

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 200

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE OCCUPANCY TAX; AMENDING SECTION 63-317, IDAHO CODE, TO PRO-  
2 VIDE FOR NEWLY CONSTRUCTED IMPROVEMENTS, UPON WHICH NO OCCUPANCY TAX  
3 HAS BEEN CHARGED, TO PROVIDE THAT THE COUNTY ASSESSOR SHALL NOTIFY THE  
4 OWNER OR LANDOWNER THAT THE IMPROVEMENT WILL BE CONSIDERED OCCUPIED FOR  
5 THE CURRENT YEAR BY A CERTAIN DATE, TO DELETE PROCEDURES FOR NOTIFY-  
6 ING THE COUNTY BOARD OF EQUALIZATION AND TO DELETE CERTAIN PENALTIES;  
7 DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.  
8

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

10 SECTION 1. That Section 63-317, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 63-317. OCCUPANCY TAX -- PROCEDURES. (1) All real property subject to  
13 property taxation shall be valued and taxed based upon its status as of Jan-  
14 uary 1 of each tax year. Improvements, other than additions to existing im-  
15 provements, constructed upon real property shall not be subject to property  
16 taxation during the year of construction other than that portion actually in  
17 place as of January 1 of each calendar year; new manufactured housing shall  
18 not be subject to property taxation during the first year of occupancy if oc-  
19 cupied after January 1. For the purposes of this section, "new manufactured  
20 housing" means manufactured housing, whether real or personal, never previ-  
21 ously occupied.

22 (2) There is hereby levied an occupancy tax upon all newly constructed  
23 and occupied residential, commercial and industrial structures, including  
24 new manufactured housing, except additions to existing improvements or man-  
25 ufactured housing, prorated for the portion of the year for which the struc-  
26 ture was occupied. The occupancy tax shall be upon those improvements or new  
27 manufactured housing for that portion of the calendar year in which first oc-  
28 cupancy occurs. The occupancy tax does not apply to operating property. For  
29 the purposes of this section, the term "occupied" means:

30 (a) Use of the property by any person as a residence including occupancy  
31 of improvements or use in storage of vehicles, boats or household goods,  
32 provided such use is not solely related to construction or sale of the  
33 property; or

34 (b) Use of the property for any business or commercial purpose unre-  
35 lated to the construction and sale of the property; or

36 (c) Any possessory use of the property for which the owner received any  
37 compensation or consideration.

38 (3) ~~The owner of any newly constructed improvement or new manufactured~~  
39 ~~housing, as described in this section, upon which no occupancy tax has been~~  
40 ~~charged shall report to the county assessor that the improvement or new man-~~  
41 ~~ufactured housing has been occupied. As soon as practical after receiving~~  
42 ~~such a report, the county assessor shall appraise and determine the market~~

1 ~~value for assessment purposes~~ For newly constructed improvements, upon  
2 ~~which no occupancy tax has been charged, the county assessor shall notify,~~  
3 ~~unless an alternate process for determining occupancy is used, the owner~~  
4 ~~or landowner by March 15 each year that the improvement will be considered~~  
5 ~~occupied for the current tax year unless the owner indicates by April 15 that~~  
6 ~~the improvement is still unoccupied. If the property is considered occupied~~  
7 ~~for the current tax year, the county assessor shall appraise and determine~~  
8 ~~the market value for assessment purposes.~~

9 (a) At the time the county assessor determines the market value for  
10 assessment purposes of any improvement, he shall allow as an offset  
11 against the market value of the improvement, the market value of any  
12 portion of that improvement which was existing on January 1 and placed  
13 upon the property roll.

14 (b) Upon completion of the appraisal, the county assessor shall no-  
15 tify the owner of the appraisal, and further shall notify the owner of  
16 their right to apply for the exemption provided in sections 63-602G and  
17 63-602X, Idaho Code. If the owner applies for and meets the require-  
18 ments for such exemption within thirty (30) days of the notification  
19 by the county assessor, the exemption shall be extended to the newly  
20 constructed and occupied residential structures in compliance with  
21 section 63-602G, Idaho Code, notwithstanding limitations requiring  
22 occupancy as of January 1 of the tax year.

23 ~~(c) In the event that the owner fails to report to the county assessor~~  
24 ~~that the property is ready for occupancy, the assessor shall notify the~~  
25 ~~county board of equalization, who may impose as penalty an additional~~  
26 ~~amount equal to five percent (5%) of the tax for each month following the~~  
27 ~~date of first occupancy during which the report is not made, to a maximum~~  
28 ~~of twenty-five percent (25%) of the tax.~~

29 (4) Appeals of the market value for assessment purposes shall be re-  
30 solved in the same manner as all other appeals of valuation by the board of  
31 equalization.

32 (5) The occupancy tax calculated upon the values set by the county as-  
33 sessor, ~~and any penalty imposed by the board of equalization~~ shall be col-  
34 lected in the same manner as all other property taxes.

35 (6) An occupancy tax lien shall be imposed in the manner provided in  
36 section 63-206, Idaho Code.

37 (7) Occupancy taxes shall be billed, collected and distributed in the  
38 same manner as all other property taxes.

39 SECTION 2. An emergency existing therefor, which emergency is hereby  
40 declared to exist, this act shall be in full force and effect on and after its  
41 passage and approval, and retroactively to January 1, 2011.