

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 359

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-201, IDAHO CODE, TO PROVIDE THAT OPERATING PROPERTY SHALL NOT BE INCLUDED IN TAXABLE VALUE FOR THE PURPOSE OF MAKING A LEVY THAT IS TO BE MADE AGAINST REAL PROPERTY ONLY.

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

SECTION 1. That Section 63-201, Idaho Code, be, and the same is hereby amended to read as follows:

63-201. DEFINITIONS. As used for property tax purposes in chapters 1 through 23, title 63, Idaho Code, the terms defined in this section shall have the following meanings, unless the context clearly indicates another meaning:

(1) "Appraisal" means an estimate of property value for property tax purposes.

(a) For the purpose of estimated property value to place the value on any assessment roll, the value estimation must be made by the assessor or a certified property tax appraiser.

(b) For the purpose of estimating property value to present for an appeal filed pursuant to sections 63-501A, 63-407 and 63-409, Idaho Code, the value estimation may be made by the assessor, a certified property tax appraiser, a licensed appraiser, or a certified appraiser or any party as specified by law.

(2) "Bargeline" means those water transportation tugs, boats, barges, lighters and other equipment and property used in conjunction with waterways for bulk transportation of freight or ship assist.

(3) "Cogenerators" means facilities which produce electric energy, and steam or forms of useful energy which are used for industrial, commercial, heating or cooling purposes.

(4) "Collection costs" are amounts authorized by law to be added after the date of delinquency and collected in the same manner as property tax.

(5) "Credit card" means a card or device, whether known as a credit card or by any other name, issued under an arrangement pursuant to which a card issuer gives to a cardholder the privilege of obtaining credit from the card issuer or other person in purchasing or leasing property or services, obtaining loans, or otherwise.

(6) "Debit card" means any instrument or device, whether known as a debit card or by any other name, issued with or without a fee by an issuer for the use of the cardholder in depositing, obtaining or transferring funds.

(7) "Delinquency" means any property tax, special assessment, fee, collection cost, or charge collected in the same manner as property tax, that has not been paid in the manner and within the time limits provided by law.

1 (8) "Electronic funds transfer" means any transfer of funds that is
2 initiated by electronic means, such as an electronic terminal, telephone,
3 computer, ATM or magnetic tape.

4 (9) "Fixtures" means those articles that, although once movable chat-
5 tels, have become accessory to and a part of improvements to real property
6 by having been physically incorporated therein or annexed or affixed thereto
7 in such a manner that removing them would cause material injury or damage to
8 the real property, the use or purpose of such articles is integral to the use
9 of the real property to which it is affixed, and a person would reasonably
10 be considered to intend to make the articles permanent additions to the real
11 property. "Fixtures" includes systems for the heating, air conditioning,
12 ventilation, sanitation, lighting and plumbing of such building.

13 (10) "Floating home" means a floating structure that is designed and
14 built to be used, or is modified to be used, as a stationary waterborne resi-
15 dential dwelling.

16 (11) "Improvements" means all buildings, structures, manufactured
17 homes, as defined in section 39-4105(8), Idaho Code, mobile homes as de-
18 fined in section 39-4105(9), Idaho Code, and modular buildings, as defined
19 in section 39-4301(7), Idaho Code, erected upon or affixed to land, fences,
20 water ditches constructed for mining, manufacturing or irrigation purposes,
21 fixtures, and floating homes, whether or not such improvements are owned
22 separately from the ownership of the land upon or to which the same may be
23 erected, affixed or attached. The term "improvements" also includes all
24 fruit, nut-bearing and ornamental trees or vines not of natural growth,
25 growing upon the land, except nursery stock.

26 (12) "Late charge" means a charge of two percent (2%) of the delin-
27 quency.

28 (13) "Lawful money of the United States" means currency and coin of the
29 United States at par value and checks and drafts which are payable in dollars
30 of the United States at par value, payable upon demand or presentment.

31 (14) "Legal tender" means lawful money as defined in subsection (13) of
32 this section.

33 (15) "Market value" means the amount of United States dollars or equiva-
34 lent for which, in all probability, a property would exchange hands between a
35 willing seller, under no compulsion to sell, and an informed, capable buyer,
36 with a reasonable time allowed to consummate the sale, substantiated by a
37 reasonable down or full cash payment.

38 (16) "Operating property" means real and personal property operated
39 in connection with any public utility, railroad or private railcar fleet,
40 wholly or partly within this state, and which property is necessary to the
41 maintenance and operation of the public utility, railroad or private railcar
42 fleet, and the roads or lines thereof, and includes all rights-of-way ac-
43 companied by title; roadbeds; tracks; pipelines; bargelines; equipment and
44 docks; terminals; rolling stock; equipment; power stations; power sites;
45 lands; reservoirs, generating plants, transmission lines, distribution
46 lines and substations; and all title and interest in such property, as owner,
47 lessee or otherwise. The term includes electrical generation plants under
48 construction, whether or not owned by or operated in connection with any
49 public utility. For the purpose of the appraisal, assessment and taxation of
50 operating property, pursuant to chapter 4, title 63, Idaho Code, the value of

1 intangible personal property shall be excluded from the taxable value of op-
2 erating property in accordance with the provisions of section 63-602L, Idaho
3 Code, and the value of personal property, other than intangible personal
4 property, shall be excluded from the taxable value of operating property in
5 accordance with the provisions of section 63-602KK, Idaho Code. Operating
6 property shall be included in taxable value for the purpose of making a levy,
7 as required in section 63-803, Idaho Code, except when an exemption is pro-
8 vided or when said levy is to be made against real property only.

9 (17) "Party in interest" means a person who holds a properly recorded
10 mortgage, deed of trust or security interest.

11 (18) "Person" means any entity, individual, corporation, partnership,
12 firm, association, limited liability company, limited liability partner-
13 ship or other such entities as recognized by the state of Idaho.

14 (19) "Personal property" means everything that is the subject of owner-
15 ship and that is not included within the term "real property."

16 (20) "Private railcar fleet" means railroad cars or locomotives owned
17 by, leased to, occupied by or franchised to any person other than a railroad
18 company operating a line of railroad in Idaho or any company classified as a
19 railroad by the interstate commerce commission and entitled to possess such
20 railroad cars and locomotives except those possessed solely for the purpose
21 of repair, rehabilitation or remanufacturing of such locomotives or rail-
22 road cars.

23 (21) "Public utility" means electrical companies, pipeline companies,
24 natural gas distribution companies, or power producers included within fed-
25 eral law, bargelines, and water companies which are under the jurisdiction
26 of the Idaho public utilities commission. The term also includes telephone
27 corporations, as that term is defined in section 62-603, Idaho Code, except
28 as hereinafter provided, whether or not such telephone corporation has been
29 issued a certificate of convenience and necessity by the Idaho public utili-
30 ties commission.

31 This term does not include cogenerators, mobile telephone service or
32 companies, nor does it include pager service or companies, except when such
33 services are an integral part of services provided by a certificated utility
34 company, nor does the term "public utility" include companies or persons en-
35 gaged in the business of providing solely on a resale basis, any telephone or
36 telecommunication service which is purchased from a telephone corporation
37 or company.

38 (22) "Railroad" means every kind of railway, whether its line of rails
39 or tracks be at, above or below the surface of the earth, and without regard
40 to the kind of power used in moving its rolling stock, and shall be consid-
41 ered to include every kind of street railway, suburban railway or interur-
42 ban railway excepting facilities established solely for maintenance and re-
43 building of railroad cars or locomotives.

44 (23) "Real property" means land and all rights and privileges thereto
45 belonging or any way appertaining, all quarries and fossils in and under the
46 land, and all other property which the law defines, or the courts may inter-
47 pret, declare and hold to be real property under the letter, spirit, intent
48 and meaning of the law, improvements and all standing timber thereon, in-
49 cluding standing timber owned separately from the ownership of the land upon
50 which the same may stand, except as modified in chapter 17, title 63, Idaho

1 Code. Timber, forest, forest land, and forest products shall be defined as
2 provided in chapter 17, title 63, Idaho Code.

3 (24) "Record owner" means the person or persons in whose name or names
4 the property stands upon the records of the county recorder's office. Where
5 the record owners are husband and wife at the time of notice of pending issue
6 of tax deed, notice to one (1) shall be deemed and imputed as notice to the
7 other spouse.

8 (25) "Special assessment" means a charge imposed upon property for a
9 specific purpose, collected and enforced in the same manner as property
10 taxes.

11 (26) "System value" means the market value for assessment purposes of
12 the operating property when considered as a unit.

13 (27) "Tax code area" means a geographical area made up of one (1) or more
14 taxing districts with one (1) total levy within the geographic area, except
15 as otherwise provided by law.

16 (28) "Taxing district" means any entity or unit with the statutory au-
17 thority to levy a property tax.

18 (29) "Taxable value" means market value for assessment purposes, less
19 applicable exemptions or other statutory provisions. When statutory pro-
20 visions define taxable value as limited to real property for the purpose of
21 making a levy, operating property shall not be included.

22 (30) "Transient personal property" is personal property, specifically
23 such construction, logging or mining machinery and equipment which is kept,
24 moved, transported, shipped, hauled into or remaining for periods of not
25 less than thirty (30) days, in more than one (1) county in the state during
26 the same year.

27 (31) "Warrant of distraint" means a warrant ordering the seizure of per-
28 sonal property to enforce payment of property tax, special assessment, ex-
29 pense, fee, collection cost or charge collected in the same manner as per-
30 sonal property tax.