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**IDAPA 35
TITLE 01
CHAPTER 08**

35.01.08 - MINE LICENSE TAX ADMINISTRATIVE RULES

000. LEGAL AUTHORITY (RULE 000).

In accordance with Section 63-105, Idaho Code, the Tax Commission shall promulgate rules implementing the provisions of the Idaho Mine License Tax Act. The rules relating to the administration and enforcement of mine license taxes, as well as other taxes, are promulgated as IDAPA 35.02.01. (7-1-97)

001. TITLE AND SCOPE (RULE 001).

These rules shall be cited as IDAPA 35.01.08.000, et seq., Idaho State Tax Commission Rules, IDAPA 35.01.08, "Mine License Tax Administrative Rules." They shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a license tax. (3-15-02)

002. WRITTEN INTERPRETATIONS (RULE 002).

This agency has written statements as defined in Section 67-5201(19)(b)(iv), Idaho Code which pertain to the interpretation of the rules of this chapter or to the documentation of compliance with the rules of this chapter. To the extent that such documents are not confidential by statute or rule, the documents they are available for public inspection and copying at the main office of the Tax Commission. See Rule 005 of these rules for the main office address. (3-15-02)

003. ADMINISTRATIVE APPEALS (RULE 003).

This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. (7-1-97)

004. PUBLIC RECORDS (RULE 004).

The records associated with this chapter are subject to Title 9, Chapter 3, Idaho Code, to the extent these documents are not confidential pursuant to Sections 63-3076, 63-3077, or 9-337 through 9-350, Idaho Code. (3-15-02)

005. OFFICE -- OFFICE HOURS -- STREET AND MAILING ADDRESSES -- PHONE AND FACSIMILE NUMBERS -- E-MAIL ADDRESS (RULE 005).

01. Main Office. The State Tax Commission main office is located at 800 Park Blvd., Plaza IV, Boise, Idaho 83712-7742. The correspondence mailing address is P.O. Box 36, Boise, Idaho 83722-0410. The State Tax Commission's Website is www.tax.idaho.gov. The telephone number for Taxpayer Services is (208) 334-7660, or toll free 1-800-972-7660, and the facsimile number is (208) 334-7846. The State Tax Commission's e-mail is taxrep@tax.idaho.gov. Main Office hours are from 8 a.m. to 5 p.m. Monday through Friday except for legal holidays. (3-15-02)

02. Regional Field Offices. The address and phone number for each regional field office is listed in IDAPA 35.02.01.005, "Tax Commission Administration and Enforcement Rules," Rule 005. (3-15-02)

03. Hearing Impaired. Hearing impaired individuals may contact any State Tax Commission office by using the Idaho Relay Service Number 1-800-377-3529. (3-15-02)

006. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).

01. These Rules. The term these rules refers to IDAPA 35.01.08, relating to Idaho mine license tax. (3-29-12)

02. Valuable Mineral. The term "valuable mineral," for purposes of the Idaho Mine License Tax, is defined to include not only gold, silver, copper, lead, zinc, coal, phosphate and limestone, but also any other substance not gaseous or liquid in its natural state, which makes real property more valuable by reason of its presence thereon or thereunder and upon which depletion is allowable pursuant to Section 613 of the Internal Revenue Code. This includes, but is not limited to, calcium carbonates, garnet, granite, pumice, quartzite, scoria, shale, slate, and

stone (including dimension and ornamental stone). However, sand and gravel are not included in this definition. (3-29-12)

011. -- 014. (RESERVED)

015. REFERENCE TO INCOME TAX RULES (RULE 015).

All income tax rules promulgated by the Tax Commission that relate to sections of the Idaho Code incorporated by reference in the Mine License Tax Act apply to the mine license tax. (7-1-97)

016. -- 019. (RESERVED)

020. ADVANCE ROYALTIES (RULE 020).

Section 47-1201, Idaho Code. Payments received from mining properties in Idaho from which no minerals or ores were extracted, sold, or used during the taxable year shall not be subject to the mine license tax. Provided, however, 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. (7-1-97)

021. -- 029. (RESERVED)

030. NET VALUE OF ORE TO BE USED AS MEASURE OF TAX -- HOW DETERMINED (RULE 030).

Section 47-1202, Idaho Code. (7-1-97)

01. Election. The taxpayer may elect to use one (1) 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 attached to the first mine license tax return filed. 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 Tax Commission prior to the due date of the return. (7-1-97)

a. This election is not available to taxpayers whose only taxable mining activity is receiving royalties. Such taxpayers must determine their mine license tax liability by use of the method described in Section 47-1202(a), Idaho Code. (7-1-97)

b. Taxpayers whose mining activity includes both the receiving of royalties and the extracting of ores must separately determine that portion of their mine license tax liability arising from the royalty received by using the method described in Section 47-1202(a), Idaho Code. However, the taxpayer 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. (7-1-97)

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 that 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 that was allowed in the taxpayer's federal income tax return. (7-1-97)

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 computations in Subsections 030.03.a. through 030.03.c. (7-1-97)

a. Gross value of the ores shall be equal to that determined by the U.S. Department of Interior during the same taxable year for purposes of identifying the amount of mineral royalties to be paid for the privilege of mining public lands. This value shall apply regardless of whether the ore is extracted from public, tribal, or private land. If the taxpayer is mining properties for which 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. (7-1-97)

b. From the gross value determined in Subsection 030.03.a., the taxpayer shall deduct direct mining

costs attributable to the Idaho production of the ores and Idaho transportation costs to the point at which they are valued by the U.S. Department of the Interior. (7-1-97)

c. From the amount in Subsection 030.03.b., the taxpayer shall also deduct a portion of the depletion expense attributable to the property that was allowed as a deduction in the taxpayer's federal income tax return for the same taxable year. The deductible portion shall be determined by multiplying the depletion expense allowed on the federal income tax return by the ratio of the gross value of ores for mine license tax purposes to the gross value of ores for federal percentage depletion purposes. For purposes of this computation, all references to gross value and depletion expense shall be limited to those arising from mining conducted in Idaho. (7-1-97)

031. -- 034. (RESERVED)

035. MINE LICENSE TAX RATE (RULE 035).

Section 47-1201, Idaho Code. (3-15-02)

01. Tax Rate Prior to July 1, 2001. The mine license tax shall be two percent (2%) of the net value of the royalties received or the ores mined or extracted prior to July 1, 2001. (3-15-02)

02. Tax Rate After June 30, 2001. The mine license tax shall be one percent (1%) of the net value of the royalties received or the ores mined or extracted after June 30, 2001. (3-15-02)

03. Application of Tax Rate Change. If a taxpayer's taxable year includes days before and after July 1, 2001, the taxpayer shall separately compute the net value of royalties received and the ores mined or extracted as if the taxable year were two (2) separate tax periods. For the period prior to July 1, 2001, the mine license tax rate of two percent (2%) shall apply. For the period after June 30, 2001, the mine license tax rate of one percent (1%) shall apply. The two (2) tax amounts shall then be added together to arrive at the total mine license tax for that taxable year. (3-15-02)

036. -- 039. (RESERVED)

040. MINE LICENSE TAX RETURNS (RULE 040).

Section 47-1203, Idaho Code. In addition to the requirements of a valid return provided in Rule 150 of the Tax Commission Administration and Enforcement Rules, a mine license tax return shall include a schedule listing the name, address, and 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. Each mine license tax return shall also include a copy of the depletion expense computation applicable to Idaho mining properties that was included in the taxpayer's federal income tax return. (3-30-01)

041. -- 999. (RESERVED)

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