

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1202

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-105A, Idaho Code, and Section 63-802, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

Tuesday - November 20, 2012 - 9:00 a.m.

**Idaho State Tax Commission
800 Park Blvd., Plaza IV
Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 605 clarifies exclusive use provisions in order to determine what leased property is exempt under Idaho Code section 63-602E, the property tax exemption for property used for educational purposes. Rule 605 clarifies that when a building is used for two or more uses one use of which is for non-profit educational purposes, the portion used for educational purposes is exempt and provides that leased personal property, such as computers, is only exempt if it is used exclusively on the school premises or if its use is restricted in such a way to eliminate the possibility of use for other than educational purposes.

Rule 620 clarifies the exemption process provided in House Bill 519 which amended Idaho Code section 63-602W to add a property tax site improvement related to land exemption for land developers. Rule 620 is needed to clarify the exemption process. Rule 620 defines site improvements, explains an application process and eligibility criteria, clarifies that the exemption is lost if the property is conveyed, and explains that the new assessment will be prorated as set out in Idaho Code section 63-602Y.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 2, 2012, Idaho Administrative Bulletin, [Vol. 12-5, page 88](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7742.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before close of business on October 24, 2012.

DATED this August 31, 2012.

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

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-1202

604. — ~~608.~~ (RESERVED)

605. PROPERTY EXEMPT FROM TAXATION - PROPERTY USED FOR SCHOOL OR EDUCATIONAL PURPOSES (RULE 605).
Section 63-602E, Idaho Code. ()

01. Eligibility of Leased Property. Leased property used exclusively for nonprofit school or educational purposes, including charter school purposes, shall be eligible for the exemption provided in Section 63-602E, Idaho Code, provided the following criteria are met: ()

a. Leased real property must be exclusively used for the educational purposes identified in Subsection 605.01 of this rule. Such leased real property may be part of a multi-use property, in which case only the portions of the property used for the educational purposes shall be eligible for the exemption. ()

b. Leased personal property must be exclusively used for the educational purposes identified in Subsection 605.01 of this rule. To be considered exclusively used in this manner, such personal property must: ()

i. Be used exclusively at a nonprofit school or charter school facility; or ()

ii. Have its use constrained or restricted in such a way as to effectively eliminate the possibility of use for other than educational purposes. ()

02. Application for Exemption for Leased Personal Property. Only the owner of leased personal property can apply for this exemption. Proof of compliance with the requirements of Paragraph 605.01.b. of this rule is required and may be provided by the lessee. ()

606. -- 608. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

620. EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS AND COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL SITE IMPROVEMENTS (RULE 620).
Section 63-602W, Idaho Code. ()

01. Qualifying Residential Improvements. Improvements to any land parcel that are residential and have never been occupied for residential purposes may qualify for the exemption pursuant to Section 63-602W(3), Idaho Code. *This rule is effective January 1, 1998.* Such qualifying improvements can include the following:

~~(1-1-98)~~()

- a. Single family residences, residential townhouses, and residential condominiums; and (1-1-98)
- b. Attached or unattached ancillary structures which are not intended for commercial use and are constructed contemporaneously with the improvements identified in Paragraph 620.01.a. Such structures may include sheds, fences, swimming pools, garages, and other similar improvements, subject to the limitations of Subsection 620.02. (1-1-98)

02. Non-Qualifying Residential Improvements. Never previously occupied residential improvements listed in the following Subsections do not qualify for ~~this~~ the exemption provided in Section 63-602W(3), Idaho Code. ~~(1-1-98)~~()

a. Location. Ancillary structures (see Paragraph 620.01.b.) that are not located on the parcel on which the improvement is located, identified in Subsection 620.01.a. of this rule, shall not qualify ~~for the exemption provided pursuant to Section 63-602W, Idaho Code.~~ ~~(1-1-98)~~()

b. Remodeled improvements. Remodeling of previously occupied residential improvements does not qualify ~~for the exemption.~~ ~~(1-1-98)~~()

c. Improvements included in land value. Improvements included in land value, such as septic tanks, wells, improvements designed to provide utility services or access, and other similar improvements shall not qualify ~~for the exemption.~~ Site improvements associated with land may qualify for the exemption in Section 63-602W(4), Idaho Code, provided a timely application is filed and the requirements of the Section 63-602W(4), Idaho Code, and Subsection 620.03 of this rule are met. ~~(1-1-98)~~()

03. Special Provisions for the Exemption for Site Improvements. Site improvements associated with land which are made or caused to be made by the land developer and held by the land developer are exempt, provided the property qualifies for the exemption pursuant to the provisions of Section 63-602W(4), Idaho Code. ()

a. “Site improvements associated with land.” “Site improvements associated with land” may include developed access, grading, sanitary facilities, water systems, and utilities. ()

b. Application. The land developer must file the application required for this exemption with the county commissioners as required by Section 63-602, Idaho Code, by April 15 and the taxpayer and county assessor must be notified of any decision by May 15. ()

i. For any parcel, the application must describe the parcel in sufficient detail for the assessor to identify the parcel. ()

ii. Multiple parcels may be included in one application, provided the parcels are under the same ownership and are listed and described in the application in sufficient detail for the assessor to identify each parcel. ()

iii. The application must be filed in the first year for which the exemption is claimed. In subsequent years, no application is necessary for any parcel that received the exemption in the immediate prior year and still qualifies for the exemption. ()

c. Proof of eligibility for the exemption. To be eligible, the land developer must provide the county assessor and county commissioners with sufficient proof that: ()

i. The land developer holds the land upon which the site improvements have been made; ()

ii. The land developer made or caused to be made the site improvements on the land; ()

iii. The real property is held by the land developer for sale or consumption in the ordinary course of the

land developer's business; and ()

iv. The land developer is the owner or are in possession of the land under a land sale contract. ()

04. Loss of the Exemption for Site Improvements. The exemption for site improvements provided in Section 63-602W(4), Idaho Code, is lost when construction of any buildings or structural components of buildings is begun or when title to the land is conveyed from the land developer at any time following the installation of the site improvements. ()

a. Conveyance. Any change in ownership conveying title to land by deed or court order is considered a conveyance and result in loss of this exemption. ()

b. Timing. Site improvements losing this exemption are subject to assessment and taxation in accordance with the change of status provisions of Section 63-602Y, Idaho Code. ()

c. Loss by individual parcel. Loss of exemption will occur on a parcel by parcel basis. For example, if ten (10) adjoining parcels are all receiving the exemption, but one (1) of these parcels no longer qualifies, the remaining nine (9) parcels continue to receive the exemption. ()

05. Valuation of Land With Qualifying Exempt Site Improvements. Land otherwise taxable, but including site improvements that qualify for the exemption pursuant to Section 63-602W(4), Idaho Code, will be assessed at market value, in accordance with the provisions of Rule 217 of these rules. ()

06. Forestland and Agricultural Use. This exemption does not apply to parcels assigned to forestland or agricultural categories. ()

07. Reporting and Deducting the Amount of the Exemption. The value exempted must be reported on the abstract as required in Rule 509 of these rules. Any exempted value previously included in a new construction roll will be deducted from the new construction roll value reported in the first year following the year in which the exemption is granted, as provided in Rule 802 of these rules. ()