

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 649

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO PROPERTY TAX; AMENDING SECTION 63-602G, IDAHO CODE, TO REVISE
2 PROVISIONS REGARDING THE HOMESTEAD EXEMPTION, TO ESTABLISH AN ADDI-
3 TIONAL PROPERTY TAX EXEMPTION FOR CERTAIN OWNERS AGED SIXTY-FIVE YEARS
4 AND OVER, AND TO PROVIDE QUALIFICATIONS; AMENDING SECTION 63-718, IDAHO
5 CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND DECLARING AN EMERGENCY
6 AND PROVIDING RETROACTIVE APPLICATION.
7

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

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

11 63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) For each tax
12 year, the first one hundred thousand dollars (\$100,000) of the market value
13 for assessment purposes of the homestead as that term is defined in section
14 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment
15 purposes of the homestead as that term is defined in section 63-701, Idaho
16 Code, whichever is the lesser, shall be exempt from property taxation.

17 (2) (a) Beginning in 2020, an additional property tax exemption shall be
18 granted to a homeowner who qualifies under this section and who has at-
19 tainained the age of sixty-five (65) years or more. The amount of the addi-
20 tional exemption shall be calculated as provided in this paragraph.

21 (i) Determine the property's market value for assessment purposes
22 for the current year.

23 (ii) Determine the property's market value for assessment pur-
24 poses for either:

25 1. The year 2019, if the homeowner both attained the age
26 of sixty-five (65) years or more and purchased the property
27 during or prior to 2019; or

28 2. The year in which the homeowner both attains the age of
29 sixty-five (65) years or more and owns the property, if such
30 year is after 2019.

31 (iii) Deduct the value in paragraph (a) (ii) of this subsection
32 from the value in paragraph (a) (i) of this subsection. The remain-
33 der shall be the value of the additional exemption authorized un-
34 der this subsection. Provided, however, if the amount calculated
35 under paragraph (a) (i) of this subsection is less than the value
36 reflected in paragraph (a) (ii) of this subsection, then no addi-
37 tional exemption shall be authorized under this subsection, and
38 the value shall be assessed according to the formula in paragraph
39 (a) (i) of this subsection.

40 (b) To qualify for the additional exemption authorized under this sub-
41 section, a homeowner must have resided continuously on the same prop-
42 erty, as his primary dwelling, from the time the owner attained the age

1 of sixty-five (65) years or more to the time the additional exemption is
 2 claimed.

3 (3) The exemptions allowed by this section may be granted only if:

4 (a) The homestead is owner-occupied and. For the exemption under sub-
 5 section (1) of this section, the homestead must be used as the primary
 6 dwelling place of the owner as of January 1, provided that in the event
 7 the homestead is owner-occupied after January 1 but before April 15, the
 8 owner of the property is entitled to the exemption. The homestead may
 9 consist of part of a multidwelling or multipurpose building and shall
 10 include all of such dwelling or building except any portion used exclu-
 11 sively for anything other than the primary dwelling of the owner. The
 12 presence of an office in a homestead, which office is used for multiple
 13 purposes, including business and personal use, shall not prevent the
 14 owner from claiming the exemption provided in this section; and

15 (b) The state tax commission has certified to the board of county com-
 16 missioners that all properties in the county which are subject to ap-
 17 praisal by the county assessor have, in fact, been appraised uniformly
 18 so as to secure a just valuation for all property within the county; and

19 (c) The owner has certified to the county assessor by April 15 that:

20 (i) He is making application for the exemption or exemptions al-
 21 lowed by this section;

22 (ii) The homestead is his primary dwelling place; and

23 (iii) He has not made application in any other county for the ex-
 24 emption or exemptions, and has not made application for the exemp-
 25 tion or exemptions on any other homestead in the county; and

26 (d) For the additional exemption claimed under subsection (2) of this
 27 section, the owner has provided acceptable proof of having attained the
 28 age of sixty-five (65) years or more.

29 (4) For the purpose of this section, the definition of "owner" shall be
 30 the same definition set forth in section 63-701(7), Idaho Code. However,
 31 spouses may not claim exemptions under this section on different properties.

32 When an "owner," pursuant to the provisions of section 63-701(7), Idaho
 33 Code, is any person who is the beneficiary of a revocable or irrevocable
 34 trust, or who is a partner of a limited partnership, a member of a limited
 35 liability company, or shareholder of a corporation, he or she may provide
 36 proof of the trust, limited partnership, limited liability company, or cor-
 37 poration in the manner set forth in section 63-703(4), Idaho Code.

38 ~~(e)~~ Any owner may request in writing the return of all copies of any
 39 documents submitted with the affidavit set forth in section 63-703(4),
 40 Idaho Code, that are held by a county assessor, and the copies shall
 41 be returned by the county assessor upon submission of the affidavit in
 42 proper form.

43 ~~(5)~~ For the purpose of this section, the definition of "primary
 44 dwelling place" shall be the same definition set forth in section 63-701(8),
 45 Idaho Code.

46 ~~(6)~~ For the purpose of this section, the definition of "occupied"
 47 shall be the same definition set forth in section 63-701(6), Idaho Code.

48 ~~(7)~~ An owner need only make application for the exemptions described
 49 in subsection (1), and subsection (2), if applicable, of this section once,
 50 as long as all of the following conditions are met:

1 (a) The owner has received the exemption or exemptions during the pre-
 2 vious year as a result of his making a valid application as defined set
 3 forth in subsection (23) (c) of this section.

4 (b) The owner or beneficiary, partner, member or shareholder, as appro-
 5 priate, still occupies the same homestead for which the owner made ap-
 6 plication.

7 (c) The homestead described in ~~subsection (3) paragraph~~ (b) of this
 8 subsection is owner-occupied or occupied by a beneficiary, partner,
 9 member or shareholder, as appropriate, and used as the primary dwelling
 10 place of the owner or beneficiary, partner, member or shareholder, as
 11 appropriate, as of January 1; provided however, that in the event the
 12 homestead is owner-occupied after January 1, ~~but before April 15,~~ the
 13 owner of the property is entitled to the exemption.

14 (d) If the qualifying owner no longer actually occupies the property
 15 but the owner's spouse or other owner as described in paragraph (c) of
 16 this subsection continues to occupy the property, the spouse or other
 17 owner must meet the requirements of having attained the age of sixty-
 18 five (65) years of age in order to obtain the additional exemption au-
 19 thorized under subsection (2) of this section.

20 (48) The exemptions allowed by subsection (1), and subsection (2), if
 21 applicable, of this section must be taken before the reduction in taxes pro-
 22 vided by sections 63-701 through 63-710, Idaho Code, is applied.

23 (59) Recovery of property tax exemptions allowed by this section but
 24 improperly claimed or approved:

25 (a) Upon discovery of evidence, facts or circumstances indicating any
 26 exemption allowed by this section was improperly claimed or approved,
 27 the county assessor shall decide whether ~~the~~ any exemption claimed
 28 should have been allowed, and, if not, notify the taxpayer in writing,
 29 assess a recovery of property tax and notify the county treasurer of
 30 this assessment. If the county assessor determined that an exemption
 31 was improperly approved as a result of county error, the county assessor
 32 shall present the discovered evidence, facts or circumstances from the
 33 improperly approved exemption to the board of county commissioners, at
 34 which time the board may waive a recovery of the property tax and notify
 35 such taxpayer in writing.

36 (b) When information indicating that an improper claim for ~~the~~ any
 37 exemption allowed by this section is discovered by the state tax com-
 38 mission, the state tax commission may disclose this information to the
 39 appropriate county assessor, board of county commissioners and county
 40 treasurer. Information disclosed to county officials by the state tax
 41 commission under this subsection may be used to decide the validity of
 42 any entitlement to ~~the~~ any exemption provided in this section and is not
 43 otherwise subject to public disclosure pursuant to chapter 1, title 74,
 44 Idaho Code.

45 (c) The assessment and collection of the recovery of property tax must
 46 begin within the seven (7) year period beginning the date the assessment
 47 notice reflecting the improperly claimed or approved exemption was re-
 48 quired to be mailed to the taxpayer.

49 (d) The taxpayer may appeal to the county board of equalization the
 50 decision by the county assessor to assess the recovery of property tax

1 within thirty (30) days of the date the county assessor sent the notice
2 to the taxpayer pursuant to this section. The board may waive the col-
3 lection of all or part of any costs, late charges and interest, in order
4 to facilitate the collection of the recovery of the property tax.

5 (e) For purposes of calculating the tax, the amount of the recovered
6 property tax shall be for each year ~~the~~ any exemption allowed by this
7 section was improperly claimed or approved, up to a maximum of seven (7)
8 years. The amount of the recovery of property tax shall be calculated
9 using the product of the amount of exempted value for each year multi-
10 plied by the levy for that year plus costs, late charges and interest for
11 each year at the rates equal to those provided for delinquent property
12 taxes during that year.

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

19 (g) Recovered property taxes shall be billed, collected and dis-
20 tributed in the same manner as property taxes, except each taxing dis-
21 trict or unit shall be notified of the amount of any recovered property
22 taxes included in any distribution.

23 (h) Thirty (30) days after the taxpayer is notified, as provided in
24 ~~subsection (5) paragraph~~ (a) of this subsection, the assessor shall
25 record a notice of intent to attach a lien. Upon the payment in full of
26 such recovered property taxes prior to the attachment of the lien as
27 provided in ~~subsection (5) paragraph~~ (i) of this subsection, or upon
28 the successful appeal by the taxpayer, the county assessor shall record
29 a rescission of the intent to attach a lien within seven (7) business
30 days of receiving such payment or within seven (7) business days of the
31 county board of equalization decision granting the appeal. If the real
32 property is sold to a bona fide purchaser for value, prior to the record-
33 ing of the notice of the intent to attach a lien, the county assessor and
34 treasurer shall cease the recovery of such unpaid recovered property
35 tax.

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

41 (j) 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.

44 ~~(610)~~ The legislature declares that ~~this exemption is~~ these exemptions
45 are necessary and just.

46 ~~(711)~~ A homestead, having previously qualified for any exemption un-
47 der this section in the preceding year, shall not lose such qualification due
48 to: the owner's, beneficiary's, partner's, member's or shareholder's ab-
49 sence in the current year by reason of active military service, or because
50 the homestead has been leased because the owner, beneficiary, partner, mem-

1 ber or shareholder is absent in the current year by reason of active military
 2 service. An owner subject to the provisions of this subsection must apply
 3 for the exemption with the county assessor every year on or before a deadline
 4 date as specified by the county assessor for the county in which the home-
 5 stead is claimed. If an owner fails to apply on or before the established
 6 deadline, the county may, at its discretion, discontinue the exemption for
 7 that year. This subsection shall not apply to the additional homeowner ex-
 8 emption authorized in subsection (2) of this section.

9 (~~8~~12) A homestead, having previously qualified for exemption under
 10 this section in the preceding year, shall not lose such qualification due
 11 to the owner's, beneficiary's, partner's, member's or shareholder's death
 12 during the year of the owner's, beneficiary's, partner's, member's or share-
 13 holder's death and the tax year immediately following such death provided
 14 that the homestead continues to be a part of the owner's, beneficiary's,
 15 partner's, member's or shareholder's estate. For the purposes of subsection
 16 (2) of this section, the homestead must remain unoccupied during the admin-
 17 istration of the estate. After such time, the new owner shall reapply to
 18 receive ~~the~~ any exemption pursuant to this section and shall meet the quali-
 19 fication criteria contained in this section.

20 SECTION 2. That Section 63-718, Idaho Code, be, and the same is hereby
 21 amended to read as follows:

22 63-718. EVENTS TERMINATING DEFERRAL -- PAYMENT OF DEFERRED TAX AND IN-
 23 TEREST. (1) A deferral of property tax payments shall terminate on the ear-
 24 lier of:

25 (a) Voluntary payment of the full amount of deferred tax and interest to
 26 the state tax commission;

27 (b) The death of the qualified claimant or if there is more than one (1)
 28 qualified claimant, the death of the last surviving qualified claimant;

29 (c) A sale or other transfer of title to the property or any part of the
 30 property except a transfer of title to a surviving spouse of a deceased
 31 qualified claimant;

32 (d) The property no longer qualifies for the exemption provided in sec-
 33 tion 63-602G(1), Idaho Code, for residential improvements;

34 (e) A determination by the state tax commission under section 63-720,
 35 Idaho Code, that the deferral of property tax payments was erroneously
 36 granted to a person who is not a qualified claimant or in regard to prop-
 37 erty that is not qualified property.

38 (2) When a deferral of property tax is terminated any unpaid amount of
 39 deferred tax and interest shall be paid to the state tax commission no later
 40 than one hundred eighty (180) days after the termination.

41 (3) Any payments of deferred property tax received by the state tax
 42 commission under this section or under sections 63-719 and 63-720, Idaho
 43 Code, shall be distributed to the property tax deferral recovery fund which
 44 is hereby created. Amounts in the property tax deferral recovery fund are
 45 hereby continuously appropriated for the purposes of section 63-3638(5),
 46 Idaho Code.

1 SECTION 3. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after its
3 passage and approval, and retroactively to January 1, 2020.