

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 565, As Amended in the Senate

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO PROPERTY TAXES; AMENDING SECTION 63-313, IDAHO CODE, TO REVISE
2 PROVISIONS REGARDING TRANSIENT PERSONAL PROPERTY; AMENDING SECTION
3 63-602KK, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE EXEMPTION OF
4 CERTAIN PERSONAL PROPERTY FROM PROPERTY TAX; AMENDING SECTION 63-904,
5 IDAHO CODE, TO REMOVE A PROVISION REGARDING THE TAXATION OF TRANSIENT
6 PERSONAL PROPERTY; AND DECLARING AN EMERGENCY AND PROVIDING RETROAC-
7 TIVE APPLICATION.
8

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

10 SECTION 1. That Section 63-313, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 63-313. SPECIAL PROVISIONS EXEMPTION FOR TRANSIENT PERSONAL PROP-
13 ERTY. ~~(1) All transient personal property shall be listed by the owner and~~
14 ~~shall show the quantity, name, model, serial number, if any, year of manu-~~
15 ~~facture, date of purchase, cost, whether new or used and other identifying~~
16 ~~information required by the county assessor. The list of transient personal~~
17 ~~property shall identify the owner of the property and shall be filed with the~~
18 ~~home county assessor on or before the first day of November of each year. The~~
19 ~~owner of transient personal property may elect to treat as his home county~~
20 ~~that county in which he maintains his residence or usual place of business or~~
21 ~~in which the transient personal property is usually kept. The report shall~~
22 ~~be made on forms prescribed by the state tax commission and shall identify~~
23 ~~periods of thirty (30) days or more during which the personal property is~~
24 ~~located in a county, specifying the location of the transient personal prop-~~
25 ~~erty for each month of the current calendar year with a projection of the~~
26 ~~location for the remaining months of November and December.~~

27 ~~(2) The county assessor of the home county or the receiving county of~~
28 ~~the listing shall file within ten (10) days with the county assessor of all~~
29 ~~counties identified on the report a copy of the report. Each county so iden-~~
30 ~~tified shall then place a prorated assessment on such personal property on~~
31 ~~the subsequent or missed property roll only for the length of time that the~~
32 ~~personal property was located in their county.~~

33 ~~(3) In the event that any transient personal property has been or will~~
34 ~~be taxed for the current year in another state, the property shall be taxed~~
35 ~~for only that portion of the year that the transient personal property is~~
36 ~~kept and does remain in the state of Idaho.~~

37 ~~(4) The provisions of this section shall not apply to transient per-~~
38 ~~sonal property in transit through this state, or to transient personal prop-~~
39 ~~erty sold by the owner thereof in the home county upon which the taxes for~~
40 ~~the full year have been paid or secured, which said transient personal prop-~~
41 ~~erty is kept, moved, transported, shipped or hauled into and remaining in~~

1 ~~another county, and there kept or remaining either for the purpose of use or~~
 2 ~~sale within the current year.~~

3 ~~(5) For transient personal property valued at more than one hundred~~
 4 ~~thousand dollars (\$100,000), any exemption in section 63-602KK, Idaho Code,~~
 5 ~~available to the taxpayer shall be allocated among counties based on the~~
 6 ~~prorated value provided in subsection (2) of this section.~~

7 ~~(6) Beginning January 1, 2022, all transient personal property is ex-~~
 8 ~~empt from taxation. No replacement moneys shall be provided as a result of~~
 9 ~~this subsection.~~

10 SECTION 2. That Section 63-602KK, Idaho Code, be, and the same is hereby
 11 amended to read as follows:

12 63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

13 (1) (a) An item of taxable personal property purchased on or after Jan-
 14 uary 1, 2013, shall be exempt from property taxation if the item of tax-
 15 able personal property has an acquisition price of three thousand dol-
 16 lars (\$3,000) or less.

17 (b) For purposes of this section, the term "acquisition cost" means all
 18 costs required to put an item of taxable personal property into service
 19 and includes:

20 (i) The purchase price of a new or used item;

21 (ii) The cost of freight and shipping;

22 (iii) The cost of installation, engineering, erection or assem-
 23 bly; and

24 (iv) Sales and use taxes.

25 (c) For purposes of this subsection, an "item of taxable personal prop-
 26 erty" means equipment, machinery, furniture or other personal property
 27 that is functioning at its highest and best use for the purpose it was
 28 designed and constructed and is generally capable of performing that
 29 function without being combined with other items of personal property.
 30 An item of taxable personal property is not an individual component part
 31 of a piece of equipment, machinery, furniture or other personal prop-
 32 erty as a whole. An item of taxable personal property does not include
 33 an improvement to real property, a part that will become an improvement,
 34 or anything defined as a fixture.

35 (2) (a) On and after January 1, 2015, except as provided in subsection
 36 (8) of this section, each person's personal property, located in the
 37 county, ~~which is~~ and not otherwise exempt, shall be exempt to the extent
 38 of one hundred thousand dollars (\$100,000).

39 (b) On and after January 1, 2022, except as provided in subsection
 40 (8) of this section, each person's personal property, located in the
 41 county, ~~which is~~ and not otherwise exempt, shall be exempt to the ex-
 42 tent of an additional amount of one hundred fifty thousand dollars
 43 (\$150,000). The combined exemption under this paragraph and paragraph
 44 (a) of this subsection shall not exceed a total amount of two hundred
 45 fifty thousand dollars (\$250,000).

46 (c) For the purposes of this section, a person includes two (2) or more
 47 people using the property in a common enterprise who are within a rela-
 48 tionship described in section 267 of the Internal Revenue Code, as de-
 49 fined in section 63-3004, Idaho Code.

1 (d) On and after January 1, 2022, any locally assessed personal prop-
2 erty is exempt from taxation if it is:

3 (i) Self-propelled, self-powered, or pull-type equipment and ma-
4 chinery;

5 (ii) Primarily employed for the use of construction, logging, or
6 mining of salable minerals as defined in section 47-701A, Idaho
7 Code; and

8 (iii) Designed to travel to various job sites.

9 (3) (a) No later than the third Monday of November 2013, the county clerk
10 of each county shall certify to the state tax commission the amount of
11 exemption from property taxes under subsection (2) (a) of this section,
12 in that county for that year. No later than the third Monday of Novem-
13 ber 2022, the county clerk of each county shall certify to the state tax
14 commission the amount of exemption from property taxes under subsection
15 (2) (b) of this section in that county for that year. The certification
16 shall identify the property receiving tax reductions, the value of the
17 property, the property's location, the amount of the tax levy applica-
18 ble to personal property in the location, and the tax before and after
19 the exemption allowed in subsection (2) of this section. The certifi-
20 cation shall be in the form prescribed by the state tax commission and
21 shall include such additional information as the commission may require
22 by rule as needed to implement the purpose of this section. The certi-
23 fication shall be reviewed and, if necessary, corrected by the state tax
24 commission.

25 (b) Except as provided in subsection (7) of this section, a taxing
26 district created prior to January 1, 2013, shall be eligible for reim-
27 bursement for the exemptions granted under subsection (2) (a) and (b) of
28 this section. A taxing district created on and after January 1, 2013,
29 and prior to January 1, 2022, shall be eligible for reimbursement of
30 property taxes exempted only under subsection (2) (b) of this section.
31 A taxing district created on or after January 1, 2022, shall not be
32 eligible for reimbursement of any property taxes exempted under this
33 section. The amount of annual replacement of property tax on personal
34 property exempted pursuant to subsection (2) of this section shall be
35 the amount approved by the state tax commission pursuant to paragraph
36 (a) of this subsection.

37 (4) (a) Subject to the limitations of this section, the state tax com-
38 mission shall reimburse from the amount appropriated for personal
39 property tax replacement in section 63-3638, Idaho Code, the county
40 treasurer of each county for the reduction on the certifications pro-
41 vided in subsection (3) of this section. The county treasurer shall
42 reimburse from the amount received to each taxing district within the
43 county an amount in proportion to the amount of reduction shown on the
44 certifications in subsection (3) of this section as corrected. The
45 amount that would otherwise be attributable to tax revenues derived
46 from tax levies on personal property exempted by this section within
47 an existing revenue allocation area as defined in section 50-2903(15),
48 Idaho Code, shall be paid directly by the county treasurer to such pub-
49 lic body or agency entitled thereto, equal to the amounts that would

1 have been distributed in accordance with the formula for such distribu-
2 tion set forth in section 50-2908, Idaho Code.

3 (b) The state tax commission shall pay one-half (1/2) of the reimburse-
4 ment provided in this section no later than December 20 of each year, and
5 the second one-half (1/2) shall be paid by no later than June 20 of the
6 following year. The money received by the county tax collector under
7 the provisions of this section may be considered by counties and other
8 taxing districts and budgeted against at the same time, and in the same
9 manner, and in the same year as revenues from taxation. The total amount
10 paid to the county treasurers shall not exceed the amount certified to
11 the state tax commission under subsection (3) of this section.

12 (c) For purposes of the limitation provided by section 63-802, Idaho
13 Code, moneys received from distributions pursuant to section 63-3638,
14 Idaho Code, as property tax replacement for the taxable value of prop-
15 erty exempt from taxation pursuant to this section shall be treated as
16 property tax revenues.

17 (5) (a) Nothing contained in this section shall affect the taxation of
18 forest lands or forest products pursuant to chapter 17, title 63, Idaho
19 Code, or the taxation of the net profits of mines pursuant to chapter 28,
20 title 63, Idaho Code.

21 (b) The exemption from personal property tax provided for in subsec-
22 tion (2) of this section shall not apply to motor vehicles, recreational
23 vehicles, aircraft and boats that are not registered with the state of
24 Idaho and for which required registration fees have not been paid.

25 (6) (a) The application for the exemption provided for in subsection (2)
26 of this section shall be in the form prescribed by the state tax commis-
27 sion and shall include such information as the state tax commission may
28 require by rule as needed to implement the purpose of this section in-
29 cluding, but not limited to, a list of each item of personal property,
30 the purchase date of each item of personal property, the unit cost of
31 each item of personal property, if more than the exemption allowed in
32 subsection (1) of this section, and the total cost of the items of per-
33 sonal property.

34 (b) The application for this exemption, if the county is capable of so
35 providing, may be transmitted by the county assessor electronically,
36 as that term is defined in section 63-115, Idaho Code, when requested
37 by the taxpayer, or mailed by the county assessor to the taxpayer, or
38 his agent or representative at the taxpayer's last known post office
39 address, no later than March 1 of each year. The transmission or mail-
40 ing of the application shall also include the taxpayer's application
41 for the exemption allowed by this section for the last year in which the
42 taxpayer filed an application.

43 (c) A taxpayer need only make application for the exemption in this sec-
44 tion once as long as all of the following conditions are met:

45 (i) The taxpayer has received the exemption during the previous
46 year as a result of him making a valid application as defined in
47 this section.

48 (ii) The amount of the exemption allowed by this section is more
49 than the taxable value of personal property owned by the taxpayer.

1 (iii) The taxpayer has not made purchases of personal property,
2 excluding items of taxable personal property exempted pursuant to
3 subsection (1) of this section, that would cause the taxable value
4 of the personal property owned by the taxpayer to exceed the maxi-
5 mum amount allowed as an exemption by this section.

6 (d) Knowingly failing to report changes in the taxable value of per-
7 sonal property that exceed the amount of the exemption allowed pursuant
8 to this section shall subject the taxpayer to a fine not in excess of ten
9 thousand dollars (\$10,000) in addition to other penalties set forth in
10 this chapter.

11 (7) Recovery of property tax exemptions allowed by this section but im-
12 properly claimed:

13 (a) Upon discovery of evidence, facts or circumstances indicating any
14 exemption allowed by this section was improperly claimed, the county
15 assessor shall decide whether the exemption claimed should have been
16 allowed, and, if not, notify the board of county commissioners, at which
17 time the board may waive a recovery of the property tax and notify such
18 taxpayer in writing.

19 (b) The assessment and collection of the recovery of property tax must
20 begin within the seven (7) year period beginning on the date the assess-
21 ment notice reflecting the improperly claimed exemption was required to
22 be mailed to the taxpayer.

23 (c) The taxpayer may appeal to the board of tax appeals the decision by
24 the board of county commissioners to assess the recovery of property tax
25 within thirty (30) days of the date the county assessor sent the notice
26 to the taxpayer pursuant to this section.

27 (d) For purposes of calculating the tax, the amount of the recovered
28 property tax shall be for each year the exemption allowed by this sec-
29 tion was improperly claimed or approved, up to a maximum of seven (7)
30 years. The amount of the recovery of property tax shall be calculated
31 using the product of the amount of exempted value for each year multi-
32 plied by the levy for that year plus costs, late charges and interest for
33 each year at the rates equal to those provided for delinquent property
34 taxes during that year. In cases of fraud, the fine set forth in subsec-
35 tion (6) (d) of this section shall be assessed for each tax year.

36 (e) Any recovery of property tax shall be due and payable no later than
37 the date provided for property taxes in section 63-903, Idaho Code, and
38 if not timely paid, late charges and interest, beginning the first day
39 of January in the year following the year the county assessor sent the
40 notice to the taxpayer pursuant to this section, shall be calculated at
41 the current rate provided for property taxes.

42 (f) Recovered property taxes shall be billed, collected and dis-
43 tributed in the same manner as property taxes. If the recovery is
44 for property tax for which the state provided replacement money, the
45 amounts recovered shall be reported and remitted to the state tax
46 commission, which shall reimburse the general fund. The state tax com-
47 mission will then notify each affected taxing district or unit of its
48 proportionate share of the recovered property tax, which amount shall
49 be deducted from future payments to be made pursuant to subsection (3)
50 of this section.

1 (g) Thirty (30) days after the taxpayer is notified, as provided in
 2 paragraph (a) of this subsection, the assessor shall record a notice
 3 of intent to attach a lien. Upon the payment in full of such recover-
 4 ed property taxes prior to the attachment of the lien as provided in
 5 paragraph (h) of this subsection, or upon the successful appeal by the
 6 taxpayer, the county assessor shall record a rescission of the intent to
 7 attach a lien within seven (7) business days of receiving such payment
 8 or within seven (7) business days of the county commissioners' decision
 9 granting the appeal.

10 (h) Any unpaid recovered property taxes shall become a lien upon the
 11 taxpayer's personal property in the same manner as provided for prop-
 12 erty taxes in section 63-206, Idaho Code, except such lien shall attach
 13 as of the first day of January in the year following the year the county
 14 treasurer sent the notice to the taxpayer pursuant to this section.

15 (i) For purposes of the limitation provided by section 63-802, Idaho
 16 Code, moneys received pursuant to this subsection as recovery of prop-
 17 erty tax shall be treated as property tax revenue.

18 (8) For operating property with values apportioned to more than one (1)
 19 county, the personal property exemption shall be subtracted from the Idaho
 20 allocated value prior to apportionment and, for private railcar companies,
 21 prior to determining whether their values are to be apportioned. Notwith-
 22 standing amounts calculated as provided in subsection (1) of this section,
 23 the amount of the exemption otherwise provided in subsection (2) of this sec-
 24 tion shall be calculated as follows:

25 (a) Take the lesser amount of:

26 (i) The number of counties in which a company has operating prop-
 27 erty multiplied by two hundred fifty thousand dollars (\$250,000);
 28 or

29 (ii) The total statewide value of eligible personal property re-
 30 ported by the company.

31 (b) Reduce the amount calculated in paragraph (a) of this subsection by
 32 the value of any nonoperating personal property granted the exemption
 33 otherwise found in subsection (2) of this section, as reported by county
 34 assessors.

35 SECTION 3. That Section 63-904, Idaho Code, be, and the same is hereby
 36 amended to read as follows:

37 63-904. SPECIAL PROVISIONS FOR COLLECTION OF PROPERTY TAXES ON PER-
 38 SONAL PROPERTY. (1) If a personal property owner fails to make timely payment
 39 on the first one-half (1/2) provided for, the unpaid portion of the entire
 40 tax shall immediately become due and payable and a late charge as provided
 41 in section 63-201, Idaho Code, and interest as provided in section 63-1001,
 42 Idaho Code, on the unpaid portion of the first half shall be added. Interest
 43 shall be calculated from January 1 of the year following the year for which
 44 the taxes were assessed.

45 (2) All personal property taxes are due and payable upon demand. If no
 46 demand is made, taxes may be paid in part or in full until the tax collector
 47 issues a warrant of distraint for collection of said taxes.

48 (3) Whenever the county assessor notifies the tax collector of personal
 49 property that has been listed on a property roll, the tax collector may de-

1 mand immediate payment of any property taxes due from the owner. Property
2 taxes due shall be calculated using the previous year's levies, unless cur-
3 rent year's levies are known.

4 (4) In lieu of demanding immediate payment of property taxes due, the
5 county tax collector may require a surety bond adequate to secure the payment
6 and collection of property taxes that may be due to that county.

7 ~~(5) Property taxes on transient personal property shall be payable on~~
8 ~~demand, or in full on the due date stated on the notice. No extensions shall~~
9 ~~be granted on transient personal property.~~

10 ~~(6)~~ In the event a taxpayer is unable to pay his personal property tax
11 due on or before December 20, he may appeal to the county commissioners prior
12 to the property tax becoming delinquent. If sufficient information is given
13 to satisfy the county commissioners that the property taxes will be paid, the
14 county commissioners may grant an extension of time for the payment of the
15 property taxes, late charges and interest, not to exceed four (4) months.
16 A warrant of distraint shall not be issued until the expiration of the ex-
17 tended time. No extensions shall be granted on the second one-half (1/2) of
18 the property tax.

19 SECTION 4. An emergency existing therefor, which emergency is hereby
20 declared to exist, this act shall be in full force and effect on and after its
21 passage and approval, and retroactively to January 1, 2022.