

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 310

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO PROPERTY TAX REDUCTION; AMENDING SECTION 63-701, IDAHO CODE,
2 TO REVISE PROVISIONS REGARDING THE DETERMINATION OF INCOME FOR A PROP-
3 ERTY TAX REDUCTION APPLICANT AND TO DEFINE A TERM; AND AMENDING SECTION
4 63-705, IDAHO CODE, TO REVISE PROVISIONS REGARDING PROPERTY TAX REDUC-
5 TION INCOME LIMITATIONS AND BENEFIT AMOUNTS AND TO ESTABLISH PROVISIONS
6 FOR THE APPLICATION OF A RESOURCES LIMITATION TEST.
7

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

9 SECTION 1. 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

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

1 (g) Blind.

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

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

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

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

20 (a) Alimony;

21 (b) Support money;

22 (c) Nontaxable strike benefits;

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

32 (e) Nontaxable interest received from the federal government or any of
33 its instrumentalities or a state government or any of its instrumentali-
34 ties;

35 (f) Worker's compensation; and

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

37 It does not include gifts from nongovernmental sources or inheritances.
38 ~~⊖~~ A standard medical care cost amount of four thousand dollars (\$4,000)
39 may be deducted from income; alternatively, to the extent not reimbursed,
40 the total cost of medical care as defined in section 213(d) of the Inter-
41 nal Revenue Code, incurred and paid by the claimant and, if married, the
42 claimant's spouse, may be deducted from income. To the extent not reim-
43 bursed, personal funeral expenses, including prepaid funeral expenses and
44 premiums on funeral insurance, of the claimant and claimant's spouse only,
45 may be deducted from income up to an annual maximum of five thousand dollars
46 (\$5,000) per claim. "Income" does not include veterans disability pensions
47 received by a person described in subsection (1) (e) of this section who is a
48 claimant or a claimant's spouse if the disability pension is received pur-
49 suant to a service-connected disability of a degree of forty percent (40%)
50 or more. "Income" does not include dependency and indemnity compensation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

45 (9) "Resources limitation test" means the value of the total liquid
46 and nonliquid financial resources of all members of the claimant's house-
47 hold is equal to or less than twenty thousand dollars (\$20,000), as adjusted
48 for inflation each year after 2021, pursuant to section 63-705(2), Idaho
49 Code. Liquid resources include cash on hand, money in checking and sav-
50 ings accounts, saving certificates, stocks or bonds, and lump sum payments

1 as specified in 7 CFR 273.9(c) (8). Nonliquid resources include personal
 2 property, licensed and unlicensed vehicles, buildings, land, recreational
 3 properties, and any other property other than the claimant's homestead.

4 SECTION 2. That Section 63-705, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 63-705. PUBLICATION OF CHANGES IN INCOME LIMITATIONS AND PROPERTY TAX
 7 OR OCCUPANCY TAX REDUCTION AMOUNTS.

8 (1) (a) The state tax commission shall publish adjustments to the income
 9 limitations, which shall be the greater of:

10 ~~(a) an~~ (i) An individual's income as defined in section 63-701,
 11 Idaho Code, of not more than ~~twenty-eight~~ thirty-one thousand ~~nine~~
 12 hundred dollars (\$~~28,000~~31,900) per household for tax year ~~2006~~
 13 2021 and each tax year thereafter; or

14 ~~(b) one~~ (ii) One hundred eighty-five percent (185%) of the federal
 15 poverty guidelines for a household of two (2) for tax year ~~2006~~
 16 2021 and each tax year thereafter.

17 (b) If the most recent assessed valuation of the home owned by the indi-
 18 vidual exceeds the median assessed valuation for all homes in the county
 19 receiving the homestead exemption pursuant to section 63-602G, Idaho
 20 Code, then the individual must also meet the resources limitation test
 21 as defined in section 63-701, Idaho Code, in order to be eligible for
 22 property or occupancy tax reduction. Provided, however, the provisions
 23 of this paragraph do not apply to a veteran with a service-connected
 24 disability of one hundred percent (100%) or a disability rating based on
 25 individual unemployability rating that is compensated at the one hun-
 26 dred percent (100%) disability rate, as certified by the United States
 27 department of veterans affairs.

28 (c) The lowest income limitation shall allow a maximum reduction of one
 29 thousand ~~three hundred twenty~~ five hundred dollars (\$~~1,320~~500) in tax
 30 year ~~2006~~ 2021 and thereafter, or actual property taxes or occupancy
 31 taxes, as applicable, whichever is less. Each income limitation and re-
 32 duction amount shall be prorated based on the basic maximum reduction,
 33 in practicable increments so that the highest income limitation will
 34 provide for a reduction of ~~one two~~ hundred fifty dollars (\$~~150~~250), or
 35 actual property taxes, whichever is less.

36 (2) The tax commission shall publish the adjustments required by this
 37 section each and every year the secretary of health and human services an-
 38 nounces cost-of-living modifications, pursuant to 42 U.S.C. 415(i). The ad-
 39 justments shall be published no later than October 1 of each such year and
 40 shall be effective for claims filed in and for the following property tax
 41 year.

42 (3) The publication of adjustments under this section shall be exempt
 43 from the provisions of chapter 52, title 67, Idaho Code, but shall be pro-
 44 vided to each county and to members of the public upon request and without
 45 charge.