

**IDAHO MANUFACTURED  
HOUSING ASSOCIATION**

P.O. BOX 8224 - Boise, ID 83707

January 27, 2020

Markus Alley, Chairman  
Factory Built Structures Advisory Board  
Division of Building Safety  
Sent via email to Patrick Grace @ [patrick.grace@dbs.idaho.gov](mailto:patrick.grace@dbs.idaho.gov)

Dear Chairman Alley,

The Idaho Manufactured Housing Association (formerly known as the Idaho Housing Alliance) review of the rule changes proposed by the Idaho Tax Commission this fall revealed the fact that the term "modular building" is defined differently in two separate titles of Idaho Code. The differences could lead to confusion in the future.

The term "modular building" is defined in 39-4301, Idaho Code as:

*"Modular building" means any building or building component, other than a manufactured or mobile home, that is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site."*

This is also the section of Idaho Code that establishes the Factory Built Structures Advisory Board.

The term "modular building" is defined in 63-3605J, Idaho Code as:

*"The term "modular building," as defined in section 39-4301, Idaho Code, is a substantially complete building designed to be affixed to real property. The term "modular building," includes all components incorporated in such modular building at the time of manufacture and remaining unchanged at the time of the original retail sale. Furniture, fixtures, furnishings, appliances, and attachments not incorporated as component parts of the modular building at the time of manufacture shall be subject to the sales and*

*use tax separately and distinctly from the sales price of a modular building. Refrigerators, ranges, draperies, and wood burning stoves placed in the modular home by the manufacturer shall be deemed to be components incorporated into such modular building."*

This is the section of Idaho Code that applies the sales tax to new modular buildings on their first sale.

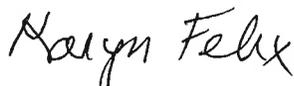
The primary differences in the two definitions is the phrase "designed to be affixed to real property" and all of the language that expands on the definition found in 39-4301. Idaho Code. The practical effect of the differences is the Tax Commission Rule 48 (IDAPA 35.01.02):

*48.04. Sale of Office Trailer. An office trailer is a structure which is built on a permanent chassis, is transportable in one (1) or more sections and is designed for use as an office. An office trailer does not qualify as a manufactured home, because it is not designed for use as a dwelling, nor does it qualify as a modular building, because it is not designed to be affixed to real property. When an office trailer is sold at retail, it is taxed on one hundred percent (100%) of the purchase price, including all furniture, fixtures, and appliances, whether the office trailer is new or used.*

IMHA believes there should not be two different definitions for modular buildings in Idaho Code. We recommend the Factory Built Structures Advisory Board direct the Division of Building Safety to work with the Idaho Tax Commission to develop a single definition for the term "modular building" and jointly propose legislation to the 2021 Legislature to enact that single definition in both Title 39 and Title 63 of Idaho Code.

IMHA would be glad to participate in those agency discussions if the Board believes we can contribute to the resolution of this issue. Please let us know what we can do to help with this matter.

Sincerely,



Karyn Felix

President

Idaho Manufactured Housing Association