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**IDAPA 09
TITLE 01
Chapter 35**

09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

000. -- 010. (RESERVED).

011. GENERAL PROVISIONS.

The following Rules for Employer Contributions are adopted pursuant to Sec. 72-1333(b) Idaho Code. (4-1-79)

01. Advisory Service. The Employer Accounts Bureau shall provide advisory services and assistance regarding unemployment insurance tax to employers, legislative committees, and other interested associations and individuals. Ref. Sec. 72-1333(b) Idaho Code. (4-1-79)

02. Extension for Payment. The Chief of Employer Accounts, his designated representative, or any local office tax representative, may, for good cause, grant an extension for the payment of contributions or any part thereof up to a maximum of sixty (60) days. Ref. Sec. 72-1349 Idaho Code. (11-1-84)

03. Notification of Extension. Employers shall be promptly notified that an extension of time has been granted or denied. Ref. Sec. 72-1349 Idaho Code. (4-1-79)

04. Status Determinations. Status determinations regarding employment coverage or noncoverage under the Idaho Code shall be the primary responsibility of the status unit. Inquiries should be directed to the Status Examiner. Ref. Sec. 72-1333 Idaho Code. (4-1-79)

05. Quarterly Reporting. Subject employers shall report all wages paid for services in covered employment each calendar quarter. Ref. Sec. 72-1328(a) Idaho Code. (4-1-79)

06. Contribution Due Date. Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349(c) Idaho Code. (4-1-79)

07. Penalties and Interest on Bankruptcy. Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1355 Idaho Code. (7-1-97)

08. Late Penalty. Penalty shall be calculated on the unpaid balance for each quarter. Ref. Sec. 72-1354 Idaho Code. (6-1-81)

09. Lien Interest. Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Rule 35.056). Ref. Sec. 72-1360 Idaho Code. (7-1-97)

10. Penalty and Interest During Controversy. Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sec. 72-1354 and Sec. 72-1360 Idaho Code. (7-1-97)

11. Confidential Information. Information obtained from an employer shall be held as confidential and shall not be released unless authority for that release is provided for by an approved Rule or the Idaho Code. Ref. Sec. 72-1342 Idaho Code. (4-1-79)

12. Wages Reported to Another State. An employer's election to report wages to another state for covered employment performed in Idaho shall not be approved unless it is in the best interest of the Department. Ref. Sec. 72-1344 Idaho Code. (4-1-79)

13. Multistate Employment. Reciprocal arrangements for coverage of multistate employment may be entered into by the Director or his designated representative, to avoid multiple taxation in each state and assist the claimant in becoming monetarily eligible for unemployment insurance benefits. Ref. Sec. 72-1344 Idaho Code. (6-1-81)
14. Advising Multistate Employers. Multistate employers shall be advised of the multistate agreement and the requirements for participation in the program. Ref. Sec. 72-1344 Idaho Code. (4-1-79)
15. Authority to Approve Multistate Agreements. The Chief of Employer Accounts, or his designated representative shall have the authority to approve or disapprove the employer's participation in the multistate agreement based on the pertinent information available to him. Ref. Sec. 72-1333 Idaho Code. (6-1-81)
16. Multistate Agreement Appeal Rights. The employer shall have the right to appeal a determination of noneligibility in the multistate agreement. Ref. Sec. 72-1361 Idaho Code. (4-1-79)
17. Notification of Multistate Employers. When all states concerned have ratified the multistate agreement, employers shall be notified of the determination along with all covered employees for that employer. Ref. Sec. 72-1344 Idaho Code. (4-1-79)
18. Right to Appeal Liability Determinations. The employer's right to appeal determinations of contribution liability shall be explained to said employer when he initially comes under coverage and in conjunction with any determination sent him. Ref. Sec. 72-1361 Idaho Code. (7-1-97)
19. Employer Protest or Appeal. A protest or appeal may be filed by an employer or his authorized representative. Ref. Sec. 72-1361 Idaho Code. (4-1-79)
20. Contributions During Appeal. The employer shall be advised, but not required, to continue regular payment of contributions during the period of appeal. Ref. Sec. 72-1349 Idaho Code. (4-1-79)
21. Request for Special Redetermination. A request for a special redetermination shall be in writing, signed by an interested party or representative. It must include an explanation as to why the protesting party disagrees with the original determination. The request may be delivered in person or mailed to the Department of Labor. A request for redetermination delivered in person shall be considered filed when received by a representative of the Department of Labor. A request for redetermination that is mailed shall be considered filed as of the date of the postmark on the envelope. Ref. Sec. 72-1361 Idaho Code. (7-1-97)
22. Determination of Payment Date. Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349(c) Idaho Code. (7-1-93)
23. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on his behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Sec. 72-1349 Idaho Code. (7-1-97)
24. Contributions to be Deemed Held Separately. All moneys required by law to be paid by an employer for employment security contributions, penalties, and interest shall immediately, upon becoming due and payable, become state money, and every employer who is required to pay employment security contributions, penalties and interest therefor shall hold or be deemed to hold said money separately, aside, or in trust from any other funds, monies or accounts, for the state of Idaho for payment to the Department in the manner and at the times as provided by law. Ref. Sec. 72-1349 Idaho Code. (7-1-97)

012. -- 039. (RESERVED).

040. COMPROMISE OF LATE PENALTY.

Pursuant to Section 72-1354, Idaho Code, the Director or his authorized representative may, for good cause shown, compromise the amount of penalties owed on an employer account. An employer shall submit a request in writing for compromise of penalties, setting forth the reason(s) for the delinquency, and attaching any available evidence supporting the request. (2-22-95)

01. Good Cause. An employer has good cause for the failure to timely pay contributions when, in the opinion of the Director or his authorized representative, the employer has established that one of the following criteria has been met: (2-21-95)

a. The reason for the delinquency was beyond the reasonable control of the employer. Examples of circumstances that are beyond the reasonable control of the employer include, but are not limited to, the following: (2-21-95)

i. Departmental error, including but not limited to providing incorrect information to the employer or not furnishing proper forms in sufficient time to permit timely payment of contributions; (2-21-95)

ii. Death or serious illness or injury of the employer or the employer's accountant or members of their immediate families; (2-21-95)

iii. Destruction by fire or other casualty of the employer's place of business or business records; or (2-21-95)

iv. Postal service delays. (2-21-95)

b. The delinquency was due to circumstances for which the imposition of penalties would be inequitable. (2-21-95)

c. Good cause is also established in the case of an employer who has never received a status determination, who has never paid any contributions to the director, and the failure to pay contributions was due to the employer's good faith belief that the employer was not a covered employer pursuant to the provisions of Idaho Employment Security Law. Ref. Sec. 72-1354 Idaho Code. (2-21-95)

041. -- 050. (RESERVED).

051. ROUNDING WAGES REPORTED ON CONTRIBUTION REPORT TO NEXT LOWER DOLLAR AMOUNT.

The total wages and taxable wages shown on the contribution report which are to be used in computing contributions due shall be reduced to the next lower dollar amount. Ref. Sec. 72-1349 Idaho Code. (4-1-79)

052. -- 055. (RESERVED).

056. APPLICATION OF PAYMENTS ON DELINQUENT ACCOUNTS.

Whenever and if a delinquency exists in the account of an employer, and payment in an amount less than the total delinquency is submitted to the Department upon said account, the Department shall, unless other arrangements have been made and approved by the Department, apply payment as follows: (7-1-97)

01. First Application. First, credit such payment in satisfaction of interest due for the calendar quarter or period most delinquent in point of time; (7-1-97)

02. Second Application. Next, credit the remainder of such payment in satisfaction of penalty due for such calendar quarter or period most delinquent in point of time; (7-1-97)

03. Third Application. Next, credit the remainder of such payment in satisfaction of contributions due

for the calendar quarter or period most delinquent in point of time; (7-1-97)

04. Subsequent Applications. Such applications shall be applied in a like manner for each remaining delinquent quarter until the amount of payment is exhausted. Ref. Sec. 72-1354 Idaho Code. (7-1-97)

057. -- 060. (RESERVED).

061. DEFINITIONS.

The definitions listed in Rule 09.01.30.011 and the following are applicable to this Bureau. (7-1-93)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents (\$4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Sec. 72-1349 Idaho Code. (7-1-96)

02. Wages. All remuneration for personal service performed from whatever source, including commissions and bonuses, and the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include: (9-1-86)

- a. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production; (7-1-97)
- b. Commissions for past services in covered employment; (9-1-86)
- c. Salaries or remuneration paid to corporate officers; (9-1-86)
- d. Salary advances against commissions; (9-1-86)
- e. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328 Idaho Code; (7-1-97)

f. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (7-1-97)

g. Vacation or "idle-time" pay, no matter when paid; (9-1-86)

h. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. Ref. Sec. 72-1328 Idaho Code. (3-1-85)

03. Exclusions From Wages. The term "wages" described in Section 72-1328, Idaho Code does not include the following: (7-1-97)

- a. Prizes or gifts for special occasions which are expressions of good will; (11-1-90)
- b. Bonuses paid for signing a contract; (11-1-90)
- c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (7-1-97)
- d. Drawings or advances by partners against the distribution of profits; (11-1-90)
- e. Rental charge for personal equipment provided by the employee on the job: if (7-1-97)
 - i. There is a rental agreement; and (7-1-97)
 - ii. The worker has received a reasonable wage for services performed; and (7-1-97)
 - iii. The fees are held separately on the employer's records. (7-1-97)

- f. Stock issued for other than "services rendered" purposes; (7-1-97)
- g. Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: Ref. Sec. 72-1328 Idaho Code. (7-1-97)
- and i. To have paid or incurred reasonable job related expenses while performing services as employees; (7-1-97)
- ii. To account adequately to the employer for these expenses; and (7-1-97)
- iii. To return any excess reimbursement or allowance. Ref. Sec. 72-1328 Idaho Code. (7-1-97)
- h. Payments for employee travel expenses, provided: (7-1-97)
- i. Payments are job related expenses while performing services; and (7-1-97)
- ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and (7-1-97)
- iii. Records for days of travel pertaining to per diem payments are verifiable. (7-1-97)

062. -- 080. (RESERVED).

081. EMPLOYER RECORDS.

Each person hiring one or more individuals, whether or not such employment is sufficient to create the status of a covered employer, shall establish and maintain records to show the information hereinafter indicated. Such records shall be kept for a period of three (3) years after the calendar year in which the remuneration was due. Ref. Sec. 72-1337 Idaho Code. (7-1-97)

- 01. Required Information. Such records shall show with respect to each employee unless the Department has ruled that his services do not constitute covered employment: (7-1-97)
 - a. Full name and home address of worker; (7-1-93)
 - b. Social Security Account number; (7-1-93)
 - c. His place of work within this State; (7-1-93)
 - d. Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (7-1-93)
 - e. Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (7-1-93)
 - f. Wages paid for employment in each pay period and total wages for all pay periods ending in each quarter of the year, showing separately: (7-1-93)
 - i. Money wages; (7-1-93)
 - ii. The cash value of other remuneration; (7-1-93)
 - iii. The amount of all bonuses or special commissions. (7-1-93)
- 02. Special Remuneration. Any special remuneration paid for services performed in more than one quarter of the year, such as annual commissions or bonuses, gifts and prizes, showing separately: (7-1-97)

- a. Money payments; (7-1-93)
- b. The cash value of other remuneration and the nature thereof; (7-1-93)

03. Travel or Employee Business Expenses. Amounts paid to employees as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. (7-1-97)

04. State in Which Services Performed. The state or states in which his services are performed; and if any of such services are performed outside of this State and are not incidental to the services within the State, his base of operations (or if there is no base of operations, then the state from which such services are directed or controlled), and his residence (by state), and the name of the county in Idaho in which services were performed. (6-1-82)

05. Records to Be Made Available. The records to be made available to the director or his authorized representative, in accordance with the provisions of Section 72-1337 Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts. (7-1-97)

082. -- 095. (RESERVED).

096. EMPLOYER STATUS REPORT.

01. Status Report. Each employer shall report on such form or forms as may be prescribed and furnished, such information as may be necessary to make an initial or subsequent determination of his status under the Idaho Code. Said reports shall be signed by the person making the same if he is the employer, or on behalf of the employer by his duly authorized representative for such purpose. In the case of a partnership, the initial status report shall be signed by each of the partners, except when a satisfactory showing is made that it is impracticable or impossible to obtain each partner's signature. Ref. Sec. 72-1337 Idaho Code. (12-1-78)

02. Exceptions. The provisions of this Rule shall not apply to any employer for whom the services performed do not, by virtue of the provisions of Section 72-1316, Idaho Code, constitute covered employment, except that the director reserves the right, in his discretion, to require any such employer at any time to make the reports mentioned in Rule 096 of this Rule. Ref. Sec. 72-1337 Idaho Code. (12-1-78)

097. -- 105. (RESERVED).

106. CLAIMS OF EXEMPTION.

Any employer claiming that services performed for him or remuneration paid by him does not constitute covered employment or covered wages, as defined in Section 72-1316 and 72-1328 Idaho Code, shall make a report to the Department of Labor of all pertinent facts upon which said claim is based, which report shall be signed by the person making the claim, if he be the employer, or on behalf of the employer by an authorized representative. Ref. Sec. 72-1337 Idaho Code. (7-1-97)

107. REMUNERATION PAID CONSTITUTES BOTH TAXABLE WAGES AND EXCLUDED AMOUNTS.

When remuneration paid includes payment for other than wages for services performed in covered employment, the employer's records must account for wages and other remuneration separately. When this distribution is not shown on the records, the employee's entire remuneration will be deemed to be wages. Ref. Sec. 72-1337 Idaho Code. (7-1-97)

108. -- 110. (RESERVED).

111. SERVICES PERFORMED PART IN COVERED EMPLOYMENT AND PART IN EXCLUDED EMPLOYMENT.

When wages paid cover services performed both in covered employment and excluded employment, the employer's records must show the hours and wages for covered employment and also hours and wages for excluded employment. When this distribution is not shown on the records, the employee's entire wage will be deemed to have been earned in

covered employment. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

01. Non-covered Worker. For purposes of Section 72-1316(d)(1) Idaho Code: A worker is considered free from direction and control in the performance of his work when: (7-1-93)

a. He cannot be summarily terminated or himself terminate during the progress of the work without resulting contractual liability or rights; and (7-1-93)

b. He cannot be directed in the details or method of his work but is responsible only for the result as designated by his contract. Ref. Sec. 72-1316(d) Idaho Code (4-1-79)

02. Covered Worker. A worker is not considered free from direction and control when: (7-1-93)

a. He can terminate or be terminated at will during the progress of the work without contractual liability; or (7-1-93)

b. He can be directed as to the details and method of work under penalty of summary termination. Ref. Sec. 72-1316(d) Idaho Code. (4-1-79)

03. Evidence of Contractual Liability For Termination. For purposes of making determination under Section 72-1316(d) Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Sec. 72-1316(d) Idaho Code. (4-1-79)

04. Independent Establishment of Trade, Occupation, Profession or Business. For purposes of Section 72-1316(d)(2) Idaho Code, the following are indications of a worker's independently established trade, occupation, profession, or business: (4-1-79)

a. He has authority to hire subordinates as his employees in performing the service. (7-1-93)

b. He owns or leases the major items of equipment used in performing the service. (7-1-93)

c. Liability to either party would arise for peremptory termination of business relationship. Ref. Sec. 72-1316 Idaho Code. (4-1-79)

112. -- 125. (RESERVED).

126. TERMINATION OF COST REIMBURSEMENT OR TAX RATED STATUS.

Section 72-1349A(a)(1)(A) Idaho Code, provides that the defined employers may after one (1) year, terminate their election to reimburse the Department for the cost benefits paid to their former employees. Such employers must continue to reimburse the Department for their proper share of any benefits paid on benefit claims which utilize wages paid by them during the period the reimbursement agreement was in effect. In addition, they become a new employer under the experience rating provisions of the Law and must pay tax at such rate until their experience, after the date of change, warrants a different tax rate. Section 72-1349A(a)(1)A Idaho Code, provides that certain tax rated employers may elect to become cost reimbursement employers under the provisions of the Act and such employer's experience rating account shall continue to be chargeable for any benefits paid utilizing wages during the period the employer was an experience rated employer. Ref. Sec. 72-1349A Idaho Code. (4-1-79)

127. -- 130. (RESERVED).

131. FARM COMMODITY OWNERSHIP.

In determining if the farm operator-processor produced more than fifty percent (50%) of the commodities being processed, the following shall apply: (4-1-79)

01. Quantity. It will be determined on a quantity basis where the farm operator processes only one (1) commodity; (7-1-93)

02. Wages. It will be determined on the basis of the relationship between wages paid for processing commodities raised by the farm operator-processor and total wages paid for processing where the farm operator processes several commodities. Wages paid for processing each commodity will be determined. The proportionate share of such wages paid for processing that portion of the commodity raised by the farm operator-processor will be ascertained on the basis of the percentage of such commodity which was produced by the farm operator. This will be done for each commodity processed so as to ascertain total wages paid for processing commodities produced by the farm operator-processor. If such total is more than fifty percent (50%) of the total wages paid for processing all commodities, the activity will be exempt but if it is fifty percent (50%) or less, it will not be exempt. Ref. Sec. 72-1333(b) Idaho Code. (4-1-79)

132. STATUS.

01. Status Information Required. To determine the taxable status of an employer, detailed information regarding the business activities of any person engaged in business in Idaho shall be submitted as required, including articles of incorporation, articles of organization, minutes of boards of directors, financial reports, partnership agreements, number of employees, wages paid, employment contracts, income tax records, and any other records or other information which may tend to establish such person's status. Ref. Sec. 72-1337 Idaho Code. (7-1-97)

02. Notification to Liable Employers. Employers who are determined liable for contributions shall be notified by letter of their status as a covered employer. The employer's appeals rights to the determination shall also be explained in the letter. Ref. Sec. 72-1353 Idaho Code. (4-1-79)

03. Status Determination. A formal determination of status shall be prepared if an employer questions his liability. This status determination shall state the received facts and arrive at a logical conclusion based on these facts and precedent appeals decisions or legal opinions. Ref. Sec. 72-1353 Idaho Code. (4-1-79)

04. Ineligible to Assume Experience Rating Record. Upon the determination that the successor to a business is ineligible to assume the predecessor's experience rating, a formal determination to this effect, explaining the reason for the decision and outlining the appeal rights, shall be mailed to that employer. Ref. Sec. 72-1351 Idaho Code. (4-1-79)

05. Employer Quarterly Report Forms. Employers who are liable to pay tax contributions, or who have elected a cost reimbursement option in lieu of tax contributions, shall submit quarterly report forms in any form or medium designated by the director or his authorized representative. Ref. Sec. 72-1333 Idaho Code. (7-1-97)

06. Update Requirements. Covered employers shall furnish the Department with pertinent status data when new or additional information is available. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

133. -- 155. (RESERVED).

156. CASHIER.

The Cashier Unit shall prepare and issue receipts for cash remittances received. Receipts for payments made by check shall be given only upon request. Ref. Sec. 72-1333(a)(b) Idaho Code (6-1-84)

01. Dishonored Checks. The Cashier Unit shall return all dishonored checks to the Delinquency Control Unit for further collection actions. Ref. Sec. 72-1333(a)(b) Idaho Code. (11-1-84)

157. -- 165. (RESERVED).

166. FIELD OPERATIONS CONTROL.

When circumstances dictate, and as a result of nonpayment of liabilities, the employer shall be notified by mail to his last known address of lien proceedings against his interests, with an explanation of the amounts due, and the accrual of interest at the proper rate until the lien is satisfied. Ref. Sec. 72-1360 Idaho Code. (6-1-84)

01. Execution Against Assets. The Department of Labor shall, when the situation warrants, levy upon or execute against any real or personal property both tangible and intangible, in which an indebted person has an interest, including any offsets as allowed by Section 67-1026, Idaho Code. Ref. Sec. 72-1360 Idaho Code. (7-1-97)

02. Interstate Investigation Requests. Interstate requests to Employment Security agencies of other states for a field audit, an investigation, collection action, or other tax related activity shall be limited to employer accounts constituting an indebtedness of five hundred dollars (\$500) or more, or limited by restrictions of other states. The five hundred dollar (\$500) minimum limit may not be applicable if the request involves wage credits for benefits. Ref. Sec. 72-1344 Idaho Code. (7-1-97)

03. Removal of Employer Records. With the employer's permission, the Department of Labor Tax Representatives shall be authorized to remove the employer's payroll records and shall accept full responsibility for those records while in their possession. Ref. Sec. 72-1337 Idaho Code. (7-1-97)

04. Frequency of Audits. The frequency of audits of an employer's payroll records shall be determined by the size and scope of the employer's operation and the number of errors discovered in previous audits. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

05. Notification of Audits. Employers shall be notified as soon as practicable of an impending payroll records audit for tax liability purposes. This shall allow time in which to agree as to a convenient time and place for audit. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

06. Confidential Information. The Department of Labor Tax Representative shall consider all information which he inspects during the course of an audit as confidential and shall not disclose the information to any unauthorized source. Ref. Sec. 72-1342 Idaho Code. (7-1-97)

07. Statute of Limitations. In the absence of fraudulent practices, the department shall not audit an employer's records for a period greater than three (3) years for purposes of establishing a tax liability. The three (3) year period shall be determined by, and extend three (3) years back from, the date that the employer is notified, orally or in writing by any representative of the department, of an intent to perform an audit of the records, and shall be deemed to include every quarter which, in whole or in part, falls within the three (3) year period. This statute of limitations shall not apply in any case in which an employer has engaged in fraudulent practices. (7-1-96)

a. The three (3) year statute of limitations is tolled for any period in which the employer does not reside within the state. (7-1-96)

b. If the employer or his representative acknowledges the indebtedness or makes a partial payment thereon, the statute of limitations shall be extended an additional three (3) years from the date of such payment or acknowledgment. (7-1-96)

c. Administrative proceedings for collection of taxes from subject employers shall be instituted within five (5) years from the date that a subject employer receives notice that he owes any amount to the department. (7-1-96)

d. The time limits contained in Subsection 166.07.c. shall not apply once a tax liability is recorded as a lien against the property of an employer. (7-1-96)

08. Relief of Indebtedness. Neither the full running of the statute of limitations nor the writing off of the account as uncollectible relieves an employer of tax indebtedness. Ref. Sec. 72-1364 Idaho Code. (4-1-79)

09. Cash Bonds. Employers subject to a property or interest lien shall have the option of posting a cash bond of double the amount of the tax liability with the clerk of the county wherein the lien is recorded. (7-1-93)

a. Upon the court's satisfaction, the court shall issue a certificate to the employer stating that bond is posted in lieu of property and the existing lien against the property is released. (7-1-93)

b. Collection by suit shall be required to receive judgment in the amount of the lien against this bond. Ref. Sec. 72-1360 Idaho Code. (4-1-79)

167. -- 185. (RESERVED).

186. ACCOUNTING AND DELINQUENCY CONTROL.

Overpayments on employer accounts may be refunded without written application by the employer. Credits resulting from overpayments or adjustments to an employer's account shall be refunded periodically unless such credit is applied to a subsequent balance due. Ref. Sec. 72-1357 Idaho Code. (7-1-97)

01. Erroneous Wage Reports. An employer submitting an erroneous report of employee wages resulting in payment of unearned unemployment insurance benefits shall have said benefit payments subtracted from any refund due that employer, if such employer benefited from the unearned benefit payments. Ref. Sec. 72-1333 Idaho Code. (7-1-97)

02. Notification of Underpayments. Employers shall be notified periodically of any taxes, penalties, or lien interest due on their tax account. Ref. Sec. 72-1349 Idaho Code. (7-1-97)

03. Cancellation of Refund Warrants. Refund warrants, outstanding after the validity date, shall be canceled, stop-payment procedures initiated, and then reissued only upon completion of an affidavit for the replacement of the lost or destroyed warrant. Ref. Sec. 72-1333 Idaho Code. (4-1-79)

187. -- 220. (RESERVED).

221. TRANSFER OF EXPERIENCE RATING.

Upon request, employers shall be informed of the requirements for transferring an experience rating record. Employers will be notified of any changes in rating, occurring as a result of transfers. A status determination will be issued to interested parties when an experience rating record transfer request is denied. Ref. Sec. 72-1351 Idaho Code. (6-1-84)

01. Mandatory Transfer of Deficit Rate. An experience rating record transfer shall be mandatory if: There is a continuity of ownership or management between the predecessor and successor, and the predecessor covered employer had a deficit experience rating record as of the last computation date. The parties in interest shall be notified of such transfer of deficit experience as determined from the facts applicable to the case. Such determination may be appealed as provided in Sections Ref. 72-1351, 72-1361 Idaho Code. (6-1-84)

02. Continued Predecessor Employment for Liquidation. When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Sec. 72-1351 Idaho Code. (6-1-84)

03. Management to Ownership Unchanged. For the purposes of Section 72-1351(d)(1) and (2), Idaho Code, management and/or ownership shall be considered substantially the same if at least fifty percent (50%) of the business enterprise of the successor is owned or controlled by individuals who, immediately preceding the change in the legal entity, owned or controlled fifty percent (50%) or more of the enterprise. Ref. Sec. 72-1351 Idaho Code. (4-1-79)

222. -- 230. (RESERVED).

231. EXPERIENCE RATING - QUALIFYING PERIOD.

When an eligible employer ceases to have covered employment for a period of six (6) consecutive quarters or more, he must complete another qualifying period in order to again be eligible for consideration for a reduced contribution rate. Ref. Sec. 72-1319 Idaho Code. (4-1-79)

232. -- 240. (RESERVED).

241. BOARD, LODGING, MEALS.

When board, lodging, meals, or any other payment in kind considered as payment for services performed by an employee constitute a part of wages or wholly comprise an employee's wages, the value of such board, lodging, or other payment shall be determined as follows: (9-1-89)

01. Cash Value. If a cash value for such board, lodging, or other payment is agreed upon in any contract of hire, the amount so agreed upon shall be used provided it is reasonable value. If there is no agreement, or if the contract of hire states an amount less than reasonable value, the Department of Labor shall determine the reasonable value to be used. In no event shall the value used be less than the value listed below. Ref. Sec. 72-1328 Idaho Code

Full Board and Room, weekly	\$90.00
Meals per week	60.00
Meals per meal	3.00
Lodging per week	30.00
Lodging per day	4.50

(7-1-97)

02. Meals And Lodging Not Included In Gross Wages. The value of meals and lodging furnished by an employer to his employee will not be included in the employee's gross income if it meets the following tests: (7-1-93)

- a. The meals or lodging are furnished on the employer's business premises; (7-1-93)
- b. The meals or lodging are furnished for the employer's convenience; and (7-1-93)

c. In the case of lodging (but not meals), the employees must be required to accept the lodging as a condition of their employment. This means that they must accept the lodging to allow them to properly perform their duties. In addition, in order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages. Ref. Sec 72-1328 Idaho Code. (7-1-97)

03. Meals Or Lodging For Employer Convenience. Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional pay to the worker. A statement that the meals or lodging are not intended as pay is not enough to prove that either meals or lodging are furnished for the employer's convenience. Ref. Sec. 72-1328 Idaho Code. (4-1-90)

04. Subsistence Remuneration. In the case of employees who receive remuneration in the form of subsistence, such as groceries, staples, and fundamental shelter, the fair value of such subsistence will be determined by the Director. Ref. Sec. 72-1328 Idaho Code. (4-1-90)

242. -- 255. (RESERVED).

256. DETERMINATION OF FAIR VALUE OF REMUNERATION FOR PERSONAL SERVICES.
When the amount paid to an employee by an employer includes remuneration for other than personal services such as equipment use, travel costs, etc., the Director shall determine the fair value of the remuneration for the employee's personal services. In making such determination, the Director shall consider the wages specified in the contract of hire, the prevailing wages for similar work under comparable conditions, and other pertinent factors. The wages so determined by the Director shall be reported by the employer. Ref. Sec. 72-1328 Idaho Code. (2-1-90)

257. -- 261. (RESERVED).

262. DETERMINATION OF PROPER QUARTER IN WHICH TO ASSIGN AND REPORT WAGES.

01. Wage Assignment to Proper Calendar Quarter. Wages shall be assigned to the calendar quarter in which the wages were: (7-1-93)

a. Actually paid to the employee in accordance with the employer's usual and customary payday as established by law or past practice; (7-1-93)

b. Due the employee in accordance with the employer's usual and customary payday as established by law or past practice but not actually paid on such date because of circumstances beyond the control of the employer and/or the employee; (7-1-93)

c. Not paid on the usual or customary payday as established by law or past practice but set apart on the employer's books as an amount due and payable or otherwise recognized as a specific and ascertainable amount due and payable to the worker in accordance with an agreement or contract of hire under which services were rendered. Ref. Sec. 72-1367 Idaho Code. (11-1-84)

02. Draws and Advances on Wages. Payments to employees made prior to regular or established paydays will be assignable and reportable during the quarter in which they would have been paid unless a practice is established whereby all employees or a class of employees are given an opportunity to take a "draw" by which such action, another "regular" payday appears to have been created. (7-1-93)

03. Judgements of Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages and will be assigned to the quarter or quarters in which the employer would have reported such wages or as stipulated in the award or judgment. Ref. Sec. 72-1328 Idaho Code. (5-1-92)

04. Awarded Damages Against Employers. Amounts awarded to the claimant as a penalty or damages against the employer, other than for lost wages, do not constitute wages. Ref. Sec. 72-1328, Idaho Code. (5-1-92)

263. -- 270. (RESERVED).

271. FEDERAL SOCIAL SECURITY ACCOUNT NUMBERS.

Each individual, regardless of age, engaged in covered employment shall procure a Federal Social Security Account Number and shall give information thereof to every employer for whom he performs services. (4-1-79)

01. Application for Social Security Number. Each individual, regardless of age, engaged in covered employment who does not have a Federal Social Security Account Number shall file an application for such number within fifteen (15) days after he begins such employment. (4-1-79)

02. Employer Responsibilities for Social Security Numbers. It shall be the duty of each covered employer to procure the appropriate forms for application for Social Security Account Numbers and to furnish such forms upon request to individuals in his employ who do not have such numbers. (4-1-79)

03. Failure to Obtain Social Security Number. If an individual engaged in covered employment shall fail to comply with the provisions of this Rule within the time herein limited, his employer shall within ten (10) days thereafter, file an application for a Federal Social Security Account Number for such individual. No individual engaged in covered employment shall, by reason of his employer having filed an application for him, be relieved from the duty to procure a Social Security Account Number. Ref. Sec. 72-1337 Idaho Code. (4-1-79)

272. -- 274. (RESERVED).

275. UI DELIVERY SYSTEMS.

The Department of Labor shall be responsible for analyzing, designing, testing, and assisting in implementing new and improved UI delivery systems for claimants and employers. Ref. Sec. 72-1333 Idaho Code. (4-1-79)

01. Testing. The testing of new or improved UI delivery systems in Idaho shall be accomplished at various selected locations with selected claimants and/or employers as pilot projects. Ref. Sec. 72-1333 Idaho Code. (4-1-79)

02. Inclusion in Testing or Development. The development or testing of a UI delivery system shall not necessarily include all claimants or employers at a location or at all locations serving the public. Ref. Sec. 72-1333

Idaho Code.

(4-1-79)

03. Advisement of Changes. All claimants and employers included in a test system shall be advised of any changes which may occur and which may affect their eligibility for benefits or the amount of taxes which they must pay. Ref. Sec. 72-1333 Idaho Code. (4-1-79)

276. -- 999. (RESERVED).