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Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate Local Government & Taxation Committee and the House Revenue & Taxation Committee

FROM: Division Manager - Mike Nugent

DATE: September 03, 2015

SUBJECT: State Tax Commission Proposed Income Tax Rules

IDAPA 35.01.01 - Income Tax - Proposed Rule (Docket No. 35-0101-1501)

IDAPA 35.01.01 - Income Tax - Proposed Rule (Docket No. 35-0101-1502)

The Idaho State Tax Commission is proposing to promulgate two dockets of proposed rules relating to the State Income Tax. The first set of proposed rules in Docket No. 35-0101-1501 provides to add a new Rule 016 to provide guidance regarding the definition of Idaho gross income and how it is calculated. Rule 171 is proposed to be amended to modify the definition of real property, to modify the list of nonqualifying property for the Idaho capital gains deduction and to modify the procedure when property is distributed by an S corporation or partnership. Rule 291 is being amended to provide guidance regarding items allowed as a deduction to owners of an interest in a pass-through entity when the tax is paid by the entity.

The second set of proposed rules in Docket No. 35-0101-1502 proposes to do the following: Rule 075 is proposed to be amended to add the tax brackets for calendar year 2015 and to remove the information for calendar year 2010, so only five years of historical data are retained in the rule. Rule 130 is proposed to be amended consistent with HB36 of 2015 to add the Foreign Service Retirement and Disability System and its offset program to the list of qualified benefits for the Retirement Benefits Deduction. It also adds the offset program of the Civil Service Retirement System to the list of qualified benefits. Rule 173 is proposed to be amended consistent with HB133 of 2015 to change who must meet the gross income limitations for the Idaho capital gains deduction when the gain is passed through from an S corporation, partnership, trust, or estate. Rule 201 is proposed to be amended to clarify the procedure for adjustments to a net operating loss. Rule 252 is proposed to be amended to remedy the distorted percentage that occurs when the ratio of Idaho total income is used to allow certain deductions to part-year residents or nonresidents. The distorted percentage occurs when a part-year resident or nonresident has a federal net operating loss carryover that wipes out income for federal purposes. Rule 263 is proposed to be amended to update the amount of guaranteed payment that is sourced as compensation for services per Section 63-3026A(3)(a)(i)(2), Idaho Code. Rule 771 is proposed to be amended to add tax year 2015 and the applicable grocery credit amounts to the table. Finally, Rule 855 is proposed to be amended to delete the reference to the election under Section 63-3022L, Idaho Code. The election language was removed from Section 63-3022L, Idaho Code, in 2012.

It appears that the proposed rules contained in both dockets have been promulgated within the scope of statutory authority granted to the Idaho State Tax Commission.

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