

Dear Senators JOHNSON, Bayer, Burgoyne, and
Representatives COLLINS, Kauffman, Erpelding:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the State Tax Commission:

IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1803).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/04/2018. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/02/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Local Government & Taxation Committee and the House Revenue & Taxation Committee
FROM: Division Manager - Kristin Ford
DATE: September 17, 2018
SUBJECT: State Tax Commission

IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1803)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking relating to the Property Tax. The agency states that the rule is being promulgated to implement the provisional property tax exemption created by 2018 HB 559 for property being constructed or renovated for a tax exempt purpose. The rule clarifies that certain deadlines for other property tax exemption decisions do not apply to the provisional property tax exemption, and defines the terms "property that is being constructed" and "property owner."

Negotiated Rulemaking / Fiscal Impact

The agency states negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 5, 2018 edition of the Idaho Administrative Bulletin, Vol. 18-7, page 177. No fiscal impact is expected.

Statutory Authority

The proposed rule appears to be within the statutory authority of the agency pursuant to sections 63-105(2) and 63-1305C, Idaho Code.

cc: State Tax Commission
Kimberlee Stratton

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

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Boise, Idaho 83720-0054

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IDAPA 35 – STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1803

NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5221(1) and 63-105(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 600 explains the newly enacted provisional exemption (HB559 - 2018) which may be granted to property to be used for a tax exempt purpose. The rule points out that the date (May 15) found in Section 63-602(C), Idaho Code, which is the date by which the county commissioners must notify the taxpayer of their decision to grant or deny most exemptions, does not apply to this provisional exemption found in Section 63-1305C, Idaho Code. The exemption maybe applied for at the time the building permit is applied for or at the time renovation starts, whichever date is earlier. Only the part of the property that will be used for an exempt purpose may be included in the exemption. The rule defines “property that is being constructed” to include land and associated personal property. The exemption does not apply to the property included on the current tax roll until the next tax year (January 1), however any additions to the property during the year in which the exemption is granted shall not be taxed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 5, 2018 Idaho Administrative Bulletin, [Volume 18-7, page 177](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7742.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 31st day of July, 2018.

Alan Dornfest, Tax Policy Supervisor
State Tax Commission/Property Tax
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7742

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1803
(Only Those Sections With Amendments Are Shown.)

600. PROPERTY EXEMPT FROM TAXATION (RULE 600).

Sections 63-602 and 63-1305C, Idaho Code

01. Burden of Proof. The burden of proof of entitlement to the exemption is on the person claiming exemption for the property. (4-4-13)

02. Notice of Decision. (4-4-13)

a. For property subject to local assessment with exemptions requiring annual application as specified in the statute providing the exemption or in Section 63-602(3), Idaho Code, the taxpayer must be notified of the decision of the county commissioners to grant or deny the exemption by May 15 unless a different date is prescribed in the law providing the exemption, or if the exemption is provisional pursuant to Section 63-1305C, Idaho Code. (4-4-13)()

b. For property subject to assessment by the State Tax Commission, application for any exemption shall be included with the operator's statement to be submitted as provided in Section 404, of these rules. (4-4-13)

03. Confidentiality. Information disclosed as part of an application for an exemption is confidential to the extent provided by in Section 74-107, Idaho Code, or elsewhere in law. Information disclosed to the county commissioners as part of the application process for an exemption shall be deemed submitted to the assessor and entitled to any confidentiality that would have been conferred had such information been disclosed initially to the assessor. (4-4-13)

04. Provisional Exemptions. The following definitions apply in determining the extent and process for applying for the provisional exemption provided in Section 63-1305C, Idaho Code. ()

a. "Property that is being constructed." Property that is being constructed or renovated may include land, buildings, and associated personal property that would receive an exemption once the construction is complete and the property is used for exempt purposes. ()

i. If part of the land or other property owned by the entity seeking the exemption is to be used for non-exempt purposes, that part shall not be eligible for the provisional exemption. ()

ii. Land and existing buildings that will be considered exempt upon use of the property for exempt purposes, but that were taxable on January 1 of a tax year during which the provisional exemption was granted may be granted the provisional exemption beginning the immediately following tax year. Renovations and personal property related to the exempt purpose of the property, but that add otherwise taxable value during the tax year during which the provisional exemption is granted, shall not be taxed. ()

iii. Application for the provisional exemption may be filed with the county commissioners at any time once a building permit is issued or renovation begins. Deadlines for application and notification of the decision of the county commissioners found in Section 63-602(3), Idaho Code, do not apply. ()

b. "Property owner." The property owner may apply for the provisional exemption provided the intended use of the property is to fulfill a purpose that is exempt from property tax. The owner must apply for the exemption, but need not be an exempt entity or the intended user. ()