The Effects of HB 235 on Section 63-602NN, Idaho Code

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Major Provisions of §63-602NN

- Up to five year exemption from property taxes
- Requires investment
  - during identified project period
  - In defined project
- Discretionary on part of county commissioners
  - Meeting qualifications does not guarantee exemption
- Requires certain uses (ie: was manufacturing; new law expands to non-retail)
- Land does not qualify and purchase cannot be included in meeting investment criteria
# General Provisions - New Law v. Existing Law

<table>
<thead>
<tr>
<th>Provision</th>
<th>Existing Law</th>
<th>New Law</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum length exemption</td>
<td>5 years</td>
<td>5 years</td>
</tr>
<tr>
<td>Investment threshold</td>
<td>$3,000,000</td>
<td>Not less than $500,000 (discretion of county commissioners, but by ordinance)</td>
</tr>
<tr>
<td>Application</td>
<td>By April 15</td>
<td>By April 15</td>
</tr>
<tr>
<td>In effect</td>
<td>If already granted, for duration of agreement, not to exceed 5 years</td>
<td>2018 and future, not to exceed 5 years</td>
</tr>
<tr>
<td>Type of property eligible</td>
<td>Generally manufacturing</td>
<td>Non-Retail</td>
</tr>
<tr>
<td>Ineligible property</td>
<td>Land, existing buildings (except for improvements to existing buildings)</td>
<td>Land, “base value” of existing buildings or personal property</td>
</tr>
</tbody>
</table>
Issues and Considerations

- **What can be granted for tax year 2017?**
  - Pre-existing ongoing exemptions under agreements under current (prior) law
  - Exemption from occupancy tax under new law
    - Could apply to newly occupied real property - buildings, but not personal property or land
    - There would be no base year assessment
    - Would be in the form of a tax cancellation

- **Why can’t new law provisions apply to property tax in 2017?**
  - IC 63-602 limits application period to end at April 15; this precedes existence of new law
Issues and Considerations

- What can be considered eligible for the exemption as “non-retail?”
  - Any commercial or industrial plant
  - Commercial or industrial personal property
    - Owned or leased by taxpayer applying for exemption
  - Multi-family residential developments provided they consist of more than four units in any building
Exemption v. Tax Cancellation

- 63-602 NN provides an exemption, not a tax cancellation
  - Exemptions apply to value of property
  - Exemptions may shift taxes to non-exempt property (assuming the property to which the exemption applies would have existed and been taxable)

<table>
<thead>
<tr>
<th>Taxing District</th>
<th>$ Budget (property tax)</th>
<th>Taxable value before exemption ($)</th>
<th>Tax Levy if no exemption (%)</th>
<th>Tax Levy if $5,000,000 exemption granted (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABC Fire District</td>
<td>1,000,000</td>
<td>500,000,000</td>
<td>0.2%</td>
<td>0.202%</td>
</tr>
</tbody>
</table>

- Taxes on a property valued at $200,000 would increase from $400 to $404
- The Fire district would get the same amount of money
Effect of Exemption on Property Tax Budget Capacity of Taxing Districts - Limitations

<table>
<thead>
<tr>
<th>Limits</th>
<th>Effects</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>3% annual growth</td>
<td>None</td>
<td>Unless levy rate limit hit</td>
</tr>
<tr>
<td>New construction</td>
<td>Not granted</td>
<td>Eligible portion will be included when exemption is lost; Value included will be amount exempted, excluding inflation and ineligible property (eg: personal property)</td>
</tr>
<tr>
<td>component</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Annexation</td>
<td>Not granted</td>
<td>If exempt property is annexed during exemption period, no annexation value then or later</td>
</tr>
<tr>
<td>Levy rate limits</td>
<td>No effect on capacity</td>
<td>Could lower actual amount that can be levied</td>
</tr>
</tbody>
</table>
Property within project site

- Site must be identified in written plan presented to county commissioners
  - Plan must outline investment
  - For multi-year projects, exemption limited to five years for any given property

Phase 1 - exemption granted for 2018 - 2022

Phase 2 - exemption granted for 2019 - 2023
Issues and Considerations

- Can the exemption apply to land and existing buildings and personal property?
  - Never to land
  - Never to site improvements which are valued as part of land value and not separately valued as improvements
    - Streets, utilities, grading, etc.
    - Site improvements can still be eligible for the site improvement exemption in Section 63-602W(4), Idaho Code
  - Existing buildings and personal property can qualify
    - but only to the extent current value at the time the exemption is granted exceeds “base value” - the value of the building or personal property in the year immediately preceding the first tax year for which the exemption is granted
How is the minimum investment threshold (at least $500,000) set?

- By county ordinance on or after July 1, 2017
  - Once in place, amount(s) set must remain in place:
    - For the remainder of the tax year
    - For the remainder of the period of any agreement with any specific property owner
  - STC does not believe the law restricts the number of different thresholds that can be set
    - By type of development or property
    - By geographic area within the county
  - There is no upper limit, so the threshold can exceed $3 million at the county’s discretion
  - Meeting the threshold does not mean the exemption must be granted
**Base Year Example**

- Company buys existing building in May, 2017; assessed value that year is $1,000,000 prior to investment or purchase; county ordinance sets threshold at $900,000. There are multiple investments on this project all covered in this same plan.

<table>
<thead>
<tr>
<th>Tax Year</th>
<th>Action (investment)</th>
<th>Assessed value ($)</th>
<th>Maximum exemption ($)</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>2017</td>
<td>$2,000,000</td>
<td>1,000,000</td>
<td>0</td>
<td>Investment too late in 2017 and did not affect 2017 assessed value</td>
</tr>
<tr>
<td>2018</td>
<td>$ 800,000</td>
<td>2,500,000</td>
<td>1,500,000</td>
<td>2017 Investment amount exceeds threshold; Some of the investment did not contribute to value</td>
</tr>
<tr>
<td>2019</td>
<td>$ 0</td>
<td>3,300,000</td>
<td>2,300,000</td>
<td>2018 additional investment added to value</td>
</tr>
</tbody>
</table>
Tear Down and Replacement Example

- A company buys and existing facility:
  - Land: $3 million value
  - Building: $1 million value
    - The investment in the building exceeds the county threshold
      - This investment qualifies toward the threshold, but the base value of the property purchased cannot be part of the exemption
    - The building is immediately torn down and the company invests $10 million in a new building - this is the value of the new building at completion

- Maximum exemption: $9 million
  - $10 million value minus $1 million value of original building
Investment May Not Equal Value

- A company invests $1,000,000 in a building (excluding land) -
  - this exceeds the established threshold in the county
  - The base value of the building is $100,000
  - The exemption is to be the maximum permitted
  - There is no additional investment during project period

<table>
<thead>
<tr>
<th>Year</th>
<th>Building Assessed Value (prior to exemption) ($)</th>
<th>Exemption ($)</th>
<th>Assessed Value (after exemption) ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 (prior to investment)</td>
<td>100,000</td>
<td>NA</td>
<td>100,000</td>
</tr>
<tr>
<td>1</td>
<td>1,500,000</td>
<td>1,400,000</td>
<td>100,000</td>
</tr>
<tr>
<td>2</td>
<td>1,200,000</td>
<td>1,100,000</td>
<td>100,000</td>
</tr>
<tr>
<td>3</td>
<td>4,000,000</td>
<td>3,900,000</td>
<td>100,000</td>
</tr>
</tbody>
</table>
Assume the investment threshold for qualifying is $2 million. The company provides a plan under which they will invest $500,000 per year in new plant and equipment for six years. They will reach the threshold in four years. The law is unclear on whether they can be given the exemption on qualifying property prior to meeting the threshold - STC has no position on this issue.
Reporting and STC Role

- IC 63-602NN provides for a discretionary exemption - county commissioners decide
  - Exemption can only be granted for locally assessed property - not operating property which is assessed by the STC
- Statute and rules contain certain restrictions
  - Exemption may only be for amount exceeding base year assessed value
  - Land not includable
  - Retail property not includable
- Exemption is for value - it is not a tax cancellation
  - Must be reported on abstract by category of property
    - Abstract to be submitted to STC
  - Property must be clearly identified
    - Personal property should be specified by type and date of purchase
STC Administrative Rules
Rule 631

- Temporary rules -
  - Adopted June 7
  - In effect beginning July 1
  - Expire at end of next legislative session

- Permanent rules
  - Negotiated rule-making process underway
    - Notice in Administrative Bulletin June 7
  - Will be discussed during June 19 rules committee meeting in Boise
  - Proposed rule must be completed for publication by August 16
Additional Questions and Issues

- Can multi-use, part retail, part other commercial properties qualify?
  - The commercial portions clearly could qualify

- What if there is a new, desirable project that doesn’t meet the investment threshold set by ordinance?
  - The statement of legislative intent, indicated that commissioners could: “annually establish a higher threshold.” STC rules follow this principle.

- What if a project overlaps county lines and there are two different qualifying investment thresholds?
  - The exemption can only be granted for the portion of the project in the county in which the qualifications are met.