

TITLE 63
REVENUE AND TAXATION

CHAPTER 4
APPRAISAL, ASSESSMENT AND TAXATION OF OPERATING PROPERTY

63-401. OPERATING PROPERTY ASSESSED BY STATE TAX COMMISSION. Operating property, completed or under construction, shall be assessed by the state tax commission. The state tax commission shall identify property to be included as operating property for assessment purposes. Property assessed by the state tax commission shall not be subject to another assessment by any county assessor. A decision by the state tax commission under this section may only be appealed as provided in sections [63-407](#) and [63-409](#), Idaho Code.

[63-401 added 1996, ch. 98, sec. 5, p. 336; am. 1998, ch. 400, sec. 2, p. 1252; am. 2002, ch. 135, sec. 1, p. 370.]

63-402. NONOPERATING PROPERTY ASSESSED BY COUNTY ASSESSOR. All property belonging to any person owning, operating or constructing any public utility or railroad, wholly or partly within this state, not included within the meaning of the term "operating property" as defined in this title, namely, property not reasonably necessary for the maintenance and operation of such public utility or railroad, including land or buildings rented by a company or corporation as lessee which is used as or in connection with its business, such as business offices, warehouses, service centers, moorage grounds or docks, vacant lots and tracts of land, and lots and tracts of land with the buildings thereon not used or intended to be used in the operation of such public utility or railroad, also tenement and resident property, except section houses, also hotels and eating houses, not situated adjacent to the main track of any such railroad, shall be assessed by the assessor of the county wherein the same is situated.

[63-402 added 1996, ch. 98, sec. 5, p. 336.]

63-403. OPERATOR REPRESENTATIVE OF OWNER. Any person operating a public utility, railroad or private railcar fleet in this state shall be representative of every title and interest in the operating property and franchises of said public utility, railroad or private railcar fleet as owner, lessee or otherwise, and notice to such person, or his agent or representative, shall be notice to all interests in such property for the purpose of taxation. The assessment of such operating property in the name of the owner, lessee or operating company, shall be deemed and held to be an assessment of all title and interest in such property of every kind and nature.

[63-403 added 1996, ch. 98, sec. 5, p. 337.]

63-404. OPERATOR'S STATEMENT -- ARBITRARY ASSESSMENT. (1) Every person owning, operating or constructing, either as owner or lessee, any public utility, railroad or private railcar fleet which is not exempt from taxation under the provisions of this title, shall prepare or cause to be prepared an annual statement showing all property subject to assessment by the state tax commission, together with such pertinent information as may be required on forms supplied by the state tax commission for such purposes, which statement and forms must be signed by the owner or lessee, or the president, sec-

retary, auditor, superintendent or principal accounting officer or agent of such person, and delivered to the state tax commission on or before such time as the state tax commission may determine, and the state tax commission must file such statement and forms in its office.

(2) The statement must contain such information as the state tax commission determines to be necessary for it to properly assess the operating property. This information shall include, unless otherwise specified, such a general description of the property of such owner or lessee situated or operated in the state of Idaho as would be sufficient to identify the same for all purposes of assessment; the entire length of the system, the length of the system within this state, the length of the line owned and the length of the line operated for the whole system and in this state being separately shown; the total number of miles of each line within the state, the number of miles of main line, branch line, second track, siding and spurs being shown and the number of miles within any county, and within any incorporated city, and within any school or other taxing district into or through which said line extends; the total number of shares of capital stock for the whole system; the amount authorized, the amount issued, the amount outstanding and the dividends paid thereon being separately shown; the market and actual value of the shares of capital stock for the whole system; the funded debt for the whole system; and a detailed statement of all series of bonds, debentures and other securities forming part of the funded debt, at par value, with date of issue, date of maturity, rate of interest and interest paid; the market and actual cash values of such series of funded debt for the whole system; a detailed statement of all capital stock and bonds or other securities of such person, or of other persons, owned by or held in trust, the par value and market and actual value of the same; the entire gross receipts and gross expenses for the entire system each year, ending on the thirty-first day of December; and such other matters and things as may be required in the annual statement supplied by the state tax commission.

(3) In addition to the statement required by this section, every person filing such statement shall, at the same time, furnish to the state tax commission unless otherwise specified, certified copies of the annual reports of the board of directors or other officers to the stockholders, and the annual reports made to the surface transportation board, federal communications commission, federal energy regulatory commission and the securities exchange commission or their successor agencies.

(4) If any person or officer refuses or neglects to furnish the annual statement, list, or copies of the reports required to be furnished under the provisions of this chapter, or refuses or neglects to appear before the state tax commission, or to answer under oath all questions propounded to him in relation to matters necessary to be known by the commission in order to discharge its duties in the assessment of his property or the property of the person represented by him, then the commission shall make an arbitrary assessment of such property, except as otherwise provided in section [63-411](#), Idaho Code, which shall be as fair and equitable as it may be able to make from the best information it possesses, and any such person shall be estopped to question or impeach any such assessment in any hearing or proceeding thereafter.

63-405. ASSESSMENT OF OPERATING PROPERTY. (1) The state tax commission must assess all operating property at a meeting of the commission convening on the second Monday of August in each year, and must complete the assessment of such property on the fourth Monday in August.

(2) The state tax commission shall determine the system value and calculate the allocation and apportionment of the system value for all operating property and specifically determine:

(a) The number of miles and the value per mile of each railroad in the state and for each taxing district in which such railroad may exist.

(b) The number of miles and the value per mile of each telephone corporation in the state and for each taxing district in which such telephone corporation may exist.

(c) The number of miles and the value per mile of each pipeline in the state and for each taxing district in which such pipeline may exist.

(d) The number of miles and the value per mile of each water company under the jurisdiction of the public utilities commission in the state, and for each taxing district in which such water company may exist. The value per mile of any line included in this subsection, except railroads, shall be determined by dividing the total value of such line within the state by the number of miles of such line within the state. The value per mile of railroad line shall be determined by apportionment of the total value of line within the state. The apportionment shall be based twenty percent (20%) on the ratio of line miles in the state to line miles in the county; forty percent (40%) on the ratio of net ton miles in the state to net ton miles in the county; and forty percent (40%) on the ratio of station revenues in the state to station revenues in the county. All operating property of railroads shall be apportioned to the counties as part of the railroad line in the county. The apportionment for taxing districts shall be the same as the apportionment among counties.

(e) The system value, the number of miles and the value per mile of each electric current transmission line and each electric current distribution line in each county separately, and for each taxing district within said county in which such transmission and distribution lines may exist. The value per mile of any line included in this subsection shall be determined by dividing the apportioned value of such line within each county by the number of miles of such line within said county.

(f) The system value of private railcar fleets entering or standing in Idaho in the year preceding the constituted lien as provided in section [63-411](#) (3), Idaho Code.

(g) The system value and calculate the allocation and apportionment of the system value for all other operating property.

(3) On and after January 1, 2004, any newly installed or constructed equipment located within a city corporate limit or within five (5) miles of a city corporate limit and used for and in conjunction with the thermal generation of electricity shall be apportioned based on physical location. For purposes of this subsection newly installed or constructed equipment used for and in conjunction with the thermal generation of electricity shall not include the remodeling, retrofitting, rehabilitation, refurbishing or modification of an existing electrical generation facility, or integration or transformation facilities such as substations or transmission lines. Notwithstanding the provisions of section [63-301A](#), Idaho Code, property

apportioned based on physical location pursuant to this subsection shall be placed on the new construction roll.

(4) If the value of property of any company assessable under this section is of such a nature that it cannot reasonably be apportioned on the basis of rail, wire, pipeline mileage, such as microwave and radio relay stations, the tax commission may adopt such other method or basis of apportionment to the county and taxing districts in which the property is situate as may be feasible and proper.

[63-405, added 1996, ch. 98, sec. 5, p. 338; am. 1997, ch. 117, sec. 17, p. 317; am. 1998, ch. 400, sec. 3, p. 1252; am. 2004, ch. 105, sec. 1, p. 379; am. 2006, ch. 302, sec. 3, p. 935.]

63-406. ATTENDANCE AT ASSESSMENT HEARING. The state tax commission may, for the purpose of securing evidence, facts or information to enable it to properly assess any operating property, require the attendance of the person, or any officer, manager or agent of such person, whose property is to be assessed, and require him to answer, under oath, all questions propounded which, in the judgment of the commission, would assist it in fixing the value of such property, whether such person, officer, manager or agent resides within or without this state.

[63-406 added 1996, ch. 98, sec. 5, p. 339.]

63-407. APPEAL OF OPERATING PROPERTY ASSESSMENTS. Every person whose property is to be assessed by the state tax commission shall, upon request therefor in writing, be entitled to a hearing before the commission in relation to the assessment on his property or the assessment of other property in the state, and the commission shall, upon any such request, fix a time for such hearing within the period in which such assessment must be made, and such hearing shall be conducted in such manner as the commission may direct.

[63-407 added 1996, ch. 98, sec. 5, p. 339.]

63-408. REEXAMINATION OF VALUE -- COMPLAINT BY ASSESSOR. The state tax commission shall, upon complaint by a county assessor, examine the valuation and allocation of value of property assessable on a statewide basis any part of which is allocable to his county.

[63-408 added 1996, ch. 98, sec. 5, p. 339.]

63-409. APPEALS FROM STATE TAX COMMISSION VALUATIONS OF OPERATING PROPERTY. (1) Any taxpayer or county assessor who is aggrieved by a state tax commission decision assessing a taxpayer's operating property may file an appeal to the district court of Ada county or, if such operating property is located in only one (1) county, to the district court in and for the county in which such operating property is located. The appeal shall be filed within thirty (30) days after service upon the taxpayer of the decision. The appeal may be based upon any issue presented by the taxpayer to the state tax commission and shall be heard by the district court in a trial de novo without a jury in the same manner as though it were an original proceeding in that court. Nothing in this section shall be construed to suspend the payment of taxes pending appeal. Payment of taxes while an appeal hereunder is pending shall not operate to waive the right to an appeal. Any final order of the

district court under this section shall be subject to appeal to the Idaho supreme court in the manner provided by the Idaho appellate rules.

(2) In any appeal taken pursuant to this section, the burden of proof shall fall upon the party seeking affirmative relief to establish that the valuation from which the appeal is taken is erroneous, or that the state tax commission erred in its decision regarding a claim that certain property is exempt from taxation, the value thereof, or any other relief sought before the state tax commission. A preponderance of the evidence shall suffice to sustain the burden of proof. The burden of proof shall fall upon the party seeking affirmative relief and the burden of going forward with the evidence shall shift as in other civil litigation. The district court shall render its decision in writing, including therein a concise statement of the facts found by the court and the conclusions of law reached by the court. The court may affirm, reverse, modify, or remand any order of the state tax commission, and shall grant other relief, invoke such other remedies and issue such orders, in accordance with its decision, as appropriate.

[63-409 added 1996, ch. 98, sec. 5, p. 339; am. 2003, ch. 266, sec. 1, p. 703.]

63-410. CERTIFICATION OF VALUE TO COUNTIES -- COMPARISONS -- SPECIAL MEETING -- ESCAPED ASSESSMENTS. (1) On or before the first Monday of September in each year the chairman of the state tax commission, or his designee, must prepare and transmit certified statements of the taxable value of operating property by the commission to the county auditors of the several counties of this state. The certified statements shall show each type of operating property separately, shall show the taxable value of the operating property, and shall show the taxable value of operating property to be apportioned to each of the various taxing districts within a county, as provided in section [63-405](#), Idaho Code. The Idaho taxable value of private railcar fleets shall be apportioned to the several counties as provided in section [63-405](#), Idaho Code.

(2) Each county auditor, upon receipt of certified statements of the taxable value of operating property apportioned to his county, shall compare the same with the previous year's taxable values, and if any errors are made by the state tax commission or if in the opinion of the county auditor any property in the county subject to assessment by the state tax commission, has not been assessed by the state commission or that any assessment as certified is erroneous it shall be the duty of the county auditor, as soon as any error or omission in such statement is discovered, to forthwith notify the chairman of the state tax commission of such error or omission, with as full an explanation as can be made by such county auditor. The county auditor shall send a duplicate copy of any such notice and explanation sent to the chairman of the state tax commission, to the office of the owner or nearest managing agent of any property which may be affected by any change in assessment under the provisions of this section.

(3) The governor may call a special meeting of the state tax commission for the purpose of correcting any errors made or to assess, allocate, and apportion any operating property which may have been omitted. Notice of at least ten (10) days of such special meeting shall be mailed by the chairman of the state tax commission to the owner or nearest managing agent of any property which may be affected by any change in assessment as originally certified. The procedure in the special meeting shall be as nearly as possible the

same as provided in section [63-406](#), Idaho Code. Corrected statements shall be certified in the same manner as the original statements.

(4) Any property which has escaped taxation in the previous year shall be assessed by said commission on an equalized value, as with other property assessed in the preceding year, and such value shall be added to the value of the assessment for the current year.

[63-410 added 1996, ch. 98, sec. 5, p. 340.]

63-411. SPECIAL PROVISIONS FOR PRIVATE RAILCAR FLEETS -- NOTICE OF DELINQUENCY -- COLLECTION OF DELINQUENCY. (1) In case any such private railcar fleet shall fail or refuse to make the annual statement herein required within the time above specified, or shall make a false annual statement, the state tax commission shall proceed to assess the property of such private railcar fleet so failing, and shall add fifty percent (50%) to the value thereof, as ascertained and determined by the commission.

(2) The president or other officer of every railroad company whose lines run through, in or into this state shall, on or before such time as may be determined by the state tax commission, furnish to said commission a statement, verified by the affidavit of the officer or person making the same, showing the total number of miles made by the cars of every such private railcar fleet on their lines, branches, sidings, spurs and warehouse tracks in this state during the year ending on the thirty-first day of December last past. The state tax commission shall declare the date for the filing of the statement in its rules.

(3) The state tax commission shall determine the system value of private railcar fleets utilizing statements and data furnished by the railroads and private railcar operators, and such other pertinent information deemed necessary by the state tax commission. The state tax commission shall also be responsible for the allocation of the system value of private railcar fleets taxable in this state. In developing the allocation method, the state tax commission may use and consider any of the following factors or criteria:

- (a) An actual count of cars in this state;
- (b) The ratio between the mileage traveled by taxpayers' cars in this state as compared with the mileage traveled by taxpayers' cars everywhere;
- (c) Such other factors or criteria as the state tax commission may deem appropriate.

(4) Private railcar fleets having an Idaho taxable value of five hundred thousand dollars (\$500,000) or more shall be apportioned to where said cars were present in each county as determined by the state tax commission. The state tax commission shall certify the taxable value to the county auditor of each county showing the amounts of taxable value to be apportioned to the qualified taxing districts. The county auditor shall cause the taxable value to be entered upon the tax roll in the same manner as all other properties. The taxes shall be collected in the same manner as other operating property taxes by the county tax collector as provided by law.

(5) Private railcar fleets having an Idaho taxable value of less than five hundred thousand dollars (\$500,000) shall not be apportioned to counties. The state tax commission hereby is empowered to charge, levy and collect the property tax so determined on the private railcar fleets under five hundred thousand dollars (\$500,000) having a taxable situs in the state and such property shall be treated as personal property for taxing purposes.

(a) The state tax commission shall determine the property tax to be charged on the property covered by each such assessment by applying to the taxable value thereof the average tax rate in the state for the current year on private railcar fleets having an Idaho taxable value equal to or greater than five hundred thousand dollars (\$500,000). In the event no private railcar fleets are assessed for five hundred thousand dollars (\$500,000) or more in the current year, then the average property tax rate shall be the average tax rate on all taxable property for the prior year.

(b) Each property tax so charged and levied shall constitute a perpetual lien as of January 1 of the year of assessment on all the operating property of the private railcar fleet within this state and shall be payable in the same manner and at the same due dates provided by law in respect to property taxes on personal property payable in the several counties.

(c) In collecting such property taxes, the state tax commission is hereby authorized to pursue any or all of the rights, remedies or processes provided by law for the collection of a delinquency on personal property.

(d) All moneys collected by the state tax commission as provided under this subsection shall be paid forthwith to the state treasurer for transfer to the public school income fund.

(6) Whenever any person is delinquent in the payment of any obligation imposed by law, the state tax commission may give notice of the amount of the delinquency by registered mail to any railroad company over whose line or lines in this state the cars of said person have been transported, or are being transported, and which said railroad company has in its possession or under its control any credits or other personal property belonging to that person, or owes any debts to the delinquent.

(a) After receiving the notice the railroad company so notified shall neither transfer nor make other disposition of the credits, personal property, or debts until the state tax commission consents to a transfer or disposition, or until thirty (30) days elapse after receipt of the notice.

(b) All railroad companies so notified shall advise the state tax commission within five (5) days after receipt of the notice of all such credits, personal property, or debts in their possession, under their control, or owing by them.

(7) Whenever any railroad company advises the state tax commission that it has within its possession or under its control any credits or personal property belonging to a person with a delinquency, or owes any debt to that person, and the amount thereof, the state tax commission may thereupon issue a warrant of distraint and have the same served upon any such railroad company. Service of said warrant upon an agent of such railroad company within this state shall constitute valid service. Any railroad company so served shall pay over to the state tax commission the sum of any credits belonging to that person, or any debts owing to that person, whenever such credits or debts are less than the delinquency, penalty and costs; or shall pay over to the state tax commission the amount of the delinquency, penalty and costs, whenever such credits or debts are greater, and shall deduct the sum so paid over from the credits or debts due that person.