

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 2

BY ESKRIDGE AND ANDERSON

AN ACT

1 RELATING TO PROPERTY TAX; AMENDING CHAPTER 6, TITLE 63, IDAHO CODE,
2 BY THE ADDITION OF A NEW SECTION 63-602MM, IDAHO CODE, TO
3 EXEMPT FROM THE PROPERTY TAX ANY INCREASE IN EXCESS OF THREE
4 PERCENT PER YEAR IN THE NET TAXABLE VALUE OF REAL PROPERTY
5 OR OPERATING PROPERTY OF A TAXPAYER, TO PROVIDE TAX YEAR 2007
6 AS THE BASE YEAR, TO PROVIDE THE EFFECT OF A CHANGE OF TAX
7 STATUS OR TAX EXEMPTION, TO PROVIDE DEFINITIONS, TO PROVIDE
8 PROCEDURES FOR PERSONS ACTING IN CONCERT, TO PROVIDE THAT THE
9 PROPERTY INCLUDED IN THE CALCULATION OF THE EXEMPTION SHALL
10 INCLUDE EACH PARCEL OF REAL PROPERTY OWNED BY THE TAXPAYER, TO
11 PROVIDE WHEN A SALE OR TRANSFER SHALL NOT BE DEEMED TO HAVE
12 OCCURRED, TO PROVIDE CIRCUMSTANCES WHEN PROPERTY ACQUIRES
13 A NEW TAXABLE VALUE, TO PROVIDE THAT THE EXEMPTION DOES NOT
14 APPLY TO FOREST LANDS, TO PROVIDE THAT THE LEGISLATURE DECLARES
15 THE EXEMPTION NECESSARY AND JUST AND TO PROVIDE FOR RULES;
16 DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.
17

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

19 SECTION 1. That Chapter 6, Title 63, Idaho Code, be, and the same is hereby
20 amended by the addition thereto of a NEW SECTION, to be known and designated as Section
21 63-602MM, Idaho Code, and to read as follows:

22 63-602MM. PROPERTY EXEMPT FROM TAXATION – NET TAXABLE VALUE
23 INCREASES ABOVE A CERTAIN PERCENTAGE. (1) Any increase in excess of three
24 percent (3%) per year in the net taxable value of real property or operating property, based
25 on the property’s taxable value for tax year 2007, shall be exempt from property taxation and
26 any special assessment as long as the taxpayer continues to own the property and the property
27 continues to maintain its tax exemption or tax status. If a property’s tax exemption or tax status
28 changes during a year, the owner of the property shall be liable to have the property valued and
29 taxed according to fair market value. If the taxable value of real property or operating property
30 increases less than three percent (3%) in a year, then the value of the real property or operating
31 property shall be increased by the amount that the assessment increased. "Sale" or "transfer"
32 means any conveyance of title to real property or operating property, or any estate or interest
33 therein, for a consideration, and any contract for such conveyance. The term "sale" or the
34 term "transfer" also includes the grant, assignment, quitclaim, sale or transfer of improvements
35 constructed upon leased land. The term "sale" or the term "transfer" also includes the transfer
36 or acquisition within any twelve (12) month period of a controlling interest in any entity with
37 an interest in real property or operating property located in this state for a consideration. For
38 purposes of this section all acquisitions by persons acting in concert shall be aggregated for

1 purposes of determining whether a transfer or acquisition of a controlling interest has taken
2 place. The state tax commission shall promulgate rules to determine when persons are acting
3 in concert. In adopting a rule for this purpose, the state tax commission shall consider the
4 following:

5 (a) Persons shall be treated as acting in concert when they have a relationship with
6 each other such that one (1) person influences or controls the actions of another through
7 common ownership; and

8 (b) When persons are not owned or controlled through common ownership, they shall
9 be treated as acting in concert only when the entity, with which the purchasers have
10 negotiated and will consummate the transfer of ownership interest, supports a finding that
11 they are acting as a single entity.

12 If the acquisitions are completely independent, with each purchaser buying without regard
13 to the identity of the other purchasers, then the acquisitions shall be considered separate
14 acquisitions.

15 (2) As used in this section, a sale or transfer of property shall not be deemed to have
16 occurred if the following happens:

17 (a) A transfer of a mortgage or other interest in real property or operating property
18 merely to secure a debt, or the assignment thereof;

19 (b) A transfer of title to or from the United States, any territory or state or any agency,
20 department, instrumentality or political subdivision thereof;

21 (c) A transfer of title between spouses, including gifts;

22 (d) A transfer of title between former spouses in compliance with the decree of divorce;

23 (e) Transfers, assignments or conveyances of unpatented mines or mining claims;

24 (f) A transfer, assignment or other conveyance of real property or operating property to
25 a corporation or other business organization if the person conveying the real property or
26 operating property owns one hundred percent (100%) of the corporation or organization to
27 which the conveyance is made;

28 (g) The making, delivering or filing of conveyances of real property or operating
29 property to make effective any plan of reorganization or adjustment:

30 (i) Confirmed under the bankruptcy act, as amended, title 11 of U.S.C.;

31 (ii) Approved in an equity receivership proceeding involving a corporation, as
32 defined in the bankruptcy act; or

33 (iii) Whereby a mere change in identity, form or place or organization is effected,
34 such as a transfer between a corporation and its parent corporation, a subsidiary
35 or an affiliated corporation, if the making, delivering or filing of instruments
36 of transfer or conveyance occurs within five (5) years after the date of the
37 confirmation, approval or change;

38 (h) A transfer of real property or operating property into a trust as long as the owner or
39 owners have control of the trust; or

40 (i) The exchange of real property or operating property held for productive use in a trade
41 or business or for investment if such property is exchanged solely for property of like
42 kind which is to be held either for productive use in a trade or business or for investment,
43 and if such exchange qualifies as a nontaxable exchange pursuant to 26 U.S.C. section
44 1031.

45 (3) When title to the real property or operating property changes by sale or inheritance
46 except as provided in subsection (2) of this section, then the real property or operating property

1 shall acquire a new taxable value equal to the market value at the time of the transfer. When
2 improvements in excess of one thousand dollars (\$1,000) are made to the property, the property
3 shall acquire a new taxable value equal to the value of the improvements added to the prior
4 taxable value. When property is sold or transferred or improvements in excess of one thousand
5 dollars (\$1,000) are made to the property, it is the duty of the owner to notify the county
6 assessor with either the sales price of the property or the cost of the improvements. Failure to
7 notify the county assessor of such fact or facts may result in the removal of exemption from the
8 property pursuant to this section. The property included in the calculation of the exemption set
9 forth in this section shall include each parcel of real property owned by the taxpayer. Property
10 of a taxpayer assessed pursuant to chapter 17, title 63, Idaho Code, shall not be eligible for the
11 exemption provided by this section. Any increase provided by this section shall be taken after
12 taking any other exemption otherwise provided by law.

13 (4) The legislature declares this exemption to be necessary and just.

14 (5) The state tax commission shall adopt all rules that may be necessary to implement the
15 provisions of this section.

16 SECTION 2. An emergency existing therefor, which emergency is hereby declared to
17 exist, this act shall be in full force and effect on and after its passage and approval, and
18 retroactively to January 1, 2009.