

## Idaho Exemption Chart

Exemptions found in the Idaho Statutes as of October 2011 are briefly described below. This description is provided solely for informational purposes and should not be relied upon for decision making purposes as the law in this area is complicated, changes over time, is fact specific, and includes many qualifications not listed.

<b>Asset</b>	<b>Exemption</b>	<b>Idaho Statute</b>
Homestead	Real property up to \$100,000 or Mobile home up to \$100,000 or homeowner's insurance proceeds, up to \$100,000	§55-1003 §55-1004 §55-1008
Life Insurance & Disability Benefits	<ul style="list-style-type: none"> <li>• Unmatured life insurance contract, other than credit life insurance contract.<sup>1</sup></li> <li>• An individual's aggregate interest, not to exceed \$5,000 in any accrued dividend or interest under, or loan value of, any unexpired life insurance contract owned by the individual under which the insured is the individual or a person of whom the individual is a dependent.<sup>2</sup></li> <li>• Life insurance proceeds and avails if the debtor is not the beneficiary.</li> <li>• Proceeds or benefits payable on death of an insured if debtor is the spouse or dependent of the insured, to the extent reasonably necessary for support of debtor or his dependents.</li> <li>• Disability proceeds and avails</li> </ul>	§11-605(9)  §11-605(10)  §41-1833  §11-604(1)(d)  §41-1834

<sup>1</sup> “All that is exempted under §11-605(9) is the life insurance policy itself and not the debtor’s rights under the policy. If a debtor wishes to protect dividends or interests that have accrued under a policy, such as a policy’s cash surrender value, he or she must claim exemption under §522(d)(8) [of the Bankruptcy Code] or Idaho Code §11-605(10).” In Re Steiner (Bankr. D. Idaho 2010)

<sup>2</sup> Exemptions under 11-605(10) can only be taken by the owner of the policy and then, only if the person claiming the exemption is the insured or a dependent of the insured. See In Re Steiner (Bankr. D. Idaho 2010) (where the court rejected exemption of policies owned by a debtor, but insuring the debtor’s children.). A “Debtors’ cash surrender value, or at least that portion that is not exempted under Idaho Code §11-605(10), is available to Trustee for distribution to Debtors’ creditors.” Id.

	<ul style="list-style-type: none"> <li>• Group life insurance benefits.</li> </ul>	§11-604(1)(a) §41-1835
Retirement Plans	Pension, annuity, or retirement allowance or disability allowance, or death benefits, or any optional benefit, or any other right accrued or accruing to any citizen of the state of Idaho under any employee benefit plan, and any fund created by the benefit plan. “Employee benefit plan” is defined as assets held, payments made and amounts payable under stock bonus, pension, profit-sharing, annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service” and any plan or arrangement described in sections 401(a), 403(a), 403(b), 408 <sup>3</sup> , 408A <sup>4</sup> or 457 of the Internal Revenue Code (“IRC”) of 1986, as amended, or section 409 of the IRC in effect before 1984 and rights accruing under college savings programs described under Ch 54 Title 33, Idaho Code <sup>5</sup>	§11-604A(3) & (4) §55-1011
Government Pensions	<ul style="list-style-type: none"> <li>• Federal pensions</li> <li>• Public employees, police officers, &amp; firefighters</li> </ul>	§11-604A(2) §59-1317 §50-1517 §72-1417
Government Benefits	<ul style="list-style-type: none"> <li>• Federal social security, or veteran's benefits, except the same may subject to garnishment or wage withholding</li> <li>• Federal, state or local public assistance benefits.</li> </ul>	§11-603(3) §11-603(4)

<sup>3</sup> IRAs.

<sup>4</sup> Roth IRAs.

<sup>5</sup> “To be exempt, funds must either continue in an employee benefit plan or be paid to the debtor on account of one of the conditions listed in Idaho Code 11-604A(4)(a).” In Re Carlson (Bankr. D. Idaho, 2009); In re Lowe 97.1 I.B.C.R. 24 (Bankr. D. Idaho 1997) (where funds from a retirement plan that were withdrawn and then invested in a CD were held to not be exempt); In re Kane 99.4 I.B.C.R. 175, 175, 1999 WL 33490225, at 1 (Bankr. D. Idaho, 1999) (where funds were withdrawn from a 401(k) plan prior to filing for bankruptcy).

	<ul style="list-style-type: none"> <li>• Statute unemployment compensation.</li> <li>• General assistance, and aid to blind, aged, and disabled.</li> </ul>	§11-603(6) §56-223-
Fraternal Benefit Society Benefits	Fraternal benefit society benefits.	§41-3218
Annuities	Annuity contract proceeds up to \$1,250 per month.	§41-1836
Workers' compensation	Workers compensation <sup>6</sup>	§72-802
Alimony & Child Support	Alimony and child support reasonably necessary for support of debtor or his dependents.	§11-604(1)(b)
Medical Insurance & Medical Savings	Benefits payable for medical, surgical, or hospital care and the amount in a medical savings account. <sup>7</sup>	§11-603(5)
Wages	Either a minimum of 75% of earned but unpaid wages or 30 times the federal hourly minimum wage - whichever is greater <sup>8</sup>	§11-605(12) §11-207
Other	<ul style="list-style-type: none"> <li>• Water right up to 160 inches of water used for the irrigation of lands actually cultivated by the individual, and crops grown on 50 acres of land, but the amount of the crops exempted shall not exceed \$1,000.</li> <li>• 1 firearm valued at up to \$750.</li> <li>• Any tangible personal property up to \$800.</li> </ul>	§11-605(7) §11-605(8) §11-605(11)

<sup>6</sup> Exceptions include without limitation “enforcement of an order of any court for the support of any person by execution, garnishment or wage withholding under chapter 12, title 7, Idaho Code.” §72-802; State ex. Rel.Lisby v. Lisby, 126 Idaho 779, 890 P.2d at 730 (compensation benefits were subject to garnishment for payment of past-due child support obligations). See also the exception for subrogees: Patrick W. Williams v Blue Cross of Idaho (Supreme Court of Idaho, 2 Sep 2011, 2011 Opinion No. 93).

<sup>7</sup> But note that Health Savings Accounts are not exempt in Idaho [cite to be provided]

<sup>8</sup> Subject to limitations including without limitation for support orders, state and federal tax.

	<ul style="list-style-type: none"> <li>• Liquor licenses.</li> </ul>	§23-514
	<ul style="list-style-type: none"> <li>• Implements, professional books, business equipment and tools of the trade not exceeding \$2,500 in aggregate</li> </ul>	§11-605(3)
	<ul style="list-style-type: none"> <li>• Health aids; burial plot.</li> </ul>	§11-603(1) and (2)
	<ul style="list-style-type: none"> <li>• Personal injury and wrongful death recoveries reasonably necessary for support of debtor or his dependent.</li> </ul>	§11-605(1)(c)
	<ul style="list-style-type: none"> <li>• Motor vehicle up to \$7,000.</li> </ul>	§11-605(3)
	<ul style="list-style-type: none"> <li>• Jewelry up to \$1,000;</li> </ul>	§11-605(2)
	<ul style="list-style-type: none"> <li>• Furnishings, household goods &amp; appliances, family portraits, and heirlooms up to \$750 per item and \$7,500 in aggregate.</li> </ul>	§11-605(1)
	<ul style="list-style-type: none"> <li>• Proceeds for damaged exempt property, for up to 3 months after received.</li> </ul>	§11-606
	<ul style="list-style-type: none"> <li>• Building materials.</li> </ul>	§45-514

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