this chapter and used as the primary dwelling place of the
7 claimant and may be occupied by any members of the household as their home,
8 and so much of the land surrounding it, not exceeding one (1) acre, as is
9 reasonably necessary for the use of the dwelling as a home. It may consist
10 of a part of a multidwelling or multipurpose building and part of the land
11 upon which it is built. "Homestead" does not include personal property such
12 as furniture, furnishings or appliances, but a manufactured home may be a
13 homestead.

14 (3) "Household" means the claimant and the claimant's spouse. The term
15 does not include bona fide lessees, tenants, or roomers and boarders on con-
16 tract. "Household" includes persons described in subsection (8) (b) of this
17 section.

18 (4) "Household income" means all income received by the claimant and,
19 if married, all income received by the claimant's spouse, in a calendar year.

20 (5) "Income" means the sum of federal adjusted gross income as defined
21 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and
22 to the extent not already included in federal adjusted gross income:

23 (a) Alimony;

24 (b) Support money;

25 (c) Nontaxable strike benefits;

26 (d) The nontaxable amount of any individual retirement account, pen-
27 sion or annuity, including railroad retirement benefits, all payments
28 received under the federal social security act except the social secu-
29 rity death benefit as specified in this subsection, state unemployment
30 insurance laws, and veterans disability pensions and compensation, ex-
31 cluding any return of principal paid by the recipient of an annuity and
32 excluding rollovers as provided in 26 U.S.C. 402 or 403, and excluding
33 the nontaxable portion of a Roth individual retirement account distri-
34 bution, as provided in 26 U.S.C. 408A;

35 (e) Nontaxable interest received from the federal government or any of
36 its instrumentalities or a state government or any of its instrumenta-
37 lities;

38 (f) Worker's compensation; and

39 (g) The gross amount of loss of earnings insurance.

40 It does not include gifts from nongovernmental sources or inheritances. To
41 the extent not reimbursed, the cost of medical care as defined in section
42 213(d) of the Internal Revenue Code, incurred ~~or~~ and paid by the claimant
43 and, if married, the claimant's spouse, may be deducted from income. To the
44 extent not reimbursed, personal funeral expenses, including prepaid funeral
45 expenses and premiums on funeral insurance, of the claimant and claimant's
46 spouse only, may be deducted from income up to an annual maximum of five thou-
47 sand dollars (\$5,000) per claim. "Income" does not include veterans dis-
48 ability pensions received by a person described in subsection (1) (e) of this
49 section who is a claimant or a claimant's spouse if the disability pension
50 is received pursuant to a service-connected disability of a degree of forty

1 percent (40%) or more. "Income" does not include dependency and indemnity
2 compensation or death benefits paid to a person described in subsection (1)
3 of this section by the United States department of veterans affairs and aris-
4 ing from a service-connected death or disability. "Income" does not include
5 lump sum death benefits made by the social security administration pursuant
6 to 42 U.S.C. 402(i). Documentation of medical expenses may be required by
7 the county assessor and state tax commission in such form as the county as-
8 sessor or state tax commission shall determine. "Income" shall be that re-
9 ceived in the calendar year immediately preceding the year in which a claim
10 is filed. Where a claimant and/or the claimant's spouse does not file a fed-
11 eral tax return, the claimant's and/or the claimant's spouse's federal ad-
12 justed gross income, for purposes of this section, shall be an income equiva-
13 lent to federal adjusted gross income had the claimant and/or the claimant's
14 spouse filed a federal tax return, as determined by the county assessor. The
15 county assessor or state tax commission may require documentation of income
16 in such form as each shall determine, including, but not limited to: copies
17 of federal or state tax returns and any attachments thereto; and income re-
18 porting forms such as the W-2 and 1099.

19 For determining income for certain married individuals living apart,
20 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code
21 shall apply.

22 (6) "Occupied" means actual use and possession.

23 (7) "Owner" means a person holding title in fee simple or holding a cer-
24 tificate of motor vehicle title (either of which may be subject to mortgage,
25 deed of trust or other lien) or who has retained or been granted a life estate
26 or who is a person entitled to file a claim under section 63-702, Idaho Code.
27 "Owner" shall also include any person who:

28 (a) Is the beneficiary of a revocable or irrevocable trust which is the
29 owner of such homestead and under which the claimant or the claimant's
30 spouse has the primary right of occupancy of the homestead; or

31 (b) Is a partner of a limited partnership, member of a limited liabil-
32 ity company or shareholder of a corporation if such entity holds title
33 in fee simple or holds a certificate of motor vehicle title and if the
34 person holds at least a five percent (5%) ownership in such entity, as
35 determined by the county assessor; or

36 (c) Has retained or been granted a life estate.

37 "Owner" includes a vendee in possession under a land sale contract. Any
38 partial ownership shall be considered as ownership for determining initial
39 qualification for property tax reduction benefits; however, the amount of
40 property tax reduction under section 63-704, Idaho Code, and rules promul-
41 gated pursuant to section 63-705, Idaho Code, shall be computed on the value
42 of the claimant's partial ownership. "Partial ownership," for the purposes
43 of this section, means any one (1) person's ownership when property is owned
44 by more than one (1) person or where the homestead is held by an entity, as
45 set forth in this subsection, but more than one (1) person has the right of
46 occupancy of such homestead. A person holding either partial title in fee
47 simple or holding a certificate of motor vehicle title together with another
48 person, but who does not occupy the dwelling as his primary dwelling place,
49 shall not be considered an owner for purposes of this section, if such person
50 is a cosignatory of a note secured by the dwelling in question and at least

1 one (1) of the other cosignatories of the note occupies the dwelling as his
2 primary dwelling place. The combined community property interests of both
3 spouses shall not be considered partial ownership as long as the combined
4 community property interests constitute the entire ownership of the home-
5 stead, including where the spouses are occupying a homestead owned by an en-
6 tity, as set forth in this subsection, and the spouses have the primary right
7 of occupancy of the homestead. The proportional reduction required under
8 this subsection shall not apply to community property interests. Where
9 title to property was held by a person who has died without timely filing a
10 claim for property tax reduction, the estate of the deceased person shall be
11 the "owner," provided that the time periods during which the deceased person
12 held such title shall be attributed to the estate for the computation of any
13 time periods under subsection (8) (a) or (b) of this section.

14 (8) (a) "Primary dwelling place" means the claimant's dwelling place
15 on January 1 or before April 15 of the year for which the claim is made.
16 The primary dwelling place is the single place where a claimant has
17 his true, fixed and permanent home and principal establishment, and to
18 which whenever the individual is absent he has the intention of return-
19 ing. A claimant must establish the dwelling to which the claim relates
20 to be his primary dwelling place by clear and convincing evidence or by
21 establishing that the dwelling is where the claimant resided on January
22 1 or before April 15 and:

23 (i) At least six (6) months during the prior year; or

24 (ii) The majority of the time the claimant owned the dwelling if
25 owned by the claimant less than one (1) year; or

26 (iii) The majority of the time after the claimant first occupied
27 the dwelling if occupied by the claimant for less than one (1)
28 year. The county assessor may require written or other proof of
29 the foregoing in such form as the county assessor may determine.

30 (b) Notwithstanding the provisions of paragraph (a) of this subsec-
31 tion, the property upon which the claimant makes application shall be
32 deemed to be the claimant's primary dwelling place if the claimant is
33 otherwise qualified and resides in a care facility and does not allow
34 the property upon which the claimant has made application to be occu-
35 pied by persons paying a consideration to occupy the dwelling. Payment
36 of utilities shall not be payment of a consideration to occupy the
37 dwelling. A claimant's spouse who resides in a care facility shall be
38 deemed to reside at the claimant's primary dwelling place and to be a
39 part of the claimant's household. A care facility is a hospital, nurs-
40 ing facility or intermediate care facility for people with intellectual
41 disabilities as defined in section 39-1301, Idaho Code, or a facility
42 as defined in section 39-3302(16), Idaho Code, or a dwelling other than
43 the one upon which the applicant makes application where a claimant who
44 is unable to reside in the dwelling upon which the application is made
45 lives and receives help in daily living, protection and security.