

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 202, As Amended

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE STATE TAX COMMISSION; AMENDING SECTION 63-107, IDAHO CODE,
2 TO PROVIDE THAT CERTAIN ACTIONS OF THE STATE TAX COMMISSION AND THE
3 STATE BOARD OF EQUALIZATION MAY BE GOVERNED BY THE IDAHO ADMINISTRATIVE
4 PROCEDURE ACT IN CERTAIN CASES, TO PROVIDE EXCEPTIONS, TO PROVIDE FOR
5 THE STANDARD OF APPEAL TO A DISTRICT COURT OF A FINAL ORDER BY THE STATE
6 TAX COMMISSION OR STATE BOARD OF EQUALIZATION, AND TO MAKE A TECHNICAL
7 CORRECTION.
8

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

10 SECTION 1. That Section 63-107, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 63-107. PROCESS AND PROCEDURE BEFORE STATE TAX COMMIS-
13 SION. (1) Process and procedure before the state tax commission shall be as
14 summary and simple as reasonably may be, and, as far as possible, in accor-
15 dance with the rules of equity. ~~Process and procedures before the state tax~~
16 ~~commission as the state board of equalization under title 63, Idaho Code, and~~
17 ~~before the state tax commission for redetermination of taxes under section~~
18 ~~63-3045 or 63-3631, Idaho Code, are not contested cases within the meaning~~
19 Actions of the state tax commission and the state board of equalization
20 relating to notice, hearings, appeals from decisions, and right of review
21 with respect to a particular taxpayer may be governed by the provisions of
22 chapter 52, title 67, Idaho Code, with the exception of sections 67-5276,
23 67-5277, and 67-5279, Idaho Code, or by the provisions of title 63, Idaho
24 Code, at the taxpayer's election.

25 (2) (a) Whenever any taxpayer or any other party appearing before the
26 state tax commission or the state board of equalization is aggrieved by
27 a final order of the commission or board that has been entered pursuant
28 to the provisions of chapter 52, title 67, Idaho Code, an appeal may be
29 taken to the district court for Ada county or to the district court in
30 and for the county in which the taxpayer resides or has his principal of-
31 fice or place of business. The appeal shall be taken and perfected in
32 accordance with rule 84 of the Idaho rules of civil procedure. The ap-
33 peal may be based on any issue presented by the taxpayer to the state
34 tax commission or state board of equalization and shall be heard by the
35 district court in a trial de novo without a jury, in the same manner as
36 though it were an original proceeding in that court. Any record made in
37 the matter together with the record of all proceedings shall be filed by
38 the clerk with the district court of the proper county. The court may
39 receive additional evidence not presented in the earlier proceedings.

40 (b) In any appeal of a decision of the state tax commission or the state
41 board of equalization, the burden of proof shall fall upon the party
42 seeking affirmative relief. A preponderance of the evidence shall suf-

1 fice to sustain the burden of proof. The burden of proof shall fall upon
2 the party seeking affirmative relief, and the burden of going forward
3 with the evidence shall shift as in other civil litigation.

4 (c) The district court shall render its decision in writing, including
5 a concise statement of the facts found by the court and the conclusions
6 of law reached by the court. The court may affirm, reverse, modify, or
7 remand any order of the state tax commission or state board of equaliza-
8 tion and shall grant such other relief, invoke such other remedies, and
9 issue such orders in accordance with its decision, as appropriate. Any
10 final order of the district court under this section shall be subject to
11 appeal to the Idaho supreme court in the manner provided by the Idaho ap-
12 pellate rules.

13 (d) Nothing in this section shall be construed to suspend the payment
14 of taxes pending any appeal, except that any privileges as to bonds or
15 other rights extended by the provisions of chapters 30 and 36, title 63,
16 Idaho Code, shall not be affected. Payment of taxes while an appeal is
17 pending pursuant to this section shall not operate to waive the right to
18 an appeal.