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To: Chad Houck <chad.houck@sos.idaho.gov>

Cc: Lawrence Denney <ldenney@sos.idaho.gov>, Jason Hancock <jason.hancock@sos.idaho.gov>, Robert Berry <robert.berry@ag.idaho.gov>

Subject: RE: [External] FW: Tax Foundation comments on Idaho tax measure calls it gaffe-riddled

Hi Chad—

You asked the following question: “How many of the statements in this editorial are accurate reflections of the true ramifications of the poor drafting and legislative changes?”

The statements in the article appear to be largely accurate. The article correctly identifies three problems with the language of the ballot measure.

First, the ballot measure reverses recent tax cuts implemented by amendments to this code section in the 2022 legislative session. The ballot measure uses the 2021 version of the statute as the base language to which it then applies amendments. If the language in the ballot measure were enacted it would disregard all the 2022 legislative amendments that lowered tax rates.

Second, the ballot measure “introduces a tax cliff” because the base amount (\$16,097) included with the new higher rate was calculated off of the numbers in the statute, which are old 1998 numbers that have since been adjusted for inflation. The Tax Commission is responsible for calculating and publishing these inflation adjustments. See the Tax Commission’s website: <https://tax.idaho.gov/i-1110.cfm>. You can see in the statute that for each tax bracket it states a base dollar amount of tax due and then says “plus [tax rate for that particular bracket] of the amount over [the floor dollar amount of that bracket].” That base dollar amount is simply the cumulation of the tax due under all the lower brackets before you get to that bracket. By my calculation, the correct base amount for the new tax bracket should have been \$16,007.07 (based on the 2021 inflation adjusted figures published on the Tax Commission’s website).^{*} That amount is \$90 less than what is shown as the base dollar amount in the ballot measure (i.e., the base amount in the ballot measure imposes \$90 more of tax once a taxpayer hits the \$250,000 of income threshold than it should have). In the article, the Tax Foundation does this same math and also shows that the figure is \$90 too high; but then continues to point out that if we were going to be applying the new lower rates under the 2022 legislative amendments, then \$16,097 is actually \$1319 more than would be paid up to that \$250,000 amount.

Third, the numerator and denominator of the inflation adjustment for the new bracket somehow got flipped such that when inflation goes up, the dollar threshold for the tax bracket will go down. For all the other tax brackets, the inflation adjustment fraction has always adjusted the dollar amounts of the tax brackets upwards when inflation goes up; the ballot measure language continues these upwards adjustments for all the lower tax brackets as inflation goes up. As for the language on how to adjust the new tax bracket, the version of this ballot measure that was presented to our office for review last year correctly had “the consumer price index for the calendar year immediately preceding” in the numerator and the consumer price index for the base year remaining constant in the denominator. This would have adjusted this \$250,000 top bracket number upwards as inflation went up in the future. This fraction somehow got flipped in the language of the ballot measure; this is a major mistake that almost

surely was not intended. The Tax Foundation is correct, the language in the ballot measure will adjust the \$250,000 threshold amount down as inflation goes up.

*I calculated the \$16,007.07 figure by applying the 6.5 % tax rate to \$242,061 (\$250,000 minus the \$7939 that was subject to tax under the lower brackets) and then adding the \$273.10 base amount shown on the Tax Commission's 2021 inflation adjusted tax bracket figures.

Hope this helps—as we have all agreed, there is nothing that we can do at this point about the ballot language or the text of the initiative. If it passes, it will be up to the legislature to sort it out as it sees fit.

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