

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 482

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO PERSONAL PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION
63-602KK, IDAHO CODE, TO PROVIDE THAT A TAXPAYER SHALL NOT INCLUDE
RATE-REGULATED PUBLIC UTILITIES AND RAILROADS.

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

SECTION 1. That Section 63-602KK, Idaho Code, be, and the same is hereby
amended to read as follows:

63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

(1) (a) An item of taxable personal property purchased on or after January 1, 2013, shall be exempt from property taxation if the item of taxable personal property has an acquisition price of three thousand dollars (\$3,000) or less.

(b) For purposes of this section, the term "acquisition cost" means all costs required to put an item of taxable personal property into service and includes:

(i) The purchase price of a new or used item;

(ii) The cost of freight and shipping;

(iii) The cost of installation, engineering, erection or assembly; and

(iv) Sales and use taxes.

(c) For purposes of this subsection, an "item of taxable personal property" means equipment, machinery, furniture or other personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable personal property is not an individual component part of a piece of equipment, machinery, furniture or other personal property as a whole. An item of taxable personal property does not include an improvement to real property, a part that will become an improvement, or anything defined as a fixture.

(2) On and after January 1, 2013, each taxpayer's personal property, located in the county, which is not otherwise exempt, shall be exempt to the extent of one hundred thousand dollars (\$100,000). For the purposes of this section, a taxpayer includes two (2) or more individuals using the property in a common enterprise or a related group of two (2) or more organizations when the individuals or organizations are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code. For the purposes of this section, a taxpayer shall not include rate-regulated public utilities and railroads.

(3) (a) No later than the third Monday of November 2013, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (2) of this

1 section, in that county for that year. The certification shall identify
2 the property receiving tax reductions, the value of the property, the
3 property's location, the amount of the tax levy applicable to personal
4 property in the location, and the tax before and after the exemption al-
5 lowed in subsection (2) of this section. The certification shall be in
6 the form prescribed by the state tax commission and shall include such
7 additional information as the commission may require by rule as needed
8 to implement the purpose of this section. The certification shall be
9 reviewed and, if necessary, corrected by the state tax commission.

10 (b) For the year beginning January 1, 2014, and every year thereafter,
11 the amount of annual replacement of property tax on personal property
12 exempted pursuant to subsection (2) of this section shall be the amount
13 approved by the state tax commission pursuant to paragraph (a) of this
14 subsection.

15 (4) (a) Subject to the limitations of this section, the state tax
16 commission shall reimburse from the amount appropriated for personal
17 property tax replacement in section 63-3638, Idaho Code, the county
18 treasurer of each county for the reduction on the certification pro-
19 vided in subsection (3) of this section. The county treasurer shall
20 reimburse from the amount received to each taxing district within the
21 county an amount in proportion to the amount of reduction shown on the
22 certification in subsection (3) of this section as corrected. The
23 amount that would otherwise be attributable to tax revenues derived
24 from tax levies on personal property exempted by this section within
25 an existing revenue allocation area as defined in section 50-2903(15),
26 Idaho Code, shall be paid directly by the county treasurer to such pub-
27 lic body or agency entitled thereto, equal to the amounts that would
28 have been distributed in accordance with the formula for such distribu-
29 tion set forth in section 50-2908, Idaho Code. Taxing districts created
30 on or after January 1, 2013, shall not be eligible for the reimbursement
31 provided for in this paragraph.

32 (b) The state tax commission shall pay one-half (1/2) of the reimburse-
33 ment provided in this section no later than December 20 of each year, and
34 the second one-half (1/2) shall be paid by no later than June 20 of the
35 following year. The money received by the county tax collector under
36 the provisions of this section may be considered by counties and other
37 taxing districts and budgeted against at the same time, and in the same
38 manner, and in the same year as revenues from taxation. The total amount
39 paid to the county treasurers shall not exceed the amount certified to
40 the state tax commission under subsection (3) of this section.

41 (c) For purposes of the limitation provided by section 63-802, Idaho
42 Code, moneys received from distributions pursuant to section 63-3638,
43 Idaho Code, as property tax replacement for the taxable value of prop-
44 erty exempt from taxation pursuant to this section shall be treated as
45 property tax revenues.

46 (5) (a) Nothing contained in this section shall affect the taxation of
47 forest lands or forest products pursuant to chapter 17, title 63, Idaho
48 Code, or the taxation of the net profits of mines pursuant to chapter 28,
49 title 63, Idaho Code.

1 (b) The exemption from personal property tax provided for in subsection
2 (2) of this section shall not apply to motor vehicles, recreational ve-
3 hicles, aircraft and boats, which are not registered with the state of
4 Idaho and for which required registration fees have not been paid.

5 (6) (a) The application for the exemption provided for in subsection
6 (2) of this section shall be in the form prescribed by the state tax com-
7 mission and shall include such information as the state tax commission
8 may require by rule as needed to implement the purpose of this section
9 including, but not limited to, a list of each item of personal property,
10 the purchase date of each item of personal property, the unit cost of
11 each item of personal property, if more than the exemption allowed in
12 subsection (1) of this section, and the total cost of the items of per-
13 sonal property.

14 (b) The application for this exemption, if the county is capable of so
15 providing, may be transmitted by the county assessor electronically,
16 as that term is defined in section 63-115, Idaho Code, when requested
17 by the taxpayer, or mailed by the county assessor to the taxpayer, or
18 his agent or representative at the taxpayer's last known post office
19 address, no later than March 1 of each year. The transmission or mail-
20 ing of the application shall also include the taxpayer's application
21 for the exemption allowed by this section for the last year in which the
22 taxpayer filed an application.

23 (c) A taxpayer need only make application for the exemption in this sec-
24 tion once every five (5) years, as long as all of the following condi-
25 tions are met:

26 (i) The taxpayer has received the exemption during the previous
27 year as a result of him making a valid application as defined in
28 this section.

29 (ii) The amount of the exemption allowed by this section is more
30 than the taxable value of personal property owned by the taxpayer.

31 (iii) The taxpayer has not made purchases of personal property,
32 excluding items of taxable personal property exempted pursuant to
33 subsection (1) of this section, that would cause the taxable value
34 of the personal property owned by the taxpayer to exceed the maxi-
35 mum amount allowed as an exemption by this section.

36 (iv) Knowingly failing to report changes in the taxable value of
37 personal property that exceed the amount of the exemption allowed
38 pursuant to subsection (2) of this section shall subject the tax-
39 payer to a fine not in excess of ten thousand dollars (\$10,000) in
40 addition to other penalties set forth in this chapter.

41 (7) Recovery of property tax exemptions allowed by this section but im-
42 properly claimed per affidavit:

43 (a) Upon discovery of evidence, facts or circumstances indicating any
44 exemption allowed by this section was improperly claimed, the county
45 assessor shall decide whether the exemption claimed should have been
46 allowed, and if not, notify the board of county commissioners, at which
47 time the board may waive a recovery of the property tax and notify such
48 taxpayer in writing.

49 (b) The assessment and collection of the recovery of property tax must
50 begin within the seven (7) year period beginning on the date the assess-

1 ment notice reflecting the improperly claimed exemption was required to
2 be mailed to the taxpayer.

3 (c) The taxpayer may appeal to the board of tax appeals the decision by
4 the board of county commissioners to assess the recovery of property tax
5 within thirty (30) days of the date the county assessor sent the notice
6 to the taxpayer pursuant to this section.

7 (d) For purposes of calculating the tax, the amount of the recovered
8 property tax shall be for each year the exemption allowed by this sec-
9 tion was improperly claimed or approved, up to a maximum of seven (7)
10 years. The amount of the recovery of property tax shall be calculated
11 using the product of the amount of exempted value for each year multi-
12 plied by the levy for that year plus costs, late charges and interest for
13 each year at the rates equal to those provided for delinquent property
14 taxes during that year. In cases of fraud, the fine set forth in subsec-
15 tion (6) (c) (iv) of this section shall be assessed for each annual affi-
16 davit filed.

17 (e) Any recovery of property tax shall be due and payable no later than
18 the date provided for property taxes in section 63-903, Idaho Code, and
19 if not timely paid, late charges and interest, beginning the first day
20 of January in the year following the year the county assessor sent the
21 notice to the taxpayer pursuant to this section, shall be calculated at
22 the current rate provided for property taxes.

23 (f) Recovered property taxes shall be billed, collected and dis-
24 tributed in the same manner as property taxes, except each taxing dis-
25 trict or unit shall be notified of the amount of any recovered property
26 taxes included in any distribution.

27 (g) Thirty (30) days after the taxpayer is notified, as provided in
28 subsection (7) (a) of this section, the assessor shall record a notice
29 of intent to attach a lien. Upon the payment in full of such recovered
30 property taxes prior to the attachment of the lien as provided in sub-
31 section (7) (h) of this section, or upon the successful appeal by the
32 taxpayer, the county assessor shall record a rescission of the intent to
33 attach a lien within seven (7) business days of receiving such payment
34 or within seven (7) business days of the county commissioners' decision
35 granting the appeal.

36 (h) Any unpaid recovered property taxes shall become a lien upon the
37 taxpayer's personal property in the same manner as provided for prop-
38 erty taxes in section 63-206, Idaho Code, except such lien shall attach
39 as of the first day of January in the year following the year the county
40 treasurer sent the notice to the taxpayer pursuant to this section.

41 (i) For purposes of the limitation provided by section 63-802, Idaho
42 Code, moneys received pursuant to this subsection as recovery of prop-
43 erty tax shall be treated as property tax revenue.