

# **APPENDIX A**

**Idaho Supreme Court Decisions  
Idaho Board of Tax Appeals Decisions  
District Court Decisions**

## SELECTED IDAHO SUPREME COURT CASES

(In chronological order, ending with the most recent cases)

Erwin v. Hubbard, 4 Idaho 170, 37 P. 274 (1894).

It was the duty of the taxpayer to furnish the assessor, on demand, the statement on oath and if he neglected or failed to do so, it was the duty of the assessor to assess such taxable property within his jurisdiction and in that case the taxpayer could not recover taxes paid under protest on property so assessed.

Cheney v. Minidoka County, 26 Idaho 471, 144 P. 343 (1914).

Anyone, who claims any property tax exemption, must identify a specific provision of law plainly giving the exemption.

Diefendorf v. Gallet, 51 Idaho 619, 10 P.2d 307 (1932).

The term “property” within the constitutional provision requires all “property” to be taxed uniformly by value.

Lewiston Orchards Irrigation District v. Mary E. Gilmore, Nez Perce County Treasurer, 53 Idaho 377, 23 P.2d 720 (1933).

An irrigation district is not a municipal corporation within the meaning of Article 7, § 4, *Idaho Constitution*; therefore, land acquired by an irrigation district for nonpayment of delinquent assessments is not exempt from property taxation.

Board of County Commissioners of Ada County v. Sears, Roebuck & Co., 74 Idaho 39 (1953).

The assessor's value is presumed to be correct.

In re Felton's Petition, 79 Idaho 325, 316 P.2d 1064 (1957).

Administrative remedies, provided by the legislature relative to the assessment of property, must be pursued by the taxpayer as a condition precedent to judicial action.

Sunset Memorial Gardens, Inc. v. Idaho State Tax Commission, 80 Idaho 206, 327 P.2d 766 (1958).

There are three kinds of tax exemptions, those based on ownership alone, those based on ownership and use, and those based on use alone. Exemption statutes may be roughly classified as belonging to one of three groups: (1) Those making ownership of the property by a certain institution or class of people the test; (2) Those making the particular use of the property rather than the ownership the test; and (3) Those making both ownership and use the test. This classification of importance is especially true in connection with exemption of charitable, religious, and educational institutions. If ownership is the test, then the use is often held immaterial. If use is the test, then the ownership is generally immaterial.

Tobias v. State Tax Commission, 85 Idaho 250, 378 P.2d 628 (1963).

The procedure prescribed by the legislature, regarding levying, assessing and collecting taxes, must be strictly observed. The board of equalization may only hear appeals that are prescribed by law to be within their jurisdiction each time they meet.



Abbot v. State Tax Commission, 88 Idaho 200, 398 P.2d 221 (1965).

The value of property for purposes of taxation as determined by the assessor is presumed to be correct.

Janss Corp. v. Board of Equalization Blaine County, 93 Idaho 928 (1970).

Absent a showing that an assessed valuation of a property was prejudicially discriminatory or that the assessment was otherwise unlawful or erroneous, the presumption prevails that the value affixed by the assessor is correct.

Title and Trust Company v. Board of Equalization, Ada County, 94 Idaho 270, 278 (1971).

To be entitled to relief, the taxpayer has the burden by clear and convincing evidence (See HB 302 in the Addendum Q for more recent legislative action relating to issue of level of proof.) to overcome the presumption that the assessor and board of equalization have performed their duties correctly.

Merris v. Ada County, 100 Idaho 59, 64, (1979).

The value of the property for purposes of taxation as determined by the assessor is presumed to be correct. The burden of proof is upon the taxpayer to show by clear and convincing evidence that he is entitled to the relief claimed. New law is somewhat different than this decision; see House Bill (HB) 302 (from the 2003 legislature) in the Addendum.

Ada County v. Red Steer Drive-Ins of Nevada, Inc., 101 Idaho 94, 609 P.2d 161 (1980).

A taxpayer is entitled to relief where the valuation fixed by an assessor is manifestly excessive, fraudulent or oppressive, or arbitrary, capricious and systematically discriminatory.

Idaho State Tax Commission v. Staker, 104 Idaho 734, 663 P.2d 270 (1982)

This case addressed the appeal process for the decisions on equalization by the state tax commission. The Supreme Court ruled that it was the only entity with jurisdiction for appeal of these decisions. The Supreme Court can hear these appeals if it chooses; it is not required to do so.

Canyon County v. Sunny Ridge Manor, Inc., 106 Idaho 98, 675 P.2d 813 (1984).

Determination of an institution's charitable status is necessarily an individual matter, to be decided on a case-by-case basis. In determining charitable status of a non-profit corporation under §63-602C, I.C., a number of factors must be considered: (1) the stated purpose of its undertaking, (2) whether its functions are charitable, (3) whether it is supported by donations, (4) whether the recipients of its services are required to pay for the assistance they receive, (5) whether there is general public benefit, (6) whether the income received produces a profit, (7) to whom the assets would go upon dissolution of the corporation, and (8) whether the "charity" provided is based on need.

An institution may be entitled to an exemption where it performs a function which might otherwise be an obligation of government and, thus, a nonprofit corporation may benefit only a limited group of people and still be considered "charitable" if that group of people possess a need which government might be required to fill; however, where there is no

assistance to individuals which might normally require government funds, the institution must meet a stricter test: it must provide benefits to the community at large.

Coeur d' Alene Public Golf Club, Inc. v. Kootenai Board of Equalization, 106 Idaho 104, 675 P.2d 819 (1984).

For a corporation's uses to be considered charitable it is essential that they provide some sort of general public benefit.

Simmons v. Idaho State Tax Commission, 111 Idaho 343, 723 P.2d 887 (1986).

Homeowners are not a suspect class and the exemption under §63-602G, I.C., for homeowners furthers legitimate state interests, such as fostering home ownership and equalizing the tax burden between residential and business properties; therefore, this section does not violate the equal protection provisions of Constitution, Article 1, § 2, or the Fourth Amendment to the United States Constitution.

Bogus Basin Recreational Association v. Boise County Board of Equalization, 118 Idaho 686, 799 P.2d 974 (1990).

Exemptions are never presumed, and the burden is on a claimant to establish clearly a right to exemption.

Fairway Development Co. v. Bannock County, 119 Idaho 121, 804 P.2d 294 (1990).

The taxpayer cannot ignore the statutory appeal process by paying the tax under protest and then filing an action under §63-1308, I.C., for refund of the tax; such a collateral attack upon the decision of the assessor and the board of equalization is not permitted.

Corporation of Presiding Bishop of Church of Latter-Day Saints v. Ada County, 123 Idaho 410, 849 P.2d 83 (1993).

General summary:

Tax exemptions cannot be presumed, but instead must be explicitly granted by statute. If an ambiguity arises in a tax exemption, courts must not only interpret the statute in favor of the state, but must choose the narrowest possible reasonable construction of the statute.

Rules of law reinstated in this case:

- (a) It is solely the province of the legislature to make laws and the duty of a court to construe them and if the law, as construed by a court, is to be changed, that is a legislative not a judicial function;
- (b) Unless a contrary purpose is clearly indicated, ordinary words will be given their ordinary meaning when construing a statute;
- (c) The standard rules of statutory interpretation require a court to give effect to the legislature's intent and purpose and to every word and phrase employed;
- (d) When construing a statute, a court will ascertain and give effect to the purpose and intent of the legislature, based on the whole act and every word therein, lending substance and meaning to the provisions;
- (e) Where the language of a statute is unambiguous, the clear expressed intent of the legislature must be given effect and there is no occasion for construction;

- (f) The language of the tax exemption statutes must be given its ordinary meaning and an exemption will not be sustained unless within the spirit as well as the letter of the law;
- (g) A court may not presume exemptions, nor may it extend an exemption by judicial construction where not specifically authorized by a statute;
- (h) Tax exemptions exist as matter of legislative grace for the purpose of fairness, equality, and uniformity; therefore, these laws are to be construed according to “strict but reasonable” rule of statutory construction;
- (i) When an ambiguity arises in construing tax exemption statutes, a court must choose the narrowest possible reasonable construction;
- (j) All tax exemption statutes must be strictly and narrowly construed against the taxpayer, who must show a clear entitlement; and

Findings specific to statute that is now §63-602B, I.C.:

- (a) Where the state legislature has chosen not to implement an unlimited property tax exemption for religious properties, a court must protect and advance only those exemptions specifically delineated by the legislature;
- (b) The religious corporation had to establish that it qualified for property tax exemption for parsonage; and
- (c) Qualification for this exemption depends on ownership and use of the property.

Findings specific to statute that is now §63-602C, I.C.:

- (a) An organization seeking a charitable property tax exemption must be charitable and must use its property exclusively for the charitable purposes for which it was designed or for those purposes combined with some other statutorily exempted use and
- (b) The organization has the burden of proving clear entitlement to the charitable exemption by satisfying the requirements set forth in *Canyon County Assessor v. Sunny Ridge Manor, Inc.* (listed below) and *Coeur d’Alene Public Golf Club, Inc. v. Kootenai Board of Equalization* (listed below).

Findings specific to the facts of this case:

- (a) For the purposes of the property tax exemption for religious corporations or societies, a “parsonage” is a building owned by a religious organization and occupied as a residence by a designated minister who ministers to a specific localized congregation that gathers to worship at frequent and regular intervals; a parsonage is not merely a residence owned by a religious organization in which an ordained member of that organization resides; (This localized congregation requirement is based on the sound policy that, since the exemption shifts the property tax burden onto the people of the county, those people should receive something in return – a place to worship in the community and a minister to conduct the services.)
- (b) The mission president’s home did not qualify for exemption as parsonage; the mission president had no affiliated meetinghouse and no local congregation, did not serve the function of a minister or parson, and never met with all missionaries at one time in one place; and the missionaries attended the Sabbath and other services at a church in the area where they are staying; and
- (c) The use made of the home could not be considered charitable so as to qualify for the

property tax exemption for charitable corporations or societies.

Ada County Assessor v. Taylor, 124 Idaho 550, 861 P.2d 1215 (1993).

Where agreement between sellers and taxpayers was found to be a contract to purchase home, taxpayers were owners of the property for the purposes of §63-602G, I.C., and were entitled to homeowner's exemption.

Hermann v. Blaine County Board of Commissioners, 126 Idaho 970, 895 P.2d 571 (1995).

When a property owner builds a new residence and fails to notify the assessor of the date of occupancy pursuant to §63-3905, I.C. (now §63-317, I.C.), the new residence can constitute "inadvertently omitted property" within the meaning of §63-306, I.C. (Note: The law that was §63-306, I.C., in 1995 became §63-301, I.C., in 1997. The phrase "inadvertently omitted property" is not in §63-301, I.C. §63-301, I.C., refers to "any property which has been omitted from the property roll" instead of "inadvertently omitted property.")

Greenfield Village Apts. v. Ada County, 130 Idaho 207, 938 P.2d 1245 (1997).

Since former law similar to §63-208, I.C., required that actual and functional use shall be a major consideration when determining market value for assessment purposes, assessor erred in refusing to consider restrictive covenants limiting use of the property to low-income housing with rent restrictions for the actual and functional use of the property was as rent-restricted, low-income housing.

Riverside Development Company, Inc. v. Kootenai County Assessor, 137 Idaho 382, 48 P.3d 1271 (2002)

Actual and functional use of unimproved lots held by developer was as single-family residential lots, and evidence supported assessor's valuation where unsold lots were indistinguishable from other lots in the development when the assessor look at retail values of comparable lots in the subdivision to determine the market value of the unsold lots. The Court also cited a prior finding that factual determinations by administrative agency are not erroneous when they are supported by competent and substantial evidence even though conflicting evidence exist.

Troy G. and Linda M. Mitchell v. Board of Equalization of Nez Perce County, 138 Idaho 52, 57 P.3d 763 (2002)

The taxpayer argued the assessor could not decide the fair market value of the single-family residence on 4.70 acres because Idaho law does not require full disclosure of sales price. The Court ruled the fact that state law did not require disclosure of sale price failed to prove the assessor lacked sufficient information to make a reasonably accurate assessment and it recognized comparable sales are only one factor to consider and differences of opinion on value will occur. The Court also ruled the assessor did not need to know the sale price of every property in the county to be able to apply the sales comparison approach. A taxpayer must show the value fixed by the assessor was manifestly excessive, fraudulent, or oppressive, or it was arbitrary, capricious, and erroneous resulting in discrimination against the taxpayer.

Community Action Agency v. Board of Equalization of Nez Perce County, 138 Idaho 82, 57 P.3d 793 (2002)

The Court applied the principle of strict construction against the Community Action Agency (CAA) even though: (1) CAA had the charitable function of providing housing to those in need below market rate with the government grants inadequate to make up the difference; (2) private donations somewhat lessened government's burden; (3) CAA never operated for profit; (4) CAA's assets would be disbursed to charities if it were dissolved; and (5) CAA had received the exemption in prior and subsequent years.

The Court ruled CAA did not meet the requirements to be considered a charity because: (1) it required the residents in the low-income housing to pay rent; (2) it received federal and state grants; and (3) it did not provide a general public benefit.

The Court also concluded quasi estoppel does not apply because the county was justified in reexamining properties previously granted an exemption and also justified in revisiting the issue and again granting the exemption.

Senator, Inc. v. Ada County Board of Equalization, 138 Idaho 566, 67 P.3d 45 (2003)

The taxpayer argued the statutory requirement to give major consideration to "actual and functional use" meant the assessor must use the actual vacancy rate rather than a market derived vacancy rate to decide the value of the mobile home park. The taxpayer admitted that a buyer purchasing the mobile home park would not pay a certain amount for the rented spaces and pay a lower amount for the unrented spaces.

The Court decided the actual and functional use of the rented and the unrented spaces was the same because the real property was being valued, not the business being operated on it. The Court concluded the actual and functional use of real property for tax assessment purposes is its existing use and the use for which it is designed or intended. The Court also upheld the district court decision that the valuation did not include business goodwill.

Student Loan Fund of Idaho, Inc. v. Payette County, 138 Idaho 684, 69 P.3d 104 (2003)

The law exempting fraternal, benevolent or charitable corporations or societies from property taxation has two initial requirements: 1) the property must belong to a charitable organization and 2) the property must be exclusively used for the purpose for which the corporation was organized.

If either of these requirements is not met, no exemption should be granted. Where use is the criterion, the exemption is lost if the property is put to other uses. This taxpayer was not entitled to any property tax exemption because the majority of the property was not used exclusively for charitable purposes; 38.45 of 54.9 acres were used by a farmer in exchange for lawn maintenance, the house was used by a person who provided janitorial and security services, and a separate business entity shared the office space with this taxpayer and paid support fees.

Union Pacific Land Resources v. Shoshone County Assessor, 140 Idaho 528, 96 P.3d 629 (2004)

The State Tax Commission (STC) has the responsibility to decide if property is to be classified as operating property or non-operating property. Once the decision has been made that property is operating property, the only recourse available to the county assessor is to file a petition for a writ of review because the assessor cannot appeal the decision that the

property is operating property. The assessor may only ask the STC to reexamine the assessment or allocation, not the classification.

Castriano v. McQuade and Ada County Board of Equalization, 141 Idaho 93, 106 P.3d 419 (2005)

The appellants were seeking a property tax refund on an occupancy tax assessment arguing, among other things, that the 2001 occupancy assessment notice received from the county was defective under Idaho law and denied them procedural due process. (The notice included only a prorated value but not the full value as now required in Property Tax Rule 317.) The Court concluded the appellants failed to appeal their original or revised 2001 assessment to the board of equalization within the statutory timeframe and failed to provide an adequate basis upon which to excuse their failure to exhaust administrative remedies. The Court ordered the appellants to pay attorney's fees and costs to Ada County. Among others, the following rulings of law were reiterated:

1. The valuation placed on property by a county assessor for tax purposes is presumed to be correct.
2. Relief can be granted only if an assessor's valuation of property for tax purposes is manifestly excessive, fraudulent or oppressive, or arbitrary, capricious and erroneous.
3. Taxpayers' failure to exhaust administrative remedy of timely appealing their assessment and tax liability to county board of equalization (BOE), as statutorily prescribed, deprived district court of jurisdiction. . . .
4. The construction and application of a legislative act are pure questions of law . . . to which the Supreme Court exercises free review.

Ada County Board of Equalization v. Highlands, Inc., Smith Family, L.L.C., 141 Idaho 202, 108 P.3d 349 (2005)

The taxpayer argued that § 63- 602K, I.C., only required the land to be leased to a "bona fide leasee for grazing purposes." The Court ruled: having a lease with a bona fide rancher is not enough to qualify for the speculative agricultural exemption (§ 63- 602K, I.C.), the lessee is required to actively "use" the property for grazing purposes. The Court also said, not only had the lessee not used the land for grazing, but had not even taken steps to be able to use the land for grazing, such as providing water sources or fencing. Among others, the following rulings of law were also reiterated:

1. Statutes granting tax exemptions are strictly construed against the taxpayer and in favor of the state
2. Taxpayer must show a clear entitlement to an exemption, as an exemption will never be presumed.

Idaho Power Company v. Idaho State Tax Commission, 141 Idaho 316, 109 P. 3d 170 (2005)

The decision explained the unit method of appraisal and discussed the inclusion of values for non-taxable "regulatory assets." The Court affirmed the district court's decision that the regulatory assets did not generate income and addressed the argument that just because an asset earns a rate of return set by the Idaho Public Utilities Commission does not mean the asset is generating income. Among others, the following rulings of law were also reiterated:

1. An "arbitrary valuation" for tax purposes is one that does not reflect the fair

- market value or full cash value of the property.
2. As assessor's appraisal of property is presumed correct, but the court will grant relief where the valuation fixed by the assessor is manifestly excessive, fraudulent or oppressive or arbitrary, capricious, and erroneous resulting in discrimination against the taxpayer.

Brandon Bay, Limited Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (2006)

The dispute in this case centered on the real property valuations of Brandon Bay and Kenmare Trace, two low-income apartment developments located in Payette County, that operated under the provisions of the federal Low-Income Housing Tax Credit program (LIHTC also known as Section 42 Housing). The primary issue in this case was whether the tax credits allocated under the LIHTC should be included in the real property assessment of the apartments for taxation purposes.

1. The Idaho Supreme Court held that Section 42 tax credits "are not a contract right exempt from consideration in the valuation of real property. The tax credits are better characterized as "rights and privileges" belonging to the land under the definition of "real property" in I.C. § 63-201(18), as they do not exist separate from an ownership right in the low-income housing."

2. "When determining the value of low-income housing developments, the value of § 42 tax credits should be included in the assessment."

PacifiCorp vs. Idaho State Tax Commission, 2012 Opinion No. 153, Docket No. 38307, (2012)

The Idaho State Tax Commission appealed the District Court's judgment, holding that PacifiCorp proved by a preponderance of the evidence that the Tax Commission's valuation of its operating property in Idaho was erroneous pursuant to Section 63-409(2), Idaho Code. The contention was that the District Court's decision was not supported by substantial and competent evidence because the appraisal methodologies utilized by PacifiCorp's appraiser are unreliable.

1. The Idaho Supreme Court held by a 3-2 decision that the District Court's judgment was supported by substantial and competent evidence.

2. The dissenting opinion felt that PacifiCorp failed to establish an entitlement to a 20.88% reduction in taxable value of its property under the cost approach, based upon external obsolescence.

**IDAHO STATE BOARD OF TAX APPEALS  
AD VALOREM DECISIONS**

In the Matter of the Appeal of Elizabeth Carter from the decision of the Board of Equalization of Ada County for tax year 2006; Appeal No. 06-A-2146:

... Appellant's case was constructed around a comparison of assessed values.... Assessed values are not considered good evidence of market value.

In the Matter of the Appeal of William P. and Barbara Worrell from the decision of the Board of Equalization of Ada County for tax year 2006; Appeal No. 06-A-2030:

... Appellant's case was constructed around a comparison of assessed values.... Assessed values are not considered good evidence of market value.

## **IDAHO DISTRICT COURT DECISIONS**

Boise Hospitality, LLC, Boise Hotels and Lodging, Eagle-Meridian Lodging vs. Ada County Assessor and Ada County Board of Equalization, CV OC 2011-07629

This case is a real property tax appeal from the Ada County Board of Equalization for tax years 2010 and 2011. The case initially consisted of eight separate cases consisting of appeals of four separate properties for two separate years. The cases were initially presented to the Ada County BOE and then appealed to the Board of Tax Appeals. They were then brought to the District Court as appeals *de novo*.

The District Court concluded that the hotel owners failed to prove that the Ada County Assessor's Office appraisals were erroneous. The District Court concluded that the appraisal methods followed by the county appraisers were in accordance with industry standards and were approved by the Idaho State Tax Commission. There was no reason to disturb the values determined by the Assessor and confirmed by the County BOE and Idaho Board of Tax Appeals.