

PENDING RULES COMMITTEE RULES REVIEW BOOK

**Submitted for Review Before
Senate Local Government
& Taxation Committee
66th Idaho Legislature
First Regular Session – 2021**



Prepared by:

*Office of the Administrative Rules Coordinator
Division of Financial Management*

January 2021



State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

January 11, 2021

MEMORANDUM

TO: **Members of the 2021 Idaho State Legislature**

FROM: **Alex J. Adams, Administrator** *Alex J. Adams*
Bradley A. Hunt, Rules Coordinator *Bradley A. Hunt*

SUBJECT: **Overview of Executive Agency Rulemaking in 2020**

Background. Governor Little initiated a rules moratorium for calendar year 2020 and thus the volume of rulemaking is down substantially relative to most years. Most rules published in the Legislative Rules Review book are simply re-published because the 2020 Legislature adjourned *sine die* without passing a concurrent resolution approving any pending fee rules as specified in Section 67-5224, Idaho Code. The necessary fee rules were re-published in the following special bulletins:

- [April 15](#) – Temporary Fee Rules
- [September 16](#) – Proposed Fee Rules
- [November 18](#) – Pending Fee Rules

Changes in Existing Fee Rules. Since all fee rules expired upon sine die, there is no existing rule available to amend. Therefore, only a clean version of the rule chapter is able to be presented to the Legislature in January 2021. In some cases, fee rules were modified based on public comment, or to implement Executive Order [2020-13](#), among other reasons. Given the unprecedented volume, all edits are incorporated within a single docket and presented as a clean fee rule chapter. There are several ways that legislators may view previous rules for comparison purposes:

- An [archive of any rule](#) since 1996 is available on the DFM website. This allows legislators to see the evolution of a rule over time.
- The Legislative Services Office analyzes all proposed rules. You can find their analysis of proposed rules which, in some cases, may discuss changes to rules between sine die and the proposed rules. These may be found on the [Legislature's website](#).
- Changes made between the proposed and pending rule stages were noted in the [November 18th](#) bulletin where applicable.

Process for Approving/Extending Rules. Below, you will find a brief description on legislative actions and outcomes regarding the rules review process and contents of the Legislative Rules Review Books:

- Pending Fee Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to become final.
- Temporary Rules must be affirmatively approved by both bodies via adoption of concurrent resolution to be extended.
- Pending Rules become final and effective sine die unless rejected, in whole or in part, via concurrent resolution adopted by both bodies.
 - Pending rules may be approved, in whole or in part, or rejected if determined to be inconsistent with legislative intent of the governing statute.
 - If rejected, new or amended language must be identified at a numerical or alphabetical designation within the rule and specified in the concurrent resolution.
- A link to LSO's proposed rule analysis is provided at the beginning of each docket and includes any required supporting documentation (e.g. Cost Benefit Analysis (CBA), Incorporation By Reference Synopsis (IBRS)) as part of the analysis.
- All 2021 review books can be accessed on the DFM website [here](#).

Contact Information. If questions arise during the rules review process, please do not hesitate to contact the Rules Coordinator, Brad Hunt: Brad.Hunt@dfm.idaho.gov; 208-854-3096.

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

ADMINISTRATIVE RULES REVIEW

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NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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, 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.

- Section 075—We propose to remove the oldest tax table and replace it with most current tax table.
- Section 263—We propose to add one line to the table for the year and amount of guaranteed payments sourced as compensation for services.
- Section 799—We propose to add the new credit to the priority list per 2020 HB550. Some credits are limited to 50% of your tax liability and others are not. There's a mix of refundable and nonrefundable credits, so the sequence of use matters and it's governed by law. We will add a short sentence for the employee college savings account credit to match the existing pattern.
- Sections 940, 943, 944 & 945—We propose to change the program end date from December 31, 2020 to December 31, 2030 per 2020 HB510.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the September 2, 2020 Idaho Administrative Bulletin, [Volume 20-9, pages 87-98](#).

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 Tami Ryals at (208) 334-7670.

Dated this 6th day of January, 2021.

Tami Ryals, Income Tax Policy Specialist
State Tax Commission
11321 Chinden Blvd., Bldg. 2
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7690
tami.ryals@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 Section 63-105, 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 16, 2020. The hearing site 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:

- Section 075—We propose to remove the oldest tax table and replace it with most current tax table.
- Section 263—We propose to add one line to the table for the year and amount of guaranteed payments sourced as compensation for services.
- Section 799—We propose to add the new credit to the priority list per 2020 HB550. Some credits are limited to 50% of your tax liability and others are not. There's a mix of refundable and nonrefundable credits, so the sequence of use matters and it's governed by law. We will add a short sentence for the employee college savings account credit to match the existing pattern.
- Sections 940, 943, 944 & 945—We propose to change the program end date from December 31, 2020, to December 31, 2030, per 2020 HB510.

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 these are simple updates required by statute.

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, using the contact information below.

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 23, 2020.

Dated this 2nd day of September, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-2001

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)

~~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
\$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)~~

~~a.~~ 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

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$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)

eb. 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)

ec. 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.

(3-26-19)

ed. For taxable years beginning in 2019:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,541	\$0	+	1.125% of taxable income
\$1,541	\$3,081	\$17.33	+	3.125% of the amount over \$1,541
\$3,081	\$4,622	\$65.47	+	3.625% of the amount over \$3,081
\$4,622	\$6,162	\$121.32	+	4.625% of the amount over \$4,622
\$6,162	\$7,703	\$192.57	+	5.625% of the amount over \$6,162
\$7,703	\$11,554	\$279.22	+	6.625% of the amount over \$7,703
\$11,554 or more		\$534.37	+	6.925% of the amount over \$11,554

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2019.

(3-20-20)

e. For taxable years beginning in 2020:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,568	\$0	+	1.125% of taxable income
\$1,568	\$3,136	\$17.64	+	3.125% of the amount over \$1,568
\$3,136	\$4,704	\$66.64	+	3.625% of the amount over \$3,136
\$4,704	\$6,272	\$123.48	+	4.625% of the amount over \$4,704
\$6,272	\$7,840	\$196.00	+	5.625% of the amount over \$6,272
\$7,840	\$11,760	\$284.20	+	6.625% of the amount over \$7,840
\$11,760 or more		\$543.90	+	6.925% of the amount over \$101,760

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.

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(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>2020</u>	<u>\$274,360</u>
2019	\$269,500
2018	\$263,000
2017	\$257,500
2016	\$254,250

~~(3-20-20)~~()

05. Distributions. (2-27-12)

a. Partnerships. The amount of distributions received by a partner that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 731, Internal Revenue Code, by the Idaho apportionment factor of the partnership. (2-27-12)

b. S Corporations. The amount of distributions received by a shareholder that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 1368, Internal Revenue Code, by

the Idaho apportionment factor of the S corporation. (2-27-12)

c. The Idaho apportionment factor for purposes of Paragraphs 263.05.a. and 263.05.b. of this rule is determined pursuant to Section 63-3027, Idaho Code, and related rules. (2-27-12)

(BREAK IN CONTINUITY OF SECTIONS)

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 Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)

i. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)

j. Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-11-06)

k. Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-11-06)

l. Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-11-06)

m. Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (3-30-07)

n. Idaho child tax credit as authorized by Section 63-3029L, Idaho Code. (3-26-19)

[o. Credit for employer contributions to employee's Idaho college savings program account as authorized by Section 63-3029M, Idaho Code.](#) ()

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

- a. Adjustments to the amount of a credit earned is 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 also applies 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 does 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)

940. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION – DEFINITIONS (RULE 940).

Title 63, Chapter 44, Idaho Code. For purposes of administering the Idaho Small Employer Incentive Act of 2005, as modified by 2006 legislation, and Rules 940 through 946 of these rules, the following definitions apply: (3-30-07)

01. Buildings and Structural Components. Buildings and structural components means buildings and structural components of buildings as defined in Federal Treasury Regulation Section 1.48-1 for Internal Revenue Code Section 48 repealed by Public Law 101-508. (3-30-07)

02. New Plant and Building Facilities. New plant and building facilities are facilities where employees are physically employed. (3-30-07)

03. Investment in New Plant. Investment in new plant means new plant and building facilities: (3-30-07)

a. That are constructed or erected by the taxpayer, or (3-30-07)

b. That are 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 does not qualify as new plant. (3-30-07)

c. That qualify for the investment tax credit under Section 63-3029B, Idaho Code, or is a building or structural components of buildings. (3-30-07)

04. Making Capital Investments. The date capital investments are considered made will be determined in the same manner as the date assets are considered placed in service pursuant to the federal treasury regulations. (3-30-07)

05. New Employee. A new employee cannot be created by reorganizing the business in such a manner that the employee is reassigned to working in the project site instead of outside the project site. An employee within Idaho transferred to a qualifying position within the project site may qualify as a new employee if his previous position is filled by another employee creating a net new job in Idaho. An employee working outside of Idaho and transferred to a qualifying position within the project site may also qualify as a new employee. (3-30-07)

06. Project Period. The project period is a period of time that begins and ends as follows: (3-30-07)

a. The project period may begin on one (1) of the following dates, but not prior to January 1, 2006: (3-29-10)

- i. The date of a physical change to the project site; or (3-30-07)
- ii. The date new employees begin providing personal services at the project site. (3-30-07)
- b.** The project period ends at the earliest of: (3-29-10)
 - i. The conclusion of the project, (3-29-10)
 - ii. Ten (10) years after the beginning of the project; or (3-29-10)
 - iii. December 31, 20~~23~~30. ~~(3-29-10)~~()

07. Project Site. The project site may include one (1) location or more than one (1) location in Idaho. However, if more than one (1) location in Idaho is used, eighty percent (80%) or more of the investment required in the tax incentive criteria is to be located at one (1) contiguous site. (3-30-07)

08. Small Employer Investment Tax Credit. Small employer investment tax credit means the additional income tax credit allowed by Section 63-4403, Idaho Code. (3-30-07)

09. Small Employer New Jobs Tax Credit. Small employer new jobs tax credit means the additional income tax credit for new jobs allowed by Section 63-4405, Idaho Code. (3-30-07)

10. Small Employer Real Property Improvement Tax Credit. Small employer real property improvement tax credit means the real property improvement tax credit allowed by Section 63-4404, Idaho Code. (3-30-07)

11. Small Employer Tax Incentive Criteria. Small employer tax incentive criteria means the tax incentive criteria defined in Section 63-4402(2)(j), Idaho Code. See Rule 942 of these rules for more information. (3-30-07)

12. Small Employer Tax Incentives. Small employer tax incentives means the tax incentives allowed by Title 63, Chapter 44, Idaho Code. (3-30-07)

(BREAK IN CONTINUITY OF SECTIONS)

943. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION – SMALL EMPLOYER INVESTMENT TAX CREDIT (RULE 943).
Sections 63-4403 and 63-4406, Idaho Code

01. Credit Allowed. (3-30-07)

a. The small employer investment tax credit allowed by Section 63-4403, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 20~~23~~30. ~~(3-29-10)~~()

b. The credit applies to qualified investments placed in service during the project period. Qualified investments placed in service during the project period, but in a taxable year that does not qualify, will not qualify for the small employer investment tax credit, but may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, the qualified investments placed in service during that taxable year will not qualify for the small employer investment tax credit, but may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (3-30-07)

02. Taxpayers Entitled to the Credit. The small employer investment tax credit is allowed only to taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)

03. Qualified Investments. (3-30-07)

a. Investments in new plant must meet the definition of qualified investments found in Section 63-3029B, Idaho Code, and requirements of Rules 710 through 719 of these rules, in addition to the requirements of Section 63-4403, Idaho Code, and related rules to qualify as qualified investments. (3-30-07)

b. Qualified investments must be placed in service in Idaho, but may be located in or outside the project site to qualify. (3-30-07)

04. Limitations. The small employer investment tax credit allowable in any taxable year is to be limited as follows: (3-30-07)

a. The small employer investment tax credit claimed during a taxable year may not exceed the lesser of: (3-30-07)

i. Seven hundred fifty thousand dollars (\$750,000); or (3-30-07)

ii. Sixty-two and five-tenths percent (62.5%) of the tax, after allowing all other income tax credits that may be claimed before the small employer 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. (3-30-07)

b. 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. (3-30-07)

05. Carryovers. The carryover period for the small employer investment tax credit is fourteen (14) years. (3-30-07)

06. Coordination with Investment Tax Credit Allowed by Title 63, Chapter 30, Idaho Code. A taxpayer who is eligible to claim the small employer investment tax credit is not eligible to claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. However, if a taxpayer has qualified investments in a taxable year in which the project period begins or ends, the taxpayer may qualify for both the small employer investment tax credit on property placed in service during the project period in that taxable year and for the investment tax credit allowed by Section 63-3029B, Idaho Code, for property placed in service before or after the project period in that taxable year. (3-30-07)

944. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION – SMALL EMPLOYER REAL PROPERTY IMPROVEMENT TAX CREDIT (RULE 944). Sections 63-4404 and 63-4406, Idaho Code

01. Credit Allowed. (3-30-07)

a. The small employer real property improvement tax credit allowed by Section 63-4404, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 20~~23~~³⁰. ~~(3-29-10)~~()

b. The credit applies to buildings and structural components of buildings placed in service during the project period. Qualified investments placed in service during the project period, but in a taxable year that does not qualify, will not qualify for the small employer real property improvement tax credit. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, the buildings and structural components placed in service during that taxable year will not qualify for the small employer real property improvement tax credit. (3-30-07)

02. Taxpayers Entitled to the Credit. The small employer real property improvement tax credit is allowed only to taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)

03. Buildings and Structural Components of Buildings. (3-30-07)

a. To qualify for the small employer real property improvement tax credit, buildings and structural components of buildings must meet the following requirements: (3-30-07)

i. The buildings and structural components of buildings must be new as defined in Subsection 940.03 of these rules. Structural components placed in service as part of a renovation of an existing building do not qualify. (3-30-07)

ii. The buildings and structural components of buildings must be placed in service at the project site. (3-30-07)

b. Buildings and structural components of buildings that meet the definition of qualified investments pursuant to Section 63-3029B, Idaho Code, will not qualify for the small employer real property improvement tax credit. (3-30-07)

04. Limitations. The small employer real property improvement tax credit allowable in any taxable year will be limited as follows: (3-30-07)

a. The small employer real property improvement tax credit claimed during a taxable year may not exceed the lesser of: (3-30-07)

i. One hundred twenty-five thousand dollars (\$125,000); or (3-30-07)

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the small employer real property improvement 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. (3-30-07)

b. 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. (3-30-07)

05. Carryovers. The carryover period for the small employer real property improvement tax credit is fourteen (14) years. (3-30-07)

945. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION – SMALL EMPLOYER NEW JOBS TAX CREDIT (RULE 945).
Sections 63-4405 and 63-4406, Idaho Code

01. Credit Allowed. (3-30-07)

a. The small employer new jobs tax credit allowed by Section 63-4405, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 20~~23~~³⁰. (~~3-29-10~~)()

b. The credit applies to new employees hired during the project period. New employees hired during the project period, but in a taxable year that does not qualify, will not qualify for the small employer new jobs tax credit. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, new employees hired during that taxable year will not qualify for the small employer new jobs tax credit, but may qualify for the credit for qualifying new employees allowed by Section 63-3029F, Idaho Code. (3-30-07)

c. The applicable credit rate per new employee depends on the wage rate received by a qualifying new employee. (3-30-07)

02. Taxpayers Entitled to the Credit. The small employer new jobs tax credit is allowed only to taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)

03. Calculating Number of Employees. (3-30-07)

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Sections

63-4402(2)(e) and 63-4405, Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: (3-30-07)

- i. The employee must have worked primarily within the project site for the taxpayer. (3-30-07)
- ii. The employee must have received earnings at a rate of more than twenty-four dollars and four cents (\$24.04) per hour worked. (3-30-07)
- iii. The employee must have been eligible to receive employer provided coverage under a health plan described in Section 41-4703, Idaho Code. (3-30-07)
- iv. The employee must have been subject to Idaho income tax withholding. (3-30-07)
- v. The employee must have been covered for Idaho unemployment insurance purposes. (3-30-07)
- vi. The employee must have been employed on a regular full-time basis. An employee who customarily performs duties at least forty (40) hours per week on average for the taxable year will be considered employed on a regular full-time basis. Leased employees do not qualify as employees of the lessee. (3-30-07)
- vii. The employee must have been performing such duties for the taxpayer 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. (3-30-07)

b. Idaho Department of Labor Reports. The taxpayer 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. (3-30-07)

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. (3-30-07)

04. Calculating the Number of New Employees. (3-30-07)

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: (3-30-07)

- i. The number of employees for the prior taxable year; or (3-30-07)
- ii. The average of the number of employees for the three (3) prior taxable years. (3-30-07)

b. The requirements as to who qualifies for the calculation of number of employees in Paragraph 945.03.a., of this rule will apply in computing the number of employees in Subparagraphs 945.04.a.i., and 945.04.a.ii., of this rule. Calculations used in computing the number of new employees for the prior taxable year and average for the three (3) prior taxable years will be made consistent with the computations for the current taxable year. (3-30-07)

c. The number of new employees will be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (3-30-07)

05. Computing the Credit Earned. The taxpayer will identify each new employee who qualifies for the credit and his annual salary for the taxable year. (3-30-07)

a. If during the taxable year the new employee earned more than twenty-four dollars and four cents (\$24.04) per hour worked but less than or equal to an average rate of twenty-eight dollars and eighty-five cents (\$28.85) per hour worked, the credit for such new employee will be one thousand five hundred dollars (\$1,500). (3-30-07)

b. If during the taxable year the new employee earned more than an average rate of twenty-eight

dollars and eighty-five cents (\$28.85) per hour worked but less than or equal to an average rate of thirty-six dollars and six cents (\$36.06) per hour worked, the credit for such new employee will be two thousand dollars (\$2,000). (3-30-07)

c. If during the taxable year the new employee earned more than an average rate of thirty-six dollars and six cents (\$36.06) per hour worked but less than or equal to an average rate of forty-three dollars and twenty-seven cents (\$43.27) per hour worked, the credit for such new employee will be two thousand five hundred dollars (\$2,500). (3-30-07)

d. If during the taxable year the new employee earned more than an average rate of forty-three dollars and twenty-seven cents (\$43.27) per hour worked, the credit for such new employee will be three thousand dollars (\$3,000). (3-30-07)

06. Limitations. The small employer new jobs tax credit allowable in any taxable year will be limited as follows: (3-30-07)

a. The small employer new jobs tax credit claimed during a taxable year may not exceed sixty-two and five-tenths percent (62.5%) of the tax, after allowing all other income tax credits that may be claimed before the small employer new jobs 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. (3-30-07)

b. 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. (3-30-07)

07. Carryovers. The carryover period for the small employer new jobs tax credit is ten (10) years. (3-30-07)

08. Coordination With Credit for Qualifying New Employees Allowed by Title 63, Chapter 30, Idaho Code. A taxpayer who has new employees who are eligible for the small employer new jobs tax credit may not claim the credit for qualifying new employees allowed by Section 63-3029F, Idaho Code, with respect to the same employees. However, a taxpayer may claim the credit for qualifying new employees for any new employees who do not meet the requirements for the small employer new jobs tax credit, but who meet the requirements of Sections 63-3029E and 63-3029F, Idaho Code. (3-30-07)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-2001

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 Section 63-105, 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:

- Section 120: Upon further review by the Tax Commission, proposed change to Subsection 120.02.c. has been withdrawn and the text will remain as currently codified;
- Section 701: 2020 HB381 added the residency requirement to statute making the section unnecessary now;
- Section 803: When a taxing district decides to set a budget for less than the allowed 3%, creating a forgone balance, the district must explicitly reserve, through a public resolution, such unused portions in order to recover the reserved amount in a subsequent year.

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 September 2, 2020, Idaho Administrative Bulletin, [Volume 20-9, pages 99-108](#).

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 at (208) 334-7742.

Dated this 10th day of December, 2021.

Alan Dornfest
Property Tax Policy Bureau Chief
Idaho State Tax Commission
Alan.Dornfest@tax.idaho.gov
11321 W. Chinden Blvd., Bldg. 2
Boise, ID 83714
P.O. Box 36
Boise ID 83722-0036
Phone: (208) 334-7742
Fax: (208) 334-7844

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 Section 63-105, 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 16, 2020. The hearing site 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:

- Section 120: Subsection 35.01.03.02(c) will be deleted to clarify we do not fall into the APA contested case process.
- Section 701: 2020 HB381 added the residency requirement to statute making the section unnecessary now.
- Section 803: When a taxing district decides to set a budget for less than the allowed 3%, creating a forgone balance, the district must explicitly reserve, through a public resolution, such unused portions in order to recover the reserved amount in a subsequent year.

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 these are simple updates required by statute.

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, using the contact information below.

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 23, 2020.

Dated this 2nd day of September, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-2001

~~701. HOW TO VERIFY THAT CLAIMANTS ARE LAWFULLY PRESENT IN THE UNITED STATES (RULE 701). (RESERVED)~~

~~Sections 63-701 through 710, Sections 67-7901 through 7903, Idaho Code~~

~~01. Lawful Presence in the United States. The county assessor will verify that any claimant for property tax reduction pursuant to Sections 63-701 through 710, Idaho Code, who is eighteen (18) years of age or older is lawfully present in the United States by doing the following: (3-29-12)~~

~~a. Providing to the Tax Commission electronically and by paper copies documentation verifying that the claimant's name, social security number, and date of birth used for social security records of the claimant and the claimant's spouse, if married, are correct. Examples of documentation that would verify that the information is correct include, but are not limited to the following: (4-2-08)~~

~~i. Federal Form W-2; (4-2-08)~~

~~ii. Federal Form 1099; (4-2-08)~~

~~iii. Form 1099 received by the claimant from the Social Security Administration or the Railroad Retirement Board, or the federal Personnel Management System; (4-2-08)~~

~~iv. Social Security Card; (4-2-08)~~

~~v. Birth Certificate; or (4-2-08)~~

~~vi. Documents listed under paragraph 701.01.b. of this rule. (4-2-08)~~

~~b. If the claimant or the claimant's spouse, if married, is not currently receiving benefits from the Social Security Administration, the Railroad Retirement Board, or the federal Personnel Management System, then requiring the claimant to submit the following, a copy of which will be attached to the application for property tax reduction: (4-2-08)~~

~~i. An Idaho driver's license or an Idaho identification card issued pursuant to Section 49-2444, Idaho Code; or (4-2-08)~~

~~ii. A valid driver's license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph of the individual or the claimant's age, sex, race, height, weight, or other such personal identifying information relating to the individual sufficient to show that the individual is the person identified in the other state or territory of the United States driver's license or similar identification document; or (4-2-08)~~

~~iii. A United States military card or a military dependent's identification card; or (4-2-08)~~

~~iv. A United States coast guard merchant mariner card; or (4-2-08)~~

~~v. A Native American tribal document; or (4-2-08)~~

~~vi. A valid United States passport. (4-2-08)~~

~~e. Attestation of Lawful Presence. In addition to the documentation provided in Paragraphs 701.01.a. and 701.01.b. of this rule the claimant is also required to attest, under penalty of perjury and on a form designated by the Tax Commission, that: (4-2-08)~~

~~i. The social security number(s) provided is/are valid; and (4-2-08)~~

~~ii. The claimant and the claimant's spouse, if married, are United States citizens or legal permanent~~

- ~~residents; or~~ (4-2-08)
- ~~iii. The claimant and the claimant's spouse, if married, are otherwise lawfully present in the United States pursuant to federal law.~~ (4-2-08)
- ~~d. Audit. During audit the Tax Commission will:~~ (4-2-08)
- ~~i. Verify the claimant's and the claimant's spouse's, if married, social security number(s) electronically with the Social Security Administration or through other appropriate governmental agencies or means.~~ (4-2-08)
- ~~ii. Presume the attestation to be proof of lawful presence for purposes of this section until such verification of lawful presence is made.~~ (4-2-08)
- ~~e. Successive Applications. Once a claimant and the claimant's spouse, if married, have been verified as lawfully present in the United States pursuant to this rule, a claimant and the claimant's spouse, if married, in successive years will be presumed to be lawfully present in the United States if the claimant and the claimant's spouse, if married, continue to attest in each successive application that no change has occurred in their status.~~ (4-2-08)

(BREAK IN CONTINUITY OF SECTIONS)

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), 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 Tax Commission the budget request from each board of county commissioners for each taxing district. This form will 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 means the value used to calculate levies during the immediate prior year. This value will be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(g), Idaho Code. (3-26-19)

c. "Annual Budget." For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget includes any amount approved as a result of an election held pursuant to Sections 63-802(1)(g) or 63-802(1)(h), 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)(g) or 63-802(1)(h), Idaho Code, then the amount not used will be added to the foregone increase amount determined for the taxing district, provided the district reserves this amount as provided in Paragraph 803.03.b. of these rules. (3-20-20)()

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 Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. "Recovered/Recaptured Property Tax and Refund List." Recovered/recaptured property tax 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 Tax Commission with the L-2 Forms, listing the amount of revenue distributed, or refunds charged,

to each appropriate taxing district during the twelve (12) month period ending June 30 each year under the following sections: (3-26-19)

- i. Section 63-602G(5), Idaho Code; (3-26-19)
- ii. Section 63-3029B(4), Idaho Code; (3-26-19)
- iii. Section 63-602KK(7), Idaho Code, for personal property exempted after 2013 for which no replacement money was paid; (3-26-19)
- iv. Section 63-3502B(2), Idaho Code, for distributions of gross earnings tax on solar farms; (3-26-19)
- v. Section 50-2903A(3), Idaho Code, for distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, when required; (3-26-19)
- 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 (3-26-19)
- viii. Section 63-1305C(6), Idaho Code, for refunds related to provisional property tax exemptions. (3-26-19)

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 governmental entities without authority to levy property taxes but on whose behalf such taxes are levied by an authorized entity such as the county or city. (3-26-19)

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 will 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 Tax Commission. Unless otherwise provided for in Idaho Code, budget requests for the property tax funded portions of the budget will 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 Tax Commission will 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 will submit to the 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 will only submit documentation specifically requested by the 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 Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the Tax Commission. (3-28-18)

b. Foregone increase *disclaimer reservation*. Any resolution to *disclaim reserve* the right to *recover accrue* an annual increase in the forgone amount must state the amount of such forgone increase being *disclaimed reserved* 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 Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the Tax

Commission. ~~The following table illustrates calculation of the maximum forgone amount that may be disclaimed in 2018:~~

<i>Step</i>	<i>Description</i>	<i>Comments</i>
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 will 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 fund the approved budget being certified on the L-2 form. (3-26-19)

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: (3-26-19)

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 and refund list”; (3-26-19)

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 and refund list”; (3-26-19)

iv. The amount of money received under Section 63-3638(13), for the personal property exemption under 63-602KK(2), Idaho Code; (3-26-19)

v. The amount of money received 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 and refund list”; (3-26-19)

vi. The amount of money received 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 and refund list”; (3-26-19)

vii. The amount of money received 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 and refund list”; (3-26-19)

viii. The amount of money received 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 and refund list”; and (3-26-19)

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. (3-26-19)

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* *reserving* any forgone increase, an attestation to having held the required public hearing on the resolution to include or *disclaim* *reserve* 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, and the expiration date of any voter approved levies. ~~(3-26-19)~~()

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 reserving* any forgone increase, a copy of the resolution describing the amount of the forgone increase being *disclaimed reserved*, 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 will 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 will be used to compute levies. The maximum amount permitted pursuant to Section 63-802(1), Idaho Code, will 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. (3-26-19)

a. The Tax Commission will, 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 Tax Commission will 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 will 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 will 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 these subtractions must be first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. (3-26-19)

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 will 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 will, by the 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. (3-26-19)

e. Levy limits will 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 will 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 will be distributed to the Tax Commission. Once received, the amount of future payments to the affected taxing districts will 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 will be added to that library district’s property tax funded budget in effect at the time of the election for consolidation. This total will 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 will be subtracted from that city’s total property tax funded budget in effect at the time of the election for the consolidation. This difference will 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 will 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, will 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, will be computed as follows: (3-26-19)

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. (3-26-19)

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. (3-26-19)

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. (3-26-19)

d. Add: (3-26-19)

i. The amounts computed in Paragraphs 803.12.b. and 803.12.c., of this rule; (3-26-19)

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 (3-26-19)

iii. Any forgone amounts of the former cemetery districts now consolidating. (3-26-19)

13. Special Provisions for Highway Districts in Urban Renewal Revenue Allocation Areas. For highway districts located wholly or partially within urban renewal revenue allocation areas (RAAs) formed July 1, 2020, or later or RAAs which annex property within a highway district, any agreement for an allocation of revenue to the urban renewal agency, as provided in Section 50-2908, Idaho Code, is to be submitted to the tax commission and the county clerk by September 1 of tax year to be in effect for that year's revenue allocation. ()

14. 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)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.09 – IDAHO BEER AND WINE TAXES ADMINISTRATIVE RULES

DOCKET NO. 35-0109-2001

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 Section 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, 23-1051, and 23-1319, 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.

This rule is being amended to remove the Tax Commission's requirement to witness the destruction of breakage and spoilage.

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 September 2, 2020 Idaho Administrative Bulletin, [Volume 20-9, pages 109-110](#).

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 6th day of January, 2021.

Don Williams
Excise Tax Research Specialist
Idaho State Tax Commission
Taxpayer Resources Unit, Tax Research
don.williams@tax.idaho.gov
11321 W. Chinden Blvd., Bldg. 2
Boise, ID 83714

P.O. Box 36
Boise ID 83722-0036
Phone: (208) 334-7855
Fax: (208) 334-7690

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 Section 63-105, Idaho Code, and Sections 23-1051 and 23-1319, Idaho Code.

PUBLIC HEARING SCHEDULE: A public hearing concerning this rulemaking will be held as follows:

PUBLIC HEARING
Tuesday, September 15, 2020 1:00 - 2:00 p.m. (MDT)
Coral Conference Room State Tax Commission 11321 W. Chinden Blvd., Bldg. 2 Boise, ID 83714

The hearing site 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:

- Beer and Wine Rule 013 - This rule is being amended to remove the Tax Commission's requirement to witness the destruction of breakage and spoilage.

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 as a result of this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted due to the directive by the Governor in [Executive Order 2020-13](#) to further the continuation of reducing regulatory burden for the citizens of Idaho while maintaining public safety. The Tax Commission will hold a public hearing and all public comments received will be considered in the formulation and adoption of the pending rule.

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 using the contact information below.

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 23, 2020.

Dated this 2nd day of September, 2020.

Red italicized double underscored text indicates amendments between the proposed and pending rule.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0109-2001

013. BREAKAGE OR SPOILAGE (RULE 013).

Sections 23-1051, 23-1319, Idaho Code

01. Percentage Method. When a beer or wine container is damaged, contents spoiled, or is otherwise unfit for sale, the beer wholesaler or wine distributor may claim a percentage deduction of their total inventory purchases during the reporting period when the breakage or spoilage occurred. The taxpayer may claim a deduction without prior written approval when adequate records are maintained to verify actual breakage or spoilage. The maximum percentage deductions are one-half of one percent (0.50%) for beer and three-quarters of one percent (0.75%) for wine. (3-20-20)

a. The Commission may revoke the use of the percentage method for any taxpayer at any time. The Commission will notify the taxpayer in writing that future destructions of breakage or spoilage will require written approval from the Commission. (3-20-20)

b. Any taxpayer who has received written notice revoking the percentage method must file the destruction request form required by the Commission. (3-20-20)

02. Reporting Destruction Request Method or Spoilage. Taxpayers ~~must submit~~ will report the destruction ~~request form before~~ or spoilage in the manner and form required by the Commission when claiming breakage or spoilage ~~when the amount claimed~~ exceeds ing the maximum percentages allowed or the Commission revokes the percentage method. (3-20-20)()

~~**a.** A destruction request form must be submitted ten (10) days before the proposed destruction date. (3-20-20)~~

~~**b.** The taxpayer must receive written approval from the Commission prior to destruction of any products referred to on the request. (7-1-93)~~

~~**c.** The Commission reserves the right to observe the destruction of beer or wine in person and to delay the destruction until a mutually agreed upon time can be arranged. (3-20-20)~~

03. Deduction for Breakage or Spoilage. A deduction may be claimed by the taxpayer for breakage or spoilage when reporting beer or wine tax due. (3-20-20)

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.02.01 – TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-2001

NOTICE OF RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 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 Section 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, 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.

Rule 310 - The changes to this rule add the interest rate for calendar year 2021 and the Revenue Ruling where the federal rate for the calculation can be found.

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 7, 2020 Idaho Administrative Bulletin, [Volume 20-10, pages 83-85](#).

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 Tami Ryals at (208) 334-7670.

Dated this 6th day of January, 2021.

Tami Ryals, Income Tax Policy Specialist
State Tax Commission
11321 Chinden Blvd., Bldg. 2
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7690
tami.ryals@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 Section 63-105, 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 21, 2020.

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 - The changes to this rule add the interest rate for calendar year 2021 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 rule is 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 Tom Shaner, using the contact information below.

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 28, 2020.

Dated this 7th of October, 2020.

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-2001

310. INTEREST RATES (RULE 310).
Sections 63-3045, 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
<i>July 1, 1981, through December 31, 1993</i>	<i>12% simple interest</i>	<i>Not Applicable</i>
<i>Calendar Year 1994</i>	<i>7% simple interest</i>	<i>Revenue Ruling 93-64</i>
<i>Calendar Year 1995</i>	<i>9% simple interest</i>	<i>Revenue Ruling 94-61</i>
<i>Calendar Year 1996</i>	<i>8% simple interest</i>	<i>Revenue Ruling 95-67</i>
<i>Calendar Year 1997</i>	<i>9% simple interest</i>	<i>Revenue Ruling 96-49</i>
<i>Calendar Year 1998</i>	<i>8% simple interest</i>	<i>Revenue Ruling 97-41</i>
<i>Calendar Year 1999</i>	<i>7% simple interest</i>	<i>Revenue Ruling 98-50</i>
<i>Calendar Year 2000</i>	<i>8% simple interest</i>	<i>Revenue Ruling 99-41</i>
<i>Calendar Year 2001</i>	<i>8% simple interest</i>	<i>Revenue Ruling 2000-45</i>
<i>Calendar Year 2002</i>	<i>7% simple interest</i>	<i>Revenue Ruling 2001-49</i>
<i>Calendar Year 2003</i>	<i>5% simple interest</i>	<i>Revenue Ruling 2002-61</i>
<i>Calendar Year 2004</i>	<i>6% simple interest</i>	<i>Revenue Ruling 2003-107</i>
<i>Calendar Year 2005</i>	<i>6% simple interest</i>	<i>Revenue Ruling 2004-69</i>
<i>Calendar Year 2006</i>	<i>6% simple interest</i>	<i>Revenue Ruling 2005-57</i>
<i>Calendar Year 2007</i>	<i>7% simple interest</i>	<i>Revenue Ruling 2006-44</i>
<i>Calendar Year 2008</i>	<i>7% simple interest</i>	<i>Revenue Ruling 2007-57</i>
<i>Calendar Year 2009</i>	<i>5% simple interest</i>	<i>Revenue Ruling 2008-46</i>
<i>Calendar Year 2010</i>	<i>5% simple interest</i>	<i>Revenue Ruling 2009-29</i>
<i>Calendar Year 2011</i>	<i>4% simple interest</i>	<i>Revenue Ruling 2010-20</i>
<i>Calendar Year 2012</i>	<i>4% simple interest</i>	<i>Revenue Ruling 2011-20</i>
<i>Calendar Year 2013</i>	<i>3% simple interest</i>	<i>Revenue Ruling 2012-24</i>
<i>Calendar Year 2014</i>	<i>4% simple interest</i>	<i>Revenue Ruling 2013-18</i>
<i>Calendar Year 2015</i>	<i>4% simple interest</i>	<i>Revenue Ruling 2014-22</i>
<i>Calendar Year 2016</i>	<i>4% simple interest</i>	<i>Revenue Ruling 2015-19</i>
Calendar Year 2017	3% simple interest	Revenue Ruling 2016-20
Calendar Year 2018	4% simple interest	Revenue Ruling 2017-17
Calendar Year 2019	5% simple interest	Revenue Ruling 2018-23
Calendar Year 2020	4% simple interest	Revenue Ruling 2019-20
Calendar Year 2021	2% simple interest	Revenue Ruling 2020-16

(3-20-20)()

IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS

DOCKET NO. 36-0101-2000

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

[LINK: LSO Proposed Rule Analysis Memo](#)

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2021 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 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 full force and effect upon adoption of 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 Section 63-3808, 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.

This pending rule adopts and re-publishes the following existing rule chapter previously submitted to and reviewed by the Idaho Legislature under IDAPA 36, rules of the Idaho State Board of Tax Appeals:

IDAPA 36

36.01.01, *Idaho Board of Tax Appeals Rules.*

There are no changes to the pending rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the Sept. 16, 2020, Idaho Administrative Bulletin, [Vol. 20-9SE, pages 1929-1945](#).

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cindy Pollock at (208) 334-3354.

Dated this 18th day of November, 2020.

Cindy Pollock, Director
Idaho State Board of Tax Appeals
1673 W. Shoreline Drive, Suite 120, Boise, ID 83702
P.O. Box 36, Boise, ID 83720-0088
Phone: (208) 334-3354
Fax: (208) 334-4060

THE FOLLOWING NOTICE PUBLISHED WITH THE OMNIBUS PROPOSED RULE

AUTHORITY: In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 63-3808, Idaho Code.

PUBLIC HEARING SCHEDULE: Opportunity for presentation of oral comments concerning this rulemaking will be scheduled in accordance with Section 67-5222, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of the purpose of the proposed rulemaking:

This proposed rulemaking re-publishes the following existing temporary rule chapters previously submitted to and reviewed by the Idaho Legislature under IDAPA 36, rules of the Idaho State Board of Tax Appeals:

IDAPA 36

- 36.01.01, *Idaho Board of Tax Appeals Rules*

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge.

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: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2021 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not feasible because engaging in negotiated rulemaking for all previously existing rules will inhibit the agency from carrying out its ability to serve the citizens of Idaho and to protect their health, safety, and welfare.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, incorporated material may be obtained or electronically accessed as provided in the text of the proposed rules attached hereto.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cindy Pollock at (208) 334-3354.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered within twenty-one (21) days after publication of this Notice in the Idaho Administrative Bulletin. Oral presentation of comments may be requested pursuant to Section 67-5222(2), Idaho Code, and must be delivered to the undersigned within fourteen (14) days of the date of publication of this Notice in the Idaho Administrative Bulletin.

Dated this 19th of August, 2020.

THE FOLLOWING IS THE TEXT OF OMNIBUS DOCKET NO. 36-0101-2000

IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS

36.01.01 – IDAHO BOARD OF TAX APPEALS RULES

000. LEGAL AUTHORITY (RULE 0).

These rules are promulgated in accordance with Section 63-3808, Idaho Code. ()

001. TITLE AND SCOPE (RULE 1).

01. **Title.** These rules are titled IDAPA 36.01.01, “Idaho Board of Tax Appeals Rules.” ()

02. **Scope.** These rules govern procedures before the Idaho Board of Tax Appeals (hereinafter “Board”). ()

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

As used in this chapter: ()

01. **Appellant.** A party filing an appeal with the Board. ()

02. **Board.** The Idaho Board of Tax Appeals, board members, presiding officer, or hearing officer as the context may dictate whenever it occurs in this chapter. ()

03. **Case File.** The official record maintained by the Board regarding an appeal. ()

04. **Comparable Sales.** Recently sold properties that are similar in locational and physical characteristics to the property being appraised. “Recently sold property” is property with a sale date prior to the effective date of valuation. ()

05. **De Novo.** The Board decides questions of fact and of law based on the evidence and legal arguments presented before the Board. A de novo review means the parties must present anew any previously submitted evidence or argument they wish to have considered. New evidence and argument may also be presented. ()

06. **Ex Parte.** A communication on behalf of one (1) party with the Board where the other side is not present or included. ()

07. **Parcel.** Each separate property ownership as represented by the county assessment rolls. ()

08. **Party.** A person or governmental subdivision or agency authorized to appear before the Board. ()

09. **Presiding Officer or Hearing Officer.** A member of the Board or other person assigned to conduct a conference or hearing for the Board. ()

10. **Respondent.** A party answering or otherwise responding to an appeal. ()

11. **Subject Property.** The property under discussion. ()

12. **Substantive Issue.** An issue where a right, interest or privilege of any party is involved that may be prejudiced as opposed to minor or mere procedural matter. ()

011. ABBREVIATIONS (RULE 11).

01. **BTA.** Idaho Board of Tax Appeals. ()

02. **BOE.** County Board of Equalization. ()

03. **STC.** Idaho State Tax Commission. ()

012. ORGANIZATION (RULE 12).

The Chairman of the Board serves as the administrative officer. ()

01. Election. The Chairman will be elected annually by the board members in consideration of experience with the Board and the member's availability to serve and support the Board's administrative duties. ()

02. Power. The Chairman will oversee the issuance of acknowledgment letters and notices, and is authorized to perform all other procedural duties such as issuing orders on nonsubstantive rulings without a formal meeting of the Board. ()

013. -- 019. (RESERVED)

020. PROCEDURE GOVERNED (RULE 20).

01. Procedure. These rules govern all practice and procedure before the Board. Except as provided in Rules 800 through 860, these rules are affirmatively promulgated to supersede IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General". ()

02. Purpose. The purpose for the establishment of the Idaho Board of Tax Appeals is to provide a fully independent, fair, and less expensive opportunity for taxpayers and other parties to appeal from most tax related decisions of county boards of equalization and the State Tax Commission. ()

021. LIBERAL CONSTRUCTION (RULE 21).

These rules will be liberally construed to secure just, speedy, and economical determination of all issues presented to the Board. ()

022. -- 029. (RESERVED)

030. REPRESENTATION AND PRACTICE BEFORE THE BOARD (RULE 30).

To the extent authorized by law the right to appear and practice before the Board is limited as follows: ()

01. Natural Persons. A natural person may represent himself or herself or be represented by an attorney. ()

02. Corporations. Duly authorized directors or officers of corporations representing the corporations for which they are, respectively, directors or officers; ()

03. Limited Liability Company (LLC). A duly authorized member, or a manager of a manager-managed LLC, representing the LLC for which they are, respectively, a member or manager; ()

04. Partnerships, Joint Ventures and Trusts. Duly authorized partners, joint venturers, or trustees representing their respective partnerships, joint ventures or trusts; ()

05. Authorized Attorneys. Attorneys duly authorized and qualified to practice in the courts of the state of Idaho; ()

06. Public Officers. Public officers or designated representatives when representing the governmental agency; ()

031. INITIAL PLEADING -- LISTING OF REPRESENTATIVES (RULE 31).

The initial pleading of each party must name the party's qualified representative for service of documents and include the representative's address for receiving documents. Service of documents on the named representative is valid service upon the party. If no person is explicitly named as representative, the person signing the initial pleading will be considered the representative. ()

032. SUBSTITUTION OF REPRESENTATIVE (RULE 32).

A party's representative may be changed by notice to the Board and to all other parties when the proceedings are not unreasonably delayed. The presiding officer may permit substitution of a representative at hearing. ()

033. PARTICIPATION BY TAXING AUTHORITY (RULE 33).

In proceedings where a taxing authority may participate, or in any instance where a report or recommendation of the taxing authority may be considered in reaching a decision, at the timely request of a party or upon the Board's motion, an informed representative of the taxing authority shall appear at hearing and be available for examination. When such a representative is summoned, the taxing authority may further participate in the hearing as a party. ()

034. (RESERVED)

035. CONDUCT (RULE 35).

A party, representative or witness shall conduct themselves in all Board proceedings in an ethical, respectful, and courteous manner. ()

036. ENFORCEMENT (RULE 36).

The Board and each party to an appeal are responsible for the efficient, just, and speedy conduct of the formal hearing and other proceedings before the Board. Board members or the assigned hearing officer may impose sanctions on a party for delays, the failure to comply with a subpoena or discovery order, for discovery procedure abuses, and for any other matter regarding conduct of the appeal. Board sanctions include, but are not limited to, dismissal of an appeal or the granting of default judgment. ()

037. EX PARTE COMMUNICATIONS (RULE 37).

01. Prohibited Ex Parte. Unless permitted by law, the Board shall not communicate regarding any substantive issue with any party, except upon notice and opportunity for all parties to participate in the communication. ()

02. Permitted Ex Parte. The Board may communicate ex parte with a party concerning a procedural or administrative matter. ()

038. -- 044. (RESERVED)

045. NOTICE OF APPEAL: CONTENTS (RULE 45).

01. Basic Contents. An appeal must be in writing and contain clear and concise statements of the matters that lay foundation for the relief claim that may be granted by the Board. ()

02. Additional Contents. The appeal shall further contain: ()

a. Appellant's full name, mailing address and telephone number; ()

b. The tax year(s) associated with the appeal; and ()

c. A signed statement by a natural person/appellant or by a qualified representative that the notice of appeal contents are correct. ()

03. Appeal Filed by an Attorney or Representative. An appeal filed by a qualified representative shall contain: ()

a. The representative's name, official title, mailing and street addresses, telephone number; and ()

b. If the representative is an attorney, the Idaho State Bar License number. ()

04. Change in Address or Phone Number. A party or representative must provide written notice to

the Board and other parties of any change in contact information. ()

046. NOTICE OF APPEAL: BOE APPEALS (RULE 46).

01. Separate Notice. Each parcel assessment appealed must use a separate Board Appeal Form or separate notice of appeal. ()

02. BOE Appeal. An appeal brought under Section 63-511, Idaho Code, the notice of appeal shall contain: ()

a. A legal description of the property relating to the appeal; ()

b. A copy of the county board of equalization's final decision, and when available, the decision's postmarked mailing envelope or any accompanying certificate of service; ()

c. For a valuation appeal, a clear declaration of the alleged market value for the subject property. For a property tax exemption claim, the Idaho Code section(s) associated with the claim and a summary of the factual basis supporting why exempt status should be granted or denied; and ()

d. A copy of the final tax assessment notice for the assessment appealed. ()

03. Filing Place. A BOE appeal must be filed with the county auditor in the county in which the property assessment originated. ()

047. NOTICE OF APPEAL: STC APPEALS (RULE 47).

An appeal brought under Section 63-3049 or 63-707, Idaho Code, shall contain: ()

01. Attachment. A copy of the written decision being appealed; ()

02. Objections. A list of objections to the STC's decision and the basis for said objections; ()

03. Amount in Dispute. A statement of the amount in dispute for each applicable tax year or period; and ()

04. Security Deposit. When applicable, proof of compliance with the deposit requirements in Section 63-3049(b), Idaho Code, in the form of a receipt or documented acknowledgment from the STC. ()

048. ACKNOWLEDGMENT (RULE 48).

01. Acknowledgment Letter. An acknowledgment letter will be mailed within fourteen (14) days of the receipt of an appeal in the Board's office. The Board may acknowledge multiple appeals by the same party with a single letter. Such acknowledgment does not constitute a formal consolidation of the appeals. ()

02. Defective Appeal. If an appeal is found to be materially defective, untimely, or not substantially in compliance with the requirements of this chapter the Board may dismiss such appeal. ()

049. (RESERVED)

050. ANSWER TO APPEAL (RULE 50).

A respondent or intervenor may file with the Board an answer to a notice of appeal. The answer shall be filed at least fifteen (15) days prior to hearing. ()

051. (RESERVED)

052. COUNTY AUDITOR REQUIREMENT (RULE 52).

01. Contents. Upon receiving a notice of appeal to the Board under Section 63-511, Idaho Code, the

county auditor shall transmit to the Board: ()

a. A copy of the notice of appeal including the date of receipt, and if received by mail, a copy of the mailing envelope; ()

b. The exhibits or other evidence considered by the BOE; ()

c. A copy of the initial appeal to the BOE; ()

d. A copy of any decision made or action taken by the BOE together with the mailing date of the notice of decision or other proof of service; ()

e. A copy of the certified minutes for related BOE proceedings, or a verbatim record provided on its own distinct storage device; and ()

f. When applicable, a certificate that the BOE failed to act on the appeal in the time required. ()

02. Minutes. The minutes should include at a minimum: ()

a. The full name of persons appearing before the BOE in the appeal; ()

b. Clear identification of the parcel number associated with the assessment appealed; and ()

c. The decision made by the BOE specifying the value determined or exempt status decided for each parcel. ()

053. -- 054. (RESERVED)

055. CONSOLIDATION (RULE 55).

Whenever two (2) or more ad valorem cases from the same county or different counties involve the same or substantially similar issues and the same or similar property, or where the same or similar issues exist in other tax type cases, the Board may issue a written or verbal order consolidating the cases. There shall be no consolidation of cases where the rights of any party would be prejudiced. Parties may also request a consolidation. Prior to issuing a consolidation order, the Board will consider whether the parcels are contiguous, any response given to a consolidation request, and any other matters deemed appropriate in judging whether consolidation would likely be beneficial. ()

056. -- 059. (RESERVED)

060. FORM OF PLEADINGS (RULE 60).

01. Form. Pleadings, except those filed on Board forms, submitted by a party and intended to be part of the record should be double-spaced: ()

a. State the title of the pleading and the appeal number at the top of the cover page; ()

b. Include the name, mailing and street address, and if available, the telephone and FAX number of the person filing the document; and ()

c. Be signed by a qualified representative. ()

061. SERVICE OF DOCUMENTS (RULE 61).

01. Service. A notice, motion, brief, or other document submitted to the Board will be served upon all other parties' representatives of record. Service by regular mail is adequate service. A Board notice, order, or final decision is served upon a party's representative of record. The Board may direct documents be served on persons who are not parties. ()

02. Proof of Service. Every document filed with the Board must be accompanied by a certificate of service. The following is an example:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of _____, 20XX I caused to be served a true copy of the foregoing attached document by the method indicated below and addressed to each of the following:

(representative's name) _____ U.S. Mail, Postage Prepaid

(mailing address) _____ Hand Delivered

_____ Overnight Mail

_____ Certified Mail

(Signature) _____

(printed name of person signing)

()

062. DEFECTIVE, INSUFFICIENT OR LATE PLEADING (RULE 62).

A defective, insufficient, or untimely pleading may be returned, denied, or dismissed.

()

063. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS (RULE 63).

The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw an appeal should file a notice of withdrawal and serve all parties with a copy.

()

064. (RESERVED)

065. COMPUTATION OF TIME (RULE 65).

In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act, event or default from which the designated period begins to run shall not be included. The last day of the period so computed shall be included in the count unless it is a weekend or legal holiday, in which event the period runs until the end of the next business day.

()

066. FILING (RULE 66).

01. Document Filing Place. A document filed with the Board shall be filed at the Board's mailing address or street address.

()

02. Number of Copies. Unless otherwise indicated by the Board, one (1) copy shall be filed. ()

03. Fax Filing. A filing by facsimile (fax) transmission is permitted for a notice of withdrawal or settlement, and for a notice or motion requiring an immediate response by the Board. Except for a notice of withdrawal, an original must be mailed to the Board and served on all other parties the same day.

()

a. The transmission must be legible and received in its entirety during office hours for it to be considered filed on the transmission date.

()

b. When making a filing by fax, if another party to the case is equipped with fax facilities, the service on that party should include fax service.

()

- c. The originating party shall assume the risk in fax filing and retain proof of filing by fax. ()

067. -- 069. (RESERVED)

070. PREHEARING CONFERENCE (RULE 70).

- 01. Subject of Conference.** The Board may direct parties to appear before it to consider: ()
- a. Any and all matters that can be agreed upon. ()
- b. Formulating or simplifying the issues. ()
- c. Stipulations which will avoid unnecessary proof. ()
- d. Preliminary motions to be made prior to the hearing. ()
- e. Requiring respondent and appellant to furnish to each other and the Board a list of all witnesses to be called by the parties at the hearing. ()
- f. The limitation of the number of expert or lay witnesses and the disclosure of the identity of persons having knowledge of relevant facts and who may be called as a witness. ()
- g. The scheduling of discovery, hearings, or other time sensitive matters. ()
- h. Discussing settlement. ()
- i. Fair hearing procedures. ()
- j. Such other matters that may expedite orderly and speedy conduct as will aid in the disposition of the controversy. ()

02. Notice of Prehearing Conference. Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference contain the same information as notices of hearing regarding the Board's obligations under the American with Disabilities Act. ()

03. Failure to Appear. Failure of either party to appear at the time and place appointed by the Board under Rule 70 may result in a dismissal of the appeal or the granting of said appeal. ()

04. Prehearing Order. The Board or its designate may prepare or require the preparation of an order reciting the findings and action taken at such conference. A prehearing order will control the course of subsequent proceedings unless modified by the Board for good cause. ()

05. Determination Upon Results of Conference. If, after the prehearing conference provided for in Rule 70, and after appropriate notice to the parties, the Board determines that there is sufficient evidence and stipulation upon which it can make a decision, it may determine the appeal without conducting a hearing. ()

071. (RESERVED)

072. MOTIONS (RULE 72).

- 01. Form and Contents.** A motion should: ()
- a. Fully state the facts upon which it is based; ()

b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which it is based; and ()

c. State the relief sought. ()

02. Oral Argument. If the moving party desires oral argument on the motion it must state so in the motion. ()

03. Prehearing Motions. Unless otherwise provided in these rules, a prehearing motion must be filed at least fifteen (15) days prior to a scheduled hearing to be considered by the Board. ()

04. Answer to Motion. An answer to a motion, or a request for additional time to respond, may be filed within ten (10) days after the filing of the motion. ()

073. (RESERVED)

074. BRIEFS (RULE 74).

The Board may order briefs from the parties prior to the hearing of the evidence or after said hearing. ()

075. DISCOVERY (RULE 75).

01. Written Permission. A party to a pending appeal may engage in discovery limited to a single discovery request upon the written order of the Board. The following procedures govern discovery: ()

a. The request for discovery must be filed within twenty (20) days of the mailing date of the Board's appeal acknowledgment letter. ()

b. The request should contain a statement covering the reasons the discovery is useful to the preparation of the appeal. ()

c. The request must include a complete copy of the discovery request. ()

d. Discovery must be completed at least ten (10) days prior to the scheduled hearing, unless otherwise ordered by the Board. ()

e. The Board may deny a discovery request that does not comply with the requirements of this chapter. ()

f. Discovery responses shall be served simultaneously on all other parties. At the same time, the responding party shall file with the Board a notice stating when and on whom the response was served. The actual contents of discovery responses will not be filed with the Board unless the order so directs. Discovery responses shall be signed by a qualified representative, and in the instance of interrogatory answers, the response shall also be signed by the person answering. Such signatures constitute a certification that the signer has reviewed the responses or answers and attests to their completeness and accuracy. ()

g. The discovery order may provide that voluminous answers need not be served so long as the documents are made available for inspection and copying under reasonable terms. ()

02. Scope and Method of Discovery: BOE Appeals. The method of discovery is limited to production requests and written interrogatories. The scope of discovery must pertain to the subject property, comparable sale, or a comparable rental. ()

a. The scope of discovery also includes: ()

i. Information or records concerning an appraisal, assessment, financial statement or related schedule, a completed study or report, and contracts including a sale agreement; ()

ii. The identity of individuals who will be called to testify as witnesses and a summary of their expected testimony; and ()

iii. For an exemption appeal, information or documents relating to the claimed exemption. ()

b. In a valuation case the request for production of documents or written interrogatories is limited to information from the last three (3) years preceding the assessment date unless otherwise specified by the Board. ()

c. The request for production of documents shall specifically identify each document requested. The request for inspection of land or other property shall be in accordance with the Idaho Rules of Civil Procedure. ()

d. The Board may limit or expand the above scope and method of discovery when it deems such action is appropriate. ()

03. Scope and Method of Discovery: STC Appeals. ()

a. Production requests, requests for admissions and written interrogatories are permissible methods of discovery. The Board may limit the scope and method of discovery when it deems such action appropriate. ()

b. A deposition may be taken when allowed by the Board. ()

04. Supplementation of Response. The party responding to a discovery order is under a continuing duty to promptly supplement an earlier response upon the availability of new information. ()

05. Special Case. The Board may order additional or reciprocal discovery not provided by this rule. ()

06. Sanctions. Failure to substantially comply with Board ordered discovery in a good faith attempt at full compliance, may result in one or more sanctions up to and including a dismissal or default judgment of the appeals. ()

076. -- 084. (RESERVED)

085. INTERVENTION (RULE 85).

01. Intervention of Right. Upon written application received fifteen (15) days prior to the hearing of an appeal, anyone shall be permitted to intervene in an appeal when: ()

a. The applicant demonstrates in writing an interest relating to the property or transaction which is the subject of the action that is not adequately represented by existing parties; and ()

b. The Idaho State Tax Commission may intervene as a matter of right. ()

02. Permissive Intervention. Upon written application received at least fifteen (15) days prior to the hearing of an appeal a person may be permitted to intervene: ()

a. In an appeal brought under Section 63-511, Idaho Code, when an applicant can show in writing that he is a person aggrieved by the BOE decision; ()

b. When an applicant's claim or defense and the main action have a question of law or fact in common; or ()

c. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or a state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency may be permitted to

intervene in the action. ()

d. The Board may deny or conditionally grant a petition to intervene for untimely filing that fails to state good cause for the late filing, to prevent disruption or undue delay, due to prejudice to existing parties or undue broadening of the issues, or for other reasons. An intervener who does not file a timely petition is bound by orders and notices earlier entered as a condition of granting the untimely petition. ()

086. -- 099. (RESERVED)

100. FAIR HEARING (RULE 100).

01. Hearing Opportunity. All parties shall be afforded an opportunity for a fair hearing to present evidence and argument. ()

02. Purpose of Hearing. The Board's goal in conducting hearings is the acquisition of sufficient, accurate evidence to support a fair and just determination of the issues on appeal. ()

03. Notice of Hearing -- Mailing. A notice of hearing shall be mailed at least twenty (20) days before the date set for hearing. ()

04. Setting of Hearing. The Board will schedule a reasonably convenient time and place where each party may appear and offer evidence and argument in support of their position. ()

05. Telephonic Hearing. The Board may conduct a telephonic hearing wherein each participant has an opportunity to participate in the entire hearing. ()

06. Notice of Hearing -- Contents. The notice of hearing shall include: ()

a. A statement of the place, date, and time of the hearing; ()

b. A statement of the legal authority under which the hearing is to be held; ()

c. A reference to the sections of statute or rule concerning the conduct of the hearing; ()

d. The name of the hearing officer who is scheduled to conduct the hearing; and ()

e. A short and simple statement of the matters asserted or the issues involved. ()

07. Conference or Recess. The presiding officer may convene the parties before hearing or recess the hearing to discuss formulation of issues, admissions of fact or identification of documents to avoid unnecessary proof, exchange of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite an orderly hearing. ()

101. FAILURE TO APPEAR (RULE 101).

01. Default or Dismissal. Failure of either party to appear at the time and place appointed by the Board may result in a dismissal of that appeal or of the granting of the appeal. ()

02. Waiver of Appearance. Upon written stipulation of parties that no facts are at issue, an appeal may be submitted to the Board without oral argument. However, the Board may require appearance for argument or presentation of evidence. ()

102. WITHDRAWAL (RULE 102).

An appellant may withdraw the notice of appeal in writing, by electronic filing, or on the record at hearing. ()

103. -- 104. (RESERVED)

105. INFORMAL DISPOSITION -- SETTLEMENT (RULE 105).

Any appeal may be dismissed by the Board by stipulation, agreed settlement, consent order, or default. For good cause shown and upon written motion made within ten (10) days of entry of a Board order, the Board may set aside such order. ()

01. Formalizing Agreements. An agreement by the parties may be put on the record or may be reduced to writing and filed with the Board. ()

02. Confidentiality. Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations are not part of the record. ()

03. Consideration of Settlement. The Board may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the Board's charge under the law. ()

04. Burden of Proof. Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. ()

106. PRESIDING OFFICER (RULE 106).

Any member of the Board or assigned hearing officer may preside at the hearing and shall have power to: ()

01. Oath or Affirmation. Administer oaths or affirmations, call a party or other person present at hearing as a witness, examine witnesses and receive evidence; ()

02. Hearing. Regulate the course of the hearing and maintain an orderly proceeding; ()

03. Motions. Dispose of procedural requests, motions or similar matters; ()

04. Certification by Board. Make decisions or proposals for decisions subject to certification by a majority of the Board; ()

05. Official Record. Develop a full and accurate record and certify the record of said appeal on behalf of the Board; and ()

06. Other Action. Take any other appropriate action reasonable under the circumstances. ()

107. PROCEDURE AND TESTIMONY (RULE 107).

01. Preliminary Procedure. The presiding officer shall call the proceeding for hearing and proceed to take the appearances and act upon any pending motion. Parties may then make opening statements. ()

02. Testimony. All testimony, except matters noticed officially or entered by stipulation at hearings or prehearing conference, shall be taken only on oath or affirmation. ()

03. Order of Procedure. The appellant shall present first with the respondent and any intervenor then presenting. Parties may then make closing statements. The presiding officer may require the submission of briefs in addition to, or in lieu of, closing arguments. A maximum of two (2) weeks is normally allowed to submit these briefs. The presiding officer may prescribe a different procedure than herein provided. ()

04. Presentation of Evidence. Evidence may be presented in the following order: ()

a. Evidence is presented by appellant. ()

b. Evidence is presented by any intervening or opposing party. ()

c. Rebuttal evidence is presented by appellant. ()

d. Surrebuttal evidence is presented by any intervening or opposing party. ()

05. Examination of Witness. Regarding any witness who testifies, the following examination may be conducted: ()

a. Direct examination by the party who called the witness. ()

b. Cross-examination by any intervening or opposing party. ()

c. Redirect examination by the party who called the witness. ()

d. Recross-examination by any intervening or opposing party. ()

e. Examination by the presiding officer. ()

108. -- 109. (RESERVED)

110. STIPULATIONS (RULE 110).

With the approval of the presiding officer the parties may stipulate as to any fact at issue. The stipulation may be filed, or offered through an exhibit or by oral statement shown upon the hearing record. Any such stipulation shall be binding upon all parties so stipulating and may be regarded by the Board as evidence. The Board, however, may require evidence of the facts stipulated, notwithstanding the stipulation. ()

111. CONTINUANCE (RULE 111).

01. Continuances. A continuance may be ordered by the Board upon filing of a timely and written motion containing the stipulated agreement and signature of all parties. Timely means at least fifteen (15) days prior to a noticed hearing date. The motion shall show a detailed good cause and contain the specific time extension requested. ()

02. Consideration. Continuances are disfavored by the Board. The Board may grant a single continuance only when unusual and highly pressing circumstances are present. In no instance shall an extension cause a delay in proceedings for more than three (3) months. In no instance may a second continuance be granted. ()

112. -- 114. (RESERVED)

115. OFFICIAL NOTICE (RULE 115).

The Board may take official notice of judicially cognizable facts. In addition, the Board may take notice of general, technical, financial, or scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing of the material noticed. Parties shall be given a reasonable opportunity to object, review, examine, and rebut or contest the information sought to be noticed. ()

116. OPEN HEARINGS AND CLOSED DELIBERATIONS (RULE 116).

01. Public Hearings. Hearings conducted by the Board are open to the public except where confidential evidence is being taken under a protective order. ()

02. Closed Deliberations. The Board may recess to closed deliberations for the limited purpose of deciding the matter before it. ()

117. RULES OF EVIDENCE (RULE 117).

01. Evidence, Admissibility and Evaluation. Evidence should be taken by the Board to assist the parties' development of the record. The presiding officer is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates evidence. The presiding officer may exclude

evidence that is irrelevant, immaterial, unduly repetitious, or inadmissible on constitutional or statutory grounds, or on the basis of any privilege recognized in Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of serious affairs. When proceedings will be expedited and the parties' interests not substantially prejudiced, evidence may be received in written form. The Board's experience, technical competence and specialized knowledge may be used in the evaluation of evidence. ()

02. Documentary Evidence. Upon request, parties shall be given an opportunity to compare the copy with the whole of the original document. Filing of a document does not signify its receipt in evidence, and only those documents which have been received in evidence shall be considered as evidence in the official record of the case. ()

03. Prepared Testimony. The presiding officer may order a witness's prepared testimony previously distributed to all parties be included in the record of hearing as if read. Admissibility of prepared testimony is subject to the standards expressed in this rule. ()

04. Objections. Where objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly at the time of objection and before the start of closing statements. ()

05. Evidentiary Rulings. The presiding officer shall rule on the admissibility of all evidence and may grant exceptions to the requirements of this rule in the interest of justice. Such rulings may be reviewed by the Board. An evidence ruling may be deferred to the entire Board by the presiding officer or taken under advisement. The presiding officer may receive evidence subject to a motion to strike at the conclusion of the hearing. ()

06. Offer of Proof. An Offer of Proof for the record consists of a statement of the substance of the evidence to which objection has been sustained. Where the presiding officer rules evidence inadmissible, the party seeking to introduce such evidence makes an Offer of Proof to have such evidence considered by the Board. ()

07. Failure to Produce Evidence -- Adverse Inference. The Board may draw an adverse inference when a party or witness fails to produce requested evidence which is reasonably in the party or witness's control. ()

08. Post-Hearing Evidence. Unless allowed by the presiding officer, no post-hearing evidence will be accepted. ()

118. EXHIBIT (RULE 118).

01. Custody. The Board shall keep all original exhibits unless otherwise provided by law. ()

02. Marking. Exhibits will be marked to indicate the sponsoring and offering party. ()

03. Form. An exhibit prepared for hearing should be typed or printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except a map, chart, photograph or non-documentary exhibit may be introduced on the size or kind of medium customarily used for them. ()

04. Copies. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. ()

05. Objection. An exhibit identified at hearing is subject to appropriate and timely objection before the start of closing statements. A presented exhibit to which no objection is made is automatically admitted into evidence without motion. ()

119. -- 124. (RESERVED)

125. CONFIDENTIALITY -- PROTECTIVE ORDERS (RULE 125).

The decisions and official records in appeals before the Board are public records and are subject to disclosure unless otherwise provided by Title 74, Chapter 1, Idaho Code, or when a protective order, consistent with Title 74, Chapter

1, Idaho Code, is issued. A party may file a motion for a protective order showing good cause why specific information should remain confidential. The motion must include an affidavit as to the truthfulness of the contents. If another party opposes the request, that party must file a written objection within ten (10) days. ()

126. -- 138. (RESERVED)

139. SCOPE OF APPEAL IN AD VALOREM CASE (RULE 139).

In an appeal brought under Section 63-511, Idaho Code, where the appellant challenges only the value or exempt status upon either the land or the improvements on the land, the Board shall have jurisdiction to determine the value or exempt status over the entire property. The Board shall have the power to increase or decrease the value of property in a market value appeal. If the Board finds that a property classification is in error, it shall determine the correct classification. ()

140. DECISIONS AND ORDERS (RULE 140).

01. Submission for a Decision. The proceeding will stand submitted for decision after the record is closed by the presiding officer or as otherwise prescribed by the Board. ()

02. Proposed Orders. Prior to a final decision on the merits the Board may request proposed findings of fact and conclusions of law from each party. ()

03. Notice. Parties' representatives shall be notified by mail of any final decision or order. ()

04. Decisions. A decision of the Board will be based on the official record for the case. The Board shall hear and determine appeals as de novo proceedings. Decisions shall contain factual findings and conclusions of law upon which the Board's determination is based. ()

141. -- 144. (RESERVED)

145. RECONSIDERATION -- REHEARING (RULE 145).

01. Time for Filing and Service. A party adversely affected by a final decision may move for reconsideration or rehearing within ten (10) days of the time the decision is mailed. Service on other parties is required. The petitioner must file a supporting brief making a strong showing of good cause why reconsideration or rehearing should be granted. Where the presentation of additional evidence is sought, the motion shall include the reason why such evidence was not presented previously. ()

02. Consideration. Reconsideration or rehearing may be granted if, in reaching the decision the Board has overlooked or misconceived some material fact or statement of law; misconceived a material question in the case; found insufficient evidence in the record; or a party is found to have been denied the opportunity for a fair hearing. ()

03. Answer. Within ten (10) days after a motion for reconsideration or rehearing is filed, another party may file a response in support of or in opposition to said motion. ()

04. Disposition. A motion for reconsideration or rehearing shall be deemed denied if, within thirty (30) days from the date the petition is received by the Board, no response is made by the Board. ()

146. -- 150. (RESERVED)

151. OFFICIAL RECORD (RULE 151).

01. Content. The record shall include: ()

a. All notices of proceedings; ()

b. All appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; ()

- c. All intermediate or interlocutory rulings; ()
- d. All evidence received; ()
- e. All offers of proof, however made; ()
- f. All briefs, memoranda, proposed orders of the parties, statements of position or support, and objections, but not discovery responses; ()
- g. All evidentiary rulings on testimony, exhibits, or offers of proof; ()
- h. All taxing authority data submitted in connection with the consideration of the proceeding; ()
- i. A statement of matters officially noticed; ()
- j. All preliminary orders, final orders, and orders on reconsideration or rehearing; and ()
- k. The recording or transcript specified in Rule 151.02. ()

02. Verbatim Record. The official recording of hearings will be taken by means of a recorder. A party requesting a court reporter shall bear the expense of the reporter's fees. If the reporter's transcript is deemed by the Board to be the official transcript, the party requesting the reporter shall furnish the Board a transcript free of charge. ()

152. -- 154. (RESERVED)

155. SUBPOENA (RULE 155).

01. Issuance of Subpoena. Upon a motion in writing, or upon the Board's own initiative without motion, the Board may issue a subpoena requiring: ()

- a. The attendance of a witness from any place in Idaho; ()
- b. The production of documents from any place in Idaho; or ()
- c. The production of any book, paper, document, or tangible thing kept within or without Idaho to any designated place of deposition or hearing for the purpose of taking testimony or examining a document before the Board. ()

02. Motion Contents and Timing. The motion shall be in writing and include a showing of relevance and the reasonable scope of the testimony or specific items sought. The motion for subpoena shall be filed at least fifteen (15) days before the date and time set forth in the subpoena, exceptions may be granted upon a showing of good cause. ()

03. Service. Service, and the filing of the proof of such service with the Board, shall be the responsibility of the requesting party. ()

04. Fees. A witness summoned pursuant to subpoena shall be paid by the party at whose instance they appear the same fees and mileage allowed by law to a witness in civil cases in the district court. ()

05. Motion to Quash. The Board, upon motion to quash may: ()

- a. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or ()
- b. Condition denial of the motion upon reasonable conditions. ()

156. REQUEST FOR TRANSCRIPT (RULE 156).

The party requesting a written transcript shall make the arrangements for preparation of transcript and payment of the fee directly with the transcriber. ()

157. -- 999. (RESERVED)