

Dear Senators RICE, Grow, Burgoyne, and
Representatives COLLINS, Stevenson, Erpelding:

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

1. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1902);
2. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1904);
3. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1905).

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 12/06/2019. 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 01/07/2020.

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: November 18, 2019

SUBJECT: State Tax Commission

1. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1902)
2. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1904)
3. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1905)

1. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1902)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking relating to the Property Tax Administrative Rules. The proposed rule amends Rule 130 to add an Agricultural Land category to the categories used to test for equalization. Rule 131 is also being amended to add rules to provide for an equalization study of agricultural land and to provide a timing and notification table for agricultural land studies and noncompliant primary ratio study categories.

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules was published in the June 5, 2019 edition of the Administrative Bulletin. No fiscal impact to the General Fund exceeding \$10,000 is expected.

Statutory Authority

The proposed rule appears to be within the agency's statutory authority pursuant to sections 63-105A, 63-109, and 63-315, Idaho Code.

2. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1904)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking relating to the Property Tax Administrative Rules. The proposed rule amends Rules 317 and 804 to clarify the allocation of occupancy tax and part-year property tax revenues to urban renewal agencies during the first year when the initial base value is established.

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules was published in the June 5, 2019 edition of the Administrative Bulletin. No fiscal impact to the General Fund exceeding \$10,000 is expected.

Statutory Authority

The proposed rule appears to be within the agency's statutory authority pursuant to sections 63-105A and 50-2908, Idaho Code.

3. IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-1905)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking relating to the Property Tax Administrative Rules. The proposed rule repeals Rules 613 and 614 and replaces them with new Rule 617 to provide guidance regarding the procedure by which the speculative portion of the value of agricultural land is assessed.

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules was published in the June 5, 2019 edition of the Administrative Bulletin. No fiscal impact to the General Fund exceeding \$10,000 is expected.

Statutory Authority

The proposed rule appears to be within the agency's statutory authority pursuant to sections 63-105A and 63-602K, Idaho Code.

cc: State Tax Commission
Kimberlee Stratton

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may 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.

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1902
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 63-105A, 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 October 16, 2019.

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 130 - This rule is to be amended to itemize the property categories assigned to agricultural land primary categories for equalization purposes.

Rule 131 - This rule is to be amended to provide for standards for agricultural assessments and the processes to study compliance with statutory requirements to achieve market value for assessment purposes.

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 June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 89](#).

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, (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 October 23, 2019.

Dated this 2nd day of October, 2019.

Alan Dornfest
Property Tax Policy Bureau Chief
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
Fax: (208) 334-7844
Alan.Dornfest@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1902
(Only Those Sections With Amendments Are Shown.)

130. DESCRIPTION OF PRIMARY CATEGORIES USED TO TEST FOR EQUALIZATION (RULE 130).

Sections 63-109 and 63-315, Idaho Code. The State Tax Commission establishes the primary categories listed herein for the purpose of testing values in each county and each school district for equalization by the *State* Tax Commission under Section 63-109, Idaho Code. (3-30-07)()

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Primary Category. Primary category means the *five six* categories established and described in Subsections 130.02 through 130.067 of this rule, except for the use of secondary categories described in Subsection 130.07 of this rule and Subsections 131.02b and 131.05b of Rule 131, and used by the *State* Tax Commission to test for equalization under Section 63-109, Idaho Code. (3-30-07)()

b. Secondary Category. Secondary category means the categories established and described in Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the *State* Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)()

02. Vacant Residential Land Category. Vacant residential land is all vacant land used for residential purposes. The assessor listed this land in secondary categories 12, 15, 18, or 20, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the *State* Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)()

03. Improved Residential Property Category. Improved residential property is all improvements used for residential purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 10 and 31, 46, or 48, 12 and 34, 46, or 48, 15 and 37, 46, or 48, 18 and 40, 20 and 41, 46, or 48, 26, 46, 48, or 50 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rules 510 and 511 of these rules, for the purposes of listing property on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the *State* Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)()

04. Vacant Commercial or Industrial Land Category. Vacant commercial or industrial land is all vacant land used for commercial or industrial purposes. The assessor listed this property in secondary categories 11, 13, 14, 16, 17, 21, or 22, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the *State* Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)()

05. Improved Commercial or Industrial Property Category. Improved commercial or industrial property is all improvements used for commercial or industrial purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 11 and 33, 13 and 35, 14 and 36, 16 and 38, 17 and 39, 21 and 42, 22 and 43, 27, or 51, as described in Rules 510 and 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the *State* Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)()

06. Manufactured Homes on Leased Land Category. Manufactured homes on leased land are all

manufactured homes on leased land that the assessor listed in secondary categories 49 or 65 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rule 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the *State* Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)()

07. Agricultural Land Category. Agricultural land is all land that the assessor listed in secondary categories 1 through 5 as described in Rule 510 of these rules. For agricultural land, secondary, rather than primary, category values are to be tested if significant in any county as defined in Rule 131 of these rules. ()

078. Conversion Table: Secondary Categories to Primary Categories.

Conversion Table: Secondary Categories to Primary Categories	
Secondary Categories	Primary Categories
12, 15, 18, or 20	Vacant Residential Land
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51	Improved Commercial or Industrial Property
47, 49, or 65	Manufactured Housing on Leased Land
<u>1-5</u>	<u>Agricultural Land</u>

(3-30-07)()

089. **Cross Reference.** For clarification of responsibilities relating to listing values on the valuation assessment notices or reporting values on the abstracts, see Rules 114, 115, 509, 510, 511, and 512 of these rules. For descriptions of secondary categories used to list land values on the valuation assessment notices and report land values on the abstracts, see Rule 510 of these rules, used to list improvement values on the valuation assessment notices and report improvement values on the abstracts, see Rule 511 of these rules, and used to list values for all property other than land or improvements on the valuation assessment notices and report these values on the abstracts, see Rule 512 of these rules. (3-30-07)

131. USE OF RATIO STUDY OR OTHER METHOD TO TEST FOR EQUALIZATION IN COUNTIES (RULE 131).

Section 63-109, Idaho Code

01. Equalization Ratio Study - Primary Categories Other Than Agricultural Land. Each year the State Tax Commission *shall will* conduct a ratio study to assist in the equalization of assessments of property within and among the primary categories, other than agricultural land, established in Rule 130 of these rules. The ratio study *shall will* be conducted in accordance with the “Standard on Ratio Studies” and the “Standard on Verification and Adjustment of Sales” both referenced in Rule 006 of these rules. The annual ratio study *shall will* test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The *State* Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. Equalization ratio studies must consist of at least five (5) sales and/or appraisals. The *State* Tax Commission may delete sales when necessary to improve representativeness. Sales should be considered as potentially valid if a financial institution is the seller, provided that: (4-4-13)()

- a. Such sales comprise more than twenty (20) percent of the sales in any primary category or other category tested for equalization; (4-4-13)
- b. Such sales are validated to account for changes in property characteristics; and (4-4-13)
- c. Any properties that have been vandalized are excluded. (4-4-13)
- d. The study ~~shall~~ will be completed in February following the end of the period studied. Timing and notification of county officials is described in the “Timing and Notification Table” as provided in Subsection 131.03 of this rule. For non-agricultural categories, the appropriate ratio study statistical measure of level shall be is the median. For agricultural land categories, level of assessment is to be determined as described in Paragraph 131.02.b. of this rule. (4-4-13)()

02. Equalization Study – Agricultural Land.

Each year the Tax Commission will conduct a study to assist in the equalization of assessments of agricultural land. Any such study will analyze agricultural land values throughout each significant secondary agricultural land category using valuation methods found in Section 63-602K, Idaho Code and Rule 617 of these rules. ()

a. Notice of results and compliance will be provided to county officials according to the timing shown in Subsection 131.03 of this rule. ()

b. Agricultural land secondary categories considered significant, as defined in Paragraph 131.02.c. of this rule, in any county will be subject to preliminary and follow-up studies of assessment level. Both studies will be based on valuation methodology described in Rule 617 of these rules. The preliminary study will be in comparison to prior year’s assessed values. The follow-up studies will test current year’s assessed values and will only be required when preliminary studies indicate level of assessment less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Assessed values for any agricultural land secondary category with an indicated level determined to be within this range and those categories not considered significant in a county will be considered in compliance. Note: For the purpose of this analysis, “level” means the ratio of the median per acre assessed value and the median per acre value for the secondary category determined by the Tax Commission using the valuation methodology found in Rule 617 of these rules. ()

c. A secondary agricultural land category will be considered significant provided the category includes at least 10% of the acreage and at least 5% of the value of the primary agricultural land category. ()

d. Agricultural land categories may also be subject to follow-up studies if the Tax Commission has received information indicating that county boards of equalization have changed values in such a way as to produce likely non-compliance. Notice for such follow-up studies will comport, to the extent possible, with the procedures found in Subsection 131.06 of this rule. The time table for completing preliminary and follow-up studies and providing notice is shown in the “Timing and Notification Table” found in Subsection 131.03 of this rule. ()

03. Timing and Notification Table.

<u>Date</u>	<u>Activity</u>
<u>April – 1st Monday</u>	<u>The Tax Commission will notify assessors of preliminary ratio and agricultural land study results.</u>
<u>April – 3rd Monday</u>	<u>The Tax Commission will notify the board of county commissioners (BOCC) of non-compliant primary ratio study categories and agricultural land secondary categories.</u>
<u>May – 1st Monday</u>	<u>On request by the county assessor, the Tax Commission will conduct additional studies for non-compliant categories using current year assessments.</u>
<u>May – 2nd Monday</u>	<u>The Tax Commission will notify county assessors and commissioners of results of additional studies.</u>

Date	Activity
July – 3rd Monday	The Tax Commission will conduct final follow-up studies for originally non-complying categories using county equalized values. Additional studies may be conducted if there is indication that county boards of equalization have taken actions which may have resulted in non-compliance for previously complying primary or secondary categories. Assessors and county commissioners will be notified of results and compliance status by the 4th Monday in July, except that this deadline and the 3rd Monday in July deadline are to be extended if an extension has been granted to the county board of equalization. In that case, the final or additional studies will be finalized and notice provided within one week of the conclusion of the county board of equalization.

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024. Tested for Equalization. Except as provided in Subsection 131.035 of this rule, categories other than agricultural land to be tested for equalization purposes are the primary categories, described in Subsections 130.02 through 130.06 of these rules, provided adequate samples can be obtained. Agricultural land is to be tested as provided in Subsection 131.02 of this rule. (4-7-11)()

035. Follow-Up Ratio Study. When indicated, based on criteria in Paragraph 131.035.a. and 131.035.b. of this rule, a follow-up ratio study shall will be conducted to test the assessments for January 1 of the year following the year tested by the preliminary agricultural study or annual ratio study and shall if a ratio study is to be done, it will be based on property sales occurring during the calendar year immediately preceding that date. A follow-up ratio study shall will be indicated whenever: (4-2-08)()

a. The annual ratio study, provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule; or (4-2-08)

b. The State Tax Commission is informed after the county board of equalization adjourns and before the state board of equalization adjourns of the implementation of assessment changes likely to result in a finding that a category found in compliance with equalization standards following the agricultural land study or annual ratio study would be found out of compliance with these standards for the current year's assessments. The follow-up agricultural land study or ratio study authorized under this option shall will be conducted for the primary category likely to be out of compliance with equalization standards and for any secondary categories comprising the primary category, provided adequate samples can be obtained. (4-7-11)()

046. Notice of Follow-Up Ratio Study. The State Tax Commission shall will notify the county assessor of the reason for and results of the follow-up ratio study. If the follow-up ratio study is conducted as provided in Paragraph 131.035.b. or 131.02.d. of this rule, the notice shall will be sent to the county commissioners or board of equalization and county assessor and shall will describe the assessment changes that resulted in the need for the follow-up ratio study. The notice shall will indicate whether any adjustments will be considered by the State Tax Commission at its next equalization meeting in August based on either the annual, or any follow-up ratio study, and the reason for the proposed adjustments. (4-2-08)()

057. Use of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study shall will be one (1) source of information upon which the State Tax Commission may rely when testing assessments for equalization purposes under Section 63-109, Idaho Code. When the results of any ratio study on any primary, or, if applicable under the provisions of Subsection 131.02 or Paragraph 131.035.b. of this rule, secondary category, described in Subsections 130.02 through 130.079 of these rules, show, with reasonable statistical certainty as defined in Subsection 131.0911 of this rule, that the appropriate measure of level of the category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that category may be considered not equalized. When this occurs, the State Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in the category or any portion of the category included in the analysis conducted in an amount the State Tax Commission finds necessary to accomplish equalization of assessments of property. Within any primary category, except as provided in Subsections 131.02 or 131.068 of this rule, adjustment will not be considered for any secondary category, described in Rule 510,

511, or 512 of these rules, that does not have at least one (1) observation in the ratio study conducted for that primary category. (4-7-11)()

068. Exception from Requirement for at Least One (1) Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment *shall will* be applied to any assessed value in secondary category 10, provided there is at least one observation (sale) of property identified in either secondary category 12 or 15. Such adjustment *shall will* also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. (3-30-07)()

079. Use of Alternate Ratio Study. When the follow-up ratio study required by Subsection 131.035 of this rule does not measure the true assessment level, the *State* Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the *State* Tax Commission has reason to question the representativeness of the sample used in an annual or follow-up ratio study conducted on any primary category, the *State* Tax Commission may delay implementation of any order to adjust property values until two (2) successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%). (3-30-07)()

108. Submission of Additional Information. Any party may petition the *State* Tax Commission to consider any information or studies relevant to equalization. The petition *shall will* include a description of the information to be presented and the petitioner's conclusions drawn from the information. (4-5-95)()

0911. Reasonable Statistical Certainty. For the purposes of Rule 131 and equalization pursuant to Section 63-109, Idaho Code, "reasonable statistical certainty" that any primary category is not equalized *shall will* mean that the appropriate measure of level determined by the ratio study for any category tested for equalization must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Such a determination *shall will* occur if: (4-7-11)()

a. The appropriate measure of level for the category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or (4-7-11)()

b. The appropriate measure of level for the category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). No ratio study completed prior to August 31, 2007 will be considered as one of the most recent previous two (2) ratio studies. (4-7-11)

102. Cross References. The primary categories are described in Subsections 130.02 through 130.067 of these rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. (3-30-07)()

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1904
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 63-105A, 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 October 16, 2019.

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:

Rules 317 - Amendments are needed to codify current practice regarding allocation of occupancy tax and part year property tax payments to urban renewal agencies and to eliminate guidance that is administratively infeasible.

Rule 804 - Amendments are needed to codify current practice regarding allocation of occupancy tax and part year property tax payments to urban renewal agencies and to eliminate guidance that is administratively infeasible.

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 June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 91](#).

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, (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 October 23, 2019.

Dated this 2nd day of October, 2019.

Alan Dornfest
Property Tax Policy Bureau Chief
State Tax Commission
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THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1904
(Only Those Sections With Amendments Are Shown.)

317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (RULE 317).

Section 63-317, Idaho Code

01. Property Subject to Occupancy Tax. Excluding additions to existing improvements, the occupancy tax shall apply to improvements upon real property, whether under the same or different ownership. The occupancy tax shall also apply to new manufactured housing, as defined in Section 63-317, Idaho Code, excluding additions to existing manufactured housing. (4-6-05)

02. Prorated Market Value. The market value for occupancy tax purposes shall be the full market value on January 1 and shall be prorated at least monthly from the occupancy date to the end of the year. (3-29-10)

03. Notice of Appraisal. When notifying each owner of the appraisal, the county assessor shall include at a minimum the full market value before any exemptions and before any prorating of the value, the length of time subject to the occupancy tax, and the prorated value. (5-3-03)

04. Examples for Calculation of Value Less Homestead Exemption (HO). The following examples show the procedure for the calculation of the taxable value subject to the occupancy tax less the homestead exemption (HO): (3-30-07)

a. Example for prorated market value exceeding maximum amount of the homestead exemption for improvements subject to the occupancy tax beginning July 1, 2016.

Full Market Value of Home - \$300,000
Prorated Market Value for 11 Month Occupancy - $\$300,000 \times 11/12 = \$275,000$
Taxable Value - $\$275,000 - \$100,000 \text{ (HO)} = \$175,000$

(3-29-17)

b. Example for prorated market value resulting in less than the maximum amount of the homestead exemption.

Full Market Value of Home - \$120,000
Prorated Market Value for 3 Month Occupancy - $\$120,000 \times 3/12 = \$30,000$
Taxable Value - $\$30,000 - \$15,000 \text{ (HO)} = \$15,000$

(3-30-07)

05. Market Value. The market value for occupancy tax purposes shall be entered on an occupancy tax valuation roll. Occupancy tax valuation shall not be included in the assessed value of any taxing district, but occupancy tax must be declared in the certified budget. (3-30-07)

06. Allocation to Urban Renewal Agencies. Occupancy tax revenue shall be distributed to urban renewal agencies in the same manner as property taxes, except as provided in Paragraphs 06.a. and 06.b. of this rule. (4-7-11)()

a. The portion of the occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules must be distributed to the taxing districts levying property taxes for those funds and, therefore, must not be distributed to the urban renewal agency. (5-8-09)

b. ~~Except for occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules, f~~For parcels within a newly formed revenue allocation area or within an area newly annexed to an existing revenue allocation area, occupancy tax for the tax year during which the formation or annexation took effect ~~must be~~ is not distributed to the urban renewal agency. (4-7-11)()

07. **Property Qualifying for the Homestead Exemption on Occupancy Value.** When property is subject to occupancy tax, only the improvements shall be eligible for the homestead exemption found in Section 63-602G, Idaho Code. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

804. TAX LEVY - CERTIFICATION - URBAN RENEWAL DISTRICTS (RULE 804).
Sections 50-2908, 50-2033, 50-1903, 50-2903A, 50-2905A, 50-2913, 63-803, and 63-811, Idaho Code

01. Definitions. (4-5-00)

a. “Urban renewal district.” An urban renewal district, as referred to in Section 63-215, Idaho Code, shall mean an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts. (4-5-00)

b. “Revenue allocation area (RAA).” A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, shall be the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. A new urban renewal plan is required when an urban renewal agency establishes a new RAA. Revenue allocation areas (RAAs) are not taxing districts. (3-29-17)

c. “Current base value.” ~~The current base value of each parcel in a taxing district or unit shall be the value of that parcel on the current base assessment roll as defined under Section 50-2903, Idaho Code.~~ Current base value does not include value found on the occupancy roll. Current base value includes the previous year’s non-prorated value of current taxable property subject to assessment under Sections 63-602Y and 63-313, Idaho Code during the year the initial base value was established. (4-5-00)()

d. “Initial base value.” The initial base value for each parcel is the sum of the taxable value of each category of property in the parcel for the year the RAA is established. In the case of annexation to an RAA, initial base value of each annexed parcel shall be the value of that parcel as of January 1 of the year in which the annexation takes place. The initial base value includes any prorated value added for property subject to Sections 63-602Y and 63-313, Idaho Code. (4-11-15)()

e. “Increment value.” The increment value is the difference between the current equalized value of each parcel of taxable property in the RAA and that parcel’s current base value, provided such difference is a positive value. Newly constructed improvements with value listed on the occupancy roll within a newly formed RAA or within an area newly annexed to an existing RAA will be added as increment value in the year following the year of formation or annexation. (4-5-00)()

f. “Revenue allocation financing provision.” A revenue allocation area (RAA) shall be considered to be a revenue allocation financing provision. (3-29-17)

02. Establishing and Adjusting Base and Increment Values. (4-5-00)

a. Establishing initial base value. If a parcel’s legal description has changed prior to computing initial base year value, the value that best reflects the prior year’s taxable value of the parcel’s current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the taxable

value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable property, as defined in Section 50-2903, Idaho Code. Initial base value does not include value found on the occupancy roll. (4-5-00)

b. Adjustments to base value - general value changes. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less than the most recent base value for such parcel. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments shall be made by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property shall establish new base values from which future adjustments may be made. In the following examples the parcel's initial base value is one hundred thousand dollars (\$100,000), including Category 21 value of twenty thousand dollars (\$20,000) and Category 42 value of eighty thousand dollars (\$80,000). (4-5-00)

i. Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar (\$1,000) decrease in value in Category 21 and a one thousand dollar (\$1,000) increase in Category 42 value. There is no change in the base value for the parcel. (4-5-00)

ii. Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars (\$3,000) decrease in value in Category 21 and a one thousand dollars (\$1,000) increase in Category 42 value. The base value decreases two thousand dollars (\$2,000) to ninety-eight thousand dollars (\$98,000). (4-5-00)

iii. Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety-eight thousand dollars (\$98,000), the value of the parcel increases by five thousand dollars (\$5,000) which is the net of category changes. The base value remains at ninety-eight thousand dollars (\$98,000). (4-5-00)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel's legal description. This adjustment shall be calculated as described in the following subsections. (4-5-00)

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value. Proportions used to determine the amount of base value assigned to each of the new parcels shall be based on the value of the new parcels had they existed in the year preceding the year for which the value of the new parcels is first established. (4-11-15)

ii. When a parcel has been combined with another parcel, the most recent base year values are added together. (4-5-00)

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split shall be calculated as set forth in Subparagraph 804.02.c.i. and then the value of the combination will be calculated as set forth in Subparagraph 804.02.c.ii. (4-5-00)

d. Adjustments to base values when exempt parcels become taxable. Base values shall be adjusted as described in the following subsections. (4-5-00)

i. Fully exempt parcels at time of RAA establishment. When a parcel that was exempt at the time the RAA was established becomes taxable, the base value is to be adjusted upwards to reflect the estimated value of the formerly exempt parcel as it existed at the time the RAA was established. (3-26-19)

ii. Partially exempt parcels losing the speculative value exemption. When a partially exempt parcel with a speculative value exemption that applies to farmland within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the taxable value of the parcel for the year in which the exemption is lost and the taxable value of the parcel included in the base value of the RAA. For example, assume a

parcel of farmland within an RAA had a taxable value of five hundred dollars (\$500) in the year the RAA base value was established. Assume also that this parcel had a speculative value exemption of two thousand dollars (\$2,000) at that time. Two (2) years later the parcel is reclassified as industrial land, loses the speculative value exemption, and has a current taxable value of fifty thousand dollars (\$50,000). The base value within the RAA would be adjusted upwards by forty-nine thousand five hundred dollars (\$49,500), the difference between fifty thousand dollars (\$50,000) and five hundred (\$500). The preceding example applies only in cases of loss of the speculative value exemption that applies to land actively devoted to agriculture and does not apply to timberland. Site improvements, such as roads and utilities, that become taxable after the loss of the speculative value exemption are not to be added to the base value. For example, if, in addition to the fifty thousand dollars (\$50,000) current taxable value of the undeveloped land, site improvements valued at twenty-five thousand dollars (\$25,000) are added, the amount reflected in the base value remains fifty thousand dollars (\$50,000), and the additional twenty-five thousand dollars (\$25,000) is added to the increment value. In addition, this example applies only to land that loses the speculative value exemption as a result of changes occurring in 2010 or later and first affecting taxable values in 2011 or later. Parcels that lost speculative value exemptions prior to 2010 had base value adjustments as described in Subparagraph 804.02.d.iii. of this rule. (3-29-12)

iii. Partially exempt parcels other than those losing the speculative value exemption. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a partially exempt parcel, other than one subject to the speculative value exemption that applies to farmland, within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA was established and the taxable value of the parcel included in the base value of the RAA. For example, assume a residential parcel within an RAA had a market value of one hundred thousand dollars (\$100,000), a homeowner's exemption of fifty thousand dollars (\$50,000), and a taxable value of fifty thousand dollars (\$50,000) in the year the RAA base value was established. After five (5) years, this parcel is no longer used for owner-occupied residential purposes and loses its partial exemption. At that time the parcel has a taxable value of one hundred eighty thousand dollars (\$180,000). The base value within the RAA would be adjusted upwards by fifty thousand dollars (\$50,000) to one hundred thousand (\$100,000) to reflect the loss of the homeowner's exemption, but not any other value increases. (3-26-19)

iv. Partially exempt properties for which the amount of the partial exemption changes. For partially exempt properties that do not lose an exemption, but for which the amount of the exemption changes, there shall be no adjustment to the base value, unless the current taxable value is less than the most recent base value for the property. For example, assume a home has a market value of two hundred thousand dollars (\$200,000) and a homeowner's exemption of one hundred thousand dollars (\$100,000), leaving a taxable value of one hundred thousand dollars (\$100,000), all of which is base value. The following year the homeowner's exemption limit changes to ninety thousand dollars (\$90,000), so the property's taxable value increases to one hundred ten thousand dollars (\$110,000). The base value remains at one hundred thousand dollars (\$100,000). Alternatively, assume the property in the preceding example increases in market value to two hundred twenty thousand dollars (\$220,000) and the homeowner's exemption drops to ninety thousand dollars (\$90,000) because of the change in the maximum amount of this exemption. The base value remains at one hundred thousand dollars (\$100,000). Finally, assume the property decreases in value to one hundred eighty-eight thousand dollars (\$188,000) at the same time the homeowner's exemption limit changes to ninety thousand dollars (\$90,000). The property now has a taxable value of ninety-eight thousand dollars (\$98,000), requiring an adjustment in the base value to match this amount, since it is lower than the original base value of one hundred thousand dollars (\$100,000). (3-29-12)

v. Change of exempt status. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a parcel that is taxable and included in the base value at the time the RAA is established subsequently becomes exempt, the base value is reduced by the most current value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is to be adjusted upward by the same amount that was originally subtracted. For example, assume a land parcel had a base value of twenty thousand dollars (\$20,000). One (1) year later the parcel has a value of nineteen thousand dollars (\$19,000), so the base value is reduced to nineteen thousand dollars (\$19,000). Three (3) years later, an improvement valued at one hundred thousand dollars (\$100,000) was added. The land at this later date had a value of thirty thousand dollars (\$30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by nineteen thousand dollars (\$19,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by nineteen thousand dollars (\$19,000). (3-26-19)

vi. Special case for exemption provided in Section 63-602NN, Idaho Code. Upon loss of the exemption, any newly taxable value in excess of the taxable value of the property in the year immediately preceding the first year of the exemption is to be added to the increment value provided the property was within an RAA when the exemption was granted and remains within the RAA at the time the exemption expires. If the parcel was annexed to an RAA during the period of the exemption, the value that would have been added to the base value at the time of annexation had the property not received the exemption would be added to the base at the time the exemption expires, while any remaining taxable value would be added to the increment. If the exemption has been granted in part, the adjustments provided in this subparagraph shall only apply to the portion of the property granted the exemption.

(3-26-19)

e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property shall be considered removed only under the conditions described in the following subsections.

(4-5-00)

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0).

(4-5-00)

ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA or any of the personal property associated with a parcel becomes exempt. In the case of exemption applying to personal property, the downward adjustment will first be applied to the increment value and then, if the remaining taxable value of the parcel is less than the most current base value, to the base value. Assume, for example that a parcel consists entirely of personal property with a base value of twenty thousand dollars (\$20,000) and an increment value of ninety thousand dollars (\$90,000). The next year the property receives a one hundred thousand (\$100,000) personal property exemption. The increment value is reduced to zero and the base value is reduced to ten thousand dollars (\$10,000).

(4-11-15)

iii. For operating property, any of the property under a given ownership is removed from the RAA.

(4-5-00)

f. Adjustments to base value for annexation. When property is annexed into an RAA, the base value in the RAA shall be adjusted upwards to reflect the value of the annexed property as of January 1 of the year in which the annexation takes effect. As an example, assume that parcels with current taxable value of one million dollars (\$1,000,000) are annexed into an RAA with an existing base value of two million dollars (\$2,000,000). The base value of the RAA is adjusted upwards to three million dollars (\$3,000,000).

(4-11-15)

g. Adjustments to increment values. In addition to the adjustment illustrated in Subparagraph 804.02.e.ii. of this rule, decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars (\$100,000) decreases in value to ninety-five thousand dollars (\$95,000), but later increases to ninety-eight thousand dollars (\$98,000), an increment value of three thousand dollars (\$3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars (\$102,000) after the decrease to ninety-five thousand dollars (\$95,000), the increment value would be seven thousand dollars (\$7,000).

(4-11-15)

h. Apportioning operating property values. For operating property, the original base value shall be apportioned to the RAA on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value shall be adjusted as required under Section 50-2903, Idaho Code.

(4-5-00)

03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts. Beginning in 2008, levies shall be computed in one (1) of two (2) ways as follows:

(5-8-09)

a. For taxing district or taxing unit funds other than those meeting the criteria listed in Subsection 804.05 of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the

taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district or unit is one hundred million dollars (\$100,000,000) but fifteen million dollars (\$15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's or unit's budget by eighty-five million dollars (\$85,000,000). (5-8-09)

b. For taxing district or taxing unit funds meeting the criteria listed in Subsections 804.05 and 804.07 of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. Given the values in the example in Paragraph 804.03.a. of this rule, the levy would be computed by dividing the property tax portion of the fund by one hundred million dollars (\$100,000,000). (3-28-18)

04. Modification of an Urban Renewal Plan. Except when inapplicable as described in Paragraphs 804.04.a, b, or c, of this rule, when an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision, for the tax year immediately following the year in which the modification occurs, the base value of property in the RAA shall be reset by being adjusted to reflect the current taxable value of the property. All modifications to boundaries of RAAs must comply with the provisions of Rule 225 of these rules. (3-29-17)

a. Modification by consolidation of RAAs. If such modification involves combination or consolidation of two (2) or more RAAs, the base value shall be determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current taxable value of property in an area not previously included in any RAA shall be added to determine the total current base value for the consolidated RAA. (4-5-00)

b. Modification by annexation. (5-8-09)

i. If an RAA is modified by annexation, the current taxable value of property in the area annexed shall be added to the most current base value determined for the RAA prior to the annexation. (5-8-09)

ii. For levies described in Paragraphs 804.05.b., c., or d. of this rule approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. The example below shows the value to be used for setting levies for various funds within an urban renewal district "A" that annexes area "B" within a school district. Area (B) was annexed after December 31, 2007. Therefore, the Area (B) increment was added back to the base for all funds shown except the tort fund. The Area (A) increment value was added back to the base for the bond and override funds which were certified or passed after December 31, 2007.

2009 Value Table	School District (base only)	\$500 Million
	RAA (A) increment	\$40 Million
	RAA annexation (B) increment	\$10 Million

<p>School District Area \$500 M base</p> <p>2008 RAA Annexation (B) \$10 M Increment</p> <p>Pre 2008 RAA (A) Boundaries \$40 M Increment</p>	2009 School Levies	
	Fund	Value for Setting Levies \$ Millions
	Tort	500
	2001 Plant	510
	2008 Bond (Passed and first levied in 2008)	550
2009 Supplemental	550	

(3-29-17)

iii. An annexation permitted pursuant to section 50-2033, Idaho Code, to an RAA in existence prior to July 1, 2016 shall not change the status of the urban renewal agency or the RAA and its related plan regarding inapplicability of the base reset or attestation provisions found in section 50-2903A, Idaho Code. (3-29-17)

c. Other modifications – attestation requirements. Modification resulting in adjustment of base value to reflect the current taxable value of the property within the RAA shall not be deemed to have occurred when the urban renewal agency attests to having made no modifications to a plan or is not required to attest to plan modifications. Certain urban renewal agencies are required to attest annually to having made or not made plan modifications. These include: (3-29-17)

i. Urban renewal agencies that establish new RAAs on or after July 1, 2016, provided however that such agencies are only required to attest to having made or not made modifications with regard to any new RAA. (3-29-17)

ii. Urban renewal agencies that enact new plans including an RAA on or after July 1, 2016. (3-29-17)

d. Modifications when there is outstanding indebtedness. When any urban renewal agency attests to having had a plan modification that is not an exception identified in Paragraphs 804.04.a. or b. or c. of this rule or fails to provide the required attestation, the base value will be determined without regard to the modification, provided that the agency certifies to the State Tax Commission by June 30 of the tax year that there is outstanding indebtedness as defined in Section 50-2903A(2), Idaho Code. In this case, the allocation of revenue to the urban renewal agency shall be limited to the amount certified as necessary to pay the indebtedness. Any additional revenue shall be distributed to each taxing district or unit in the same manner as property taxes. Such revenue shall be treated as property tax revenue for the purpose of the limitations in Section 63-802, Idaho Code. The county clerk will notify the Tax Commission of the amount so distributed for each year beginning July 1 of the prior year and ending June 30 of the current tax year. (3-28-18)

e. Failure to submit attestation regarding plan modification. For any urban renewal agency subject to the requirements of Section 50-2903A, Idaho Code, attestation of plan modification or attestation that there has been no plan modification is required to be made to the State Tax Commission by the first Monday of June each year. Except as provided in Paragraph 804.04.d. of this rule, if such agency fails to provide the required attestation, the State Tax Commission will proceed to reset the base value or limit allocation of property tax to the urban renewal agency as otherwise required in Section 50-2903A, Idaho Code. Provided there is no new plan, an urban renewal agency with a plan including one or more revenue allocation financing provisions (RAAs) in existence prior to July 1, 2016 shall only be required to provide this attestation or be subject to base resetting or other limitations for failure to submit this attestation with respect to new RAAs formed on or after July 1, 2016. If such an agency develops a new plan, on or after July 1, 2016, or provides for a new RAA under an existing plan, the agency shall be subject to the attestation requirements and other provisions of Section 50-2903A, Idaho Code, with respect to any RAAs formed July 1, 2016 or later. (3-28-18)

f. Notice of actions related to base reset or revenue allocation limitations. (3-29-17)

i. The *State* Tax Commission will notify any urban renewal agency within thirty (30) days of the time the *State* Tax Commission receives an attestation that an urban renewal plan has been modified, or by July 30 in any year in which an attestation is required but none is received, of the *State* Tax Commission's intent to initiate the process to reset the base value in the following tax year. Said notice will be provided to affected county commissioners and city officials. (~~3-29-17~~)()

ii. In the case of base reset due to failure to attest to a modification or to having made no modification in an urban renewal plan, despite being required to provide this attestation, the agency and county and city officials will be so notified and will be given an opportunity to provide the necessary attestation. This further notice will provide that, if the *State* Tax Commission has not received the attestation by December 31 of the tax year, the base will be reset in the immediate following year. (~~3-29-17~~)()

iii. In the case of a revenue allocation limitation pursuant to Section 50-2913, Idaho Code, notice will be provided to the agency, county, and city officials including the county assessor and county clerk, within thirty (30) days of the due date of the plan or plan update. (3-29-17)

iv. In the case of a revenue allocation limitation due to a plan modification but outstanding indebtedness, notice will be provided to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of receipt by the *State* Tax Commission of the certification of the amount needed to repay the indebtedness. (~~3-29-17~~)()

v. Once decisions about base reset or revenue allocation limitations are final, additional notice will be sent to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of any such final decision. Said notice will include an identification of the year in which the reset or revenue allocation limitation will take effect and the amount of any revenue allocation limitation. (3-29-17)

05. Criteria for Determining Whether Levies for Funds Are to Be Computed Using Base Value or Market Value for Assessment Purposes. Beginning in 2008, levies to be certified for taxing district or unit funds meeting the following criteria or used for any of the following purposes will be computed as described in Paragraph 804.03.b. of this rule. (5-8-09)

a. Refunds or credits pursuant to Section 63-1305, Idaho Code, and any school district judgment pursuant to Section 33-802(1), Idaho Code, provided the refunds, credits, or judgments were pursuant to actions taken no earlier than January 1, 2008; (5-8-09)

b. Voter approved overrides of the limits provided in Section 63-802, Idaho Code, provided such overrides are for a period not to exceed two (2) years and were passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

c. Voter approved bonds and plant facilities reserve funds passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

d. Voter approved school or charter school district temporary supplemental maintenance and operation levies passed after December 31, 2007; or (3-29-10)

e. Levies described in Paragraphs 804.05.b., c., or d. approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007; (3-29-10)

f. Levies authorized by Section 33-317A, Idaho Code, known as the cooperative service agency school plant facility levy. (3-29-10)

g. Levies authorized by Section 33-909, Idaho Code, known as the state-authorized plant facility levy. (4-11-15)

- h. Levies authorized by Section 33-805, Idaho Code, known as school emergency fund levy. (3-29-17)

06. Setting Levies When There is a De-annexation From an RAA. In any de-annexation from an RAA, levies will be set using the base value and, as indicated in Subsection 804.05 of this rule, the appropriate amount of increment value associated with the parcels and operating property remaining in the RAA after the de-annexation, provided that the de-annexation is in effect no later than September 1 of the current tax year and provided further that the de-annexation is approved by the *State* Tax Commission in accordance with Section 225 of these rules. (~~3-29-17~~) ()

07. Setting Levies When There is a Refinancing of Bonded Indebtedness. Refinancing of bonded indebtedness in existence as of December 31, 2007 does not create new bonded indebtedness for any taxing district with respect to the levy setting criteria in Subsection 804.05 of this rule. (3-28-18)

08. Cross Reference. The county auditor shall certify the full market value by taxing district as specified in Rule 995 of these rules. See also Rule 802 of these rules for calculation of new construction given de-annexation from an RAA and see Rule 805 of these rules for penalties for failure to submit plans. (3-29-17)

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1905
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 63-105A, 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 October 16, 2019.

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:

Rules 613 and 614 – Current law requires the assessor to utilize an income approach to value when assessing agricultural land. The calculations can be difficult and require additional examples to ensure equitable application when county assessors administer existing statute. A citizen petitioner requested we amend these companion rules to ensure fair and equitable assessments for farmers. These two rules will be eliminated and a new Rule, 617, will combine the two.

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 June 5, 2019 Idaho Administrative Bulletin, [Vol. 19-6, page 92](#).

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, (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 October 23, 2019.

Dated this 2nd day of October, 2019.

Alan Dornfest
Property Tax Policy Bureau Chief
State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
Fax: (208) 334-7844
Alan.Dornfest@tax.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1905
(Only Those Sections With Amendments Are Shown.)

~~613. PROPERTY EXEMPT FROM TAXATION — SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND (RULE 613).~~

~~Section 63-602K, Idaho Code~~

~~01. Definitions. (4-5-00)~~

~~a. Taxable Value of Agricultural Land. The taxable value of agricultural land shall be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-602K, Idaho Code, plus a component for the local tax rate. The component for local taxes achieves the necessary allowance for the expense of property taxes. (4-5-00)~~

~~b. Speculative Portion. The speculative portion is the difference between the current market value and the taxable value of agricultural land. The market value of agricultural land is established from market sales of similar land. (4-5-00)~~

~~c. Economic Rent. Economic rent is the average gross income per acre received by a landlord from either a cash rent or crop share rental agreement. The rent attributable to exempt irrigation equipment is not included in economic rent. Only the rent solely attributable to the agricultural land is included in economic rent. (4-7-11)~~

~~d. Net Income. Net income is determined by deducting the landlord's share of current expenses from economic rent per acre. (4-5-00)~~

~~02. Calculation of Net Income from Cash Rent. Net income from cash rent is calculated in the following manner. (4-5-00)~~

~~a. Crops Grown. Determine the crops typically grown in the area. (4-5-00)~~

~~b. Economic Rent. Determine the average per acre gross income from individual crop rents typical to the area over the immediate past five (5) years. (4-5-00)~~

~~c. Landlord's Expenses. Determine the landlord's share of typical contracted expenses paid in the immediately preceding growing season. (4-5-00)~~

~~d. Landlord's Net Income. Subtract the landlord's share of typical contracted expenses from the average gross income per acre for the immediately preceding growing season to determine net income. (4-5-00)~~

~~03. Calculation of Net Income from Crop Share Rent. Net income from crop share rent is calculated in the following manner. (4-5-00)~~

~~a. Crops Grown. Determine the crops typically grown in the area. (4-5-00)~~

~~b. Average Crop Production. Determine average crop production per acre based on the most recent five (5) years. (4-5-00)~~

~~c. Average Commodity Prices. Determine average commodity prices based on the most recent five (5) years. (4-5-00)~~

~~d. Gross Income. Multiply average crop production per acre times the average commodity price to determine gross income per acre. (4-5-00)~~

~~e. Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the area. (4-5-00)~~

~~f. Expenses. Determine the landlord's share of water, fertilizer, chemical, seed and harvest cost per acre for the immediately preceding growing season. (4-5-00)~~

~~g. Net Income. Subtract the landlord's share of expenses from the landlord's share of gross income to determine net income. (4-5-00)~~

~~04. Determination of Five Year Average Crop Prices. The State Tax Commission shall determine five (5) year average crop prices to be used in determining net income by surveying publicly available data from various sources, including the annual crop summary published by the Idaho Agricultural Statistics Service. Average crop prices determined in this manner by the State Tax Commission should be considered guidelines subject to modification based on local market data. (4-6-05)~~

~~05. Farm Credit System Interest Rate. Annually, the State Tax Commission shall calculate the five (5) year rolling average Farm Credit System interest rate (FCSIR). Using the twenty (20) year fixed rate interest rates received bi-monthly from Northwest Farm Credit Services in Spokane, Washington, calculate the average Farm Credit System interest rate for the prior year applying the formula in Paragraph 613.05.a. of this rule. Calculate the five (5) year rolling average Farm Credit System interest rate applying the formula in Paragraph 613.05.b. of this rule. (3-30-07)~~

~~a. Formula for Calculating Average Farm Credit System Interest Rate for Prior Year. $FCSIR5 = (R1 + R2 + R3 + R4 + R5 + R6 + R7 + R8 + R9 + R10 + R11 + R12) / 12$.~~

FCSIR5	is the average Farm Credit System interest rate for the prior year.
R1	is the interest rate received for January of the prior year.
R2	is the interest rate received for February of the prior year.
R3	is the interest rate received for March of the prior year.
R4	is the interest rate received for April of the prior year.
R5	is the interest rate received for May of the prior year.
R6	is the interest rate received for June of the prior year.
R7	is the interest rate received for July of the prior year.
R8	is the interest rate received for August of the prior year.
R9	is the interest rate received for September of the prior year.
R10	is the interest rate received for October of the prior year.

R11	is the interest rate received for November of the prior year.
R12	is the interest rate received for December of the prior year.

(3-30-07)

~~b. Formula for Calculating Five (5) Year Rolling Average Farm Credit System Interest Rate. $FCSIR = (FCSIR1 + FCSIR2 + FCSIR3 + FCSIR4 + FCSIR5) / 5$.~~

FCSIR5	is the average Farm Credit System interest rate for the prior year.
FCSIR4	is the average Farm Credit System interest rate for two (2) years ago.
FCSIR3	is the average Farm Credit System interest rate for three (3) years ago.
FCSIR2	is the average Farm Credit System interest rate for four (4) years ago.
FCSIR1	is the average Farm Credit System interest rate for five (5) years ago.

(3-30-07)

~~06. Notification. In addition to providing notification of the Farm Credit System interest rate, the State Tax Commission will annually notify each county assessor of the most recent five (5) year average crop prices for the state.~~ (4-6-05)

~~07. Cross Reference. For agricultural land taxable value calculation examples, see Rule 614 of these rules. For eligibility criteria, see Rule 645 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules.~~ (3-30-07)

~~614. SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND—EXAMPLES (RULE 614). Sections 63-602K and 63-604, Idaho Code. The following examples show calculations for the taxable value of agricultural land. The example in Subsection 614.01 of this rule shows one (1) calculation of an average property tax rate, the example in Subsection 614.02 of this rule shows one (1) calculation of a capitalization rate (cap rate), the example in Subsection 614.03 of this rule shows calculations using cash rent agreements, and the example in Subsection 614.04 of this rule shows calculations using crop share agreements. The choice to use cash rent or crop share analysis in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available and the analysis that produces the most reliable and supportable value conclusion.~~ (4-7-11)

~~01. Average Property Tax Rate Calculation Example.~~

	Tax Code Areas	Property Tax Rates
	8	1.1323951%
	9	1.1186222%

	Tax Code Areas	Property Tax Rates
	10	1.1226782%
	11	1.1714841%
	12	1.1674300%
	13	1.0602041%
	15	1.1603100%
	16	1.1323951%
	17	1.1323951%
Average Property Tax Rate		1.1341015%

(3-30-07)

02. Capitalization Rate Calculation Example.

Average Property Tax Rate	1.13%
5-Year Average Farm Credit Bank Interest Rate	8.22%
Total Capitalization Rate (Cap Rate)	9.35%

(3-30-07)

03. Cash Rent Agreement Calculation Example.

Crops	Contract Rents Per Acre (Land Only)	Rotation In-Percent	Weighted Income Per Acre
Barley	\$100.00	14.42%	\$14.42
Beans	\$100.00	22.46%	\$22.46
Beets	\$170.00	20.33%	\$34.56
Corn/Grain	\$100.00	0.00%	\$0.00
Corn/Silage	\$110.00	0.00%	\$0.00
Hay/Alfalfa	\$120.00	21.32%	\$25.58
Potatoes	\$200.00	0.00%	\$0.00
Wheat	\$100.00	21.48%	\$21.48
Peas	\$125.00	0.00%	\$0.00
Oats	\$110.00	0.00%	\$0.00
<i>Total Income Per Acre</i>			\$118.50

Value per acre equals net income per acre divided by Cap rate:

Total Income Per Acre	\$118.50
Less Water Costs	\$23.00
Less Management (@ 5%)	\$5.93

Net Income Per Acre	\$88.57
Cap Rate	9.35%
Value Per Acre	\$958

(4-7-11)

04. Crop Share Agreement Calculation Example:

Crop	Yield	Price	Gross Income	Landlord Share	Landlord Share Gross Income to Land	Rotation Percent	Per Acre Share of Gross Inc. to Land
Barley	100.00	\$2.83	\$283.00	33.33%	\$94.32	14.42%	\$13.60
Beans	20.00	\$21.20	\$424.00	33.33%	\$141.32	22.46%	\$31.74
Beets	23.00	\$39.74	\$914.02	25.00%	\$228.51	20.33%	\$46.46
G/Corn	0.00	\$3.22	\$0.00	33.33%	\$0.00	0.00%	\$0.00
S/Corn	0.00	\$24.40	\$0.00	33.33%	\$0.00	0.00%	\$0.00
Hay	5.50	\$84.10	\$462.55	50.00%	\$231.28	21.32%	\$49.31
Potatoes	0.00	\$4.74	\$0.00	25.00%	\$0.00	0.00%	\$0.00
Wheat	98.00	\$3.73	\$365.54	33.33%	\$121.83	21.48%	\$26.17
Peas	0.00	\$8.68	\$0.00	33.33%	\$0.00	0.00%	\$0.00
Oats	0.00	\$1.66	\$0.00	33.33%	\$0.00	0.00%	\$0.00
<i>Total Income Per Acre</i>						100.00%	\$167.28

Value per acre equals net income per acre divided by Cap rate:

Total Income Per Acre \$167.28		Expenses
	=	
Water	=	\$23.00
Fertilizer	=	\$14.77
Chemicals	=	\$9.04
Seed	=	\$2.05
Management	=	\$8.36
Harvest	=	\$14.67
Total Expense Per Acre	=	\$71.89
Net Income	=	\$95.39
Cap Rate	=	9.35%
Value Per Acre	=	\$1,020

(4-7-11)

05. Cross Reference. For definitions and general principles relating to the taxable value of land actively devoted to agriculture, see Rule 613 of these rules. For eligibility criteria, see Rule 645 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

616.—~~617.~~ (RESERVED)

617. AGRICULTURAL LAND VALUATION DEFINITIONS AND GUIDELINES.
Section 63-602K, Idaho Code

01. Definitions. ()

a. Actual Use Value of Agricultural Land. The actual use value of agricultural land will be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-602K, Idaho Code, plus a component for the local tax rate. The Actual Use Value will be considered market value for assessment purposes. ()

b. Economic Rent. Economic rent is the average gross income per acre received by a landlord from either a cash rent or crop share rental agreement. Only the rent solely attributable to the agricultural land is included in economic rent. ()

c. Net Income (Rent). Net income is determined by deducting the landlord's share of all typical current expenses from economic rent per acre. ()

d. Agricultural Area. An identifiable geographical area of similar agricultural land. ()

02. Determination of Average Crop Rental Rates. ()

a. Determine the average per acre gross income from individual crop cash rents, whole farm cash rents, or crop share typical to the Agricultural Area over the immediate past five (5) growing seasons as reported by local farmers. ()

b. If data from local farmers is insufficient, data typical to the Agricultural Area from third party providers such as the United States Department of Agriculture (USDA), University of Idaho Crop Enterprise Budgets, or similar sources may be used. ()

c. The choice to use cash rent or crop share analysis in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available when developing a supportable value conclusion. ()

03. Determination of Farm Credit System Capitalization Rate. ()

a. The State Tax Commission will gather the interest rate data from the Spokane office of the farm credit system and average the rate over the immediate past five (5) years and distribute the rate annually to assessors by the second Monday in September. ()

b. The local tax rate component is the rate most applicable to the Agricultural Area. ()

c. The local tax rate will be added to the farm credit system capitalization rate to develop the overall capitalization rate. ()

04. Calculation of Net Income from a Cash Rent Analysis. Net Income from cash rent for land secondary categories 1 and 3 is calculated in the following manner: ()

a. Crops Grown. Determine the crops typically grown in the area. ()

b. Economic Rent. Determine the average per acre gross income from individual crop rents or whole

farm cash rents typical to the Agricultural Area over the immediate past five (5) years. ()

c. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. ()

d. Landlord's Net Income. Subtract the landlord's share of all typical expenses from the average gross income per acre for the immediately preceding year to determine net income. ()

05. Calculation of Net Income from a Crop Share Analysis. Net income from crop share rent for secondary land categories 1 and 3 is calculated in the following manner: ()

a. Crops Grown. Determine the crops typically grown in the Agricultural Area. ()

b. Average Crop Production. Determine the most recent five (5) year average production for typical crops grown in the Agricultural Area. ()

c. Average Commodity Prices. The Tax Commission will publish five (5) year average crop prices by surveying publicly available data from various sources, including the annual crop summary published by the Idaho Agricultural Statistics Service. Average crop prices determined in this manner by the Tax Commission should be considered guidelines when determining net income, subject to modification based on local market data. ()

d. Gross Income. Multiply average crop production per acre by the average commodity price to determine gross income per acre. ()

e. Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the Agricultural Area. ()

f. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. ()

g. Net Income. Subtract the landlord's share of all typical expenses from the landlord's share of gross income to determine net income. ()

06. Calculation of Grazing and Meadow Land Net Income. Net income from grazing and meadow rent for land secondary categories 2, 4, and 5 is calculated in the following manner: ()

a. Determine the income for a price per Animal Unit Month (AUM). An AUM consists of the feed per month for a one thousand (1,000) pound cow-calf pair or other animal equivalent. ()

b. Determine the gross yearly income of an AUM by multiplying the five (5) year average of locally reported rent per AUM or third-party provider equivalent by the average number of months of the grazing season. ()

c. Divide the total acres grazed by the total number of cow-calf pairs, or other animal equivalent, to determine the number of acres making up an AUM. ()

d. Divide the income per AUM by the number of acres per AUM to determine a gross annual income per acre. ()

e. Subtract landlord's typical expenses from the immediately preceding year to determine net income per acre. ()

07. Calculation of Value Estimate per Acre to be used for Categories 1-5. Divide the Net Operating Income by the overall capitalization rate to calculate a value estimate per acre. ()

08. Cross Reference. For eligibility criteria, see Rule 645; for compliance standards, see Rule 131. ()