

IDAPA 35 – IDAHO STATE TAX COMMISSION
Tax Policy – Taxpayer Resources Unit
35.01.07 – Kilowatt Hour Tax Administrative Rules

Who does this rule apply to?

Electrical producers in Idaho.

What is the purpose of this rule?

The rule provides information on:

- Kilowatt hour tax returns
- Computation of kilowatt hours subject to tax and calculation of tax
- Exemptions
- Payment of tax
- Notice of deficiency

What is the legal authority for the agency to promulgate this rule?

This rule implements the following statutes passed by the Idaho Legislature:

Revenue and Taxation -

Department of Revenue and Taxation:

- [Section 63-105, Idaho Code](#) – Powers and Duties - General

License Tax on Electricity:

- [Section 63-2701, Idaho Code](#) – Statement of Electric Generating Companies - Tax

Who do I contact for more information on this rule?

State Tax Commission

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35.01.07 – KILOWATT HOUR TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY.

In accordance with Sections 63-105 and 63-2701, Idaho Code, the Tax Commission has promulgated rules implementing the provisions of the Idaho Kilowatt Hour Tax Act. The rules relating to the administration and enforcement of kilowatt hour taxes, as well as other taxes, are promulgated as IDAPA 35.02.01. (3-31-22)

001. SCOPE.

These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on producers of electricity from hydroelectric generation. (3-31-22)

002. ADMINISTRATIVE APPEALS.

This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. (3-31-22)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Idaho Customer. Idaho customer means a customer who has a point of delivery for the transfer of power and energy that is located in Idaho. This includes wholesale power transactions with customers or wheeling agents that have a delivery point located in Idaho. (3-31-22)

02. Point of Delivery. Point of delivery means the point at which a change in ownership of electrical facilities occurs between the filing party and the wholesale customers or wheeling agents for the transfer of power and energy. (3-31-22)

03. Wheeling Agent. Wheeling agent means an entity that receives kilowatt hours from a source or sources of supply and makes power or energy available at another point on its system for a delivering entity or a third party. (3-31-22)

011. -- 019. (RESERVED)

020. ELECTRICAL PRODUCERS SUBJECT TO TAX.

Section 63-2701, Idaho Code

The tax does not apply to power generated by facilities owned and operated by a municipal corporation organized pursuant to the laws of Idaho. Municipal corporations are not required to file kilowatt hour tax returns or to pay tax. As used in these rules, the term municipal corporation does not include a producer, as defined in Section 63-2701, Idaho Code, who produces electricity pursuant to a contract with a governmental entity. (3-31-22)

021. -- 029. (RESERVED)

030. KILOWATT HOUR TAX RETURNS.

Section 63-2701, Idaho Code

01. Monthly Returns. All producers whose previous year's annual tax liability was greater than fifteen thousand dollars (\$15,000) must file a monthly return with the Tax Commission no later than the last day of the month following the month to which the return relates. (3-31-22)

02. Quarterly Returns. Producers whose previous year's annual tax liability was equal to or less than fifteen thousand dollars (\$15,000) may, at the discretion of the Tax Commission, be allowed to file a quarterly return with the Tax Commission no later than the last day of the month following the end of the calendar quarter to which the return relates. When a filing cycle is changed, the change will take effect on January 1 of the following year. (3-31-22)

03. Previous Year's Annual Tax Liability. If the previous year's annual tax liability is not available, the estimated current year's liability may be used. (3-31-22)

031. -- 044. (RESERVED)

045. EXEMPTIONS.

Section 63-2705, Idaho Code

01. Wheeled Energy. (3-31-22)

a. If the taxpayer is a wheeling agent for another entity, the wheeled energy may not be included in the calculation of the exemptions. (3-31-22)

b. Example. Assume that Company A sells kilowatt hours to Company B and delivers this energy to Company C for wheeling and delivery to Company B at an Idaho delivery point. Company C, as a wheeling agent, would not include these kilowatt hours in the denominator of the percentage to be applied to the exempt sales. Company A would include these kilowatt hours in the denominator of the percentage to be applied to the exempt sales if the transfer between Companies A and C was at a delivery point in Idaho. (3-31-22)

046. -- 999. (RESERVED)