

LATAH COUNTY, IDAHO ORDINANCE NO. 265

BOARD OF EQUALIZATION PROPERTY TAX EXEMPTION HEARING PROCEDURES
ORDINANCE

AN ORDINANCE OF LATAH COUNTY, A GOVERNMENTAL SUBDIVISION OF THE STATE OF IDAHO, PROVIDING FOR THE ESTABLISHMENT OF PROCEDURES FOR THE CONDUCT OF HEARINGS BEFORE THE LATAH COUNTY BOARD OF EQUALIZATION REGARDING PROPERTY TAX EXEMPTIONS; PROVIDING A PROCEDURE FOR THE FILING OF APPLICATIONS FOR PROPERTY TAX EXEMPTIONS; PROVIDING A PROCEDURE FOR THE FILING OF COMPLAINTS OF ALLOWING OR DISALLOWING PROPERTY TAX EXEMPTIONS; SETTING FORTH THE AUTHORITY THEREFORE; SPECIFYING SEVERABILITY OF SECTIONS OF THE ORDINANCE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Latah County, Idaho finds that it has become necessary to establish procedures for the conduct of hearings held before the Latah County Board of Equalization on applications for property tax exemptions and complaints upon allowing or disallowing property tax exemptions, for the filing of applications for property tax exemptions, and for the filing of complaints of allowing or disallowing property tax exemptions;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LATAH COUNTY:

SECTION 1. AUTHORITY

This Ordinance is enacted and adopted pursuant to the authority granted to the Board of County Commissioners of Latah County, Idaho, by Article 12, Section 2, of the Constitution of the State of Idaho, Idaho Code § 31-714, and title 63, chapters 5 and 6, Idaho Code.

SECTION 2. DEFINITIONS

As used in this ordinance, unless the context otherwise indicates, the following words and terms shall mean:

Application for Property Tax Exemption – a standard form, drafted by Latah County, by which a property owner wishing to receive a property tax exemption must complete and file with the Latah County Board of Equalization in order to be granted a property tax exemption.

Application for Renewal of Property Tax Exemption – A standard form, drafted by Latah County, by which a property owner wishing to receive a property tax exemption for property which has

previously been granted a property tax exemption may complete and file with the Latah County Board of Equalization in order to be granted a property tax exemption.

Application – An Application for Property Tax Exemption or an Application for Renewal of Property Tax Exemption.

Initial Hearing – A hearing held by the Latah County Board of Equalization pursuant to Section 3.B of this ordinance.

Exemption Hearing – A hearing held by the Latah County Board of Equalization pursuant to Section 3.C of this ordinance.

BOE – the Latah County Board of Equalization.

BOCC – the Latah County Board of County Commissioners.

Property Owner – the record owner of real or personal property in Latah County. If the record owner is not a natural person, this includes an authorized representative of the record owner.

Complainant – one who files a Complaint Upon Allowing or Disallowing Property Tax Exemption under Section 4 of this ordinance.

Complaint – a Complaint Upon Allowing or Disallowing Property Tax Exemption.

Complaint Upon Allowing or Disallowing Property Tax Exemption - A standard form, drafted by Latah County, by which a person wishing to complain about the allowance or disallowance of a property tax exemption, pursuant to Idaho Code § 63-501, must complete and file with the Latah County Board of Equalization.

Governmental Agency – Any entity entitled to receive a property tax exemption under the Government Property Exemption, Idaho Code § 63-602A.

SECTION 3. PROCEDURE FOR APPLICATIONS FOR PROPERTY TAX EXEMPTION

A. Any exemption filed under the following Idaho Code Sections: § 63-602B, § 63-602C; § 63-602D; § 63-602E; § 63-602F; § 63-602GG; § 63-605; § 63-606A, will not be approved by the BOE unless the owner of the property has filed an application for property tax exemption according to the following procedures:

- 1) For tax year 2006, every application for property tax exemption shall be on the form entitled “Application for Property Tax Exemption.”

- 2) For tax year 2007, and every year thereafter, if the property has previously been granted an exemption from taxation, the application may be made by either the “Application for Property Tax Exemption” form or the “Application for Renewal of Property Tax Exemption” form. If the property has not been previously granted an exemption from taxation, or if the property has changed ownership, the application shall be on the “Application for Property Tax Exemption” form.
- 3) All applications must be received by the BOE on or after January 1 of the tax year for which the exemption from taxation is being requested, but on or before 5:00 P.M. on the fourth Monday in June of the tax year for which the exemption from taxation is being requested.

B. Initial Hearing:

- 1) Once an application is received by the BOE pursuant to Section 3.A of this Ordinance, the BOE shall set the application for an initial hearing.
 - a) If the application is received on or after January 1, but before June 1, the initial hearing shall be set at the next BOE meeting that is at least ten days after the receipt of the application.
 - b) If the application is received on or after June 1, the initial hearing shall be set during the week of the fourth Monday in June.
- 2) Notice of the initial hearing is not required to be provided to any person, but shall be included on the official agenda of the BOCC or the BOE.
- 3) At the initial hearing, the BOE may only do one of the following:
 - a) If a complaint has not been received by the BOE according to the procedures outlined in Section 4 of this ordinance, the BOE may approve the application for property tax exemption if the BOE finds that the property meets all of the requirements for the requested exemption;
 - b) If a complaint has not been received by the BOE according to the procedures outlined in Section 4 of this ordinance, but the BOE is unable or unwilling to determine by the application alone whether the property meets all the requirements for the requested exemption, the BOE shall set the application for an Exemption Hearing, to be held according to Section 3.C of this ordinance;
 - c) If a complaint has been received by the BOE according to the procedures outlined in Section 4 of this ordinance, the application must be set for an Exemption Hearing, to be held according to Section 3.C of this ordinance. If a complaint has been received, an initial hearing is not required to be held and the BOE may simply set the matter for an Exemption Hearing pursuant to Section 3.C.

- 4) The initial hearing is intended to be an informal hearing where the BOE reviews only the written application on file with the BOE to determine whether the requirements under the appropriate tax exemption have been met or to determine whether a complaint has been received. The property owner or the complainant may, but are not required to, be present at the initial hearing. If a complaint has not been received, the BOE may, but is not required to, hear evidence from the property owner in addition to the application. If a complaint has been received, the BOE may not hear any evidence, but may only set the matter for an Exemption Hearing.

C. Exemption Hearing

- 1) An Exemption Hearing shall be held only if required to be held pursuant to Section 3.B of this Ordinance.
- 2) The Exemption Hearing shall be scheduled at the convenience of the BOE at any time following the initial hearing and may be continued at the discretion of the Chair of the BOE, provided, however, that it must be completed before the BOE adjourns on the second Monday of July, or such later adjournment date as allowed by the Idaho State Tax Commission.
- 3) The property owner and the complainant, if there is a complainant, are required to be present at the Exemption Hearing. If proper notice has been provided and the property owner or the complainant is not present for the Exemption Hearing, the BOE may, but is not required to, declare the application or the complaint, as the case may be, withdrawn and proceed accordingly.
- 4) Notice of the Exemption Hearing shall be provided to the property owner and the complainant, if there is a complainant, by first class mail to the mailing address on the application or complaint, hand delivery, or facsimile at the fax number included on the application or complaint. If the Exemption Hearing is to be held at any time prior to the fourth Monday of June, notice shall be mailed at least ten days prior to the hearing. If the Exemption Hearing is held on or after the fourth Monday of June, notice shall be mailed at least three business days prior to the hearing.
 - a) During day to day meetings of the BOE from the fourth Monday of June to the second Monday of July, the time for providing notice may be shortened at the discretion of the chair of the BOE if the property owner and the complainant have actual notice of the hearing.
- 5) The Exemption Hearing shall be conducted in accordance with the procedures set forth in the Latah County Hearing Procedures Ordinance, Ordinance No. 253, for Quasi-Judicial Hearings.

SECTION 4. COMPLAINTS UPON ALLOWING OR DISALLOWING PROPERTY TAX EXEMPTIONS

- A. Under Idaho Code § 63-501, the BOE is charged with determining complaints upon allowing or disallowing exemptions under chapter 6, title 63 Idaho Code. Any Latah County resident or Latah County taxpayer may file a complaint upon allowing or disallowing property tax exemptions in accordance with the procedures of this section.
- B. No complaint shall be considered by the BOE unless the complainant has filed a complaint according to the following procedures:
 - 1) A complaint shall be on the form entitled “Complaint Upon Allowing or Disallowing Property Tax Exemption.”
 - 2) All complaints must be received by the BOE on or after January 1 of the tax year for which the complaint is being filed, but on or before the earliest of the following two dates:
 - a) 5:00 P.M. on the fourth Monday in June of the tax year for which the complaint is being filed;
 - b) At or before the Initial Hearing of the property that is the subject of the complaint.
 - 3) The complainant shall serve a copy of the complaint upon the property owner by hand delivery or first class mail.

SECTION 5. DECISIONS

- A. All decisions by the BOE regarding whether to approve or deny an application for property tax exemption shall be in writing. The BOE may, but is not required to, adopt findings of fact and conclusions of law.
- B. A decision to approve an exemption shall be by a majority vote of the BOE. If a majority to approve or deny the exemption cannot be obtained, the exemption shall be deemed denied.
- C. A decision shall be made prior to the adjournment of the BOE on the second Monday of July, or such later adjournment date as allowed by the Idaho State Tax Commission. However, the BOE or BOCC may adopt findings of fact and conclusions of law after the adjournment date.
- D. A copy of the written decision shall be provided to the property owner and the complainant, if there is a complainant, by either hand delivery or first class mail.
- E. Appeals from the decision of the BOE may be made in accordance with Idaho Code § 63-511.

SECTION 6. APPLICABILITY OF OTHER ORDINANCES AND SEVERABILITY

Where not in conflict with this ordinance, the provisions of the Latah County Hearing Procedures Ordinance, Ordinance No. 253, shall apply to all hearings conducted by the Latah County Board of Equalization. If the provisions of Latah County Ordinance No. 253 conflict with this ordinance, the provisions of this ordinance shall govern.

If any provision or section of this ordinance or the application thereof to any person or circumstances is held by any court to be invalid or unconstitutional, such judicial decision shall not affect the validity of the remaining provisions or sections of this ordinance.

SECTION 7. EFFECTIVE DATE

This ordinance shall take full force and effect on January 1, 2006, after publication of a public notice in a newspaper of general circulation in Latah County, as prescribed by law.

DATED this ____ day of _____, 2005.

John A. "Jack" Nelson, Chair

Paul J. Kimmell
Commissioner

ATTEST:

Clerk

Tom S. Stroschein
Commissioner