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**IDAPA 35
TITLE 01
Chapter 08**

35.01.08 - MINE LICENSE TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY.

In accordance with Sections 63-513 and 47-1201, Idaho Code, the Tax Commission shall promulgate rules implementing the provisions of the Idaho Mine License Tax Act. (7-1-93)

001. TITLE AND SCOPE.

These rules shall be cited as IDAPA 35, Chapter 08, Title 01, "Idaho Mine License Tax Administrative Rules." These rules shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a license tax to be measured by two percent (2%) of the net value of ores mined. (7-1-93)

002. (RESERVED).

003. ADMINISTRATIVE APPEALS.

This chapter does allow administrative relief of the provisions outlined herein under Section 63-3049, 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. -- 010. (RESERVED).

**011. LICENSE TAX TO BE MEASURED BY TWO PERCENT OF NET VALUE OF ORES MINED
DEFINITION OF ROYALTY.**

No person, co-partnership, company, joint stock company, trust, corporation or association shall be subject to tax under this Act for payments received from mining properties within Idaho from which no minerals or ores were extracted, sold or used during the taxable year, provided that the tax arising from payments of advance royalties shall be deferred until the year during which the ore to which the advance royalty relates is actually extracted. (7-1-93)

012. NET VALUE OF ORE TO BE USED AS MEASURE OF TAX HOW DETERMINED.

01. Election. For taxable years ending on or after January 1, 1977, the taxpayer may elect to use one of the methods prescribed in Section 47-1202, Idaho Code, for the measurement of the mine license tax. This election must be made in writing and filed with the mine license tax return for the first taxable year ending on or after January 1, 1977. This election is not available to taxpayers whose only taxable mining activity is the receiving of royalties. Such taxpayers must determine their mine license tax liability by use of the method described in Section 47-1202(a), Idaho Code. Taxpayers whose mining activity includes both the receiving of royalties and the extraction of ores must separately determine that portion of their mine license tax liability arising from the royalty received by use of the method described in Section 47-1202(a), Idaho Code, but may elect to determine that portion of their mine license tax liability arising from their extraction of ores by use of either method for which a proper election has been made. The separate determination may not be netted together or offset against each other. If no timely written election is made, the taxpayer shall be presumed to have elected to compute the mine license tax in accordance with the method described in Section 47-1202(a), Idaho Code. Once an election is made, the taxpayer may not change the method of computing his tax unless he receives written permission from the State Tax Commission prior to the due date of the return. (7-1-93)

02. Method Under Section 47-1202(a). For each taxpayer using the method described in Section 47-1202(a), Idaho Code, the net value of ores mined shall be the amount of taxable income from the property as defined by Section 613, Internal Revenue Code, and Treasury Regulation 1.613-5 less the deduction for depletion expense on the property which was allowed in the taxpayer's federal income tax return. For taxpayers receiving royalties, gross royalties shall be reduced by the deduction for depletion expense on the royalty which was allowed in the taxpayer's federal income tax return. (7-1-93)

03. Method Under Section 47-1202(b). For each taxpayer using the method described in Section 47-1202(b), Idaho Code, the net value of ores mined shall be the result of the following computation. (7-1-93)

- a. Gross value of the ores shall be equal to that determined by the U.S. Department of Interior during the same

taxable year. This gross value shall be that computed for purposes of identifying the amount of mineral royalties to be paid for the privilege of mining public lands. The value thus determined shall apply regardless of whether the ore is extracted from public, Indian or private land. If the taxpayer is engaged in mining properties for which such a royalty must be paid, the taxpayer must attach to the mine license tax return a copy of the value determination made by the U.S. Department of the Interior. (7-1-93)

b. From the gross value determined above, the taxpayer shall deduct direct mining costs attributable to the production of the ores to the point at which they are valued by the U.S. Department of the Interior. (7-1-93)

c. From the gross value determined above, the taxpayer shall also deduct a portion of the depletion expense attributable to the property which was allowed as a deduction in the taxpayer's federal income tax return for the same taxable year. (7-1-93)

i. The deductible portion of this depletion expense shall be determined by use of the following computation:
Gross value of ores for mine license tax purposes Depletion expense allowed in Federal income tax return = Gross value of ores for Federal percentage depletion purposes = Deductible portion of federal depletion expense. (7-1-93)

ii. For purposes of this computation, all references to gross value and depletion expense must be limited to those arising from mining conducted upon properties located within Idaho. (7-1-93)

04. Returns. Each mine license tax return must include a copy of the depletion expense computation applicable to Idaho mining properties which was included in the taxpayer's federal income tax return. (7-1-93)

013. EXTENSIONS OF TIME.

The granting of an extension of time in which to file does not alter the due date of the returns for the computation of interest or penalty for underpayment of the estimated tax due. (7-1-93)

01. Interest. Interest will accrue on the portion of the tax not paid from the original due date until the date the return is filed in final form and the full amount of tax paid. However, if an effective extension of time has been granted, interest will not be paid on amounts of estimated tax in excess of the actual tax liability. See Section 63- 3073, Idaho Code. (7-1-93)

02. Penalty. A five percent (5%) penalty for underpayment of the tentative tax due on the return will be assessed if the amount paid is less than eighty percent (80%) of the total tax reported on the tax return when it is filed, or not equal to the total tax reported on the tax return for the preceding year if a return was filed. The words tax reported on the tax return refer to a tax which is correctly determined on the tax return. If, for any reason, the tax reported on the return is either greater than or less than the tax imposed by the Mine License Tax Act, the tax reported on the return shall be corrected before the amount of penalty due, if any, is computed. (7-1-93)

03. Return Information. The return shall include a schedule listing the name, address, and federal taxpayer identification number, either employer identification number or social security number, of each recipient of royalties paid by the taxpayer filing the return. The royalties shall be separately stated for each mining operation. (7-1-93)

014. PAYMENT OF TAX BY 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 more. See Appendix 1 of the Idaho Income Tax Rules for detailed instructions. (7-1-93)

015. REFERENCE TO RELEVANT INCOME TAX RULES.

All Income Tax Rules promulgated by the State Tax Commission for collection, enforcement, and administration of the Idaho Code sections incorporated by reference in Section 47-1208, Idaho Code, apply to the administration and enforcement of the Mine License Tax. (7-1-93)

016. -- 999. (RESERVED).