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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: Principal Legislative Research Analyst - Brooke Brouman

DATE: October 21, 2014

SUBJECT: State Tax Commission - Income Tax

IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1401)

IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1402)

IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1403)

(1) IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1401): Section 63-3029I(7), Idaho Code, provides that if the broadband equipment investment credit exceeds the statutory limit, then the excess amount may be carried forward for the next fourteen taxable years. The State Tax Commission's proposed rule clarifies that the fourteen-year carryover period extends throughout the fourteen taxable years following the year in which the equipment was installed and begins to run regardless of whether the taxpayer has sought and received approval from the PUC. The Commission's proposed rule further provides that, once a taxpayer has received the approval order from the PUC, the broadband tax credit may be claimed or transferred. If the statute of limitations has expired for filing a return to claim the credit for the taxable year of the installation, then the taxpayer cannot claim any credit for that taxable year, but must calculate how much of the credit the taxpayer could have used to determine the amount of credit available to carry forward.

The Commission states that the rule revision is consistent with language from the Multistate Tax Commission. The Commission also states that the rule change provides interpretation and application of Section 63-3027, Idaho Code, consistent with the Idaho Supreme Court's interpretation and application of the statute, which it expressed in the Union Pacific case.

Negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 4, 2014 Idaho Administrative Bulletin.

The proposed rule is within the authority granted to the Commission in Sections 63-105 and 63-3039, Idaho Code.

(2) IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1402): The State Tax Commission's proposed rule makes the following changes:

- (a) Specifies the order in which a nonresident or part-year resident can deduct suspended losses; and

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(b) Provides an example of how a nonresident partner of a multistate investment partnership calculates the amount of taxable income from the partnership that is included in Idaho taxable income.

Negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 6, 2014 Idaho Administrative Bulletin.

The proposed rule is within the authority granted to the Commission in Sections 63-105 and 63-3039, Idaho Code.

(3) IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1403): The State Tax Commission's proposed rule makes the following changes:

(a) Removes the income tax brackets for calendar year 2009 and adds the income tax brackets for calendar year 2014;

(b) Increases the maximum amount deductible for the Idaho Medical Savings Account to \$10,000, and \$20,000 for a joint account, which is consistent with changes made during the 2014 legislative session by House Bill No. 595a;

(c) Updates the amount of guaranteed payments that is sourced as compensation for services, consistent with the provisions of Section 63-3026A(3)(a)(i)(2), Idaho Code;

(d) Adds tax year 2014 and the applicable grocery credit amounts; and

(e) Changes language from "split-monthly filers" to "semimonthly filers" with regard to certain employer withholding periods.

Negotiated rulemaking was not conducted because the changes were of a simple nature or complied with statutory changes made during the 2014 legislative session.

The proposed rule is within the authority granted to the Commission in Sections 63-105 and 63-3039, Idaho Code.

cc: State Tax Commission - Income Tax
Sherry Briscoe