



Eric Milstead  
Director

# Legislative Services Office Idaho State Legislature

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## MEMORANDUM

**TO:** Senators JOHNSON, Bayer, Burgoyne and,  
Representatives COLLINS, Trujillo, Erpelding

**FROM:** Kristin Ford - Legislative Research Analyst

**DATE:** July 06, 2017

**SUBJECT:** Temporary Rule

IDAPA 35.01.03 - Property Tax Administrative Rules - Adoption of Temporary Rule - Docket No.  
35-0103-1705

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Kristin Ford at the Legislative Services Office at (208) 334-4834. Thank you.

Attachment: Temporary Rule

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**IDAPA 35 – IDAHO STATE TAX COMMISSION**

**35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES**

**DOCKET NO. 35-0103-1705**

**NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE**

**EFFECTIVE DATE:** The effective date of the temporary rules are July 1, 2017.

**AUTHORITY:** In compliance with Section 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 67-5224 and 67-5291, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

**RULE 612 – PROPERTY EXEMPT FROM TAXATION – MOTOR VEHICLES, RECREATIONAL VEHICLES, AND VESSELS PROPERLY REGISTERED:** This rule clarifies that the assessor makes the determination whether or not park model recreational vehicles qualify for the property tax exemption by using the criteria set out in newly amended I.C. 49-445 (HB156). Also to clarify that park model recreational vehicles that will not be licensed and registered are subject to the property tax. A clarification that park models which are licensed and registered before the fourth Monday in November are exempt from property tax regardless of the taxable status of park models on January 1, 2017.

**RULE 631 – TAX EXEMPTION FOR INVESTMENT IN NEW OR EXISTING PLANT AND BUILDING FACILITIES UPON COUNTY COMMISSIONERS’ APPROVAL:** This rule changes the qualifying investment threshold from three million dollars (\$3,000,000) to not less than five hundred thousand dollars (\$500,000) at the discretion of the County Commission. In addition the examples are updated to reflect the new law (HB235) which an exemption above the original base value on the current tax roll.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b)&(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Compliance with deadlines in amendments to governing law or federal programs, and confers a benefit to taxpayers.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary rule, contact Alan Dornfest (208) 334-7742.

DATED this 7th Day of June, 2017.

Alan Dornfest  
Tax Policy Supervisor  
Idaho State Tax Commission  
800 Park Blvd., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410  
(208) 334-7742

THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 35-0103-1705  
(Only Those Sections With Amendments Are Shown.)

**612. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES, RECREATIONAL VEHICLES, AND VESSELS PROPERLY REGISTERED (RULE 612).**

Sections 49-123, 49-401, 49-402A, 49-422, 49-432, 49-445, 49-446, and 63-602J, Idaho Code

**01. Motor Vehicle Defined.** Motor vehicle means any vehicle as defined in Section 49-123(2)(~~g~~), Idaho Code, and any personal property permanently affixed to that vehicle. ~~(4-11-06)~~(7-1-17)T

**02. Exempt Motor Vehicles.** Except as provided in Subsection 612.03 of this rule, any motor vehicle, as defined in Subsection 612.01 of this rule, and any park model recreational vehicle, as defined in Section 49-117(2), Idaho Code, registered for any part of the previous year under Chapter 4, Title 49, Idaho Code, is exempt from property taxation under Sections 49-401 and 63-602J, Idaho Code. ~~(4-11-06)~~(7-1-17)T

**03. Taxable Vehicles.** The following registered or permitted vehicles are taxable and not eligible for the exemption under Sections 49-401 and 63-602J, Idaho Code. (4-11-06)

**a.** Any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. (4-11-06)

**b.** Any manufactured home registered under Section 49-422, Idaho Code. (4-11-06)

**04. Exempt Permanently Affixed Personal Property.** Except as provided in Subsection 612.05 of this rule, any personal property permanently affixed to any motor vehicle registered as described in Subsection 612.02 of this rule is part of that vehicle. Hence, that permanently affixed personal property is exempt from property taxation under Section 63-602J, Idaho Code. (4-11-06)

**05. Taxable Personal Property.** The following personal property, not otherwise exempt under Chapter 6, Title 63, Idaho Code, is taxable and not eligible for the exemption under Section 63-602J, Idaho Code. (4-11-06)

**a.** Any personal property on, but not permanently affixed to, any motor vehicle registered as described in Subsection 612.02 of this rule. (4-11-06)

**b.** Any personal property on or affixed, permanently or otherwise, to any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. (4-11-06)

**c.** Any personal property on or affixed, permanently or otherwise, to any utility trailer registered under Section 49-402A, Idaho Code. (4-11-06)

**d.** Any personal property attached to any park model recreational vehicle. (7-1-17)T

**06. Recreational Vehicles.** The owner of a recreational vehicle, as defined in Section 49-119(6), Idaho Code, must pay a recreational vehicle annual license fee as authorized by Section 49-445, Idaho Code, and as computed in accordance with Rule 020 of these rules in order to be exempt under Section 63-602J, Idaho Code. ~~Recreational vehicles that are wider than eight and one-half (8½) feet cannot be licensed by the Idaho Department of Transportation and therefore must be included on the assessment roll.~~ (4-4-13)(7-1-17)T

**a.** Recreational vehicles that qualify for licensing and registration and have paid the required registration fee by August 31, 2017 are eligible for the exemption provided in Section 63-602J, Idaho Code. The owners of recreational vehicles that do not qualify or have not paid the fee must be sent a valuation assessment notice and any taxable property not included on the property roll is to be included on the subsequent or missed property roll. The assessment is subject to cancellation as provided in Rule 020, provided any applicable registration fee is paid before the fourth Monday of November 2017. (7-1-17)T

b. Park model recreational vehicles qualify for the exemption provided in Section 63-602J, Idaho Code, and are therefore not subject to property tax, if they are licensed and registered. Such vehicles cannot be licensed and registered if they are determined by the assessor to: (7-1-17)T

i. Be permanently attached to a foundation, or (7-1-17)T

ii. Have an attached building addition, or (7-1-17)T

iii. Have been substantially modified and no longer meet the definition of a park model recreational vehicle. (7-1-17)T

c. Beginning in tax year 2017, park model recreational vehicles that are licensed and registered, with required fees paid before the fourth Monday in November, are exempt from property tax as provided in Section 63-602J, Idaho Code, regardless of the taxable status of such vehicles as of January 1 of the tax year. (7-1-17)T

**07. Taxable Real Property Associated with Vehicles.** Real property to which vehicles may be affixed or attached and real property improvements attached to vehicles are subject to assessment and property tax, but may be eligible for the exemption provided in section 63-602G, Idaho Code, regardless of whether the vehicle is exempt as provided in Section 63-602J, Idaho Code. (7-1-17)T

**(BREAK IN CONTINUITY OF SECTIONS)**

**631. TAX EXEMPTION FOR INVESTMENT IN NEW PLANT AND BUILDING FACILITIES UPON COUNTY COMMISSIONERS' APPROVAL (RULE 631).**

Section 63-602NN, Idaho Code

**01. The Investment in Plant.** In order to qualify for this exemption a taxpayer must invest at least ~~three million dollars (\$3,000,000)~~ the minimum required investment as established by county ordinance in new or existing plant or building facilities excluding the investment in land. ~~See Section 63-602NN, Idaho Code.~~ (3-29-17)(7-1-17)T

a. Ordinance to establish the minimum required investment. The county commissioners must pass an ordinance to establish any minimum required investment amount of not less than five hundred thousand dollars (\$500,000). Once passed, any minimum investment so established shall remain in place until superseded by another ordinance. (7-1-17)T

b. Frequency of ordinances to establish minimum required investment. Any ordinance establishing a minimum required investment must remain in effect during the tax year in which it is first in effect. After that tax year, the county commissioners may provide a different required investment amount by passing a new ordinance. However, any agreement entered into under minimum investment criteria established by prior ordinance will be effective for the duration of the exemption time period granted. (7-1-17)T

**02. The Exemption.** The board of county commissioners may exempt all or a portion of the ~~market~~ value of real property improvements and associated personal property that would otherwise be in excess of the base value for property designated as the defined project for a period of up to five (5) years. Land is not eligible to be included in this exemption. ~~See Section 63-602NN(2), Idaho Code.~~ (3-29-17)(7-1-17)T

a. Base value. The base value is the taxable value, as found on the property roll, subsequent property roll, or missed property roll, of the property associated with the plant investment for the tax year immediately preceding the first year in which the exemption is to be granted. (7-1-17)T

b. Site improvements. Site improvements, which may add value to land, but are not otherwise categorized as improvements for property tax purposes, are not eligible for this exemption. (7-1-17)T

c. Application. The taxpayer must make application with the county commissioners who have

complete discretion to accept or deny the application. No property can be exempt for more than five years. The amount of exemption granted may be any amount related to market value added due to the investment, to the extent such added value exceeds the original base value. (7-1-17)T

d. Occupancy tax. As provided in Section 63-602Z, Idaho Code, the exemption may apply to property subject to occupancy tax. Granting of the exemption from occupancy tax will not reduce the period during which the property tax exemption provided in Section 63-602NN may be granted. (7-1-17)T

**03. Examples.** The exemption applies only to new plant or new building facilities in which the required investment has been is to be made during the project period and that are located at the project site. The exemption does not apply to property existing prior to the execution of the contract to exempt may be applied to any value increases if these increases are directly attributable to the investment. See the following clarifying examples, all of which are based on the assumptions that the county has established five hundred thousand dollars (\$500,000) as the required minimum amount of investment and the county enters into an agreement with the taxpayers.

(3-29-17)(7-1-17)T

**a.** A company chooses your community to tear down an existing facility and build a new manufacturing facility. Prior to the project, the base value is four million dollars (\$4,000,000) which is comprised of the market value of the land purchased is three million dollars (\$3,000,000); and the market value of the new facility after construction is ten million dollars (\$10,000,000), not including the land. The board of county commissioners may exempt all or a portion of the market value of the facility (ten million dollars (\$10,000,000)) for up to five (5) years. They cannot exempt any portion of the land value existing facility at one million dollars (\$1,000,000). After construction, the land and facility have a taxable value of thirteen million dollars (\$13,000,000), three million (\$3,000,000) of which is the land value. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be nine million dollars (\$9,000,000).

(3-29-17)(7-1-17)T

**b.** An existing company chooses to expand and build a new processing line. Prior to the project, the base value of the existing building and land are valued at is twelve million dollars (\$12,000,000). After the expansion project is complete, the new processing line will increased the value of the building and land to sixteen million dollars (\$16,000,000). The board of county commissioners may exempt all or a portion of the increase value of the facility, which is Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be four million dollars (\$4,000,000) for up to five (5) years. They cannot exempt any No portion of the original base value of twelve million dollars (\$12,000,000) can be granted this exemption.

(3-29-17)(7-1-17)T

**c.** A new company purchases an existing building. The existing building and land is which are valued at eight million dollars (\$8,000,000). The company will purchase new equipment in the amount of three million dollars (\$3,000,000). After the investment is made, the existing property with the new land, building and equipment is are now valued at eleven twelve million dollars (\$12,000,000). The board of county commissioners may exempt all or a portion of the increased value of the property, which is three The additional one million dollars (\$1,000,000) in building value is attributed to the contributory value of the investment. The investment did not add value to the land. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be four million dollars (\$4,000,000). They cannot exempt any No portion of the original base value of eight million dollars (\$8,000,000) can be granted this exemption.

(3-29-17)(7-1-17)T

**04. Cross Reference.** See Rule 802 of these rules for instructions relating to the valuation of new construction. (5-8-09)

d. A company buys a building with a prior year's value of one million dollars (\$1,000,000). The company makes application to the county commissioners requesting a full exemption for the next five (5) years for any increases in value that are directly related to its plan to invest in the facility. An agreement is reached whereby the taxpayer will be granted a limited exemption for the increase in market value up to two million dollars (\$2,000,000) for three years. In the first year, the company invests two million dollars (\$2,000,000) in the facility and the market value of the building increases to two million five hundred thousand dollars (\$2,500,000) (not all of the investment contributes to market value). Providing all conditions of the agreement have been met, the first year exempt amount will be one million five hundred thousand dollars (\$1,500,000). In year 2, the company invests an additional eight

hundred thousand dollars (\$800,000) and the value of the building increases to three million three hundred thousand dollars (\$3,300,000). The exemption in year 2 will be two million dollars (\$2,000,000). This is the difference between the original base value of one million dollars (\$1,000,000) and the current value in year 2, but is limited by the agreed-upon two million dollar (\$2,000,000) maximum. In year 3, the company makes additional investments and the building value increases to four million dollars (\$4,000,000). The exemption in year 3 is limited to two million dollars (\$2,000,000) as provided in the original agreement. Beginning in year 4, there will be no further exemptions allowed under the original agreement. (7-1-17)T