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September 24, 1991

The Honorable Tom Boyd
Speaker of the House
Route 1
P.O. Box 69
Genesee, Idaho 83832

**THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF
THE ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE**

Re: One Percent Initiative

Dear Speaker Boyd:

You have requested an opinion from this office regarding the proposed initiative that would limit ad valorem tax rates to one percent of market value for assessment purposes. Specifically, what effect would the initiative have upon the "homeowner exemption" provided in Idaho Code § 63-105DD? Similarly, what effect would the 1% Initiative have upon the exemption for speculative value of agricultural land? Idaho Code § 63-105CC. For the reasons set forth below, it is the opinion of this office that the initiative would have no impact upon either the homeowner's exemption, Idaho Code § 63-105DD, or the exemption for speculative value of agricultural land, Idaho Code § 63-105CC.

Chapter 1, Title 63 of the Idaho Code describes property subject to taxation in Idaho. Idaho Code §§ 63-105 through 63-105DD provide specific exemptions from taxation. Two exemptions of particular concern to landowners in Idaho are the residential improvement exemption or "homeowner's exemption" found at Idaho Code § 63-105DD and the speculative value of agricultural land exemption found at Idaho Code § 63-105CC.

Idaho Code § 63-105DD provides in part:

During the tax year 1983 and each year thereafter, the first fifty thousand dollars (\$50,000) of the market value for assessment purposes of residential improvements, or fifty percent (50%) of the market

value for assessment purposes of residential improvements, whichever is the lesser, shall be exempt from ad valorem taxation.

Idaho Code § 63-105CC(a) provides that "the speculative portion of the value of land devoted to agriculture is exempt from taxation." This "speculative portion" exemption refers to:

that portion of the value of agricultural land which represents the excess over the actual use value of such land established by comparable sales data compared to value established by capitalization of economic rent or long term average crop rental at a capitalization rate which shall be the rate of interest charged by the Spokane federal land bank district averaged over the immediate past five (5) years plus a component for the local tax rate.

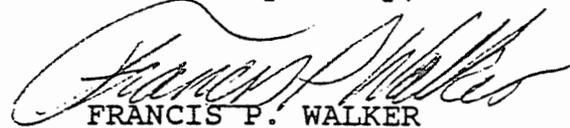
The one percent initiative, if passed, will not affect either of these exemptions. Paragraph 1 of § 1 of the initiative petition currently being circulated for signatures provides:

The maximum amount of all ad valorem tax on property subject to assessment and taxation within the State of Idaho shall not exceed one percent (1%) of the actual market value of such property.

(Emphasis added.) Thus, on its face, the one percent initiative places a limitation upon the amount of tax that may be levied against taxable property, i.e. "property subject to assessment and taxation." It has no application to property that is exempt from assessment and taxation. Thus, the one percent initiative, if passed, will not impact either the homeowner's exemption or the exemption for the speculative value of agricultural land.

This office is currently working on a formal opinion regarding several issues concerning the one percent initiative. Once our formal opinion has been finalized, we will send a copy of the opinion to your office. Thank you for your patience in this matter.

Yours very truly,


FRANCIS P. WALKER
Deputy Attorney General