

Explaining Idaho Power and Avista's Uniformity Case

Taxpayers in Idaho have the opportunity each year to appeal their property tax assessments. Most property is assessed and appealed at the county level. For a limited number of large “operating property” companies, the assessment and appeal take place at the state level. Two operating property companies, Idaho Power and Avista, initiated lawsuits against the Idaho State Tax Commission regarding their property tax assessments for tax years 2020, 2021, and 2022. The intent of this document is to provide a history of the litigation and describe the outcome that it imposes on local taxing districts in Idaho.

History of the Case

The operating property the Tax Commission assesses includes all railroads and the property of Idaho Power and Avista, the plaintiffs in this case. After the Tax Commission assesses the property, operating property owners have the option of challenging the assessment before the State Board of Equalization and in District Court. Normally, these challenges concern the method the Tax Commission uses to appraise the property. That was not so in the Idaho Power and Avista case.

In 2020, Idaho Power and Avista brought a novel challenge to their property tax assessment. This challenge was based on two separate laws: the Uniformity Clause in the Idaho Constitution and the federal Railroad Revitalization and Regulatory Reform Act of 1976, commonly called the “4-R Act.”

The Uniformity Clause requires all operating property to be taxed uniformly. This means that if the property of one operating property is taxed at market value, then all operating property is taxed at market value. If one operating property is taxed at less than market value, then all operating property must be taxed at that same level.

In 1976, Congress passed the 4-R Act as a way to protect the railroad industry from states that gave more favorable property tax treatment to commercial property at the expense of railroad property. Under the 4-R Act, if commercial property is assessed at less than 95% of its market value, then states must either increase the value of commercial property or lower the value of railroad property to match commercial property. This way, railroads wouldn't be discriminated against.

For years the Tax Commission complied with the 4-R Act by lowering the assessment of railroad property to match the assessment of commercial property. For example, if a statistical study showed that commercial property was assessed at 85% of market value for a given year, then the Tax Commission would lower the assessment of railroad property from 100% of market value to 85% of market value. This fulfilled the aim of the 4-R Act: that commercial property wasn't treated more favorably than railroad property.

In their lawsuits, Idaho Power and Avista argued they are entitled to the same special treatment that railroads receive from the 4-R Act. Under the Uniformity Clause, they contended, if a railroad had its

assessment lowered to 85% of market value, they should also have their assessment lowered to 85% of market value.

The Tax Commission presented the District Court with the argument it had followed all along: that the 4-R Act required one thing, and the Uniformity Clause required another. Because of this conflict, the federal 4-R Act applied narrowly to only railroads and left the rest of the State's property tax system alone. The District Court agreed with the Tax Commission's reasoning. The Court held that the 4-R Act only applies to railroads and that the Uniformity Clause didn't extend 4-R Act protections to Idaho Power and Avista.

Idaho Power and Avista appealed the District Court's ruling to the Idaho Supreme Court. After hearing the parties' arguments, the Supreme Court reversed the District Court and sided with Idaho Power and Avista. The end result of the Supreme Court ruling is that when railroad property tax assessments are lowered under the 4-R Act, all operating property must be lowered as well. Since the Supreme Court's ruling in 2023, the Tax Commission has been complying with this new legal standard.

Going Forward

The lawsuits brought by Idaho Power and Avista were for tax years 2020, 2021, and 2022. In each of those years, Idaho Power and Avista paid property taxes to counties and other taxing districts based on the Tax Commission's original assessments. Now that the Courts have ordered the Tax Commission to apply a uniformity adjustment to operating property, it's necessary to correct Idaho Power and Avista's overpayment of property taxes.

The law gives counties two options to make this correction. First, counties may issue a cash refund in the amount of the overpayment of taxes to Idaho Power and Avista. Or second, counties may give Idaho Power and Avista a tax credit on their next property tax bill. Counties may use a combination of these two options.

Once counties have refunded or credited the overpayment of taxes, they must charge each taxing district in the county for a proportionate share of the refund or credit. In turn, taxing districts have the option of issuing an additional property tax levy within two years to make up for their share of the refund or credit.

For more information about the impact to taxing districts and property tax bills, please contact your county treasurer. If you have questions about the uniformity case and operating property valuation, please call Jerott Rudd with the Tax Commission at (208) 334-7723.