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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Local Government & Taxation Committee and the House Revenue & Taxation Committee
FROM: Principal Legislative Research Analyst - Brooke Brouman
DATE: August 08, 2014
SUBJECT: State Tax Commission - Property Tax

IDAPA 35.01.03 - Property Tax Administrative Rules (Docket No. 35-0103-1401) - Proposed Rule

IDAPA 35.01.03 - Property Tax Administrative Rules (Docket No. 35-0103-1404) - Proposed Rule

IDAPA 35.01.03 - Property Tax Administrative Rules (Docket No. 35-0103-1405) - Temporary and Proposed Rule

The State Tax Commission submits the following three rulemaking dockets relating to Property Tax Administrative Rules:

(1) IDAPA 35.01.03 - Property Tax Administrative Rules (Docket No. 35-0103-1401). This proposed rule makes the following changes:

- (a) Revises definitions regarding written complaints, provides a time line for the notice and investigation of a complaint and specifies rules for investigation of complaints about property tax budgets or levies of taxing districts;
- (b) Provides requirements for the removal of a homeowner's exemption from one homestead and a transfer of that exemption to a different homestead at a taxpayer's request; and
- (c) Removes a requirement that owners who designate property on which the qualified investment exemption is elected must file a personal property declaration and not the annual affidavit provided for in Section 63-602KK(6), Idaho Code. The Commission states that this rule change was prompted by and is consistent with changes made to Section 63-602KK, Idaho Code, by House Bill No. 441a passed during the 2014 legislative session.

The Commission states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the May 7, 2014 Idaho Administrative Bulletin.

(2) IDAPA 35.01.03 - Property Tax Administrative Rules (Docket No. 35-0103-1404): This proposed rule makes the following changes:

- (a) Revises the definition of "fixtures";

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- (b) Removes a list of statutory references relating to property exemptions and replaces them with the language "property exempt from property tax";
- (c) Removes Rule 508, which sets forth requirements for reporting the value of personal property exempt to the Commission;
- (d) Removes the requirement to report the value of exempt personal property on an abstract;
- (e) Removes a reference to "fixtures" in a headline describing secondary Category 59 property items because this category is used for personal property and fixtures are defined as real property;
- (f) Removes the requirement that certain taxpayers must file an application for a personal property exemption every fifth year;
- (g) Revises provisions relating to personal property tax replacement amounts;
- (h) Moves illustrations and explanations of eligibility relating to common enterprise and related ownership to proposed Rule 627;
- (i) Changes existing language that requires net income when selling livestock to gross income, which the Commission states is consistent with statute;
- (j) Adds Section 63-602KK(7), Idaho Code, to the Recovered/Recaptured Property Substitute Funds Tax List;
- (k) Revises the L-2 Form contents relating to cash forward balance and adds property tax replacement reporting requirements;
- (l) Revises the special provisions for property tax replacement and provides additional provisions relating to charter school districts with a levy in 2013 for maintenance and operations; and
- (m) Revises existing penalty provisions and provides additional penalties for failure to comply with reporting requirements, which the Commission states is consistent with House Bill 560 passed during the 2014 legislative session.

The Commission states that negotiated rulemaking was not conducted because the rules are simple in nature.

(3) IDAPA 35.01.03 - Property Tax Administrative Rules (Docket No. 35-0103-1405). This temporary and proposed rule makes the following changes:

- (a) Revises and provides additional provisions relating to establishing and adjusting base and increment values with regard to urban renewal districts and adds the plant facility fund to the list of those funds excluded from generating property tax to be allocated to urban renewal districts; and
- (b) Revises and provides additional provisions relating to certification of sales tax distribution.

Negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published under Docket No. 35-0103-1401 in the May 7, 2014 Idaho Administrative Bulletin.

The Commission states that the temporary adoption of the rule is appropriate in order to comply with deadlines in amendments to governing law or federal programs. It is hard to know which amendments to

governing law or federal programs the Commission is referring to because it did not provide any citations or general references.

It appears that the Commission's proposed rules are within the scope of the statutory authority granted to the State Tax Commission.

cc: State Tax Commission
Sherry Briscoe