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**IDAPA 35
TITLE 01
Chapter 04**

35.01.04 - IDAHO ESTATE AND TRANSFER TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY.

In accordance with Sections 63-513 and 14-539, Idaho Code, the Tax Commission shall promulgate rules implementing the provisions of the Idaho Estate and Transfer Tax Reform Act of 1988. (7-1-93)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 35, Chapter 04, Title 01, "Idaho Estate and Transfer Tax Administrative Rules." These rules shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax in an amount equal to the federal credit on the transfer of the taxable estate of every resident. (7-1-93)

002. (RESERVED).

003. ADMINISTRATIVE APPEALS.

This chapter does allow administrative relief of the provisions outlined herein under Section 64-3049, Idaho Code. (7-1-93)

004. PUBLIC RECORDS.

The records associated with this chapter are subject to the provisions of the Idaho Public Records Act, Chapter 1, Title 9, Idaho Code, to the extent that these documents are not confidential under Sections 63-3075 or 9-340, Idaho Code. (7-1-93)

005. - 011. (RESERVED).

012. DEFINITION AND USE OF TERMS.

Federal estate tax return includes any federal form, or other action which establishes, changes, or amends either the federal estate or the generations skipping tax liability. (7-1-93)

013. RESIDENTS--TAX IMPOSED--CREDIT FOR TAX PAID OTHER STATES.

01. Credit. The computed credit allowed by Section 2011, Internal Revenue Code, is a tax liability payable to the state, regardless of the fact that the estate did not utilize the credit on the federal estate tax return. An increased credit created by valuation changes, inclusion of omitted assets or other corrective actions made by the State Tax Commission is a tax liability, even though no corresponding change to the federal taxable estate is made on the federal estate tax return. (7-1-93)

02. Death Taxes. The estate has the obligation to document the amount of death taxes paid to other states before pro rating the federal credit will be allowed. (7-1-93)

014. TAX RETURNS--DATE TO BE FILED--EXTENSIONS.

01. Requirement. A return shall be required to be filed with the Commission by every estate that is required by the laws of the United States to file a federal estate tax return. This requirement extends to nonresident estates which have property interests with situs within Idaho included in the federal estate gross value. (7-1-93)

02. Time Payments. When any estate elects time payments under Section 6166, Internal Revenue Code, the estate will furnish the Commission a copy of the documentation required by Section 6166, Internal Revenue Code. (7-1-93)

015. DATE PAYMENT DUE--DATE DEEMED RECEIVED--INTEREST--ELECTRONIC TRANSFER OF FUNDS.

01. Estimated Final Credit. An estate which has an approved time payment for federal estate taxes shall be required to remit only the estimated final amount of federal credit that will be available after taking into

consideration the interest deductions that will be allowed as administrative expenses during the extended payment schedule. The Commission may adjust the estimated final credit amount and bill or refund an amount to the estate at the time of remittance. (7-1-93)

a. Upon final payment to the Internal Revenue Service and the final adjustment to the federal credit, settlement will be made with the Commission which may be payment or refund with applicable interest. (7-1-93)

b. It is recognized that no one will be able to exactly estimate the final federal credit prior to the extended payments due to the variable interest rate the Internal Revenue Service uses. Therefore; there shall be no penalties imposed if a good faith estimate ultimately is found to be an underpayment, though statutory interest will be assessed. (7-1-93)

02. **Extended Payment.** Extended payment of the state tax will only be approved for good cause such as, the need of a sacrifice sale of assets. The number of years for extended payment will be determined by the Commission on an individual basis, but in no case be longer than fourteen (14) years from the date the tax was due. (7-1-93)

a. Any agreement for extended payment is conditional until such time as the estate enters into a written contractual agreement with the Commission, wherein the distributee agrees to: terms of payment including total period of extension, periodic payments, and interest thereon; waiver of all statutes of limitations for the assessment or collection of the estate tax until such tax is paid in full; that unpaid estate taxes including interest shall remain a lien upon the property passed or transferred until all taxes and interest owing are paid in full and; provisions in case of default by the distributee. (7-1-93)

b. The Commission may file a lien in the real property records of the county wherein the property is located and such other places as may be necessary to protect the Commission's interest. (7-1-93)

03. **Loss of Valuation.** A credit that is increased due to an increase in federal taxable estate caused by the loss of special use valuation is payable within six (6) months of the date the property ceased to qualify for the special use valuation. (7-1-93)

04. **Interest.** Interest will accrue on tax beginning six (6) months after the date of disposition or date qualified use ceased. (7-1-93)

05. **Electronic Funds Transfer.** All taxes due the state must be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars (\$100,000) or greater, in accordance with rules promulgated by the Idaho State Board of Examiners, a copy of which is appended to these rules. (7-1-93)

016. AMENDED RETURNS--FINAL DETERMINATION.

01. **Amended Return.** A copy of any filing by the estate that establishes, changes, or amends the estate's federal tax liability shall be filed no later than sixty (60) days after the document is filed with the Internal Revenue Service. This section specifically includes, but is not limited to, an Internal Revenue Service Form 706-A. (7-1-93)

02. **Final Determination.** Final determination of the federal tax must be documented by the estate within sixty (60) days. (7-1-93)

a. In the case of an Internal Revenue Service audit, the estate should submit a copy of an agreed upon adjustment or the decision from an appeal. (7-1-93)

b. In the case of extended payments of federal estate tax, a copy of the final Internal Revenue Service estate closing letter. (7-1-93)

c. In all other cases, a copy of the Internal Revenue Service closing letter. (7-1-93)

017. REFUND FOR OVERPAYMENTS.

Interest on refunds accrues at the annual rate of twelve percent (12%) simple interest from the day the tax was paid to

the Commission to the day the refund is paid.

(7-1-93)

018. FAIR MARKET VALUE.

01. Fair Market Value. The tax imposed upon any transfer of property is measured by the fair market value of such property. Fair market value is that amount of United States money or its equivalent that in all probability a property would exchange hands for, between a willing seller under no compulsion to sell, and an informed, capable buyer; a reasonable time being allowed to consummate the sale, and substantiated by a reasonable down payment or full cash payment. (7-1-93)

a. Growing crops, in the case of a farm or tillable land must be appraised separately from the land. (7-1-93)

b. If there is a market for stocks and bonds, on a stock exchange, in an over-the-counter market, or otherwise, the mean between the highest and lowest quoted selling prices on the date of death is the fair market value per share or bond. If there were no sales on the date of death, the fair market value is determined by taking the weighted average of the means between the highest and lowest sales, on the nearest date before and the nearest date after the date of death, on which dates the stock was traded. The average is to be weighted inversely by the respective number of days between the selling date and the valuation date. (7-1-93)

c. Any variation from the quoted market price due to the size of a block of stock shall have supporting documentation attached to the return. (7-1-93)

02. Valuation. Valuation for the purpose of absorbing the maximum allowable state death tax credit will recognize alternate date valuation that is timely elected and allowed by the Internal Revenue Service. (7-1-93)

019. REFERENCE TO RELEVANT INCOME TAX RULES.

01. Income Tax Rules. All Income Tax Rules promulgated by the Commission for collection, enforcement, and administration of the code sections incorporated by reference in Section 14-412, Idaho Code, apply to the administration and enforcement of the estate and transfer tax. (7-1-93)

02. References. References to income tax in the Income Tax Rules referred to in this rule shall be described as references to estate and transfer tax for purposes of these rules. (7-1-93)

020. - 999. (RESERVED).

APPENDIX A
ELECTRONIC FUNDS TRANSFER

REGULATION 21.A.18. Requirements for Electronic Funds Transfer of Tax Payments. [Effective 8/29/88]

Electronic Fund Transfer (EFT) means any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account.

All tax payments due the state must be paid by electronic funds transfer whenever the amount is one hundred thousand dollars (\$100,000) or greater. If the due date falls on Saturday, Sunday, or legal holiday, the payment by electronic funds transfer may be made on the first business day thereafter.

The method of payment does not change any current filing requirements of the written tax forms. If the electronic funds transfer is not made and the written tax return is not filed by the tax due date, the appropriate late filing penalties and interest will apply.

The electronic funds transfer must be initiated in a timely fashion to ensure receipt of the payment in good, collected funds by the state treasurer's account by the due date.

REGULATION 21.A.19. Information Required When Making Electronic Funds Transfers. [Effective 8/13/90]

In order to initiate an EFT payment, the following information is required:

- a. Taxpayer's name
- b. Taxpayer's identification number (see attached Table 1)
- c. Tax type identification number (see attached Table 1)
- d. Amount of payment due
- e. Due date
- f. Name and account of correspondent bank
- 9- Name of receiving bank (contact the Treasurer's Office for a current list of banks)
- h. Account number of treasurer's account at that bank (contact the Treasurer's Office for current account numbers)
- i. American Bank Association 9 digit number of receiving bank (contact the Treasurer's Office for current numbers)

The name of the receiving bank and EFT verification number must be included with the written tax return.

APPENDIX B
TABLE 1

TAX TYPE NAME	TAX TYPE CODE	TAXPAYER IDENTIFICATION NUMBER
Beer Tax	06316	Permit No. (9 digits)
Cigarette Tax	07215	Permit No. (9 digits)
Corporate Income Tax	02005	Employer ID. No. (EIN) (9 digits)
Estate Tax	20310	Permit Number (9 digits)
Greater Boise Auditorium Dist Hotel/Motel Tax	04812	Permit No. (9 digits)
IFTA	05931	Permit No. (9 digits)
Individual Income Tax	01001	Social Security No. (SSN) (9 digits)
Insurance Premium Tax	07170	Certificate of Authority (4 digits)
Kilowatt Hour Tax	20219	Employer ID. No. (EIN) (9 digits)
Mileage Tax (Ton Mile)	20180	Account No. (6 digits)
Mine License Tax	10318	EIN/SSN (9 digits)
Motor Fuels Tax Gasoline (Includes aviation and gasohol)	05023	License No. (9 digits)
Motor Fuels Tax Special Fuels Tax	05222	EIN/SSN (9 digits)
Motor Fuels Tax Motor Carrier	05327	Permit No. (9 digits)
Sales and Use Tax	04008	Permit No. (9 digits)
Tobacco Tax	07313	Permit No. (9 digits)
Travel and Convention Tax	07411	Permit No. (9 digits)
Unemployment Insurance Tax	13090	Employer Account No. (10 digits)
Wine Tax	06217	Permit No. (6 digits)
Withholding Tax	01109	Permit No. (9 digits)