

MINUTES  
**HOUSE REVENUE & TAXATION COMMITTEE**

**DATE:** Tuesday, March 05, 2013

**TIME:** 9:00 A.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Collins, Vice Chairman Wood(35), Representatives Barrett, Moyle, Raybould, Denney, Anderson(31), Anderst, Dayley, Hartgen, Kauffman, Patterson, Trujillo, Burgoyne, Erpelding, Meline

**ABSENT/  
EXCUSED:** None.

**GUESTS:** Brad Wills, Developers; Brent Adamson, Idaho Association of Counties; Gene Kuehn, Canyon County Assessor; N.L. Clayville, DFM, Steve Cope, SKC, Inc.; Mike Chakarun, Idaho State Tax Commission; Donna Yule, IPEA; Tyler Mallard, Risch Pisca; David Turnbull, Brighton Corporation; Brad Miller, Van Auker Properties; John Eaton, Realtors; Jayson Ronk, Idaho Association of Commerce & Industry; Jeremy Pisca, Risch Pisca.

**Chairman Collins** called the meeting to order at 9:00 a.m.

**MOTION:** **Rep. Burgoyne** made a motion to approve the minutes of March 4, 2013. **Motion carried by voice vote.**

**H 242:** **Rep. Hartgen** presented **H 242** which would amend **Idaho Code 63-602W** related to Business Inventory Exempt From Taxation. This legislation would provide clarification in determining property tax exemption for site improvements made to real property, by developers, until the property is conveyed from the developer or building of a structure begins. Undeveloped land that moves into an improved stage by the developer, having no source of income or permanent structure, the land is then assessed as having an increased value. There is inconsistency throughout the various counties as to how the assessment is calculated. In cases where the market value of the land without site improvements cannot be determined, due to a lack of comparable value, the exemption value of 75% of market value of land with site improvements will be used.

**Rep. Hartgen** introduced **Brad Wills**, Twin Falls land developer and representing 120 various land developers in Idaho. Mr. Wills is also a member of Idaho Builders Association. Mr. Wills is seeking clarification of **H 519** passed in 2012 and is in **support of H 242**. Idaho does not tax business inventory and a product is not taxed until the time of sale. Mr. Wills stated taxing land with underground improvements is the same as taxing inventory. He has met with county representation, assessors and developers and discussion focused on two major issues; defining a land developer and eligibility. Mr. Wills' position is that the exemption should be removed when the land is conveyed from the land developer to a third party or when a building is constructed. He stated there is a need for a clear understanding on how to value the exemption and how an appeal is handled. Currently, there is no consistency and each county is handling it differently. Generally, taking an appeal to the Board of Equalization (BOE) is a first step before an appeal can be heard by the Board of Tax Appeals (BOTA). The taxpayer needs to have the option to appeal either the exemption itself or the value of the assessment with a consistent process.

In response to a question, **Mr. Wills** clarified that conveyance to a third party is transfer to an entity that is not the land developer. County assessors have communicated that this legislation is not clear and out of the 44 counties, some support this legislation and some do not. Mr. Wills believes that this legislation provides the clarification needed. **Reps. Burgoyne** and **Anderson** invoked **Rule 38** and stated they intend to vote.

**Mr. Wills** responded to a question stating the appeal application goes to the county auditor or commissioner, not the assessor for initial appeal. Mr. Wills stated he has worked all of last year with the County Assessors Association and despite many conversations, they have agreed to disagree.

**Brent Adamson**, Boise County Assessor, Vice Chair of IAC Legislative Committee, stated that assessors typically don't like any exemptions. In 2012 **H 519** passed in spite of opposition by the county assessors. IAC and county assessors agree that the conveyance language does need to be changed to improve the current legislation. Bare land that has gone through the subdivision process has a different value than raw land. The assessment process is driven by statute. The arbitrary value of 75% exemption value is problematic, does not clarify current law, and creates more problems. Mr. Adamson feels the bill could be improved with a sunset clause.

**Gene Kuehn**, Canyon County Assessor and Chair of Assessors Association Rules Committee testified in **opposition to H 242**. Mr. Kuehn stated the 75% is arbitrary and does not believe it is equitable. In response to a question regarding a tax shift from land in development to other taxpayers, especially for things like school bonds, Mr. Kuehn stated it does shift the tax burden. In Canyon County last year, there was \$7.2 million in value 'taken off the books' and shifted to other taxpayers.

Appeals in valuation of property in Canyon County are permitted to go directly to the BOTA. **Mr. Kuehn** stated if there is property value on the books and that value is removed, the income generated through taxes paid will shift to other taxpayers. In response to a question, Mr. Kuehn clarified that even when an adjustment is made to the budget, a tax shift still occurs, but the percentage may be less. Farm land has a value and when sold the value doesn't change until the use changes. When the roads go in, lots are created, and building permits are granted, the land is now ready to be developed. With these changes, the land is now compared to other developed lots in order to come up with a comparable value. Site improvements such as streets, curbs, gutter power are not individually assessed but are considered as having a contributory value. The improvements contribute value to the land, even if there is no building.

**Steve Cope**, SKC Inc. spoke in **support of H 242**. Mr. Cope has previously gone through the appeal process with Canyon County and believes some kind clarity and rule is needed. SKC has had property assessed in excess of \$75,000 per acre, even with the 30% exemption. That assessment does not reflect a realistic market value. Mr. Cope has been before both the BOE and BOTA with appeals and believes that there is a need to be able to limit the valuation of assessments. Mr. Cope stated in the past, even when taxing the value of land with entitlements, he has never paid more than \$25,000 per acre, and that was in 'good times'. There is inconsistency between counties and Mr. Cope would like to see a straight market value, however, he feels he has not gotten anywhere in his year long discussions with Canyon County.

**David Turnbull**, President, Brighton Corp. spoke in **support of H 242** and believes **H 519** is working. He complimented Ada County for their efforts in working with developers. Ada County arrived at a 75% exemption on residential ground in development. Mr. Turnbull stated if property is assessed phase by phase, the valuation process gets complicated. He stated that conveyance is not sequential and that a third party is an unrelated party. If property is transferred to an unrelated party, that is when the exemption would cease. Mr. Turnbull believes that county assessors should apply and not set policy. If a reverse argument was used on the issue of tax shift, for years the homeowners exemption enjoyed by residential owners has essentially shifted the tax burden to businesses. Idaho should be looking for what is best to grow the general economy.

**Brad Miller**, Van Auker Properties of Meridian, stated that Ada County did an excellent job in implementing **H 519** but acknowledges that it does vary county by county. The market value of raw land and market value of finished lots is different. It is Mr. Miller's past experience that upon transfer of property from an individual to an LLC, all exemptions were lost due to the unclear language in the current law. Mr. Miller spoke to the issue of tax shift stating if the issue was finished lots, the tax shift argument could be made. However, it is more accurate to look at the future value, since the lots are in the development process. If lots sit vacant, there is no shift, as the assessed value is not being reduced. In response to a question, Mr. Miller stated with the changes in **H 242**, Van Auker Properties would be better off, as they would be eligible for exemptions previously lost. The goal is to have finished lots, that are ready to go and be sold quickly. If they are assessed at full value, they are less likely to have those lots ready for development since the tax burden would be greater. Mr. Miller responded to a question, saying it is his belief **H 242** does not provide a new exemption but clarifies how the current exemption should work.

**Jeremy Pisca**, attorney with Risch Pisca, and representing the Idaho Building Contractors Association spoke in **support of H 242**. Mr. Pisca stated simply because infrastructure like roads are in place does not automatically increase the value. Typically, there are not additional services provided because of the improvements. Some counties have implemented **H 519** the way it was intended, and it is working for them. There are also a number of counties who did not implement in the same way, and this has caused problems. In attempting to get resolution, Mr. Pisca has met with the Idaho State Tax Commission and the assessors. Mr. Pisca stated in his opinion there was not an intent to help or clarify but just to delay. When there is no comparable market value, developers have been asked to 'open up their books' and show the amount of investment spent on site improvements. That is not the way valuation is assessed.

In response to a question, **Mr. Pisca** stated he does not have an opinion on whether **H 242** would violate current law. This is not an exemption that is intended to be more difficult and whether or not **H 242** is passed, some clarification is essential. In response to a question, Mr. Pisca did clarify that once the site is built up or sold to a third party, the exemption goes away. The exemption would only be applied to bare land that has subsurface improvements in place.

**Tony Poinelli**, Idaho Association of Counties, responded to a question regarding whether **H 242** violates current **Idaho Code 63-205** stating that Idaho is a market value state and specifying a percentage of the exemption would be a violation. Mr. Poinelli believes the 75% exemption was arrived at by taking an average of statewide actual.

**Mr. Wills** clarified that this legislation is a Business Inventory Exempt From Taxation, not a developers discount. Mr. Wills stated the 75% exemption rate did not come as a suggestion from the counties.

**MOTION:** **Rep. Barrett** made a motion to send **H 242** to the floor with a **DO PASS** recommendation.

**SUBSTITUTE MOTION:** **Rep. Wood(35)** made a substitute motion to **HOLD H 242** in committee for further clarification.

**Rep. Anderst** invoked **Rule 38** and stated he intended to vote.

**ROLL CALL VOTE ON THE SUBSTITUTE MOTION:** Roll call vote was requested. **Motion failed by a vote of 7 AYE, 8 NAY, 1 Absent/Excused. Voting in favor** of the motion: **Reps. Wood(35), Raybould, Denney, Dayley, Kauffman, Trujillo, Erpelding. Voting in opposition** to the motion: **Reps. Barrett, Anderson(31), Anderst, Hartgen, Patterson, Burgoyne, Meline, Collins. Rep. Moyle** was absent/excused.

**VOTE ON THE MOTION:** **Chairman Collins** called for a vote on the original motion to send **H 242** to the floor with a **DO PASS** recommendation. **Motion carried by voice vote. Reps. Wood(35), Trujillo, Meline, and Kauffman** requested to be recorded as voting **NAY. Rep. Hartgen** will sponsor the bill on the floor.

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 10:41 a.m.

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Representative Collins  
Chair

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Kathleen A. Simko  
Secretary