

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 29, As Amended in the Senate

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO EXEMPTIONS FROM TAXATION; AMENDING SECTION 63-602KK, IDAHO CODE, TO REVISE AND TO PROVIDE ADDITIONAL PROVISIONS RELATING TO CERTAIN PERSONAL PROPERTY EXEMPT FROM TAXATION AND TO MAKE TECHNICAL CORRECTIONS.

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~~5~~, except as provided in subsection (8) of this section, each taxpayer's person'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 person~~ person includes two (2) or more ~~individuals~~ people using the property in a common enterprise ~~or a related group of two (2) or more organizations when the individuals or organizations who~~ are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code.

(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

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

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

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

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

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

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

1 (b) The exemption from personal property tax provided for in subsec-  
2 tion (2) of this section shall not apply to motor vehicles, recreational  
3 vehicles, aircraft and boats that 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 as long as all of the following conditions are met:

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

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

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

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

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

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

48 (b) The assessment and collection of the recovery of property tax must  
49 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) (d) of this section shall be assessed for each tax year.

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

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

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

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

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

49          (8) For operating property with values apportioned to more than one (1)  
50          county, the personal property exemption shall be subtracted from the Idaho

1 allocated value prior to apportionment and, for private railcar companies,  
2 prior to determining whether their values are to be apportioned. Notwith-  
3 standing amounts calculated as provided in subsection (1) of this section,  
4 the amount of the exemption otherwise provided in subsection (2) of this sec-  
5 tion shall be calculated as follows:

6 (a) Take the lesser amount of:

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

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

11 (b) Reduce the amount calculated in paragraph (a) of this subsection by  
12 the value of any nonoperating personal property granted the exemption  
13 otherwise found in subsection (2) of this section, as reported by county  
14 assessors.