What are administrative rules?

- Laws made by the executive branch
- The process is governed by the Idaho Administrative Procedures Act (IDAPA) (Title 67, Chapter 52)
- IDAPA provides for two official rules publications:
  - Idaho Administrative Bulletin
  - Idaho Administrative Code
- IDAPA provides for legislative review of all rules:
  - Approval
  - Rejection
  - Modification or Amendment
Types of Rules

- **Proposed rule**
  - The agency’s written proposal to adopt a new rule, amend or repeal an existing rule
  - May not yet be published in the Administrative Bulletin or, if published, has not yet been adopted by the agency
  - Can not be enforced

- **Temporary rule (Emergency rule)**
  - Authorized by the Governor if the rule is required for:
    - Protection of the public health, safety, or welfare; or
    - Compliance with deadlines in amendments to governing law or federal programs; or
    - Conferring a benefit
  - Can be enforced
  - Generally expires at the end of legislative session

- **Pending rule**
  - Has been adopted by the agency but remains subject to legislative review
  - May be changed or rejected by the legislature
  - Does not become final or effective until the conclusion of the regular or special session at which it was considered by the legislature.

- **Final rule** — also known as a permanent rule

- **Negotiated rulemaking** — “process in which all interested parties and the agency seek a consensus on the content of a rule.”
  - No discussion allowed on non-negotiated rules.

Steps in Negotiated Rulemaking

The Rules committee discusses a rule in the INCEPTION stage to determine if rulemaking is needed.

If negotiated rulemaking is feasible, the agency sends an AARF to DFM and the Governor’s Office for review.
Steps in Negotiated Rulemaking

Once Approved AARF is received, ‘Notice of Intent to Promulgate Negotiated Rulemaking’ is sent to Dept. of Admin to be published in next Administrative Bulletin.

With Approved AARF, agency staff can create a DRAFT of the rule.

Once Notice of Intent is published, the committee can have public discussions of the rule draft.

Steps in Negotiated Rulemaking

After committee considers all comments and reaches agreement on the rule draft, the Notice of Proposed Rulemaking is published in the Admin Bulletin, and the 21-day public comment period begins.

The final Rule Draft is presented to the Tax Commissioners in an Open Meeting with a Resolution to adopt a Pending Rule, and if approved, the Notice to Adopt Pending Rule is published in the Bulletin and presented at the next Legislative Session.

Negotiated Rulemaking

- I.C. Code requires negotiated rule making unless “infeasible.” May be infeasible if:
  - Required to comply with federal statute or existing state statute
  - Required to comply with judicial precedent
  - Confidentiality considerations
  - Need for temporary rule
  - Simple nature
  - Lack of identifiable affected parties
  - Likelihood that no consensus could be reached
- Creates additional publication and comment period
- Enables public discussion of drafts before proposed rule is published
Additional Requirements

- Imposed by 2016 Legislature (SB 1360)
- When amending Rule 006 (incorporation by reference)
  - Brief description of changes in documents being referenced must be provided to the Legislature

2018 Temporary (Emergency) Rules

- Three temporary property tax rules were approved by the Commission in 2018
  - 1) Rule 600T – Provisional Exemption
    - "Property that is being constructed" is defined
      - to include land, building and associated personal property
      - Property not to be used for an exempt purpose is excluded from the exemption
      - Renovations and personal property that add value after the granting of the exemption shall not be taxed
      - Application for the exemption may be filed at any time once a building permit has been issued or renovation starts
    - The owner must apply but need not be the intended user

Temporary Rules (continued)

Rule 802T – Budget Certification relating to New Construction and Annexation
- Relating to the provisional exemption – 2016 or 2017 additions to the NCR that are subsequently granted an exemption shall be deducted from the next NCR
- Rule 803T – Budget Certification – Dollar Certification Form (L-2 Form)
  - Relating to the provisional exemption – Added the word "Refund" to the "Recovered/Recaptured List" to recognize possible refunds paid on now exempt property; refunds need to be excluded from the "balance to be levied."
  - Relating to solar tax revenue – Changed the date from the third to the first Monday of August for the clerk’s reporting to taxing units (HB0392)
2018 – 2019 Proposed Rules

- The ISTC property tax rules committee developed and approved 14 proposed administrative rules.
- These 14 proposed rules will be published in the administrative bulletin on September 5.
  - Three of the proposed rules contain temporary/emergency provisions and are in effect now, but some of the proposed versions contain further modifications.
  - If approved by the Commission after comment period closes September 26th, these rules will become Pending Rules. Pending Rules will become Permanent and effective upon adjournment of the legislature unless both chambers reject the rule(s).

RULE 006 - INCORPORATION BY REFERENCE

- Updates the "Official Railway Equipment Register"
- Effective date Jan 1, 2019
- Updates and lists the link to IAAO standards on the IAAO website.

RULE 312 - PARTIAL YEAR ASSESSMENT OF REAL AND PERSONAL PROPERTY

- This rule changes the time when government owned property transferred to a private owner becomes taxable.
- Currently government property would not become taxable until the next January 1.
- The proposed change will conform to I. C. 63-602Y;
  - property changing status from exempt status to taxable status becomes taxable quarterly and the assessment is prorated accordingly.
**Rule 408 – RE-EXAMINATION OF VALUE -- COMPLAINT BY ASSESSOR**

- Current rule necessitates that the values of operating properties be sent to county assessors in early July.
- County assessors may file a complaint concerning the valuation or allocation of the value by July 15.
- The operating property values are not final until after the State Board of Equalization meets in August.

(Continued) **Rule 408 – Re-examination Of Value -- Complaint By Assessor**

- This rule is changed to recognize that the values made available to assessors in early July are the preliminary values rather than the final values.

**Rule 600 - PROPERTY EXEMPT FROM TAXATION [provisional exemption]**

- This rule explains the newly enacted provisional exemption (HB559) which may be granted to property that will be used for a tax-exempt purpose.
- The exemption may be applied for:
  - at the time the building permit is applied for
  - or at the time renovation starts,
  - whichever date is earliest.
(continued) Rule 600 - PROPERTY EXEMPT FROM TAXATION [provisional exemption]

- The date (May 15) found in I. C. 63-602(C), which is the date by which the county commissioners must notify the taxpayer of their decision to grant or deny most exemptions, does not apply to this provisional exemption found in I. C. Section 63-1305C.
- Only the part of the property that will be used for an exempt purpose may be included in the exemption.

(continued) Rule 600 - PROPERTY EXEMPT FROM TAXATION [provisional exemption]

- The rule defines “Property that is being constructed” to include land and associated personal property.
- The exemption does not apply to the property included on the current tax roll until the next tax year (Jan. 1); however,
- any addition(s) to the property during the year in which the exemption is granted shall not be taxed.

Rule 610 – Homestead Exemption & Rule 709 – Circuit Breaker

- Last year’s change was to count the community property interest as 50% interest in the property rather than 66 2/3%.
- This year’s change explains that the primary guidance in determining partial ownership relative to both the homeowner’s exemption and the circuit breaker programs is the specific language found in the deed.
This rule was reviewed in response to a taxpayer’s petition requesting certain changes.

- Adds whole farm rental agreements to cash rent or crop share rental agreements of places to look for appraisal information.
- Defines “Agricultural Area”:
  - An identified geographic area having similar characteristics, such as:
    - Topography, crops grown, soil types, or irrigation practices

The rule provides both a narrative description and an example of how to calculate the rent attributable to exempt irrigation equipment.

- Note: It is the income attributable to exempt irrigation equipment that is to be deducted (excluded) from total income;
  - Not the computed reserves for replacement – It is the reserves for replacement times the cap rate (\(i\cdot v\cdot r\))

Rule 614 - SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND - EXAMPLES

- Adds example using a combination of both individual crop cash rent and crop share.
- Clarifies: only crops grown on a typical farm in an “Agricultural Area” (defined in Rule 613) should be included in the crop rotation.
- Examples are up-dated to show a deduction for the rent attributable to exempt irrigation equipment.
- All examples are up-dated to show amounts of rents, expenses, yields and prices that are closer to current expectations.
**Rule 630 - TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS**

- HB591 made operating property eligible for the New Capital Investment exemption.
- Taxpayer must notify ISTC that they expect to meet the criteria on operator’s statement (by April 30) if operating property is to be exempt.
- Taxpayers may apply on behalf of both locally and centrally assessed property.
  - ISTC will notify the assessor by the 2nd Mon. in May of the project property to be locally assessed.
  - Clerk to notify the ISTC by the 4th Mon. of July of the taxpayer’s equalized locally assessed property.

(Cont) **Rule 630 - TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS**

- 1st Mon. in Sept. the ISTC will notify the county of the exemption amount and the value of the remaining operating property value.
- The total property of the taxpayer can not exceed $400 million.
- In the event that the taxpayer no longer intends to fulfill the investment requirements, the ISTC will notify the County.

**RULE 702 - VETERAN’S BENEFIT – CONTINUED ELIGIBILITY AFTER DEATH OF CLAIMANT**

- HB492 provides a benefit for veterans with a 100% service connected disability.
- This rule clarifies that the benefit continues for a surviving spouse, however:
  - the surviving spouse may not transfer the benefit to a different homestead.
- The rule clarifies that if a claimant dies between January 1 and April 14 without filing, the spouse may file an application on behalf of the deceased and receive the benefit.
RULE 802 - BUDGET CERTIFICATION
RELATING TO NEW CONSTRUCTION AND
ANNEXATION

Pertains to HB 559, the provisional exemption with a five year look back.
- For property included on the new construction roll (NCR) and subsequently granted the exemption, a deduction must be made on the immediate next NCR after granting the exemption.

Pertains to change of status of property in a revenue allocation area.
- Following dissolution or deannexation of property that has been included in the base and not previously included, now to be added to the NCR.

(CONT) RULE 802 - BUDGET CERTIFICATION
RELATING TO NEW CONSTRUCTION AND
ANNEXATION

Pertains to ag land in a dissolving RAA:
- Taxable value included in the base value in an RAA, but not previously on any new construction roll and otherwise eligible to be included on a new construction roll due to change of land use classification, shall be included on the next new construction roll prepared following dissolution of the RAA or de-annexation of any affected parcel from the RAA. The value to be included shall be the value that would have been included at the time the change of land use classification occurred had the parcel not been in the RAA.

Annexation value from centrally assessed to be provided to county auditor by 1st Monday in Sept.

RULE 803 - BUDGET CERTIFICATION --
DOLLAR CERTIFICATION FORM (L-2 FORM)

Provisional Exemption - New items to be included on the Recovered/Recaptured Property Tax and Refund List:
- Section 63-1302C(3), Idaho Code for revoked provisional property tax exemptions
- Section 63-1305C(6), Idaho Code, for refunds related to provisional property tax exemptions.
- Each taxing district’s proportionate share of refunds must be subtracted from the maximum budget amount permitted as explained in Section 63-802(1), Idaho Code.
(CONTINUED) RULE 803 - BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM)

The date for county clerks to notify each taxing unit of the amount of the gross earning tax on solar farms has changed from the third Monday to the first Monday in August.

(HB567a) Special Provisions for Consolidating Cemetery Districts were added to this rule.

Rule 804 – Tax Levy Certification – Urban Renewal Districts

Explains what happens to New Construction when the 602NN exemption expires in an RAA

– If the property was located in the RAA when the exemption was granted, then any [new value] increase in value is added to increment.
  - New Value is the difference between the value at the year before the NN exemption was granted and the value when the exemption expires.

– If the property was subject to the NN exemption at the time the property was annexed to the RAA, the value at the time the NN exemption was granted would be added to the base; any remaining value would become increment.

(HB 462) RULE 962 - TAXATION OF DESIGNATED FORESTLANDS

This rule was developed and approved by the Committee on Forest Land Taxation Methodology as directed by HB 462.

This rule will adopt a process by which the county assessor may change a forest parcel’s productivity class for tax year 2020.

The process sets forth requirements for;

- landowner notification
- inspector qualifications
- retention of documents
2019 Legislative Idea

- Only one property tax legislative idea was submitted this year.
- Subsequent Property Roll Assessment Notices – Allow time for appeal. (This idea has been “held” this year so may be considered next year.)