



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Senators CORDER, Johnson, Werk and,  
Representatives LAKE, Collins, Killen

**FROM:** Mike Nugent - Division Manager

**DATE:** April 25, 2012

**SUBJECT:** Temporary Rule

IDAPA 35.01.03 - Property Tax Administrative Rules - Temporary Rule - Docket No. 35-0103-1201

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. Please call with any questions - 334-4845. Thank you.

Attachment: Temporary Rule

Mike Nugent Manager  
Research & Legislation

Cathy Holland-Smith, Manager  
Budget & Policy Analysis

Don H. Berg, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

**IDAPA 35 - STATE TAX COMMISSION**  
**35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0103-1201**  
**NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2012.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule. The action is authorized pursuant to Section 63-105A, Idaho Code, and Section 63-802, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the temporary rulemaking:

Recently enacted HB 519 provides a property tax exemption which is retroactive to January 1, 2012. Both the county assessor and the taxpayers need certain clarifications in order to administer and apply this exemption for the current tax year (2012). Temporary Property Tax Rule 620 further defines site improvements and establishes May 1 as the deadline for applying for the site improvement exemption for the current year and affirms the statutory [Section 63-602(3), Idaho Code] deadline of April 15 for future years. The exemption is lost if the property is conveyed and the proration of assessment as set out in Section 63-602Y, Idaho Code, applies.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Alan Dornfest at (208) 334-7544.

DATED this 9th day of April, 2012.

Alan Dornfest  
Tax Policy Supervisor  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7544

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**THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 35-0103-1201**

**620. EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS AND COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL SITE IMPROVEMENTS (RULE 620).**  
Section 63-602W, Idaho Code. (1-1-12)T

**01. Qualifying Residential Improvements.** Improvements to any land parcel that are residential and

have never been occupied for residential purposes may qualify for the exemption pursuant to Section 63-602W, Idaho Code. This rule is effective January 1, 1998. Such qualifying improvements can include the following: (1-1-98)

a. Single family residences, residential townhouses, and residential condominiums; and (1-1-98)

b. Attached or unattached ancillary structures which are not intended for commercial use and are constructed contemporaneously with the improvements identified in Subsection 620.01.a. Such structures may include sheds, fences, swimming pools, garages, and other similar improvements, subject to the limitations of Subsection 620.02. (1-1-98)

**02. Non-Qualifying Residential Improvements.** Never previously occupied residential improvements listed in the following Subsections do not qualify for this exemption. ~~(1-1-98)~~(1-1-12)T

a. Location. Ancillary structures (see Subsection 620.01.b.) that are not located on the parcel on which the improvement is located, identified in Subsection 620.01.a. of this rule, shall not qualify for the exemption provided pursuant to Section 63-602W, Idaho Code. (1-1-98)

b. Remodeled improvements. Remodeling of previously occupied residential improvements does not qualify for the exemption. (1-1-98)

c. Improvements included in land value. Improvements included in land value, such as septic tanks, wells, improvements designed to provide utility services or access, and other similar improvements shall not qualify for the exemption. (1-1-98)

**03. Special Provisions for the Exemption for Site Improvements.** Site improvements associated with land which are made or caused to be made by the land developer and held by the land developer are exempt, provided the property qualifies for the exemption pursuant to the provisions of Section 63-602W(4), Idaho Code. (1-1-12)T

a. "Site improvements associated with land." "Site improvements associated with land" may include developed access, grading, sanitary facilities, water systems, and utilities. (1-1-12)T

b. Application. The land developer must file the application that is required for this exemption with the county assessor and commissioners by May 1, 2012 to qualify for the exemption for the 2012 tax year. For all years thereafter, the application must be filed by April 15. (1-1-12)T

i. For any parcel, the application must describe the parcel in sufficient detail for the assessor to identify the parcel. (1-1-12)T

ii. Multiple parcels may be included in one application, provided the parcels are under the same ownership and are listed and described in the application in sufficient detail for the assessor to identify each parcel. (1-1-12)T

iii. The application must be filed in the first year for which the exemption is claimed. In subsequent years, no application is necessary for any parcel(s) that still qualify for the exemption. (1-1-12)T

c. Proof of eligibility for the exemption. To be eligible, the land developer must provide the county assessor and commissioners with sufficient proof that: (1-1-12)T

i. They hold the land upon which the site improvements have been made; (1-1-12)T

ii. They made or caused to be made the site improvements on the land; (1-1-12)T

iii. The real property is held by the land developer for sale or consumption in the ordinary course of the land developer's business; and (1-1-12)T

iv. They are the owner or are in possession of the land under a land sale contract. (1-1-12)T

**04. Loss of the Exemption for Site Improvements.** The exemption for site improvements provided in Section 63-602W(4), Idaho Code, shall be lost when construction of any buildings or structural components of buildings is begun or when title to the land is conveyed from the land developer at any time following the installation of the site improvements. (1-1-12)T

**a. Conveyance.** Any change in ownership conveying title to land by deed or court order shall be considered a conveyance and result in loss of this exemption. (1-1-12)T

**b. Timing.** Site improvements losing this exemption shall be subject to assessment and taxation in accordance with the change of status provisions of Section 63-602Y, Idaho Code. (1-1-12)T

**05. Valuation of Land with Qualifying Exempt Site Improvements.** Land otherwise taxable, but including site improvements that qualify for the exemption pursuant to Section 63-602W(4), Idaho Code, shall be assessed at market value, in accordance with the provisions of Rule 217 of these rules. (1-1-12)T

**06. Forestland and Agricultural Use.** This exemption does not apply to parcels assigned to forestland or agricultural categories. (1-1-12)T