

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 68

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION OF PERSONAL PROPERTY; AMENDING SECTION 63-313, IDAHO  
2 CODE, TO INCREASE THE AMOUNT OF THE EXEMPTION FOR TRANSIENT PERSONAL  
3 PROPERTY; AMENDING SECTION 63-602KK, IDAHO CODE, TO INCREASE THE  
4 MAXIMUM EXEMPTION FOR PERSONAL PROPERTY; DECLARING AN EMERGENCY AND  
5 PROVIDING RETROACTIVE APPLICATION.  
6

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

8 SECTION 1. That Section 63-313, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 63-313. SPECIAL PROVISIONS FOR TRANSIENT PERSONAL PROPERTY. (1) All  
11 transient personal property shall be listed by the owner and shall show the  
12 quantity, name, model, serial number, if any, year of manufacture, date of  
13 purchase, cost, whether new or used and other identifying information re-  
14 quired by the county assessor. The list of transient personal property shall  
15 identify the owner of the property and shall be filed with the home county  
16 assessor on or before the first day of November of each year. The owner of  
17 transient personal property may elect to treat as his home county that county  
18 in which he maintains his residence or usual place of business or in which  
19 the transient personal property is usually kept. The report shall be made on  
20 forms prescribed by the state tax commission and shall identify periods of  
21 thirty (30) days or more during which the personal property is located in a  
22 county, specifying the location of the transient personal property for each  
23 month of the current calendar year with a projection of the location for the  
24 remaining months of November and December.

25 (2) The county assessor of the home county or the receiving county of  
26 the listing shall file within ten (10) days with the county assessor of all  
27 counties identified on the report a copy of the report. Each county so iden-  
28 tified shall then place a prorated assessment on such personal property on  
29 the subsequent or missed property roll only for the length of time that the  
30 personal property was located in their county.

31 (3) In the event that any transient personal property has been or will  
32 be taxed for the current year in another state, the property shall be taxed  
33 for only that portion of the year that the transient personal property is  
34 kept and does remain in the state of Idaho.

35 (4) The provisions of this section shall not apply to transient per-  
36 sonal property in transit through this state, or to transient personal prop-  
37 erty sold by the owner thereof in the home county upon which the taxes for  
38 the full year have been paid or secured, which said transient personal prop-  
39 erty is kept, moved, transported, shipped or hauled into and remaining in  
40 another county, and there kept or remaining either for the purpose of use or  
41 sale within the current year.

1 (5) For transient personal property valued at over ~~one~~ two hundred  
 2 fifty thousand dollars (~~\$100~~250,000), any exemption in section 63-602KK,  
 3 Idaho Code, available to the taxpayer shall be allocated among counties  
 4 based on the prorated value provided in subsection (2) of this section.

5 SECTION 2. That Section 63-602KK, Idaho Code, be, and the same is hereby  
 6 amended to read as follows:

7 63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.

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

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

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

16 (ii) The cost of freight and shipping;

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

19 (iv) Sales and use taxes.

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

30 (2) On and after January 1, 201~~5~~7, except as provided in subsection (8)  
 31 of this section, each person's personal property, located in the county,  
 32 which is not otherwise exempt, shall be exempt to the extent of ~~one~~ two  
 33 hundred fifty thousand dollars (~~\$100~~250,000). For the purposes of this sec-  
 34 tion, a person includes two (2) or more people using the property in a common  
 35 enterprise who are within a relationship described in section 267 of the  
 36 Internal Revenue Code, as defined in section 63-3004, Idaho Code.

37 (3) (a) No later than the third Monday of November 2013, the county  
 38 clerk of each county shall certify to the state tax commission the  
 39 amount of exemption from property taxes under subsection (2) of this  
 40 section, in that county for that year. The certification shall identify  
 41 the property receiving tax reductions, the value of the property, the  
 42 property's location, the amount of the tax levy applicable to personal  
 43 property in the location, and the tax before and after the exemption al-  
 44 lowed in subsection (2) of this section. The certification shall be in  
 45 the form prescribed by the state tax commission and shall include such  
 46 additional information as the commission may require by rule as needed  
 47 to implement the purpose of this section. The certification shall be  
 48 reviewed and, if necessary, corrected by the state tax commission.

1 (b) Except as provided in subsection (7) of this section, the year be-  
2 ginning January 1, 2014, and every year thereafter, the amount of annual  
3 replacement of property tax on personal property exempted pursuant to  
4 subsection (2) of this section shall be the amount approved by the state  
5 tax commission pursuant to paragraph (a) of this subsection.

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

23 (b) The state tax commission shall pay one-half (1/2) of the reimburse-  
24 ment provided in this section no later than December 20 of each year, and  
25 the second one-half (1/2) shall be paid by no later than June 20 of the  
26 following year. The money received by the county tax collector under  
27 the provisions of this section may be considered by counties and other  
28 taxing districts and budgeted against at the same time, and in the same  
29 manner, and in the same year as revenues from taxation. The total amount  
30 paid to the county treasurers shall not exceed the amount certified to  
31 the state tax commission under subsection (3) of this section.

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

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

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

45 (6) (a) The application for the exemption provided for in subsection  
46 (2) of this section shall be in the form prescribed by the state tax com-  
47 mission and shall include such information as the state tax commission  
48 may require by rule as needed to implement the purpose of this section  
49 including, but not limited to, a list of each item of personal property,  
50 the purchase date of each item of personal property, the unit cost of

1 each item of personal property, if more than the exemption allowed in  
2 subsection (1) of this section, and the total cost of the items of per-  
3 sonal property.

4 (b) The application for this exemption, if the county is capable of so  
5 providing, may be transmitted by the county assessor electronically,  
6 as that term is defined in section 63-115, Idaho Code, when requested  
7 by the taxpayer, or mailed by the county assessor to the taxpayer, or  
8 his agent or representative at the taxpayer's last known post office  
9 address, no later than March 1 of each year. The transmission or mail-  
10 ing of the application shall also include the taxpayer's application  
11 for the exemption allowed by this section for the last year in which the  
12 taxpayer filed an application.

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

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

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

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

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

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

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

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

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

46 (d) For purposes of calculating the tax, the amount of the recovered  
47 property tax shall be for each year the exemption allowed by this sec-  
48 tion was improperly claimed or approved, up to a maximum of seven (7)  
49 years. The amount of the recovery of property tax shall be calculated  
50 using the product of the amount of exempted value for each year multi-

1 plied by the levy for that year plus costs, late charges and interest for  
2 each year at the rates equal to those provided for delinquent property  
3 taxes during that year. In cases of fraud, the fine set forth in subsec-  
4 tion (6) (d) of this section shall be assessed for each tax year.

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

11 (f) Recovered property taxes shall be billed, collected and dis-  
12 tributed in the same manner as property taxes. If the recovery is  
13 for property tax for which the state provided replacement money, the  
14 amounts recovered shall be reported and remitted to the state tax  
15 commission, which shall reimburse the general fund. The state tax com-  
16 mission will then notify each affected taxing district or unit of its  
17 proportionate share of the recovered property tax, which amount shall  
18 be deducted from future payments to be made pursuant to subsection (3)  
19 of this section.

20 (g) Thirty (30) days after the taxpayer is notified, as provided in  
21 paragraph (a) of this subsection, the assessor shall record a notice  
22 of intent to attach a lien. Upon the payment in full of such recov-  
23 ered property taxes prior to the attachment of the lien as provided in  
24 paragraph (h) of this subsection, or upon the successful appeal by the  
25 taxpayer, the county assessor shall record a rescission of the intent to  
26 attach a lien within seven (7) business days of receiving such payment  
27 or within seven (7) business days of the county commissioners' decision  
28 granting the appeal.

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

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

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

44 (a) Take the lesser amount of:

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

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

49 (b) Reduce the amount calculated in paragraph (a) of this subsection by  
50 the value of any nonoperating personal property granted the exemption

1 otherwise found in subsection (2) of this section, as reported by county  
2 assessors.

3 SECTION 3. An emergency existing therefor, which emergency is hereby  
4 declared to exist, this act shall be in full force and effect on and after its  
5 passage and approval, and retroactively to January 1, 2017.