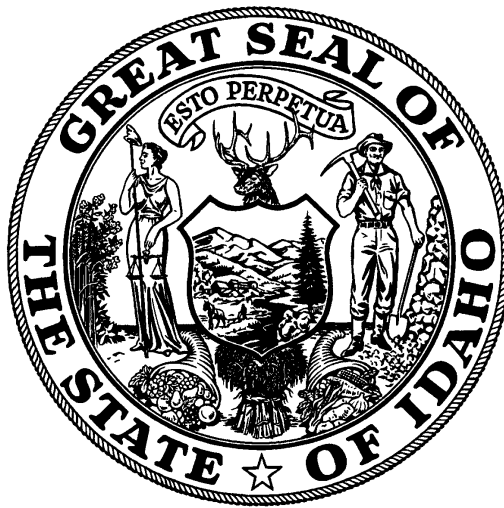


PENDING RULES

COMMITTEE RULES

REVIEW BOOK

Submitted for Review Before
Senate Local Government
& Taxation Committee
65th Idaho Legislature
First Regular Session – 2019



Prepared by:

*Office of the Administrative Rules Coordinator
Department of Administration*

January 2019

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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IDAPA 35 – STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 015, 017, 075, 108, 185, 253, 263, 300, 745-748, 755-759, 760, 763, 765-767, 790, 791, 793, 799, 830, 890, and 891, and they are being adopted as originally proposed. The complete text of the proposed rules were published in the August 1, 2018 Idaho Administrative Bulletin, [Vol. 18-8, pages 148-174](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian, (208) 334-7670.

Dated this 14th day of November, 2018.

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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

RULE 015 – The changes to this rule clarify how the Tax Commission applies Federal retroactive provisions and clarify that uncodified provisions of federal law are included when calculating Idaho taxable income.

RULE 017 – This new rule tells taxpayers how to report federal section 965 deemed repatriation income on the Idaho return.

RULE 075 – Rule 075 is being amended to add the tax brackets for calendar year 2018 and remove the information for calendar year 2013 so only five years of historical data is retained in the rule.

RULE 108 – Rule 108 is being amended consistent with 2018 HB515. This change adds the statement that the addition to taxable income for a nonqualified withdrawal from a college savings plan is limited to contributions previously exempt from Idaho income tax and earnings generated from the program as long as the earnings aren't already included in federal adjusted gross income.

RULE 185 – Rule 185 is being amended consistent with 2018 HB453. This change increases the amount of the income tax deduction for adoption expenses from \$3,000 to \$10,000.

RULE 253 – Rule 253 is being amended consistent with 2018 HB515. This change adds the statement that the addition to taxable income for a nonqualified withdrawal from a college savings plan is limited to contributions previously exempt from Idaho income tax and earnings generated from the program as long as the earnings aren't already included in federal adjusted gross income.

RULE 263 – Rule 263 is being amended to add the amount of guaranteed payments that are sourced as compensation for services for calendar year 2018.

RULE 300 – We've added a section to this rule to list the corporate tax rates for 2001 through 2018.

RULES 745-748 – Rules 745-748 are being deleted since the statute is expired (Credit for Qualifying New Employees).

RULES 755-759 – Rules 755-759 are being deleted since the statute is expired (Hire One Act).

RULES 760 & 763 – Rules 760 & 763 are being deleted since the statute is expired (Incentive Investment Tax Credit).

RULES 765-767 – Rules 765-767 are being deleted since the statute is expired (Biofuel Infrastructure Investment Tax Credit).

RULES 790, 791 & 793 – Rules 790, 791 & 793 are being amended to delete the references to the incentive investment tax credit since the statute is expired.

RULE 799 – Rule 799 is being amended to delete sections for statutes that no longer exist and add the new Idaho child tax credit.

RULE 830 – Changes the date the withholding reconciliation return must be filed from the last day of February to the last day of January.

RULES 890 and 891 – Rules 890 and 891 are being amended consistent with 2018 HB382. This change modifies the time period that a taxpayer has to notify the Tax Commission of a change in federal taxable income or in tax paid to another state.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules are simple in nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian, (208) 334-7670. For general questions, contact Kimberlee Stratton, (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 6th day of July, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-1801

015. INTERNAL REVENUE CODE (RULE 015).
Section 63-3004, Idaho Code

01. Interpretations. Interpretations of the Internal Revenue Code may be found in various sources. These sources include decisions of the Tax Court, Congressional Committee Reports, General Counsel Memoranda, Decisions of the Federal and State Courts on federal income tax issues and Treasury Regulations. These interpretations are adopted by this reference to the extent that they are not in conflict with or inconsistent with the Idaho Code or administrative rules. (3-20-97)

02. Internal Revenue Code Definition. The definition of the term “Internal Revenue Code,” as defined in Section 63-3004, Idaho Code, includes all uncodified provisions in federal law that relate to provisions of

the Internal Revenue Code and also includes any other provision of federal law that is used to determine federal taxable income. ()

03. Retroactive Amendments. For the purpose of determining federal taxable income, any retroactive amendments to the Internal Revenue Code that are enacted on or before the date found in Section 63-3004(a), Idaho Code, are applied retroactively to the extent allowed under federal law. ()

024. Tax Commission Granted Discretion in Determining Correctness of Tax Return. Discretion granted to the Secretary of the Treasury to determine or reallocate items of income or adjustments to income, deductions, expenses, credits or other subjects of taxation by the Internal Revenue Code may also be exercised by the Tax Commission and its authorized agents, employees and deputies to enforce and administer the Idaho Income Tax Act and these rules. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

017. TREATMENT OF THE SECTION 965 OF THE INTERNAL REVENUE CODE INCREASE IN SUBPART F INCOME AND RELATED EXCLUSIONS (RULE 017).

Subpart F income as defined in Section 952, Internal Revenue Code, is gross income under Section 951(a), Internal Revenue Code, and included in a taxpayer's taxable income under the Internal Revenue Code. Idaho taxpayers must include the Section 965, Internal Revenue Code, increase in their subpart F income (Section 965(a) reduced by Section 965(b), Internal Revenue Code), when computing their Idaho taxable income regardless of how such income is reported to the Internal Revenue Service on the federal income tax form. ()

0178. -- 024. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).
Section 63-3024, Idaho Code

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate for the latest five (5) years are identified in Subsection 075.03 of this rule. The Idaho income tax brackets are adjusted for inflation. The maximum tax rate as listed for the applicable taxable year in Subsection 075.03 of this rule applies in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-7-11)

02. Tax Computation. (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household is twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (4-7-11)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax is computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount is multiplied by two (2). (4-7-11)

03. Tables Identifying the Idaho Tax Rates and Income Tax Brackets. (3-20-04)

a. ~~For taxable years beginning in 2013:~~

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,409	\$0	+	1.6% of taxable income
\$1,409	\$2,818	\$22.54	+	3.6% of the amount over \$1,409
\$2,818	\$4,227	\$73.26	+	4.1% of the amount over \$2,818
\$4,227	\$5,636	\$131.03	+	5.1% of the amount over \$4,227
\$5,636	\$7,045	\$202.89	+	6.1% of the amount over \$5,636
\$7,045	\$10,568	\$288.84	+	7.1% of the amount over \$7,045
\$10,568 or more		\$538.94	+	7.4% of the amount over \$10,568
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2013.				

(3-20-14)

b. For taxable years beginning in 2014:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,429	\$0	+	1.6% of taxable income
\$1,429	\$2,858	\$22.86	+	3.6% of the amount over \$1,429
\$2,858	\$4,287	\$74.30	+	4.1% of the amount over \$2,858
\$4,287	\$5,716	\$132.89	+	5.1% of the amount over \$4,287
\$5,716	\$7,145	\$205.77	+	6.1% of the amount over \$5,716
\$7,145	\$10,718	\$292.94	+	7.1% of the amount over \$7,145
\$10,718 or more		\$546.59	+	7.4% of the amount over \$10,718
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2014.				

(4-11-15)

eb. For taxable years beginning in 2015:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,452	\$0	+	1.6% of taxable income
\$1,452	\$2,904	\$23.23	+	3.6% of the amount over \$1,452
\$2,904	\$4,356	\$75.50	+	4.1% of the amount over \$2,904
\$4,356	\$5,808	\$135.03	+	5.1% of the amount over \$4,356
\$5,808	\$7,260	\$209.08	+	6.1% of the amount over \$5,808
\$7,260	\$10,890	\$297.65	+	7.1% of the amount over \$7,260

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$10,890 or more		\$555.38	+	7.4% of the amount over \$10,890
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.				

(3-25-16)

d. For taxable years beginning in 2016:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,454	\$0	+	1.6% of taxable income
\$1,454	\$2,908	\$23.26	+	3.6% of the amount over \$1,454
\$2,908	\$4,362	\$75.60	+	4.1% of the amount over \$2,908
\$4,362	\$5,816	\$135.21	+	5.1% of the amount over \$4,362
\$5,816	\$7,270	\$209.36	+	6.1% of the amount over \$5,816
\$7,270	\$10,905	\$298.05	+	7.1% of the amount over \$7,270
\$10,905 or more		\$556.14	+	7.4% of the amount over \$10,905
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2016.				

(3-29-17)

e. For taxable years beginning in 2017:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,472	\$0	+	1.6% of taxable income
\$1,472	\$2,945	\$23.56	+	3.6% of the amount over \$1,472
\$2,945	\$4,417	\$76.57	+	4.1% of the amount over \$2,945
\$4,417	\$5,890	\$136.94	+	5.1% of the amount over \$4,417
\$5,890	\$7,362	\$212.03	+	6.1% of the amount over \$5,890
\$7,362	\$11,043	\$301.85	+	7.1% of the amount over \$7,362
\$11,043 or more		\$563.21	+	7.4% of the amount over \$11,043
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2017.				

(3-28-18)

e. For taxable years beginning in 2018:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,504	\$0	±	1.125% of taxable income
\$1,504	\$3,008	\$16.92	±	3.125% of the amount over \$1,504
\$3,008	\$4,511	\$63.91	±	3.625% of the amount over \$3,008
\$4,511	\$6,015	\$118.42	±	4.625% of the amount over \$4,511
\$6,015	\$7,519	\$187.97	±	5.625% of the amount over \$6,015
\$7,519	\$11,279	\$272.56	±	6.625% of the amount over \$7,519
\$11,279 or more		\$521.63	±	6.925% of the amount over \$11,279
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2018.				

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(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (RULE 108).

Section 63-3022, Idaho Code

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, an individual must add the taxable amount of a lump sum distribution excluded from taxable income. (4-7-11)

02. Withdrawals from an Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, an account holder must add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (4-7-11)

03. Withdrawals from an Idaho College Savings Program. (4-2-08)

a. As provided in Section 63-3022(o), Idaho Code, an account owner must add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ~~(3-20-04)~~()

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007 to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

04. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, an eligible educator as defined in Section 62, Internal Revenue Code, must add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. (4-4-13)

05. State and Local Sales Tax. As provided in Section 63-3022(j), Idaho Code, an individual must add the amount of state and local general sales taxes deducted as an itemized deduction. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

185. ADOPTION EXPENSES (RULE 185).

Section 63-3022I, Idaho Code

01. In General. Subject to the limitations of Subsection 185.02, adoptive parents may deduct from taxable income legal and medical expenses related to the adoption of a child. Travel expenses related to the adoption may not be deducted. (3-20-97)

02. Maximum Deduction. The deduction allowed for a successful adoption is limited to a maximum ~~of deduction for each adopted child. For taxable years beginning before 2018, the maximum deduction is three thousand dollars (\$3,000).~~ For taxable years beginning after 2017, the maximum deduction is ten thousand dollars (\$10,000) regardless of whether the deduction is claimed in one (1) or more years. ~~If a taxpayer adopts more than one (1) child, he is allowed a deduction not to exceed three thousand dollars (\$3,000) for the adoption of each child.~~ (3-20-97) ()

a. Examples: ()

i. A taxpayer spent five thousand dollars (\$5,000) in 2017 and four thousand dollars (\$4,000) in 2018 to adopt a child. He can deduct three thousand dollars (\$3,000) in 2017 and four thousand dollars (\$4,000) in 2018. ()

ii. A taxpayer spent five thousand dollars (\$5,000) in 2017 and fifteen thousand dollars (\$15,000) in 2018 to adopt a child. He can deduct three thousand dollars (\$3,000) in 2017 and seven thousand dollars (\$7,000) in 2018. ()

03. Ineligible Expenses. (3-20-97)

a. The costs associated with an unsuccessful attempt to adopt a child do not qualify for the deduction. (3-20-97)

b. A deduction is not allowed for expenses incurred in violation of state or federal law or for a surrogate parenting arrangement. (3-20-97)

04. Year Deduction Allowed. The deduction is allowed in the taxable year the expense is paid. A taxpayer shall file an amended return if he claimed any adoption expenses related to an unsuccessful attempt to adopt in a previous taxable year. (3-20-97)

05. Financial Assistance. Eligible expenses shall be reduced by amounts received as financial aid for the adoption, or from a grant pursuant to a federal, state, or local program. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

253. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADDITIONS REQUIRED IN COMPUTING IDAHO ADJUSTED INCOME.

Section 63-3026A(6), Idaho Code. The following items must be added to Idaho adjusted gross income in computing the Idaho adjusted income of nonresident and part-year resident individuals. (4-7-11)

01. Interest and Dividends Not Taxable Pursuant to the Internal Revenue Code. (3-20-97)

a. Part-Year Residents. Interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho must be added. However, interest received from obligations of the state of Idaho or any political subdivision of Idaho is exempt from Idaho income tax and is not added. (4-7-11)

b. Nonresidents. Interest and dividend income reportable from a pass-through entity that was transacting business in Idaho must be added to the extent the income was apportioned or allocated as Idaho income. See Rule 263 of these rules for multistate apportionment rules. (4-7-11)

02. Net Operating Loss Deduction. The amount of the net operating loss deduction included in Idaho adjusted gross income must be added. (4-7-11)

03. Capital Loss. Capital losses included in Idaho adjusted gross income must be added if the loss was incurred while not residing in and not domiciled in Idaho, or if the loss relates to an activity not taxable by Idaho at the time the loss was incurred. (4-7-11)

04. Lump Sum Distributions. Part-year residents must add the taxable amount of a lump sum distribution deducted in calculating taxable income received while residing in or domiciled in Idaho. This includes both the ordinary income portion and the amount eligible for the capital gain election. (4-7-11)

05. Idaho Medical Savings Account. An account holder must add the amount of any nonqualified withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. (4-7-11)

06. Idaho College Savings Program. (4-7-11)

a. An account owner must add the amount of a nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's Idaho adjusted gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ~~(4-7-11)~~ ()

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007, to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

07. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. An individual must add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. This addition does not apply to depreciation computed on property acquired after 2007 or before 2010. (2-27-12)

08. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, the amount of out-of-pocket classroom expenses deducted pursuant to Section 62, Internal Revenue Code, must be added. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).

Section 63-3026A(3), Idaho Code

01. In General. The taxable amount of a shareholder's pro rata share or a partner's distributive share of business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related

rules. (3-20-97)

02. Nonbusiness Income. Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. (3-20-97)

03. Pass-Through Items. Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: (3-20-97)

- a. Ordinary income or loss from trade or business activities; (3-20-97)
- b. Net income or loss from rental real estate activities; (3-20-97)
- c. Net income or loss from other rental activities; (3-20-97)
- d. Interest income; (3-20-97)
- e. Dividends; (3-20-97)
- f. Royalties; (3-20-97)
- g. Capital gain or loss; (3-20-97)
- h. Other portfolio income or loss; (3-20-97)
- i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. (3-20-97)

04. Guaranteed Payments Treated As Compensation. (3-20-14)

a. Guaranteed payments to an individual partner up to the amount shown in paragraph 263.04.b. in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. (3-20-14)

b. The amount of guaranteed payments that are sourced as compensation for services is as follows:

TAX YEAR	AMOUNT
<u>2018</u>	<u>\$263,000</u>
2017	\$257,500
2016	\$254,250
2015	\$254,000
2014	\$250,000
2013	\$250,000

~~(3-28-18)~~()

(BREAK IN CONTINUITY OF SECTIONS)

300. TAX ON CORPORATIONS (RULE 300).
Sections 63-3025 and 63-3025A, Idaho Code

01. Excise Tax. A corporation excluded from the tax on corporate income imposed by Section 63-3025, Idaho Code, is subject to the excise tax imposed by Section 63-3025A, Idaho Code. If a corporation is subject to the excise tax imposed by Section 63-3025A, Idaho Code, it is not subject to the tax on corporate income imposed by Section 63-3025, Idaho Code. (3-20-97)

02. Minimum Tax. A name-holder or inactive corporation that is authorized to do business in Idaho shall pay the minimum tax of twenty dollars (\$20) even though the corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. See Subsection 300.03. (3-20-97)

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. A corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. (3-20-97)

04. Protection Under Public Law 86-272. A corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. (3-30-07)

05. Corporate Income Tax Rates.

<u>PERIOD</u>	<u>TAX RATE</u>
<u>2018 and after</u>	<u>6.925%</u>
<u>2012-2017</u>	<u>7.4%</u>
<u>2001-2011</u>	<u>7.6%</u>

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(BREAK IN CONTINUITY OF SECTIONS)

~~731- 744. (RESERVED)~~

~~745- CREDIT FOR QUALIFYING NEW EMPLOYEES: REVENUE PRODUCING ENTERPRISE (RULE 745).
Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2009 and before April 15, 2011. (4-4-13)~~

~~01. In General. A revenue-producing enterprise is defined in Section 63-3022H, Idaho Code, and Rule 172 of these rules. (4-7-11)~~

~~02. Multiple Activities. If a taxpayer's trade or business includes both a revenue-producing enterprise and other activities, the taxpayer must calculate qualifying new employees based on that portion of the Idaho business that qualifies as a revenue-producing enterprise. (3-30-07)~~

~~03. Seasonal or New Business. An individual employed in a seasonal or new business that was in operation during the taxable year for less than nine (9) months does not qualify as a new employee. (3-30-01)~~

~~04. Unitary Taxpayers. The activities of a taxpayer that qualify as a revenue-producing enterprise are determined separately for each corporation that is a member of the unitary group. (4-7-11)~~

~~746- CREDIT FOR QUALIFYING NEW EMPLOYEES: CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (RULE 746).~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2004 and before April 15, 2011.~~ (4-4-13)

~~01. In General. An employer may be able to earn either a one thousand dollar (\$1,000) credit or a five hundred dollar (\$500) credit for a qualifying new employee. However, the employer cannot earn both credits for the same employee. The applicable credit rate depends on whether the new employee meets certain wage and benefit criteria. If the new employee does not meet the criteria for either credit rate, the employer may not claim the credit for such new employee.~~ (4-7-11)

~~02. Qualifying for the One Thousand Dollar (\$1,000) Credit.~~ (4-6-05)

~~a. The new employee must meet both of the following criteria to qualify for the one thousand dollar (\$1,000) credit:~~ (4-6-05)

~~i. He must have received annual earnings at an average rate of fifteen dollars and fifty cents (\$15.50) or more per hour worked; and~~ (4-6-05)

~~ii. He must have been eligible to receive employer provided coverage under an accident or health plan described in Section 105, Internal Revenue Code.~~ (4-6-05)

~~b. The new employee does not have to be employed in a revenue producing enterprise to qualify for the one thousand dollar (\$1,000) credit.~~ (4-6-05)

~~03. Qualifying for the Five Hundred Dollar (\$500) Credit. If a new employee does not meet the criteria for the one thousand dollar (\$1,000) credit, the employer may be eligible to claim the five hundred dollar (\$500) credit. To qualify for the five hundred dollar (\$500) credit, the new employee must have been employed in a revenue producing enterprise as defined in Section 63-3029E, Idaho Code.~~ (4-6-05)

~~04. Calculating Number of Employees.~~ (3-30-01)

~~a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following:~~ (3-20-04)

~~i. The employee must have been subject to Idaho income tax withholding.~~ (3-20-04)

~~ii. The employee must have been employed by the employer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee.~~ (4-6-05)

~~iii. The employee must have been performing such duties for the employer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify.~~ (4-6-05)

~~iv. The employee must have been covered for Idaho unemployment insurance purposes.~~ (3-20-04)

~~b. Idaho Department of Labor Reports. The employer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees.~~ (4-6-05)

~~c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation.~~ (3-30-01)

~~05. Calculating the Number of New Employees.~~ (3-30-01)

~~a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following:~~ (3-30-01)

- i. ~~The number of employees for the prior taxable year; or~~ (3-30-01)
- ii. ~~The average of the number of employees for the three (3) prior taxable years.~~ (3-30-01)
- b. ~~In determining who qualifies to be included in the number of employees, the law applicable to the year in which the credit is being earned must be used in calculating the number of employees for the prior years. The computations of the number of employees for the prior taxable year and average for the three (3) prior taxable years must be made consistent with the computations and law applicable for the taxable year in which the credit is earned.~~ (4-7-11)
- i. ~~For example, an employer may qualify as a revenue-producing enterprise under the law applicable to 2010, but did not qualify as a revenue-producing enterprise under the law applicable to the prior years. For purposes of calculating the five hundred dollar (\$500) credit earned in 2010, the number of employees for the prior years must be calculated using the law applicable to 2010.~~ (4-7-11)
- ii. ~~The employer must include in the number of employees for the prior years employees who qualify under the current law, even though the employer was unable to include these employees as qualifying employees in the prior years and did not earn the credit in the prior years.~~ (4-7-11)
- c. ~~The number of new employees must be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned.~~ (4-6-05)
- d. ~~The employer must determine the number of new employees who qualify for the one thousand dollar (\$1,000) credit and the number who qualify for the five hundred dollar (\$500) credit. If the new employees do not meet the criteria set forth in Sections 63-3029E and 63-3029F, Idaho Code, and this rule, the employer may not earn the credit. For example, if a new employee has an average wage rate of ten dollars (\$10) and the employer's business does not qualify as a revenue-producing enterprise, the new employee does not qualify for either the one thousand dollar (\$1,000) credit or the five hundred dollar (\$500) credit.~~ (4-7-11)
- 06. ~~Computing the Credit Earned.~~** ~~The credit earned is the lesser of the amounts determined in Paragraphs 746.06.a. and 746.06.b. of this rule.~~ (4-6-05)
- a. ~~The number of new employees who qualify for the five hundred dollars (\$500) credit multiplied by five hundred dollars (\$500), plus the number of new employees who qualify for the one thousand dollar (\$1,000) credit multiplied by one thousand dollars (\$1,000); or~~ (4-6-05)
- b. ~~The net income of the trade or business, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%).~~ (4-6-05)
- 07. ~~Limitations.~~** ~~In the year the credit for qualifying new employees is earned or claimed:~~ (3-20-04)
- a. ~~This credit and all other credits may not exceed fifty percent (50%) of the taxpayer's income tax for that year after deducting the credit for taxes paid to other states. The credit for taxes paid to other states is not subject to this limitation.~~ (4-6-05)
- b. ~~See Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits.~~ (4-6-05)
- 08. ~~Carryover.~~** (2-27-12)
- a. ~~To claim the carryover, the employer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the employer is not required to recapture the credit claimed in previous taxable years. However, the employer must recompute the credit based on the reduced employment level to determine the correct amount of carryover.~~ (2-27-12)

~~b. The credit may be carried forward only to taxable years beginning prior to January 1, 2011. If there is any credit remaining after application to taxable years beginning prior to January 1, 2011, any further benefit from the credit is lost. (2-27-12)~~

~~09. **Pass-Through Entities.** See Rule 785 of these rules for pass-through entities and the calculation of credits. (3-15-02)~~

~~10. **Unitary Taxpayers.** (3-30-01)~~

~~a. A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. (3-30-01)~~

~~b. Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits. (4-6-05)~~

~~**747. CREDIT FOR QUALIFYING NEW EMPLOYEES: NET INCOME OF A TRADE OR BUSINESS (RULE 747).**~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2004 and before April 15, 2011. (4-4-13)~~

~~01. **Net Income From the Taxpayer's Trade or Business.** If a taxpayer is claiming the credit under Section 63-3029F, Idaho Code, the net income of the taxpayer's trade or business will be calculated as follows: (4-4-13)~~

~~a. **Proprietorships.** The amount of income from Idaho activities that is reported as net profit or net loss on Schedule C or Schedule F. (3-30-01)~~

~~b. **C Corporations.** The amount of Idaho taxable income, reported on Idaho Form 41, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (3-30-01)~~

~~c. **S Corporations.** The amount of Idaho taxable income reported on Idaho Form 41S, modified as follows: the deduction for income reported by shareholders on their Idaho income tax returns must be added back, the addition for compensation or income attributable to individual shareholders who do not report this income on Idaho income tax returns must be deducted, and any nonbusiness income and expenses allocable to Idaho must be excluded. (4-4-13)~~

~~d. **Partnerships.** The amount of Idaho taxable income reported on Idaho Form 65, modified as follows: the deduction for income reported by partners on their Idaho income tax returns must be added back, the addition for compensation or income attributable to individual partners who do not report this income on Idaho income tax returns must be deducted, and any nonbusiness income and expenses allocable to Idaho must be excluded. (4-4-13)~~

~~02. **Unitary Taxpayers.** Each corporation included in a unitary combined group must use its Idaho taxable income as determined pursuant to Section 63-3027, Idaho Code, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (4-4-13)~~

~~**748. CREDIT FOR QUALIFYING NEW EMPLOYEES: RECORD-KEEPING REQUIREMENTS (RULE 748).**~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2001 and before April 15, 2011. (4-4-13)~~

~~01. **Information Required.** Each taxpayer must retain and make available, on request, records to document the credit earned or claimed. The records must include all of the following: (5-3-03)~~

~~a. **The Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor;** (5-3-03)~~

- b. ~~Payroll records and reports documenting length of employment and hours worked;~~ (5-3-03)
- e. ~~The computation of the number of qualifying new employees;~~ (3-30-01)
- d. ~~The qualification as a revenue-producing enterprise;~~ (3-30-01)
- e. ~~The computation of the credit;~~ (3-30-01)
- f. ~~The computation of net income;~~ (3-30-01)
- g. ~~The continued maintenance of adequate employment levels into carryover years; and~~ (3-30-01)
- h. ~~The computation of any carryovers.~~ (3-30-01)
- 02. ~~Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit.~~ (3-15-02)

731. -- 749. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

755. ~~HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: IN GENERAL (RULE 755).~~
~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014.~~ (2-27-12)

01. ~~In General. For taxable years beginning on and after January 1, 2011, and before 2014, the Hire One Act allows an employer who is subject to the Idaho income tax to earn a credit for a qualifying new employee. Because an employee must be hired on or after April 15, 2011, to qualify, the credit generally cannot be earned in a taxable year that begins prior to January 15, 2011.~~ (2-27-12)

02. ~~Qualifying Employer. A qualifying employer is a rated employer under the Idaho Employment Security Law, but does not include a governmental agency or nonprofit entity. For purposes of Section 63-3029F, Idaho Code, and Rules 755 through 759 of these rules, a nonprofit entity includes any entity that is exempt from the Idaho income tax under Section 63-3025B, Idaho Code, including those entities that are exempt except for paying income tax on unrelated business income.~~ (2-27-12)

03. ~~Pass-Through Entities. The credit earned by a pass-through entity is refunded to the pass-through entity, rather than passed through to the owner.~~ (2-27-12)

04. ~~Unitary Corporations. Each corporation in a unitary group must separately calculate the amount of the Hire One Act credit based on its own employees and may not include the employees of other corporations included in the combined group.~~ (2-27-12)

05. ~~Employer-Provided Health Care Benefits. For purposes of administering the Hire One Act and Rules 755 through 759 of these rules, "employer provided" and "health care benefits" are defined as provided in Rule 756 of these rules.~~ (2-27-12)

06. ~~Seasonal or New Business. An individual employed in a seasonal or new business that was in operation for less than nine (9) consecutive months cannot qualify as a new employee.~~ (2-27-12)

07. ~~Carryover. Because the credit is a refundable credit, no carryover is allowed. Credit not claimed within the time allowed under Section 63-3072, Idaho Code, for claiming a refund is lost.~~ (2-27-12)

756. ~~HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: EMPLOYER PROVIDED HEALTH CARE BENEFITS (RULE 756).~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~01. Employer-Provided. "Employer-provided" means an individual's employer must pay the following percentages of the cost of an employee's premium for health care benefits as defined in Subsection 756.02 of this rule: (2-27-12)~~

~~a. At least eighty percent (80%) of the cost of the employee's premium if such employee had single coverage. (2-27-12)~~

~~b. At least seventy percent (70%) of the cost of the employee's premium if such employee had family coverage. (2-27-12)~~

~~02. Health Care Benefits. "Health care benefits" means coverage offered through a group health plan for employees that includes hospital, medical and surgical expense coverage set forth as follows: (2-27-12)~~

~~a. An accident and sickness insurance policy that provides hospital, medical and surgical expense coverage, to an aggregate maximum of not less than five hundred thousand dollars (\$500,000); (2-27-12)~~

~~b. Coinsurance percentage per year per covered person not to exceed fifty percent (50%) of covered charges, provided that the coinsurance out of pocket maximum combined with any deductibles does not exceed four percent (4%) of the aggregate maximum limit under the policy for each covered person; (2-27-12)~~

~~c. A deductible stated on a per person, per family, per illness, per benefit period, per year basis, or a combination of these bases not to exceed four percent (4%) of the aggregate maximum limit under the policy for each covered person for at least: (2-27-12)~~

~~i. Daily hospital room and board expenses subject only to limitations based on average daily cost of the semiprivate room rate in the area where the insured resides; (2-27-12)~~

~~ii. Miscellaneous hospital services; (2-27-12)~~

~~iii. Surgical services; (2-27-12)~~

~~iv. Anesthesia services; (2-27-12)~~

~~v. In-hospital medical services; and (2-27-12)~~

~~vi. Out of hospital care, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, diagnostic x-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician. (2-27-12)~~

~~d. Additional benefits. Health care benefits must also provide not fewer than three (3) of the following additional benefits: (2-27-12)~~

~~i. In-hospital private duty registered nurse services; (2-27-12)~~

~~ii. Convalescent nursing home care; (2-27-12)~~

~~iii. Diagnosis and treatment by a radiologist or physiotherapist; (2-27-12)~~

~~iv. Rental of special medical equipment, as defined by the insurer in the policy; (2-27-12)~~

~~v. Artificial limbs or eyes, casts, splints, trusses or braces; (2-27-12)~~

~~vi. Treatment for functional nervous disorders, and mental and emotional disorders; or (2-27-12)~~

~~vii. Out of hospital prescription drugs and medications. (2-27-12)~~

~~03. Non Qualifying Health Care Benefits. Health care benefits do not include limited benefit policies or certificates of insurance for specific disease, hospital confinement indemnity, accident only, credit, dental, vision, medicare supplement, long term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance or nonrenewable short term coverage issued for a period of twelve (12) months or less. (2-27-12)~~

~~04. Waiting Period. To qualify as employer provided health care benefits, the health care benefits plan may not have a waiting period of more than two (2) months from the date of an employee's first day of employment. The Hire One Act credit cannot be earned on a new employee who is covered by a plan with a waiting period longer than two (2) months from the employee's first day of employment. (2-27-12)~~

~~**757. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: DETERMINATION OF QUALIFYING NEW EMPLOYEES (RULE 757.)**~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~01. Calculating Average Employment for a Taxable Year. (2-27-12)~~

~~a. Number of Qualifying Employees. Only employees who meet the qualifications set forth in Section 63-3029F(2)(a), Idaho Code, are included when computing the average employment for a taxable year. Such requirements include the following: (2-27-12)~~

~~i. The employee must have been subject to Idaho income tax withholding. (2-27-12)~~

~~ii. The employee must have been covered for Idaho unemployment insurance purposes. (2-27-12)~~

~~iii. The employee must have been employed by the employer on a regular full time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. (2-27-12)~~

~~iv. The employee must have been performing such duties for the employer for a minimum of nine (9) consecutive months, with at least part of that time performed in the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) consecutive months does not qualify. (2-27-12)~~

~~v. The employee must not have been transferred from a related taxpayer. (2-27-12)~~

~~b. Idaho Department of Labor Reports. The employer must begin with its Idaho Department of Labor reports to determine the number of employees for each month of the taxable year. However, an employee listed in these reports does not automatically qualify to be included in the calculation of the number of employees. The employer must determine how many employees included in these reports meet the qualifications under Section 63-3029F, Idaho Code, and Paragraph 757.01.a. of this rule. Only those qualifying employees are included in the monthly total. (2-27-12)~~

~~c. Calculation. The number of qualifying employees for each month are added together and the total is divided by the number of months of operation for the taxable year. This is the employer's average employment for the taxable year. (2-27-12)~~

~~02. Calculating the Number of Qualifying New Employees. (2-27-12)~~

~~a. The number of qualifying new employees is the increase in the employer's average employment of qualifying employees for the taxable year over the greater number of the following: (2-27-12)~~

~~i. The employer's average employment of qualifying employees for the prior taxable year; or (2-27-12)~~

~~ii. The employer's average employment of qualifying employees for the three (3) prior taxable years. (2-27-12)~~

~~b. The number of qualifying new employees must be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (2-27-12)~~

~~03. Identification of New Employees. The employer must identify the specific new employees. The new employees are those qualifying employees who were last hired by the employer based on the date the employee first performed services for the employer. (2-27-12)~~

~~04. Eligible New Employee. The new employee must meet the qualifications listed in Paragraphs 757.04.a. through 757.04.c. of this rule in order to be an eligible new employee. (2-27-12)~~

~~a. Average Annual Earnings. The new employee must have earned annual wages at a rate averaging at least: (2-27-12)~~

~~i. Twelve dollars (\$12) per hour worked if the employee was employed in a county with an unemployment rate of ten percent (10%) or more as of the date the new employee was hired; or (2-27-12)~~

~~ii. Fifteen dollars (\$15) per hour worked if the employee was employed in a county with an unemployment rate below ten percent (10%) as of the date the new employee was hired. (2-27-12)~~

~~b. The new employee must have been hired on or after April 15, 2011. (2-27-12)~~

~~c. The new employee must have received employer provided health care benefits as defined in Rule 756 of these rules. (2-27-12)~~

~~05. Computation of Average Annual Earnings. Average annual earnings is computed as follows: (2-27-12)~~

~~a. For hourly employees, the gross wages paid by the employer is divided by the number of hours worked for the taxable year. (2-27-12)~~

~~b. For salaried employees, the gross wages paid is divided by two thousand eighty (2,080) hours if employed on a full time basis for the entire taxable year. If a salaried employee is regularly scheduled to work more or less than forty (40) hours per week, the computation must be adjusted accordingly to determine the hourly rate. For example, if an employee is regularly assigned to work a thirty-two (32) hour week and worked for the employer the entire taxable year, the gross wages actually paid must be divided by one thousand six hundred sixty-four (1,664). The total hours must not be reduced for days taken off, such as for vacation, sick leave, or personal days, if such days off were paid. If the employee's annual salary is adjusted for days taken off that are not paid, the number of hours should be adjusted in a consistent manner. (2-27-12)~~

~~c. If the new employee is determined to be eligible for the credit, the credit is computed as provided in Rule 758 of these rules. (2-27-12)~~

~~**758. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: CALCULATION OF CREDIT (RULE 758).**~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~01. Computation of Credit. The credit for an eligible new employee is calculated by multiplying the gross salary paid to the eligible new employee for the initial twelve (12) months of employment by the applicable credit rate. The credit is not allowed for new employees who were part of a trade or business the employer acquired from another taxpayer, or of an employer who operates in a place of business the same or a substantially identical trade or business as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer in either situation would have qualified. (2-27-12)~~

~~02. Gross Salary. Gross salary does not include: (2-27-12)~~

~~a. Nontaxable fringe benefits; (2-27-12)~~

- b. ~~Tips paid by customers of the employer.~~ (2-27-12)
- c. ~~Wages that are subsidized through another taxpayer or program, including any federal or state grant.~~ (2-27-12)

03. ~~Credit Rate. The applicable credit rate is determined based on the employer's rating from the Idaho Department of Labor for unemployment purposes that applies to the calendar year in which the taxable year begins. For example, the rating received by an employer in December 2011 will apply to taxable years beginning in 2012. The credit rate is six percent (6%) for a positive-rated employer, four percent (4%) for a standard-rated employer, and two percent (2%) for a deficit-rated employer.~~ (2-27-12)

04. ~~Employed in a County. To be employed in a county, at least some of the employee's service must be performed in that county. An employee is employed in a county if:~~ (2-27-12)

- a. ~~The employee's service is performed entirely within the county;~~ (2-27-12)
- b. ~~The employee's service is performed both in and outside the county, but the service performed outside the county is incidental to the employee's service in the county; or~~ (2-27-12)
- c. ~~Some of the service is performed in the county and;~~ (2-27-12)
- i. ~~The base of operations is located in the county or;~~ (2-27-12)
- ii. ~~If there is no base of operations, the place from which the service is directed or controlled is in the county; or~~ (2-27-12)
- iii. ~~The base of operations or the place from which the service is directed or controlled is not in any county in which some part of the service is performed, but the individual's residence is in the county.~~ (2-27-12)

~~759. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: RECORD KEEPING REQUIREMENTS (RULE 759).~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014.~~ (2-27-12)

01. ~~Information Required to be Included With Idaho Return. An employer must include with the Idaho income tax return on which the Hire One Act credit is claimed a copy of the taxable wage rate notice issued by the Department of Labor for that income tax year. Notices that cannot be included with an electronically filed return must be separately mailed to the Tax Commission. No credit may be allowed if this notice is not included with the Idaho income tax return or mailed separately to the Tax Commission.~~ (2-27-12)

02. ~~Information Required to be Retained By Employer. An employer claiming the Hire One Act credit must retain and make available, on request, records to document the credit claimed. The records must include all of the following:~~ (2-27-12)

- a. ~~The Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor;~~ (2-27-12)
- b. ~~Payroll records and reports documenting start and end of employment dates, if applicable, and hours worked by employee;~~ (2-27-12)
- c. ~~The computation of the number of qualifying employees including a listing of all such employees by name and social security number;~~ (2-27-12)
- d. ~~Records verifying gross salary paid and county employed in for the employees identified as the new employees;~~ (2-27-12)
- e. ~~Records documenting a new employee's coverage under the employer provided health care~~

~~benefits; and (2-27-12)~~

~~f. Documentation from the Department of Labor verifying the employer's tax rate. (2-27-12)~~

~~03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit. (2-27-12)~~

~~760. IDAHO INCENTIVE INVESTMENT TAX CREDIT: IN GENERAL (RULE 760).~~
~~Section 63-3029J, Idaho Code~~

~~01. Credit Allowed. The incentive investment tax credit allowed by Section 63-3029J, Idaho Code, applies to investments made during the taxable year that begins in 2001. The investment must also meet the requirements of Section 63-3029B, Idaho Code, and related rules as to what constitutes qualified investment. (3-15-02)~~

~~02. Limitations. The incentive investment tax credit allowable in any taxable year shall be limited as follows: (3-15-02)~~

~~a. The incentive investment tax credit claimed during a taxable year may not exceed the lesser of: (3-15-02)~~

~~i. Five hundred thousand dollars (\$500,000); or (3-15-02)~~

~~ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the incentive investment tax credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-15-02)~~

~~b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the incentive investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (3-15-02)~~

~~c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-15-02)~~

~~d. Transferred Credit. Limitations apply to each transferee as if the transferee had earned the credit. (3-15-02)~~

~~03. Carryovers. (3-15-02)~~

~~a. The carryover period for the incentive investment tax credit is fourteen (14) years. (3-15-02)~~

~~b. See Rule 793 of these rules for the rules regarding the carryover of transferred credit. (3-15-02)~~

~~04. Taxpayers Entitled to the Credit. Rule 711 of these rules shall apply to the incentive investment tax credit except that limitations referenced in Subsection 711.01 shall be those limitations as provided in Section 63-3029J, Idaho Code. (3-15-02)~~

~~05. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. (3-15-02)~~

~~761. 762. (RESERVED)~~

~~763. IDAHO INCENTIVE INVESTMENT TAX CREDIT: RECORD KEEPING REQUIREMENTS (RULE 763).~~

~~Section 63-3029J, Idaho Code~~

~~01- Information Required. Each taxpayer who earns the incentive investment tax credit shall be subject to the record keeping requirements set forth in Rule 716 of these rules. In addition, the taxpayer shall maintain records to identify the location and utilization by Idaho county for each item of property. (3-15-02)~~

~~02- Credit Transferred. A taxpayer that transfers the incentive investment tax credit shall continue to be subject to the record keeping requirements of this rule and Rule 716 of these rules, for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. (3-15-02)~~

~~764. (RESERVED)~~

~~765. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT: IN GENERAL (RULE 765):~~

~~Section 63-3029M, Idaho Code~~

~~01- Credit Allowed. The biofuel infrastructure investment tax credit allowed by Section 63-3029M, Idaho Code, may be earned during taxable years beginning on and after January 1, 2007, and before December 31, 2011. It applies to qualified investment placed in service after July 1, 2007. (4-2-08)~~

~~a- Qualified investment placed in service on or before July 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on May 15, 2007, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service after July 1, 2007. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (4-2-08)~~

~~b- Qualified investment placed in service after July 1, 2007, during a taxable year beginning before January 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on August 1, 2007, during a taxable year that begins on October 1, 2006, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service in a taxable year beginning on or after January 1, 2007, and before December 31, 2011. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (4-2-08)~~

~~02- Qualified Investment. For purposes of the biofuel infrastructure investment tax credit, qualified investment includes the following: (4-2-08)~~

~~a- New fueling infrastructure dedicated to the purpose of selling or offering for sale biofuel. New fueling infrastructure shall mean investment in fueling infrastructure that: (4-2-08)~~

~~i- Is constructed or erected by the taxpayer, or (4-2-08)~~

~~ii- Is acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition shall not qualify as new infrastructure. (4-2-08)~~

~~b- Costs to upgrade existing fueling infrastructure that was previously incompatible to enable it to offer biofuel. Such costs include expenses related to the cleaning of existing fuel storage tanks, trucks, or other equipment for the purpose of providing biofuels. (4-2-08)~~

~~c- Fueling infrastructure means necessary tanks, piping, pumps, pump stands, hoses, monitors, blending equipment, meters, rack injection systems, or any other equipment and the costs to install the equipment that is necessary for a fuel distributor or a retail fuel outlet to offer biofuel for sale. (4-2-08)~~

~~03- Reduction to Qualified Investment for Biofuel Infrastructure Grants. Each taxpayer who receives a~~

~~biofuel infrastructure grant as allowed by Section 42-1806, Idaho Code, shall reduce the amount of qualified investment computed under Section 63-3029M, Idaho Code, by the amount of the biofuel infrastructure grant received during the taxable year.~~ (3-29-10)

~~04. Limitations. Regardless of whether the biofuel infrastructure investment tax credit available in a taxable year results from a carryover earned in prior years, credit earned in the current year, or both, the biofuel infrastructure investment tax credit allowable in any taxable year shall be limited as follows:~~ (4-2-08)

~~a. Tax liability. The biofuel infrastructure investment tax credit claimed during a taxable year may not exceed the lesser of:~~ (4-2-08)

~~i. Fifty percent (50%) of the tax; or~~ (4-2-08)

~~ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the biofuel infrastructure investment tax credit. See Rule 799 of these rules for the priority order for nonrefundable credits.~~ (4-2-08)

~~b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the biofuel infrastructure investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code.~~ (4-2-08)

~~c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules.~~ (4-2-08)

~~05. Carryovers. The carryover period for the biofuel infrastructure investment tax credit is five (5) years.~~ (4-2-08)

~~06. Taxpayers Entitled to the Credit. The biofuel infrastructure investment tax credit is allowed to fuel distributors and retail fuel dealers. Rule 711 of these rules shall apply to the biofuel infrastructure investment tax credit, except that limitations referenced in Subsection 711.01 of these rules shall be those limitations as provided in Section 63-3029M, Idaho Code.~~ (4-2-08)

~~07. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass through entities paying tax, and the application of limitations on pass through credits.~~ (4-2-08)

~~08. Coordination With Investment Tax Credit and Property Tax Exemption in Lieu of the Investment Tax Credit.~~ (4-2-08)

~~a. A taxpayer who elects to claim the biofuel infrastructure investment tax credit on qualified investment may not claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. A taxpayer may, however, claim the investment tax credit on property for which he is not claiming the biofuel infrastructure investment tax credit.~~ (4-2-08)

~~b. A taxpayer who elects to claim the property tax exemption in lieu of the investment tax credit allowed by Section 63-3029B, Idaho Code, may not claim the biofuel infrastructure investment tax credit on the same property.~~ (4-2-08)

~~c. A taxpayer may claim the investment tax credit, the property tax exemption in lieu of the investment tax credit, and the biofuel infrastructure investment tax credit in the same taxable year. However, only one (1) of the incentives may be claimed on any one (1) property.~~ (4-2-08)

~~766. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT: RECAPTURE (RULE 766).~~
~~Section 63-3029M, Idaho Code~~

~~01. In General. If a taxpayer is claiming or has claimed the biofuel infrastructure investment tax credit~~

~~for property that ceases to qualify pursuant to Section 63-3029M, Idaho Code, prior to being held five (5) full years; a recomputation of the credit shall be made. See Rule 715 of these rules. The qualified investment shall cease to qualify if any of the following occur prior to the end of the recapture period:~~ (4-2-08)

- ~~a. The biofuel infrastructure is sold or otherwise disposed of; (4-2-08)~~
- ~~b. The biofuel infrastructure is moved out of Idaho; or (4-2-08)~~
- ~~c. The biofuel infrastructure ceases to be used in connection with offering biofuel for sale. (4-2-08)~~

~~02. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. (4-2-08)~~

~~767. BIOFUEL INFRASTRUCTURE INVESTMENT CREDIT: RECORD KEEPING REQUIREMENTS (RULE 767).~~

~~Section 63-3029M, Idaho Code~~

~~01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the biofuel infrastructure investment tax credit claimed on an income tax return subject to examination. The records must include all of the following: (4-2-08)~~

- ~~a. A description of the property; (4-2-08)~~
- ~~b. The asset number assigned to the item of property, if applicable; (4-2-08)~~
- ~~c. The acquisition date and date placed in service; (4-2-08)~~
- ~~d. The basis of the property; (4-2-08)~~
- ~~e. The location and utilization (the usage both in and outside Idaho) of the property including information identifying that the property was used for biofuel; and (4-2-08)~~
- ~~f. The retirement, disposition, or date transferred out of Idaho, date no longer used in Idaho, or date the biofuel was no longer offered for sale on a continuous basis, if applicable. (4-2-08)~~

~~02. Accounting Records Subject to Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: (4-2-08)~~

- ~~a. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; (4-2-08)~~
- ~~b. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; (4-2-08)~~
- ~~c. Records verifying ownership including purchase contracts and proof of payment; (4-2-08)~~
- ~~d. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho and the purchase of biofuel offered for resale; and (4-2-08)~~
- ~~e. A system that verifies that property on which the biofuel infrastructure investment tax credit was claimed continues to maintain its status as qualified investment throughout the recapture period. (4-2-08)~~

~~03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. (4-2-08)~~

~~04. Unitary Taxpayers. Corporations claiming the biofuel infrastructure investment tax credit must~~

~~provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers.~~ (4-2-08)

~~768~~⁵⁵. -- 769. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

790. TRANSFER OF CREDIT: IN GENERAL (RULE 790).

Sections 63-3029I and 63-3029J, Idaho Code

01. In General. A credit may be transferred only as specifically allowed in the statute authorizing the credit. The following credits are the only credits that may be transferred: (3-15-02)

a. The broadband equipment investment credit, as allowed by Section 63-3029I, Idaho Code. ~~and.~~ (3-15-02)

~~b. The incentive investment tax credit, as allowed by Section 63-3029J, Idaho Code.~~ (3-15-02)

02. Terms. For purposes of Rules 790 through 795 of these rules, the following terms have the stated meanings: (3-15-02)

a. **Transferor.** The taxpayer who earns the credit and sells, conveys, or transfers the credit to another taxpayer shall be referred to as the transferor. (3-15-02)

b. **Transferee.** The taxpayer who receives the credit from the transferor or intermediary shall be referred to as the transferee. (3-20-04)

03. Transfer Limited. (3-20-04)

a. ~~Only the taxpayer who originally earned the incentive investment tax credit may transfer the credit. A taxpayer who receives the incentive investment tax credit through a transfer may not transfer the credit to another taxpayer.~~ (3-20-04)

~~b.~~ The broadband equipment investment credit may be transferred to another taxpayer required to file an Idaho income tax return or to an intermediary. The intermediary may use all or a portion of the broadband equipment investment credit or resell the credit to a taxpayer required to file an Idaho income tax return. The broadband equipment investment credit may not be transferred more than two (2) times. (3-20-04)

~~b.~~ A taxpayer who receives credit through unitary sharing may not transfer the credit to another taxpayer. (3-20-04)

791. TRANSFER OF CREDIT: NOTIFICATION OF INTENDED TRANSFER (RULE 791).

Sections 63-3029I and 63-3029J, Idaho Code

01. Timing of Notification. A taxpayer who intends to transfer qualified credit shall notify the Tax Commission in writing of its intent to transfer the credit at least sixty (60) days prior to the date of the transfer. A transfer may not take place prior to the Tax Commission providing its response as to the amount of credit available and the years the credit may be carried forward. (3-15-02)

02. Information Required. A transferor or intermediary shall notify the Tax Commission by submitting the following information on a form prescribed by the Tax Commission: (3-20-04)

a. Name, address, and federal employer identification number of the transferor or intermediary; (3-20-04)

- b. Name, address, and federal employer identification number of the transferee; (3-15-02)
- c. Type of credit to be transferred; (3-15-02)
- d. Amount of credit to be transferred; (3-15-02)
- e. Date of intended transfer; (3-20-04)
- f. Signature of authorized individual for transferor or intermediary; and (3-20-04)
- g. A copy of the Idaho Form 68, Idaho Broadband Equipment Investment Credit, ~~or Idaho Form 69, Idaho Incentive Investment Tax Credit~~, and required schedules for each tax year the credit being transferred was earned. (3-20-04) ()

(BREAK IN CONTINUITY OF SECTIONS)

793. TRANSFER OF CREDIT: TRANSFEREE (RULE 793).

Sections 63-3029I and 63-3029J, Idaho Code

01. Tax Year Credit Available. A transferee may first claim the transferred credit on an income tax return originally filed during the calendar year in which the transfer takes place. However, if the transferee did not claim the transferred credit on his original return filed during the calendar year in which the transfer takes place, he may not amend such return to claim the credit for that tax year. The credit may not be claimed on a tax return that begins prior to January 1, 2001. (3-20-04)

02. Copy of Transfer Form Required. The form verifying the transferred credit shall be attached to the income tax return for each taxable year that the credit is claimed or carried over. (3-15-02)

03. Carryover Period. If a credit is transferred, the transferee is entitled to any remaining carryover period that would have been allowed to the transferor or intermediary had the credit not been transferred. The Tax Commission shall verify the carryover period. The carryover period approved shall apply to the taxable year of the transferee that begins in the calendar year in which the transferor's taxable year begins. (3-20-04)

~~a. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In March of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2001 since he filed it in October of 2002. Taxpayer B has a fourteen (14) year carryover remaining, the same as Taxpayer A would have been entitled to. (3-20-04)~~

~~b. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In December of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2002, which he filed in April of 2003. Taxpayer B has a thirteen (13) year carryover remaining. (3-20-04)~~

~~c. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. On his return for taxable year beginning in 2002, Taxpayer A claimed additional credit earned during his taxable year beginning in 2001. In September of 2003, Taxpayer A sold the remaining credit to Taxpayer B at which time he had a thirteen (13) year carryover remaining. Taxpayer B is entitled to claim the credit on his original return filed in October of 2003. Taxpayer B is entitled to a thirteen (13) year carryover. (3-20-04)~~

~~d.~~ Taxpayer A earned the broadband equipment investment credit in his taxable year beginning in 2002. He claimed part of the credit on his return for that year. In October of 2003, Taxpayer A sold the remaining credit to Taxpayer B, an intermediary. Taxpayer B resold the credit in May of 2004 to Taxpayer C. Taxpayer C

claimed the credit on his original return for taxable year beginning in 2003, which he filed in November of 2004. Taxpayer C has a thirteen (13) year carryover remaining, the same as Taxpayer B would have been entitled to. (3-20-04)

794. -- 798. (RESERVED)

799. **PRIORITY ORDER OF CREDITS AND ADJUSTMENTS TO CREDITS (RULE 799).**
Section 63-3029P, Idaho Code

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

- a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (3-20-97)
- b. For part-year residents only, the grocery credit as authorized by Section 63-3024A, Idaho Code; (5-3-03)
- c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)
- d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)
- e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (3-30-01)
- f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (3-30-01)
- g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)
- h. ~~Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code; (3-15-02)~~
- ~~i. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)~~
- ~~ji. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)~~
- ~~lk. Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code. (3-15-02)~~
- ~~fj. Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-11-06)~~
- ~~mk. Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-11-06)~~
- ~~nl. Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-11-06)~~
- ~~om. Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (3-30-07)~~
- ~~p. Biofuel infrastructure investment tax credit as authorized by Section 63-3029M, Idaho Code. (4-2-08)~~
- n. Idaho child tax credit as authorized by Section 63-3029L, Idaho Code. ()

03. Adjustments to Credits. (4-11-06)

a. Adjustments to the amount of a credit earned shall be determined pursuant to the law applicable to the taxable year in which the credit was earned. (4-11-06)

b. Adjustments to the amount of a credit earned may be made even though the taxable year in which the credit was earned is closed due to the statute of limitations. Such adjustments to the earned credit shall also apply to any taxable years to which the credit was carried over. (4-11-06)

c. If the taxable year in which the credit was earned or carried over to is closed due to the statute of limitations, any adjustments to the credit earned shall not result in any tax due or refund for the closed taxable years. However, the adjustments may result in tax due or a refund in a carryover year if the carryover year is open to the statute of limitations. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

830. INFORMATION RETURNS (RULE 830).
Section 63-3037, Idaho Code

01. In General. Information returns are not required to be filed with the Tax Commission except as follows: (3-20-97)

a. Form 1098, Mortgage Interest Statement, if the property was located in Idaho. (4-5-00)

b. Form 1099-A, Acquisition or Abandonment of Secured Property, if the property was located in Idaho. (4-5-00)

c. Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, if the property was located in Idaho or the service was performed in Idaho. (4-5-00)

d. Form 1099-C, Cancellation of Debt, if the secured property was located in Idaho. (4-5-00)

e. Form 1099-MISC, Miscellaneous Income, if it was issued for transactions related to property located or utilized in Idaho or for services performed in Idaho. (4-5-00)

f. Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc., if Idaho income tax was withheld. (4-5-00)

g. Form 1099-S, Proceeds From Real Estate Transactions, if it was issued for transactions related to property located in Idaho. (4-5-00)

h. Form W-2G, Certain Gambling Winnings, if the gambling took place in Idaho. (7-1-98)

02. Submitting Returns. Information returns must be submitted to the Tax Commission through electronic filing or on a paper copy of federal Form 1099. (4-7-11)

03. Due Date of Information Returns. Information returns are made on a calendar year basis. The due date for information returns submitted through electronic filing or on paper is the last day of February following the close of the calendar year. (4-7-11)

04. Voluntary Withholding. Each person who withholds Idaho income tax from amounts reported on information returns required by Section 63-3037, Idaho Code, must: (4-7-11)

a. Obtain an Idaho withholding account number as required by Rule 870 of these rules; and (4-7-11)

b. Submit an annual reconciliation return to the Tax Commission and comply with the requirements provided for filing of annual reconciliation returns as discussed in Rule 872 of these rules. The reconciliation return must report amounts paid during the preceding calendar year and reconcile the state income tax withheld with the tax remitted for the preceding calendar year. The reconciliation return must be filed on or before the last day of ~~February~~ January. ~~(4-7-11)~~ ()

(BREAK IN CONTINUITY OF SECTIONS)

890. NOTICE OF ADJUSTMENT OF FEDERAL TAX LIABILITY (RULE 890).

Section 63-3069, Idaho Code

01. Final Determination. The term final determination as used in Section 63-3069, Idaho Code means final federal determination as defined in Section 63-3068(f), Idaho Code. (3-20-97)

02. Written Notice. (3-20-97)

a. Written notice shall include copies of all Revenue Agents' reports, and any other documents and schedules required to clarify the adjustments to taxable income. If the final determination results in a refund of state taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-20-97)

b. Written notice included with an income tax return for a year or years other than the year subject to the federal adjustment shall not constitute the required notification. (3-20-97)

03. Immediate Notification. The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within ~~sixty~~ one hundred twenty (~~60~~120) days of the final determination. ~~(3-20-97)~~ ()

891. NOTICE OF ADJUSTMENT OF STATE OR TERRITORY TAX LIABILITY (RULE 891).

Sections 63-3069 and 63-3069A, Idaho Code

01. Final Determination. The term final determination of any deficiency or refund of income tax due to another state or territory as used in Section 63-3069, Idaho Code, shall mean the final resolution of all issues that were adjusted by the other state or territory. (3-30-01)

02. Written Notice. (3-30-01)

a. Written notice shall include copies of all reports issued by the other state or territory, and any other documents and schedules required to clarify the adjustments to taxable income of the state or territory. If the final determination results in a refund of Idaho taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-30-01)

b. Written notice included with an income tax return for a year or years other than the year subject to the adjustment by the state or territory shall not constitute the required notification. (3-30-01)

03. Immediate Notification. The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within ~~sixty~~ one hundred twenty (~~60~~120) days of the final determination. ~~(3-30-01)~~ ()

IDAPA 35 – STATE TAX COMMISSION

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-1804

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 171 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018 Idaho Administrative Bulletin, [Vol. 18-10, pages 423-425](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian, (208) 334-7670.

Dated this 14th day of November, 2018.

Cynthia Adrian, Income Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7844
Cynthia.Adrian@tax.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Income Tax Rule 171 – Rule 171 is being amended consistent with 2018 HB514. This change deletes the reference to a partnership interest as nonqualifying property for the Idaho capital gains deduction.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed rule changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian, (208) 334-7670. For general questions, contact Kimberlee Stratton, (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 3rd day of October, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-1804

171. IDAHO CAPITAL GAINS DEDUCTION -- QUALIFIED PROPERTY (RULE 171).
Section 63-3022H, Idaho Code

01. Tangible Personal Property. Tangible personal property qualifies for the Idaho capital gains deduction if it was used in Idaho for at least twelve (12) months by a revenue-producing enterprise as defined by Section 63-3022H(4), Idaho Code, and Rule 172 of these rules. (4-7-11)

02. Real Property. Idaho real property qualifies for the Idaho capital gains deduction if it was held by the taxpayer for twelve (12) months. See Subsection 171.05 of this rule for examples of nonqualifying property. (3-25-16)

03. Gain from Forfeited Rights and Payments. Gain attributable to a cancellation, lapse, expiration, or other termination of a contract right or obligation does not qualify for the Idaho capital gains deduction. This includes any gain from the lapse of an option or from forfeited earnest money, down payment, or similar payments, related to otherwise qualifying property. (4-7-11)

04. Timber. As used in Section 63-3022H(3)(e), Idaho Code, qualified timber grown in Idaho includes: (3-20-97)

a. Standing timber held as investment property that is a capital asset pursuant to Section 1221, Internal Revenue Code; and (3-20-97)

b. Cut timber if the taxpayer elects to treat the cutting of timber as a sale or exchange pursuant to Section 631(a), Internal Revenue Code. (3-20-97)

05. Nonqualifying Property. Nonqualifying property includes: (4-4-13)

a. Real or tangible personal property not having an Idaho situs. (4-4-13)

b. Tangible personal property not used by a revenue-producing enterprise. (4-4-13)

c. Intangible property. Some examples of intangible property include, but are not limited to: (4-4-13)

i. Stocks and bonds; (4-4-13)

ii. Interests in a partnership (except for interests identified in Section 63-3022H(3)(f)), Idaho Code, LLC, or S corporation. (4-4-13)()

06. Holding Periods. (3-20-97)

a. In General. To qualify for the capital gains deduction, property otherwise eligible for the Idaho capital gains deduction must be held for specific time periods. The holding periods for Idaho purposes generally follow Sections 1223 and 735, Internal Revenue Code. (5-8-09)

b. Exception to the Tacked-On Holding Period. The holding period of property given up in a tax-free exchange is not tacked on to the holding period of the property received if the property given up was nonqualifying property based on the requirements of Section 63-3022H(3), Idaho Code. (4-4-13)

c. Installment Sales. The determination of whether the property meets the required holding period is made using the laws applicable for the year of the sale. If the required holding period is not met in the year of sale, the gain is not from qualified property. The classification as nonqualified property will not change even though the gain may be reported in subsequent years when a reduced holding period is applicable. (4-5-00)

d. Examples of nonqualifying property. (7-1-98)

i. A taxpayer purchased land in California. After owning the land three (3) years, he gave up the California land in a tax-free exchange for land in Idaho. He owned the Idaho land for ten (10) months until selling it at a gain. For federal purposes the holding period of the California land tacks on to the holding period of the Idaho land. The gain from the sale of the California land would not qualify for the Idaho capital gains deduction since it is

real property located outside Idaho. The holding period of the California land does not tack on to the holding period of the Idaho land for purposes of the Idaho capital gains deduction. Because the Idaho land was not held for twelve (12) months, the gain from the sale of the Idaho land does not qualify for the Idaho capital gains deduction. (3-30-07)

ii. Assume the same facts as in the example in Subparagraph 171.05.d.i. except the taxpayer's original purchase was land in Idaho. Because the taxpayer owned real property in Idaho that was exchanged for a second parcel of real property in Idaho, the holding period of the Idaho land given up tacks on to the holding period of the second parcel of Idaho land. Because the holding period of the second property, which includes the holding period of the first property, was at least twelve (12) months, the gain from the sale of the second parcel of real property qualifies for the Idaho capital gains deduction. (4-7-11)

07. Holding Periods of S Corporation and Partnership Property. (7-1-98)

a. Property Contributed by a Shareholder to an S Corporation or by a Partner to a Partnership. A shareholder or partner who contributes otherwise qualified property to an S corporation or partnership may treat the pass-through gain on the sale of that property as a qualifying Idaho capital gain if the property has, in total, been held by the shareholder or partner and the S corporation or partnership for the required holding period. The noncontributing shareholders or partners may treat the pass-through gain as a qualifying Idaho capital gain only if the S corporation or partnership held the property for the required holding period. (5-8-09)

b. Property Distributed by an S Corporation or Partnership. (2-27-12)

i. Distributions. For purposes of this rule, the holding period of property received in a distribution from a partnership or from an S corporation other than in liquidation of stock includes the time the entity held the property. (3-25-16)

08. Sale of a Partnership Interest. For taxable years beginning on or after January 1, 2018, when 26 CFR 1.170A-13(c)(3) is used to determine the fair market value of the partnership's qualified real property, the language of that federal regulation is to be treated as if it sets forth an appraisal method for determining the value of the qualified real property due to the sale of the partnership interest rather than a donation of property. ()

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 037, 049, and 068, and they are being adopted as originally proposed. The complete text of the proposed rules were published in the August 1, 2018, Idaho Administrative Bulletin, [Vol. 18-8, pages 176-182](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5220(1)&(2), 63-105(2), and Section 63-3624(a) Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 15, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 037 – Aircraft and Flying Services

In general, when a third-party dealer or repair facility performs a repair and bills the seller of a warranty or service agreement, the third-party dealer or repair facility will separately state and charge sales tax on the parts to the seller of the warranty or service agreement. Section 63-3622GG, Idaho code exempts parts installed in non-resident aircraft if those parts are installed by a FAA approved repair station. This includes parts that are being installed as a result of a warranty or a service agreement. Currently this scenario has not been addressed in rule. The proposed rulemaking would add language that clarifies that these parts are exempt, even if the repair is paid for under a warranty agreement. Addressing this issue provides clarity that the exemption for parts installed on non-resident aircraft applies, even if the parts were paid for under a warranty agreement.

Rule 049 – Warranties and Service Agreements

The proposed rulemaking adds a cross reference to Rule 037 regarding the exemption for parts installed in non-resident aircraft if those parts are installed by a FAA approved repair station and a statutory reference to 63-3613.

Rule 068 – Collection of Tax

Section 63-3619, Idaho law requires the Tax Commission to provide retailers with schedules for collection of the tax on sales which involve a fraction of a dollar. Currently, rule 068 has two of these schedules, one for 5% sales tax and another for 6%. The 5% schedule is no longer necessary because the rate has been stable at 6% since 2006. The proposed rulemaking would remove subsection 04 & then renumbers the subsequent sections. A statutory reference to 63-3619 is added as well.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 2, 2018 Idaho Administrative Bulletin, [Vol. 18-5, pages 141–142](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leah Parsons, (208) 334-7531.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 22, 2018.

DATED this 6th day of July, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-1801

037. AIRCRAFT AND FLYING SERVICES (RULE 037).

Section 63-3622GG, Idaho Code

- 01. Definitions.** For the purposes of this rule, the following terms have the following meanings: (7-1-94)
- a.** Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, wildlife viewing, hot air balloon rides, or other similar activities. (4-11-06)
- b.** Freight. Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. See Subsection 037.06 of this rule. (4-11-06)
- c.** Transportation of Passengers. The transportation of passengers means the service of transporting passengers from one (1) point to another. It does not include survey flights, recreational or sightseeing flights, nor does it include any flight that begins and ends at the same point. (4-11-06)
- d.** Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code. (7-1-94)
- e.** Nonresident Businesses and Other Organizations. A corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state, and does not have consistent operations in this state. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more aircraft is not a nonresident. The use of an aircraft owned by such an entity will be subject to use tax upon its first use in Idaho. (4-4-13)
- f.** Day. For the purpose of this rule any part of a day is a day. (7-1-94)
- g.** Transportation of freight or passengers for hire. "Transportation of freight or passengers for hire" means the business of transporting persons or property for compensation from one (1) location on the ground or water to another. (4-4-13)
- h.** Common Carrier. The operation of an aircraft in the transportation of freight or passengers for hire by members of the public. When operating as a common carrier, the operator or owner of an aircraft usually charges a rate that will generate a profit. For flights in which federal regulations limit or minimize this profit, the aircraft is likely not operating as a common carrier. (4-4-13)
- i.** Public. The public does not include: (4-4-13)
- i. Owners or operators of the aircraft; (4-4-13)

- ii. Employees of the aircraft owner or operator; (4-4-13)
- iii. Guests of the aircraft owner or operator; (4-4-13)
- iv. Any of the above with the same relationship to a parent of the aircraft owner, a subsidiary of that parent, or a subsidiary of the aircraft owner; (4-4-13)
- v. An individual or entity flying under a time sharing agreement which is an arrangement where an aircraft owner leases his aircraft with flight crew to another individual or entity and the aircraft owner limits the amount charged in accordance with federal regulations; or (4-4-13)
- vi. An individual or entity flying under an interchange agreement which is an arrangement where an aircraft owner leases his aircraft to another aircraft owner in exchange for equal time on the other owner's aircraft and any fees charged may not exceed the difference between the costs of owning, operating, and maintaining the two (2) aircraft. (4-4-13)

02. Sales of Aircraft. Sales of aircraft are taxable unless an exemption applies. Section 63-3622GG, Idaho Code, provides an exemption for the sale, lease, purchase, or use of an aircraft: (4-11-06)

- a. Primarily used to provide passenger or freight services for hire as a common carrier; (4-4-13)
 - i. Example 1: An aircraft is flown for the following activities: the aircraft owner's personal vacations, flight instruction, and charter operations for hire as a common carrier. The flight hours for each activity are forty-five (45), sixty-five (65) and seventy-five (75) hours respectively in a consecutive twelve (12) month period. The combined flight hours for the taxable uses of the aircraft, owner and flight instruction, (45 + 65 = 110 hours) are more than the hours operating as a common carrier (75 hours). Since the greater use of the aircraft is performing activities that do not qualify for an exemption, the use of the aircraft will be taxable at fair market value as of that point in time. (3-20-14)
 - ii. Example 2: A charter aircraft service uses an aircraft for three purposes: flight instruction, air ambulance service, and charter flights operated as a common carrier. The flight hours for each activity are one hundred (100), sixty (60) and fifty (50) respectively in a consecutive twelve (12) month period. The combined flight hours for the exempt uses of the aircraft, as an air ambulance and as a common carrier (60 + 50 = 110 hours), are more than the hours used for flight instruction one hundred (100) hours. Since the greater use of the aircraft is performing activities that qualify for an exemption, the use of the aircraft will be exempt. (3-20-14)
- b. Primarily used for emergency transportation of sick or injured persons; (3-29-17)
- c. That is a fixed-wing aircraft primarily used as an air tactical group supervisor platform under a contract with a governmental entity for wildfire activity; or (3-29-17)
- d. Purchased for use outside this state, when the aircraft is upon delivery taken outside this state, but only if: (3-20-04)
 - i. The aircraft is sold to a nonresident as defined in Subsection 037.01.d. or 037.01.e. of this rule; and (3-30-07)
 - ii. The registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any consecutive twelve (12) month period. (4-4-13)

03. Sales of Aircraft Repair Parts to Nonresidents. Subject to the restrictions of Section 63-3622GG, Idaho Code, sales of aircraft repair parts, including those paid for under a warranty or service agreement, are exempt from tax when installed on an aircraft owned by a nonresident individual or business as defined in Subsection 037.01 of this rule. ~~(4-4-13)~~ ()

04. Federal Law Prohibits States From Taxing Sales of Air Transportation. See 49 U.S.C. Section

40116. For this reason, sales of intrastate transportation as described by Section 63-3612(i), Idaho Code, are not taxable in Idaho. (4-11-06)

05. Rentals and Leases of Aircraft. The rental or lease of an aircraft without operator is a sale subject to sales tax, other than as provided in Subsection 037.02 of this rule. See Rule 024 of these rules. (4-11-06)

06. Aerial Contracting Services. Businesses primarily engaged in the application of agricultural chemicals as described in Federal Aviation Regulation Part 137, or in activities involving the carrying of external loads as described in Federal Aviation Regulation Part 133, such as aerial logging, are performing aerial contracting services. Such businesses are not primarily engaged in the transportation of freight. (4-11-06)

a. Aircraft purchased, rented, or leased for aerial contracting are subject to tax. It makes no difference whether or not the service is provided to a government agency or a private individual or company. Sales or use tax also applies to the purchase of repair parts, oil, and other tangible personal property. (4-4-13)

b. When aircraft held for resale are used by the owner, who is an aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (4-11-06)

07. Air Ambulance Service. Charges for the emergency transportation of sick or injured persons, including standby time, are not subject to sales tax. (7-1-94)

08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not subject to sales tax. (7-1-94)

a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are subject to sales or use tax. (7-1-94)

b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

09. Recreational Flights. Sales and purchase of aircraft used primarily for providing recreational flights are subject to sales or use tax. (4-11-06)

10. Aircraft Held for Resale. Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business. (7-1-94)

a. Rentals of aircraft held for resale are taxable as provided by Subsection 037.05 of this rule. (7-1-93)

b. When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used. (7-1-94)

c. Parts and oil purchased to repair or maintain aircraft held for resale are not subject to sales tax. The aircraft dealer must provide the supplier with a properly completed resale certificate. See Rule 128 of these rules. (2-18-02)

11. Fuel. The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax. (7-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

049. WARRANTIES AND SERVICE AGREEMENTS (RULE 049).
[Section 63-3613, Idaho Code](#)

01. Warranties and Service Agreements. Warranties or service agreements may be furnished by the manufacturer or seller upon the sale, lease, or rental of tangible personal property by any of the following means: (7-1-93)

a. Including the price of the warranty or service agreement as part of the sales, lease, or rental price of the tangible personal property. (7-1-93)

b. Separately stating the price of the warranty or service agreement, but requiring the purchase of the warranty or service agreement as a condition of the sale, lease, or rental of tangible personal property. (7-1-93)

c. Allowing the purchaser the option of purchasing a separately stated warranty or service agreement. (7-1-93)

02. Separate Optional Contract. Service agreements may also be offered as a separate optional contract on tangible personal property not owned or sold by the seller of the service agreement. (7-1-93)

03. Services Agreed to be Rendered. Services agreed to be rendered as a condition of a warranty or service agreement may be performed by the seller of the warranty or service agreement or by any dealer or repair facility that the seller may appoint to perform the repair or service. (7-1-93)

04. Non-Optional Warranty or Service Agreement. If the warranty or service agreement is required as a condition of the sale, lease, or rental of tangible personal property, the gross sales price is subject to the sales tax whether or not the charge for the warranty or service agreement is separately stated from the sales price of the tangible personal property. (7-1-93)

a. When parts are replaced by the seller of the warranty or service agreement, no tax is imposed on the purchase of the parts by the seller. The parts replaced are considered to have been taxed at the time the warranty or service agreement was sold. (7-1-93)

b. When a third-party dealer or repair facility performs the repair, the seller of the warranty or service agreement may provide the repairer with a resale certificate. See Rule 128 of these rules. (3-15-02)

05. Optional Warranty or Service Agreement. If the warranty or service agreement is optional to the purchaser, no sales tax shall be charged on the sale of the warranty or service agreement. A taxable transaction does occur with regard to the seller of the warranty or service agreement upon performance of the repair. (7-1-93)

a. If the seller of the warranty or service agreement performs the repair and purchases parts for the repair or uses parts from his inventory, he will pay sales or use tax upon the parts when they are applied by him. (7-1-93)

b. When a third-party dealer or repair facility performs the repair and bills the seller of the warranty or service agreement, the third-party dealer or repair facility will separately state and charge sales tax on the parts to the seller of the warranty or service agreement. (7-1-93)

c. The seller of the warranty or service agreement will pay sales or use tax on parts for the repairs, whether or not the purchaser qualifies for any exemption under the Idaho Sales and Use Tax Act or rules. (7-1-93)

06. Parts in Addition to Warranty Fee. Regardless of any of the above, if the seller of the warranty or service agreement bills the purchaser for parts over and above the agreed upon warranty or service agreement fee, sales tax shall be charged to the purchaser on the sales price of the parts. (7-1-93)

07. Replacement Parts and Maintenance Supplies. As used in this rule, a warranty or service agreement applies to replacement parts and maintenance supplies that become a part of the tangible personal property that is being serviced. The sale of other tangible personal property, such as paper for a copy machine, must be separately stated from any warranty or service agreement fee and sales tax charged to the purchaser. (7-1-93)

08. Cross-Reference. ()
- a. See Section 037.03 of these rules. Sales of Aircraft Repair Parts to Nonresidents. ()

(BREAK IN CONTINUITY OF SECTIONS)

068. COLLECTION OF TAX (RULE 068).
Section 63-3619, Idaho Code

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by Rule 105 of these rules. (4-11-06)

02. Sales Tax To Be Collected by Retailer. Sales tax shall be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation of Tax. The retailer will compute the tax upon the total sale to a purchaser at a given time and not upon each individual item purchased. (7-1-93)

04. ~~*Bracket System for Five Percent Tax Rate. The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale if the sales tax rate is 5%. The 5% tax rate was in effect from July 1, 2005, through September 30, 2006.*~~ (4-2-08)

- ~~*a. Multiply five cents (\$0.05) for every whole dollar included in the sale, and (7-1-93)*~~
- ~~*b. Add for each additional fractional dollar amount of sale the corresponding tax below:*~~

<i>Dollar Amount of Sale</i>	<i>Tax</i>
<i>0.00-0.05</i>	<i>- .00</i>
<i>0.06-0.25</i>	<i>- .01</i>
<i>0.26-0.45</i>	<i>- .02</i>
<i>0.46-0.65</i>	<i>- .03</i>
<i>0.66-0.85</i>	<i>- .04</i>
<i>0.86-0.99</i>	<i>- .05</i>

~~*However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax.*~~ (7-1-93)

~~*05.*~~ **Bracket System for Six Percent Tax Rate.** Beginning October 1, 2006, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. (4-2-08)

- a.** Multiply six cents (\$0.06) for every whole dollar included in the sale, and (3-20-04)
- b.** Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax	
0.00 - 0.03	-	.00
0.04 - 0.20	-	.01
0.21 - 0.37	-	.02
0.38 - 0.53	-	.03
0.54 - 0.70	-	.04
0.71 - 0.87	-	.05
0.88 - 0.99	-	.06

However, sales to a total amount of eleven cents (\$0.11) or less are exempt from tax.

(3-20-04)

065. Tax to Be Separately Displayed. The amount of tax collected by the retailer must be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax.

(7-1-93)

076. Reimbursement of Tax From the Purchaser to the Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the purchaser if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code.

(7-1-93)

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer.

(7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed.

(7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller.

(7-1-93)

d. The receivable established by the seller seeking reimbursement from the purchaser is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code.

(7-1-93)

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1802

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 003, 107, and 110, and they are being adopted as originally proposed. The complete text of the proposed rules were published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 426-431](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

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THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5220(1)&(2), 63-105(2), and Section 63-3624(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 003 – This rule provides guidance on where a taxpayer can find information about the administrative appeals process available to them. Currently the rule contains only one statutory reference. The proposed rulemaking will add references to additional areas within Idaho Code and Administrative Rules. Specifically, Sections 63-3626, 63-3621, 63-3633, and 63-3634, Idaho Code, a reference to Section 121 of these rules, and IDAPA 35.02.01, “The Tax Commission Administration and Enforcement Rules.”

Rule 107 – This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. The proposed rulemaking is to update the rule to reflect changes in tax exemption claim form ST-133. Gift transfers were removed from the form ST-133 and a new form was created for gift transfers, (form ST-133GT). The form name will be updated in Subsection 107.02.d. of this rule. Under Sections 007 and 008, the name of the form to be used for sales to family members and sales to American Indians will be updated and statutory references to Sections 63-3621 and 63-3622K, Idaho Code will be added.

Rule 110 – This rule provides guidance for financial institutions about their responsibility to pay over the tax when they are collecting sales tax for the sale of tangible personal property that they are financing, and when that sales tax should be reported. Section 110 does not provide guidance about how the financial institutions should report the tax. The proposed rulemaking adds guidance that directs financial institutions to obtain a permit if they are collecting sales tax so they can properly report the tax they collected.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, pages 108–109](#). Rules 011 and 043 were listed in the Notice of Intent for this docket, however, the Commission will not move forward with any changes to these rules at this time.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leah Parsons, (208) 334-7531.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 3rd day of October, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-1802

003. ADMINISTRATIVE APPEALS (RULE 003).

This chapter ~~does~~ allow administrative relief ~~of the provisions outlined herein under~~ as provided in Sections ~~63-3626, 63-3631, 63-3633, 63-3634. and~~ 63-3049, Idaho Code. ~~(7-1-93)~~()

02. Cross Reference. ()

a. See Rule 121 of these rules, Notice of Deficiency Administrative Review Appeals and Judicial Review. ()

b. See IDAPA 35.02.01. "Tax Commission Administration and Enforcement Rules." ()

(BREAK IN CONTINUITY OF SECTIONS)

107. VEHICLES AND VESSELS -- GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS (RULE 107).

Sections 49-117, 49-121, 49-122, 63-3606B, ~~63-3621, 63-3622K,~~ 63-3622R, ~~&~~ and 67-7101, Idaho Code

01. In General. This rule discusses specific topics relating to ~~motor~~ vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of ~~motor~~ vehicles. ~~(3-6-00)~~()

02. Gifts of ~~Motor~~ Vehicles. When the following facts clearly establish that a ~~motor~~ vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: ~~(7-1-93)~~()

a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)

b. The recipient assumes no indebtedness. (7-1-93)

c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)

d. The donor and recipient complete and sign a ~~Sales~~ Form ST-133GT, Use Tax Exemption Certificate -- Gift Transfer Affidavit, ~~Form ST-133,~~ and submit it to the county assessor ~~or the Idaho Transportation Department~~ along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit, the recipient can submit either: ~~(2-18-02)~~()

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor ~~or his representative~~ and attached to the affidavit; or ~~(2-18-02)~~()

- ii. The title may be marked as a gift and signed by the donor. (3-4-10)

03. Purchases Brought into Idaho by Nonresidents. ~~(3-30-07)~~()

a. A nonresident does not owe use tax on the use of a motor vehicle which is purchased outside of Idaho and titled or registered under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this Subsection (107.03.a.), a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. This exemption applies only to nonresidents. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more ~~motor~~ vehicles or vessels is not a nonresident. The use of a vehicle owned by such an entity will be subject to use tax upon its first use in Idaho. ~~(4-2-08)~~()

b. For the purposes of this rule, a corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state. (3-29-12)

c. A nonresident college student does not owe use tax on any use of a motor vehicle while enrolled as a full-time student in a college or university located in Idaho. The motor vehicle must be registered under the laws of the student's state of residence. The motor vehicle must be owned by the student or a family member of the student. The college or university must be accredited by the Idaho State Board of Education. (3-29-12)

04. New Residents. A new resident of Idaho does not owe tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired while residing in another state and used primarily outside Idaho. If an ~~an~~ ~~vehicle~~ owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that ~~the vehicle~~ it was purchased primarily for use outside Idaho. New residents entering Idaho with a vehicle titled or registered in a state that does not impose a general sales and use tax will be required to complete and sign Form ST-102, Use Tax Exemption Certificate - New Resident or Nonresident Military, and submit it to the ~~Idaho Transportation Department~~ or county assessor when applying for a title transfer or registration certificate. ~~(4-11-15)~~()

a. If the vehicle, vessel, or aircraft was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. ~~(7-1-93)~~()

b. A personally owned vehicle, vessel, or aircraft is one that is owned by, and titled or registered to, an individual or individuals. (4-11-15)

05. Military Personnel. (4-11-15)

a. Active duty military personnel and their spouses do not owe use tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter. If a vehicle owner obtained a registration or title from another state or nation of residence prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter, this is proof that the vehicle was primarily for use outside Idaho. (4-11-15)

b. Military personnel receive no special exemption from the Idaho sales and use tax regarding ~~motor~~ vehicles or other tangible personal property purchased while temporarily assigned in this state. A military person whose home of record is Idaho is considered to be a resident of this state. ~~(4-11-15)~~()

06. Tax Paid to Another State. When a general retail sales tax has been properly imposed by another state or political subdivision of a state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. The credit for state and local taxes paid in another state will be applied first to the state sales tax due and the remainder, if any, will be applied to any local taxes due. (3-30-07)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A resident of another state buys a vehicle in that state for ten thousand dollars (\$10,000) two (2) months before moving to Idaho. He presents his title from the other state to ~~an Idaho~~ the county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to the other state was three hundred dollars (\$300) when the vehicle was purchased. Credit for this amount is allowed against the six hundred dollars (\$600) tax due Idaho. The county assessor will collect three hundred dollars (\$300) tax. (4-11-15)()

c. Example: A resident of another state purchased a vehicle two (2) months before moving to Idaho. The applicant paid four percent (4%) state sales tax, one and six tenths percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total general sales tax paid was seven and two tenths percent (7.2%). Since the Idaho tax rate is lower, no tax is due Idaho because the amount of tax paid to the other state exceeds the amount owed Idaho. (4-2-08)

d. Example: A resident of Alaska purchases a vehicle immediately prior to moving to Idaho. The purchaser paid a three percent (3%) city sales tax in Alaska. When the purchaser moves to Idaho, credit will be given for the local tax paid against the Idaho state use tax due. (3-30-07)

e. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the ~~motor~~ vehicle from tax. (7-1-93)()

f. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

g. Taxes paid to another ~~nation~~ country cannot be used to offset ~~against~~ the taxes owed to Idaho. (7-1-93)()

07. Sales to Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. The Form ST-133, Sales Tax Exemption Certificate -- Transfer Affidavit Family or American Indian Sales. A Form ST-133, is used to document this exemption. The seller and buyer must complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the motor vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor ~~or his representative~~ and attached to the affidavit. (2-18-02)()

b. This exemption does not apply if the seller did not pay tax when he acquired the motor vehicle. (7-1-93)()

c. Example: An Oregon resident buys a motor vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the motor vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay ~~a~~ sales or use tax when he acquired the motor vehicle. The son is required to pay Idaho use tax on the ten thousand dollar (\$10,000) purchase price of the motor vehicle. (4-11-06)()

08. Sales to American Indians. An enrolled American Indian tribal member may buy a ~~motor~~ vehicle

exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian ~~R~~reservation. ()

a. ~~The Form ST-133, Sales Tax Exemption Certificate -- Transfer Affidavit~~ **Family or American Indian Sales.** ~~A Form ST-133, is used to document this exemption. The seller and the buyer must complete and sign Sales Tax Exemption Certificate -- Transfer Affidavit Form ST-133 including and provide the name of the tribe, the Tribal Identification Number, and the name of the R~~reservation upon which the ~~sale and~~ delivery occurred. The affidavit is then given to the ~~Idaho Transportation Department or~~ county assessor along with the title to the vehicle being transferred. See Rule 091 of these rules. (2-18-02)()

09. Bulk Sale Transfers. A transfer or sale of a ~~motor~~ vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer must complete and sign **Form ST-133CATS**, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit ~~Form ST-133CATS~~ to present to the ~~Idaho Transportation Department or~~ county assessor when applying for transfer of title. The buyer must attach a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (2-18-02)()

10. ~~Vehicles and Vessels Purchased in Idaho by Nonresidents for Use Outside Idaho~~ Sales to Nonresidents. (5-3-03)()

a. Sales of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), utility type vehicles (UTVs), specialty off-highway vehicles (**SOHVs**), off-highway motorcycles, and snowmobiles to nonresidents for use out of this state, even though delivery is made within this state are exempt from tax when: (3-25-16)()

i. The motor vehicles, vessels, ATVs, UTVs, ~~specialty off-highway vehicles~~ **SOHVs**, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (3-25-16)()

ii. The motor vehicles, vessels, ATVs, UTVs, ~~specialty off-highway vehicles~~ **SOHVs**, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than ninety (90) days in any twelve-month period. (3-28-18)()

b. To claim the exemption, ~~the each~~ buyer must provide the seller with a completed and signed **Form ST-104NR**, Sales Tax Exemption Certificate -- **Nonresident** Vehicle/Vessel. ~~Form ST104 MV~~ The seller must keep a copy for their records and send a copy of the completed form to the Tax Commission. (5-3-03)()

c. This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, paddleboards, inflatable boats, or similar watercraft regardless of length when sold without a motor. (3-29-17)

d. For purposes of Subsection 107.10 of this rule, ATV, UTV, and ~~specialty off-highway vehicle~~ **SOHV** have the same meaning given to them in Section 67-7101, Idaho Code. (3-25-16)()

e. For purposes of Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: (3-20-04)

i. Sold together with a motor; or (5-3-03)

ii. Eleven (11) feet in length or more, not including canoes, kayaks, paddleboards, inflatable boats, or similar watercraft unless such canoe, kayak, paddleboard, inflatable boat, or similar watercraft is sold together with attached motor. (3-29-17)

f. For the purposes of Subsection 107.10 of this rule a trailer must meet the definition of a park model recreational vehicle, a trailer or utility trailer found in Sections 49-117, 49-121, and 49-122 Idaho Code, which is a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term "trailer" includes the specific types of trailers or park model recreational vehicles defined in Sections 49-117, and 49-121(6), Idaho Code. (3-28-18)

g. To qualify for this exemption the purchaser must be a nonresident of Idaho. An Idaho resident may form an LLC or other legal entity under the laws of another state. If such an LLC or other entity is formed primarily for the purpose of owning one (1) or more ~~motor~~ vehicles or vessels it is not a nonresident. The purchase or use of a ~~motor~~ vehicle or vessel in Idaho by such an entity is taxable. (3-30-07)()

11. **Motor Vehicles and Trailers Used in Interstate Commerce.** The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of motor vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The ~~owner~~ buyer must complete and sign the Form ST-104IC, Sales Tax Exemption Certificate -- Interstate Commerce Vehicles ~~Vessel Form ST-104MV~~; and provide it to the seller, ~~the Idaho Transportation Department or the county assessor when applying for title transfer.~~ See Rule 101 of these rules. (5-3-03)()

12. **Related Party Transfers and Sales.** Certain transfers and sales of motor vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner must complete and sign the Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit Form and ST-133CATS to submit the completed form to the ~~Idaho Transportation Department or~~ county assessor when applying for title transfer. (2-18-02)()

(BREAK IN CONTINUITY OF SECTIONS)

110. RETURNS FILED BY COUNTY ASSESSORS AND FINANCIAL INSTITUTIONS (RULE 110).
Sections 63-3623 ~~&~~ and 63-3638(9), Idaho Code

01. **Filing Returns.** Upon collection of sales tax on applications for certificate of title to a motor vehicle, trailer, or other titled property, or initial application for registration processed by the county assessor, the assessor shall, no less than monthly, complete and submit to the Commission, Form ST-852, Idaho Sales Tax Return-County Assessors. The assessor may, at his discretion, submit the form more frequently. But at no time shall the amount of tax collected during any month be submitted later than the twentieth day of the month following the month in which the tax was collected. (4-6-05)

02. **Reimbursement.** The assessor and the Idaho Transportation Department will be reimbursed at the rate of one dollar (\$1) for each application for certificate of title or initial registration of a motor vehicle, trailer, or other titled property; each Form ST-108, Transport Trailer, Office Trailer, and Untitled Boat Certificate; and each Form ST-108TR, Occasional Sale Exemption Claim -- Office Trailer and Transport Trailer, processed by the assessor except those upon which any sales or use tax due has been previously collected by a retailer or paid by the purchaser. (3-25-16)

03. **Financial Institutions.** Financial institutions collecting tax on sales of tangible personal property that they are financing, whether sold by the financial institution or another person, must posses an Idaho seller's permit and file returns to remit the tax as prescribed in Rule 105, of these rules, to the Commission no later than the twentieth day of the month following the month in which the tax was collected from the purchaser of the tangible personal property. If the tax collected is not from a sale made by the financial institution, it can be reported as an adjustment on the return. Failure to remit the tax on a timely basis will result in the addition of penalties and interest as provided by Sections 63-3632 and 63-3634, Idaho Code. (4-6-05)()

04. **Cross Reference.** ()

a. Permits. See Rule 070 of these rules. ()

b. Time and Imposition of Tax. Returns, Payments and Partial Payments. See Rule 105 of these rules. ()

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1803

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There are no changes to Rules 018, 077, 106, 117, and 128, and they are being adopted as originally proposed. A change was made to Rule 041. Initially, the proposed rule removes Paragraph 041.12.c. from the examples of items subject to tax, and moved this text to become Paragraph 041.11.d. Based upon feedback received during the comment period, it was determined that the move did not provide enough clarity. Going forward, Subsection 041.11 will remain as codified with no new text, however Paragraph 041.12.c. will remain stricken, as shown in the proposed rule.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 432–449](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Leah.Parsons@tax.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5220(1)&(2), 63-105(2), and Section 63-3624(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 018 – The legislature amended the Idaho Sales Tax Act to provide a presumption that under certain conditions out-of-state retailers making sales to customers located in this state are retailers engaged in business in this state. These rules must be updated to reflect these changes. We are adding to the list of entities that are retailers, “out-of-state sellers that must overcome the presumption defined by Section 63-3611, Idaho code. We are also adding the statutory reference to the beginning of the rule.

Rule 041 – In 2014, the legislature added Subsection 63-3621(o), Idaho Code, extending exemption to the use of food or beverages donated to individuals or nonprofit organizations. The Tax Commission missed removing Subsection 041.12.c. of this rule when that change was made. The change moves Subsection 041.12.c from the examples of items subject to tax to Subsection 041.11d as an example of an item that is not subject to tax.

Rule 077 – The legislature amended the exemption for Research and Development at the INL by adding a new section. Section 070 of these rules must be revised to include the new language. We will add the new language to the rule and provide the statutory reference at the top.

Rule 106 – The Commission would like to look at making a change to the current NADA standard, “Clean Retail Value.” Currently, the rule states that in the absence of a bill of sale, we are to use the value established as the “clean retail price.” We would like to propose that an alternate NADA value be used. The value assessed should not be a penalty to an individual in the absence of a bill of sale, rather we want to collect the correct amount for the vehicle based upon its make, model, year, options, mileage, and condition. The proposed changes will also separate private party vehicles sales from retailers who are not dealers making vehicle sales. The private party section will be Subsection 106.05 of this rule, and will break the existing sections into the following subcategories to provide clarity about how these are reviewed and subsequently valued by the tax commission: bill of sale, low bill of sale, no bill of sale, trade in, barter/exchange. This rule is also being updated to reflect changes that have been made to exemption claim forms during 2018.

Rule 117 – A taxpayer has three years to request a refund of sales tax related to bad debt or that it has paid in error. A refund request submitted with the appropriate documentation stops the statute of limitations for the requester. The Tax Commission would like to clarify the language in the list of items that need to be provided with a refund request to ensure it is crystal clear exactly what should be submitted with a refund request at the time it is made. We will also add language that clarifies that the taxpayer must first “satisfy” any outstanding liability to request a refund.

Rule 128 – This rule provides description and guidance on the proper execution of approved exemption claim forms. This rule is being updated to reflect changes that have been made to exemption claim forms during 2018.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, pages 175–176](#). Rule 029 was listed in the Notice of Intent for this docket, however, changes have been postponed. The Commission will not move forward with any changes to this rule at this time.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leah Parsons, (208) 334-7531.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 24, 2018.

Dated this 3rd day of October, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-1803

018. RETAILER DEFINED (RULE 018).

[Sections 63-3610 and 63-3611, Idaho Code](#)

01. Retailer. The term retailer includes a person doing a regularly organized retail business in tangible personal property and defined services and selling to the user or consumer, not for resale. Retailer includes commission salesmen, sales at auctions, [out-of-state sellers that must overcome the presumption defined in Section 63-3611, Idaho Code](#), assignees for the benefit of creditors, receivers and any salesmen, representatives, peddlers, or canvassers as agents of the dealers, distributors, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the Tax Commission may so regard them and may regard the dealers, distributors, supervisors or employers as retailers. (7-1-93)()

02. Retailers Selling Incidental Tangible Personal Property. A person may be a retailer within the meaning of the act although the sale of tangible personal property is incidental to his general business. For example, a plumbing contractor may sell some plumbing supplies as a sideline and thereby become a retailer within the meaning of this act. (7-1-93)

03. Farmers. Farmers who ordinarily sell their grain, livestock and other horticultural products for resale or processing are not subject to tax. However, when they sell to ultimate consumers or users, they must obtain a seller's permit and report sales tax on their taxable sales. (7-1-93)

04. An Agent as a Retailer. Where there is a written agreement between a principal and his agent, dealer or other third party, and such agreement stipulates that the agent, dealer or other third party will be responsible for collection, reporting and payment of sales tax generated by sales, the Tax Commission will treat the position of the agent, dealer or third party as that of a retailer and impose on him the burden of collecting, accounting for, and

paying the sales tax to the State Tax Commission. (7-1-93)

a. However, if for example, a milk route salesman, without such an agreement, makes regular deliveries, collects for the products, and sales tax is included in the total proceeds collected and remitted to the principal for proper crediting, accounting, discounts, etc., then it shall be the responsibility of the principal to relay the sales tax with proper reporting forms as prescribed by law. (7-1-93)

b. In some instances, such as the above, and the example of a newspaper delivery boy, the sales are actually made on behalf of the dairy and the newspaper company respectively. In the absence of any such written agreement, the Tax Commission will look to the principal as being responsible for the reporting and payment of the sales tax. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

041. FOOD, MEALS, OR DRINKS (RULE 041).

Sections 63-3612(2)(b), 63-3621(p), and 63-3622J, Idaho Code

01. In General. This rule covers the imposition of tax on sales of food, meals, or drinks by commercial establishments, college campuses, conventions, nonprofit organizations, private clubs, and similar organizations. (7-1-93)

02. Commercial Establishments. Sales tax is imposed on the amount paid for food, meals, or drinks furnished by any restaurant, cafeteria, eating house, hotel, drugstore, diner, club, or any other place or organization regardless of whether meals are regularly served to the public. (7-1-93)

03. Clubs and Organizations. Private clubs, country clubs, athletic clubs, fraternal, and other similar organizations are retailers of tangible personal property sold by them, even if they make sales only to members. Such organizations must obtain an Idaho seller's permit and report and pay retail sales tax on all sales. Taxability of membership dues depends upon the nature of the club. See Rule 030 of these rules. Special rules apply to religious organizations. See Rule 086 of these rules. (3-15-02)

a. When an organization holds a function in its own quarters, maintains its own kitchen facilities, and sells tickets which include items such as meals, dancing, drinks, entertainment, speakers, and registration fees (convention), the charges may be separated and tax collected on meals, drinks, and admission fees when the ticket is sold. For example, an organization holds a dinner dance in its own building. It charges twenty dollars (\$20) for dinner and dancing and twelve dollars (\$12) for registration and speakers. Since the two (2) amounts are stated separately, tax is only imposed on twenty dollars (\$20). The amount of the tax must also be stated separately. Sales of meals and the use of recreational facilities are taxable. Registration fees, speaker fees, and similar charges are not taxable. (4-2-08)

b. The organization holding the function or convention must obtain a seller's permit and remit tax to the state. When the charges are not separated, the total price of the ticket is taxable. (7-1-93)

c. When an organization holds a function in facilities operated by a restaurant or motel and sells tickets for meals, drinks, and other services, no sales tax applies to these sales if the organization pays the restaurant or hotel sales tax on the meals and drinks furnished and all other services performed. The hotel, restaurant, or caterer will remit the tax to the state. (7-1-93)

04. Colleges, Universities, and Schools. A cafeteria operated by a state university, junior college district, public school district, or any other public body is treated the same as a cafeteria operated by a private enterprise. Purchases of food for resale are not taxable; meals sold are taxable. (7-1-93)

a. If a meal is paid for by cash or a meal ticket is sold to the student, tax is computed on the total sales price of the meal. If meals are sold as part of a room and board fee, the amount paid for board must be separated from the amount paid for the room. Tax is calculated and collected on that part of the total fee allocated to the purchase of

meals. (7-1-93)

b. Sales of meals by public or private schools under the Federal School Lunch Program are exempted by Section 63-3622J, Idaho Code. (7-1-93)

05. Fraternities, Sororities, and Cooperative Living Group. Fraternities and sororities generally purchase and prepare food for their own consumption. The food is prepared and served in a cooperative manner by members of the fraternity or by employees hired by the group for this purpose. Purchases made by the fraternity or sorority are for consumptive use and subject to sales tax. There is no sale of meals to fraternity or sorority members and no sales tax imposed on any allocated charge for them whether stated separately or included as part of a lump sum charge for board and room. (7-1-93)

a. If a concessionaire is retained by the fraternity or sorority to furnish meals, the concessionaire is a retailer engaged in the business of selling meals; food purchases are for resale and meals supplied by the concessionaire to members of the fraternity or sorority are subject to sales tax. (7-1-93)

b. If the fraternity or sorority regularly furnishes meals for a consideration to nonmembers, these meals become subject to tax and the fraternity or sorority must obtain an Idaho seller's permit. (7-1-93)

c. Cooperative living groups are normally managed in much the same manner as fraternities and sororities. Food is purchased and meals are prepared and served by members of the group or their employees. The same conditions outlined above for fraternities and sororities apply to cooperative living groups. (4-11-06)

06. Boarding Houses. Sales of meals furnished by boarding houses are subject to tax, when they are charged separately. This applies whether or not the meals are served exclusively to regular boarders. Where no separate charge or specific amount is paid for meals furnished, but is included in the regular board and room charges, the boarding house or other place is not considered to be selling meals, but is the consumer of the items used in preparing such meals. (7-1-93)

07. Honor System Snack Sales. Honor system snack sales are those items of individually sized prepackaged snack foods, such as candy, gum, chips, cookies or crackers, which customers may purchase by depositing the purchase price into a collection receptacle. Displays containing these snacks are generally placed in work or office areas and are unattended. Customers are on their honor to pay the posted price for the article removed from the display. Purchases from these snack displays are subject to sales tax. (7-1-93)

a. Sales tax applies to the total sales. The posted price must include a statement that sales tax is included. (4-2-08)

b. The formula for computing the taxable amount is: $TS / (100\% + TR)$ where TS is total sales and TR is the tax rate. (4-2-08)

08. Church Organizations. Special rules apply to religious organizations. See Rule 086 of these rules. (4-11-06)

09. Senior Citizens. Meals sold under programs that provide nutritional meals for the aging under Title III of the Older Americans Act, Public Law 109-365, are exempted from the sales tax by Section 63-3622J, Idaho Code. Organizations selling such meals must obtain an Idaho seller's permit and collect sales tax when selling meals to ~~purchaser~~ buyers who are not senior citizens. (3-29-17)()

10. Food or Beverage Tastings. If a participant must pay to participate in a food or beverage tasting, the charge to participate in the tasting is subject to sales tax. The provider of the samples does not owe a sales or use tax on its purchase or use of the product. (3-20-14)

11. Nontaxable Purchases by Establishments Selling Meals or Beverages. Persons who serve food, meals, or drinks for a consideration may purchase tangible personal property without paying tax if the property is for resale to their customers, is included in the fee charged to the customer, and is directly consumed by the customer in such a way that it cannot be reused. A resale certificate must be provided to the vendor when the establishment

purchases such items for resale. See Rule 128 of these rules. Examples of items which are purchased for resale and directly consumed by customers include: (3-15-02)

- a. Disposable containers, such as milkshake containers, paper or styrofoam cups and plates, to-go containers and sacks, pizza cartons, and chicken buckets. (7-1-93)
- b. Disposable supplies included in the price of the meal or drink, such as drinking straws, stir sticks, paper napkins, paper placemats, and toothpicks. (7-1-93)
- c. Candies, popcorn, drinks, or food, when included in the consideration paid for other food, meals, or drinks. (7-1-93)

12. Taxable Purchases by Establishments Selling Meals or Beverages. Tangible personal property which is not included in the fee charged to the customer and not directly consumed by the customer is subject to the tax when purchased by the restaurant, bar, food server, or similar establishment. Tangible personal property which is not directly consumed by the customer includes property that is nondisposable in nature or property that is depreciated in the books and records of the restaurant, bar, or similar establishment. Examples of taxable purchases include: (7-1-93)

- a. Waxed paper, stretch wrap, foils, paper towels, garbage can liners, or other paper products consumed by the retailer, as well as linens, silverware, glassware, tablecloths, towels, and nondisposable napkins, furniture, fixtures, cookware, and menus. (7-1-93)
- b. Any tangible personal property available to the general public, such as restroom supplies and matches. (7-1-93)

~~c. Complimentary candies, popcorn, drinks, or food, when patrons are not required to purchase other food, meals, or drinks in order to receive the complimentary goods. (7-1-93)~~

13. Free Giveaways to Employees. It is common practice for a retailer to give away prepared food and beverage, including full meals, to its employees free of charge. Giveaways of this nature normally trigger a use tax liability for the retailer calculated on the value of the items given away. However, if the retailer is in the business of selling prepared food and beverage, giveaways of prepared food and beverage to its employees are not taxable. Retailers that would qualify include restaurants and grocery stores with a deli or similar section that sells prepared food. (3-25-16)

- a. For purposes of this subsection, prepared food means food intended for human consumption that: (3-25-16)
 - i. Is heated when given away; or (3-25-16)
 - ii. Consists of two (2) or more ingredients combined by the retailer and given away as a single item; or (3-25-16)
 - iii. Is customarily served with utensils. (3-25-16)
- b. For purposes of this subsection, prepared beverage means any beverage intended for human consumption. (3-25-16)

(BREAK IN CONTINUITY OF SECTIONS)

077. EXEMPTION FOR RESEARCH AND DEVELOPMENT AT INL (RULE 077).
Section 63-3622BB, Idaho Code

- 01. ~~In General~~ Exclusive Financing Exemption Under Section 63-3622BB(1), Idaho Code. The

purchase of certain tangible personal property used in connection with certain activities at the Idaho National Laboratory (INL) is exempt from sales and use tax. To qualify for this exemption, the property must be tangible personal property primarily or directly used or consumed in research, development, experimental and testing activities, exclusively financed by the United States Government. (7-1-99)()

02a. Qualifying Activity. Research, development, experimental, and testing activity means any activity of an original investigation, for the advancement of scientific knowledge in a field of laboratory science, engineering or technology and does not have an actual commercial application. (7-1-93)

03b. Real Property. The exemption does not apply to real property or to tangible personal property which will become improvements or fixtures to real property. See Rules 012 and 067 of these rules. (7-1-99)

04c. Incidental Use of Property. This exemption does not extend to the incidental use of any tangible personal property which fails to meet the test of primary or direct use or consumption. (7-1-97)

04i. Areas of support which are considered incidental include: communications equipment; office equipment and supplies; janitorial equipment and supplies; training equipment and supplies; dosimetry or radiation monitoring equipment which lacks the capability of giving an immediate indication and would not result in an immediate evacuation of personnel or shutdown of equipment; subscriptions or technical manuals which provide technology not primarily used or directly connected to the research activity; and hot and cold laundry operations. (7-1-93)

04ii. Materials of common support which are considered incidental include: clothing for weather protection or of a reusable nature; hand tools which are not subject to contamination at the time of initial use; protective coverings which are protection from other than radiation or are of a reusable nature; and all safety equipment and supplies which do not protect from direct radiation exposure. (7-1-93)

05d. Property Directly Used or Consumed. Tangible personal property primarily or directly used or consumed in a research and development activity to perform quality assurance on research equipment is tax exempt. Items of a general support nature, such as coveralls, are taxable. (7-1-93)

06e. Parts for Equipment. The use of tangible personal property which becomes a component part of research equipment being calibrated within a calibration lab is tax exempt; whereas, the use of parts and equipment in calibrating or for the repair of other maintenance equipment is taxable. (7-1-97)

07f. Radioactive Waste. The initial containment or storage of radioactive waste is an exempt use. Any further processing or transporting of such waste not relating to a research and development activity is a taxable use. (7-1-97)

08g. Motor Vehicles. The purchase of any motor vehicle licensed or required to be licensed by the laws of this state is taxable. (7-1-97)

09h. Agreements with Contractors. The State Tax Commission may enter into agreements with contractors engaged in research at the INL prescribing methods by which the contractor or contractors may accrue use tax based on the accounting procedures required by the U.S. Department of Energy. (7-1-99)

02. Percentage of Tangible Personal Property Exemption Under Section 63-3622BB(2), Idaho Code. If a facility is used by the United States or one (1) of its management and operating contractors for research and development activities at the INL and also is used by a person or persons in addition to the United States or one (1) of its management and operating contractors, there is exempted from the taxes imposed by this chapter a percentage of each sale or use of tangible personal property used or consumed at or for the benefit of the facility in the amount that the research and development activities of the United States or its management and operating contractors bear to the total use of the facility by all persons. The Tax Commission shall calculate, review, and verify the allocation provided for in this section. ()

(BREAK IN CONTINUITY OF SECTIONS)

106. MOTOR VEHICLES SALES, RENTALS, AND LEASES (RULE 106).

Sections 63-3612, 63-3613, 63-3619, 63-3621, 63-3622K, and 63-3622R, Idaho Code

01. In General. The sale, lease, rental, or purchase of a motor vehicle is subject to sales and use tax. Retailers, lessors, and dealers are required to collect the tax. (7-1-93)

02. Forms. The forms required for sales and use tax collection and reporting include the following, with modifications that may be required from time to time: (7-1-93)

a. The title application form required by the Idaho Transportation Department. (7-1-93)

b. Form ST-104IC, Sales Tax Exemption Certificate – Interstate Commerce Vehicles. This form is used by qualifying interstate carriers claiming exemption under Section 63-3622R, Idaho Code. ()

c. Form ST-104-~~MT~~**NR**, Sales Tax Exemption Certificate - Vehicle/~~Vessel~~. This form is used by persons nonresidents claiming exemption under Section 63-3622R, Idaho Code. (7-1-93)()

d. Form ST-133, Sales Tax Exemption Certificate-~~Transfer Affidavit~~ Family or American Indian Sales, used for gifts of motor vehicles, sales between family members, and sales to enrolled members of an Indian tribe within the boundaries of an Indian reservation. (7-1-93)()

e. Other forms that may be required by the Tax Commission or the Idaho Transportation Department. (7-1-93)

03. Vehicles Purchased from Idaho Dealers. When a dealer of new or used motor vehicles sells any motor vehicle for delivery in Idaho, he must collect sales or use tax at the rate in effect on the date the motor vehicle is delivered to the buyer, unless an exemption applies. He must also prepare a title application form and include the dealer's Idaho seller's permit number, gross sales price, trade-in allowance, net sales price, and total tax collected. A title application form which is completed by the dealer and displays Idaho sales tax collected is evidence that the buyer paid sales tax to the dealer. (7-1-93)

04. Vehicles Purchased from Out-of-State Dealers. Title applications for vehicles purchased from out-of-state dealers must be made according to Idaho Transportation Department instructions. Any trade-in allowance must be shown on the original bill of sale, voucher, or other receipt from the out-of-state dealer. If sales tax was correctly paid to a dealer in another state, a credit is allowed against sales or use tax payable to Idaho. See Rule 107 of these rules. (4-2-08)

05. Vehicles Purchased from ~~Nondealers~~ Private Parties. (7-1-93)()

a. Bill of Sale. Title applications for vehicles purchased from nondealers, who are not required to have an Idaho seller's permit, must be made according to Idaho Transportation Department instructions. The buyer must present a bill of sale or receipt as proof of the gross sales price. Canceled checks will not be accepted in lieu of a bill of sale. ()

b. Low Bill of Sale. A recent sales price is presumptive evidence of a vehicles value. For a bill of sale that shows a price below the value established as the "average trade-in price", tax is collected on the value established in the most recent National Automobile Dealers Association (NADA) Official Used Car Guide for the same make, model, options, year, mileage, and condition, unless the buyer provides information to support the recent sales price of the vehicle. ()

c. No Bill of Sale. In the absence of a bill of sale or documentation supporting the value of the vehicle, sales tax is collected on the value established as the "~~clean retail~~ average trade-in price" in the most recent ~~National Automobile Dealers Association (NADA)~~ Official Used Car Guide, ~~published by the National Automobile Dealers Used Car Guide Company~~ for the same make, model, options, year, mileage, and condition. ()

d. ~~Where there is a sale by a nondealer, a~~ Trade In. A trade-in allowance is not allowed on a private

party sale. See Rule 044 of these rules. The county assessor ~~or Idaho Transportation Department~~ must collect sales tax on the gross sales price and remit the tax to the Tax Commission. ()

e. Barter/Exchange. ~~BA~~ barter ~~s~~ or exchange of ~~motor~~ vehicles or other property is taxed ~~are taxable~~ on the full value of each the vehicles or other property ~~which is the object of barter~~ involved in the exchange. In the absence of documentation supporting the value of the vehicle(s), Sales tax shall be collected is due on the value established as the “clean retail average trade-in price” ~~stated for similar makes and models with comparable options~~ in the most recent NADA Official Used Car Guide for the same make, model, options, year, mileage, and condition. (4-2-08)()

06. Vehicles Purchased from Retailers. ()

ba. A retailer required to have an Idaho seller’s permit must collect the sales tax when selling a motor vehicle, even though he is not licensed as a motor vehicle dealer. The retailer must give the buyer the title to the motor vehicle, properly completing title transfer information on the title, including the retailer’s seller’s permit number as proof that Idaho sales tax was collected. The retailer must also give the buyer a bill of sale stating: the date of sale; the name and address of the seller; the complete vehicle description including the VIN, vehicle identification number (VIN), which must agree with the VIN on the title; the person to whom the vehicle was sold; the amount for which the vehicle was sold; and the amount of sales tax charged. (7-1-93)()

eb. A retailer is not relieved of the responsibility for collecting the tax unless he can provide satisfactory evidence to the Tax Commission that the buyer paid tax to the county assessor ~~or Idaho Transportation Department~~. If a retailer fails to collect the tax from the buyer, the county assessor ~~or Idaho Transportation Department~~ must collect the tax. (7-1-93)()

067. Vehicles Rented or Leased. (7-1-93)

a. A lease-purchase and lease with option to purchase have separate definitions and tax applications. See Rule 024 of these rules. A lease-purchase is subject to sales or use tax on the full purchase price at the time the vehicle is delivered to the lessee. A true lease and a lease with an option to purchase are subject to sales tax on each lease payment and on the buy-out or residual value when a lessee exercises his option to buy. The information in Section 106 deals with rentals, true leases, and leases with an option to buy. (4-2-08)

b. The lessor of a motor vehicle is a retailer and must collect sales tax from the lessee on any rental or lease payment on the date it is required to be made, at the tax rate in effect on that date. The lessor must also collect tax on any lessee’s exercise of an option to buy based on the full purchase price or residual, at the tax rate in effect on the date title is transferred to the lessee. (7-1-93)

c. The lessor may not rely on the county assessor or the ~~Idaho Transportation Department~~ to collect sales or use tax if the purchase option is exercised. (7-1-93)()

d. The lessor must collect sales tax on each lease payment received from the renter or lessee and remit the tax to the state. The sales tax is applicable whether the vehicle is leased or rented on an hourly, daily, weekly, monthly, mileage, or any other basis. (7-1-93)

e. If the lessor is responsible for maintaining the vehicle and this is stated in the lease or rental agreement, tax does not apply to his purchase of necessary repair parts. (7-1-93)

f. Out-of-state lessors must obtain a seller’s permit and comply with this rule. If the county assessor ~~or Idaho Transportation Department~~ cannot verify that the lessor is properly registered to collect the tax, title and registration will be denied. (7-1-93)()

g. When a vehicle is traded in as part payment for the rental or lease of another vehicle, a deduction is allowed before computing the sales tax. The methods of applying the trade-in value to the lease are found in Rule 044 of these rules. (4-2-08)

078. Cross-References. (7-1-93)

- a. See Rule 024 of these rules. Rentals or leases of tangible personal property. (4-2-08)
- b. See Rule 044 of these rules. Trade-ins, trade-downs, and barter. (4-2-08)
- c. See Rule 099 of these rules. Occasional sales. (4-2-08)
- d. See Rule 091 of these rules. Sales to ~~4~~American Indians. ~~(4-2-08)~~()
- e. See Rule 101 of these rules. Motor vehicles and trailers used in interstate commerce. (4-2-08)
- f. See Rule 107 of these rules. ~~Motor~~ Vehicles and Vessels - ~~g~~Gifts, ~~m~~Military, ~~personnel~~, and ~~exemptions~~ Nonresident, New Resident, Tax Paid to Another State, Sales to Family Members, Sales to American Indians. ~~(4-2-08)~~()
- g. See Rule 108 of these rules. Motor vehicles manufacturer's, rental company's and dealer's purchase or use of motor vehicles. (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

117. REFUND CLAIMS (RULE 117).

Sections 63-3612, 63-3613, 63-3619, 63-3626, 63-3629(c), 63-3631, 63-3045, 63-3045B, 63-3049, and 63-4408, Idaho Code

01. **In General.** Application for refund of sales or use taxes paid in excess of those properly imposed by the Sales Tax Act, shall be in accordance with the provisions of this rule. (7-1-93)

02. **Payment of Sales Tax by a ~~Purchaser~~ Buyer to a Vendor.** When a ~~purchaser~~ buyer has paid sales tax to a vendor, and later determines that the sales tax was paid in error, the ~~purchaser~~ buyer shall request the refund from the vendor to whom the excess tax was paid. If the ~~purchaser~~ buyer can provide evidence that the vendor has refused to refund the tax, he may then file a claim for refund directly with the Tax Commission. ~~(7-1-93)~~()

03. **Payment of Sales or Use Tax Directly to the State.** When a person holding a seller's permit or use tax account number has paid tax to the state, and later determines that the sales or use tax was paid in error, he may file a claim for refund directly with the Tax Commission. (7-1-93)

04. **Bad Debts.** Claims for refunds arising from bad debts must be filed with the Tax Commission in the manner prescribed by this Rule 117 and Rule 063 of these rules. ~~(5-3-03)~~()

05. **Mathematical Errors.** When the filer of sales or use tax returns determines that a mathematical error has been made on a previously filed return resulting in overpayment of the proper amount of sales or use taxes, he may file a claim for refund directly with the Tax Commission. (7-1-93)

06. **Refund Claims Form.** Form TCR- (Sales Tax Refund Claim-) may be used to file for a refund from the Commission. Although this a form is available for this purpose, it is not required. A refund claim, however, must be in writing. ~~The claim must include the full name and address of the claimant and his seller's permit number or use tax account number if the claimant has such a number. The claim must state the amount of the refund, include a detailed statement of the reason the claimant believes a refund is due, including a description of the tangible personal property, if any, to which the tax relates, and the date on which the claimed excess taxes were paid. If the claimant is the retailer, the claim for refund must include a statement, under oath, that the amount of tax plus interest refunded to the retailer have been or will be refunded by the retailer to the purchaser.~~ and include the following information: ~~(4-2-08)~~()

- a. Full name, address, and phone number of the claimant: ()

- b.** Claimant's seller's permit number or use tax account number if claimant has such a number;()
- c.** The amount of the refund claimed; ()
- d.** A detailed statement of the reason the claimant believes refund is due; ()
- e.** An itemized description of the specific goods or services to which the tax relates; ()
- f.** The date on which the claimed excess taxes were paid; ()
- g.** If the claimant is the retailer, a statement under oath that the amount of tax plus interest has been or will be refunded to the buyer; and ()
- h.** If the claim is for bad debt, detailed individual account information for each customer and each item purchased for which a refund is claimed. ()
- i.** A refund claim must be filed within three (3) years from the time the payment was made to the State Tax Commission. If a refund claim does not include the required information listed in Paragraphs 017.11.a. through h., as applicable, then the claim does not satisfy the requirement to file a written claim to stop the period of limitations provided in Section 63-3626(b)(1), Idaho Code, from running. A refund claim that does not include the required information will be denied and processed as set out in Subsection 017.11 of this rule. ()
- 07. Outstanding Liabilities.** No claim for refund will be approved or issued ~~if~~ unless the claimant ~~has~~ first satisfies outstanding liabilities for ~~other~~ taxes administered by the Tax Commission. (5-3-03)()
- 08. Payment Under Protest.** It is not necessary for a taxpayer to pay taxes under protest in order to subsequently be able to claim a refund of such taxes. (7-1-93)
- 09. Statute of Limitations.** A claim for refund will not be allowed if it is filed more than three (3) years from the time the payment of the tax was made. The time the payment was made is the date upon which the sales or use tax return relating to the payment was filed with the State Tax Commission. (5-3-03)
- 10. Taxes Paid in Response to a Notice of Deficiency Determination.** A claim for refund may not be filed relating to any sales or use taxes which have been asserted by a notice of deficiency determination. A taxpayer contending that taxes have been erroneously or illegally collected by the State Tax Commission in conformance with a notice of deficiency determination must seek a refund by using the appeal procedures outlined in Rule 121 of these rules. (5-3-03)
- 11. Denial of a Refund Claim.** All claims for refund or credit will be reviewed by the State Tax Commission's staff. If the staff concludes that all or part of the claim should not be allowed, notice of denial of the claim shall be given to the claimant ~~by return receipt requested delivery~~ by first class mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice shall include a statement of the reasons for the denial. The notice of denial shall be the equivalent of a notice of deficiency determination. If the taxpayer wishes to seek a redetermination of the denial notice, he must file a petition for redetermination in the manner prescribed in Rule 121 of these rules. A petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to or served on the claimant. (5-3-03)()
- 12. Interest on Refunds.** See Rule 122 of these rules. (5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

128. CERTIFICATES FOR RESALE AND OTHER EXEMPTION CLAIMS (RULE 128).
Sections 63-3622, & 63-3622HH, Idaho Code

- 01. In General.** This rule applies to proper documentation for exempt purchases of tangible personal

property for resale and all other exemption claims for taxable transactions enumerated in Section 63-3612, Idaho Code. All forms approved by this rule may be reproduced. (3-6-00)

02. Burden of Proof. All sales made within Idaho are presumed to be subject to sales tax unless the seller obtains from the ~~purchaser~~ buyer a properly executed resale or exemption certificate. If the seller does not have an exemption certificate on file it will have the burden of proving that a sale is not subject to tax. The seller may overcome the presumption by establishing the facts giving rise to the exemption. If the seller obtains a valid certificate from the ~~purchaser~~ buyer, the seller need not collect sales or use taxes unless the sale of the tangible personal property or the transaction in question is taxable to the ~~purchaser~~ buyer as a matter of law in the particular instance claimed on the certificate. (3-4-10)()

053. Description and Proper Execution of Approved Forms. In order to be valid, all forms must be legible and include a date, the ~~purchaser~~ buyer's name, signature, ~~title~~, and address. If the ~~purchaser~~ buyer has a federally issued Employer Identification Number (EIN), the ~~purchaser~~ buyer must also include that EIN on the form. If the ~~purchaser~~ buyer does not have an EIN, the form must contain the ~~purchaser~~ buyer's driver's license number and the state of issue. The seller's name and address must be completed on the form when requested. The ~~purchaser~~ buyer must comply with any additional requirements provided in these rules. (4-4-13)()

#04. Form ST-101, Sales Tax Resale or Exemption Certificate -- Buying for Resale. To claim a resale exemption, Form ST-101, ~~Sales Tax Resale and Exemption Certificate~~ or a Uniform Sales and Use Tax Certificate -- Multi-jurisdiction, must be completed, ~~except that multi-state taxpayers may use the Uniform Sales and Use Tax Certificate -- Multi-jurisdiction.~~ The resale certificates approved by this rule may only be taken from a ~~purchaser~~ buyer described in Subsection 128.04.b. The reason for, ~~and the nature of,~~ the claimed exemption must be included on the form as well as the primary nature of business and the type of products sold, leased or rented by the ~~purchaser~~ buyer. An Idaho registered retailer must include its Idaho seller's permit number. A ~~purchaser~~ buyer need not identify every type of product it sells but must indicate the general character of the property it sells, rents or leases. (4-4-13)()

fa. Information on the resale certificate. The resale certificate shall bear the name and address of the ~~purchaser~~ buyer, the name and address of the seller, shall be signed and dated by the ~~purchaser~~ buyer or his agent, shall indicate the ~~number of the Idaho seller's~~ number issued to the ~~purchaser~~ buyer, or that the ~~purchaser~~ buyer is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold by the ~~purchaser~~ buyer in the regular course of business. By executing the resale certificate, the buyer is certifying that the specific property ~~being purchased~~ is being purchased for resale. (3-4-10)()

i. ~~Example. A grocery store that in addition to groceries sells miscellaneous items such as cosmetics, magazines, and school supplies. The store would provide its resale number and describe the primary nature of its business as selling groceries. It could buy cosmetics, magazines, and school supplies for resale and it does not need to list those items on the resale certificate. It only needs to indicate the general character of the property it sells as groceries.~~ (3-4-10)

ii. ~~Example. A lawn and garden store occasionally sells barbecue grills as promotional items. Even though it describes lawn and garden items as the types of products it sells, it can buy the grills for resale.~~ (4-4-13)

iii. ~~Example. A grocery store describes the primary nature of its business as selling groceries. It then buys an automobile for resale. The grocery store should provide the automobile seller a resale certificate for this transaction and identify its primary nature of its business as grocery and indicate it is specifically buying the automobile for resale.~~ (3-4-10)

b. ~~Retailers of food products who have been granted records reduction authority by the State Tax Commission may accept Sales Tax Exemption Claim Form Grocer, Form ST-111, from a purchaser if the retailer has a properly executed certificate (Form ST-101) on file from the purchaser. Form ST-111 must include the seller's permit number (if applicable), the signature of the individual claiming the exemption, and, the total purchase price and general nature of the nontaxable products sold.~~ (3-28-18)

e. ~~Sales Tax Exemption Claim for Cash Purchases by Governmental Agencies, Form ST-104G, may be completed only by federal, Idaho State, and local government agencies making cash purchases and must be furnished~~

~~to the vendor at the time of sale. Each transaction requires a newly executed form signed by the agency's purchasing agent and the employee/purchaser. Blank forms will be furnished to government agencies by the State Tax Commission upon request. The form cannot be used for lodging and meals bought by a traveling government employee nor for any other reasons enumerated on the form. (3-6-00)~~

~~d. Sales Tax Exemption on Lodging Accommodations Claimed by Employees Using A Qualifying Credit Card Payment, Form ST-104-HM, applies when a credit card company will directly bill to and be paid by a federal, Idaho State, or Idaho local government agency or other organization granted an exemption under Section 63-3622O, Idaho Code. It does not apply to credit card payments that are paid by the employee who is later reimbursed by the employer. Each lodging transaction requires a newly executed form signed by the employee/purchaser. (3-25-16)~~

~~e. The Diplomatic Tax Exemption Program of the United States Government grants immunity from state taxes to diplomats from certain foreign countries. A federal tax exemption card issued by the U.S. Department of State bears a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. Additional information is provided in Rule 098 of these rules. (3-6-00)~~

~~f. Sales Tax Exemption Certificate — Vehicle/Vessel, Form ST-104-MV, must be completed by a purchaser claiming an exemption from tax under Section 63-3622R, Idaho Code, when purchasing a qualifying motor vehicle or trailer. (3-25-16)~~

~~g. Sales Tax Exemption Certificate — Transfer Affidavit, Form ST-133, must be completed when claiming an exemption from tax when selling a motor vehicle to a relative under the exemption provided by Section 63-3622K, Idaho Code, when selling a motor vehicle, boat or RV to a member of an American Indian Tribe within the boundaries of an American Indian reservation, or when making a gift of a motor vehicle, boat or RV. (3-25-16)~~

~~h. Occasional Sale Exemption Claim — Office Trailer and Transport Trailer, Form ST-108TR, is required by any person claiming the occasional sale exemption on the purchase of a transport trailer or an office trailer. The seller must complete the seller's statement section in order for the buyer to claim the occasional sale exemption. (3-25-16)~~

~~i. Sales Tax Exemption Certificate — Capital Asset Transfer Affidavit, Form ST-133CATS, is required under the provisions of Section 63-3622K, Idaho Code, when claiming an exemption from tax on the sale of certain vehicles which are included in the bulk sale of a business' assets when the new owner will continue to operate the business in a like manner; for qualifying transfers of certain capital assets through sale, lease or rental; and, for the transfer of vehicles to and from a business or between qualifying businesses when there is no change other than owners' equity. (3-6-00)~~

~~04b. Qualified Buyers **for Purposes of Resale**. The resale exemption may be claimed by the following purchaser buyers when buying goods for resale: (3-6-00)()~~

~~a.i. A retailer or wholesaler doing business in Idaho who holds a current and valid Idaho seller's permit number. (4-4-13)~~

~~b.ii. A wholesaler who makes no retail sales and who is not required to hold an Idaho seller's permit number. (3-6-00)~~

~~c.iii. An out-of-state retailer who makes not more than two (2) sales in Idaho in any twelve (12) month period and is not required to hold an Idaho seller's permit number. (3-6-00)~~

~~06c. Seller's Responsibility — **Purchases for Resale**. A seller is not liable for the collection of sales tax on items sold to a customer from whom the seller has obtained a properly executed Sales Tax Resale and Exemption Certificate, Form ST-101, if the customer intends to resell the items in the regular course of business. The seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented unless the sale fits into the narrow classification of sales that can be considered to be taxable as a matter of law in the particular instance claimed on the resale certificate. If the particular item being purchased for resale does not commonly match the description of the general character of the tangible personal property as identified on the resale certificate, then it is~~

presumed that the sale is taxable as a matter of law; however, if the seller questions the ~~purchaser~~ buyer and the ~~purchaser~~ buyer provides a new certificate specifically identifying the property in question as being purchased for resale, then the seller can accept the certificate and is relieved of any further responsibility. (3-4-10)()

d. Example. A grocery store that in addition to groceries sells miscellaneous items such as cosmetics, magazines, and school supplies. The store would provide its Idaho seller's permit number and describe the primary nature of its business as selling groceries. It could buy cosmetics, magazines, and school supplies for resale and it does not need to list those items on the resale certificate. It only needs to indicate the general character of the property it sells as groceries. ()

e. Example. A lawn and garden store occasionally sells barbecue grills as promotional items. Even though it describes lawn and garden items as the types of products it sells, it can buy the grills for resale. ()

f. Example. A grocery store describes the primary nature of its business as selling groceries. It then buys an automobile for resale. The grocery store should provide the automobile seller a resale certificate for this transaction and identify its primary nature of its business as grocery and indicate it is specifically buying the automobile for resale. ()

g. Example: A restaurant operator completes a Form ST-101 for his supplier. He indicates the general character of the products he sells as food and beverages. The restaurant operator purchases buys sugar and flour from the supplier. The supplier is not liable for the collection of the sales tax as the character of the goods is that which the restaurant operator will resell in the regular course of business. The resale claim made by the restaurant operator is available as a matter of law. (3-6-00)()

h. Example: The same restaurant operator later purchases buys dish towels and dish washing soap. The supplier must collect the tax. The general character of the goods are not those sold by a restaurant in the normal course of business. The exemption claimed by the restaurant is not available as a matter of law. However, if the restaurant operator identifies cleaning supplies as one of the types of items it resells, either on the original certificate or on a new certificate, then the supplier need not collect the tax. (3-4-10)()

i. Example: An appliance store buys appliances and some furniture for resale from a supplier. The appliance store has a resale certificate on file with the supplier. The supplier also sells warehouse equipment as part of its business. The appliance store buys a forklift from the supplier. The supplier should charge tax. However, if the furniture store provides a new certificate indicating it will sell the forklift, the supplier has no duty or obligation to collect the tax. Without the new certificate, an objectively reasonable person would not assume a furniture store sells forklifts. Additionally, the furniture store is only buying one (1) forklift and this fact indicates to the supplier that it is not buying the forklift for resale. (3-4-10)

05. Form ST-101, Sales Tax Resale and Exemption Certificate -- Claiming Exemptions. A Form ST-101 must be completed to claim the sales tax exemptions for the following categories. The buyer must identify the exempt category and specific area within the category for the exemption being claimed. If claiming to be production exempt, the taxpayer must identify the type of business and list the product produced. When claiming a contractor exemption, the invoice, purchase order or job number will be identified along with the city and state of the job location, project owner name, and the reason the project is exempt. ()

a. Form ST-101 Exemption Categories: ()

i. Production Exemptions: ()

ii. Exempt Buyers: ()

iii. Contractor Exemptions; and ()

iv. Other Exempt Goods and Buyers ()

b. Information on the exemption certificate. An exemption certificate shall show the buyer's name and address, business name and address, and be signed and dated by the buyer. The buyer shall also provide on the

certificate the specific exemption being claimed and, if the production exemption is being claimed, a list of the products the buyer produces. If the buyer is claiming the contractor exemption, the buyer must identify the invoice, purchase order, or job number to which the claim applies, the city and state where the job is located, and the name of the project owner. If the buyer is claiming an exemption as an American Indian, then the buyer must provide a valid Tribal I.D. number. By signing the exemption certificate, the buyer is certifying that the purchase qualifies for an exemption from tax. ()

~~07c.~~ Seller's Responsibility—~~Purchases Claimed Exempt from Sales Tax for Reasons Other Than Resale.~~ A seller is not liable for the collection of sales tax on items sold to a customer from whom a properly executed ~~Sales Tax Resale and Exemption Certificate~~, Form ST-101, has been received if the nature of the exemption claimed is available to the ~~purchaser~~ buyer as a matter of law or the nature of the goods purchased qualify for the particular exemption claimed on the certificate. (3-4-10)()

~~ai.~~ A retailer must collect tax on the sale of any goods that are specifically excluded from an exemption as a matter of law. For example, a ~~purchaser~~ buyer claiming the production exemption provided by Section 63-3622D, Idaho Code, may not claim an exemption on the sale of items that are specifically excluded from the exemption as a matter of law, such as: maintenance and janitorial equipment and supplies, office equipment and supplies, selling and distribution equipment and supplies, property used in transportation activities, equipment or other property used to make repairs, tangible personal property that becomes a fixture, improvement, or component of real property, licensed motor vehicles, aircraft; and recreation-related vehicles as described in Section 63-3622HH, Idaho Code. (3-6-00)()

- ~~i. Maintenance and janitorial equipment and supplies;~~ (3-6-00)
- ~~ii. Office equipment and supplies;~~ (3-6-00)
- ~~iii. Selling and distribution equipment and supplies;~~ (3-6-00)
- ~~iv. Property used in transportation activities;~~ (3-6-00)
- ~~v. Equipment or other property used to make repairs;~~ (3-6-00)
- ~~vi. Tangible personal property which becomes a component of any real property or any improvement or fixture thereto;~~ (3-6-00)
- ~~vii. Licensed motor vehicles;~~ (3-6-00)
- ~~viii. Aircraft; and~~ (3-6-00)
- ~~ix. Recreational-related vehicles as described in Section 63-3622HH, Idaho Code.~~ (3-28-18)

~~b. Example: A farmer completes an ST-101 claiming a production exemption on the purchase of toothpaste and a case of motor oil. The retailer must collect the sales tax on the sale of the toothpaste, but is not liable for the collection of the sales tax on the sale of the motor oil. The retailer cannot rely on the exemption certificate when selling the toothpaste because, as a matter of law, the sale of personal hygiene products is excluded from the production exemption. But the retailer can rely on the exemption certificate when selling goods, such as the motor oil, which the farmer could put to either a nontaxable use (e.g., oil for a tractor), or a taxable use (e.g., oil for a licensed pickup truck).~~ (3-25-16)

~~eii.~~ A retailer cannot rely on an exemption certificate obtained from a ~~purchaser~~ buyer when the law does not provide an exemption from the tax for the ~~purchaser~~ buyer, such as a nonprofit organization not specifically exempted by the sales tax law or a governmental agency of another state. (3-6-00)()

~~aiii.~~ Nor can a retailer rely on an exemption certificate when the limited language of the law pertaining to the exemption claimed excludes all but certain goods from the exemption. For example, certain contractors can execute an ST-101 to purchase construction materials for specific jobs in non-taxing states claiming an exemption from tax under Section 63-3622B, Idaho Code, and Rule 012 of these rules. The retailer must collect tax on any goods

that are not to be incorporated into the real property, such as parts for construction equipment and tools. (3-6-00)

08d. ~~Purchaser~~ Buyer's Responsibility. A ~~purchaser~~ buyer has the responsibility to properly complete a certificate and ensure that tax is charged on all taxable purchases. If the ~~purchaser~~ buyer properly provides a certificate and normally makes exempt purchases, he nevertheless must ensure that tax is paid when a taxable purchase is made. If the seller does not charge the tax on a taxable purchase the ~~purchaser~~ buyer must either notify the seller to correct the billing and then pay the sales tax to the seller, or accrue and remit use tax on the transaction. If the ~~purchaser~~ buyer intentionally or repeatedly makes purchases, claiming they are exempt, when in fact they are not exempt, and the ~~purchaser~~ buyer fails to remit use tax, a penalty can be imposed in addition to the use tax. The penalty amount that may be asserted against the ~~purchaser~~ buyer is five percent (5%) of the sales price or two hundred dollars (\$200), whichever is greater. The penalty will be asserted by the Commission as a Notice of Deficiency but the ~~purchaser~~ buyer may have the penalty abated when he can establish that there were reasonable grounds for believing that the purchase was properly exempt from tax. In addition, if the ~~purchaser~~ buyer gives a resale or exemption certificate with the intention of evading payment of the tax, the ~~purchaser~~ buyer may be charged with a criminal misdemeanor and could be punished by a fine not exceeding one thousand dollars (\$1,000) or imprisonment for not more than one (1) year, or by both a fine and imprisonment. ~~(3-4-10)~~ ()

09c. Example: A garden supply store sells, among other things, soil and wood chips in large quantities. It buys a loader to use in its business to load items into customers' trucks. When buying the loader, the garden supply store gives a resale certificate to the seller indicating it intends to resell the loader. However, upon purchase the loader is capitalized on the books of the garden supply store. The Commission could impose a penalty equal to five percent (5%) of the purchase price of the loader against the garden supply store. This penalty is in addition to the use tax that is due. The individual who executed the certificate, or authorized the execution, on behalf of the garden supply store, if done with intent to evade payment of the ~~use~~ tax, could be criminally charged with a misdemeanor. ~~(3-4-10)~~ ()

09f. Example: A restaurant buys food for resale from a supplier. It can properly give a resale certificate to the supplier. Since it buys food on a continuing basis the supplier keeps a certificate on file. If the restaurant buys cleaning supplies for its own consumption, the supplier should charge sales tax. If it fails to charge tax, the restaurant should notify the supplier to correct the billing and collect the sales tax. If the restaurant fails to pay sales or use tax on more than one purchase, then, under Section 63-3624, Idaho Code, the Commission can assert a use tax and a penalty ~~equal to five percent (5%) of the purchase price or two hundred dollars (\$200), whichever is greater;~~ against the restaurant. ~~(3-4-10)~~ ()

g. Example: A farmer completes an ST-101 claiming a production exemption on the purchase of toothpaste and a case of motor oil. The retailer must collect the sales tax on the sale of the toothpaste, but is not liable for the collection of the sales tax on the sale of the motor oil. The retailer cannot rely on the exemption certificate when selling the toothpaste because, as a matter of law, the sale of personal hygiene products is excluded from the production exemption. But the retailer can rely on the exemption certificate when selling goods, such as the motor oil, which the farmer could put to either a nontaxable use (e.g., oil for a tractor), or a taxable use (e.g., oil for a licensed pickup truck). ()

06. **Tax Exemption Statements.** In lieu of Form ST-101, retailers, when selling property that the buyer claims is entitled to the exemptions listed below, may stamp or imprint on the face of their sales invoices, or buyers may stamp or imprint on the face of their purchase orders a statement containing the language prescribed in this rule. ()

a. A tax exemption statement must be signed by the buyer and the name, address, and nature of business of the buyer is shown on the invoice. The signature on the statement must be in addition to any other signature required on the invoice. If no Form ST-101 is on file with the vendor, then each exempt sale must be documented as described in this subsection. Any person who signs this certification with the intention of evading payment of tax is guilty of a misdemeanor. ()

eb. Production or Logging Exemption. In lieu of Form ST-101, retailers, A tax exemption statement can be used when selling property that the ~~purchaser~~ buyer claims is entitled to the production exemption, or the logging exemption. The statement can be made by either; ()

i. ~~may~~ Having the seller stamp or imprint the following statement on the face of their sales invoices;

or

()

ii. ~~purchasers may~~ Having the seller stamp or imprint the following statement on the face of their purchase orders, a certificate containing the following language: (3-4-10)()

I certify that the property which I have here purchased will be used by me directly and primarily in the process of producing tangible personal property by mining, logging, manufacturing, processing, fabricating, or farming, or as a repair part for equipment used primarily as described above.

~~This tax exemption statement qualifies if this statement is signed by the purchaser and the name, address, and nature of business of the purchaser is shown on the invoice.~~

~~Any person who signs this certification with the intention of evading payment of tax is guilty of a misdemeanor.~~

NATURE OF BUSINESS

BUYER'S SIGNATURE

~~The signature on this certificate must be in addition to any other signature required on the invoice. If no Form ST-101 is on file with the vendor, then each exempt sale must be documented as described in this Subsection.~~ (3-4-10)()

~~f. Information on the exemption certificate. An exemption certificate shall show the purchaser's name and address, business name and address, and be signed and dated by the purchaser. The purchaser shall also provide on the certificate the specific exemption being claimed and, if the production exemption is being claimed, a list of the products the purchaser produces. If the purchaser is claiming the contractor exemption, the purchaser must identify the invoice, purchase order, or job number to which the claim applies, the city and state where the job is located, and the name of the project owner. If the purchaser is claiming an exemption as an American Indian, then the purchaser must provide a valid Tribal I.D. number. By signing the exemption certificate, the purchaser is certifying that the purchase qualifies for an exemption from tax.~~ (4-4-13)

c. Matter Used to Produce Heat by Burning. A tax exemption statement can be used when selling materials that the buyer claims will be used to produce heat by burning as defined in Rule 088 of these rules and for which no bulk delivery will be made. The statement can be made by either: ()

i. Having the seller stamp or imprint the following statement on the face of their sales invoices; or ()

ii. Having the buyer stamp or imprint on the face of their purchase order, a statement that contains the following language: ()

I certify that the matter I have purchased will be used in a furnace or similar device for the purpose of water heating, cooking, or raising or maintaining the temperature in an enclosed space, dwelling, or building.

BUYER'S SIGNATURE

()

07. Form ST-102, Use Tax Exemption Certificate -- New Resident or Nonresident Military. To claim exemption for vehicles, vessels, and aircraft that were personally owned and acquired while residing in another state and used primarily outside Idaho, new residents and nonresident military individuals must complete Form ST-102. ()

08. Form ST-104G, Sales Tax Exemption Claim for Cash Purchases by Governmental Agencies. Form ST-104G may be completed only by federal or, Idaho state, and local government agencies making cash purchases and must be furnished to the vendor at the time of sale. Each transaction requires a newly executed form signed by the agency's purchasing agent and the employee/buyer. Blank forms will be furnished to government agencies by the State Tax Commission upon request. The form cannot be used for lodging and meals bought by a traveling government employee nor for any other reasons enumerated on the form. ()

09. Form ST-104HM, Sales Tax Exemption Certificate – Lodging Accommodations. Form ST-104-HM is used to claim exemption for lodging accommodations paid for using a credit card company who will directly bill to and be paid by federal or, Idaho state, and local government agencies or other qualifying organizations granted exemption under Section 63-3622O, Idaho Code. This form should not be used for credit card payments that are paid by the employee who is later reimbursed by the employer. Each lodging transaction requires a newly executed form signed by the employee/buyer. ()

10. Form ST-104IC, Sales Tax Exemption Certificate – Interstate Commerce Vehicles. Form ST-104IC must be completed by a buyer claiming an exemption from tax under Section 63-3622R, Idaho Code, when purchasing a qualifying motor vehicle, trailer, or glider kit. ()

11. Form ST-104MV, Sales Tax Exemption Certificate – Vehicle/Vessel. Form ST-104-MV must be completed by a buyer claiming an exemption from tax under Section 63-3622R, Idaho Code, when purchasing a qualifying motor vehicle, vessel, or trailer. This has been replaced with Forms ST-104IC and ST-104NR. ()

12. Form ST-104NR, Sales Tax Exemption Certificate – Vehicle/Vessel. Form ST-104NR must be completed by each buyer claiming an exemption from tax under Section 63-3622R, Idaho Code, when a nonresident buyer is purchasing a qualifying vehicle, vessel, or trailer. ()

13. Form ST-108TR, Occasional Sale Exemption Claim – Office Trailer and Transport Trailer. Form ST-108TR is required by any person claiming the occasional sale exemption on the purchase of a transport trailer or an office trailer. The seller must complete the seller's statement section in order for the buyer to claim the occasional sale exemption. ()

14. Form ST-111, Sales Tax Exemption Claim Form – Grocer. Retailers of food products who have been granted record reduction authority by the State Tax Commission may accept the Form ST-111 from a buyer if the retailer has a properly executed Form ST-101 on file from the buyer. Form ST-111 must include the buyer's Idaho seller's permit number (if applicable), the signature of the individual claiming the exemption, and the total purchase price and general nature of the nontaxable products sold. ()

15. Form ST-133, Sales Tax Exemption Certificate – Family or American Indian Sales. ()

a. Family Sale. Form ST-133 must be completed when claiming an exemption from tax when selling a motor vehicle to a relative under the exemption provided by Section 63-3622K, Idaho Code. ()

b. American Indian Sales. Form ST-133 must be completed when claiming an exemption from tax when selling a vehicle, vessel, or RV to a member of an American Indian tribe within the boundaries of an American Indian reservation. ()

16. Form ST-133CATS, Sales Tax Exemption Certificate – Capital Asset Transfer Affidavit. Form ST-133CATS is required under the provisions of Section 63-3622K, Idaho Code, when claiming an exemption from tax on the sale of certain vehicles included in the bulk sale of a business' assets when the new owner will continue to operate the business in a like manner; for qualifying transfers of certain capital assets through sale, lease or rental; and, for the transfer of vehicles to and from a business or between qualifying businesses when there is no change other than owners' equity. ()

17. Form ST-133GT, Use Tax Exemption Certificate -- Gift Transfer Affidavit. Form ST-133GT must be completed to claim an exemption from tax when a vehicle, vessel, camper, trailer, or recreational vehicle is being transferred or received as a gift. ()

18. The Diplomatic Tax Exemption Program. This United States government program grants immunity from state taxes to diplomats from certain foreign countries. A federal tax exemption card issued by the U.S. Department of State bears a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. Additional information is provided in Rule 098 of these rules. ()

~~19.~~ **Timely Acceptance of Certificates.** A seller may accept a certificate from a ~~purchaser~~ buyer prior to the time of sale, at the time of sale, or at any reasonable time after the sale to establish the exemption claim, with the exception of Forms ST-104-HM and ST-104G which must be provided at the time of sale. ~~However,~~ The sale is presumed to be taxable if no approved certificate is obtained from the ~~purchaser~~ buyer in the manner provided or permitted by this rule, ~~the sale is presumed to be taxable.~~ (3-6-00)()

a. Certificates obtained by a seller at a time subsequent to, but not within a reasonable time after, the time of sale will be considered by the State Tax Commission in conjunction with all other evidence available to determine whether or not the seller has established that a sales tax transaction is exempt from tax. (3-4-10)

b. Example: A retailer sells goods to a customer without charging the sales tax but does not obtain an ST-101 from the customer. Instead, the customer writes his Idaho seller's permit number on the invoice when he signs for the goods. The retailer is later audited by the State Tax Commission and fails in an attempt to obtain a certificate from his customer. The retailer argues that the Idaho seller's permit number written on the invoice is evidence that the customer purchased the goods for resale. However the number by itself does not establish that the customer bought the goods for resale. The retailer is liable for the tax on the sale. (3-4-10)()

c. Example: A retailer sells a truck load of hay to a customer, does not charge sales tax on the transaction, and fails to obtain an ST-101. The retailer is later audited by the State Tax Commission and is unable to obtain an ST-101 from the customer. The retailer argues that hay is a farm supply and this alone should establish that the sale is exempt. However, the customer may be in a business which does not qualify for the farming production exemption, such as racing or showing horses. Or, the customer may be using the hay for a nonbusiness purpose, such as raising animals for his own consumption. The retailer is liable for the tax on the sale. (3-4-10)

d. When a Notice of Deficiency Determination has been issued to a seller by the State Tax Commission and the seller petitions for redetermination as provided by Rule 121 of these rules, he may submit certificates obtained from his customers as evidence of exemption claims, but only if the certificates are presented to the State Tax Commission within ninety (90) days of the date of the Notice of Deficiency Determination. (3-6-00)

IDAPA 35 – STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change:

There is no change to Rules 312, 408, 610, 613, 614, 630, 709, 803, and 804 and they are being adopted as originally proposed.

Two changes were made to proposed Rule 802:

- The deletion of Paragraph 802.06.c. and appropriate re-lettering of subsequent paragraphs; and
- The reference in Paragraph 802.6.b. has been updated.

Four changes were made to proposed Rule 962:

- In 962.03.e. the period has been changed to a semicolon;
- In 962.05.b.iv. the word “and” was added at the end of the next to last item in a list;
- In 962.05.d.ii. the word “the” was changed to the word “any”; and
- In 962.05.d.ii. the word “plot” was changed to “plots”.

The text of the proposed rule has been amended at this pending stage, in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the September 5, 2018 Idaho Administrative Bulletin, [Vol. 18-9, pages 345-384](#). A notice of correction regarding Rule 709 was published in the October 3, 2018 Idaho Administrative Bulletin, [Vol. 18-10, page 450](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7742.

Dated this 14th day of November, 2018.

Alan Dornfest, Property Tax Policy Bureau Chief
State Tax Commission
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
alan.dornfest@tax.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5221(1) and 63-105(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 312 changes the time when government-owned property transferred to a private owner becomes taxable. The proposed change will conform with Section 63-602Y, Idaho Code, providing that property changing status from exempt status to taxable status becomes taxable quarterly and the assessment is prorated accordingly.

Rule 408, Subsection 408.02 requires final values of operating properties be sent to county assessors. Subsection 408.03 currently states that July 15 is the date by which county assessors may file a complaint concerning the valuation or allocation of the value. The operating property values are not final values until after the Tax Commission meets in August as the State Board of Equalization. This rule corrects a timing problem by changing Subsection 408.02 final values to preliminary values which are available in early July.

Rule 610 will explain that the primary guidance in determining partial ownership relative to the homeowners exemption program is the specific language found in the transfer deed.

Rule 613 provides that rents and expenses from whole farms may be used and provides a definition for “Agricultural Area” from which rents and expenses are to be extracted. The rule provides both a narrative description and an example of how to calculate the rent attributable to exempt irrigation equipment.

Rule 614 states and adds an example of computing the value by using a combination of both individual crop cash rent and crop share. The rule clarifies that only crops grown on a typical farm in an “Agricultural Area” should be included in the crop rotation. All examples are up-dated to show the rent attributable to exempt irrigation equipment deducted from the total rent prior to capitalization. All examples are up-dated to show amounts of rents, expenses, yields and prices that are closer to current expectations.

Rule 630: HB591 (2018) made operating property eligible for the New Capital Investment exemption. This rule is changed to enable the administration of the exemption for operating property owners as well as the owners of locally assessed property. The rule require taxpayers to apply to the Tax Commission for the exemption whenever operating property is involved in the exemption.

Rule 709: This rule will explain that the primary guidance in determining partial ownership relative to the property tax reduction program is the specific language found in the transfer deed.

Rule 802: HB559 (2018) created a retroactive provisional exemption which may be granted to property that will be used for an exempt purpose. This rule provides for the deduction from the new construction listing for any exemption of property that was previously added to the new construction listing. In addition, Section 63-301A, Idaho Code, and Subsection 802.06 provides that new construction is not counted in a revenue allocation area (RAA) until the RAA dissolves. This rule explains how new construction is counted when a dissolving RAA has expanded into a taxing district or when a taxing district has expanded into an RAA.

Rule 803: HB559 (2018) created a provisional property tax exemption, HB392 (2018) clarified the dates when solar farm gross earnings receipts are to be reported and deducted from property tax revenue, and HB567(a) revised the levy process to follow when cemetery taxing districts consolidate. The changes describe the handling of revenue distributed or refunds made pertaining to the new provisional exemption found in Section 63-602(4), Idaho Code. The dates for reporting certain gross earnings tax are changed to June 30 and the deduction of the solar revenue from the property tax budget is explained. A detailed explanation of how to compute levies for consolidating cemetery taxing districts is provided.

Rule 804 will clarify whether or not the “base assessment roll” includes the property that existed in the revenue allocation area (RAA) at the time of RAA formation and subsequently became taxable. The rule explains a special case for exemption provided in section 63-602NN, Idaho Code. Upon loss of the exemption, any newly taxable value in excess of the taxable value of the property in the year immediately preceding the first year of the exemption is to be added to the increment value provided the property was within an RAA when the exemption was granted and remains within the RAA at the time the exemption expires. If the parcel was annexed to an RAA during the period of the exemption, the value that would have been added to the base value at the time of annexation had the property not received the exemption would be added to the base at the time the exemption expires, while any remaining taxable value would be added to the increment. If the exemption has been granted in part, the adjustments provided in this subparagraph shall only apply to the portion of the property granted the exemption.

Rule 962 will adopt the process by which the county assessor may change a forest parcel’s productivity class. The process, at a minimum, will set forth requirements for landowner notification, inspector qualifications and retention of documents.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the May 2, 2018 Idaho Administrative Bulletin, [Volume 18-5, pages 143-144](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7742.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 3rd day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

Italicized red text that is *double underscored* indicates amendments to the proposed text in the pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-1801

312. PARTIAL YEAR ASSESSMENT OF REAL AND PERSONAL PROPERTY (RULE 312).

Sections 63-311 and 63-602Y, Idaho Code

01. Quarterly Assessment. For each partial year assessment of any non-transient personal property, the assessment shall comply with the quarterly schedules provided in Sections 63-311 and 63-602Y, Idaho Code. (5-3-03)

02. Change of Status. The real or personal property that has a change of status as described in Section 63-602Y, Idaho Code, ~~does not~~ includes exempt governmental federal or state of Idaho property. ~~The~~ Such property of the United States, ~~except when taxation thereof is authorized by the Congress of the United States, the~~ this state ~~and its instrumentalities, including~~ counties, cities, urban renewal agencies, school districts, and other taxing districts, that is transferred to a private non-exempt owner ~~continues to maintain a non-taxable status until January 1 of the year immediately after transfer. However, property owned by an urban renewal agency that is transferred to a private owner is subject to property tax according to the proration as described in Section 63-602Y, Idaho Code or otherwise ceases to qualify for a property tax exemption is to be assessed as described in Section 63-602Y, Idaho Code.~~ (3-29-12)()

03. Cross Reference. The partial year assessment of any non-transient personal property shall comply with the Idaho Supreme Court decision in Xerox Corporation v. Ada County Assessor, 101 Idaho 138, 609 P.2d 1129 (1980). When assessing all non-transient personal property, each assessor should be aware of the following quotation from this decision: "Where the county undertakes to update its initial (personal property) declarations during the course of the tax year, it cannot increase a taxpayer's tax burden to reflect the taxpayer's acquisition of non-exempt property without decreasing that tax burden to reflect the fact that property reported by the taxpayer in an earlier declaration was no longer subject to the county's ad valorem tax." (Clarification added.) (5-3-03)

04. Effective Date. In the interest of addressing all property transfers made from the public sector to private ownership within the same year (2019) in a consistent manner, as per the proration schedule in Section 63-602Y, Idaho Code, the effective date for "Rule 312" is to be January 1, 2019. ()

(BREAK IN CONTINUITY OF SECTIONS)

408. RE-EXAMINATION OF VALUE -- COMPLAINT BY ASSESSOR (RULE 408).

01. Request for Reexamination of Value. Section 63-408, Idaho Code, entitles the assessor (complainant) of any county in which the value of operating property is apportioned, to request that the State Tax Commission reexamine the valuation. (7-1-99)

02. Information to be Provided by the State Tax Commission. After final preliminary values are established and sent to the respective taxpayers, the State Tax Commission shall send to each County Assessor a statement of the value allocated to Idaho for each centrally assessed taxpayer, together with the previous year's Idaho value for that taxpayer. (7-1-99)()

03. Complaint. On or before July 15, a complainant may file a complaint under Section 63-408, Idaho Code. A complaint by an assessor to the State Tax Commission to examine the valuation and allocation of value of operating property must be in writing and contain clear and concise questions regarding the valuation and allocation in question. The State Tax Commission shall send a copy of the complaint promptly to the taxpayer. (7-1-99)

04. Meeting to Examine Valuation and Allocation. Upon receipt of a complaint under Section 63-

408, Idaho Code, the staff of the State Tax Commission shall schedule a meeting between the staff appraiser(s) who performed the valuation and allocation and the complainant. Notice of this meeting shall be sent to the taxpayer in question. At this meeting, the staff appraiser(s) shall answer the complainant's questions to the best of his knowledge. The taxpayer or representative may participate in this meeting. (7-1-99)

(BREAK IN CONTINUITY OF SECTIONS)

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (RULE 610).

Sections 63-602G and 63-701(2), Idaho Code

01. Scope. This rule addresses issues relating to the homeowner's exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. (7-1-99)

02. Definitions. The following definitions apply to this rule: (4-7-11)

a. Dual Residency Couples. As used in this rule, "dual residency couple" means a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.03 of these rules. (4-2-08)

b. Multidwelling or Multipurpose Building. "Multidwelling or Multipurpose Building" means a building which is the primary dwelling place of the owner and which has a portion used for any purpose other than the primary dwelling place of the owner. (4-7-11)

c. Related Land. "Related Land" means land, not to exceed one (1) acre, that is reasonably necessary for the use of the dwelling as a home. (4-7-11)

03. Dual Residency Couples -- General Principles. (7-1-99)

a. Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner's exemption. The test to be applied is the general test set out in Subsection 609.03 of these rules. (4-2-08)

b. If a residential improvement is community property, either the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife can file an application for the homeowner's exemption regarding community property on his or her own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-99)

c. Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homeowner's exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homeowner's exemption. For purposes of the homeowner's exemption, a community property interest is treated the same as a full ownership interest. (3-15-02)

d. An owner may apply only once for the homeowner's exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (3-15-02)

04. Example -- Both Residences are Community Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

05. Example -- One Residence Is Community Property, the Other Is Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

06. Example -- Both Residences are Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as his or her separate property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. Both residential improvements qualify for the full homeowner's exemption. Neither application is a second application by the same owner. Each spouse is a sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-99)

07. Apportionment of Homeowner's Exemption by Dual Residency Couples. Both spouses of a dual residency couple may elect to equally apportion the homeowner's exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement shall be entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties shall not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (4-5-00)

08. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common provided ownership interests are not specified in the deed. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Ownership interests specified in the deed supersede this guidance. Qualification of the property for the homeowner's exemption is as follows: ~~(3-28-18)~~ ()

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the homeowner's exemption applies to one-half (1/2) of the value of the improvement. (3-28-18)

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the homeowner's exemption applies to one-half (1/2) of the value of the improvement. (3-28-18)

c. If the residential improvement is the primary dwelling of the husband, wife and child, the homeowner's exemption applies to the full value of the improvement. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homeowner's exemption applies to one-half (1/2) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The one-half (1/2) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Paragraph 610.03.c. of this rule. (3-28-18)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homeowner's exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. (3-15-02)

09. Determining the Qualifying Portion of a Multidwelling or Multipurpose Building and the Related Land. The portion of a Multidwelling or Multipurpose Building and Related Land used for the primary dwelling place of the owner qualifies for the homeowner's exemption. When determining the value of the qualifying portion, the assessor shall include the Related Land value. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

613. PROPERTY EXEMPT FROM TAXATION -- SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND (RULE 613).

Section 63-602K, Idaho Code

01. Definitions. (4-5-00)

a. Taxable Value of Agricultural Land. The taxable value of agricultural land shall be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-602K, Idaho Code, plus a component for the local tax rate. The component for local taxes achieves the necessary allowance for the expense of property taxes. (4-5-00)

b. Speculative Portion. The speculative portion is the difference between the current market value and the taxable value of agricultural land. The market value of agricultural land is established from market sales of similar land. (4-5-00)

c. Economic Rent. Economic rent is the average gross income per acre received by a landlord from either a whole farm or individual crop cash rent agreement, or a crop share rental agreement. ~~The rent attributable to exempt irrigation equipment is not included in economic rent. Only the rent solely attributable to the agricultural land is included in economic rent.~~ (4-7-11)()

d. Net Income. Net income is determined by deducting the landlord's share of ~~current~~ typical expenses, and any income attributable to irrigation equipment, from ~~the~~ economic rent ~~per acre~~. (4-5-00)()

e. Landlord's share of typical expenses. The landlord's share of expenses, as part of a whole farm or individual crop cash rent, or crop share rental agreement may include, but not be limited to: water, electricity, materials and application of materials, management and harvest. The expenses, from the immediate preceding year, should be typical of local farming practices. ()

f. Agricultural Area. An Agricultural Area is an identified geographic area of like or comparable agricultural land, which may have similar characteristics, such as: topography, crops grown, soil types, or irrigation practices. ()

02. Calculation of Rent Attributable to Exempt Irrigation Equipment. Rent attributable to exempt irrigation equipment is calculated in the following manner. ()

a. Rent of irrigated cropland. To determine the rents of irrigated cropland free of income attributable to exempt irrigation equipment, find rents of cropland that utilize non-mechanized irrigation practices, such as gravity fed furrow. If no information is available, use the reserves for replacement calculation to determine the income attributable to the exempt irrigation equipment. ()

b. Irrigation system. Determine the irrigation system typically found in the area. ()

c. Reserves for replacement calculation of irrigation systems cost. Determine the replacement cost new of the irrigation system. ()

d. Acres irrigated. Determine the number of acres irrigated by the irrigation system. To calculate the irrigation system cost per acre, divide the irrigation equipment cost by the number of acres serviced by the irrigation equipment. ()

e. Reserves for replacement. To determine the reserves required to replace the irrigation system, divide the cost of the irrigation equipment per acre by the estimated number of years in the economic life of the irrigation system. ()

f. Income attributable to the exempt irrigation system. Multiply the per acre reserves for replacement of the irrigation system by the five-year rolling average interest rate required by Section 63-602K, Idaho Code, plus a component for the local tax rate. ()

g. The rent attributable to exempt irrigation equipment. The rent attributable to exempt irrigation equipment shall be deducted from the gross income received by the landlord as a part of a whole farm or individual crop cash rent, or crop share rental agreement. ()

h. The following table demonstrates the calculations of the income attributable to irrigation equipment given hypothetical data: ()

Calculations of the income attributable to irrigation equipment (given hypothetical data):	
Replacement Cost New of the Irrigation Equipment	\$40,000
Acres Serviced by the Irrigation Equipment	40 Acres
Irrigation Equipment Cost Per Acre	$\$40,000 \div 40 \text{ Acres} = \$1,000 \text{ Per Acre}$
Reserves for Replacement	$\$1,000 \div 30 \text{ Year Economic Life} =$ \$33.33
5 Yr Interest Rate (Section 63-602K, Idaho Code)	5.84%
Local Levy Rate	1.12%
Capitalization Rate	6.96%

Formula: Income = Value X Capitalization Rate

Income Attributable to Exempt Irrigation Equipment	$\$33.33 \times 6.96\% = \2.32
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023. Calculation of Net Income from Cash Rent. Net Income from cash rent is calculated in the following manner. (4-5-00)

a. Crops Grown. Determine the crops typically grown in the area. (4-5-00)

b. Economic Rent. Determine the average per acre gross income from individual crop ~~cash~~ rents ~~or whole farm cash rents reported and~~ typical ~~to~~ in the ~~Agricultural~~ ~~#~~Area over the immediate past five (5) ~~years~~ ~~growing seasons~~. ~~If sufficient data from local farmers is not reported, data typical in the Agricultural Area from third party providers such as the United States Department of Agriculture (USDA), or the National Agricultural Statistics Service (NASS), may be used.~~ (4-5-00)()

c. Landlord's Expenses. Determine the landlord's share of typically ~~ly~~ contracted expenses paid in the immediate~~ly~~ preceding growing season. (4-5-00)()

d. Landlord's Net Income. Subtract the landlord's share of typically ~~ly~~ contracted expenses from the average gross income per acre for the immediate~~ly~~ preceding growing season to determine net income. (4-5-00)()

03. Calculation of Net Income from Crop Share Rent. Net income from crop share rent is calculated in the following manner. (4-5-00)

a. Crops Grown. Determine the crops typically grown in the area. (4-5-00)

b. Average Crop Production. Determine average crop production per acre based on the ~~most recent~~ ~~immediate past~~ five (5) ~~years~~ ~~growing seasons~~. (4-5-00)()

c. Average Commodity Prices. Determine average commodity prices based on the ~~most recent~~ ~~immediate past~~ five (5) ~~years~~ ~~growing seasons~~. (4-5-00)()

d. Gross Income. Multiply average crop production per acre times the average commodity price to determine gross income per acre. (4-5-00)

e. Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the ~~Agricultural~~ ~~#~~Area. (4-5-00)()

f. Expenses. Determine the landlord's share of water, ~~fertilizer, chemical, seed~~ ~~electricity, materials and application of materials, management~~ and harvest cost per acre for the immediate~~ly~~ preceding growing season. (4-5-00)()

g. Net Income. Subtract the landlord's share of expenses from the landlord's share of gross income to determine net income. (4-5-00)

045. Determination of Five Year Average Crop Prices. The State Tax Commission shall determine five (5) year average crop prices ~~to be used in determining net income~~ by surveying publicly available data from various sources, including the annual crop summary published by the Idaho Agricultural Statistics Service. Average crop prices determined in this manner by the State Tax Commission should be considered guidelines ~~in determining net income~~, subject to modification based on local market data. (4-6-05)()

056. Farm Credit System Interest Rate. Annually, the State Tax Commission shall calculate the five (5) year rolling average Farm Credit System interest rate (FCSIR). Using the twenty (20) year fixed rate interest rates received bi-monthly from Northwest Farm Credit Services in Spokane, Washington, calculate the average Farm Credit System interest rate for the prior year applying the formula in Paragraph 613.056.a. of this rule. Calculate the five (5) year rolling average Farm Credit System interest rate applying the formula in Paragraph 613.056.b. of this rule. (4-5-00)()

a. Formula for Calculating Average Farm Credit System Interest Rate for Prior Year. $FCSIR5 = (R_1 + R_2 + R_3 + R_4 + R_5 + R_6 + R_7 + R_8 + R_9 + R_{10} + R_{11} + R_{12})/12$.

Average Farm Credit System Interest Rate Variable Definitions:	
FCSIR ₅	is the average Farm Credit System interest rate for the prior year.
R ₁	is the interest rate received for January of the prior year.
R ₂	is the interest rate received for February of the prior year.
R ₃	is the interest rate received for March of the prior year.
R ₄	is the interest rate received for April of the prior year.
R ₅	is the interest rate received for May of the prior year.
R ₆	is the interest rate received for June of the prior year.
R ₇	is the interest rate received for July of the prior year.
R ₈	is the interest rate received for August of the prior year.
R ₉	is the interest rate received for September of the prior year.
R ₁₀	is the interest rate received for October of the prior year.
R ₁₁	is the interest rate received for November of the prior year.
R ₁₂	is the interest rate received for December of the prior year.

(3-30-07)

b. Formula for Calculating Five (5) Year Rolling Average Farm Credit System Interest Rate. $FCSIR = (FCSIR_1 + FCSIR_2 + FCSIR_3 + FCSIR_4 + FCSIR_5)/5$.

Five Year Rolling Average Farm Credit System Interest Rate Variable Definitions:	
FCSIR ₅	is the average Farm Credit System interest rate for the prior year.
FCSIR ₄	is the average Farm Credit System interest rate for two (2) years ago.

Five Year Rolling Average Farm Credit System Interest Rate Variable Definitions:	
FCSIR ₃	is the average Farm Credit System interest rate for three (3) years ago.
FCSIR ₂	is the average Farm Credit System interest rate for four (4) years ago.
FCSIR ₁	is the average Farm Credit System interest rate for five (5) years ago.

(3-30-07)

067. Notification. In addition to providing notification of the Farm Credit System interest rate, the State Tax Commission will annually notify each county assessor of the most recent five (5) year average crop prices for the state. (4-6-05)

078. Cross Reference. For agricultural land taxable value calculation examples, see Rule 614 of these rules. For eligibility criteria, see Rule 645 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules. (3-30-07)

614. SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND - EXAMPLES (RULE 614). Sections 63-602K and 63-604, Idaho Code. The following examples show calculations for the taxable value of agricultural land. The example in Subsection 614.01 of this rule shows one (1) calculation of an average property tax rate, the example in Subsection 614.02 of this rule shows one (1) calculation of a capitalization rate (cap rate), the example in Subsection 614.03 of this rule shows calculations using individual crop cash rent agreements, and the example in Subsection 614.04 of this rule shows calculations using crop share agreements, and the example in Subsection 614.05 of this rule shows calculations using a combination of both individual crop cash rent and crop share. Only the crops grown on a typical farm in an Agricultural Area as defined in Rule 613 of these rules should be included in the crop rotation. The choice to use cash rent or crop share analysis or a combination of both in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available and the analysis that produces the most reliable and supportable value conclusion. (4-7-11)()

01. Average Property Tax Rate Calculation Example.

	Tax Code Areas	Property Tax Rates
	8	1.1323951%
	9	1.1186222%
	10	1.1226782%
	11	1.1714841%
	12	1.1674300%
	13	1.0692041%
	15	1.1603100%
	16	1.1323951%
	17	1.1323951%

	Tax Code Areas	Property Tax Rates
Average Property Tax Rate		1.1341015%

(3-30-07)

02. Capitalization Rate Calculation Example.

Capitalization Rate Calculation Example:	
Average Property Tax Rate	1.13%
5-Year Average Farm Credit Bank Interest Rate	8.22%
Total Capitalization Rate (Cap Rate)	9.35%

(3-30-07)

03. Cash Rent ~~Agreement Calculation~~ Analysis Examples:

Individual Crop Cash Rent Example.

Crops	Contract Rents Per Acre (Land Only)	Rotation In Percent	Weighted Income Per Acre
Barley	\$100 150.00	14.4200%	\$14.42 21.00
Beans	\$100 150.00	22.4600%	\$22.46 33.00
Beets	\$170 300.00	20.33 11.00%	\$34.56 33.00
Corn/Grain	\$100.00	0.00%	\$0.00
Corn/Silage	\$110.00	0.00%	\$0.00
Hay/ Alfalfa	\$120 150.00	21.32 23.00%	\$25.58 34.50
Potatoes	\$200 350.00	09 .00%	\$0.00 31.50
Wheat	\$100 150.00	21.4800%	\$21.48 31.50
Peas	\$125.00	0.00%	\$0.00
Oats	\$110.00	0.00%	\$0.00
Total Income Per Acre			\$118 184.50

Value per acre equals net income per acre divided by Cap rate:

Total <u>Gross</u> Income Per Acre	\$118 184.50
Less Water Costs	\$23 26.00
<u>Less Electricity Cost</u>	\$20.00
Less Management (@ 5%)	\$5.93 9.22
<u>Less Income Attributable to Exempt Irrigation Equipment</u>	\$2.32
<u>Total Net</u> Income Per Acre	\$88.57 126.96

Total Gross Income Per Acre	\$118 184.50
Capitalization Rate	9.35 6.96%
<u>Individual Crop Cash Rent</u> Value Per Acre	\$958 1824.13

Whole Farm Cash Rent Analysis Example.

<u>Total Gross Income Per Acre from Whole Farm Cash Rent Data</u>	<u>\$200.00</u>
<u>Less Water Costs</u>	<u>\$26.00</u>
<u>Less Electricity Cost</u>	<u>\$20.00</u>
<u>Less Management (@ 5%)</u>	<u>\$10.00</u>
<u>Less Income Attributable to Exempt Irrigation Equipment</u>	<u>\$2.32</u>
<u>Total Whole Farm Cash Rent Net Income</u>	<u>\$141.68</u>
<u>Capitalization Rate</u>	<u>6.96%</u>
<u>Whole Farm Cash Rent Value Per Acre</u>	<u>\$2035.63</u>

(47-11)()

04. Crop Share ~~Agreement Calculation~~ Analysis Example:

Crop	Yield	Price	Gross Income	Landlord Share	Landlord Share Gross Income to Land	Rotation Percent	Per Acre Share of Gross Inc. to Land
Barley	100 130.00	\$2.83 3.00	\$283 390.00	33.33 50.00%	\$94.32 195.00	14.4200%	\$13.60 27.30
Beans	20 25.00	\$21.20 27.00	\$424 675.00	33.33 50.00%	\$141.32 337.50	22.4600%	\$31.74 74.25
Beets	23 38.00	\$39.74 45.00	\$914.02 1710.00	25.00 33.33%	\$228.51 569.94	20.33 11.00%	\$46.46 62.69
G/Corn	0.00	\$3.22	\$0.00	33.33%	\$0.00	0.00%	\$0.00
S/Corn	0.00	\$24.40	\$0.00	33.33%	\$0.00	0.00%	\$0.00
Hay	5.50 6.00	\$84.10 120.00	\$462.55 720.00	50.00%	\$231.28 360.00	21.32 23.00%	\$49.31 82.80
Potatoes	45 0.00	\$4.74 5.00	\$0 2250.00	25.00 33.33%	\$0.00 749.92	0 9.00%	\$0.00 67.49
Wheat	98 120.00	\$3.73 4.50	\$365.54 540.00	33.33 50.00%	\$121.83 270.00	21.4800%	\$26.17 56.70
Peas	0.00	\$8.68	\$0.00	33.33%	\$0.00	0.00%	\$0.00
Oats	0.00	\$1.66	\$0.00	33.33%	\$0.00	0.00%	\$0.00
Total Income Per Acre						100.00%	\$167.28 371.23

Value per acre equals net income per acre divided by Cap rate:

<i>Total Income Per Acre \$167.28</i>		<i>Expenses</i>
<i>Water</i>	<i>=</i>	<i>\$23.00</i>
<i>Fertilizer</i>	<i>=</i>	<i>\$14.77</i>
<i>Chemicals</i>	<i>=</i>	<i>\$9.04</i>
<i>Seed</i>	<i>=</i>	<i>\$2.05</i>
<i>Management</i>	<i>=</i>	<i>\$8.36</i>
<i>Harvest</i>	<i>=</i>	<i>\$14.67</i>
<i>Total Expense Per Acre</i>	<i>=</i>	<i>\$71.89</i>
<i>Net Income</i>	<i>=</i>	<i>\$95.39</i>
<i>Cap Rate</i>	<i>=</i>	<i>9.35%</i>
<i>Value Per Acre</i>	<i>=</i>	<i>\$1,020</i>

<u>Total Gross Income Per Acre</u>	<u>\$371.23</u>
<u>Less Water Costs</u>	<u>\$26.00</u>
<u>Less Electricity Cost</u>	<u>\$20.00</u>
<u>Less Management (@ 5%)</u>	<u>\$18.56</u>
<u>Less Landlord Share of Fertilizer Cost</u>	<u>\$60.00</u>
<u>Less Landlord Share of Chemicals Cost</u>	<u>\$32.00</u>
<u>Less Landlord Share of Seed Cost</u>	<u>\$27.00</u>
<u>Less Landlord Share of Harvest Cost</u>	<u>\$69.00</u>
<u>Less Income Attributable to Exempt Irrigation Equipment</u>	<u>\$2.32</u>
<u>Total Net Income Per Acre</u>	<u>\$116.35</u>
<u>Capitalization Rate</u>	<u>6.96%</u>
<u>Crop Share Value Per Acre</u>	<u>\$1671.69</u>

(4711)()

05. **Combination of Cash Rent and Crop Share Analysis Example:**

Crops in the Rotation for which Cash Rent agreement data is available.

<u>Crop</u>	<u>Contract Rents Per Acre</u>	<u>Rotation In Percent</u>	<u>Weighted Income Per Acre</u>
<u>Beets</u>	<u>\$300.00</u>	<u>11.00%</u>	<u>\$33.00</u>
<u>Potatoes</u>	<u>\$350.00</u>	<u>9.00%</u>	<u>\$31.50</u>
<u>Total</u>		<u>20.00</u>	<u>\$64.50</u>

<u>Total Gross Income for Cash Rent Portion</u>	<u>\$64.50</u>
<u>Less Cash Rent Rotation % of Water Cost (20%)</u>	<u>\$5.20</u>
<u>Less Cash Rent Rotation % of Electricity Cost (20%)</u>	<u>\$4.00</u>
<u>Less Management (@ 5%)</u>	<u>\$3.23</u>
<u>Less Income Attributable to Exempt Irrigation Equipment</u>	<u>\$0.46</u>
<u>Total Net Income for Cash Rent Portion</u>	<u>\$51.61</u>

Crops in the Rotation for Crop Share Agreement Analysis.

<u>Crop</u>	<u>Yield</u>	<u>Price</u>	<u>Gross Income</u>	<u>Landlord Share</u>	<u>Landlord Share Gross Income to Land</u>	<u>Rotation Percent</u>	<u>Per Acre Share of Gross Inc. to Land</u>
<u>Barley</u>	<u>130.00</u>	<u>\$3.00</u>	<u>\$390.00</u>	<u>50.00%</u>	<u>\$195.00</u>	<u>14.00%</u>	<u>\$27.30</u>
<u>Beans</u>	<u>25.00</u>	<u>\$27.00</u>	<u>\$675.00</u>	<u>50.00%</u>	<u>\$337.50</u>	<u>22.00%</u>	<u>\$74.25</u>
<u>Hay</u>	<u>6.00</u>	<u>\$120.00</u>	<u>\$720.00</u>	<u>50.00%</u>	<u>\$360.00</u>	<u>23.00%</u>	<u>\$82.80</u>
<u>Wheat</u>	<u>120.00</u>	<u>\$4.50</u>	<u>\$540.00</u>	<u>50.00%</u>	<u>\$270.00</u>	<u>21.00%</u>	<u>\$56.70</u>
<u>Total</u>						<u>80.00%</u>	<u>\$241.05</u>

<u>Total Gross Income for Crop Share Portion</u>	<u>\$241.05</u>
<u>Less Crop Share Rotation % of Water Cost (80%)</u>	<u>\$20.80</u>
<u>Less Crop Share Rotation % of Electricity Cost (80%)</u>	<u>\$16.00</u>
<u>Less Management (@ 5%)</u>	<u>\$12.05</u>
<u>Less Fertilizer Cost for Crop Share Program</u>	<u>\$38.00</u>
<u>Less Chemicals Cost for Crop Share Program</u>	<u>\$14.00</u>
<u>Less Seed Cost for Crop Share Program</u>	<u>\$13.00</u>
<u>Less Harvest Cost for Crop Share Program</u>	<u>\$49.00</u>
<u>Less Income Attributable to Exempt Irrigation Equipment (80%)</u>	<u>\$1.86</u>
<u>Total Net Income for Crop Share Portion</u>	<u>\$76.34</u>
<u>Total Combined Cash Rent + Crop Share Net Income</u>	<u>\$127.95</u>
<u>Capitalization Rate</u>	<u>6.96%</u>
<u>Value Per Acre</u>	<u>\$1838.36</u>

()

06. Cross Reference. For definitions and general principles relating to the taxable value of land actively devoted to agriculture, see Rule 613 of these rules. For eligibility criteria, see Rule 645 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules.

(3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

630. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS (RULE 630).
Section 63-4502, Idaho Code

01. Notification of New Capital Investment – Locally Assessed Property. ~~(3-29-12)~~()

a. Prior to receiving the benefit of the tax exemption, the taxpayer shall notify the county in which the project site is located that the taxpayer expects to meet the criteria of the New Capital Investments Tax exemption. Notification shall be accomplished by submitting a written declaration or notification with the board of county commissioners containing the following information: (4-4-13)

i. The name and address of the taxpayer; (3-29-12)

ii. A description of the new capital investment project; (3-29-12)

iii. The assessor's parcel number(s) identifying the location of the project site; (3-29-12)

iv. The date that the qualifying period began; (3-29-12)

v. A statement that the taxpayer will make a qualified new capital investment of at least one billion dollars (\$1,000,000,000) within the qualifying period, which shall be specified. (3-29-12)

b. The notification required hereunder may be submitted by the taxpayer to the board of county commissioners at any time after the qualifying period begins. However, if the notification is submitted after April 15 in a given year, a taxpayer may receive the benefit of the exemption only for tax years following the year in which the notification is filed. Submittal of the notification required hereunder shall constitute application for the exemption in compliance with Section 63-602, Idaho Code. Until the taxpayer meets all the requirements for the New Capital Investments Tax exemption, for each year after the first year in which the exemption is granted, the notice must identify the name and address of the taxpayer and the location of the project site, but does not need to provide additional information as required in Paragraph 630.01.a. of this rule. (4-4-13)

02. Notification of New Capital Investment – Centrally Assessed Operating Property. For taxpayers applying for the exemption for operating property subject to assessment by the State Tax Commission, the taxpayer shall provide notice to the State Tax Commission no later than April 30 of the first year the exemption is sought, as part of the operator's statement required pursuant to Section 63-404, Idaho Code, and Rule 404 of these rules, that the taxpayer expects to meet the criteria of the New Capital Investments Tax exemption. ()

a. To be eligible for the exemption, information to be provided on the operator's statement must include: ()

i. A description of the new capital investment project; ()

ii. The location of the project site, including county and tax code area(s); ()

iii. The date that the qualifying period began; ()

iv. A statement that the taxpayer will make a qualified new capital investment of at least one billion dollars (\$1,000,000,000) within the qualifying period, which shall be specified. ()

b. The notification required hereunder may be submitted by the taxpayer to the State Tax Commission at any time after the qualifying period begins. However, if the notification is submitted after April 30 in a given year, a taxpayer may receive the benefit of the exemption only for tax years following the year in which the notification is

filed. Submittal of the operator's statement including notification information required hereunder shall constitute application for the exemption in compliance with Section 63-602, Idaho Code. Until the taxpayer meets all the requirements for the New Capital Investments Tax exemption, for each year after the first year in which the exemption is granted, the notice must identify the location of the project site, but does not need to provide additional information as required in Paragraph 630.02.a. of this rule. ()

03. Notification of New Capital Investment – Taxpayers Applying on Behalf of both Locally and Centrally Assessed Property. A taxpayer may apply for this exemption on behalf of both locally and centrally assessed property located in the same county. ()

a. The taxpayer must comply with notice requirements in Subsection 630.01 of this rule for locally assessed property and for centrally assessed property the April 30 filing deadline found in Paragraph 630.02.b. of this rule shall apply. ()

b. Once the taxpayer notifies the State Tax Commission as provided in Subsection 630.02 of this rule, the State Tax Commission will notify the county commissioners and county assessor by the second Monday in May of the taxpayer's new capital investment project property to be locally assessed and of the taxpayer's filing an application for the exemption. By the later of the fourth Monday in July or the conclusion of the county board of equalization, as provided in Section 63-501, Idaho Code, the county clerk must provide to the State Tax Commission a statement of the equalized assessed value of the taxpayer's locally assessed property. ()

c. The exemption will be granted by the State Tax Commission, which will notify the county commissioners and taxpayer by the first Monday in September of the amount of the exemption and the remaining taxable value of the centrally assessed operating property of the taxpayer. This remaining value is to be calculated so that the sum of the centrally and locally assessed property of the taxpayer in the county in which the exemption is being granted does not exceed four hundred million dollars (\$400,000,000). ()

d. The exemption will apply to the combined total value of the locally and centrally assessed property of the taxpayer within the county in which the project site is located. For continuation of the exemption for both locally and centrally assessed property, Subsections 630.07 and 630.08 of this rule shall apply, and, upon satisfaction of the requirements therein, the State Tax Commission shall notify the county of the continuing exemption. ()

024. Property of the Taxpayer. Property of a taxpayer includes all real, ~~or~~ personal, ~~or~~ operating property that is owned by or leased to the taxpayer under an agreement that makes the taxpayer responsible for the payment of any property taxes on the property. (3-29-12)()

035. New Construction. Property taxable under Section 63-4502, Idaho Code and that qualifies for listing on the new construction roll as described by Section 63-301(A)3, Idaho Code, should be listed on the new construction roll. (3-29-12)

046. Failure to Make the Qualifying New Capital Investment. (4-4-13)

a. If the taxpayer fails to make the qualifying new capital investment during the qualifying period, the property shall lose the exemption granted by this section at the conclusion of the qualifying period. (4-4-13)

b. In the event that, at any time during the project qualifying period, the taxpayer receiving the exemption for locally assessed property no longer intends to fulfill the qualified new capital investment requirements, the taxpayer must notify the county commissioners who shall notify the county assessor. Upon receipt of such notification, the property previously granted the exemption shall become taxable for the remainder of the year in which the notification is provided, pursuant to Section 63-602Y, Idaho Code. Failure of the taxpayer to provide such notice does not prevent the county assessor from discovering the taxpayer's intent through alternate procedures and then notifying the county commissioners that the requirements for the exemption are no longer met. In such an instance, the taxpayer must be notified and may appeal loss of the exemption to the county board of equalization as provided in Section 63-501A, Idaho Code. (4-4-13)()

c. In the event that, at any time during the qualifying period, the taxpayer receiving the exemption for operating property no longer intends to fulfill the qualified new capital investment requirements, the taxpayer must

notify the State Tax Commission. Upon receipt of such notification, the property previously granted the exemption shall become taxable. If the notification is received before the State Tax Commission has completed the assessment of the operating property for a given year, the exemption shall not be granted for that year. If the notification is received after the assessment is completed, the exemption shall be rescinded beginning the following tax year. If the taxpayer owns centrally and locally assessed property, the tax commission will also notify the county commissioners and assessor of the rescinding of the exemption. ()

057. Continuation of Tax Exemption Following the End of the ~~Project~~ Qualifying Period – Locally Assessed Property. ~~(4-4-13)~~()

a. At any time during the qualifying period, but not later than ninety (90) days after the conclusion of the qualifying period, the taxpayer must provide notice to the county commissioners with sufficient evidence to prove that the required qualifying new capital investment has been made. (4-4-13)

b. Once the taxpayer has successfully met all the requirements pursuant to Section 63-4502, Idaho Code, and provided notice to the county commissioners pursuant to Paragraph 630.057.a. of this rule, the county commissioners shall notify the county assessor and taxpayer of the taxpayer's continuing qualification for the exemption for all years thereafter. The county assessor shall retain this notice. ~~(4-4-13)~~()

c. After the year in which the taxpayer has been notified of continuing qualification as provided in Paragraph 630.057.b. of this rule, the taxpayer must continue to notify the county annually to identify the property to be exempted pursuant to Subsection 630.057. Failure to make such notification will not invalidate the exemption; the county assessor must then apply the exemption against the assessed value of the taxpayer's highest value parcel within the county. ~~(4-4-13)~~()

08. Continuation of Tax Exemption Following the End of the Qualifying Period – Centrally Assessed Operating Property. ()

a. At any time during the qualifying period after the requirements for this exemption have been met, but not later than ninety (90) days after the conclusion of the qualifying period, the taxpayer must provide notice to the State Tax Commission with sufficient evidence to prove that the required qualifying new capital investment has been made. ()

b. Once the taxpayer has successfully met all the requirements pursuant to Section 63-4502, Idaho Code, and provided notice to the State Tax Commission pursuant to Paragraph 630.08.a. of this rule, the State Tax Commission shall notify the taxpayer that the exemption will continue to be granted in perpetuity, and shall notify the taxpayer annually prior to the due date for the operator's statement that they must identify the property qualifying for the exemption in these statements. Failure to provide either notification will not invalidate the exemption; the State Tax Commission must then apply the exemption against the assessed value of the taxpayer's operating property within the county. Centrally assessed taxable property otherwise permitted to be included on the new construction roll will be reported to the county assessor for inclusion on the next available new construction roll. ()

069. Cross Reference. For an explanation of the treatment of new construction relating to Sections 63-802 and 63-301A, Idaho Code, see Rule 802 of these rules. (3-29-12)

(BREAK IN CONTINUITY OF SECTIONS)

709. PROPERTY TAX REDUCTION BENEFIT PROGRAM -- SPECIAL SITUATIONS (RULE 709).
Section 63-701, Idaho Code

01. Scope. This rule addresses issues relating to the property tax reduction benefit program as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. The following examples apply to qualified property tax reduction claimants. (3-30-01)

02. General Principles. Benefits under the property tax reduction program are only available to owners of property that have first qualified for the homeowner's exemption under Section 63-602G, Idaho Code. See Rule 610 of these rules. (3-15-02)

03. Dual Residency Couples. The definition of "dual residency couple" in Rule 610.02 of these rules applies to this rule. (3-15-02)

a. Example -- Both residences are community property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.04 of these rules. (3-15-02)

b. Example -- One (1) residence is community property, the other is separate property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.05 of these rules. (3-15-02)

c. Example -- Both residences are separate property. Property tax reduction is available in regard to both residential improvements. See Rule 610.06 of these rules. (3-15-02)

d. Household income. In the three (3) examples in Subsection 709.03, the household income upon which qualification is determined is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence. (3-15-02)

04. Apportionment of Property Tax Reduction Benefits by Dual Residency Couples. If a dual residency couple makes the election provided in Subsection 610.07 of these rules and the applicable county assessor provided the State Tax Commission with a copy of the election required under that rule, each spouse shall be entitled to one-half (1/2) of the amount of any property tax reduction available to that spouse alone. The household income of the spouse shall be one-half (1/2) of the community income plus any separate income of the spouse residing in the residence. The total property tax reduction benefit shall not exceed the amount of benefit available to the individual spouse with the least household income if no election were made. (3-15-02)

05. Multiple Ownerships Including Community Interests as Partial Owners. Example: A deed conveys title to real property to a husband and wife and to an adult child of theirs. The husband and wife hold a community property interest in the improvement and the child is a tenant-in-common provided ownership interests are not specified in the deed. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Ownership interests specific in the deed supersede this guidance. For clarification of the calculation of the net taxable value, see Rule 700.05.b. of these rules. Qualification for the property tax reduction is as follows: (3-28-18)()

a. If the residential improvement is the primary dwelling of the husband and wife but not of the child, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses. (3-28-18)

b. If the residential improvement is the primary dwelling of the qualifying child, but neither the husband or wife, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the homeowner's exemption. Household income is the total of the child's income. (3-28-18)

c. If the residential improvement is the primary dwelling of the husband, wife and a qualifying child, the claimant qualifies for the full benefits applied on full value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses and the income of the child. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the homeowner's exemption unless the residential improvement of the other spouse has qualified for the homeowner's exemption. Household income is the total income of both spouses. (3-28-18)

e. If the residential improvement is the primary dwelling of one (1) spouse and a qualifying child, the claimant qualifies for the full benefits applied on the full value of the property less the homeowner's exemption unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption. Household income is the total income of both spouses plus the income of the child. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (RULE 802).

Sections 63-802, 63-301A, 63-602W, and 63-602NN, Idaho Code

01. Definitions. (4-5-00)

a. "Change of Land Use Classification." "Change of land use classification" shall mean any change in land use resulting in a secondary category change and in a change in taxable land value to be reflected on the current property roll. (4-7-11)

b. "Incremental Value as of December 31, 2006." "Incremental value as of December 31, 2006" means the total of the increment values on the property roll, subsequent property roll, missed property roll, and operating property roll for the 2006 tax year. (4-7-11)

c. "Non-residential Structure." "Non-residential structure" shall mean any structure listed by the assessor in any secondary category not described as residential, manufactured homes, or improvements to manufactured homes in Rule 511 of these rules. (4-2-08)

02. New Construction Roll Listing. "Listing" shall mean a summary report of the net taxable value of property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, but shall not include otherwise qualifying new construction, the value of which will be included in the increment value of any revenue allocation area (RAA) within any urban renewal district encompassed by the taxing district or unit. In addition, new construction related to change of land use classification, but required by section 50-2903(4) to be added to the base assessment roll, cannot be added to any new construction roll. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (3-29-12)

a. Qualifying new construction which is valued by the State Tax Commission shall be reported to the county assessor for each applicable taxing district by October 1 and shall be listed by the assessor on the immediate next new construction roll. (3-25-16)

b. Previously allowable new construction that has never been included. When a taxing district proves new construction described by Section 63-301A(3), Idaho Code, occurred during any one of the immediately preceding five (5) years and has never been included on a new construction roll, the county assessor must list that property on the immediate next new construction roll at the value proven by the taxing district. Any such additional new construction must also be separately listed for each taxing district or unit. The taxing district has the burden of proving the new construction was omitted from a new construction roll and the value that would have been listed for that property had it been listed on the appropriate new construction roll. No taxing district shall ever be granted any increase in budget authority greater than the amount that would have resulted had the property been listed on the appropriate new construction roll. Regardless of the year that the new construction should have been listed on the appropriate new construction roll, additional budget authority resulting from new construction previously omitted from a new construction roll and listed on the current year's new construction roll shall be permitted only if the taxing district is in compliance with the budget hearing notification requirements of Section 63-802A, Idaho Code, for the current year. (3-29-12)

c. Reporting the amount of taxable market value to be deducted. For each taxing district or unit, the

new construction roll listing shall separately identify the total amount of taxable market value to be deducted as required in Section 63-301A(1)(f), Idaho Code, and Paragraph 802.02.e. of this rule. In addition to other requirements, the amount of value deducted shall never exceed the amount originally added to a new construction roll. ~~(3-29-12)~~()

d. Determining the amount of taxable market value to be deducted – appeals. The amount of taxable market value to be deducted under Section 63-301A(1)(f)(i), Idaho Code, shall be determined by the highest authority to which the assessment is ultimately appealed. Accordingly, adjustments should not be made until there has been a final decision on any appeal. In addition, the deduction for lower values resulting from appeals shall be made only for property that was placed on a new construction roll within the immediately preceding five (5) years. ~~(3-29-12)~~()

e. Determining the amount of taxable market value to be deducted – provisional exemptions. Provided the addition occurred within the immediate preceding five (5) years but not earlier than 2016, the amount of taxable market value added to any new construction roll for property subsequently granted a provisional exemption under Section 63-1305C, Idaho Code, shall be deducted from the taxable market value otherwise included on the immediate next new construction roll prepared following the granting of the provisional exemption. ()

03. Special Provisions for Value Increases and Decreases. Special provisions for value increases and decreases related to change of land use classification as defined in Paragraph 802.01.a. of this rule or increases in land value resulting from loss of the exemption provided in Section 63-602W(4), Idaho Code. (4-4-13)

a. Value increases. Certain related land value increases are to be included on the new construction roll. (4-7-11)

i. Except as provided in Subparagraph 802.03.a.iii., increases in land value shall be reported on the new construction roll in the year in which the new category appears on the current property roll. (4-4-13)

ii. Except as provided in Subparagraph 802.03.a.iii., the increase in taxable land value to be reported shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (4-4-13)

iii. Subject to the limitations found in Paragraph 802.06.a. of this rule, increases in land value resulting from loss of the exemption provided in Section 63-602W(4), Idaho Code, shall be reported on the new construction roll in the year the exemption is lost, provided this occurs no later than June 30 of that year. If the exemption is lost after June 30 of a given year, the resulting increase in land value shall be reported on the new construction roll in the immediate following year. (4-4-13)

b. Value decreases. Certain related land value decreases are to be included on the new construction roll and subtracted from total new construction value for any taxing district. The amount of decrease in any one year shall never exceed the amount of value originally added to the new construction roll for the same property. (4-4-13)

i. Value decreases are to be reported only for land for which taxable market value was reduced as a result of change of land use classification or granting of the exemption for site improvements provided in Section 63-602W(4), Idaho Code, during any one (1) of the immediately preceding five (5) years and for which an increase in value due to addition of site improvements or change of land use classification during the same five-year period had been added to a new construction roll. For the site improvement exemption provided in Section 63-602W(4), Idaho Code, the five-year period shall commence with the year following the year the exemption is first granted. For example, if a parcel first received the exemption in 2012, any site improvement related addition to a new construction roll for 2008 or more recently must be subtracted from the 2013 new construction roll, unless the exemption is lost by June 30, 2013, in which case there is no subtraction and no addition to the new construction roll for the loss of this exemption. (4-4-13)

ii. If the current land category is the same as the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted shall equal the amount originally added. For example, a dry grazing land parcel that would have had a value of ten thousand dollars (\$10,000) became commercial land and was assessed at fifty thousand dollars (\$50,000). The forty thousand dollar (\$40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as dry grazing land and

is to be assessed at fifteen thousand dollars (\$15,000). The forty thousand dollar (\$40,000) difference that was added to the year one (1) new construction roll must be deducted from the value shown on the new construction roll in year two (2). (4-7-11)

iii. If the current land category is different than the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted shall be the lesser of the amount originally added or the amount that would have been added had the first change in land use been from the current land category. For example, a dry grazing land parcel that would have had a value of ten thousand dollars (\$10,000) became commercial land and was assessed at fifty thousand dollars (\$50,000). The forty thousand dollar (\$40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as irrigated agricultural land and would have had a value in year one (1) of twenty thousand dollars (\$20,000). The amount to be subtracted from the value shown on the new construction roll in year two (2) is thirty thousand dollars (\$30,000). (4-7-11)

iv. Provided the criteria in Subparagraph 802.03.b.i. are met, value decreases resulting from previously included land value becoming exempt are to be reported and subtracted. (4-4-13)

v. Except as provided in Subparagraph 802.03.b.vi., only land value decreases that meet the criteria listed in Subparagraphs 802.03.b.i. or 802.03.b.iv. of this rule and include and result from a change in land secondary category can be considered. (4-4-13)

vi. Provided the criteria in Subparagraph 802.03.b.i. are met, land value decreases resulting from the exemption provided in Section 63-602W(4), Idaho Code, are to be subtracted from the new construction roll in the year immediately following the most recent year in which the exemption has been granted. To comply with the budget adjustments required by Section 63-802, Idaho Code, which limits taxing district budgets based on the highest amount of property tax revenue requested during the previous three (3) years, such subtraction shall be required for up to three (3) years, provided the property continues to receive the exemption. For example, a property for which five hundred thousand dollars (\$500,000) was added to the 2011 new construction roll for site improvements that were added and taxable at that time receives a five hundred thousand dollar (\$500,000) exemption pursuant to Section 63-602W(4), Idaho Code, in 2012. The property continues to receive the exemption in the same amount in 2013, but the exempt amount increases to five hundred twenty thousand dollars (\$520,000) in 2014. The property loses the exemption before June 30, 2015. However, the 2015 value of the site improvements has been determined to be only four hundred thousand dollars (\$400,000) because of market value changes. Therefore, only four hundred thousand dollars (\$400,000) in value is added as a result of the loss of the exemption. Table A shows the effect on each year's new construction roll, while Table B shows the effect on a hypothetical taxing district's maximum allowable property tax budget. (4-4-13)

vii. Table A - Effect on New Construction Roll:

Table A - Effect on New Construction Roll		
Year	Occurrence	Effect on New Construction Roll (for that year)
2011	Site improvements added and taxable	+ \$500,000
2012	Site improvements exempt	NA (no prior year's exemption)
2013	Site improvements exempt	- \$500,000
2014	Site improvements exempt	- \$500,000
2015	Loses site improvement exemption before June 30	+ \$400,000

(4-4-13)

viii. In Table B, assume that the taxing district has a tax levy rate of zero point zero zero two five (0.0025) in 2010, a total taxable value of one hundred million dollars (\$100,000,000) in 2010 and a property tax budget in 2010 that is two hundred fifty thousand dollars (\$250,000) and was the highest of the preceding three (3) years. The total amount of new construction is the amount due to the site improvements and no other value change occurs in the district during the period shown. There are no property tax replacement monies for this district.

Beginning in 2011 the taxing district levies the maximum it is allowed each year. The factor of one point zero three (1.03) shown in Table B is used to calculate the allowable three percent (3%) increase. (4-4-13)

ix. Table B - Effect on Hypothetical Taxing District's Maximum Allowable Property Tax Budget:

Table B - Effect on Hypothetical Taxing District's Maximum Allowable Property Tax Budget				
Year	Occurrence	Effect on New Construction Roll (for that year)	Maximum Allowable Property Tax Budget	Calculations
2011	Site improvements added and taxable	+ \$500,000	\$258,750	$(\$250,000 \times 1.03) + (\$500,000 \times 0.0025)$ (tax levy rate = $\$258,750 / \$100,500,000 = 0.002574627$)
2012	Site improvements exempt	NA (no prior year's exemption; no new construction value)	\$266,512	$\$258,750 \times 1.03$ (tax levy rate = $\$266,512 / \$100,000,000 = 0.002665120$)
2013	Site improvements exempt	- \$500,000	\$273,174	$(\$266,512 \times 1.03) - (\$500,000 \times 0.002665120)$ (tax levy rate = $\$273,174 / \$100,000,000 = 0.002731744$)
2014	Site improvements exempt	- \$500,000	\$280,003	$(\$273,174 \times 1.03) - (\$500,000 \times 0.002731744)$ (tax levy rate = $\$280,003 / \$100,000,000 = 0.002800033$)
2015	Loses site improvement exemption before June 30	+ \$400,000	\$289,523	$(\$280,003 \times 1.03) + (\$400,000 \times 0.002731744)$ (tax levy rate = $\$289,523 / \$100,400,000 = 0.002883696$)

(4-4-13)

04. Manufactured Housing. "Installation" of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

05. Partial New Construction Values. Except as provided in Subsection 802.06 of this rule, the net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Except as provided in Subsection 802.06 of this rule, any increase in a non-residential parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. If any of this difference is attributable to inflation, such value, except as provided in Subsection 802.06 of this rule, shall not be included on the new construction roll.

Example: Assume a partially completed, non-residential improvement was assessed at ten thousand dollars (\$10,000) as of January 1, 2009. The improvement was occupied February 2, 2009. Assume the ten thousand dollar (\$10,000) value was on the 2009 new construction roll. Assume that in 2010 the improvement is assessed at ninety thousand dollars (\$90,000). Assume there has been no inflation. The value that can be reported on the 2010 new construction roll is calculated as follows:

2010 Value	\$90,000
2009 Value Already Reported on New Construction Roll	<\$10,000>

2010 New Construction Roll Value (this improvement)	\$80,000
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(4-7-11)

06. Change in Status.

(4-2-08)

a. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W(3) or (4), Section 63-602E(3), or Section 63-602NN, Idaho Code. For any such property, the amount that may be included on the new construction roll shall be the value of the portion of the property subject to the exemption at the time the exemption was first granted. For otherwise qualifying property that loses the exemption provided in Section 63-602NN, Idaho Code, but that has had its value added to the base assessment roll in a revenue allocation area as provided in Rule 804 of these rules, the value so added may be added to the new construction roll. Examples of special cases for the exemption provided in Section 63-602W(4), Idaho Code, follow: ~~(4-4-13)~~()

i. If the exemption is lost by June 30 of the year in which the exempt amount was to be subtracted from the new construction roll, then there shall be no subtraction, nor shall the formerly exempt amount be added, to the new construction roll, unless it had been previously subtracted from a new construction roll. For example, the property first became exempt in 2012, but lost the exemption by June 30, 2013. The 2013 new construction roll was not adjusted downward, so any previous inclusion of the exempt value would not be added in the future. Had the property lost the exemption later in 2013, there would have been a subtraction from the 2013 new construction roll and a subsequent addition to the 2014 new construction roll. (4-4-13)

ii. If the exemption was granted to property for which no value had been added to any new construction roll, the value of the property (site improvements) at the time the exemption was first granted may be added to the new construction roll following loss of the exemption. (4-4-13)

b. ~~Except as provided in Paragraph 802.06.d. of this rule,~~ upon receipt by the State Tax Commission of a resolution recommending adoption of an ordinance for termination of an RAA under Section 50-2903(5), Idaho Code, any not previously included positive difference of the most current increment value minus the “incremental value as of December 31, 2006,” or the entire current increment value, if there was no such value as of December 31, 2006, shall be added to the appropriate year’s new construction roll. Upon the effective date of any de-annexation of a portion of an RAA, the immediate prior year’s increment value associated with the parcels in the de-annexed area is to be included in the appropriate year’s new construction roll as described in Paragraph 802.06.d. of this rule, provided such value has not been previously included on any new construction roll. When this information is received after the fourth Monday in July, this positive net increment value shall be added to the following year’s new construction roll. ~~(3-29-17)~~()

c. Upon receipt by the State Tax Commission of an attestation indicating that an urban renewal plan has been modified in such a way as to result in resetting the base value in an RAA, as provided in Section 50-2903A, Idaho Code, increases in base value due to the addition of previously determined increment value may be added to the new construction roll as described in Section 63-301A(3)(j), Idaho Code, provided such value has not previously been included on any new construction roll. In such a case, at termination of the RAA, only new additional increment value following the reset of the base value shall be included on the new construction roll. (3-29-17)

d. When a portion of an RAA is de-annexed, the following steps must be used to determine the amount to be added to the current year’s new construction roll and the amount to be subtracted from the “incremental value as of December 31, 2006.” (4-7-11)

i. Step 1. For the parcels in the de-annexed area, determine the December 31, 2006, increment value. (4-7-11)

ii. Step 2. Subtract the increment value determined in Step 1 from the immediate prior year’s increment value for the parcels in the de-annexed area. (3-29-17)

iii. Step 3. Add any positive difference calculated in Step 2 to the current year’s new construction roll

value. (4-7-11)

iv. Step 4. Adjust the “incremental value as of December 31, 2006” for the RAA by subtracting the increment value determined in Step 1. (4-7-11)

v. The following table shows the amount to be added to the current year’s new construction roll and the amount to be subtracted from the “incremental value as of December 31, 2006” applicable to the adjusted remaining RAA. The table assumes an area is de-annexed from an original RAA effective December 31, 2016.

Steps (as designated in Paragraph 802.06.d.)	Area	Value
	December 31, 2006, increment value of the original RAA	\$10,000,000
Step 1	December 31, 2006, increment value of the de-annexed area	\$1,000,000
	December 31, 2015, increment value of the de-annexed area	\$3,000,000
Steps 2 and 3	Amount related to the de-annexed area to be added to the 2017 new construction roll	\$2,000,000
Step 4	Adjustment amount to be deducted from the original RAA's “incremental value as of December 31, 2006”	<\$1,000,000>
	Adjusted “incremental value as of December 31, 2006” for the remaining RAA (base for future new construction roll additions upon dissolution of all or part of remaining RAA)	\$9,000,000

(3-29-17)

vi. If the de-annexation in the example in sub-paragraph v. had taken effect prior to the fourth Monday of July 2016, the 2015 increment value for the affected parcels would have been added to the 2016 new construction roll after subtracting the 2006 increment value. (3-29-17)

vii. The value of operating property increment value to be included on the new construction roll when a de-annexation occurs is computed as shown in the following example:

Sum the previous year’s increment values of the locally assessed parcels in the area to be de-annexed	\$15,000,000
Divide this sum by the previous year’s increment value of all locally assessed parcels in the RAA	$\$15,000,000 \div \$130,000,000 = .1154$
Multiply by 100 to determine the percentage applicable to the locally assessed parcels located within the area to be de-annexed	$.1154 \times 100 = 11.54\%$
Determine the difference between the operating property increment value in the whole RAA for the year preceding the de-annexation from the 2006 increment value of all operating in the whole RAA	$\$2,000,000 - \$500,000 = \$1,500,000$
Multiply the locally assessed percentage by the increase in the operating property increment value	$11.54\% \times \$1,500,000 = \$173,100$
The value of operating property increment to be included on the new construction roll when a de-annexation occurs	\$173,100

(3-29-17)

e. For taxing districts formed after December 31, 2006, or annexing or being annexed into a revenue allocation area after that date, the amount of increment value to be added to the new construction roll will equal any

positive difference between the increment value at the time of formation of the taxing district or annexation by or into the revenue allocation area and the increment value at the time of dissolution of the revenue allocation area or the increment value within the area deannexed from the revenue allocation area. ()

07. Limitation on Annexation and New Construction Roll Value. For any taxing district annexing property in a given year, the new construction roll for the following year shall not include value that has been included in the annexation value. When an annexation includes any part of a revenue allocation area, only taxable value that is part of the current base value of the taxing district is to be included in the annexation value reported for that taxing district for the year following the year of the annexation. (3-29-10)

08. Notification of New Construction Roll and Annexation Values. On or before the fourth Monday in July, each county auditor must report the net taxable values on the new construction roll and of locally assessed property within annexed areas for each appropriate taxing district or unit to that taxing district or unit. Annexation value contributed by centrally assessed operating property will be provided to each county auditor by the first Monday in September. (3-20-04)()

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803). Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), 63-3502B, 50-2903A, 50-2913, 63-3638(11), and (13), and 63-1305C, Idaho Code

01. Definitions. (4-5-00)

a. “Dollar Certification Form” (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the State Tax Commission the budget request from each board of county commissioners for each taxing district. This form shall be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code. (4-6-05)

b. “Prior Year’s Market Value for Assessment Purposes.” Prior year’s market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code. (4-2-05)()

c. “Annual Budget.” For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f) or 63-802(1)(g), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(f) or 63-802(1)(g), Idaho Code, then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	FY 1999	FY 2000	FY 2001	FY 2002
Annual Budget	\$10,000	\$10,000	\$10,700	\$11,621
3% Increase	\$0	\$300	\$321	\$349
Subtotal	\$10,000	\$10,300	\$11,021	\$11,970
1999 Election Amount	\$0	\$400 of \$1,000	\$600 of \$1,000	\$0
Certified Budget	\$10,000	\$10,700	\$11,621	\$11,970

*The Library District with zero dollars (\$0) in value for new construction and/or annexation approves an additional budget amount of one thousand dollars (\$1,000) in 1999, but only certifies four hundred dollars (\$400) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. (4-6-05)()

d. “Property Tax Funded Budget.” Property tax funded budget means that portion of any taxing district’s budget certified to the board of county commissioners, approved by the State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. “Recovered/Recaptured Property ~~Substitute Funds~~ Tax and Refund List.” Recovered/recaptured property tax ~~substitute funds~~ and refund list means the report sent by the county auditor to the appropriate taxing district(s) by the first Monday in August and to the State Tax Commission with the L-2 Forms, listing the amount of revenue distributed, or refunds charged, to each appropriate taxing district ~~unit as recovery of property tax or other payments~~ during the twelve (12) month period ending June 30 each year under the following sections: ~~(5-8-09)~~ ()

i. Section 63-602G(5), Idaho Code; ~~and~~ ~~(5-8-09)~~ ()

ii. Section 63-3029B(4), Idaho Code; ~~and~~ ~~(5-8-09)~~ ()

iii. Section 63-602KK(7), Idaho Code, for personal property exempted after 2013 for which no replacement money was paid; ~~and~~ ~~(3-29-17)~~ ()

iv. Section 63-3502B(2), Idaho Code, for distributions of gross earnings tax on solar farms; ~~and~~ ~~(3-29-17)~~ ()

v. Section 50-2903A(3), Idaho Code, for distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, when required; ~~and~~ ~~(3-29-17)~~ ()

vi. Section 50-2913(3)(c), Idaho Code, for distributions of urban renewal allocations in excess of the amount received during the immediate prior tax year, when required; (3-29-17)

vii. Section 63-1305C(3), Idaho Code, for revoked provisional property tax exemptions; and ()

viii. Section 63-1305C(6), Idaho Code, for refunds related to provisional property tax exemptions. ()

f. “Taxing District/Unit.” Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those ~~non-countywide~~ governmental entities without authority to levy property taxes but on whose behalf such taxes are levied ~~or allocated~~ by an authorized entity such as the county or city ~~for such entities as county road and bridge funds or urban renewal agencies, respectively.~~ ~~(4-6-05)~~ ()

g. “New Taxing District.” For property tax budget and levy purposes, new taxing district means any taxing district for which no property tax revenue has previously been levied. See the Idaho Supreme Court case of Idaho County Property Owners Association, Inc. v. Syringa General Hospital District, 119 Idaho 309, 805 P.2d 1233 (1991). (4-2-08)

02. Budget Certification. The required budget certification shall be made to each board of county commissioners representing each county in which the district is located by submitting the completed and signed L-2 Form prescribed by the State Tax Commission. Unless otherwise provided for in Idaho Code, budget requests for the property tax funded portions of the budget shall not exceed the amount published in the notice of budget hearing if a budget hearing notice is required in Idaho Code for the district. The levy approved by the State Tax Commission shall not exceed the levy computed using the amount shown in the notice of budget hearing. (3-20-14)

03. Budget Certification Requested Documents. Using the completed L-2 Form, each board of county commissioners shall submit to the State Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The board of county commissioners shall only submit documentation specifically requested by the State Tax Commission. (3-28-18)

a. Foregone Increase Documentation. For any taxing district submitting a budget including previously forgone increases, required documentation includes a copy of the resolution certifying the amount of the forgone increase being included and the specific purpose for which this increase is being budgeted. Each such taxing district must submit the resolution to the board of county commissioners representing each county in which the district is located along with the L-2 Form. The board of county commissioners must attach a copy of the resolution to be submitted to the State Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the State Tax Commission. (3-28-18)

b. Foregone increase disclaimer. Any resolution to disclaim the right to recover an annual increase in the forgone amount must state the amount of such forgone increase being disclaimed and must be submitted to the board of county commissioners representing each county in which the district is located along with the L-2 Form. The board of county commissioners must attach a copy of the resolution to be submitted to the State Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the State Tax Commission. The following table illustrates calculation of the maximum forgone amount that may be disclaimed in 2018:

Step	Description	Comments
1	2017 maximum property tax \$10,000. This is an increase of \$1,000 from 2016.	The district has no prior forgone balance.
2	The district certifies \$9,800 in 2017.	The district now has \$200 in forgone balance.
3	2018 maximum property tax \$11,000 (not including \$200 forgone).	
4	2018 property tax budgeted (to be submitted for certification) is \$10,600.	This amount is approved to be levied and would generate \$400 in additional forgone balance.
5	2018 maximum amount of forgone increase that may be disclaimed by the district is \$400.	If the district disclaims the full \$400, their forgone balance remains at \$200.

(3-28-18)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. (3-20-04)

a. “Department or Fund.” Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. “Total Approved Budget.” List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. “Cash Forward Balance.” List any money retained, but intended ~~to be spent~~ to fund the approved budget being certified on the L-2 form. ~~(4-11-15)~~ ()

d. “Other Revenue not Shown in Column 5.” List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

e. “Property Tax Replacement.” Report the following amounts received for the twelve (12) month period ending June 30 of the current tax year: ~~(5-8-09)~~ ()

i. The amount of money received annually under Section 63-3638(11), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code; (4-11-15)

ii. The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the “Recovered/recaptured property tax ~~substitute funds~~ and refund list”; ~~(5-8-09)~~ ()

- iii. The amount of money received as recapture of the property tax benefit under Section 63-3029B(4), Idaho Code, and listed on the “Recovered/recaptured property tax ~~substitute funds~~ and refund list”; ~~(4-11-15)~~()
- iv. The amount of money received ~~annually~~ under Section 63-3638(13), for the personal property exemption under 63-602KK(2), Idaho Code; ~~(3-29-17)~~()
- v. The amount of money received ~~annually~~ under Section 63-602KK(7), Idaho Code, for personal property exempted after 2013, for which no replacement money was paid, and listed on the “Recovered/recaptured property tax ~~substitute funds~~ and refund list”; ~~(3-29-17)~~()
- vi. The amount of money received ~~in the 12-month period ending June 30 of the current tax year~~ as a result of distributions of the gross earning tax on solar farms, as provided in Section 63-3502B(2), Idaho Code., and listed on the “Recovered/recaptured property tax ~~substitute funds~~ and refund list”; ~~(3-29-17)~~()
- vii. The amount of money received ~~in the 12-month period ending June 30 of the current tax year~~ as a result of distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, as provided in Section 50-2903A(3), Idaho Code, and listed on the “Recovered/recaptured property tax ~~substitute funds~~ and refund list”; ~~(3-29-17)~~()
- viii. The amount of money received ~~in the 12-month period ending June 30 of the current tax year~~ as a result of distributions of urban renewal allocations in excess of the amount received by the urban renewal agency in the immediate prior year, as provided in Section 50-2913(3)(c), Idaho Code and listed on the “Recovered/recaptured property tax ~~substitute funds~~ and refund list.”; ~~and~~ ~~(3-29-17)~~()
- ix. The amount of money received as a result of distributions of recovered property tax for revoked provisional property tax exemptions pursuant to Section 63-1305C(3), Idaho Code. ()
- f. “Balance to be Levied.” Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)
- g. Other Information. Provide the following additional information. (4-5-00)
- i. The name of the taxing district or unit; (3-20-04)
- ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)
- iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; and (5-3-03)
- iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)
- v. For any taxing district including previously forgone increases in their budget or disclaiming any forgone increase, an attestation to having held the required public hearing on the resolution to include or disclaim the forgone amount. (3-28-18)
- h. Attached Information. Other information submitted to the county auditor with the L-2 Form. (4-6-05)
- i. For all taxing districts, L-2 worksheet. (3-20-04)
- ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (3-20-04)
- iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, cooperative service agency funds, and plant facility funds), notice of election and election

results.

(3-20-04)()

iv. Voter approved fund tracker. (3-20-04)

v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (3-20-04)

vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the board of county commissioners and the board of the library district reporting the dedicated portion of that city's property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (3-20-04)

vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the board of county commissioners a copy of the certification from that city reporting the information provided for in Subparagraph 803.04.h.vi. of this rule. (4-6-05)

viii. For any taxing district including previously forgone increases in their budget or disclaiming any forgone increase, a copy of the resolution describing the amount of the forgone increase being disclaimed, or the amount included and specific purpose for which it is being included. (3-28-18)

05. Special Provisions for Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district shall not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

a. The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)

b. Said new agreement succeeds the original agreement; and (3-30-01)

c. In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions for Property Tax Replacement and Refunds Pursuant to Section 63-1305C(6), Idaho Code. Property tax replacement monies must be reported on the L-2 Form and separately identified on accompanying worksheets. Except as provided in Paragraph 803.06.f. of this rule, for all taxing districts, these monies must be subtracted from or, in the case of refunds, not included in, the "balance to be levied". The reduced balance shall be used to compute levies. ~~but~~ The maximum amount permitted pursuant to Section 63-802(1), Idaho Code, shall be based on the sum of these property tax replacement monies including recoveries received pursuant to Section 63-1305C(3), Idaho Code, but excluding monies received pursuant to Section 63-3502B(2), Idaho Code, and the amount actually levied. Each taxing district's proportionate share of refunds pursuant to Section 63-1305C(6), Idaho Code, as reported in Paragraph 803.01.e. of this rule, must be subtracted from the maximum amount permitted pursuant to Section 63-802(1), Idaho Code. (3-29-17)()

a. The State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money, pursuant to Sections 63-3638(11) and (13), Idaho Code, to be paid to a taxing district changes from the amount paid in the preceding year. By the first Monday of May, the State Tax Commission shall further notify each school district and each county clerk of any changes in the amount of property tax replacement money to be received by that school district pursuant to Sections 63-3638(11) and (13), Idaho Code. (4-11-15)

b. By no later than the first Monday of August of each year, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies, and the type of replacement

money, as described in Paragraph 803.04.e. of this rule. For charter school districts subject to the provisions of Paragraph 803.06.f. of this rule, the amount to be subtracted shall be reported. (3-29-17)

c. Except as provided in Paragraph 803.06.d. of this rule, the subtraction required in Subsection 803.06 of this rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code. For school districts ~~this~~ these subtractions must be first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. ~~(5-8-09)~~ ()

d. For taxing districts receiving distributions of the gross earning tax on solar farms described in Section 63-3502B(2), Idaho Code, the amount of any such distribution received during the 12 (twelve) months ending June 30 of the current tax year shall be subtracted from the maximum amount of property tax revenue permitted pursuant to Section 63-802, Idaho Code. In addition to the amounts reported as described in Paragraph 803.06.b. of this rule, the county clerk shall, by the ~~third~~ first Monday in August, notify each taxing unit of the total amount of the gross earnings tax on solar farms billed for the current tax year. ~~(3-29-17)~~ ()

e. Levy limits shall be tested against the amount actually levied. (3-15-02)

f. For charter school districts with a levy in 2013 for maintenance and operations, as provided in Section 33-802(6), Idaho Code, a portion of the property tax replacement money received for property subject to the exemption in Section 63-602KK, Idaho Code, is not required to be subtracted in determining the "balance to be levied." Said portion shall be the amount calculated by applying the 2013 levy rate for the maintenance and operations levy amount, as authorized in the district's charter, to the 2013 exempt value of personal property used to compute replacement money provided to the school district. (4-11-15)

g. For recovered personal property exemptions, as provided in Section 63-602KK(7), Idaho Code, for personal property exempted in 2013 for which replacement money was paid, recovered amounts shall be distributed to the State Tax Commission. Once received, the amount of future payments to the affected taxing districts shall be reduced by the amount received. (3-25-16)

07. Special Provisions for Library Districts Consolidating with Any City's Existing Library Operations or Services. For any library district consolidating with any city's existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule shall be added to that library district's property tax funded budget in effect at the time of the election for consolidation. This total shall be used as this district's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

08. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule shall be subtracted from that city's total property tax funded budget in effect at the time of the election for the consolidation. This difference shall be used as this city's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

09. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds. Whenever the "Calculated Levy Rate" column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the "Column Total" entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (4-6-05)

10. Special Provisions for School Districts' Tort Funds - Hypothetical New Construction Levy. To calculate the new construction portion of the allowed annual increase in a school district's tort fund under Section 63-802(1), Idaho Code, calculate a Hypothetical New Construction Levy. To calculate this hypothetical levy, sum the amount of the school district's tort fund levied for the prior year, the agricultural equipment replacement revenue, and the personal property replacement revenue, then divide this sum by the school district's taxable value used to determine the tort fund's levy for the prior year. For the current year, the allowed tort fund increase for new

construction is this Hypothetical New Construction Levy times the current year's new construction roll value for the school district. (3-25-16)

11. Special Provisions for Interim Abatement Districts. When an interim abatement district transitions into a formally defined abatement district under Section 39-2812, Idaho Code, the formally defined abatement district shall not be considered a new taxing district as defined in Paragraph 803.01.g. of this rule for the purposes of Section 63-802, Idaho Code. For the formally defined abatement district, the annual budget subject to the limitations of Section 63-802, Idaho Code, shall be the amount of property tax revenue approved for the interim abatement district. (4-2-08)

12. Special Provisions for Consolidating Cemetery Districts. When two (2) or more cemetery districts consolidate, the first year in which the consolidated cemetery district levies property tax, the maximum budget subject to the limitations of Section 63-802, Idaho Code, shall be computed as follows: ()

a. Determine the highest levy rate of any of the former cemetery districts now consolidating, based on the sum of the immediate prior year's levies subject to the limitations of Section 63-802, Idaho Code. ()

b. Multiply this levy rate by the current taxable value of property within the area of the former cemetery districts other than the district with the highest rate. ()

c. Multiply this levy rate by the current taxable value of new construction, as reported on the new construction roll, within the area of the former cemetery district with the highest levy rate. ()

d. Add: ()

i. The amounts computed in Paragraphs 803.12.b. and 803.12.c., of this rule: ()

ii. Three percent (3%) of the highest amount of property taxes certified by the former cemetery district determined in Paragraph 803.12.a. of this rule, to have had the highest levy rate, for its annual budget, as defined in Section 63-802(1)(a), Idaho Code; and ()

iii. Any forgone amounts of the former cemetery districts now consolidating. ()

123. Cross Reference for School Districts with Tuition Funds. School district tuition fund levies are exempt from the limitations of Section 63-802, Idaho Code. See Section 33-1408, Idaho Code. (4-11-15)

804. TAX LEVY - CERTIFICATION - URBAN RENEWAL DISTRICTS (RULE 804).
Sections 50-2908, 50-2033, 50-1903, 50-2903A, 50-2905A, 50-2913, 63-803, and 63-811, Idaho Code

01. Definitions. (4-5-00)

a. "Urban renewal district." An urban renewal district, as referred to in Section 63-215, Idaho Code, shall mean an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts. (4-5-00)

b. "Revenue allocation area (RAA)." A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, shall be the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. A new urban renewal plan is required when an urban renewal agency establishes a new RAA. Revenue allocation areas (RAAs) are not taxing districts. (3-29-17)

c. "Current base value." The current base value of each parcel in a taxing district or unit shall be the value of that parcel on the current base assessment roll as defined under Section 50-2903, Idaho Code. Current base value does not include value found on the occupancy roll. (4-5-00)

d. "Initial base value." The initial base value for each parcel is the sum of the taxable value of each category of property in the parcel for the year the RAA is established. In the case of annexation to an RAA, initial base value of each annexed parcel shall be the value of that parcel as of January 1 of the year in which the annexation

takes place. (4-11-15)

e. “Increment value.” The increment value is the difference between the current equalized value of each parcel of taxable property in the RAA and that parcel’s current base value, provided such difference is a positive value. (4-5-00)

f. “Revenue allocation financing provision.” A revenue allocation area (RAA) shall be considered to be a revenue allocation financing provision. (3-29-17)

02. Establishing and Adjusting Base and Increment Values. (4-5-00)

a. Establishing initial base value. If a parcel’s legal description has changed prior to computing initial base year value, the value that best reflects the prior year’s taxable value of the parcel’s current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the taxable value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable property, as defined in Section 50-2903, Idaho Code. Initial base value does not include value found on the occupancy roll. (4-5-00)

b. Adjustments to base value - general value changes. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less than the most recent base value for such parcel. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments shall be made by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property shall establish new base values from which future adjustments may be made. In the following examples the parcel’s initial base value is one hundred thousand dollars (\$100,000), including Category 21 value of twenty thousand dollars (\$20,000) and Category 42 value of eighty thousand dollars (\$80,000). (4-5-00)

i. Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar (\$1,000) decrease in value in Category 21 and a one thousand dollar (\$1,000) increase in Category 42 value. There is no change in the base value for the parcel. (4-5-00)

ii. Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars (\$3,000) decrease in value in Category 21 and a one thousand dollars (\$1,000) increase in Category 42 value. The base value decreases two thousand dollars (\$2,000) to ninety-eight thousand dollars (\$98,000). (4-5-00)

iii. Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety-eight thousand dollars (\$98,000), the value of the parcel increases by five thousand dollars (\$5,000) which is the net of category changes. The base value remains at ninety-eight thousand dollars (\$98,000). (4-5-00)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel’s legal description. This adjustment shall be calculated as described in the following subsections. (4-5-00)

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value. Proportions used to determine the amount of base value assigned to each of the new parcels shall be based on the value of the new parcels had they existed in the year preceding the year for which the value of the new parcels is first established. (4-11-15)

ii. When a parcel has been combined with another parcel, the most recent base year values are added together. (4-5-00)

iii. When a parcel has been split and combined with another parcel in the same year, the value of the

split shall be calculated as set forth in Subparagraph 804.02.c.i. and then the value of the combination will be calculated as set forth in Subparagraph 804.02.c.ii. (4-5-00)

d. Adjustments to base values when exempt parcels become taxable. Base values shall be adjusted as described in the following subsections. (4-5-00)

i. Fully exempt parcels at time of RAA establishment. When a parcel that was exempt at the time the RAA was established becomes taxable, the base value is to be adjusted upwards to reflect the estimated value of the formerly exempt parcel as it existed at the time the RAA was established. ~~(4-5-00)~~ ()

ii. Partially exempt parcels losing the speculative value exemption. When a partially exempt parcel with a speculative value exemption that applies to farmland within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the taxable value of the parcel for the year in which the exemption is lost and the taxable value of the parcel included in the base value of the RAA. For example, assume a parcel of farmland within an RAA had a taxable value of five hundred dollars (\$500) in the year the RAA base value was established. Assume also that this parcel had a speculative value exemption of two thousand dollars (\$2,000) at that time. Two (2) years later the parcel is reclassified as industrial land, loses the speculative value exemption, and has a current taxable value of fifty thousand dollars (\$50,000). The base value within the RAA would be adjusted upwards by forty-nine thousand five hundred dollars (\$49,500), the difference between fifty thousand dollars (\$50,000) and five hundred (\$500). The preceding example applies only in cases of loss of the speculative value exemption that applies to land actively devoted to agriculture and does not apply to timberland. Site improvements, such as roads and utilities, that become taxable after the loss of the speculative value exemption are not to be added to the base value. For example, if, in addition to the fifty thousand dollars (\$50,000) current taxable value of the undeveloped land, site improvements valued at twenty-five thousand dollars (\$25,000) are added, the amount reflected in the base value remains fifty thousand dollars (\$50,000), and the additional twenty-five thousand dollars (\$25,000) is added to the increment value. In addition, this example applies only to land that loses the speculative value exemption as a result of changes occurring in 2010 or later and first affecting taxable values in 2011 or later. Parcels that lost speculative value exemptions prior to 2010 had base value adjustments as described in Subparagraph 804.02.d.iii. of this rule. (3-29-12)

iii. Partially exempt parcels other than those losing the speculative value exemption. Except as provided in Subparagraph 804.02.d.vi. of this rule, ~~when~~ a partially exempt parcel, other than one subject to the speculative value exemption that applies to farmland, within the RAA becomes fully taxable, the base value of the RAA shall be adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA was established and the taxable value of the parcel included in the base value of the RAA. For example, assume a residential parcel within an RAA had a market value of one hundred thousand dollars (\$100,000), a homeowner's exemption of fifty thousand dollars (\$50,000), and a taxable value of fifty thousand dollars (\$50,000) in the year the RAA base value was established. After five (5) years, this parcel is no longer used for owner-occupied residential purposes and loses its partial exemption. At that time the parcel has a taxable value of one hundred eighty thousand dollars (\$180,000). The base value within the RAA would be adjusted upwards by fifty thousand dollars (\$50,000) to one hundred thousand (\$100,000) to reflect the loss of the homeowner's exemption, but not any other value increases. ~~(3-29-12)~~ ()

iv. Partially exempt properties for which the amount of the partial exemption changes. For partially exempt properties that do not lose an exemption, but for which the amount of the exemption changes, there shall be no adjustment to the base value, unless the current taxable value is less than the most recent base value for the property. For example, assume a home has a market value of two hundred thousand dollars (\$200,000) and a homeowner's exemption of one hundred thousand dollars (\$100,000), leaving a taxable value of one hundred thousand dollars (\$100,000), all of which is base value. The following year the homeowner's exemption limit changes to ninety thousand dollars (\$90,000), so the property's taxable value increases to one hundred ten thousand dollars (\$110,000). The base value remains at one hundred thousand dollars (\$100,000). Alternatively, assume the property in the preceding example increases in market value to two hundred twenty thousand dollars (\$220,000) and the homeowner's exemption drops to ninety thousand dollars (\$90,000) because of the change in the maximum amount of this exemption. The base value remains at one hundred thousand dollars (\$100,000). Finally, assume the property decreases in value to one hundred eighty-eight thousand dollars (\$188,000) at the same time the homeowner's exemption limit changes to ninety thousand dollars (\$90,000). The property now has a taxable value of ninety-eight thousand dollars (\$98,000), requiring an adjustment in the base value to match this amount, since it is lower than the

original base value of one hundred thousand dollars (\$100,000).

(3-29-12)

v. Change of exempt status. Except as provided in Subparagraph 804.02.d.vi. of this rule, ~~When~~ when a parcel that is taxable and included in the base value at the time the RAA is established subsequently becomes exempt, the base value is reduced by the most current value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is to be adjusted upward by the same amount that was originally subtracted. For example, assume a land parcel had a base value of twenty thousand dollars (\$20,000). One (1) year later the parcel has a value of nineteen thousand dollars (\$19,000), so the base value is reduced to nineteen thousand dollars (\$19,000). Three (3) years later, an improvement valued at one hundred thousand dollars (\$100,000) was added. The land at this later date had a value of thirty thousand dollars (\$30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by nineteen thousand dollars (\$19,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by nineteen thousand dollars (\$19,000).

~~(4-11-15)~~ ()

vi. Special case for exemption provided in Section 63-602NN, Idaho Code. Upon loss of the exemption, any newly taxable value in excess of the taxable value of the property in the year immediately preceding the first year of the exemption is to be added to the increment value provided the property was within an RAA when the exemption was granted and remains within the RAA at the time the exemption expires. If the parcel was annexed to an RAA during the period of the exemption, the value that would have been added to the base value at the time of annexation had the property not received the exemption would be added to the base at the time the exemption expires, while any remaining taxable value would be added to the increment. If the exemption has been granted in part, the adjustments provided in this subparagraph shall only apply to the portion of the property granted the exemption.

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e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property shall be considered removed only under the conditions described in the following subsections. (4-5-00)

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0). (4-5-00)

ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA or any of the personal property associated with a parcel becomes exempt. In the case of exemption applying to personal property, the downward adjustment will first be applied to the increment value and then, if the remaining taxable value of the parcel is less than the most current base value, to the base value. Assume, for example that a parcel consists entirely of personal property with a base value of twenty thousand dollars (\$20,000) and an increment value of ninety thousand dollars (\$90,000). The next year the property receives a one hundred thousand (\$100,000) personal property exemption. The increment value is reduced to zero and the base value is reduced to ten thousand dollars (\$10,000). (4-11-15)

iii. For operating property, any of the property under a given ownership is removed from the RAA. (4-5-00)

f. Adjustments to base value for annexation. When property is annexed into an RAA, the base value in the RAA shall be adjusted upwards to reflect the value of the annexed property as of January 1 of the year in which the annexation takes effect. As an example, assume that parcels with current taxable value of one million dollars (\$1,000,000) are annexed into an RAA with an existing base value of two million dollars (\$2,000,000). The base value of the RAA is adjusted upwards to three million dollars (\$3,000,000). (4-11-15)

g. Adjustments to increment values. In addition to the adjustment illustrated in Subparagraph 804.02.e.ii. of this rule, decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars (\$100,000) decreases in value to ninety-five thousand dollars (\$95,000), but later increases to ninety-eight thousand dollars (\$98,000), an increment value of three thousand

dollars (\$3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars (\$102,000) after the decrease to ninety-five thousand dollars (\$95,000), the increment value would be seven thousand dollars (\$7,000). (4-11-15)

h. Apportioning operating property values. For operating property, the original base value shall be apportioned to the RAA on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value shall be adjusted as required under Section 50-2903, Idaho Code. (4-5-00)

03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts. Beginning in 2008, levies shall be computed in one (1) of two (2) ways as follows: (5-8-09)

a. For taxing district or taxing unit funds other than those meeting the criteria listed in Subsection 804.05 of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district or unit is one hundred million dollars (\$100,000,000) but fifteen million dollars (\$15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's or unit's budget by eighty-five million dollars (\$85,000,000). (5-8-09)

b. For taxing district or taxing unit funds meeting the criteria listed in Subsections 804.05 and 804.07 of this rule, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. Given the values in the example in Paragraph 804.03.a. of this rule, the levy would be computed by dividing the property tax portion of the fund by one hundred million dollars (\$100,000,000). (3-28-18)

04. Modification of an Urban Renewal Plan. Except when inapplicable as described in Paragraphs 804.04.a, b, or c, of this rule, when an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision, for the tax year immediately following the year in which the modification occurs, the base value of property in the RAA shall be reset by being adjusted to reflect the current taxable value of the property. All modifications to boundaries of RAAs must comply with the provisions of Rule 225 of these rules. (3-29-17)

a. Modification by consolidation of RAAs. If such modification involves combination or consolidation of two (2) or more RAAs, the base value shall be determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current taxable value of property in an area not previously included in any RAA shall be added to determine the total current base value for the consolidated RAA. (4-5-00)

b. Modification by annexation. (5-8-09)

i. If an RAA is modified by annexation, the current taxable value of property in the area annexed shall be added to the most current base value determined for the RAA prior to the annexation. (5-8-09)

ii. For levies described in Paragraphs 804.05.b., c., or d. of this rule approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007, the property tax levy shall be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. The example below shows the value to be used for setting levies for various funds within an urban renewal district "A" that annexes area "B" within a school district. Area (B) was annexed after December 31, 2007. Therefore, the Area (B) increment was added back to the base for all funds shown except the tort fund. The Area (A) increment value was added back to the base for the bond and override funds which were certified or passed after December 31, 2007.

2009 Value Table	School District (base only)	\$500 Million
	RAA (A) increment	\$40 Million
	RAA annexation (B) increment	\$10 Million

<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> School District Area \$500 M base </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> 2008 RAA Annexation (B) \$10 M Increment </div> <div style="border: 1px solid black; padding: 5px;"> Pre 2008 RAA (A) Boundaries \$40 M Increment </div>	2009 School Levies	
	Fund	Value for Setting Levies \$ Millions
	Tort	500
	2001 Plant	510
	2008 Bond (Passed and first levied in 2008)	550
	2009 Supplemental	550

(3-29-17)

iii. An annexation permitted pursuant to section 50-2033, Idaho Code, to an RAA in existence prior to July 1, 2016 shall not change the status of the urban renewal agency or the RAA and its related plan regarding inapplicability of the base reset or attestation provisions found in section 50-2903A, Idaho Code. (3-29-17)

c. Other modifications – attestation requirements. Modification resulting in adjustment of base value to reflect the current taxable value of the property within the RAA shall not be deemed to have occurred when the urban renewal agency attests to having made no modifications to a plan or is not required to attest to plan modifications. Certain urban renewal agencies are required to attest annually to having made or not made plan modifications. These include: (3-29-17)

i. Urban renewal agencies that establish new RAAs on or after July 1, 2016, provided however that such agencies are only required to attest to having made or not made modifications with regard to any new RAA. (3-29-17)

ii. Urban renewal agencies that enact new plans including an RAA on or after July 1, 2016. (3-29-17)

d. Modifications when there is outstanding indebtedness. When any urban renewal agency attests to having had a plan modification that is not an exception identified in Paragraphs 804.04.a. or b. or c. of this rule or fails to provide the required attestation, the base value will be determined without regard to the modification, provided that the agency certifies to the State Tax Commission by June 30 of the tax year that there is outstanding indebtedness as defined in Section 50-2903A(2), Idaho Code. In this case, the allocation of revenue to the urban renewal agency shall be limited to the amount certified as necessary to pay the indebtedness. Any additional revenue shall be distributed to each taxing district or unit in the same manner as property taxes. Such revenue shall be treated as property tax revenue for the purpose of the limitations in Section 63-802, Idaho Code. The county clerk will notify the tax commission of the amount so distributed for each year beginning July 1 of the prior year and ending June 30 of the current tax year. (3-28-18)

e. Failure to submit attestation regarding plan modification. For any urban renewal agency subject to the requirements of Section 50-2903A, Idaho Code, attestation of plan modification or attestation that there has been no plan modification is required to be made to the State Tax Commission by the first Monday of June each year. Except as provided in Paragraph 804.04.d. of this rule, if such agency fails to provide the required attestation, the State Tax Commission will proceed to reset the base value or limit allocation of property tax to the urban renewal

agency as otherwise required in Section 50-2903A, Idaho Code. Provided there is no new plan, an urban renewal agency with a plan including one or more revenue allocation financing provisions (RAAs) in existence prior to July 1, 2016 shall only be required to provide this attestation or be subject to base resetting or other limitations for failure to submit this attestation with respect to new RAAs formed on or after July 1, 2016. If such an agency develops a new plan, on or after July 1, 2016, or provides for a new RAA under an existing plan, the agency shall be subject to the attestation requirements and other provisions of Section 50-2903A, Idaho Code, with respect to any RAAs formed July 1, 2016 or later. (3-28-18)

f. Notice of actions related to base reset or revenue allocation limitations. (3-29-17)

i. The State Tax Commission will notify any urban renewal agency within thirty (30) days of the time the State Tax Commission receives an attestation that an urban renewal plan has been modified, or by July 30 in any year in which an attestation is required but none is received, of the State Tax Commission's intent to initiate the process to reset the base value in the following tax year. Said notice will be provided to affected county commissioners and city officials. (3-29-17)

ii. In the case of base reset due to failure to attest to a modification or to having made no modification in an urban renewal plan, despite being required to provide this attestation, the agency and county and city officials will be so notified and will be given an opportunity to provide the necessary attestation. This further notice will provide that, if the State Tax Commission has not received the attestation by December 31 of the tax year, the base will be reset in the immediate following year. (3-29-17)

iii. In the case of a revenue allocation limitation pursuant to Section 50-2913, Idaho Code, notice will be provided to the agency, county, and city officials including the county assessor and county clerk, within thirty (30) days of the due date of the plan or plan update. (3-29-17)

iv. In the case of a revenue allocation limitation due to a plan modification but outstanding indebtedness, notice will be provided to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of receipt by the State Tax Commission of the certification of the amount needed to repay the indebtedness. (3-29-17)

v. Once decisions about base reset or revenue allocation limitations are final, additional notice will be sent to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of any such final decision. Said notice will include an identification of the year in which the reset or revenue allocation limitation will take effect and the amount of any revenue allocation limitation. (3-29-17)

05. Criteria for Determining Whether Levies for Funds Are to Be Computed Using Base Value or Market Value for Assessment Purposes. Beginning in 2008, levies to be certified for taxing district or unit funds meeting the following criteria or used for any of the following purposes will be computed as described in Paragraph 804.03.b. of this rule. (5-8-09)

a. Refunds or credits pursuant to Section 63-1305, Idaho Code, and any school district judgment pursuant to Section 33-802(1), Idaho Code, provided the refunds, credits, or judgments were pursuant to actions taken no earlier than January 1, 2008; (5-8-09)

b. Voter approved overrides of the limits provided in Section 63-802, Idaho Code, provided such overrides are for a period not to exceed two (2) years and were passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

c. Voter approved bonds and plant facilities reserve funds passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

d. Voter approved school or charter school district temporary supplemental maintenance and operation levies passed after December 31, 2007; or (3-29-10)

e. Levies described in Paragraphs 804.05.b., c., or d. approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue

allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007; (3-29-10)

f. Levies authorized by Section 33-317A, Idaho Code, known as the cooperative service agency school plant facility levy. (3-29-10)

g. Levies authorized by Section 33-909, Idaho Code, known as the state-authorized plant facility levy. (4-11-15)

h. Levies authorized by Section 33-805, Idaho Code, known as school emergency fund levy. (3-29-17)

06. Setting Levies When There is a De-annexation From an RAA. In any de-annexation from an RAA, levies will be set using the base value and, as indicated in Subsection 804.05 of this rule, the appropriate amount of increment value associated with the parcels and operating property remaining in the RAA after the de-annexation, provided that the de-annexation is in effect no later than September 1 of the current tax year and provided further that the de-annexation is approved by the State Tax Commission in accordance with Section 225 of these rules. (3-29-17)

07. Setting Levies When There is a Refinancing of Bonded Indebtedness. Refinancing of bonded indebtedness in existence as of December 31, 2007 does not create new bonded indebtedness for any taxing district with respect to the levy setting criteria in Subsection 804.05 of this rule. (3-28-18)

08. Cross Reference. The county auditor shall certify the full market value by taxing district as specified in Rule 995 of these rules. See also Rule 802 of these rules for calculation of new construction given de-annexation from an RAA and see Rule 805 of these rules for penalties for failure to submit plans. (3-29-17)

(BREAK IN CONTINUITY OF SECTIONS)

962. TAXATION OF DESIGNATED FORESTLANDS ~~UNDER THE PRODUCTIVITY OPTION~~ (RULE 962).
Section 63-1705, Idaho Code

01. Forestland Valuation Process. The process used to determine the forestland value under the productivity option shall be as specified in the User's Guide referenced in Section 63-1701, Idaho Code. (4-11-06)

02. Forest Valuation Zones. The state shall be divided into four (4) forest valuation zones: (7-1-99)

a. ZONE 1 - Boundary, Bonner, Kootenai counties. (7-1-97)

b. ZONE 2 - Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, Idaho counties. (7-1-97)

c. ZONE 3 - Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka counties. (7-1-97)

d. ZONE 4 - The remaining nineteen (19) counties. (7-1-97)

03. Classification of Forestlands. In all forest valuation zones, there shall be three (3) separate productivity classes of forestland: poor, medium, and good. These broad classes are related in the following manner by definition to the "Meyer Tables" published in "Yield of Even-Aged Stands of Ponderosa Pine" and "Haig Tables" published in "Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type" as both documents are referenced in Rule 006 of these rules. These classes apply to forestland which may or may not be stocked with commercial or young growth timber. (4-11-06)

a. Poor productivity class is defined as forestland having a mean annual increment, MAI, of one hundred twenty-five (125) board feet per acre per year, based on a seventy-three (73) year rotation. This productivity class includes western white pine site index 35-45 and Ponderosa pine site index 45-80. One hundred twenty-five

(125) board feet per acre MAI shall be used in the valuation process. (4-11-06)

b. Medium productivity class is defined as forestland having a mean annual increment, MAI, of two hundred twenty-five (225) board feet per acre per year, based on an sixty-eight (68) year rotation. This productivity class includes western white pine site index 46-60 and Ponderosa pine site index 81-110. Two hundred twenty-five (225) board feet per acre MAI shall be used in the valuation process. (4-11-06)

c. Good productivity class is defined as forestland having a mean annual increment, MAI, of three hundred fifty (350) board feet per acre per year, based on an sixty-three (63) year rotation. This productivity class includes western white pine site index 61 and above and Ponderosa pine site index 111 and above. Three hundred fifty (350) board feet per acre MAI shall be used in the valuation process. (4-11-06)

d. For forest valuation zones 1 and 2, forestland shall be stratified into areas of similar productive potential using the habitat typing methodology described in "Forest Habitat Types of Northern Idaho: A Second Approximation," referenced in Rule 006 of these rules. Within these stratified areas, site index trees will be selected and measured that will identify the site index to be used to place the land in one (1) of the three (3) productivity classes listed above. (5-3-03)

e. For forest valuation zones 3 and 4, the criteria for stratification shall be generally the same as that used in zones 1 and 2 based on the habitat typing methodology described in "Forest Habitat Types of Central Idaho," as referenced in Rule 006 of these rules, with the following adjustments made in growth rates for lower moisture levels: ()

i. For ~~P~~poor productivity class, one hundred twenty-five (125) board feet per acre MAI shall be used in the valuation process: ()

ii. For ~~M~~medium productivity class, two hundred thirteen (213) board feet per acre MAI shall be used in the valuation process: and ()

iii. For ~~G~~good productivity class, three hundred twenty (320) board feet per acre MAI shall be used in the valuation process. (4-11-06) ()

04. **Deficient Areas.** Lakes, solid rock bluffs, talus slopes, and continuously flooded swampy areas, larger than five contiguous acres in size which can be identified through remote sensing shall be valued at forty percent (40%) of the poor bare land value as defined in Section 63-1706, Idaho Code. These areas are defined as being incapable of growing trees. (4-11-06)

05. **Reclassification of Forestlands.** Except as provided in Subsection 962.06 of this rule, no parcel's productivity classification can be changed from the classification as of January 1, 2016, until requirements for landowner notification, inspector qualifications, and document retention have been met. ()

a. Landowner notification. Notice of intent to change classification must be provided in writing to the landowner of record or their designee within two (2) weeks of any determination by the county assessor of intent to change classification. Such notice must be provided no later than the first Monday in November for the change to be in effect during the following year. Notice may be delivered in person or by U.S. mail, or, if agreed to by the assessor and the landowner, by electronic mail. Notice of intent to change classification includes: ()

i. A statement of intent to change the classification; ()

ii. A statement of the present classification and the intended new classification; ()

iii. A statement that the intent notice is not an assessment notice and that the assessment notice will be sent by the first Monday in June in the following year; ()

iv. A statement that both the taxable value stated on the assessment notice and the classification may be appealed to the county board of equalization as provided in Section 63-501A, Idaho Code; and ()

- v. Contact information indicating assessor's office staff who may be contacted and how to do so. ()
- b. Inspector qualifications. The inspector is the person assigned by the county assessor to review property characteristics and complete a timberland classification form provided by the state tax commission. The inspector must be proficient in each of the following: ()
- i. Navigating forest locations; ()
- ii. Skilled mapping techniques; ()
- iii. Establishment of plot locations; ()
- iv. Plant and tree identification; and ()
- v. Site tree identification and measurements. ()
- c. Inspector proficiency. Inspector proficiency must be established by a minimum of twelve (12) months of experience doing fieldwork, including reviewing the characteristics of timberland and: ()
- i. Passing a tax commission sponsored class on timberland appraisal and inspection; or ()
- ii. Passing equivalent courses from an accredited college or university; or ()
- iii. Obtaining a degree in forestry or a related field from an accredited institution. ()
- d. Documentation and retention. Documentation related to timberland productivity classification shall be retained for no less than ten (10) years following classification determination. Documentation shall include, but is not limited to: ()
- i. Timberland characteristics, on a form provided by the tax commission, with sufficient detail to verify the classification, including the calculation of productivity class as set forth in Subsection 962.03 of this rule; ()
- ii. The location of any field plots and any site trees using map or Global Positioning System (GPS) coordinates; ()
- iii. A map illustrating property boundaries, habitat type based stratifications as provided in Subsection 962.03 of these rules, and plot locations used in the determination of productivity class; ()
- iv. Any imagery used to assess the parcel prior to field review; ()
- 06. Alternate Method to Establish Productivity Classification. Provided the county assessor and forestland owner agree and the data is deemed by the county to be acceptable and accurate, the data used to establish any parcel's productivity classification may be provided by the forestland owner. In this case, inspector qualifications and proficiency provisions of this rule will not apply.** ()
- a. Data to be considered confidential. When productivity data is provided to the county by the forestland owner, it shall be deemed confidential financial information and not subject to public disclosure, as provided in Section 004 of these rules. ()
- b. Inspector certification not required. When the alternate method described in this section is to be used, the county shall not be required to have a certified inspector to review property characteristics. ()
- c. Acceptable classification. To be considered acceptable, the classification of the timberland so established must result in market value for assessment purposes as defined in Section 63-1705(3), Idaho Code. ()

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1802
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 702 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, [Vol. 18-9, pages 385–386](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7742.

Dated this 14th day of November, 2018.

Alan Dornfest, Property Tax Policy Bureau Chief
State Tax Commission
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
alan.dornfest@tax.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5221(1) and 63-105(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 702: HB492 (2018) provides a benefit of property tax reduction for veterans with a 100% service connected disability. This rule clarifies that benefit continues for a surviving spouse but the surviving spouse may not transfer the benefit to a different homestead. The rule further clarifies that if an otherwise eligible claimant dies between January 1 and April 14 the spouse may file an application on behalf of the deceased veteran and receive the benefit.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Volume 18-6, page 110](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7742.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 31st day of July, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-1802

702. VETERAN'S BENEFIT – CONTINUED ELIGIBILITY AFTER DEATH OF CLAIMANT (RULE 702).

Sections 63-701, and 63-705A, Idaho Code

01. Surviving Spouse. The veteran's benefit applies to the qualifying homestead, as defined in Section 63-701(2), Idaho Code, of the veteran and surviving spouse. The surviving spouse may not transfer the benefit to a different homestead. ()

02. Application By Surviving Spouse. The surviving spouse may file an application on behalf of the deceased spouse if the deceased spouse qualified or would have qualified as a claimant on January 1 or before April 15 of the year in which the claim is filed. ()

7023. -- 708. (RESERVED)

IDAPA 35 – STATE TAX COMMISSION
35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0103-1803
NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 600 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, [Vol. 18-9, pages 387–388](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Alan Dornfest, (208) 334-7742.

Dated this 14th day of November, 2018.

Alan Dornfest, Property Tax Policy Bureau Chief
State Tax Commission
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7742
alan.dornfest@tax.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 67-5221(1) and 63-105(a), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 600 explains the newly enacted provisional exemption (HB559 - 2018) which may be granted to property to be used for a tax exempt purpose. The rule points out that the date (May 15) found in Section 63-602(C), Idaho Code, which is the date by which the county commissioners must notify the taxpayer of their decision to grant or deny most exemptions, does not apply to this provisional exemption found in Section 63-1305C, Idaho Code. The exemption may be applied for at the time the building permit is applied for or at the time renovation starts, whichever date is earlier. Only the part of the property that will be used for an exempt purpose may be included in the exemption. The rule defines “property that is being constructed” to include land and associated personal property. The exemption does not apply to the property included on the current tax roll until the next tax year (January 1), however any additions to the property during the year in which the exemption is granted shall not be taxed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 5, 2018 Idaho Administrative Bulletin, [Volume 18-7, page 177](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest at (208) 334-7742.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 31st day of July, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-1803

600. PROPERTY EXEMPT FROM TAXATION (RULE 600).

Sections 63-602 and 63-1305C, Idaho Code

01. Burden of Proof. The burden of proof of entitlement to the exemption is on the person claiming exemption for the property. (4-4-13)

02. Notice of Decision. (4-4-13)

a. For property subject to local assessment with exemptions requiring annual application as specified in the statute providing the exemption or in Section 63-602(3), Idaho Code, the taxpayer must be notified of the decision of the county commissioners to grant or deny the exemption by May 15 unless a different date is prescribed in the law providing the exemption, or if the exemption is provisional pursuant to Section 63-1305C, Idaho Code. (4-4-13)()

b. For property subject to assessment by the State Tax Commission, application for any exemption shall be included with the operator's statement to be submitted as provided in Section 404, of these rules. (4-4-13)

03. Confidentiality. Information disclosed as part of an application for an exemption is confidential to the extent provided by in Section 74-107, Idaho Code, or elsewhere in law. Information disclosed to the county commissioners as part of the application process for an exemption shall be deemed submitted to the assessor and entitled to any confidentiality that would have been conferred had such information been disclosed initially to the assessor. (4-4-13)

04. Provisional Exemptions. The following definitions apply in determining the extent and process for applying for the provisional exemption provided in Section 63-1305C, Idaho Code. ()

a. "Property that is being constructed." Property that is being constructed or renovated may include land, buildings, and associated personal property that would receive an exemption once the construction is complete and the property is used for exempt purposes. ()

i. If part of the land or other property owned by the entity seeking the exemption is to be used for non-exempt purposes, that part shall not be eligible for the provisional exemption. ()

ii. Land and existing buildings that will be considered exempt upon use of the property for exempt purposes, but that were taxable on January 1 of a tax year during which the provisional exemption was granted may be granted the provisional exemption beginning the immediately following tax year. Renovations and personal property related to the exempt purpose of the property, but that add otherwise taxable value during the tax year during which the provisional exemption is granted, shall not be taxed. ()

iii. Application for the provisional exemption may be filed with the county commissioners at any time once a building permit is issued or renovation begins. Deadlines for application and notification of the decision of the county commissioners found in Section 63-602(3), Idaho Code, do not apply. ()

b. "Property owner." The property owner may apply for the provisional exemption provided the intended use of the property is to fulfill a purpose that is exempt from property tax. The owner must apply for the exemption, but need not be an exempt entity or the intended user. ()

IDAPA 35 – STATE TAX COMMISSION

35.01.06 – HOTEL/MOTEL ROOM AND CAMPGROUND SALES TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0106-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 003 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, [Vol. 18-9, pages 389-390](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Leah.Parsons@tax.idaho.gov

<p>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</p>

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-0105(2), 63-3624(a), 63-3635, 63-3039, and 63-1801 through 63-1804, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 003 – This rule provides guidance on where a taxpayer can find information about the administrative appeals process available to them. Currently the rule contains only one statutory reference. The proposed rulemaking will add references to additional areas within Idaho Code and Administrative Rules. Specifically, Sections 63-3626, 63-3631, 63-3633, and 63-3634, Idaho Code, a reference to Rule 121 of the Sales and Use Tax Administrative Rules, and IDAPA 35.02.01, “The Tax Commission Administration and Enforcement Rules.”

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 112](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leah Parsons, (208) 334-7531.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 3rd day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0106-1801

003. ADMINISTRATIVE APPEALS (RULE 003).

01. Administrative Relief. This chapter ~~does~~ allows administrative relief ~~of the provisions outlined herein under~~ as provided in Sections 63-3626, 63-3631, 63-3633, 63-3634, and 63-3049, Idaho Code. (7-1-93) ()

02. Cross Reference. ()

a. See IDAPA 35.01.02.121 "Idaho Sales and Use Tax Administrative Rules." ()

b. See IDAPA 35.02.01. "Tax Commission Administration and Enforcement Rules." ()

IDAPA 35 – STATE TAX COMMISSION

35.01.09 – IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 23-1323, and 23-1303, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 016 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the June 6, 2018, Idaho Administrative Bulletin, [Vol. 18-6, pages 113–115](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams at (208) 334-7855.

Dated this 14th day of November, 2018.

Don Williams, Tax Policy Specialist
State Tax Commission/Product Tax
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7844
don.williams@tax.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105 and 23-1323, and 23-1303, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 20, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Wine Tax Rule 016 – Wine Tax Returns and Reports – The rule incorrectly uses “wholesaler” when referring to a wine distributor. Pursuant to Section 23-1303(1)(c), Idaho Code, anyone distributing wine is a “distributor.” The rule is being amended to correct the term “wholesaler” to “distributor”.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed rule changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Williams, (208) 334-7855. For general questions, contact Kimberlee Stratton, (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 27, 2018.

DATED this 3rd Day of May, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0109-1801

016. WINE TAX RETURNS AND REPORTS (RULE 016).

Section 23-1322, Idaho Code

01. Due Date of Reports. Every person liable for the payment of taxes on wine and every person responsible for making reports to the Commission shall, on or before the 15th day of the month following the end of the reporting period, file a written report with the Commission showing all sales of wine for use or delivery within Idaho during the immediately preceding reporting period. Taxes payable with respect to such sale, distribution, or disposition shall be paid by the person liable therefor, at the time such report is filed. (3-29-10)

a. Monthly Filing Generally Required. All persons who pay wine tax are required to remit the tax to the state on a monthly basis unless a different reporting period is prescribed by the Commission. The remittance will include all wine tax due from the first through the last day of the preceding calendar month. (3-29-10)

b. Request to File Quarterly or Semiannually. Distributors or persons who owe six hundred dollars (\$600) or less per quarter and have established a satisfactory record of timely filing and payment of the wine tax may request permission to file quarterly or semiannually instead of monthly. (3-29-10)

c. Request to File Annually. Wine direct shippers, distributors, or persons who have seasonal activities may request permission to file annually. Approval of the request is at the discretion of the Commission and is limited to taxpayers who have established a satisfactory record of timely filing and payment of the tax. (3-29-10)

d. Final Report. Whenever a taxpayer who is required to file returns under the Idaho County Option Kitchen and Table Wine Act or these rules stops doing business, he must mark cancel on the last report he files. This report ends the taxable year for wine tax purposes and constitutes the taxpayer's final report of wine tax liabilities. The taxpayer must enclose his permit with his request for cancellation or send a written statement that the permit has been destroyed. If the taxpayer continues business activity after filing a final report, he may be subject to liabilities or penalties for failing to comply with the Idaho County Option Kitchen and Table Wine Act and these rules. (3-29-10)

02. Weekend or Holiday Due Date. For purposes of this rule, if the 15th day of any month following the end of a reporting period shall fall upon Saturday, Sunday or a legal holiday, then the due date for the report or the payment of the taxes, or both, required by this Act shall be the first business day thereafter. (3-29-10)

03. Prescribed Forms. (7-1-93)

a. All importers engaged in the sale or other disposition of wine imported into Idaho shall report all sales and dispositions of wine on forms either provided by or approved by the Commission. (3-29-10)

b. Distributors of wine must report all additions to and sales or dispositions out of inventory, whether taxable or tax exempt, using inventory reporting methods on forms provided by the Commission. (7-1-93)

c. In-state distributors, wineries, vintners, producers or manufacturers shall use Form 1752 and related forms to report withdrawals, sales, or other dispositions from inventory. Withdrawals from inventory for the purpose of resale or consumption in, by, or through any tasting room or retail facilities owned or operated by the winery are subject to tax at the time of withdrawal from the winery's inventory. (3-30-07)

d. All persons liable for wine tax must file a wine tax return provided by the State Tax Commission. The returns must show the relevant information required for computing the amount of tax due, including: (3-30-07)

i. The name, address, telephone number and permit number of the taxpayer. (3-30-07)

- ii. Beginning and ending inventories. (3-30-07)
- iii. Wine purchases made during the reporting period. (3-30-07)
- iv. Exempt sales and transfers including sales to in-state and out-of-state ~~wholesalers~~ distributors and sales to military or liquor dispensaries. ~~(3-30-07)~~ ()
- v. Purchases and sales of wine in odd size containers. (3-30-07)
- vi. Spoilage. (3-30-07)
- vii. Total taxable gallons. (3-30-07)
- viii. Credits from previous periods, if any. (3-30-07)
- ix. Total tax due. (3-30-07)
- x. Penalty and interest due, if any. (3-30-07)

04. Requirements of a Valid Return. A tax return or other documents required to be filed in accordance with Section 23-1322, Idaho Code, and this rule must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return will be considered to have filed no return. A taxpayer's failure to properly file in a timely manner may cause certain penalties to be imposed by Sections 63-3030A, 63-3046, and 63-3075, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." (3-30-07)

a. All wine tax return forms must be completed and copies of all pertinent supporting schedules or computations must be attached. The results of supporting computations must be carried forward to applicable lines on the wine tax return form. (7-1-93)

b. All wine tax returns or other documents filed by the taxpayer must include his wine tax permit number and Federal Taxpayer Identification Number in the space provided. (7-1-93)

c. A wine tax return that does not provide sufficient information to compute a tax liability does not constitute a valid wine tax return. (7-1-93)

d. Perfect accuracy is not a requirement of a valid return, even though each of the following conditions is required it must be on the proper form, as prescribed by the State Tax Commission; it must contain a computation of the tax liability and sufficient supporting information to demonstrate how that result was reached; and it must show an honest and genuine effort to satisfy the requirement of the law. (3-30-07)

IDAPA 35 – STATE TAX COMMISSION

35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-2510, and 63-2510A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 015 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, [Vol. 18-9, pages 391–392](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams at (208) 334-7855.

Dated this 14th day of November, 2018.

Don Williams, Tax Policy Specialist
State Tax Commission/Product Tax
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7844
don.williams@tax.idaho.gov

THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105, 63-2516, 63-2523, and 63-3039, Idaho Code, and Sections 63-2510 and 63-22510A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Send requests for accommodation at least five (5) days prior to the hearing, to the agency contact below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 015, Stamps--Source, Amount, and Limitations – The proposed rule limits all wholesalers that stamp cigarettes to an unused stamp inventory equal to two times their average tax liability. Bonded and unbonded wholesalers will have the same limitations on their unused stamp inventory.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 116](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact the undersigned using the information below.

Anyone may submit written comments regarding this proposed rulemaking. Send all written comments to the undersigned on or before September 26, 2018.

Dated this 31st day of July, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0110-1801

015. STAMPS-SOURCE, AMOUNT, AND LIMITATIONS (RULE 015).
Sections 63-2510 and 63-2510A, Idaho Code

- 01. Obtaining Stamps.** Cigarette stamps may only be obtained ~~at~~ from the Boise office of the Commission. ~~(7-1-93)~~()
- 02. Unused Stamp Inventory.** Wholesalers may not hold an inventory of unused Idaho ~~cigarette stamps, the face value of which exceeds the amount of their bonding or three months estimated average tax liability whichever is greater. See Rule 017 of these rules regarding bonding.~~ Where no bond is required, wholesalers may not hold an inventory of unused Idaho cigarette stamps, the face value of which exceeds two (2) times the wholesaler's average monthly tax liability. ~~(7-1-93)~~()
- 03. Filing and Paying Timely.** Failure to file a cigarette tax return or pay the tax on a timely basis will result in no additional stamps being issued by the Commission to a wholesaler until clear and convincing evidence is received by the Commission that the return has been filed or ~~that~~ the tax has been paid. ~~(7-1-93)~~()
- 04. Physical Security.** Wholesalers are responsible for the face value of all stamps received from the Commission. Wholesalers must provide ~~proper~~ physical security for the stamps in their possession. ~~(7-1-93)~~()

IDAPA 35 – STATE TAX COMMISSION

35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-1802

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105, 63-3039, 63-2516, 63-2563, and 63-2502, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There are no changes to Rules 003 and 018, and they are being adopted as originally proposed. The complete text of the proposed rules were published June 6, 2018, Idaho Administrative Bulletin, [Vol. 18-6, pages 117–119](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Don Williams, (208) 334-7855.

Dated this 14th day of November, 2018.

Don Williams, Tax Policy Specialist
State Tax Commission/Product Tax
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7855
Fax: (208) 334-7844
don.williams@tax.idaho.gov

<p>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</p>

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105, 63-3039, 63-2516, 63-2563, and 63-2510, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 20, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Tobacco Tax Rule 003 – Administrative Appeals – The rule will be amended to include all the codes and rules in the administrative appeals process, including the requirements to file an appeal and other steps prior to possible judicial review.

Tobacco Tax Rule 018 – Cigarette Tax Return – The rule will correct the titles of “distributor” and “wholesaler” in the rule to match statute.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the proposed rule changes.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Don Williams, (208) 334-7855. For general questions, contact Kimberlee Stratton, (208) 334-7544.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 27, 2018.

DATED this 3rd Day of May, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0110-1802

003. ADMINISTRATIVE APPEALS (RULE 003).

Sections 63-2516 and 63-2563, Idaho Code

This chapter ~~does~~ allows administrative relief ~~of the provisions outlined herein under~~ as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code, and related rules. (7-1-93)()

(BREAK IN CONTINUITY OF SECTIONS)

018. CIGARETTE TAX RETURN (RULE 018).

Section 63-2510, Idaho Code

01. Cigarette Tax Return. All cigarette wholesalers required to affix Idaho stamps to cigarettes, or who make sales to U.S. military or Indians on reservations, or who have a stamping warehouse or business located within this state and sell cigarettes in interstate commerce are required to file an Idaho cigarette tax return. (7-1-93)

02. Filing Returns. The return shall be in a form prescribed by the Commission and shall be filed on a monthly basis. (7-1-93)

03. Due Date. The return will be filed by the wholesaler on or before the twentieth day of the month immediately following the month to which the return applies. If the twentieth day falls on a Saturday, Sunday, or legal holiday, the return shall be due on the next following day which is not a Saturday, Sunday, or legal holiday. The return must account for and tax must be paid on all cigarette stamps affixed during the month to which the return applies. (4-11-06)

04. Requirements of a Valid Return. A tax return or other documents required to be filed in accordance with Section 63-2510, Idaho Code, and this rule must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return will be considered to have filed no return. A taxpayer's failure to properly file in a timely manner may cause certain penalties to be imposed by Sections 63-3030A, 63-3046, and 63-3075, Idaho Code, and rules thereunder. (7-1-93)

a. All cigarette tax return forms must be completed and copies of all pertinent supporting schedules or computations must be attached. The results of supporting computations must be carried forward to applicable lines on the cigarette tax return form. (7-1-93)

b. All cigarette tax returns or other documents filed by the taxpayer must include his cigarette wholesaler's permit number and Federal Taxpayer Identification Number in the space provided. (7-1-93)

c. A cigarette return that does not provide sufficient information to compute a tax liability does not constitute a valid cigarette tax return. (7-1-93)

d. Perfect accuracy is not a requirement of a valid return, even though each of the following conditions is required: it must be on the proper form, as prescribed by the Commission; it must contain a computation of the tax liability and sufficient supporting information to demonstrate how that result was reached; and it must show an honest and genuine effort to satisfy the requirement of the law. (7-1-93)

05. Failure to File a Return. Any wholesaler required to file a return who fails to file such return shall be in violation of this regulation and shall be required to appear before the Commission to show cause as to why his permit should not be revoked. See Section 63-2503, Idaho Code. (7-1-93)

06. Implementation of Tobacco Master Settlement Agreement. Chapter 78, Title 39, Idaho Code, enacted as part of the settlement agreement with several cigarette manufacturers requires nonparticipating manufacturers to place certain funds in escrow accounts. The State Tax Commission is required to ascertain the amount of state excise tax paid on cigarettes manufactured by manufacturers that are not participating in the Master Settlement Agreement. Therefore, as part of the cigarette tax return, cigarette wholesalers must report separately the number of Idaho cigarette stamps affixed to products manufactured by manufacturers that are not participating in the Master Settlement Agreement. (4-5-00)

07. Wholesale Sales of Stamped Cigarettes. Every ~~distributor~~ wholesaler who imports unstamped cigarettes into this state must file a return, however; a cigarette ~~distributor~~ wholesaler who buys only stamped cigarettes for resale is not required to file a return. (4-11-06)()

IDAPA 35 – STATE TAX COMMISSION

35.01.14 – PREPAID WIRELESS E911 FEE ADMINISTRATIVE RULES

DOCKET NO. 35-0114-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 003 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 5, 2018, Idaho Administrative Bulletin, [Vol. 18-9, pages 393-394](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Leah Parsons at (208) 334-7531.

Dated this 14th day of November, 2018.

Leah Parsons
Tax Policy Specialist
Idaho State Tax Commission
800 Park Blvd, Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7531
Leah.Parsons@tax.idaho.gov

<p>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</p>

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105(2), 31-4813, 63-3631, 63-3045, 63-3045A, 63-3045B, 63-3049, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 003 – Currently the Prepaid Wireless E911 Fee Administrative Rules only reference statutes related to administrative appeals and lack a reference to IDAPA 35.02.01 and IDAPA 35.01.02.121. We will add reference to IDAPA 35.02.01 and 35.01.02.121 (Rules relating to appeals in the Tax Commission Administration and Enforcement Rules and Sales Tax Rules).

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the July 4, 2018 Idaho Administrative Bulletin, [Vol. 18-7, page 193](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Leah Parsons, (208) 334-7531.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 20th day of August, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0114-1801

003. ADMINISTRATIVE APPEALS.

01. Administrative Relief. This chapter allows administrative relief as provided in Sections 31-4813, 63-3631, 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. ~~(3-20-14)~~ ()

02. Cross Reference. ()

a. See IDAPA 35.01.02.121 “Idaho Sales and Use Tax Administrative Rules.” ()

b. See IDAPA 35.02.01. “Tax Commission Administration and Enforcement Rules.” ()

IDAPA 35 – STATE TAX COMMISSION

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-1801

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2019 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 63-105 and 63-2427, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule:

There is no change to Rule 310 and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 3, 2018, Idaho Administrative Bulletin, [Vol. 18-10, pages 451–454](#).

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cynthia Adrian, (208) 334-7670.

Dated this 14th day of November, 2018.

Cynthia Adrian, Income Tax Policy Specialist
State Tax Commission
800 Park Blvd. Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7844
Cynthia.Adrian@tax.idaho.gov

<p>THE FOLLOWING NOTICE PUBLISHED WITH THE PROPOSED RULE</p>

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 63-105, and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 17, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule 310 is being amended to add the interest rate for calendar year 2018 and the Revenue Ruling where the federal rate for the calculation can be found.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were of a simple nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian at (208) 334-7670.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, October 24, 2018.

Dated this 3rd day of October, 2018.

[LINK: LSO Rules Analysis Memo](#)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-1801

310. INTEREST RATES (RULE 310).
Sections 63-3045 and 63-3073, Idaho Code

01. In General. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year is determined in accordance with Section 63-3045, Idaho Code. The rates starting with the rate applicable at July 1, 1981, and the Internal Revenue Service Revenue Rulings, if applicable for the calculation of the rate, are listed in Subsection 310.02 of this rule. These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code.
(4-6-05)

02. Idaho Interest Rates and Applicable Revenue Rulings.

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
July 1, 1981, through December 31, 1993	12% simple interest	Not Applicable
Calendar Year 1994	7% simple interest	Revenue Ruling 93-64
Calendar Year 1995	9% simple interest	Revenue Ruling 94-61
Calendar Year 1996	8% simple interest	Revenue Ruling 95-67
Calendar Year 1997	9% simple interest	Revenue Ruling 96-49
Calendar Year 1998	8% simple interest	Revenue Ruling 97-41
Calendar Year 1999	7% simple interest	Revenue Ruling 98-50
Calendar Year 2000	8% simple interest	Revenue Ruling 99-41
Calendar Year 2001	8% simple interest	Revenue Ruling 2000-45
Calendar Year 2002	7% simple interest	Revenue Ruling 2001-49
Calendar Year 2003	5% simple interest	Revenue Ruling 2002-61
Calendar Year 2004	6% simple interest	Revenue Ruling 2003-107
Calendar Year 2005	6% simple interest	Revenue Ruling 2004-69
Calendar Year 2006	6% simple interest	Revenue Ruling 2005-57
Calendar Year 2007	7% simple interest	Revenue Ruling 2006-44
Calendar Year 2008	7% simple interest	Revenue Ruling 2007-57
Calendar Year 2009	5% simple interest	Revenue Ruling 2008-46
Calendar Year 2010	5% simple interest	Revenue Ruling 2009-29
Calendar Year 2011	4% simple interest	Revenue Ruling 2010-20
Calendar Year 2012	4% simple interest	Revenue Ruling 2011-20
Calendar Year 2013	3% simple interest	Revenue Ruling 2012-24

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
Calendar Year 2014	4% simple interest	Revenue Ruling 2013-18
Calendar Year 2015	4% simple interest	Revenue Ruling 2014-22
Calendar Year 2016	4% simple interest	Revenue Ruling 2015-19
Calendar Year 2017	3% simple interest	Revenue Ruling 2016-20
Calendar Year 2018	4% simple interest	Revenue Ruling 2017-17
<u>Calendar Year 2019</u>	<u>5% simple interest</u>	<u>Revenue Ruling 2018-23</u>

~~(3-28-18)~~()