

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 29

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO EXEMPTIONS FROM TAXATION; AMENDING SECTION 63-602KK, IDAHO
2 CODE, TO REVISE AND TO PROVIDE ADDITIONAL PROVISIONS RELATING TO CER-
3 TAIN PERSONAL PROPERTY EXEMPT FROM TAXATION AND TO MAKE TECHNICAL
4 CORRECTIONS.
5

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

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

9 63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

10 (1) (a) An item of taxable personal property purchased on or after Jan-
11 uary 1, 2013, shall be exempt from property taxation if the item of tax-
12 able personal property has an acquisition price of three thousand dol-
13 lars (\$3,000) or less.

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

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

18 (ii) The cost of freight and shipping;

19 (iii) The cost of installation, engineering, erection or assem-
20 bly; and

21 (iv) Sales and use taxes.

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

32 (2) On and after January 1, 2013, except as provided in subsection (8)
33 of this section, each taxpayer's person's personal property, located in the
34 county, which is not otherwise exempt, shall be exempt to the extent of one
35 hundred thousand dollars (\$100,000). For the purposes of this section, a
36 taxpayer person includes two (2) or more individuals people using the prop-
37 erty in a common enterprise or a related group of two (2) or more organiza-
38 tions when the individuals or organizations and who are within a one (1) or
39 more of the following relationships: described in section 267 of the Inter-
40 nal Revenue Code, as defined in section 63-3004, Idaho Code.

1 (a) Siblings, spouses or any relative of the person, or relative of the
2 spouse of the person by affinity or consanguinity within the second de-
3 gree; or

4 (b) Corporations and partnerships sharing common ownership of more
5 than fifty percent (50%).

6 (3) (a) No later than the third Monday of November 2013, the county
7 clerk of each county shall certify to the state tax commission the
8 amount of exemption from property taxes under subsection (2) of this
9 section, in that county for that year. The certification shall identify
10 the property receiving tax reductions, the value of the property, the
11 property's location, the amount of the tax levy applicable to personal
12 property in the location, and the tax before and after the exemption al-
13 lowed in subsection (2) of this section. The certification shall be in
14 the form prescribed by the state tax commission and shall include such
15 additional information as the commission may require by rule as needed
16 to implement the purpose of this section. The certification shall be
17 reviewed and, if necessary, corrected by the state tax commission.

18 (b) ~~For~~ Except as provided in subsection (7) of this section, the year
19 beginning January 1, 2014, and every year thereafter, the amount of an-
20 nual replacement of property tax on personal property exempted pursuant
21 to subsection (2) of this section shall be the amount approved by the
22 state tax commission pursuant to paragraph (a) of this subsection.

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

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

49 (c) For purposes of the limitation provided by section 63-802, Idaho
50 Code, moneys received from distributions pursuant to section 63-3638,

1 Idaho Code, as property tax replacement for the taxable value of prop-
2 erty exempt from taxation pursuant to this section shall be treated as
3 property tax revenues.

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

8 (b) The exemption from personal property tax provided for in subsec-
9 tion (2) of this section shall not apply to motor vehicles, recreational
10 vehicles, aircraft and boats that are not registered with the state of
11 Idaho and for which required registration fees have not been paid.

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

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

30 (c) A taxpayer need only make application for the exemption in this sec-
31 tion once as long as all of the following conditions are met:

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

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

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

42 (d) Knowingly failing to report changes in the taxable value of per-
43 sonal property that exceed the amount of the exemption allowed pursuant
44 to this section shall subject the taxpayer to a fine not in excess of ten
45 thousand dollars (\$10,000) in addition to other penalties set forth in
46 this chapter.

47 (7) Recovery of property tax exemptions allowed by this section but im-
48 properly claimed:

49 (a) Upon discovery of evidence, facts or circumstances indicating any
50 exemption allowed by this section was improperly claimed, the county

1 assessor shall decide whether the exemption claimed should have been
2 allowed, and if not, notify the board of county commissioners, at which
3 time the board may waive a recovery of the property tax and notify such
4 taxpayer in writing.

5 (b) The assessment and collection of the recovery of property tax must
6 begin within the seven (7) year period beginning on the date the assess-
7 ment notice reflecting the improperly claimed exemption was required to
8 be mailed to the taxpayer.

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

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

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

28 (f) Recovered property taxes shall be billed, collected and dis-
29 tributed in the same manner as property taxes, ~~except each taxing dis-~~
30 ~~trict or unit shall be notified of the amount of any recovered property~~
31 ~~taxes included in any distribution. If the recovery is for property tax~~
32 ~~for which the state provided replacement money, the amounts recovered~~
33 ~~shall be reported and remitted to the state tax commission, which shall~~
34 ~~reimburse the general fund. The state tax commission will then notify~~
35 ~~each affected taxing district or unit of its proportionate share of the~~
36 ~~recovered property tax, which amount shall be deducted from future pay-~~
37 ~~ments to be made pursuant to subsection (3) of this section.~~

38 (g) Thirty (30) days after the taxpayer is notified, as provided in
39 ~~subsection (7) paragraph (a) of this subsection~~, the assessor shall
40 record a notice of intent to attach a lien. Upon the payment in full of
41 such recovered property taxes prior to the attachment of the lien as
42 provided in ~~subsection (7) paragraph (h) of this subsection~~, or upon
43 the successful appeal by the taxpayer, the county assessor shall record
44 a rescission of the intent to attach a lien within seven (7) business
45 days of receiving such payment or within seven (7) business days of the
46 county commissioners' decision granting the appeal.

47 (h) Any unpaid recovered property taxes shall become a lien upon the
48 taxpayer's personal property in the same manner as provided for prop-
49 erty taxes in section 63-206, Idaho Code, except such lien shall attach

1 as of the first day of January in the year following the year the county
2 treasurer sent the notice to the taxpayer pursuant to this section.

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

6 (8) For operating property with values apportioned to more than one (1)
7 county, the personal property exemption shall be subtracted from the Idaho
8 allocated value prior to apportionment and, for private railcar companies,
9 prior to determining whether their values are to be apportioned. Notwith-
10 standing amounts calculated as provided in subsection (1) of this section,
11 the amount of the exemption otherwise provided in subsection (2) of this sec-
12 tion shall be calculated as follows:

13 (a) Take the lesser amount of:

14 (i) The number of counties in which a company has operating prop-
15 erty multiplied by one hundred thousand dollars (\$100,000); or

16 (ii) The total statewide value of eligible personal property re-
17 ported by the company.

18 (b) Reduce the amount calculated in paragraph (a) of this subsection by
19 the value of any nonoperating personal property granted the exemption
20 otherwise found in subsection (2) of this section, as reported by county
21 assessors.