

Idaho Tax Policy Recommendations

PRESENTED TO THE ASSOCIATED TAXPAYERS OF IDAHO December 6, 2017

by Nathan Anderson Union Pacific Railroad IACI Tax Policy Committee Chair



Overview

In recent years the Idaho Legislature and various groups including IACI have struggled to push forward with tax policy reform. There is no shortage of ideas or efforts that compete with each other for priority throughout the Legislative process. Many times the proposals are then created without a clear understanding of the objective and the underlying economic impact. Last year at the IACI conference, the membership was challenged by both House and Senate Legislative leadership to formulate a plan—a "strategic" five-year plan – for the state to consider in efforts to right-size Idaho's tax code.

The IACI Board of Directors tasked its Tax Policy Committee with the development of such a plan. This comprehensive analysis was divided into key tax policy areas. Four subcommittees took on the task of reviewing Idaho tax policies during the nine in-depth meetings undertaken throughout this summer. Subcommittee Chairs *Pam Eaton* (Sales Tax), *Arlen Wittrock* (Property Tax), *Robert Schwartz* (Employment Tax), and *Rusty Cannon* (Income Tax) did an excellent job of guiding the membership through these critical discussions, and Tax Policy Committee Chair *Nathan Anderson* led the fine-tuning of the subcommittees' recommendations. While not completely comprehensive in all areas of the tax and fee codes, this member-compiled effort does address the four most broad-based areas of Idaho tax policy.

We also understand that some may not like the result of the work because it doesn't support or expand upon their own views. However, it should be recognized that this was an extensive and membership-driven process to develop these concepts. Many of these concepts are also interrelated and would need to be considered concurrently. It represents the ideas of the Idaho business community to make Idaho economically strong, which results in prosperity for employers and employees alike. IACI stands ready to work with policy makers in crafting legislation over the next five years to meet tax reform goals.



Employment Taxes

Employment taxes take many forms, and the resources that support these costs directly impact the profitability of a company, as well as create wage pressure. The costs often come in the form of lower wages. These include the cost of workers' compensation for workplace injuries, taxes on premiums for mandated insurance coverage and, finally, taxes for unemployment insurance. All of these have a societal benefit, but there is still a need to review the programs to ensure they are competitive as well as solvent.

Idaho currently has nearly one billion dollars in retained funds for unemployment. This "rainy day" fund was depleted to zero in the last substantial economic downturn. Idaho now retains funds in excess of what would have been required in the last recession, and it is IACI's belief that Idaho's unemployment fund is in very sound fiscal condition. However, it should be recognized that those are funds from employers that have essentially been removed from the investment stream for employers to hire employees and invest in equipment. While we are fully supportive of having a reserve account, we believe that a balance is important, and now is the time to ensure that employers are being treated fairly under the system as well.

Multiplier tax rate: In early 2017, Governor Otter proposed reducing the "desired fund size multiplier" in the tax rate from 1.5 to 1.3, which would result in a net savings to employers of \$115 million over three years. It should be noted that the multiplier was almost half that rate in 2008 at 0.8. We believe there is room for an even more substantial reduction in the multiplier and would encourage state leaders to consider reducing the rate beyond what was called for by the Governor, while maintaining the solvency of the already appropriate funds currently being retained. The leadership of Idaho should also consider continually re-evaluating the fund balance and optimize the tax rate accordingly to ensure solvency at the lowest possible rate.

Remove taxable wage index system: The taxable wage rate is determined by the Director of the Department of Labor on an annualized basis and is largely "indexed." Idaho is unfortunately fifth highest in the nation in this category. We are keenly aware that this is one aspect of the formula that, coupled with others, would change the system of taxation. We believe Idaho should consider freezing the current taxable wage rate for the foreseeable future, with a scheduled review of the rate every five years. This wage rate is a key factor considered by employers with facilities in multiple states and can be a competitive disadvantage when Idaho is compared to peer states across the country.

Reduce experience rating from 18 to 12 months: Idaho's experience rating system is one of the most restrictive in the country. Many states use 12 months as a review period factor for consideration in their initial unemployment experience rating. Idaho's is 18 months, and we believe it is unnecessarily lengthy. We strongly recommend reducing the experience rating factor in establishing the tax for an employer from the current year and a half to one year.



Property Taxes

Voter Approved Levies: IACI believes that the current safeguards in place for voter approved levies are appropriate. This is truly local option taxation, and the higher thresholds for certain levies are important to ensure the taxing entities provide the greatest opportunity for the voters to express their views. While this may seem burdensome to the taxing districts, we believe that it has been regularly demonstrated that, if the taxing entity does a thorough job of explaining the need for the additional revenue from the additional property tax, the voters consistently support efforts to benefit their communities. We therefore believe the existing structure is still acceptable.

Urban Renewal: Urban Renewal Districts (URDs), and the tax increment financing associated with such districts, is a critical tool that local government, economic development professionals and industry utilize for the expansion of necessary infrastructure. We believe that, while many in the Legislature continue to push to constrict the use and operation of URDs, most of Idaho's local jurisdictions have used the programs in a responsible and legal manner. We encourage the Legislature to be cognizant of the good that has been accomplished through the use of URDs, which have contributed to the flush coffers of state and local governments alike. Any efforts to further restrict their use will be met with a skeptical eye from the business community, since it is one of very few tools available for economic development at a local level.

Local Exemption Personal Property Tax: IACI has long supported the complete elimination of the personal property tax, and continues to do so. The state has consistently removed this tax from residences, small businesses and agricultural operations. There have been numerous efforts to convince policy makers that it is time to finally repeal this onerous, unfair and inconsistent tax. In recent personal property tax reductions, the precedent has been set for the state to replace the "lost property tax" to local governments with state revenues. We disagree with that practice.

It is said that there will be a "shift" to burden other property tax categories if this tax is eliminated. IACI would assert that, by taxing personal property which depreciates in value year over year, the shift is already ongoing. Local budgets are currently set regardless of the depreciation of the value of personal property, thus pushing the liability onto all other taxpayers. Nevertheless, certain local governments claim that without the resource of personal property tax their governments would be woefully underfunded. To make that claim belies the reality of continued local government budget expansions and the wide variety of other revenue sources that make personal property funds nearly irrelevant.

Total property tax collections statewide only consist of less than one-third of the total in local budgets. Then when one takes into consideration that tax from personal property comprises less than nine percent of that one-third of total local government revenue, it means that it amounts to only about three percent of the total local revenue. It is important to note that a three percent budget increase year over year, plus new construction, plus annexation, is what is allowed for in local budget methods for property tax alone. The claims, therefore, that the elimination of this very bad tax would be devastating to local



governments actually ring very hollow. This situation is still problematic for the 5,000-plus businesses still left paying this unfair tax.

We therefore believe the time is ripe to change the approach to resolving this issue. IACI recommends that the Idaho Legislature give counties the option to forego the assessment and collection of taxes on personal property, including all personal property that is assessed by the state within their jurisdiction. It will then be their choice to make a good decision to discontinue perpetuating unfair additional burdens on their taxpayers as well as the state revenue system.

Half Growth to Property Owners: In the budget system of local governments, the budgets are allowed to increase three percent above the prior year on an annualized basis, plus any new annexed property value, AND any new construction value. Several years ago there was a proposal by Rep. Mike Moyle to allow for half of the new construction value to be allocated exclusively to school budgets. IACI believes it is time to revisit the concept and apply such revenue to property tax relief to ensure that existing residents experience the benefits of growth in their own communities. Because this revenue is new, there is no loss to local government, but there is a certain gain to the property tax payer in the form of slower budget expansion over time in high growth areas.

Expanded New Business Incentive: The incentive that allows local governments to forego property taxes to incentivize both existing company expansion, as well as the influx of new company facilities, has been well-received since its creation in 2010 and expansion in 2017. While there are some questionable applications regarding employment level restrictions in the use of the incentive, we believe the policy is helpful to local economic development officials who have few tools to work with. We would encourage refinement in the incentive system to make it even more flexible for applications of it to help communities.

Revenue Driven vs. Budget Driven: IACI recognizes that the process for local government finance is largely driven by budget, rather than by available revenue. This is the opposite approach from state financing, which is based on available revenue from fixed tax rates. IACI encourages the review of local revenue structures to determine if the current system is really the best way to finance local operations. While change is usually feared, we believe that it would be wise policy for the state to study the existing programs. It should include a complete analysis of the system and how much revenue is retained in savings or obligated through debt. It would be an important and instructive process that would likely lead to improvements in the local government system that would benefit all taxpayers.



Sales Taxes

Sales Tax on Services: The concept of expanding the base of sales taxes to services has been an ongoing issue within the Idaho Legislature for decades. The state already taxes some services, and most states with a sales tax do tax services to widely varying degrees. The question is more academic than based in political reality for this state, as the states that have broad taxes on services – like Hawaii – struggle with the issue from both an administrative and competitive sense. Some states have even repealed the notion, such as Florida where the issue is very unpopular. IACI opposes expansion of the sales tax to services as a potential double tax on labor since providers of services pay income tax on those dollars themselves. We are recommending that the legislature drop any consideration of the concept, as it detracts from discussions of productive tax reform for the state.

Sales Tax on Food: IACI currently opposes the idea of lowering or eliminating the sales tax on food items – it is clear that the issue is not ready for full consideration. Many states have a different rate for food than other sales taxes. Many states also have a vendor credit to the retailer as compensative offset for the costs associated with the collection and remittance of taxes. Idaho currently offers no such credit, and it will be a required component in order for IACI not to oppose the elimination or reduction of this stable tax.

The current tax and accompanying credit create stability for our tax structure. The proposal we have seen would eliminate the credit received on the income tax form as part of the elimination of sales tax on food. The tax revenue can be predicted based on population growth, and residents still buy groceries in a recession. Roughly, a family of four would have to spend about \$7,000 per year (\$600 per month) on groceries to break even, resulting in \$420 deferred grocery taxes at the current rate. It is critical to ask whether this policy actually helps working class residents. In order to receive a benefit from removing the exemption, a family of four would have to earn \$100,000, just to break even if you still use the 7% of income figure being spent on groceries (assuming the 7% spent is of gross income). All those earning under that number would be better off paying the tax and receiving the credit on their income tax return.

Some believe it is wise policy on behalf of low-income families to remove the tax on groceries, as low-income residents spend a larger percentage of their income on food as essential spending. However, a "poor" family of four meets the federal poverty level at \$24,600 of income, and in Idaho that family is eligible for Supplemental Nutrition Assistance Program (SNAP) benefits with less than \$26,208 in household income and fewer than \$5,000 in assets. They, therefore, are likely buying a significant amount of their groceries without paying the tax. Meanwhile, the working poor and middle class will see a net tax *increase*, as they are likely not spending enough on groceries to offset the loss of the credit. The net result of the elimination is actually a tax *increase* on the lower income families. IACI therefore believes that the Idaho Legislature should focus its efforts in the area of income tax reductions as articulated later in this document as a more favorable approach to citizens at ALL income levels.



Addressing another component, many legislators have indicated that they would either base the tax elimination on foods allowed in the SNAP benefits definitions or the Women, Infants and Children (WIC) program benefit definitions for its application. IACI membership would not recommend using the WIC program, as the types of food on the approved list are very limited and most are brand-specific. Using those definitions would not be a proper approach and most certainly would be an unfair competitive structure for food sales. The SNAP definitions are purposefully broad, and many products about which legislators have varying opinions regarding nutritional value would qualify. This presents a significant rules problem that will be foisted onto the Idaho State Tax Commission. Our experience working with the Commission has yielded mixed results, and we believe the Idaho Legislature should be the entity that defines how the tax exemption applies, rather than by Commission rule.

Also, inherent in the legislative approach is the corresponding elimination of the grocery tax credit that is currently applied by Idaho income tax filers. In 2016, over 1.4 million resident Idahoans claimed the grocery tax credit – roughly 87% of the population. It is clear that residents are aware of the credit and are making use of it. In theory, this lowers the overall fiscal impact to the state general fund. It should be noted, however, that the credit benefit applies only to Idaho residents, while the lowering or elimination of the sales tax on food would also apply to non-residents. Tourism is a substantial portion of the Idaho economy, and tourists pay millions of dollars annually in Idaho sales tax on food items. It is therefore unwise to remove the stable tax on groceries for non-residents.

The social benefit to residents is then perplexing. Nevertheless, an additional part of the "cost" to the state would be holding local government "harmless" by reimbursing them for their theoretical loss through a reduction in revenues flowing through the revenue-sharing formula. Per ATI, the cost of the grocery tax removal is \$54.5 million to the general fund and \$26.5 million to local governments in FY19, for a total of \$79 million. We can see no justifiable reason for this additional expense to the state general fund, particularly given the rapid expansion of Idaho local governments' overall budgets over the last decade and beyond. We do not reimburse local government for "lost" revenue for our existing exemptions in sales tax, and we strongly assert that it is bad policy in general.

Finally, if there is a desire for revenue "neutrality" on this issue, then the legislature should first consider a reduction, rather than a complete elimination, of the tax. Many states have this kind of reduced rate. Even so, all of the previously indicated problems still exist with this concept and have yet to be thoroughly addressed in legislation we have seen thus far.

As a result, we do not believe that this tax elimination is ready for consideration, and should be excluded from current discussion. The political winds indicate broad support within the Legislature, and perhaps even within the public at large. However, we believe that, until the aforementioned problems are adequately addressed and vetted, this idea should wait until other tax priorities with a greater impact are completed with the objectives of economic growth and stability. There are other ways to help the economy grow – which helps everyone – within the tax policy world than to remove the tax on groceries. Income and personal property tax relief are more important avenues for growing the economy.



Nexus for Sales Tax: Business nexus has become increasingly important to the sales tax conversation, and 'e-fairness' has been discussed since 2001. Idaho businesses are at a competitive disadvantage with the ever-increasing number of online retailers that currently do not charge sales tax. This disadvantage is compounded by the fact that, although Idaho consumers are actually required by current law to remit use taxes for online purchases, less than two percent of Idaho taxpayers actually pay the use tax they owe.

Online sales currently account for about 8.5 percent of all sales according to the Federal Census Bureau. That is a significant increase since 2000 when the number was only 0.8 percent. The state of Idaho is increasingly losing the sales tax revenue they traditionally had received from in-state purchases at Idaho retailers.

Online sales will only continue to accelerate, and Idaho should follow the lead of many other states that have positioned themselves to maintain the integrity of their current sales tax laws. Generally, the U.S. Supreme Court has held that, if an online company has a physical presence in the state, then they have nexus and can be made to collect and remit sales tax on purchases from residents of that state. Idaho follows this guideline and doesn't require online sellers without a physical presence in the state to collect and remit sales tax.

Recently, however, many states have been considering what is called "attributional nexus" to establish a nexus for online sellers in their state. The theory is that nexus may be imputed to an online retailer if the presence of a third party in the state is significantly associated with the online retailer's ability to maintain a market in the state. New York was the first to create an "attributional nexus" law – which was upheld by the U.S. Supreme Court in 2013 – that created a rebuttable presumption that online sellers have nexus with the state if they have affiliates that do more than \$10,000 worth of business in the preceding year with the retailer ('affiliated nexus'), or if they have residents who refer more than \$10,000 in business in the preceding year to the retailer ('click-thru nexus').

At least 20 states have now adopted similar laws, most using the \$10,000 threshold, although some do vary. The important component is the creation of the rebuttable presumption. The concept of affiliated nexus is important in Idaho given the recent decision by Amazon to collect and remit tax on some sales in Idaho. Under the agreement, Amazon will collect taxes on sales of products coming directly from them, but will *not* yet collect on sales made by their millions of affiliate clients who sell through their website.

Just last year, the Idaho Legislature already created a precedent for this concept in the hotel industry when they unanimously required online marketplaces for rental property to collect and remit the sales tax on their transactions in Idaho. This leveled the playing field for Idaho's hotel industry, and the same principle should apply to Idaho's retail businesses.

Given the continued lack of action at the federal level on this issue, Idaho should pursue legislation similar to that of New York and many other states to create a rebuttable presumption of attributional nexus for both affiliated and click-thru transactions. As the nation continues its shift to a sharing



economy, Idaho must continue to adapt its sales tax laws to protect the integrity of our sales tax system and protect the competitiveness of Idaho's existing businesses.

Equipment Competitiveness: Idaho should continue to routinely consider sales tax exemptions for equipment as has been done in the past to ensure the state is in the most competitive position possible. Historically, Idaho has granted exemptions for a wide variety of equipment including glider kits, aircraft parts, R&D equipment, telecommunications and software. These are good policies that have allowed Idaho businesses to flourish in the highly competitive world of state economic development. In all instances, IACI would insist that any new exemption applies to businesses already located in Idaho as well as new businesses being recruited to the state.

Local Option Sales Tax: IACI will continue to oppose broad-based local option taxes in principle. However, IACI will consider local option sales taxes on a case-by-case basis if all of the following five conditions are met. First, we believe the imposition of such taxes should only be through voter approval at a threshold higher than 60%. Secondly, local option tax revenue should only be for a specific purpose of construction, and not maintenance. Third, local option sales taxes must also have a strict sunset date by which it would be reasonable to pay back bonds for such construction. Again, as in the discussion of food tax reduction, the retailer (vendor) must be given a credit to offset the cost of compliance as a tax collecting entity, a credit that most states already provide, as well as a point of sale limitation in scope. Finally, local option taxes also must have a cap provision for high-priced items beyond \$5,000. This is a common provision throughout the country to protect dealers of autos and other large pieces of equipment.

General Fund Support for Infrastructure: IACI believes Idaho should consider a longer term solution for infrastructure maintenance, specifically in transportation with a reduction in reliance on fuel excise taxes and move toward general fund revenue that could be achieved through a one cent increase in the sales tax. It is clear as a society that there will be a dramatic disruption in the coming decades in which transportation will alter the way our cities and roads are organized. With the concepts of ride sharing, car sharing and autonomous vehicles rapidly expanding into the marketplace, together with lines of vehicles (Volvo, Tesla) shedding combustion engines entirely, the way we commute, transport and construct will also change. Current user fees and excise taxes are not even able to sustain maintenance at this point, so alternatives need to be considered. Additionally, the Idaho Legislature needs to ensure a level playing field for all transportation fuel sources as much as possible. Idaho should embrace this change with policies designed to allow for the marketplace to flourish. Infrastructure will still need to be maintained, but we believe Idaho should act now rather than wait and attempt to catch up as the marketplace for this type of transportation accelerates. Considering that our rank is 37th lowest overall in sales taxes by state per the *Tax Foundation*, we believe this type of transition would be appropriate.

We fully understand the philosophy of "user fees" and recognize that some in government leadership have strong views that transportation is largely this type of governmental service that lends itself well to the fee-for-service model. We share that view in general. However, we already use general funds for



larger infrastructure projects with a greater societal benefit. For example, we utilize general funds for water infrastructure projects. Although transportation has historically lent itself well to the fee-for-service model, as previously stated, the market is changing rapidly. We strongly recommend that leadership in Idaho develop a more general framework of funding and a regulatory environment that will allow this market to flourish.

Income Taxes

In the income tax realm there are several exemptions that apply to individual personal income. As we have stated before, each exemption comes with an important economic and practical need. Rather than wasting years of effort on fruitless attempts to repeal them, the Idaho Legislature should look at a framework that advances the prospects of real tax relief for Idaho's citizens and employers. We therefore believe it is time for the state to advance an update to the income tax system that continues a stable revenue source for Idaho priorities, while retaining important incentives for economic development.

Regarding corporate income tax, there are a number of identified systems that are largely based on the federal law to make corporate income tax more transparent related to actual profits versus gross revenues. These include deductions for costs that sustain a company's personnel and equipment. One of the most important for the state is the Investment Tax Credit. This credit is an advantage for the state of Idaho over several other states that do not allow for companies to deduct the costs of investment into their states. Investment in equipment and other capital means more jobs to the state, period. Any attempt to remove this provision in the code will be opposed.

Another concept is to create a "flat tax." While this idea has been debated for decades at both a national and state level, virtually no state has achieved the philosophical idea of a pure flat tax. Even the highly touted Utah system has a multitude of exemptions that expand on an annualized basis. While interesting in concept, we do not believe the state will be able to ever achieve such a system as a practical matter. Therefore, IACI is proposing a different path forward.

Adjust the Brackets: The first step is to drastically adjust the income tax brackets by approximately three times what they are today. This proposal as illustrated is based on actual 2015 data, and uses a Married Filing Jointly scenario for the three examples.



As a result, a family with \$94,000 in taxable income would see a 15.2% decrease:

Current Brackets for 2016

Bracket Taxable Income Tax Owed 1.60% \$1-\$2,908 46.528 3.60% \$2,908-\$5,816 104.688 4.10% \$5,816-\$8,724 119.228 5.10% \$8,724-\$11,632 148.308 6.10% \$11,632-\$14,540 177.388

Total State Tax \$6,454.37

Proposed Brackets- 3x each bracket

	Bracket	Taxable Income	Tax Owed
	1.60%	\$1-\$8,724	139.584
	3.60%	\$8,724-\$17,448	314.064
	4.10%	\$17,448-\$26,172	357.684
	5.10%	\$26,172-\$34,896	444.924
	6.10%	\$34,896-\$43,620	532.164
	7.10%	\$43,620-\$65,430	1548.51
	7.40%	\$65,430+	2114.18
2% Tax Cut			
		Total State Tax	\$5,451.11

\$94,000 in taxable income example

\$14,540-\$21,810

\$21,810 +

7.10%

7.40%

Couple pays \$6,454.37 now and under example pays \$5,451.11 or about 15.15% less

15

A family with \$60,000 in taxable income would see a 25.0% decrease:

516.17

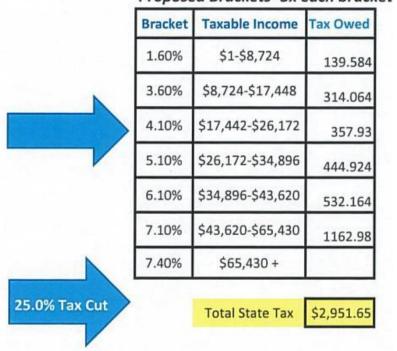
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Current Brackets for 2016

Bracket	Taxable Income	Tax Owed	
1.60%	\$1-\$2,908	46.528	
3.60%	\$2,908-\$5,816	104.688	
4.10%	\$5,816-\$8,724	119.228	
5.10%	\$8,724-\$11,632	148.308	
6.10%	\$11,632-\$14,540	177.388	
7.10%	\$14,540-\$21,810	516.17	
7.40%	7.40% \$21,810 +		

Total State Tax \$3,938.37

Proposed Brackets- 3x each bracket

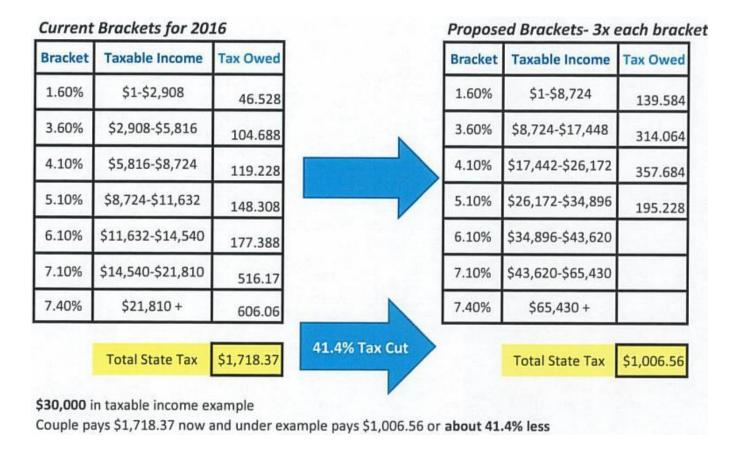


\$60,000 in taxable income example

Couple pays \$3,938.37 now and under example pays \$2,951.64 or about 25.0% less



And a family making \$30,000 in taxable income would receive a 41.4% tax decrease:



This is real tax relief that would have been a \$232 million tax cut in static numbers, which then would be immediately offset by tremendous new buying power for Idaho's consumers. This increases prosperity at all levels of the taxable income scale.

Reduce the Rate: In addition, IACI recommends the state target a top marginal rate of 6.4% and a 6.4% corporate rate. There is sound practical logic for treating companies that operate under the corporate filing the same as the pass-through companies. By lowering the top tax rate, there will be an additional tax savings of \$252 million.



Highest Tax Bracket*					
	Filers	Taxable Income			
Head of Household	26,568	\$974,922,911			
Widow(er)	146	\$13,973,715			
Married (Separate)	3,155	\$177,249,499			
Single	114,507	\$4,311,555,509			
Total	144,376	\$5,477,701,634			
Married (Joint	175,245	\$16,517,054,245			
Taxable Income Highest I	\$21,994,755,879				

Highest Tax Bracket		Income Tax	\$ Change	% Savings
Current	7.4%	\$1,627,611,935		
Change to	6.9%	\$1,517,638,156	\$109,973,779	6.8%
Change to	6.4%	\$1,407,664,376	\$ <mark>219,947,559</mark>	13.5%
Change to	5.9%	\$1,297,690,597	\$329,921,338	20.3%
Change to	4.9%	\$1,077,743,038	\$549,868,897	33.8%
		Taxable Income	% of Total	
Statewide Total All				
Brackets	669,389	\$23,237,263,443		
Top Bracket	319,621	\$21,994,755,879	94.7%	

^{*}Note: Rounded tax brackets to \$11,000 single and \$22,000 married filing jointly.

This total (in static numbers) would be a \$484 million tax reduction proposal that is real relief and very doable. It could be phased in over two, three or four years and could be easily absorbed into the system. To put it in perspective, by removing the grocery tax credit there would be a reduction in the static net by \$148 million. In addition, Idaho maintained a \$92 million budget surplus last year. Taking only those two items into account, the static reduction would be \$234 million, or roughly the annual amount of growth in state government budgets over the last several years. Therefore, with a phased-in program of removing the grocery tax credit with a slightly slower increase in government growth, Idahoans could see real tax relief. The economy will then rise into higher prosperity, thereby easily paying for the tax cut while enabling government services to continue.

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