2004 - Revenue and Tax House Pending Rule (Yellow)

ADMINISTRATIVE RULES REVIEW

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Legislative Session 2004

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2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume. 03-10, pages 496 through 521.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 01

INCOME TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 496 through 521.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0301

NOTICE OF RULEMAKING - 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(s) 63-105 and 63-3039, 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 15, 2003.

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 045: Amend Income Tax Rule 045 to correct information regarding the taxation of compensation earned by water carrier employees that are covered by Title 46, Section 11108, United State Code.

Rule 075: Amend Income Tax Rule 075 to add tables for the income tax brackets and rates by year including the amounts for taxable year 2003 and to add the exception to the graduated rates for the tax due on an electing small business trust's stock in an S corporation.

Rules 076, 077, 079: Delete Rule 076, 077, and 079 since the rates and brackets will be moved and put in tables in Rule 075.

Rule 078: Amend Income Tax Rule 078 to delete the rates and brackets which will be moved and put in tables in Rule 075 and instead add information to provide taxpayers with guidance on how to file for electing small business trusts.

Rule 105: Amend Income Tax Rule 105 to require an addition if the Idaho depreciation is less than the amount allowed for federal.

Rule 108: Amend Income Tax Rule 108 with regard to the adjustments to taxable income for withdrawals from an Idaho college savings program to clarify that the amounts added back are net of any amounts included in federal taxable income and to add the adjustment for school teacher supplies if deducted in computing federal adjusted gross income. Change the reference from Section 63-3022(n) to 63-3022(o), Idaho Code.

Rule 120: Amend Income Tax Rule 120 to require a subtraction if the Idaho depreciation is more than the amount allowed for federal. Provide for similar adjustments with regard to the difference between the Idaho and federal capital gains and losses that occur due to the depreciation differences. The changes are retroactive to January 1, 2001.

Rule 193: Amend Income Tax Rule 193 so that it also applies to the deduction for long-term care insurance. Modify the examples by putting the information in tables.

Rule 253: Amend Income Tax Rule 253 with regard to the adjustments to taxable income for withdrawals from an Idaho college savings program to clarify that the amounts added back are net of any amounts included in federal taxable income. To require an addition if the Idaho depreciation is less than the amount allowed for federal.

Rule 254: Amend Income Tax Rule 254 to require a subtraction if the Idaho depreciation is more than the amount allowed for federal. Provide for similar adjustments with regard to the difference between the Idaho and federal capital gains and losses that occur due to the depreciation differences.

Rule 740: Delete Rule 740. The natural resource conservation credit was enacted during 1997 in SB 1186. It contained a provision that the act would be null, void and of no force and effect on and after January 1, 2003, which date was not extended by the 2003 legislature.

Rule 741: Delete Rule 741. The natural resource conservation credit was enacted during 1997 in SB 1186. It contained a provision that the act would be null, void and of no force and effect on and after January 1, 2003, which date was not extended by the 2003 legislature.

Rule 746: Amend Income Tax Rule 746 to distinguish the different calculations of the limitation for the credit for qualified new employees.

Rule 790: Amend Income Tax Rule 790 to conform the transfer limitations discussed in the rule to the legislative changes.

Rule 791: Amend Income Tax Rule 791 to impose on the intermediary the same notification requirements of an intended transfer that are imposed on a transferor.

Rule 793: Amend Rule 793 to add an example of the carryover period allowed when a credit is transferred to an intermediary who subsequently transfers the credit.

Rule 799: Amend Rule 799 to remove the natural resource conservation credit from the list of nonrefundable credits.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0301

045. NONRESIDENT (Rule 045).
Section 63-3014, Idaho Code. (3-20-97)

01. Traveling Salesmen. (3-20-97)

a. A nonresident salesman who works in Idaho is subject to Idaho taxation regardless of the location of his post of duty or starting point. (3-20-97)

b. If an individual is paid on a mileage basis, the gross income from sources within Idaho includes that portion of the total compensation for personal services that the number of miles traveled in Idaho bears to the total number of miles traveled within and without Idaho. If the compensation is based on some other measure, such as hours, the total compensation for personal services must be apportioned between Idaho and other states and foreign countries in a manner that allocates to Idaho the portion of total compensation reasonably attributable to personal services performed in Idaho. See Rule 270 of these rules. (3-30-01)

02. Motor Carrier Employees Covered By Title 49, Section 14503, United States Code. Compensation paid to an interstate motor carrier employee who has regularly assigned duties in more than one state is subject to income tax only in the employee's state of residence. A motor carrier employee is defined in Title 49, Section 31132(2), United States Code, and includes: (7-1-99)

a. An operator, including an independent contractor, of a commercial motor vehicle; (3-20-97)

b. A mechanic; (3-20-97)

c. A freight handler; and (3-20-97)

d. An individual, other than an employer, who in the course of his employment directly affects commercial motor vehicle safety. Employees of the United States, a state, or a local government are not included. Employer, as used in this rule, means a person engaged in business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it. See Title 49, Section 31132(3), United States Code. (3-20-97)

03. Water Carrier Employees Covered By Title 46, Section 11108, United States Code. Compensation paid to a water carrier employee is ~~*not exempt from state taxation by Title 49, Section 14503, United States Code.*~~ subject to income tax only in the employee's state of residence if such employee: ~~*(7-1-99)*~~( )

a. Is engaged on a vessel to perform assigned duties in more than one (1) state as a pilot licensed under Title 46, Section 7101, or licensed or authorized under the laws of a state; or ( )

b. Performs regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one (1) state. ( )

04. Air Carrier Employees Covered By Title 49, Section 40116(f), United States Code. Compensation paid to an air carrier employee who has regularly assigned duties on aircraft in more than one state is subject to the income tax laws of only: (7-1-99)

a. The employee's state of residence, and (3-20-97)

b. The state in which the employee earns more than fifty percent (50%) of the pay from the air carrier. (3-20-97)

05. Rail Carrier Employees Covered By Title 49, Section 11502, United States Code. Compensation paid to an interstate rail carrier employee who performs regularly assigned duties on a railroad in more than one (1) state is subject to income tax only in the employee's state of residence. (7-1-99)

046. -- 074. (RESERVED).

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS ~~*IN GENERAL*~~ (Rule 075).
Section 63-3024, Idaho Code. ~~*(5-3-03)*~~( )

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate, beginning with calendar year 1987, are identified in ~~*Rules 076 through 090 of these rules*~~ Subsection 075.03. For taxable years beginning after December 31, 1999, the Idaho income tax brackets are adjusted for inflation. For taxable years beginning on or after January 1, 2003, the maximum tax rate as listed for that taxable year in Subsection 075.03 shall apply in computing the tax attributable to the S corporation stock held by an electing small business

trust. See Rule 078 of these rules. ~~(5-3-03)~~( )

02. Tax Computation. (5-3-03)

a. The tax rates and income tax brackets listed in ~~*Rules 076 through 090 of these rules*~~ Subsection 075.03 are those for a single individual or married individuals filing separate returns. ~~(5-3-03)~~( )

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household shall be twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (5-3-03)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars ($30,000), the tax would be computed as if they had taxable income of fifteen thousand dollars ($15,000). The tax amount would then be multiplied by two (2). (5-3-03)

03. Tables Identifying The Idaho Tax Rates And Income Tax Brackets. ( )

a. For taxable years beginning in 1987 through 1999:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	**But less than**	**Is**	**Plus**
$0.00	$1,000.00	$0.00	2% of taxable income
$1,000.00	$2,000.00	$20.00	4% of the amount over $1,000.00
$2,000.00	$3,000.00	$60.00	4.5% of the amount over $2,000.00
$3,000.00	$4,000.00	$105.00	5.5% of the amount over $3,000.00
$4,000.00	$5,000.00	$160.00	6.5% of the amount over $4,000.00
$5,000.00	$7,500.00	$225.00	7.5% of the amount over $5,000.00
$7,500.00	$20,000.00	$412.50	7.8% of the amount over $7,500.00
$20,000.00 or more		$1,387.50	8.2% of the amount over $20,000.00

( )

b. For taxable years beginning in 2000:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	**But less than**	**Is**	**Plus**
$0.00	$1,022.00	$0.00	1.9% of taxable income
$1,022.00	$2,044.00	$19.42	3.9% of the amount over $1,022.00
$2,044.00	$3,066.00	$59.28	4.4% of the amount over $2,044.00
$3,066.00	$4,088.00	$104.25	5.4% of the amount over $3,066.00
$4,088.00	$5,110.00	$159.44	6.4% of the amount over $4,088.00
$5,110.00	$7,666.00	$224.85	7.4% of the amount over $5,110.00
$7,666.00	$20,442.00	$413.99	7.7% of the amount over $7,666.00
$20,442.00 or more		$1,397.74	8.1% of the amount over $20,442.00

( )

c. For taxable years beginning in 2001:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	**But less than**	**Is**	**Plus**
$0.00	$1,056.00	$0.00	1.6% of taxable income
$1,056.00	$2,113.00	$16.90	3.6% of the amount over $1,056.00
$2,113.00	$3,169.00	$54.93	4.1% of the amount over $2,113.00
$3,169.00	$4,226.00	$98.25	5.1% of the amount over $3,169.00
$4,226.00	$5,282.00	$152.13	6.1% of the amount over $4,226.00
$5,282.00	$7,923.00	$216.57	7.1% of the amount over $5,282.00
$7,923.00	$21,129.00	$404.09	7.4% of the amount over $7,923.00
$21,129.00 or more		$1,381.30	7.8% of the amount over $21,129.00

( )

d. For taxable years beginning in 2002:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	**But less than**	**Is**	**Plus**
$0.00	$1,087.00	$0.00	1.6% of taxable income
$1,087.00	$2,173.00	$17.38	3.6% of the amount over $1,087.00
$2,173.00	$3,260.00	$56.50	4.1% of the amount over $2,173.00
$3,260.00	$4,346.00	$101.04	5.1% of the amount over $3,260.00
$4,346.00	$5,433.00	$156.46	6.1% of the amount over $4,346.00
$5,433.00	$8,149.00	$222.73	7.1% of the amount over $5,433.00
$8,149.00	$21,730.00	$415.59	7.4% of the amount over $8,149.00
$21,730.00 or more		$1,420.60	7.8% of the amount over $21,730.00

( )

e. For taxable years beginning in 2003:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
At least	**But less than**	**Is**	**Plus**
$0.00	$1,104.00	$0	1.6% of taxable income
$1,104.00	$2,207.00	$17.66	3.6% of the amount over $1,104.00
$2,207.00	$3,311.00	$57.39	4.1% of the amount over $2,207.00
$3,311.00	$4,415.00	$102.64	5.1% of the amount over $3,311.00

IF IDAHO TAXABLE INCOME IS		IDAHO TAX	
$4,415.00	$5,518.00	$158.93	6.1% of the amount over $4,415.00
$5,518.00	$8,278.00	$226.25	7.1% of the amount over $5,518.00
$8,278.00	$22,074.00	$422.16	7.4% of the amount over $8,278.00
$22,074.00 or more		$1,443.06	7.8% of the amount over $22,074.00

( )

~~***076. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS -- TAXABLE YEARS BEGINNING IN 1987 THROUGH 1999 (RULE 076).***~~
~~*Section 63-3024, Idaho Code.* *(5-3-03)*~~

~~***01. Taxable Income Less Than One Thousand Dollars ($1,000)****. The tax is two percent (2%) of the taxable income.* *(5-3-03)*~~

~~***02. Taxable Income At Least One Thousand Dollars ($1,000) But Less Than Two Thousand Dollars ($2,000)****. The tax is twenty dollars ($20), plus four percent (4%) of the amount over one thousand dollars ($1,000).* *(5-3-03)*~~

~~***03. Taxable Income At Least Two Thousand Dollars ($2,000) But Less Than Three Thousand Dollars ($3,000)****. The tax is sixty dollars ($60), plus four and one-half percent (4.5%) of the amount over two thousand dollars ($2,000).* *(5-3-03)*~~

~~***04. Taxable Income At Least Three Thousand Dollars ($3,000) But Less Than Four Thousand Dollars ($4,000)****. The tax is one hundred five dollars ($105), plus five and one-half percent (5.5%) of the amount over three thousand dollars ($3,000).* *(5-3-03)*~~

~~***05. Taxable Income At Least Four Thousand Dollars ($4,000) But Less Than Five Thousand Dollars ($5,000)****. The tax is one hundred sixty dollars ($160), plus six and one-half percent (6.5%) of the amount over four thousand dollars ($4,000).* *(5-3-03)*~~

~~***06. Taxable Income At Least Five Thousand Dollars ($5,000) But Less Than Seven Thousand Five Hundred Dollars ($7,500)****. The tax is two hundred twenty-five dollars ($225), plus seven and one-half percent (7.5%) of the amount over five thousand dollars ($5,000).* *(5-3-03)*~~

~~***07. Taxable Income At Least Seven Thousand Five Hundred Dollars ($7,500) But Less Than Twenty Thousand Dollars ($20,000)****. The tax is four hundred twelve dollars and fifty cents ($412.50), plus seven and eight-tenths percent (7.8%) of the amount over seven thousand five hundred dollars ($7,500).* *(5-3-03)*~~

~~***08. Taxable Income Of Twenty Thousand Dollars ($20,000) Or More****. The tax is one thousand three hundred eighty-seven dollars and fifty cents ($1,387.50), plus eight and two-tenths percent (8.2%) of the amount over twenty thousand dollars ($20,000).* *(5-3-03)*~~

~~***077. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS -- TAXABLE YEARS BEGINNING IN 2000 (Rule 077).***~~
~~*Section 63-3024, Idaho Code.* *(5-3-03)*~~

~~***01. Taxable Income Less Than One Thousand Twenty-Two Dollars ($1,022)****. The tax is one and nine-tenths percent (1.9%) of the taxable income.* *(5-3-03)*~~

~~***02. Taxable Income At Least One Thousand Twenty-Two Dollars ($1,022) But Less Than Two Thousand Forty-Four Dollars ($2,044)****. The tax is nineteen dollars and forty-two cents ($19.42), plus three and nine-tenths percent (3.9%) of the amount over one thousand twenty-two dollars ($1,022).* *(5-3-03)*~~

~~***03. Taxable Income At Least Two Thousand Forty Four Dollars ($2,044) But Less Than Three Thousand Sixty Six Dollars ($3,066)****. The tax is fifty-nine dollars and twenty-eight cents ($59.28), plus four and four-tenths percent (4.4%) of the amount over two thousand forty-four dollars ($2,044).* *(5-3-03)***~~

~~***04. Taxable Income At Least Three Thousand Sixty Six Dollars ($3,066) But Less Than Four Thousand Eighty Eight Dollars ($4,088)****. The tax is one hundred four dollars and twenty-five cents ($104.25), plus five and four-tenths percent (5.4%) of the amount over three thousand sixty-six dollars ($3,066).* *(5-3-03)***~~

~~***05. Taxable Income At Least Four Thousand Eighty Eight Dollars ($4,088) But Less Than Five Thousand One Hundred Ten Dollars ($5,110)****. The tax is one hundred fifty-nine dollars and forty-four cents ($159.44), plus six and four-tenths percent (6.4%) of the amount over four thousand eighty-eight dollars ($4,088).* *(5-3-03)***~~

~~***06. Taxable Income At Least Five Thousand One Hundred Ten Dollars ($5,110) But Less Than Seven Thousand Six Hundred Sixty Six Dollars ($7,666)****. The tax is two hundred twenty-four dollars and eighty-five cents ($224.85), plus seven and four-tenths percent (7.4%) of the amount over five thousand one hundred ten dollars ($5,110).* *(5-3-03)***~~

~~***07. Taxable Income At Least Seven Thousand Six Hundred Sixty Six Dollars ($7,666) But Less Than Twenty Thousand Four Hundred Forty Two Dollars ($20,442)****. The tax is four hundred thirteen dollars and ninety-nine cents ($413.99), plus seven and seven-tenths percent (7.7%) of the amount over seven thousand six hundred sixty-six dollars ($7,666).* *(5-3-03)***~~

~~***08. Taxable Income Of Twenty Thousand Four Hundred Forty Two Dollars ($20,442) Or More****. The tax is one thousand three hundred ninety-seven dollars and seventy-four cents ($1,397.74), plus eight and one-tenth percent (8.1%) of the amount over twenty thousand four hundred forty-two dollars ($20,442).* *(5-3-03)***~~

076. -- 077. (RESERVED).

078. TAX ON ~~*INDIVIDUALS, ESTATES, AND*~~ TRUSTS -- ~~*TAXABLE YEARS BEGINNING IN 2001*~~ ELECTING SMALL BUSINESS TRUSTS (Rule 078).
Section 63-3024, Idaho Code. ~~*(5-3-03)*~~(____)

01. ~~***Taxable Income Less Than One Thousand Fifty Six Dollars ($1,056)****. The tax is one and six-tenths percent (1.6%) of the taxable income.*~~ **In General**. The special rules for taxation of electing small business trusts as provided in Section 641, Internal Revenue Code, shall apply for purposes of computing the Idaho income tax. These rules include the following: ~~*(5-3-03)*~~(____)

a. The portion of an electing small business trust that consists of stock in one (1) or more S corporations shall be treated as a separate trust. (____)

b. The tax on the separate trust shall be determined with the following modifications from the usual rules for taxing trusts: (____)

i. The only items of income, loss, deduction, or credit to be taken into account are the items required to be taken into account as an S corporation shareholder under Section 1366, Internal Revenue Code, and any gain or loss from the disposition of stock in an S corporation. (____)

ii. As provided in federal Treasury Regulations, administrative expenses shall be taken into account to the extent allocable to the items described in Subparagraph 078.01.b.i. (____)

iii. A deduction or credit shall be allowed only for an amount described in this paragraph. No item described in this paragraph shall be apportioned to any beneficiary. (____)

c. A capital loss deduction provided by Section 1211(b), Internal Revenue Code, shall be allowed only to the extent of capital gains. (____)

02. ~~***Taxable Income At Least One Thousand Fifty Six Dollars ($1,056) But Less Than Two Thousand One Hundred Thirteen Dollars ($2,113)***. *The tax is sixteen dollars and ninety cents ($16.90), plus three and six-tenths percent (3.6%) of the amount over one thousand fifty-six dollars ($1,056).*~~ **Tax Rate Applied**. The tax rates applied to the Idaho taxable income of a trust are identified in Rule 075 of these rules. For taxable years beginning on or after January 1, 2003, the maximum tax rate as listed for that taxable year in Subsection 075.03 shall apply in computing the tax attributable to the S corporation stock held by an electing small business trust.
~~*(5-3-03)*~~( )

~~***03. Taxable Income At Least Two Thousand One Hundred Thirteen Dollars ($2,113) But Less Than Three Thousand One Hundred Sixty Nine Dollars ($3,169)***. *The tax is fifty-four dollars and ninety-three cents ($54.93), plus four and one-tenth percent (4.1%) of the amount over two thousand one hundred thirteen dollars ($2,113).* *(5-3-03)*~~

~~***04. Taxable Income At Least Three Thousand One Hundred Sixty Nine Dollars ($3,169) But Less Than Four Thousand Two Hundred Twenty Six Dollars ($4,226)***. *The tax is ninety-eight dollars and twenty-five cents ($98.25), plus five and one-tenth percent (5.1%) of the amount over three thousand one hundred sixty-nine dollars ($3,169).* *(5-3-03)*~~

~~***05. Taxable Income At Least Four Thousand Two Hundred Twenty Six Dollars ($4,226) But Less Than Five Thousand Two Hundred Eighty Two Dollars ($5,282)***. *The tax is one hundred fifty-two dollars and thirteen cents ($152.13), plus six and one-tenth percent (6.1%) of the amount over four thousand two hundred twenty-six dollars ($4,226).* *(5-3-03)*~~

~~***06. Taxable Income At Least Five Thousand Two Hundred Eighty Two Dollars ($5,282) But Less Than Seven Thousand Nine Hundred Twenty Three Dollars ($7,923)***. *The tax is two hundred sixteen dollars and fifty-seven cents ($216.57), plus seven and one-tenth percent (7.1%) of the amount over five thousand two hundred eighty-two dollars ($5,282).* *(5-3-03)*~~

~~***07. Taxable Income At Least Seven Thousand Nine Hundred Twenty Three Dollars ($7,923) But Less Than Twenty One Thousand One Hundred Twenty Nine Dollars ($21,129)***. *The tax is four hundred four dollars and nine cents ($404.09), plus seven and four-tenths percent (7.4%) of the amount over seven thousand nine hundred twenty-three dollars ($7,923).* *(5-3-03)*~~

~~***08. Taxable Income Of Twenty One Thousand One Hundred Twenty Nine Dollars ($21,129) Or More***. *The tax is one thousand three hundred eighty-one dollars and thirty cents ($1,381.30), plus seven and eight-tenths percent (7.8%) of the amount over twenty-one thousand one hundred twenty-nine dollars ($21,129).* *(5-3-03)*~~

079. ~~***TAX ON INDIVIDUALS, ESTATES, AND TRUSTS — TAXABLE YEARS BEGINNING IN 2002 (Rule 079)***~~ **(RESERVED).**
~~*Section 63-3024, Idaho Code.* *(5-3-03)*~~

~~***01. Taxable Income Less Than One Thousand Eighty Seven Dollars ($1,087)***. *The tax is one and six-tenths percent (1.6%) of the taxable income.* *(5-3-03)*~~

~~***02. Taxable Income At Least One Thousand Eighty Seven Dollars ($1,087) But Less Than Two Thousand One Hundred Seventy Three Dollars ($2,173)***. *The tax is seventeen dollars and thirty-eight cents ($17.38), plus three and six-tenths percent (3.6%) of the amount over one thousand eighty-seven dollars ($1,087).* *(5-3-03)*~~

~~***03. Taxable Income At Least Two Thousand One Hundred Seventy Three Dollars ($2,173) But Less Than Three Thousand Two Hundred Sixty Dollars ($3,260)***. *The tax is fifty-six dollars and fifty cents ($56.50), plus four and one-tenth percent (4.1%) of the amount over two thousand one hundred seventy-three dollars ($2,173).* *(5-3-03)*~~

~~***04. Taxable Income At Least Three Thousand Two Hundred Sixty Dollars ($3,260) But Less Than Four Thousand Three Hundred Forty Six Dollars ($4,346)***. *The tax is one hundred one dollars and four cents ($101.04), plus five and one-tenth percent (5.1%) of the amount over three thousand two hundred sixty dollars*~~

~~*($3,260).*~~ ~~*(5-3-03)*~~

~~***05. Taxable Income At Least Four Thousand Three Hundred Forty-Six Dollars ($4,346) But Less Than Five Thousand Four Hundred Thirty-Three Dollars ($5,433).*** *The tax is one hundred fifty-six dollars and forty-six cents ($156.46), plus six and one-tenth percent (6.1%) of the amount over four thousand three hundred forty-six dollars ($4,346).*~~ ~~*(5-3-03)*~~

~~***06. Taxable Income At Least Five Thousand Four Hundred Thirty-Three Dollars ($5,433) But Less Than Eight Thousand One Hundred Forty-Nine Dollars ($8,149).*** *The tax is two hundred twenty-two dollars and seventy-three cents ($222.73), plus seven and one-tenth percent (7.1%) of the amount over five thousand four hundred thirty-three dollars ($5,433).*~~ ~~*(5-3-03)*~~

~~***07. Taxable Income At Least Eight Thousand One Hundred Forty-Nine Dollars ($8,149) But Less Than Twenty-One Thousand Seven Hundred Thirty Dollars ($21,730).*** *The tax is four hundred fifteen dollars and fifty-nine cents ($415.59), plus seven and four-tenths percent (7.4%) of the amount over eight thousand one hundred forty-nine dollars ($8,149).*~~ ~~*(5-3-03)*~~

~~***08. Taxable Income Of Twenty-One Thousand Seven Hundred Thirty Dollars ($21,730) Or More.*** *The tax is one thousand four hundred twenty dollars and sixty cents ($1,420.60), plus seven and eight-tenths percent (7.8%) of the amount over twenty-one thousand seven hundred thirty dollars ($21,730).*~~ ~~*(5-3-03)*~~

(BREAK IN CONTINUITY OF SECTIONS)

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (Rule 105).
Section 63-3022, Idaho Code. (3-20-97)

01. State And Local Income Taxes. As provided in Section 63-3022(a), Idaho Code, add state and local income taxes deducted in computing taxable income. This includes taxes paid to states other than Idaho and their political subdivisions, and amounts paid by an S corporation on capital gains, built-in gains, and excess net passive income. (3-15-02)

02. Net Operating Loss Deduction. As provided in Section 63-3022(b), Idaho Code, add any net operating loss deduction included in taxable income. (7-1-99)

03. Capital Loss Carryover Deduction. As provided in Section 63-3022(i), Idaho Code: (3-30-01)

a. A corporation shall add a capital loss deducted in computing taxable income if the capital loss occurred during a taxable year when the corporation did not transact business in Idaho, unless the corporation was part of a unitary group with at least one (1) member of the group taxable by Idaho for that taxable year. (7-1-99)

b. An individual shall add a capital loss deducted in computing taxable income if the capital loss was incurred in an activity not taxable by Idaho at the time it was incurred. (5-3-03)

04. Interest And Dividend Income Exempt From Federal Taxation. As provided in Section 63-3022M, Idaho Code, add certain interest and dividend income that is exempt from federal income tax. For example, add interest income from state and local bonds that is exempt from federal income tax pursuant to Section 103, Internal Revenue Code. (7-1-99)

a. Interest from bonds issued by the state of Idaho or its political subdivisions is exempt from Idaho income tax and, therefore, is not required to be added to taxable income. (3-20-97)

b. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, shall be prorated between the Idaho and non-Idaho

interest income as provided in Subsections 105.04.b.i. and 105.04.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income shall be offset by the expenses prorated to that interest income. The allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets shall be attached to the return. (4-5-00)

i. Expenses prorated to Idaho state and municipal interest income shall be based on the ratio of Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

ii. Expenses prorated to non-Idaho state and municipal interest income shall be based on the ratio of non-Idaho state and municipal interest income to total state and municipal interest income. (7-1-98)

05. Interest Expense Attributable To Tax-Exempt Interest Income. As provided by Section 63-3022M, Idaho Code, a taxpayer shall add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of these rules for the computation of the interest expense offset related to tax-exempt interest. (7-1-99)

06. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. Add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. ( )

(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (Rule 108).
Section 63-3022, Idaho Code. (3-20-97)

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, add the taxable amount of a lump sum distribution excluded from taxable income. (3-30-01)

02. Withdrawals From An Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (7-1-98)

03. Withdrawals From An Idaho College Savings Program. As provided in Section 63-3022(~~n~~o), Idaho Code, an account owner shall add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ~~*(3-15-02)*~~( )

04. Certain Expenses Of Eligible Educators. As provided in Section 63-3022O, Idaho Code, an eligible educator as defined in Section 62, Internal Revenue Code, shall add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. ( )

(BREAK IN CONTINUITY OF SECTIONS)

120. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (Rule 120).
Section 63-3022, Idaho Code. (3-20-97)

01. State And Local Income Tax Refunds. Subtract from taxable income state and local income tax refunds included in taxable income, unless the refunds have already been subtracted pursuant to Section 63-3022(a), Idaho Code. (3-15-02)

02. Idaho Net Operating Loss. As provided in Section 63-3022(c), Idaho Code, subtract the Idaho net operating loss deduction described in Section 63-3021, Idaho Code, and Rules 200 through 210 of these rules. An S corporation or a partnership that incurs a loss is not entitled to claim a net operating loss deduction. The loss is passed through to the shareholders and partners who may deduct the loss. (7-1-99)

03. Income Not Taxable By Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax, if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars ($600). If a prize equals or exceeds six hundred dollars ($600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

04. Donated Technological Equipment. As provided by Section 63-3022J, Idaho Code, and Rule 180 of these rules, subtract the fair market value of technological equipment donated to qualifying institutions. (4-5-00)

05. Long-Term Care Insurance. As provided in Section 63-3022Q, Idaho Code, a deduction from taxable income is allowed for fifty percent (50%) of the premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer to the extent the premiums have not otherwise been deducted or accounted for by the taxpayer for Idaho income tax purposes. (5-3-03)

06. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. ( )

a. Depreciation. Subtract the amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes. ( )

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions shall apply in computing the Idaho capital loss allowed. ( )

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. ( )

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, subtract the federal gain and the Idaho loss. For example, if a taxpayer has a federal gain of five thousand dollars ($5,000) and an Idaho loss of four thousand dollars ($4,000), the amount subtracted would be nine thousand dollars ($9,000). ( )

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho losses. For example, if a taxpayer has a federal loss of three hundred dollars ($300) and an Idaho loss of five hundred dollars ($500), the amount subtracted would be two

hundred dollars ($200). ( )

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars ($6,000) and an Idaho capital loss of eight thousand dollars ($8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars ($3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars ($2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars ($1,000) and an Idaho deductible capital loss of three thousand dollars ($3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars ($2,000) in computing Idaho taxable income. ( )

(BREAK IN CONTINUITY OF SECTIONS)

193. HEALTH INSURANCE COSTS AND LONG-TERM CARE INSURANCE (Rule 193).
Sections 63-3022P and 63-3022Q, Idaho Code. ~~*(5-3-03)*~~( )

01. In General. The amounts paid by an individual taxpayer for health insurance ~~*costs*~~ and fifty percent (50%) of the premiums paid for long-term care insurance that are not otherwise deducted or accounted for ~~*is*~~ are allowed as ~~*a*~~ deductions from taxable income. ~~*(5-3-03)*~~( )

02. Costs Deducted Or Accounted For. ~~*A d*~~Deductions ~~*is*~~ are not allowed for health insurance costs and premiums paid for long-term care insurance that are otherwise deducted or accounted for. Examples of health insurance costs and premiums paid for long-term care insurance that are otherwise deducted or accounted for are costs: ~~*(5-3-03)*~~( )

a. Paid out of an Idaho medical savings account; (5-3-03)

b. Paid through a cafeteria plan or other salary-reduction arrangement when these costs are paid out of pretax income; (5-3-03)

c. Deducted as business expenses. (5-3-03)

03. Social Security Medicare Part A. (5-3-03)

a. The payroll tax paid for Medicare A is not considered a medical expense under Section 213, Internal Revenue Code and, therefore, does not qualify for the Idaho deduction for health insurance costs. This applies to individuals who are covered by Social Security or are government employees who paid Medicare tax. (5-3-03)

b. The amount of premiums a taxpayer pays to voluntarily enroll in Medicare A is deductible under Section 213, Internal Revenue Code, and qualifies for the Idaho deduction for health insurance costs. This applies to individuals who are not covered under Social Security or who were not government employees who paid Medicare tax. (5-3-03)

04. Social Security Medicare Part B. Amounts paid for Medicare B, which is a supplemental medical insurance, qualify for the deduction allowed under Section 213, Internal Revenue Code, and qualify for the Idaho deduction for health insurance costs. (5-3-03)

05. Medical Payments Coverage And Personal Injury Protection Of Automobile Insurance. The portion of automobile insurance that covers medical payments coverage or personal injury protection does not qualify for the Idaho deduction for health insurance costs because the insurance coverage is not restricted to the taxpayer, the taxpayer's spouse, or the dependents of the taxpayer. This insurance provides protection to the driver and passengers

of the policyholder's car or other injured parties. (5-3-03)

06. ~~***Costs Claimed as Itemized Deductions***~~ **Examples Of Limitations When Costs Are Otherwise Deducted Or Accounted For**. If a taxpayer elects to itemize deductions for Idaho purposes and his medical expenses exceed the seven and one-half percent (7.5%) adjusted gross income limitation, ~~*health insurance costs claimed as an itemized deduction qualify for the Idaho deduction only to the extent that*~~ the amount that is deducted as an itemized deduction shall first apply to health insurance costs, next to long-term care insurance, and last to other medical expenses. If the premiums exceed the amount deducted as an itemized deduction, the Idaho deductions for health insurance costs and long-term care insurance may be allowed if the premiums were not otherwise deducted or accounted for. If the taxpayer does not elect to itemize deductions for Idaho purposes, or if the taxpayer is unable to deduct medical expenses as an itemized deduction due to the seven and one-half percent (7.5%) adjusted gross income limitation, the full amount of health insurance costs and fifty percent (50%) of the premiums paid for long-term care insurance, not otherwise deducted or accounted for, ~~*qualifies*~~ qualify for the Idaho deduction. Amounts used for calculating the limitations shall not be less than zero (0). ~~*(5-3-03)*~~(____)

a. ~~*An individual paid ten thousand dollars ($10,000) for health insurance costs and six thousand dollars ($6,000) for additional medical expenses. The taxpayer claimed the total medical expenses as an itemized deduction. The federal seven and one-half percent (7.5%) adjusted gross income limitation was five thousand dollars ($5,000). After the federal limitation, the taxpayer received a medical expense deduction of eleven thousand dollars ($11,000), (Sixteen thousand dollars ($16,000) total medical expenses less the limitation of five thousand dollars ($5,000)). The taxpayer may not claim the Idaho deduction for the health insurance costs since the eleven thousand dollar ($11,000) federal medical expense deduction is more than the ten thousand dollar ($10,000) health insurance costs.*~~ Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to zero (0): ~~*(5-3-03)*~~(____)

	HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1.	Health insurance expenses claimed on federal Schedule A	$10,000
2.	Long-term insurance expenses claimed on federal Schedule A	4,000
3.	Other medical expenses claimed on federal Schedule A	2,000
4.	Total medical expenses claimed on federal Schedule A	$16,000
5.	7.5% of federal adjusted gross income	0
6.	Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$16,000
	HEALTH INSURANCE	
7.	Total amount paid for health insurance	$10,100
8.	Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	10,000
9.	Health insurance expenses deducted elsewhere on the federal return	100
10.	Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
	LONG-TERM CARE INSURANCE	
11.	Total amount paid for long-term care insurance	$4,050
12.	Medical expense deduction not allocated to health insurance (line 6 less line 1)	6,000
13.	Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	4,000
14.	Long-term care insurance deducted elsewhere on the federal return	50
15.	Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14)	$0
16.	50% of amount paid for long-term care insurance	2,025

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS		
17.	Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16)	$0

( )

b. ~~*An individual paid ten thousand dollars ($10,000) for health insurance costs and six thousand dollars ($6,000) for additional medical expenses. The taxpayer claimed the total medical expenses as an itemized deduction. The federal seven and one-half percent (7.5%) adjusted gross income limitation is fourteen thousand dollars ($14,000). After the federal limitation, the taxpayer received a medical expense deduction of two thousand dollars ($2,000), (Sixteen thousand dollars ($16,000) total medical expenses less the limitation of fourteen thousand dollars ($14,000)). The taxpayer may claim eight thousand dollars ($8,000) as the Idaho deduction for health insurance costs, since the two thousand dollar ($2,000) federal medical expense deduction was less than the ten thousand dollar ($10,000) health insurance costs.*~~ Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to three thousand dollars ($3,000): ~~*(5-3-03)*~~( )

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS		
1.	Health insurance expenses claimed on federal Schedule A	$10,000
2.	Long-term insurance expenses claimed on federal Schedule A	4,000
3.	Other medical expenses claimed on federal Schedule A	2,000
4.	Total medical expenses claimed on federal Schedule A	$16,000
5.	7.5% of federal adjusted gross income	3,000
6.	Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$13,000
	HEALTH INSURANCE	
7.	Total amount paid for health insurance	$10,100
8.	Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	10,000
9.	Health insurance expenses deducted elsewhere on the federal return	100
10.	Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
	LONG-TERM CARE INSURANCE	
11.	Total amount paid for long-term care insurance	$4,050
12.	Medical expense deduction not allocated to health insurance (line 6 less line 1)	3,000
13.	Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	3,000
14.	Long-term care insurance deducted elsewhere on the federal return	50
15.	Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14)	$1,000
16.	50% of amount paid for long-term care insurance	2,025
17.	Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16)	$1,000

( )

c. ~~*An individual paid ten thousand dollars ($10,000) for health insurance costs and six thousand dollars ($6,000) for additional medical expenses. The taxpayer claimed the total medical expenses as an itemized deduction. The federal seven and one-half percent (7.5%) adjusted gross income limitation was twenty thousand dollars ($20,000). After the federal limitation, the taxpayer received no medical expense deduction. The taxpayer may claim ten thousand dollars ($10,000) as the Idaho deduction for health insurance costs, since no medical*~~

~~*expense deduction was allowed.*~~ Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to six thousand dollars ($6,000): ~~*(5-3-03)*~~( )

	HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1.	Health insurance expenses claimed on federal Schedule A	$10,000
2.	Long-term insurance expenses claimed on federal Schedule A	4,000
3.	Other medical expenses claimed on federal Schedule A	2,000
4.	Total medical expenses claimed on federal Schedule A	$16,000
5.	7.5% of federal adjusted gross income	6,000
6.	Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$10,000
	HEALTH INSURANCE	
7.	Total amount paid for health insurance	$10,100
8.	Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	10,000
9.	Health insurance expenses deducted elsewhere on the federal return	100
10.	Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
	LONG-TERM CARE INSURANCE	
11.	Total amount paid for long-term care insurance	$4,050
12.	Medical expense deduction not allocated to health insurance (line 6 less line 1)	0
13.	Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	0
14.	Long-term care insurance deducted elsewhere on the federal return	50
15.	Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14)	$4,000
16.	50% of amount paid for long-term care insurance	2,025
17.	Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16)	$2,025

( )

d. ~~*An individual paid ten thousand dollars ($10,000) for health insurance costs and six thousand dollars ($6,000) for additional medical expenses. For federal income tax purposes, the taxpayer claimed the total medical expenses as an itemized deduction. The taxpayer did not itemize deductions for Idaho income tax purposes, instead he claimed the Idaho standard deduction. The taxpayer may claim ten thousand dollars ($10,000) as the Idaho deduction for health insurance costs, since he did not claim itemized deductions for Idaho income tax purposes.*~~ Example with seven and one-half percent (7.5%) of federal adjusted gross income equal to fourteen thousand dollars ($14,000): ~~*(5-3-03)*~~( )

	HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1.	Health insurance expenses claimed on federal Schedule A	$10,000
2.	Long-term insurance expenses claimed on federal Schedule A	4,000
3.	Other medical expenses claimed on federal Schedule A	2,000
4.	Total medical expenses claimed on federal Schedule A	$16,000
5.	7.5% of federal adjusted gross income	14,000

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS		
6.	Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$2,000
	HEALTH INSURANCE	
7.	Total amount paid for health insurance	$10,100
8.	Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	2,000
9.	Health insurance expenses deducted elsewhere on the federal return	100
10.	Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$8,000
	LONG-TERM CARE INSURANCE	
11.	Total amount paid for long-term care insurance	$4,050
12.	Medical expense deduction not allocated to health insurance (line 6 less line 1)	0
13.	Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	0
14.	Long-term care insurance deducted elsewhere on the federal return	50
15.	Long-term care insurance not otherwise deducted (line 11 less lines 13 and 14)	$4,000
16.	50% of amount paid for long-term care insurance	2,025
17.	Long-term care insurance deduction allowed for Idaho (lesser of line 15 or 16)	$2,025

( )

(BREAK IN CONTINUITY OF SECTIONS)

253. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADDITIONS REQUIRED IN COMPUTING IDAHO ADJUSTED INCOME.
Section 63-3026A(6), Idaho Code. (3-20-97)

01. Interest And Dividends Not Taxable Pursuant To The Internal Revenue Code. (3-20-97)

a. Part-Year Residents. Add interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho. However, do not include interest received from obligations of the state of Idaho or any political subdivision of Idaho. This interest is exempt from Idaho income tax. (7-1-98)

b. Nonresidents. Add interest and dividend income reportable from a pass-through entity that was transacting business in Idaho to the extent the income was apportioned or allocated as Idaho income. See Rule 263 of these rules for multistate apportionment rules. (7-1-98)

02. Net Operating Loss Deduction. Add any net operating loss deduction included in Idaho gross income. (3-20-97)

03. Capital Loss. Add capital losses included in Idaho gross income if the loss was incurred while not residing in and not domiciled in Idaho, or if the loss relates to an activity not taxable by Idaho at the time the loss was incurred. (3-20-97)

04. Lump Sum Distributions. Add the taxable amount of a lump sum distribution, deducted from gross income pursuant to Section 402(d), Internal Revenue Code, received while residing in or domiciled in Idaho.

This includes both the ordinary income portion and the amount eligible for the capital gain election. (3-20-97)

05. Idaho Medical Savings Account. Add the amount withdrawn from an Idaho medical savings account to the extent the withdrawal is treated as income by Idaho law. (7-1-98)

06. Idaho College Savings Program. Add the amount of a nonqualified withdrawal from an Idaho college savings program ~~*to the extent the withdrawal is treated as income by Idaho law*~~, less the amount included in the account owner's Idaho gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. ~~*(3-15-02)*~~( )

07. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. Add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. ( )

08. Certain Expenses Of Eligible Educators. Add the amount of out-of-pocket classroom expenses deducted pursuant to Section 62, Internal Revenue Code, in computing adjusted gross income. ( )

254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (Rule 254).
Section 63-3026A(6), Idaho Code. (3-20-97)

01. Net Operating Loss Carryover. Subtract the net operating loss carryover allowed by Section 63-3022(c), Idaho Code, to the extent the loss was incurred while residing in or domiciled in Idaho or to the extent the loss was from activity taking place in Idaho. A net operating loss incurred from an activity not taxable by Idaho may not be subtracted. (5-3-03)

02. State And Local Income Tax Refunds. Subtract state and local income tax refunds included in Idaho total income. (3-15-02)

03. Income Not Taxable By Idaho. Subtract income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States, if that income is included in Idaho total income and has not been previously subtracted. Income not taxable by Idaho includes: (3-15-02)

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars ($600). If a prize equals or exceeds six hundred dollars ($600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

c. Certain income earned by American Indians. An enrolled member of a federally recognized Indian tribe who lives on a federally recognized Indian reservation is not taxable on income derived within the reservation. See Rule 033 of these rules. (5-3-03)

d. Certain income earned by transportation employees covered by Title 49, Sections 11502, 14503 or 40116, United States Code. See Rule 045 of these rules. (7-1-99)

04. Military Pay. Subtract qualified military pay included in Idaho total income earned for military service performed outside Idaho. Qualified military pay means all compensation paid by the United States for services performed while on active duty as a full-time member of the United States Armed Forces which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more. A nonresident does not include his military pay in Idaho total income and, therefore, makes no adjustment. See Rule

032 of these rules for information regarding the residency status of members of the United States Armed Forces. (3-15-02)

05. Social Security And Railroad Retirement Benefits. Subtract social security benefits and benefits paid by the Railroad Retirement Board that are taxable pursuant to the Internal Revenue Code, to the extent the benefits are included in Idaho total income. See Subsections 121.04.a. and 121.04.b. of these rules. (3-15-02)

06. Household And Dependent Care Expenses. Subtract the allowable portion of household and dependent care expenses that meets the requirements of Section 63-3022D, Idaho Code, if incurred to enable the taxpayer to be gainfully employed in Idaho. To determine the allowable portion of household and dependent care expenses, calculate a percentage by dividing Idaho earned income by total earned income. Multiply the qualified expenses by the percentage. Earned income is defined in Section 32(c)(2), Internal Revenue Code. (3-20-97)

07. Insulation And Alternative Energy Device Expenses. Subtract expenses related to the installation of insulation or alternative energy devices that meet the requirements of Section 63-3022B or 63-3022C, Idaho Code. (3-20-97)

08. Deduction For Dependents Sixty-Five Or Older Or With Developmental Disabilities. Subtract one thousand dollars ($1,000) for each person who meets the requirements of Section 63-3022E, Idaho Code. The deduction may be claimed for no more than three (3) qualifying dependents. If a dependent has not lived in the maintained household for the entire taxable year, the allowable deduction is eighty-three dollars ($83) for each month the dependent resided in the maintained household during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. (3-20-97)

09. Adoption Expenses. Subtract the allowable portion of adoption expenses that meets the requirements of Section 63-3022I, Idaho Code. To determine the allowable portion, calculate a percentage by dividing Idaho total income by total income. Multiply the deduction allowable pursuant to Section 63-3022I, Idaho Code, by the percentage. (3-15-02)

10. Capital Gains Deduction. Subtract the Idaho capital gains deduction allowed by Section 63-3022H, Idaho Code. (3-20-97)

11. Idaho Medical Savings Account. (7-1-98)

a. Subtract contributions to an Idaho medical savings account that meet the requirements of Section 63-3022K, Idaho Code. (7-1-98)

b. Subtract interest earned on an Idaho medical savings account to the extent included in Idaho total income. (3-15-02)

12. Technological Equipment Donation. Subtract donations of technological equipment allowed by Section 63-3022J, Idaho Code. See Rule 180 of these rules. (3-20-97)

13. Worker's Compensation Insurance. As allowed by Section 63-3022(m), Idaho Code, a self-employed individual may subtract the premiums paid for worker's compensation for coverage in Idaho to the extent not previously subtracted in computing Idaho taxable income. (3-30-01)

14. Idaho College Savings Program. Subtract the contributions to a college savings program that meet the requirements of Section 63-3022(n), Idaho Code. (3-15-02)

15. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. To determine the allowable portion of the deduction for certain retirement benefits, calculate a percentage by dividing the qualified retirement benefits included in Idaho gross income by the qualified retirement benefits included in federal gross income. Multiply the deduction allowable pursuant to Section 63-3022A, Idaho Code, and Rule 130 of these rules, by the percentage. (3-30-01)

16. **Health Insurance Costs**. Subtract the allowable portion of the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care as defined in Section 63-3022P, Idaho Code, for the taxpayer, spouse or dependents of the taxpayer not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes. To determine the allowable portion of the amounts paid for medical care insurance, calculate a percentage by dividing Idaho total income by total income. Multiply the deduction allowable pursuant to Section 63-3022P, Idaho Code, by the percentage. See Rule 193 of these rules. (5-3-03)

17. **Long-Term Care Insurance**. As provided in Section 63-3022Q, Idaho Code, a deduction from taxable income is allowed for the allowable portion of premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer that have not otherwise been deducted or accounted for by the taxpayer for Idaho income tax purposes. To determine the allowable portion, calculate a percentage by dividing Idaho total income by total income. Multiply the deduction allowable pursuant to Section 63-3022Q, Idaho Code, by the percentage. (5-3-03)

18. **Special First-Year Depreciation Allowance**. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes shall be computed without regard to the special first-year depreciation allowance. ( )

a. Depreciation. Subtract the amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes. ( )

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions shall apply in computing the Idaho capital loss allowed. ( )

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. ( )

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, subtract the federal gain and the Idaho loss. For example, if a taxpayer has a federal gain of five thousand dollars ($5,000) and an Idaho loss of four thousand dollars ($4,000), the amount subtracted would be nine thousand dollars ($9,000). ( )

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, subtract the difference between the federal and Idaho losses. For example, if a taxpayer has a federal loss of three hundred dollars ($300) and an Idaho loss of five hundred dollars ($500), the amount subtracted would be two hundred dollars ($200). ( )

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars ($6,000) and an Idaho capital loss of eight thousand dollars ($8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars ($3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars ($2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars ($1,000) and an Idaho deductible capital loss of three thousand dollars ($3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars ($2,000) in computing Idaho taxable income. ( )

(BREAK IN CONTINUITY OF SECTIONS)

~~**731. -- 739. (RESERVED).**~~

~~**740. NATURAL RESOURCE CONSERVATION CREDIT -- IN GENERAL (Rule 740).**~~
~~*Section 63-3024B, Idaho Code.* (7-1-98)~~

~~**01. Definitions**. *As used in this rule and Rule 741 of these rules:* (7-1-98)~~

~~**a.** *Best Management Practices (BMPs). Best management practices include the following practices for the type of land indicated:* (7-1-98)~~

~~*i. Agricultural Lands. A component practice or combination of component practices determined to be the most effective, practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals.* (7-1-98)~~

~~*ii. Forest Lands. A practice or combination of practices determined to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices. This is determined by the State Board of Land Commissioners in consultation with the Department of Lands and the Forest Practices Act Advisory Committee. Best management practices for forest lands include management practices listed in IDAPA 20.02.01, which relates to the Idaho Forest Practices Act.* (7-1-98)~~

~~*iii. Mining Lands. Practices found in "Best Management Practices for Mining In Idaho," published November 16, 1992, by the Idaho Department of Lands, Bureau of Minerals, 1215 West State Street, Boise, Idaho, 83720.* (7-1-98)~~

~~**b.** *Total Maximum Daily Load (TMDL). A plan for attaining state water quality standards where traditional technology based approaches or other legally required controls have proved inadequate.* (7-1-98)~~

~~*i. Traditional technology based approaches include effluent limitation and discharge permits.* (7-1-98)~~

~~*ii. Other legally required controls include enforceable best management practices.* (7-1-98)~~

~~**02. Eligible Taxpayers**. *To be eligible for the income tax credit authorized by Section 63-3024B, Idaho Code, a land owner must incur expenses during the taxable year to address one (1) or more of the following:* (7-1-98)~~

~~**a.** *A TMDL process or equivalent process on a Clean Water Act 303(d) listed stream segment;* (7-1-98)~~

~~**b.** *A threatened or endangered species as listed under the Endangered Species Act of 1973, a candidate species for listing under the Endangered Species Act, or a species recognized as a sensitive species by the appropriate agency; or* (7-1-98)~~

~~**c.** *A fencing plan that will improve streams or riparian areas or both.* (7-1-98)~~

~~**741. NATURAL RESOURCE CONSERVATION CREDIT -- QUALIFYING EXPENDITURES (Rule 741).**~~
~~*Section 63-3024B, Idaho Code.* (7-1-98)~~

~~**01. In General**. *If a land owner is eligible for the credit pursuant to Section 63-3024B, Idaho Code, and Subsection 740.02 of these rules, expenditures incurred with respect to the following actions qualify for consideration for the credit:* (7-1-98)~~

~~**a.** *Conservation actions included in a plan approved by the United States Fish and Wildlife Service or other appropriate federal or state agency. Conservation actions include any practices contained in the plan that are*~~

~~*deemed necessary for the protection and improvement of habitat for a species listed as endangered or threatened, a species considered candidate species for listing as endangered or threatened, or a species recognized as a sensitive species by appropriate agencies.* (7-1-98)~~

~~***b.*** *Best management practices included in a plan, approved by an appropriate designated agency as defined in Title 39, Chapter 36, Idaho Code. The objectives of the conservation plan must be directed towards one (1) or more of the following:* (7-1-98)~~

~~*i.* *Meeting a TMDL or equivalent process as set forth in Title 39, Chapter 36, Idaho Code;* (7-1-98)~~

~~*ii.* *Improving riparian areas;* (7-1-98)~~

~~*iii.* *Protecting or improving aquatic habitat; or* (7-1-98)~~

~~*iv.* *Protecting or enhancing designated beneficial uses.* (7-1-98)~~

~~***c.*** *Riparian fencing plans developed for riparian improvement and approved by the appropriate Soil Conservation District. Facilitating practices such as water developments, hardened crossing, or others deemed necessary and appropriate for the success of the fencing plan are also qualifying expenditures.* (7-1-98)~~

~~***d.*** *Measures approved by appropriate federal or state agencies to remove fish barriers to allow fish migration upstream and downstream or to install devices that prevent fish from entering diversions that decrease the survivability of fish entering those diversions.* (7-1-98)~~

~~***02.*** ***Labor Costs Of Land Owners****. Qualifying expenditures may not include an amount for the labor of the land owner.* (7-1-98)~~

~~***03.*** ***Governmental Financial Assistance****. If the land owner receives financial assistance through a cost-share from federal, state, or other governmental units, the amount of qualifying expenditures shall be reduced by the financial assistance received.* (7-1-98)~~

~~***04.*** ***Applying For The Credit****. To be considered for the credit, each eligible taxpayer with qualifying expenditures must complete an application. Once completed, the application must be received by the designated agency by the due date set by the agency. Information included on or attached to the application must indicate the following:* (7-1-98)~~

~~***a.*** *A description of the action taken by the taxpayer that qualifies for the credit. The description must clearly indicate that the taxpayer's action qualifies as one (1) of the three (3) required actions listed in Subsection 740.02 of these rules.* (7-1-98)~~

~~***b.*** *A schedule of qualifying expenditures. The schedule must include the amount of the expenditure, the payee, the date the expenditure was made, and the amount of any financial assistance or cost-share received for the project, if applicable. A copy of all receipts verifying the amount of each expenditure listed must be attached.* (7-1-98)~~

~~***05.*** ***Customary And Reasonable Amounts****. To qualify for consideration, all expenditures must be customary and reasonable for the application of conservation measures.* (7-1-98)~~

~~***06.*** ***Designated Agency****. For purposes of Section 63-3024B, Idaho Code, and Rules 740 and 741 of these rules, designated agency means:* (7-1-98)~~

~~***a.*** *The Department of Lands for timber harvest activities, for oil and gas exploration and development, and for mining activities;* (7-1-98)~~

~~***b.*** *The Soil Conservation Commission for grazing activities and for agricultural activities;* (7-1-98)~~

~~***c.*** *The Transportation Department for public road construction;* (7-1-98)~~

~~**d.** *The Department of Agriculture for aquaculture; and* (7-1-98)~~

~~**e.** *The Department Environmental Quality for all other activities.* (7-1-98)~~

7~~42~~31. -- 744. (RESERVED).

(BREAK IN CONTINUITY OF SECTIONS)

746. CREDIT FOR QUALIFYING NEW EMPLOYEES -- CALCULATIONS USED TO DETERMINE THE CREDIT AND CREDIT CARRYOVER (Rule 746).
Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning in 2000 and after 2001. (5-3-03)

01. In General. ~~*The number of new employees is used to compute the credit earned*~~ A taxpayer is allowed a credit of five hundred dollars ($500) per new employee in the taxable year. To compute the credit for qualifying new employees, the taxpayer shall first calculate the number of employees in the revenue-producing enterprise. ~~*(3-30-01)*~~( )

02. Calculating Number Of Employees. (3-30-01)

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Section 63-3029E(1)(a), Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: ~~*(3-30-01)*~~( )

i. The employee must have been subject to Idaho income tax withholding. ( )

ii. The employee must have been employed by the taxpayer in a revenue-producing enterprise creating value-added natural resource products. ( )

iii. The employee must have been employed by the taxpayer on a regular full-time basis or on a part-time basis if customarily performing such duties at least twenty (20) hours per week. Leased employees do not qualify as employees of the lessee. ( )

iv. 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. ( )

v. The employee must have been covered for Idaho unemployment insurance purposes. ( )

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. (3-30-01)

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. (3-30-01)

03. Calculating The Number Of New Employees. (3-30-01)

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: (3-30-01)

i. The number of employees for the prior taxable year; or (3-30-01)

ii. The average of the number of employees for the three (3) prior taxable years. (3-30-01)

b. If the taxpayer treats the entire business as a revenue-producing enterprise under Subsection 745.04.a. of these rules, the calculations in Subsections 746.03.i. and 746.03.ii. shall be made on a consistent basis. The number of employees for the prior taxable year and the average for the three (3) prior taxable years shall be made presuming the entire business was a revenue-producing enterprise for those years. (3-30-01)

c. The requirements as to who qualifies for the calculation of number of employees in Subsection 746.02.a. shall apply in computing the number of employees in Subsections 746.03.a.i. and 746.03.a.ii. Calculations used in computing the credit earned in taxable years beginning in 2001 when the credit was not limited to employees in a revenue-producing enterprise may not be used in computing the credit earned in taxable years beginning after 2001. ( )

04. Computing The Credit Earned. The number of new employees shall be rounded to the nearest tenth (.1) and must equal or exceed one (1) or no credit is earned. The credit earned is the lesser of the following: (3-30-01)

a. The number of new employees multiplied by five hundred dollars ($500); or (3-30-01)

b. The net income of the revenue-producing enterprise, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%). (3-30-01)

05. Limitations. In the year the credit for qualifying new employees is earned or claimed: ( )

a. Taxable years beginning in 2000 and 2002. This credit and all other credits may not exceed forty-five percent (45%) of the taxpayer's income tax liability ~~*in the year earned or claimed*~~ for that year. The credit for taxes paid to other states, grocery credit, and the credit for maintaining a home for a family member age sixty-five (65) or older or developmentally disabled dependents are not subject to this limitation. ~~*See Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits.* *(3-15-02)*~~( )

b. Taxable years beginning in 2003 and after. This credit and all other credits may not exceed fifty percent (50%) of the taxpayer's income tax for that year after deducting the credit for taxes paid to other states. The credit for taxes paid to other states is not subject to this limitation. ( )

c. See Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits. ( )

06. Carryover. To claim the carryover, the taxpayer must maintain the employment level on which the credit was computed during the three (3) succeeding taxable years to which the unused credit is carried. If the employment level that generated the credit decreases, the taxpayer is not required to recapture the credit claimed in previous taxable years. However, the taxpayer shall recompute the credit based on the reduced employment level to determine the correct amount of carryover. (3-30-01)

07. Pass-Through Entities. See Rule 785 of these rules for pass-through entities and the calculation of credits. (3-15-02)

08. Unitary Taxpayers. (3-30-01)

a. A corporation may not use the credit for qualifying new employees earned by another member of the unitary group. See Rule 365 of these rules. (3-30-01)

b. Each corporation in a unitary group that claims the credit for qualifying new employees is subject to Section 63-3029H, Idaho Code, and Rule 799 of these rules for the priority order of credits. (3-15-02)

(BREAK IN CONTINUITY OF SECTIONS)

790. TRANSFER OF CREDIT -- IN GENERAL (Rule 790).
Sections 63-3029I and 63-3029J, Idaho Code. (3-15-02)

01. In General. A credit may be transferred only as specifically allowed in the statute authorizing the credit. The following credits are the only credits that may be transferred: (3-15-02)

a. The broadband equipment investment credit, as allowed by Section 63-3029I, Idaho Code; and (3-15-02)

b. The incentive investment tax credit, as allowed by Section 63-3029J, Idaho Code. (3-15-02)

02. Terms. For purposes of Rules 790 through 795 of these rules, the following terms have the stated meanings: (3-15-02)

a. Transferor. The taxpayer who earns the credit and sells, conveys, or transfers the credit to another taxpayer shall be referred to as the transferor. (3-15-02)

b. Transferee. The taxpayer who receives the credit from the transferor or intermediary shall be referred to as the transferee. ~~(3-15-02)~~( )

03. Transfer Limited. ( )

a. ~~The transfer of a credit is limited to~~ Only the taxpayer who originally earned the incentive investment tax credit may transfer the credit. A taxpayer who receives the incentive investment tax credit ~~through unitary sharing or~~ through a transfer~~,~~ may not transfer the credit to another taxpayer. ~~(3-15-02)~~( )

b. The broadband equipment investment credit may be transferred to another taxpayer required to file an Idaho income tax return or to an intermediary. The intermediary may use all or a portion of the broadband equipment investment credit or resell the credit to a taxpayer required to file an Idaho income tax return. The broadband equipment investment credit may not be transferred more than two (2) times. ( )

c. A taxpayer who receives credit through unitary sharing may not transfer the credit to another taxpayer. ( )

791. TRANSFER OF CREDIT -- NOTIFICATION OF INTENDED TRANSFER (Rule 791).
Sections 63-3029I and 63-3029J, Idaho Code. (3-15-02)

01. Timing Of Notification. A taxpayer who intends to transfer qualified credit shall notify the Tax Commission in writing of its intent to transfer the credit at least sixty (60) days prior to the date of the transfer. A transfer may not take place prior to the Tax Commission providing its response as to the amount of credit available and the years the credit may be carried forward. (3-15-02)

02. Information Required. A transferor or intermediary shall notify the Tax Commission by submitting the following information on a form prescribed by the Tax Commission: ~~(3-15-02)~~( )

a. Name, address, and federal employer identification number of the transferor or intermediary; ~~(3-15-02)~~( )

b. Name, address, and federal employer identification number of the transferee; (3-15-02)

c. Type of credit to be transferred; (3-15-02)

d. Amount of credit to be transferred; (3-15-02)

e. Date of intended transfer; ~~*and*~~ ~~*(3-15-02)*~~(____)

f. Signature of authorized individual for transferor~~.~~ or intermediary; and ~~*(3-15-02)*~~(____)

g. A copy of the Idaho Form 68, Idaho Broadband Equipment Investment Credit, or Idaho Form 69, Idaho Incentive Investment Tax Credit, and required schedules for each tax year the credit being transferred was earned. (____)

(BREAK IN CONTINUITY OF SECTIONS)

793. TRANSFER OF CREDIT -- TRANSFEREE (Rule 793).
Sections 63-3029I and 63-3029J, Idaho Code. (3-15-02)

01. Tax Year Credit Available. A transferee may first claim the transferred credit on an income tax return originally filed during the calendar year in which the transfer takes place. However, if the transferee did not claim the transferred credit on his original return filed during the calendar year in which the transfer takes place, he may not amend such return to claim the credit for that tax year. ~~t~~The credit may not be claimed on a tax return that begins prior to January 1, 2001. ~~*(3-15-02)*~~(____)

02. Copy Of Transfer Form Required. The form verifying the transferred credit shall be attached to the income tax return for each taxable year that the credit is claimed or carried over. (3-15-02)

03. Carryover Period. If a credit is transferred, the transferee is entitled to any remaining carryover period that would have been allowed to the transferor or intermediary had the credit not been transferred. The Tax Commission shall verify the carryover period. The carryover period approved shall apply to the taxable year of the transferee that begins in the calendar year in which the transferor's taxable year begins. ~~*(3-15-02)*~~(____)

a. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In March of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2001 since he filed it in October of 2002. Taxpayer B has a fourteen (14) year carryover remaining, the same as Taxpayer A would have been entitled to. ~~*(3-15-02)*~~(____)

b. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. In December of 2002, Taxpayer A sold the remaining credit to Taxpayer B. Taxpayer B claimed the credit on his original return for taxable year beginning in 2002, which he filed in April of 2003. Taxpayer B has a thirteen (13) year carryover remaining. ~~*(3-15-02)*~~(____)

c. Taxpayer A earned the incentive investment tax credit in his taxable year beginning in 2001. He claimed part of the credit on his return for that year. On his return for taxable year beginning in 2002, Taxpayer A claimed additional credit earned during his taxable year beginning in 2001. In September of 2003, Taxpayer A sold the remaining credit to Taxpayer B at which time he had a thirteen (13) year carryover remaining. Taxpayer B is entitled to claim the credit on his original return filed in October of 2003. Taxpayer B is entitled to a thirteen (13) year carryover. ~~*(3-15-02)*~~(____)

d. Taxpayer A earned the broadband equipment investment credit in his taxable year beginning in 2002. He claimed part of the credit on his return for that year. In October of 2003, Taxpayer A sold the remaining credit to Taxpayer B, an intermediary. Taxpayer B resold the credit in May of 2004 to Taxpayer C. Taxpayer C claimed the credit on his original return for taxable year beginning in 2003, which he filed in November of 2004. Taxpayer C has a thirteen (13) year carryover remaining, the same as Taxpayer B would have been entitled to. (____)

(BREAK IN CONTINUITY OF SECTIONS)

799. PRIORITY ORDER OF CREDITS (Rule 799).
Section 63-3029P, Idaho Code. (5-3-03)

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.*** *Natural resource conservation credit as authorized by Section 63-3024B, Idaho Code;* *(3-30-01)*~~

~~***h***~~**g.** Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)

~~***i***~~**h.** Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code; (3-15-02)

~~***j***~~**i.** Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)

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

~~***l***~~**k.** Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code. (3-15-02)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 522 through 525.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 01

INCOME TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 522 through 525.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0302

NOTICE OF RULEMAKING - 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(s) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

DATE: **Tuesday, October 7, 2003**
TIME: **10:00 a.m.**
PLACE: **Conference Room 1CR5**
Idaho State Tax Commission
800 Park Blvd., Plaza IV, Boise, ID

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:

Income Tax Rule 719: H.B. 453 passed by the 2003 Legislature, amended Section 63-3029B, Idaho Code, to allow a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment. A new Income Tax Rule is being promulgated to address the calculation of negative Idaho taxable income in the second preceding taxable year and the used property limitation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, Tap Policy Specialist, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0302

717. -- 71~~9~~8. (RESERVED).

719. IDAHO INVESTMENT TAX CREDIT -- PROPERTY TAX EXEMPTION IN LIEU OF (Rule 719). Section 63-3029B, Idaho Code. ( )

01. In General. Beginning with calendar year 2003, a qualifying taxpayer may elect a two (2) year property tax exemption on personal property placed in service during the year. Property placed in service prior to January 1, 2003, does not qualify for the exemption. The personal property must be qualified investment as defined in Section 63-3029B, Idaho Code, and Rules 710 through 716 of these rules. If the property tax exemption is elected on an item of personal property, the taxpayer may not earn the investment tax credit on that item. The election is irrevocable. ( )

02. Terms. As used in this rule: ( )

a. Second Preceding Taxable Year. The term second preceding taxable year shall mean the second preceding taxable year from the taxable year in which the property is placed in service. ( )

b. Used Property Limitation. The term used property limitation shall mean the one hundred fifty thousand dollar ($150,000) limitation imposed by Section 48, Internal Revenue Code of 1986 prior to November 5, 1990. ( )

03. Negative Idaho Taxable Income In Second Preceding Taxable Year. To qualify for the property tax exemption on personal property, a taxpayer must have had negative Idaho taxable income in the second preceding taxable year. ( )

a. Net Operating Loss Carryovers and Carrybacks. Negative Idaho taxable income in the second preceding taxable year shall be determined prior to the application of any Idaho net operating loss carryforwards or carrybacks. ( )

b. Taxable year, for purposes of this calculation, includes a short taxable year as defined by the Internal Revenue Code. ( )

c. Examples of Determining Second Preceding Taxable Year. ( )

i. A taxpayer files income tax returns on a calendar year basis. During calendar year 2003, the taxpayer placed in service personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were calendar years 2001 and 2002. To qualify for the property tax exemption on personal property, the taxpayer must have had negative Idaho taxable income in calendar year 2001, the second preceding taxable year from calendar year 2003. ( )

ii. A taxpayer files income tax returns on a June 30 fiscal year end basis. During the fiscal year ended June 30, 2003, the taxpayer placed in service between January 1, 2003, and June 30, 2003, personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were fiscal years ended June 30, 2001 and June 30, 2002. To qualify for the property tax exemption, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2001, the second preceding taxable year from fiscal year ended June 30, 2003. Property placed in service during the fiscal year ended June 30, 2003, but in calendar year 2002 does not qualify for the exemption. ( )

iii. Assume the same facts as in Subsection 719.03.c.ii., except the taxpayer placed the property in service on September 30, 2003, during his fiscal year ended June 30, 2004. To qualify for the property tax exemption on personal property placed in service between July 1, 2003 and June 30, 2004, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2002, the second preceding taxable year from the fiscal year ended June 30, 2004. ( )

iv. Assume the same facts as in Subsection 719.03.c.ii., except the taxpayer's previous two (2) taxable years included a short taxable year from January 1, 2002 to June 30, 2002, and calendar year 2001. To qualify for the property tax exemption on personal property placed in service between January 1, 2003 and June 30, 2003, the taxpayer must have had negative Idaho taxable income in the taxable year for calendar year 2001, the second preceding taxable year from the fiscal year ended June 30, 2003. ( )

v. Table of examples of determining second preceding taxable year.

TAXABLE YEAR PROPERTY PLACED IN SERVICE	FIRST PRECEDING TAXABLE YEAR	SECOND PRECEDING TAXABLE YEAR
Calendar year 2003	Calendar year 2002	Calendar year 2001
Calendar year 2004	Calendar year 2003	Calendar year 2002
Calendar year 2004	Calendar year 2003	Short taxable year beginning February 1, 2002 and ending December 31, 2002
Fiscal year beginning July 1, 2002 and ending June 30, 2003	Fiscal year beginning July 1, 2001 and ending June 30, 2002	Fiscal year beginning July 1, 2000 and ending June 30, 2001
Fiscal year beginning September 1, 2003 and ending August 31, 2004	Fiscal year beginning September 1, 2002 and ending August 31, 2003	Fiscal year beginning September 1, 2001 and ending August 31, 2002
Fiscal year beginning July 1, 2002 and ending June 30, 2003	Short taxable year beginning January 1, 2002 and ending June 30, 2002	Calendar year 2001

( )

d. Unitary Taxpayers. Each corporation included in a unitary combined group shall use its Idaho taxable income, as determined pursuant to Section 63-3027, Idaho Code, to determine whether it had negative Idaho taxable income in the second preceding taxable year. ( )

e. Pass-through Entities. A taxpayer who is a partnership or an S corporation shall not qualify for the property tax exemption unless the total of its net business income apportioned to Idaho and its nonbusiness income or loss allocated to Idaho is negative for the second preceding taxable year. ( )

f. Return Not Filed. If a taxpayer has not filed an Idaho income tax return for the second preceding taxable year so that the loss can be verified, the taxpayer shall not be entitled to the exemption. ( )

04. Used Property Limitation. ( )

a. In General. The cost of used property that a taxpayer may take into account for any taxable year in computing qualified investment shall not exceed one hundred fifty thousand dollars ($150,000). This includes the cost of property the taxpayer placed in service during the taxable year and also his share of the cost of property placed in service during the taxable year by a partnership, S corporation, estate or trust. Because property must be qualified investment to qualify for the property tax exemption, the taxpayer is limited to one hundred fifty thousand dollars ($150,000) for purposes of determining the property tax exemption. ( )

b. Selection of Items of Used Property. If the cost of the taxpayer's used property eligible for the investment tax credit exceeds the used property limitation, the taxpayer must select the particular items of used property the cost of which is to be taken into account in computing qualified investment. When the taxpayer selects a particular item, the entire cost or the taxpayer's share of cost of the particular item must be taken into account unless the one hundred fifty thousand dollar ($150,000) limitation is exceeded. For example, if a taxpayer places in service during the taxable year three (3) items of used property, each with a cost of sixty thousand dollars ($60,000), the taxpayer must select the entire cost of two (2) of the items and only thirty thousand dollars ($30,000) of the cost of the third item. The taxpayer may not select a portion of the cost of each of the three (3) items. The remaining thirty thousand dollars ($30,000) of the third item shall not qualify for the investment tax credit nor the property tax exemption since it is not qualified investment. The selection by a taxpayer shall be made by taking the cost of the used property into account in computing the investment tax credit or the property tax exemption for a taxable year.

( )

c. Electing Property Tax Exemption on Selected Used Property Items. Once the taxpayer has selected the particular items of used property, the cost of which is to be taken into account in computing qualified investment, the taxpayer shall determine whether he may elect the property tax exemption on the items selected. If an item qualifies as personal property and the taxpayer had a negative Idaho taxable income in the second preceding taxable year, the taxpayer may elect to claim the property tax exemption on the item in lieu of earning the investment tax credit. For example, assume the same facts as in Subsection 719.04.b. The taxpayer may elect the property tax exemption on any of the three (3) items, limited to the amount included as qualified investment if the item qualifies as personal property and the taxpayer had a negative Idaho taxable in the second preceding taxable year. ( )

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0303

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 526 through 528.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 01

INCOME TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 526 through 528.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.01 - INCOME TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0101-0303

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105 and 63-3039, 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 15, 2003.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Income Tax Rule 872 is being amended to adjust the split monthly withholding thresholds to $6,000 per monthly average per year and $72,000 per year for withholding periods beginning on or after January 1, 2004, as required by statute.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Statutory timing requires the rule be adopted as a temporary rule and shall be effective for the next succeeding calendar year. The rule will include an effective date that commences with withholding periods beginning on or after January 1, 2004.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary and proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0101-0303

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872).
Sections 63-3035 and 63-3036, Idaho Code. (3-20-97)

01. Filing Of Returns. (7-1-99)

a. In General. An employer shall file returns quarterly to report payroll and state income tax withheld. Returns shall be filed on or before the last day of the month following the end of the quarter. (4-5-00)

b. Farmer-Employers. Generally, an employer who is a farmer shall file returns annually to report payroll and state income tax withheld. However, an employer who is a farmer shall file returns quarterly on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Labor. (4-5-00)

c. Zero Tax Returns. A return shall be filed for each reporting period. For reporting periods in which the employer had no payroll or withheld no tax, the return shall be completed and filed by the due date. (7-1-99)

02. Extension Of Time To File Returns. The Tax Commission may allow a one (1) month extension of time to file the withholding return. (3-20-97)

a. The employer shall file a written request by the due date of the withholding return that identifies the reason for the extension and includes the required minimum payment. The minimum payment shall be at least ninety percent (90%) of the tax withheld for the period or one hundred percent (100%) of the tax withheld for the same period of the prior year. (4-5-00)

b. The employer shall file a return reporting the actual tax withheld for the period within one (1) month of the due date. The tax paid with the extension request shall be shown on the adjustment line of the return. Interest from the due date applies to any additional tax due. (3-20-97)

03. Payment Of State Income Tax Withheld. (7-1-99)

a. In General. An employer shall remit monthly any state income tax withheld. However, employers who owe ~~*five*~~ six hundred dollars ($~~55~~600) or less per calendar quarter may, at the discretion of the Tax Commission, be allowed to remit the tax withheld on or before the last day of the month following the end of the quarter. ~~*(4-5-00)*~~(1-1-04)T

b. Split-Monthly Filers. (1-1-04)T

i. An employer who withholds state income taxes that meet or exceed the monthly or annual threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subsection 872.03.b.ii., shall remit the tax withheld based on split-monthly withholding periods. Split-monthly withholding periods begin with the 16th day of the month and end on the 15th day of the following month. Payments for a split-monthly withholding period shall be made no later than five (5) days after the end of the withholding period. (1-1-04)T

ii. Threshold amounts:

WITHHOLDING PERIODS BEGINNING	MONTHLY THRESHOLD AMOUNTS	ANNUAL THRESHOLD AMOUNTS
Prior to January 1, 2004	$5,000.00	$60,000.00
On or After January 1, 2004, but Before July 1, 2005	$6,000.00	$72,000.00
On or After July 1, 2005	$20,000.00	$240,000.00

(1-1-04)T

~~b~~**c.** Farmer-employers. Generally an employer who is a farmer shall remit state income tax withheld on or before the last day of February. However, an employer who is a farmer shall remit the state income tax withheld on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Labor. (4-5-00)

04. Employer's Annual Reconciliation. On or before the last day of February, employers shall file a return reconciling the tax remitted throughout the preceding calendar year and the state income tax withholding reported on the W-2s. (3-20-97)

05. Employee's Wage And Tax Statements. Federal Form W-2 or a form of similar size and design may be used. In addition to the information required by the Internal Revenue Code, total Idaho wages paid, Idaho income tax withheld, and the name of the state shall be shown in the appropriate boxes. Altered forms are not accepted. (7-1-99)

a. The employer shall furnish each employee a W-2 before February 1, or at the request of the employee within thirty (30) days after termination of his employment. (3-20-97)

b. On or before the last day of February, each employer shall file with the Tax Commission a W-2 for each employee to whom Idaho taxable wages were paid, regardless of whether Idaho income tax was withheld. (3-20-97)

c. If a corrected W-2 is filed with the Internal Revenue Service, the W-2c shall be filed with the Tax Commission. (3-20-97)

d. Each employer with fifty (50) or more Idaho employees who is required to file returns on magnetic media or other machine-readable form by Section 6011, Internal Revenue Code, shall file in a similar manner with Idaho. In addition to the information required by the Internal Revenue Code, the magnetic media or machine readable form shall also include the employer's Idaho withholding account number, Idaho wages, and Idaho withholding. Employers who are required to file on magnetic media but fail to do so are subject to the provisions of Section 63-3046(e)(1), Idaho Code, and treated as if no W-2s were filed. (3-15-02)

e. If services are performed within and without Idaho, the state wages shown on the W-2 furnished to the employee shall include the portion of the employee's total wages reasonably attributed to services performed within Idaho. Wages may be allocated to Idaho based on work days, hours, mileage or commissions. (7-1-99)

06. Valid Returns. All withholding returns and other documents required to be filed pursuant to Sections 63-3035 and 63-3036, Idaho Code, and this rule shall be filed using the proper forms as prescribed by the Tax Commission. The forms shall include the taxpayer's name, signature, withholding account number, and federal employer identification number. Returns that fail to meet these requirements are invalid and may be returned to the taxpayer to be refiled. Failure to file a valid return by the due date may cause interest and penalties to be imposed. (3-20-97)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This pending rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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(s) 63-105, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting the pending rule and a statement of any changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 2, 2003, Idaho Administrative Bulletin, Volume 03-7, pages 68 through 70.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 15th day of August, 2003

James Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 02

IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 68 through 70.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0301

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is May 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 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 July 16, 2003.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

With the enactment of House Bill 400 the sales tax rate will be increased to six percent on May 1, 2003. Rule 068 contains the schedule for collecting tax on fractions of a dollar. The Tax commission is required to provide this schedule by Section 63-3619, Idaho Code. The rule needs to be amended to reflect the new rate.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Statutory timing requires the rule be adopted as a temporary/proposed rule by inserting a table showing the new brackets for collecting sales tax and make other appropriate changes to reflect the new tax rate.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary/proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact James Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 7th day of May, 2003.

James Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0301

068. COLLECTION OF TAX (Rule 068).

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by ISTC 105. (7-1-93)

02. Sales Tax To Be Collected By Retailer. Sales tax shall be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation Of Tax. The retailer will compute the tax upon the total sale to a purchaser at a given time and not upon each individual item purchased. (7-1-93)

04. Bracket System For Five Percent Tax Rate. The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale through April 30, 2003. ~~(7-1-93)~~(5-1-03)T

a. Multiply five cents ($0.05) for every whole dollar included in the sale, AND (7-1-93)

b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax
0.00 - 0.05	.00
0.06 - 0.25	.01
0.26 - 0.45	.02
0.46 - 0.65	.03
0.66 - 0.85	.04
0.86 - 0.99	.05

HOWEVER, sales to a total amount of eleven cents ($0.11) or less are exempt from tax. (7-1-93)

05. Bracket System For Six Percent Tax Rate. Beginning May 1, 2003, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. (5-1-03)T

a. Multiply six cents ($0.06) for every whole dollar included in the sale, AND (5-1-03)T

b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale	Tax
0.00 - 0.03	.00
0.04 - 0.20	.01
0.21 - 0.37	.02
0.38 - 0.53	.03
0.54 - 0.70	.04
0.71 - 0.87	.05
0.88 - 0.99	.06

HOWEVER, sales to a total amount of eleven cents ($0.11) or less are exempt from tax. (5-1-03)T

0~~5~~6. Tax To Be Separately Displayed. The amount of tax collected by the retailer must be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax. (7-1-93)

0~~6~~7. Unit Sales At Single Price. When transactions involve unit sales at a single price, such as admission tickets, the requirement to calculate and itemize the sales tax can be met by showing the total cost separately in a statement of the price on the ticket. (7-1-93)

a. Example 1: The ticket price for admission to a high school basketball game is two dollars ($2). The separate statement of tax may be shown as:

Admission	$1.~~90~~88
Tax (~~5~~6%)	$ .1~~0~~2
Total	$2.00

~~*Ten*~~ Twelve cents ($0.1~~0~~2) must be set aside and held as state money arising from tax on the admission. ~~*(7-1-93)*~~(5-1-03)T

b. Example 2: The ticket price to a movie theater is four dollars ($4.). The separate statement of tax

Admission	$3.~~81~~76
Tax (~~5~~6%)	$.~~19~~24
Total	$4.00

~~*Nineteen*~~ Twenty-four cents ($0.~~19~~24) must be set aside and held as state money arising from tax on the admission. ~~*(7-1-93)*~~(5-1-03)T

0~~7~~8. Reimbursement Of Tax From The Purchaser To The Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the purchaser if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code. (7-1-93)

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer. (7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. (7-1-93)

d. The receivable established by the seller seeking reimbursement from the purchaser is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. (7-1-93)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, pages 209 through 219.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 29th day of October, 2003.

James Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 02

IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 209 through 219.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0302

NOTICE OF RULEMAKING - 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(s) 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 17, 2003.

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:

With the enactment of HB 400 in 2003 the sales tax rate became 6%. Sales tax administrative rules 041, 047, 063, 073, 110, and 126 needed to be amended because they contain examples with the 5% tax rate. Changes also include technical corrections that have been made.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 31st day of July, 2003.

Jim Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0302

041. FOOD, MEALS, OR DRINKS (Rule 041).

01. In General. This rule covers the imposition of tax on sales of food, meals, or drinks by commercial establishments, college campuses, conventions, nonprofit organizations, private clubs, and similar organizations. (7-1-93)

02. Commercial Establishments. Sales tax is imposed on the amount paid for food, meals, or drinks furnished by any restaurant, cafeteria, eating house, hotel, drugstore, diner, club, or any other place or organization regardless of whether meals are regularly served to the public. (7-1-93)

03. Clubs And Organizations. Private clubs, country clubs, athletic clubs, fraternal, and other similar organizations are retailers of tangible personal property sold by them, even if they make sales only to members. Such organizations must obtain an Idaho seller's permit and report and pay retail sales tax on all sales. Taxability of membership dues depends upon the nature of the club. See Rule 030 of these rules. Special rules apply to religious organizations. See Rule 086 of these rules. (3-15-02)

a. When an organization holds a function in its own quarters, maintains its own kitchen facilities, and sells tickets which include items such as meals, dancing, drinks, entertainment, speakers, and registration fees (convention), the charges may be separated and tax collected on meals, drinks, and admission fees when the ticket is sold. For example:

Dinner, dancing, etc.	$ 8.00
Tax	.4~~0~~8
Registration, speakers, etc.	$ 6.60
Total Ticket	$15.0~~0~~8

Meals and the use of recreational facilities are taxable. Registration fees, speaker fees, and similar charges are not taxable. ~~(7-1-93)~~(____)

b. The organization holding the function or convention must obtain a seller's permit and remit tax to the state. When the charges are not separated, the total price of the ticket is taxable. (7-1-93)

c. When an organization holds a function in facilities operated by a restaurant or motel and sells tickets for meals, drinks, and other services, no sales tax applies to these sales if the organization pays the restaurant or hotel sales tax on the meals and drinks furnished and all other services performed. The hotel, restaurant, or caterer will remit the tax to the state. (7-1-93)

04. Colleges, Universities, And Schools. A cafeteria operated by a state university, junior college district, public school district, or any other public body is treated the same as a cafeteria operated by a private enterprise. Purchases of food for resale are not taxable; meals sold are taxable. (7-1-93)

a. If a meal is paid for by cash or a meal ticket is sold to the student, tax is computed on the total sales price of the meal. If meals are sold as part of a room and board fee, the amount paid for board must be separated from the amount paid for the room. Tax is calculated and collected on that part of the total fee allocated to the purchase of meals. (7-1-93)

b. Sales of meals by public or private schools under the Federal School Lunch Program are exempted by Section 63-3622J, Idaho Code. (7-1-93)

05. Fraternities, Sororities, And Cooperative Living Group. Fraternities and sororities generally purchase and prepare food for their own consumption. The food is prepared and served in a cooperative manner by members of the fraternity or by employees hired by the group for this purpose. Purchases made by the fraternity or sorority are for consumptive use and subject to sales tax. There is no sale of meals to fraternity or sorority members and no sales tax imposed on any allocated charge for them whether stated separately or included as part of a lump sum charge for board and room. (7-1-93)

a. If a concessionaire is retained by the fraternity or sorority to furnish meals, the concessionaire is a retailer engaged in the business of selling meals; food purchases are for resale and meals supplied by the concessionaire to members of the fraternity or sorority are subject to sales tax. (7-1-93)

b. If the fraternity or sorority regularly furnishes meals for a consideration to nonmembers, these meals become subject to tax and the fraternity or sorority must obtain an Idaho seller's permit. (7-1-93)

c. Cooperative living groups are normally managed in much the same manner as fraternities and sororities. Food is purchased and meals prepared and served by members of the group or their employees. The same conditions outlined above for fraternities and sororities apply to cooperative living groups. (7-1-93)

06. Boarding Houses. Sales of meals furnished by boarding houses are subject to tax, when they are charged separately. This applies whether or not the meals are served exclusively to regular boarders. Where no separate charge or specific amount is paid for meals furnished, but is included in the regular board and room charges, the boarding house or other place is not considered to be selling meals, but is the consumer of the items used in preparing such meals. (7-1-93)

07. Honor System Snack Sales. Honor system snack sales are those items of individually sized prepackaged snack foods, such as candy, gum, chips, cookies or crackers, which customers may purchase by depositing the purchase price into a collection receptacle. Displays containing these snacks are generally placed in work or office areas and are unattended. Customers are on their honor to pay the posted price for the article removed from the display. Purchases from these snack displays are subject to sales tax. (7-1-93)

a. Sales tax applies to the gross receipts. The posted price must include a statement that sales tax is included. (7-1-93)

b. The formula for computing the taxable amount effective ~~*July 1, 1986*~~ May 1, 2003, is: (Gross Receipts) / (one hundred ~~*five*~~ six percent (10~~5~~6%)) = Taxable Sales. (Taxable Sales) x (~~*five*~~ six ~~*one hundredths*~~ percent (~~*.05*~~6%)) = Tax Due. ~~*(7-1-93)*~~( )

08. Church Organization. Special rules apply to religious organizations. See Rule 086 of these rules. (3-15-02)

09. Senior Citizens. Meals sold under programs that provide nutritional meals for the aging under Title III-C of the Older Americans Act, Public Law 93-29, are exempted from the sales tax by Section 63-3622J, Idaho Code. Organizations selling such meals must obtain an Idaho seller's permit and collect sales tax when selling meals to purchasers who are not senior citizens. (7-1-93)

10. Nontaxable Purchases By Establishments Selling Meals Or Beverages. Persons who serve food, meals, or drinks for a consideration may purchase tangible personal property without paying tax if the property is for resale to their customers, is included in the fee charged to the customer, and is directly consumed by the customer in such a way that it cannot be reused. A resale certificate must be provided to the vendor when the establishment purchases such items for resale. See Rule 128 of these rules. Examples of items which are purchased for resale and directly consumed by customers include: (3-15-02)

a. Disposable containers, such as milkshake containers, paper or styrofoam cups and plates, to-go containers and sacks, pizza cartons, and chicken buckets. (7-1-93)

b. Disposable supplies included in the price of the meal or drink, such as drinking straws, stir sticks, paper napkins, paper placemats, and toothpicks. (7-1-93)

c. Candies, popcorn, drinks, or food, when included in the consideration paid for other food, meals, or drinks. (7-1-93)

11. Taxable Purchases By Establishments Selling Meals Or Beverages. Tangible personal property which is not included in the fee charged to the customer and not directly consumed by the customer is subject to the tax when purchased by the restaurant, bar, food server, or similar establishment. Tangible personal property which is not directly consumed by the customer includes property that is nondisposable in nature or property that is depreciated in the books and records of the restaurant, bar, or similar establishment. Examples of taxable purchases include: (7-1-93)

a. Waxed paper, stretch wrap, foils, paper towels, garbage can liners, or other paper products consumed by the retailer, as well as linens, silverware, glassware, tablecloths, towels, and nondisposable napkins, furniture, fixtures, cookware, and menus. (7-1-93)

b. Any tangible personal property available to the general public, such as restroom supplies and matches. (7-1-93)

c. Complimentary candies, popcorn, drinks, or food, when patrons are not required to purchase other food, meals, or drinks in order to receive the complimentary goods. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

047. OUTFITTERS, GUIDES, AND LIKE OPERATIONS (Rule 047).

01. In General. Fees charged for services performed by outfitters, guides, dude ranches, hunting and fishing lodges, or camps are charges for the use of, or privilege of using, tangible personal property or other facilities for recreation. Fees charged by outfitters and like operations for providing outdoor recreational services are subject to sales tax. (7-1-93)

a. An outfitter is any person who holds himself out to the public for hire to conduct outdoor recreational activities, including: hunting animals or birds; float or power boating of rivers, lakes, and streams; fishing; hiking; skiing; hazardous desert or mountain excursions; and other recreational activities. (7-1-93)

b. A guide is a person employed by an outfitter to furnish personal services for the conduct of outdoor recreational activities. (7-1-93)

02. Services Performed In More Than One State. When an outfitter's service to a client takes place in more than one (1) state, and the customer receives an invoice from the outfitter that separately displays the Idaho portion of the charges from those of the other states, only the Idaho portion is subject to Idaho sales tax. (7-1-93)

a. When an outfitter's service to a client takes place in more than one (1) state and the outfitter fails to separately state the Idaho portion of the charges from those of other states, sales tax must be charged on the total amount. (7-1-93)

b. If the service takes place on a river which divides Idaho from another state, tax must be charged on fifty percent (50%) of the fee attributed to that portion of the trip. (7-1-93)

c. Example: A one hundred (100) mile float trip consists of fifty (50) miles on Idaho rivers, twenty (20) miles on another state's river, and thirty (30) miles on a river which divides Idaho from another state. If the outfitter's invoice to his client separately states the Idaho portion of the charge from the out-of-state charges, only the Idaho fees will be subject to Idaho sales tax. The invoice should show the following:

FLOAT TRIP	FEE	IDAHO SALES TAX
50 miles Idaho river	$500	$~~*25.00*~~ 30.00 (on 100%)
20 miles out-of-state	$200	$ 0.00 (none)
30 miles border river	$300	$ ~~*7.50*~~ 9.00 (on 50%)

~~*(7-1-93)*~~(_____)

03. Charter Aircraft. When an outfitter hires a charter aircraft to transport his customer within Idaho,

the outfitter must charge the customer tax on the fee for the charter service. The outfitter will provide the vendor of the services with a properly completed resale certificate. (7-1-93)

04. Government Use Fee. Land and water use fees imposed on outfitters, such as the three percent (3%) fee paid to the U.S. Forest Service, are not subject to the sales tax when separately stated on the customer's invoice. (6-23-94)

05. Prepaid Travel Expense. When an outfitter's invoice separately states prepaid travel expenses such as lodging, and the outfitter has paid sales tax, when applicable, to vendors providing the travel services, the outfitter will not be required to tax that portion of his bill to the customer. Example: An outfitter's bill to a client for a seven (7) day hunt and prepaid travel expenses should read:

SEVEN-DAY HUNT	FEE	IDAHO SALES TAX
Airline Ticket (New York/Boise)	$ 500	$ 0.00 (none)
1 Night Lodging, Motel X Boise (Outfitter has paid tax to Motel X)	$ 50	$ 0.00 (none)
7 Day Hunt	$1,500	$~~*75.00*~~ 90.00 (on 100%)

~~*(7-1-93)*~~(_____)

06. Lodging. If an outfitter provides overnight lodging for a client at a facility operated by the outfitter, charges for the lodging are subject to sales tax and hotel/motel taxes as provided by Idaho Hotel/Motel Room Sales Tax Rule IDAPA 35.01.06.011. (6-23-94)

07. Equipment Rental. When an outfitter rents equipment such as ground sheets, sleeping bags, rain gear, boots and dry bags, to his client for use during the recreational activity, sales tax must be charged on the equipment rental. (7-1-93)

08. Game Processing, Packing, And Taxidermy. When an outfitter bills a client for game processing, packing, or taxidermy services, sales tax must be charged on the entire fee to the client. The outfitter will provide the vendor of the services with a properly completed resale certificate. (7-1-93)

09. Prepurchased Hunting And Fishing Licenses. When an outfitter purchases a hunting or fishing license for a client and separately states the fee on the billing to the client, no sales tax applies to the license fee. (7-1-93)

10. Travel Agency Services. (7-1-93)

a. When outfitter services are purchased by a client through a travel agency and the outfitter bills the travel agency for the fee, the amount billed to the travel agency is subject to tax. In this case, the agency is acting as an agent for the client and the additional fee charged by the agency to the client is not subject to the sales tax. (7-1-93)

b. When outfitter services are arranged for a client by a travel agency but the outfitter bills the client, the amount billed to the client is subject to tax. In this case, the agency is acting as the agent of the outfitter and the fee paid to the travel agency by the outfitter cannot be deducted from the measure of the taxable sale. Even if the outfitter separately states the travel agency fee on his billing to the client, he must charge tax on the total amount. (7-1-93)

c. When an outfitter, Outfitter X, books a client and hires a second outfitter, Outfitter Y, to provide the services to the client, Outfitter X must charge the client tax on the full fee. Outfitter Y must obtain a resale certificate from Outfitter X. If this form is not obtained, Outfitter Y must charge sales tax on the services provided to Outfitter X. (7-1-93)

11. Purchases By Outfitters And Like Operations. (7-1-93)

a. Outfitters must pay tax when purchasing equipment and supplies for use in their business. Examples include boats, rafts, oars, motors, horses, tack, llamas, transportation equipment, camp gear, cooking gear, animal feed, brochures, and promotional give-away items. (7-1-93)

b. When an outfitter purchases food that will be prepared and furnished to clients, no sales tax applies if the outfitter provides a resale certificate. (7-1-93)

c. When an outfitter maintains an inventory of gear, such as ground sheets, sleeping bags, boots, rain gear, and dry bags, which is exclusively held for rental to clients, the outfitter may purchase the gear without tax in the manner previously described. The outfitter may purchase gear without paying tax ~~*ONLY*~~ only if the gear is rented to clients as a separate line item on the invoice to the client and sales tax is charged to the client. If gear is provided to clients as a part of the outfitter package fee, the outfitter must pay tax when purchasing the gear. ~~*(7-1-93)*~~(____)

d. When an outfitter purchases the services of a charter aircraft to transport his clients within Idaho, he will not pay tax to the charter service by providing the service with a properly completed resale certificate. The outfitter must then charge tax to his client on this fee. (7-1-93)

e. When an outfitter arranges travel accommodations for his client and pays the vendors of the meals and services, he must pay sales tax, as well as other applicable hotel/motel taxes, to the vendors. (7-1-93)

f. When an outfitter purchases the services of a taxidermist or meat processor on behalf of his client, he should not pay tax to the vendor by providing the vendor with a properly completed resale certificate. The outfitter must charge tax to his client on this fee. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

063. BAD DEBTS AND REPOSSESSIONS (Rule 063).

01. In General. Sales tax must be collected on an accrual basis. The tax is owed to the state at the time of sale, regardless of when the payment is made by the customer. (7-1-93)

02. Rules For Unsecured Credit Sales. The following rules apply to unsecured credit sales: (7-1-93)

a. When a seller cannot collect accounts receivable arising from an unsecured credit sale of tangible personal property subject to sales tax, he may make an adjustment on his sales tax return or apply for a refund of taxes according to this rule. (7-1-93)

b. The adjustment or refund may be claimed on the sales tax return for the month in which the bad debt adjustment is made on the books and records of the taxpayer. The tax for which the credit or refund is sought must be included in the amount which is financed and which is charged off as a bad debt for income tax purposes. (6-23-94)

c. A written claim for the refund may also be filed with the State Tax Commission within three (3) years ~~*after the due date of the applicable sales tax return*~~ from the time the tax was paid to the State Tax Commission. ~~*All such claims will be reviewed by t*~~The State Tax Commission will review all such refund claims. See ~~*Idaho Sales Tax Administrative*~~ Rule 117 of these rules, Refund Claims. ~~*(3-30-01)*~~(____)

03. Rules For Secured Credit Sales. The following rules apply to secured credit sales: (7-1-93)

a. If the collateral is not repossessed, the seller may treat a bad debt the same as an unsecured credit sale. (7-1-93)

b. If the collateral is repossessed and not seasonably resold at a public or private sale, its retention is considered to satisfy the debt and no bad debt adjustment is allowed. (7-1-93)

c. If the collateral is repossessed and seasonably resold at public or private sale, then the seller is entitled to a bad debt adjustment. However, before calculating the amount of tax that may be credited or refunded, the taxpayer must reduce the amount claimed as worthless by the amount realized from the sale of the collateral. (3-30-01)

d. If merchandise is repossessed and is subsequently resold at retail, sales tax is computed on the sales price and collected and remitted the same as on other retail sales. (7-1-93)

04. Application To Taxpayers. The following rules apply to taxpayers who remit sales tax on an accrual basis but report income tax on a cash basis or are not required to file income tax returns. (7-1-93)

a. Retailers are required to remit sales tax on an accrual basis, even though their accounting records and income tax returns may be prepared on the cash basis of accounting. (7-1-93)

b. For taxpayers who keep their records and file income tax returns on a cash basis, a worthless account cannot be written off as a bad debt because it has not been recognized as income in the taxpayer's books. These retailers may still claim a bad debt for sales tax purposes. The claim should be made at the same time and in the same way discussed in Subsections 063.02 and 063.03 of this rule, even though the bad debt does not appear on the retailer's income tax return. (7-1-93)

c. For taxpayers who are not required to file income tax returns, the claim should be made the same way discussed in Subsections 063.02 and 063.03 of this rule. (6-23-94)

d. As these claims cannot be verified against the income tax returns of these taxpayers, sufficient evidence must be attached to the sales tax return to prove that the account has become worthless, that the tax was remitted by the retailer, and that the retailer did not receive payment of the tax from the buyer. (7-1-93)

05. Amount Of Credit Allowed. The amount of credit that can be claimed is the amount of sales tax that is uncollectible. If both nontaxable and taxable items are financed, credit may be taken only for that portion of the bad debt which represents unpaid sales tax. (7-1-93)

a. Example: A ~~*taxable sale is made of*~~ retailer sells a thirty thousand dollar ($30,000) forklift~~,~~ for thirty-one thousand ~~*five*~~ eight hundred dollars ($31,~~5~~800) including sales tax.~~, *with*~~ The purchaser pays a five thousand dollar ($5,000) down payment~~, *financing*~~ and finances the balance~~ *on a sixty (60) month contract*~~. The ~~*forklift is repossessed by*~~ purchaser later defaults and the retailer ~~*after twenty (20) months and sold*~~ repossesses the forklift and sells it at a public ~~*sale*~~ auction for six thousand dollars ($6,000). ~~*The remaining principal balance owed on the contract a*~~At the time of repossession ~~*is*~~ the purchaser owes seventeen thousand ~~*two*~~ five hundred forty-five dollars ($17,~~2~~545) including the financed sales tax. After the ~~*collateral is sold the amount deemed worthless*~~ sale the amount that the retailer writes off is eleven thousand ~~*two*~~ five hundred forty-five dollars ($11,~~2~~545). The sales tax bad debt write off is ~~*five*~~ six hundred ~~*thirty-five*~~ fifty-three dollars ($~~535~~653).

Total taxable sale	$30,000
~~5~~ 6% sales tax	$1,~~5~~800
Total sale	$31,~~5~~800
Down payment	($5,000)
Total financed	$26,~~5~~800
Payment to principal after sale	($9,255)
Amount realized at public sale	($6,000)
Total bad debt	$11,~~2~~545

Sales tax portion of bad debt $11,~~2~~545 - (11,~~2~~545 / 1.0~~5~~6)	=	$~~535~~ 653
~~OR~~		
~~$11,245 - $10,710~~	~~=~~	~~$535~~
~~($10,710 + 5% tax~~	~~=~~	~~$11,245)~~

~~(3-30-01)~~(_____)

b. Example: A car dealer makes a taxable sale of an automobile for ~~fifteen~~ fourteen thousand nine hundred dollars ($1~~5~~4,~~0~~900) along with an extended warranty for five hundred dollars ($500), a documentation fee of one hundred dollars ($100), a title fee of eight dollars ($8) and credit insurance for one hundred dollars ($100). The customer pays one thousand dollars ($1,000) cash and trades in a car worth ten thousand dollars ($10,000) which is pledged as security for an earlier outstanding loan of six thousand dollars ($6,000). The customer, therefore, has to borrow enough to pay off the old loan on the trade-in. The customer defaults on the new ten thousand ~~eight~~ nine hundred ~~fifty~~ eight dollar ($10,~~850~~908) loan after paying five hundred dollars ($500) towards the principal. The customer damages the automobile in an accident leaving the collateral worthless. The car dealer may take an adjustment for only that portion of the bad debt representing the taxable percentage of the total sales price of the car. Only five thousand dollars ($5,000) of the total fifteen thousand ~~eight~~ nine hundred ~~fifty~~ eight dollar ($15,~~850~~908) cost was taxable.

Sales price of vehicle			$~~15,000~~ 14,900
Documentation fee			$100
Extended warranty			$500
Credit insurance			$100
Title fee			$8
Trade-in			($10,000)
Sales tax			$~~250~~ 300
Subtotal			$~~5,850~~ 5,908
Down payment			($1,000)
Invoice total			$~~4,850~~ 4,908
Amount financed			$~~10,850~~ 10,908
Payment to principal after sale			($500)
Amount of bad debt			$~~10,350~~ 10,408
Amount of down payment used to pay sales tax (~~250~~ 300 / ~~5,850~~ 5,908) ~~.0427~~ .0508 x $1,000	= =	~~4.27~~ 5.08% $~~42.70~~ 50.80	
Amount of sales tax financed $~~250~~ 300 - $~~42.70~~ 50.80	=	$~~207.30~~ 249.20	
Percentage of loan representing sales tax $~~207.30~~ 249.20 / $~~10,850~~ 10,908	=	~~1.91~~ 2.28%	
Sales tax paid by payments to principal $500 x ~~.0191~~ .0228	=	$ ~~9.55~~ 11.40	

Amount of bad debt write-off
$~~207.30~~ 249.20 - $~~9.55~~ 11.40 = $~~197.75~~ 237.80

~~(3-30-01)~~(____)

06. Bad Debt Collected At A Later Date. If a bad debt account is collected later, the retailer must pay tax on the amount collected. (7-1-93)

07. To Claim Credit For A Bad Debt. Credit for bad debts for sales tax purposes may be claimed by the retailer that made the original sale and paid the sales tax to the state. Financial institutions or other third parties who are the assignees of the retailer may claim a bad debt for sales tax on property for which they provided financing, if the amount financed includes the sales tax remitted on the sale of the property. The person claiming the credit must be the person who ultimately bears the loss if the purchaser of the property defaults on the obligation to repay. (3-30-01)

08. Cross-Reference. Rescinded Sale. See ~~*Idaho Sales Tax Administrative*~~ Rule 045 of these rules. ~~(6-23-94)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

073. TANGIBLE PERSONAL PROPERTY BROUGHT OR SHIPPED TO IDAHO (Rule 073).

01. Equipment Brought Into Idaho. Equipment or other tangible personal property brought or shipped to Idaho by residents or nonresidents is presumed to be for storage, use, or other consumption in this state. Generally, tangible personal property is subject to use tax on its fair market value when it is first used in Idaho. Special rules apply to transient equipment present in Idaho for ninety (90) days or less in any consecutive twelve (12) month period. See Section 63-3621A, Idaho Code, and Subsection 073.03, below. For property a contractor fabricates to install into Idaho real property, see ~~*ISTC*~~ Rule 012 of these rules. ~~(7-1-93)~~(____)

02. Substantive Use. Any substantive use of the property in Idaho is sufficient to subject the property to use tax. Use is defined in Section 63-3615, Idaho Code, and ~~*ISTC*~~ Rule 072 of these rules. The use tax does not apply to the use of items purchased before July 1, 1965, or the use of items excluded from tax by Idaho Code. ~~(7-1-93)~~(____)

03. Transient Equipment. Transient equipment means equipment that is: owned by the user, which is a business based in another state; a depreciable asset for income tax purposes and treated as such on the owner's income tax returns; brought to Idaho and kept here for ninety (90) days or less in any consecutive twelve (12) months; and either was not taxed in another state or, if tax was paid to another state, the amount paid was less than the amount of Idaho use tax due. (7-1-93)

a. ~~*Beginning July 1, 1992, a*~~ A nonresident business that brings transient equipment to Idaho may elect to pay use tax on either the fair market value of the equipment at the time it enters Idaho, or the fair market rental value of transient equipment for the time it is kept in Idaho. Fair market rental value is the amount it would cost to rent or lease similar equipment from an unrelated equipment rental company. ~~(7-1-93)~~(____)

b. Businesses that elect to pay use tax on the rental value of transient equipment may do so without the approval of the Tax Commission as long as the use tax due on the first month's rental is paid in a timely manner. If the owner fails to pay the tax timely, he must get written approval from the Tax Commission to use this option. (7-1-93)

c. Equipment which remains in Idaho for more than ninety (90) days in any consecutive twelve (12) months is no longer transient. This equipment becomes subject to Idaho use tax on its fair market value at that time. No credit may be taken for use tax paid on fair market rentals against the use tax due at the time equipment ceases to qualify as transient. (7-1-93)

d. Example: A Wyoming contractor brings transient equipment, with a fair market value of one hundred thousand dollars ($100,000), to Idaho for use on a ninety (90) day project. The fair market rental value of the equipment for the ninety (90) days totals fifteen thousand dollars ($15,000). Idaho use tax on the fair market rental value, at the rate of ~~*five*~~ six percent (~~5~~6%), totals ~~*seven*~~ nine hundred ~~*fifty*~~ dollars ($~~75~~900). The contractor paid three thousand five hundred dollars ($3,500) of sales tax to the state of Wyoming when he bought the equipment new. The contractor is not required to pay tax to Idaho since the tax paid to Wyoming exceeds the amount of Idaho use tax due. ~~*(7-1-93)*~~(____)

e. Example: The same contractor takes a second job in Idaho within the same twelve (12) months and brings the same equipment, now with a fair market value of ninety-five thousand dollars ($95,000), to Idaho for the job. As the equipment has now exceeded the ninety (90) day rule for transient equipment, it is subject to Idaho's ~~*five*~~ six percent (~~5~~6%) use tax on its fair market value ninety-five thousand dollars ($95,000) x ~~*five*~~ six percent (~~5~~6%) = ~~*four*~~ five thousand seven hundred ~~*fifty*~~ dollars ($~~4~~5,7~~5~~0). Credit of two thousand ~~*seven*~~ six hundred ~~*fifty*~~ dollars ($2,~~75~~600) is allowed for sales tax paid to Wyoming, three thousand five hundred dollars ($3,500) less the ~~*seven*~~ nine hundred ~~*fifty*~~ dollar ($~~75~~900) credit already used on rentals. The contractor owes ~~*two*~~ three thousand one hundred dollars ($~~2~~3,~~0~~100) of use tax to Idaho. ~~*(7-1-93)*~~(____)

04. Licensed Motor Vehicles. A motor vehicle licensed in a nonresident's home state and brought to Idaho to use for ninety (90) days or less in any consecutive twelve (12) months is not subject to Idaho use tax. Once the vehicle is used here more than ninety (90) days during any consecutive twelve (12) months, use tax applies to the fair market value of the vehicle at that time unless tax was paid to another state in an amount equal to, or greater than, the tax owed to Idaho. Special rules apply to new residents of Idaho. See ~~*ISTC*~~ Rule 107 of these rules. ~~*(7-1-93)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

110. RETURNS FILED BY COUNTY ASSESSORS AND FINANCIAL INSTITUTIONS (Rule 110).

01. Filing Returns. Upon collection of sales tax on applications for certificate of title to a motor vehicle, trailer, or other titled property, or initial application for registration processed by the county assessor, the assessor shall complete and submit to the Commission, Form ST-852, Idaho Sales Tax Return County Assessors or Sheriffs, no less than monthly. The assessor may, at his discretion, submit the form more frequently. But at no time shall the amount of tax collected during any month be submitted later than the twentieth day of the month following the month in which the tax was collected. (7-1-93)

02. Separate Forms For Each Tax Rate. It is possible for an assessor to collect tax at more than one (1) rate. This can happen when a person purchases a vehicle in a state with a lower tax rate and soon thereafter registers the vehicle in Idaho. A separate Form ST-852 must be prepared for each rate of tax collected. ~~*For example, if the majority of the transactions were collections of tax at five percent (5%), but one (1) transaction was the collection of tax at one percent (1%), as the applicant had paid tax to another state at the rate of four percent (4%), the assessor will prepare two (2) returns. One (1) for the transactions at five percent (5%) and one (1) for the transactions at one percent (1%).*~~ ~~*(7-1-93)*~~(____)

03. Reimbursement. The assessor will be reimbursed at the rate of one dollar ($1) for each application for certificate of title or initial registration of a motor vehicle, trailer, or other titled property, and each Form ST-108, Truck Camper, Transport Trailer, Office Trailer and Untitled Boat Certificate, processed by the assessor except those upon which any sales or use tax due has been previously collected by a retailer or paid by the purchaser. (3-15-02)

04. Financial Institutions. Financial institutions collecting tax on tangible personal property which they are financing, whether sold by the financial institution or another, must remit the tax to the Commission no later than the twentieth day of the month following the month in which the tax was collected from the purchaser of the tangible personal property. Failure to remit the tax on a timely basis will result in the addition of penalties and interest as provided by Sections 63-3632 and 63-3634, Idaho Code. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

126. SALES TAX COLLECTED BY THE STATE LIQUOR DISPENSARY (Rule 126).

01. Liquor Subject To Sales Tax. All sales of liquor which includes alcohol, spirits, beer, and wine as defined in Sections 23-105(g), 23-1303(a), and 23-1001(a), Idaho Code, unless specifically exempt, are subject to the tax measured by the sales price. (7-1-93)

02. Sales For Resale. In the case of sales to persons licensed under the provisions of Title 23, Chapter 9, Idaho Code, only those purchases for resale by an establishment licensed to sell liquor will be exempt from the tax. If the licensee purchases liquor for any purpose other than for resale, the licensee is subject to the use tax. (7-1-93)

03. Posting Amount Of Tax. The liquor dispensaries shall cause to be posted, in addition to the current price, the amount of the tax and the total cost including the tax. For example:

Brand X Whiskey	$7.00
Idaho Sales Tax	.~~35~~42
Total Price	$7.~~35~~42

~~(7-1-93)~~(_____)

04. Identifying Code. If codes are used to identify the brands and/or prices of liquor, the price might be posted as follows:

Code 64	$7.00
Idaho Sales Tax	.~~35~~42
Total Price	$7.~~35~~42

~~(7-1-93)~~(_____)

05. Reporting. The superintendent of the State Liquor Dispensary shall forward monthly to the Tax Commission a report of all sales tax collected for the preceding month. All sales tax collected by the superintendent of the State Liquor Dispensary and by contract private liquor stores, when the product is supplied by the State Liquor Dispensary, shall be credited directly to the liquor account, and shall not become a part of the sales tax account. (7-1-93)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0304

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The proposed Rule 039 is being amended from the proposed text for grammatical changes. In Subsection 039.02.b. a grammatical change was made.

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 original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 530 through 544.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 29th day of October, 2003.

James Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 02

IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 530 through 544.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

Language That Has Been Deleted From The Original Proposed Rule
Text Has Been Removed And New Language Is Shown In Italics

THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO 35-0102-0304

SUBSECTION 039.02 (Partial Section)

039. SALE AND PURCHASE OF BULLION, COINS, OR OTHER CURRENCY (Rule 039).

02. Jewelry Or Other Works Of Art. The exemption does not extend to coins or money sold to create jewelry or other works of art. The exemption also does not extend to sales of coins whose values may be determined by their form, and which are not minted or manufactured as currency. ~~*(7-1-93)*~~(____)

b. ~~*An ingot*~~ Sales of precious metal ~~*purchased by an individual is*~~ *ingots* are exempt from sales tax. Sales of ~~*J*~~jewelry items, such as belt buckles, bracelets or necklaces, containing silver dollars or other legal tender or ingots are taxable. ~~*(7-1-93)*~~(____)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-0304

NOTICE OF RULEMAKING - 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(s) 63-105 and 63-3624, 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 15, 2003.

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 031 - The State Tax Commission proposes to adopt a definition of telecommunication equipment based on the statutory definition found in Section 61-121, Idaho Code, which is part of the Public Utilities Act. This clarifies the definition of wireless telecommunications given away as an inducement to purchase telecommunications services found in Section 63-3621(a), Idaho Code.

Rule 037 - Section 63-3622GG, Idaho Code, provides an exemption for sales of aircraft to nonresidents who will not use the aircraft in Idaho. This amendment defines “nonresident business or organization” to mean an organization that has not registered to do business in Idaho and does not have significant contacts or ongoing operations in Idaho.

Rule 039 - Add clarifying sentence that states sales of commemorative medallions are taxable except for those sold by the Idaho State Treasurer’s Office and it’s agent pursuant to Section 63-3622PP, enacted in 2003.

Rule 043 - Add a new subsection that clarifies what charges added to the sales price of tangible personal property are “services agreed to be rendered as part of the sale”. Such charges are included in the sales price subject to tax pursuant to Section 63-3613(a), Idaho Code. Such charges include: amounts charged to bring an article into it's finished condition, charges for customizing or modifying goods, charges based on the amount or frequency of a purchase, commissions, and mandatory charges.

Rule 058 - Section 63-3613(e), Idaho Code, states: Tangible personal property when sold at retail for more than eleven cents ($.11) but less than one dollar and one cent ($1.01) through a vending machine shall be deemed to have sold at a sales price equal to one hundred seventeen percent (117%) of the price which is paid for such tangible personal property and/or its component parts including packaging by the owener or operator of the vending machines. This amendment corrects the formula in Rule 058 to show that the tax on sales over $1 is included in the total sales from the machines. The amendment also changes the formula to conform to industry practice.

Rule 105 - Subsection 105.08 conflicts with IDAPA 35.02.01, “Tax Commission Administration and Enforcement Rules,” Rule 140. The Sales Tax Rules incorporate the Administration and Enforcement Rule by reference. Therefore the conflicting subsection is being deleted. Also changes the threshold for quarterly and semi-annual filers from $500 to $600.

Rule 107 - Make the definiton of "ATV" in the rule the same as in Section 63-3622R, Idaho Code, and correct the amount of tax in the example.

Rule 112 - Extend the duration of direct pay authorizations to five years.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Jim Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0102-0304

031. RADIO AND TELECOMMUNICATIONS EQUIPMENT AND LAND MOBILE RADIO SERVICE OF SYSTEMS (Rule 031).

01. General Rule And Scope. Sales and purchases of communication equipment and land mobile radio systems are subject to sales and use tax. This rule describes sales and use tax treatment of telephone terminal equipment or services and land mobile radio systems or service. (7-1-97)

02. Telephone Terminal Equipment And Services. (7-1-93)

a. Telephone terminal equipment includes, but is not limited to, desk sets, PBX systems, automated answering equipment, cellular telephones and mobile radio telephones. All lessors, or sellers, or both, of this type of equipment are required to obtain seller's permits, and must collect and remit sales tax on the retail sales price or lease price. (7-1-97)

b. Fees for access charges, toll charges, call waiting, call forward, message recording, and similar charges to customers are not subject to the sales tax. (7-1-97)

03. Land Mobile Radio Systems Or Services. (7-1-93)

a. Generally, land mobile radio systems or services are defined by 47 Code of Federal Regulations, Section 90.7. (7-1-93)

b. Sales of terminal equipment or customer premises equipment are taxable. Terminal and customer premises equipment shall include handsets, mobile telephones, antennae, and like or similar property. (7-1-97)

c. Separately stated fees for labor rendered to install or apply terminal or customer premises equipment on premises or in facilities under the dominion and control of the consumer are not subject to sales tax. (7-1-93)

d. Fees for access charges, toll charges, and similar charges are not subject to the sales tax. (7-1-97)

04. Provider Equipment. Equipment or tangible personal property used in receiving or transmitting, other than terminal or customer premises equipment, shall be deemed purchased for use by the owner or provider of

the telephone or land mobile radio system or service, and subject to sales or use tax on his purchase cost. The owner or provider of telephone or land mobile radio systems or services will be deemed the consumer of other tangible personal property which he purchases and which is used for other purposes including, but not limited to, office supplies, repair equipment, accounting or customer billing equipment, and equipment or devices or other property used to maintain or repair land mobile radio systems or services. (7-1-93)

05. Drop-In Equipment And Inside Wiring. (7-1-93)

a. Drop-in equipment and inside wiring shall include wires, plugs, sockets, receptacles, connectors and similar items which are or become improvements or accessions to real estate, and which are useful or necessary to bring telephonic or radio communication transmissions from a source outside the premises of the user, for example, telephone pole or transmitter, to terminal equipment within the user's premises. (7-1-93)

b. Sales and purchases of drop-in equipment and inside wiring shall be subject to sales or use tax as tangible personal property consumed by a contractor improving real estate, and persons installing drop-in equipment and inside wiring shall be considered contractors for the purposes of such installations. See ~~*Idaho Sales Tax Administrative*~~ Rule 012 of these rules for tax treatment of contractors. ~~*(7-1-97)*~~( )

06. Wireless Telecommunications Equipment. A retailer may give away wireless telecommunications equipment as an inducement to commence or continue a contract for telecommunications service. Such a use is exempt from tax pursuant to Section 63-3621(a), Idaho Code. For the purposes of this exemption "telecommunications service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information that is offered to the public for compensation. "Telecommunication service" does not include the one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection of such video programming or other programming service, surveying, internet service, alarm monitoring service, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services). ( )

(BREAK IN CONTINUITY OF SECTIONS)

037. AIRCRAFT AND FLYING SERVICES (Rule 037).

01. Definitions. For the purposes of this rule, the following terms have the following meanings: (7-1-94)

a. Certified Air Carrier. Any person who directly or indirectly or by a lease or any other arrangement, offers air transportation and is authorized by the FAA to operate as an air carrier under an air carrier operating certificate. (7-1-94)

b. Regular Scheduled Flight. A flight which is operated regularly between two (2) points and is listed in a published schedule which is readily available to the public. (7-1-94)

c. On Demand Flight. The hiring on demand of an aircraft with a pilot to transport freight or passengers on an unscheduled flight. (7-1-94)

d. Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, photography, wildlife viewing, hot air balloon rides, or other similar activities. (7-1-94)

e. Intrastate Flight. A flight where the origin and destination points are within Idaho. (7-1-94)

f. Freight. Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. (7-1-94)

g. Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code. (7-1-94)

h. Nonresident Businesses and Other Organizations. ~~*A business with no property located in Idaho, or employees working in Idaho.*~~ A corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state. ~~*(7-1-94)*~~(____)

i. Day. For the purpose of this rule any part of a day is a day. (7-1-94)

02. **Sales Subject To Tax**. Sales or use tax applies to the total sales price of: (7-1-94)

a. An aircraft sold at retail, except as provided by Subsection 037.03 of this rule; (2-18-02)

b. The receipts from intrastate on demand flights, except as part of a regularly scheduled flight by a certified air carrier, under the authority of the FAA; (2-18-02)

c. The receipts from transporting passengers for a recreational flight; or (2-18-02)

d. The sale of parts or other tangible personal property used to repair or maintain an aircraft not held for resale, except as provided by Subsection 037.05.e. of this rule. (2-18-02)

03. **Aircraft Not Subject To Tax**. Sales or use tax does not apply to the sale, lease, purchase, or use of an aircraft. (7-1-94)

a. Primarily used to transport passengers or freight for hire; (2-18-02)

b. Primarily used for emergency transportation of sick or injured persons; or (2-18-02)

c. ~~*By nonresidents*~~ Purchased for use outside this state, when the aircraft is upon delivery taken outside this state, but only if: (____)

i. ~~*t*~~The aircraft is sold to a nonresident as defined in Subsection 037.01.g. or 037.01.h. of this rule; and (____)

ii. The registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period. ~~*(7-1-94)*~~(____)

04. **Rentals And Leases Of Aircraft**. The rental or lease of an aircraft without operator is a sale subject to sales tax, other than as provided in Subsection 037.03 of this rule. See Rule 024 of these rules. (2-18-02)

05. **On Demand Flying Services**. The charge for intrastate on demand flying of passengers or freight is subject to sales tax. The sales tax applies to the total amount charged for the intrastate charter flight, including standby time for a pilot, crew, or other separately stated charges. (7-1-94)

a. Example: A customer hires a flight on demand from Boise to Coeur d'Alene, Idaho. During the flight the pilot stops briefly in Spokane, Washington, at the passenger's request. In this example the flight is an intrastate on demand flight of passengers for hire and is subject to sales tax. The measure of the sales tax is the total amount charged for the on demand flight. (7-1-94)

b. Example: A customer hires a flight on demand from Boise, Idaho, to Spokane, Washington. During the flight the pilot stops briefly in Coeur d'Alene, Idaho, at the passenger's request. In this example the flight is an interstate on demand flight, even though the aircraft landed briefly in Idaho. Sales tax will not apply to the flight because it is an interstate flight. (7-1-94)

c. Example: A company hires a flight on demand from Boise, Idaho, which is to transport one (1)

passenger to Pocatello, Idaho, and the remaining passengers to Salt Lake City, Utah. The amount charged to transport the passenger to Pocatello is subject to sales tax as an intrastate on demand flight. The charge for flying the remaining passengers to Salt Lake City is not subject to sales tax, as it is an interstate flight. (7-1-93)

d. Example: A company hires a flight on demand from Boise to Pocatello, Idaho, and requests that the plane then fly the passenger to Salt Lake City, Utah, later in the day. Two (2) on demand flights have occurred. The first is an intrastate flight from Boise to Pocatello, subject to sales tax. The second flight is interstate, Pocatello to Salt Lake City, and not subject to sales tax. (7-1-93)

e. Aircraft which are purchased, rented, leased, or withdrawn from resale inventory to be used primarily for on demand flights are not subject to sales or use tax. Sales or use tax does not apply to the sale or use of repair and replacement materials and parts which will become component parts of such aircraft. Sales or use tax does apply to the sale or use of tools and equipment utilized in performing the repair or maintenance. (2-18-02)

06. Aerial Contracting Services. Sales tax does not apply to the amount charged by the owner or operator of an aircraft to perform aerial contracting services such as aerial logging, applying agricultural products or other products by aerial spraying or dumping, or other similar activities not involving the transportation of freight or passengers. However, if the service involves the hauling of freight or passengers who are not employees of the flying service, the flight is deemed an on demand flight. (7-1-94)

a. Aircraft purchased, rented, or leased for aerial contracting are subject to sales tax. It makes no difference whether or not the service is provided to a government agency or a private individual or company. Sales or use tax also applies to the purchase of repair parts, oil, and other tangible personal property. (7-1-94)

b. When aircraft held for resale are used by the owner, aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

07. Air Ambulance Service. Charges for the emergency transportation of sick or injured persons, including standby time, are not subject to sales tax. (7-1-94)

08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not subject to sales tax. (7-1-94)

a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are subject to sales or use tax. (7-1-94)

b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

09. Recreational Flights. Fees charged for recreational flights are taxable as provided by Subsection 037.02.c. of this rule. Aircraft purchased, rented, or leased primarily for providing recreational flights are subject to sales or use tax. (7-1-94)

10. Aircraft Held For Resale. Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business. (7-1-94)

a. Rentals of aircraft held for resale are taxable as provided by Subsection 037.04 of this rule. (7-1-93)

b. When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used. (7-1-94)

c. Parts and oil purchased to repair or maintain aircraft held for resale are not subject to sales tax. The aircraft dealer must provide the supplier with a properly completed resale certificate. See Rule 128 of these rules. (2-18-02)

11. **Fuel**. The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax. (7-1-94)

12. **Records Required**. The owner or operator of an on-demand flying service must give his customer a receipt and keep a copy for his records, showing the customer's name and address, date of flight, its purpose, and its origin and destination. If the flight or transaction is subject to sales tax, the tax must be separately stated on the receipt. (7-1-94)

(BREAK IN CONTINUITY OF SECTIONS)

039. SALE AND PURCHASE OF BULLION, COINS, OR OTHER CURRENCY (Rule 039).

01. **Sales And Purchases Of Bullion**. Sales and purchases of precious metal bullion and monetized bullion are exempt from sales tax. (7-1-93)

a. Precious metal bullion is an elementary precious metal, such as gold, silver, platinum, rhodium and chromium which has been processed by smelting or refining and where the value of the metal depends upon the content and not upon its form. (7-1-93)

b. Monetized bullion is a coin made of gold, silver or other metals which has been, is or will be used as a medium of exchange under the laws of this state, the United States or any foreign nation. (7-1-93)

02. **Jewelry Or Other Works Of Art**. The exemption does not extend to coins or money sold to create jewelry or other works of art. The exemption also does not extend to sales of coins whose values may be determined by their form, and which are not minted or manufactured as currency. ~~(7-1-93)~~( )

a. Sales of ~~M~~medallions, tokens or other coins created to commemorate a historical event are taxable. However, sales of Idaho commemorative medallions through the Office of the Treasurer of the state of Idaho or its agents are exempt pursuant to Section 63-3622PP, Idaho Code. ~~(7-1-93)~~( )

b. ~~An~~ Sales ingots of precious metal ~~purchased by an individual is~~ are exempt from sales tax. Sales of ~~J~~jewelry items, such as belt buckles, bracelets or necklaces, containing silver dollars or other legal tender or ingots are taxable. ~~(7-1-93)~~( )

c. Sales of ~~C~~coins, such as Krugerands the one (1) ounce gold coins of the Republic of South Africa, are exempt, unless incorporated into a jewelry item or other decoration. ~~(7-1-93)~~( )

(BREAK IN CONTINUITY OF SECTIONS)

043. SALES PRICE OR PURCHASE PRICE DEFINED (Rule 043).

01. **Sales Price And Purchase Price**. The term sales price and purchase price may be used interchangeably. Both mean the price paid by the customer or user to the seller including: (7-1-93)

a. The cost of transporting goods to the seller. See ~~Idaho Sales Tax Administrative~~ Rule 061 of these rules. ~~(7-1-97)~~( )

b. Manufacturer's or importer's excise tax. See ~~Idaho Sales Tax Administrative~~ Rule 060 of these rules. ~~(7-1-97)~~( )

c. Services agreed to be rendered as part of the sale. (7-1-97)

d. Separately stated labor charges to produce or fabricate made to order goods. See ~~*Idaho Sales Tax Administrative*~~ Rule 029 of these rules. ~~*(7-1-97)*~~(____)

02. Services Agreed To Be Rendered As A Part Of The Sale. The sales and use tax is computed on the sales price of a transaction. The term "sales price" is defined by Section 63-3613, Idaho Code, to include "services to be rendered as a part of the sale." The following items are among those that are part of the sales price and, therefore, may not be deducted before computation of the sales price. This in not intended to be an exclusive list of such items: (____)

a. Any charges for any services to bring the subject of a sale to its finished state ready for delivery and in the condition specified by the buyer, including charges for assembly, fabrication, alteration, lubrication, engraving, monogramming, cleaning, or any other servicing, customizing or dealer preparation. (____)

b. Any charge based on the amount or frequency of a purchase, such as a small order charge or the nature of the item sold, such as a slow-moving charge for an item not frequently sold. (____)

c. Any commission or other form of compensation for the services of an agent, consultant, broker, or similar person. (____)

d. Any charges for warranties, service agreements, insurance coverage, or other services required by the vendor to be taken as a condition of the sale. If the sale could be consummated without the payment of these charges, the charges are not part of the sales price if separately stated. Also see Rule 049 of these rules. (____)

0~~2~~3. Charges Not Included. Sales price does not include charges for interest, carrying charges, amounts charged for optional insurance on the property sold, or any financing charge. These various charges may be deducted from the total sales price if they are separately stated in the contract. In the absence of a separate statement, it will be presumed that the amount charged is part of the total sales price. ~~*(7-1-93)*~~(____)

0~~3~~4. Gratuities. A gratuity is defined as something given voluntarily or beyond obligation. Gratuities may sometimes be referred to as tips. (7-1-93)

a. When a gratuity is given directly to employees by the purchaser in the form of cash or the purchaser adds a nonsolicited gratuity to his bill, charge card voucher form, or house account form, no sales tax applies to the gratuity. (7-1-93)

b. When an amount is added to a customer's bill by the retailer and the customer is advised in writing on the face of the bill that he may decline to pay all or part of the amount, that amount is a gratuity. Sales tax will not apply to the gratuity. (7-1-93)

c. When an amount is added to a customer's bill by the retailer, and the customer is not advised in writing on the face of the bill that he may decline to pay all or part of the amount, it is not a gratuity and the fee so added is subject to the sales tax. (7-1-93)

d. When a gratuity is negotiated before the sale, such as in the case of a banquet, tax must be charged on the entire fee so negotiated. Because of the negotiation, the fee loses its identity as a gratuity and becomes a service charge and part of the purchase price of the meal. See Subsection 043.04 of this rule. (7-1-93)

0~~4~~5. Service Charges. Amounts designated as service charges, added to the price of meals or drinks, are a part of the selling price of the meals or drinks and accordingly, must be included in the purchase price subject to tax, even though such service charges are made in lieu of tips and paid over by the retailer to his employees. (7-1-93)

(BREAK IN CONTINUITY OF SECTIONS)

058. SALES THROUGH VENDING MACHINES (Rule 058).

01. In General. The sale of tangible personal property through a vending machine is a taxable transaction. The term vending machine shall mean any mechanical device which, without the assistance of a human cashier, dispenses tangible personal property to a purchaser who deposits cash in the device. Video games and other coin operated amusement devices are not vending machines. Fees paid for the use of coin operated amusement devices are not subject to sales tax pursuant to Section 63-3623B, Idaho Code. See Rule 109 of these rules. (5-3-03)

02. Amount Subject To Tax. Pursuant to Section 63-3613, Idaho Code, sales of items through a vending machine for amounts from twelve cents ($0.12) through one dollar ($1) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for more than one dollar ($1) are taxable on the retail sales price. Sales of items for a price of eleven cents ($0.11) or less are exempt from tax pursuant to Section 63-3622L, Idaho Code. (5-3-03)

03. Requirement To Obtain A Seller's Permit. Vendors who sell tangible personal property through a vending machine must obtain a seller's permit. Only one seller's permit is required; however, each vending machine operated by the vendor must conspicuously display the vendor's name, address, and seller's permit number. When a number of vending machines are placed in a single location, the owner's name, address, and seller's permit number need be displayed only once. (5-3-03)

04. Calculation Of Tax. The following examples show how vending machine operators shall calculate the amount of sales tax due: (5-3-03)

a. Example 1: Corporation A's business activity consists only of sales through vending machines in various locations in the state of Idaho. All of the items sold in the vending machines are sold for a unit price of twelve cents ($0.12) or more but none are sold for a price greater than one dollar ($1). During the month of July~~, *1989*~~, Corporation A's gross receipts from the vending machine sales were ten thousand dollars ($10,000). Corporation A purchased the items sold during that one (1) month period for eight thousand dollars ($8,000). The company made no nontaxable or exempt sales. Corporation A should file a sales and use tax return for the month of July~~, *1989*~~, computing and reporting its taxable sales as follows. Numbers correspond to line numbers on the return.

Line 1.	Total sales	~~*$10,000*~~ $ 9,360
Line 2.	Less nontaxable sales	$ ~~*640*~~ 0
Line 3.	Net taxable sales	$ 9,360
Line ~~2~~1 computed as follows:		
	8,000 x 117% =	$ 9,360
	~~*10,000 - 9,360 =*~~	~~*$ 640*~~

~~*(7-1-93)*~~(_____)

b. Example 2: During the month of July~~, *1989*~~, Corporation B had total Idaho sales in the amount of ten thousand dollars ($10,000). In addition to sales through vending machines, the corporation made over-the-counter sales, all of which were taxable, in the amount of two thousand dollars ($2,000). The remaining eight thousand dollars ($8,000) constituted sales through vending machines, of which one thousand dollars ($1,000) was for items with a unit retail price of over one dollar ($1). The other seven thousand dollars ($7,000) were sales of items through vending machines with a unit retail price of fifty cents ($0.50) each. The items sold during the month for fifty cents ($0.50) each were purchased by Corporation B for five thousand dollars ($5,000). Corporation B should file a sales

and use tax return for the month, computing and reporting its taxable sales as follows:

Line 1.	Total sales	$~~10,000~~ 8,793.40
Line 2.	Less nontaxable sales	$ ~~1,150~~ 0
Line 3.	Net taxable sales	$ ~~8,850~~ 8,793.40
Line ~~2~~1 computed as follows:		
	~~7,000 (117% of 5,000)~~ =	~~$ 1,150~~
	2,000 + (1,000 ÷ 1.06) + (5,000 x 117%)	$ 8,793.40

Note, that if a vendor sells some items for more than one dollar ($1)~~, no special computation is required for those items if they are included on line 1, total sales~~ the sales tax is included in the total receipts. This amount must be divided by one (1) plus the current tax rate expressed as a decimal, to determine the receipts before sales tax. If the tax rate is six percent (6%) the divisor is one and six one-hundredths (1.06). ~~(7-1-93)~~( )

05. Cross-References. (7-1-93)

a. Amusement devices, see Rule 109 of these rules. (5-3-03)

b. Money operated dispensing equipment, see Rule 095 of these rules. (5-3-03)

c. Sales of newspapers through vending machines, see Rule 033 of these rules. ( )

(BREAK IN CONTINUITY OF SECTIONS)

105. TIME AND IMPOSITION OF TAX, RETURNS, PAYMENTS AND PARTIAL PAYMENTS (Rule 105).

01. Time And Imposition Of Tax. (7-1-93)

a. Sales Tax. Sales tax is imposed, computed and collected at the time of sale, without regard to the provisions of any contract relating to the time or method of payment. In the case of installment sales, sales on account, or other credit sales, the seller shall report as a taxable sale the entire sales price for the month in which the sale is made. No part of the sales tax may be deferred until the time the retailer actually collects payment from the buyer. A sale occurs when title to property passes through delivery to the customer or absolute and unconditional appropriation to a contract. Lease or rental payments are taxable during the month or other period for which the property is leased or rented. (7-1-93)

b. Use Tax. Use tax is determined at the time of the use, storage or other consumption of tangible personal property in Idaho. The tax is reported and payable in accordance with the provisions of this rule. Persons making purchases subject to use tax should apply for a use tax permit number from the Tax Commission. Application forms may be obtained by contacting any Tax Commission office. (7-1-93)

c. Taxable Sales Create State Revenue. The sales or use tax collected by a retailer from a customer at the time of purchase becomes state money at that time. The collected amounts may not be put to any use other than that allowed by Chapter 36, Title 63, Idaho Code, and these rules. (7-1-93)

02. Returns. (7-1-93)

a. Monthly Filing Generally Required. All retailers and persons subject to use tax are required to remit the tax to the state on a monthly basis unless a different reporting period is prescribed by the Commission. The remittance will include all sales and use tax due from the first through the last day of the preceding calendar month.

(7-1-93)

b. Request to File Quarterly or Semi-annually. Retailers or persons who owe ~~*five*~~ six hundred dollars ($~~5~~600) or less per quarter and have established a satisfactory record of timely filing and payment of the tax may request permission to file quarterly or semi-annually instead of monthly. ~~*(6-23-94)*~~( )

c. Request to File Annually. Retailers or persons who have seasonal activities, such as Christmas tree sales or repeating fair booths, may request permission to file annually. Approval of the request is at the discretion of the Commission and is limited to taxpayers who have established a satisfactory record of timely filing and payment of the tax. (7-1-93)

d. Final Report. Whenever a taxpayer who is required to file returns under the Sales Tax Act or these rules stops doing business, he must mark cancel on the last return he files. This return ends the taxable year for sales or use tax purposes and constitutes the taxpayer's final report of sales or use tax activities or liabilities. The taxpayer must enclose his seller's permit with his request for cancellation or send a written statement that the permit has been destroyed. If the taxpayer continues business activity after filing a final report he may be subject to liabilities or penalties for failing to comply with the Idaho Sales Tax Act and these rules. (7-1-93)

03. Valid Return. A tax return or other document required to be filed in accordance with Section 63-3623, Idaho Code, and these rules must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return is considered to have filed no return. A taxpayer's failure to properly file in a timely manner may result in penalties imposed by Section 63-3634, Idaho Code, and related rules. (7-1-93)

a. The sales and use tax return form must be completed and, if required, copies of all pertinent supporting documentation must be attached. The results of required supporting documentation must be carried forward to applicable lines on the sales or use tax return form. (7-1-93)

b. All sales and use tax returns or other documents filed by the taxpayer must include his sales or use tax permit number and federal taxpayer identification number in the spaces provided. (7-1-93)

c. A sales or use tax return that does not provide sufficient information to compute a tax liability does not constitute a valid return. (7-1-93)

d. Perfect accuracy is not required of a valid return, although each of the following conditions is required: it must be on the proper form, as prescribed by the Commission; the tax liability must be calculated and have sufficient supporting information, if required, to demonstrate how the result was reached; and it must show an honest and genuine effort to satisfy the requirements of the law. (7-1-93)

04. Perpetual Extensions Of Time To File Revoked. Any previously granted permanent or perpetual extension of time to file any sales or use tax returns is hereby revoked. Any person who has used such an extension in the past may avoid a penalty for late filing by filing a timely extension of time return estimating the tax liability, as provided by Subsection 105.05 of this rule. (7-1-93)

05. Use Of Estimates Extension Of Time Returns. (7-1-93)

a. The Commission may, for good cause, grant authority for a taxpayer to file for an extension of time by filing an estimated return. When filing the Extension of Time estimated return, the taxpayer must attach a written request which sets forth the reason for estimating. The Commission will review each request to determine if there is good cause for filing an Extension of Time estimated return. If the Commission determines that the request should be denied, the taxpayer will be notified in writing and a penalty, as provided by Section 63-3046, Idaho Code, will apply to any delinquent tax due when the original return is filed. (7-1-93)

b. If the return for any period is filed on an estimated basis, the estimated return must be filed timely and the estimate must be reconciled to actual figures by filing an original return within one month of the due date. Any additional tax due as a result of reconciliation must be remitted when the original return is filed and must include

interest on any unpaid balance due from the due date of the return. (7-1-93)

c. The estimated tax remitted must be at least ninety percent (90%) of the total sales and use tax due for the period or one hundred percent (100%) of the total sales and use tax due for the same month of the prior year. If the estimated tax paid is less than these requirements, a five percent (5%) penalty may be applied to the remaining tax due, as provided by Section 63-3046(a), Idaho Code. (7-1-93)

d. Taxpayers wishing to file an Extension of Time estimated return must obtain the required forms from the Commission. (7-1-93)

06. Forms Required. (7-1-93)

a. Separate Payments. The original return will be completed with the amount of total sales, nontaxable sales, taxable sales, items subject to use tax, and tax due inserted in the blanks. Payment must accompany the return. If the retailer owes payments for withholding or other taxes due to the state and payable to the Commission, separate checks should be made out for each tax payment and the reports and checks should be sent separately to the Commission. A complete sales and use tax return will be filed by each retailer or person subject to use tax. This return will be on a form prepared and mailed to the taxpayer by the Commission. If the original is lost or destroyed, a substitute form will be supplied upon request. (7-1-93)

b. Retailers Must Report Own Use and Nontaxed Transactions. All retailers must report any sales or purchases on which no sales or use tax was collected or paid. Goods sold or produced and consumed by the retailer, items withdrawn from stock for personal use or employee use, stock removed and used for gift or promotional purposes, or any combination of such uses are subject to tax. (7-1-93)

c. Reporting Adjustments. Any adjustments for additional tax due or credits claimed should be made on the next return due after the adjustments are discovered. These adjustments are to be shown on the line designated for adjustments on the return form and must be accompanied by an explanation and any documents that support the claimed adjustment. (7-1-93)

07. Payment Of Tax. (7-1-93)

a. Payment to Accompany Return. The return filed in accordance with this rule must be accompanied by a remittance of the total amount due as shown on the return. Checks or other negotiable instruments should be made payable to the Idaho State Tax Commission. (7-1-93)

b. Payment of One Hundred Thousand Dollars ($100,000) or Greater. All taxes due to 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, which is incorporated by reference to these rules. (7-1-93)

c. Remittance of Collections Required--Bracket Exception. Retailers are required to remit all taxes collected from purchasers, except any difference that may result from use of the bracket system described in ~~*Idaho Sales Tax Administrative*~~ Rule 0~~6~~8 of these rules. Any taxes erroneously collected in excess of those properly due should be refunded to the purchaser by the retailer. If the retailer either cannot or does not make the refund during the period for which the return is due, then the retailer must report the erroneously collected taxes on the return and pay them to the Commission. If the erroneously collected taxes are subsequently refunded to the purchaser from whom they were collected, the retailer may claim a credit or refund of sales taxes in accordance with ~~*Idaho Sales Tax Administrative*~~ Rule 117 of these rules. Under no circumstances may a retailer retain any amount collected as sales or use tax which is greater than the retained amount authorized under the bracket system by ~~*Idaho Sales Tax Administrative*~~ Rule 068 of these rules. ~~*(6-23-94)*~~( )

~~***08. Partial Payment**. If penalties or interest accrue as a result of any deficiency or underpayment in tax, partial payments made by the taxpayer shall apply first to the penalties, next to the interest accrued and thereafter to the payment of the tax. (7-1-93)*~~

0~~9~~8. Filing Dates--General Rule. The filing date for all sales or use tax returns is the twentieth ~~*(20th)*~~

day of the calendar month immediately following the last day of the reporting period, unless otherwise allowed by these rules. This is the filing due date for all regular monthly, quarterly, semi-annual, and annual accounts. If the twentieth ~~(20th)~~ is a Saturday, Sunday, or legal holiday, the return shall be due on the next following day which is not a Saturday, Sunday or legal holiday. ~~(7-1-93)~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

107. VEHICLES AND VESSELS - GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS (RULE 107).

01. In General. This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of motor vehicles. (3-6-00)

02. Gifts Of Motor Vehicles. When the following facts clearly establish that a motor vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (7-1-93)

a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)

b. The recipient assumes no indebtedness. (7-1-93)

c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)

d. The donor and recipient complete and sign a Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, and submit it to the county assessor or the Idaho Transportation Department along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit: (2-18-02)

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor or his representative and attached to the affidavit; or (2-18-02)

ii. The back of the title may be marked as a gift and signed by the donor. (2-18-02)

03. Nonresidents. A nonresident does not owe use tax on the use of a motor vehicle which is registered or licensed under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this Subsection, a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. (2-18-02)

04. New Residents. A new resident of Idaho does not owe tax on the use of household goods, personal effects and privately owned motor vehicles, if he acquired them while he resided in another state and used them primarily outside Idaho. If a vehicle owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that the vehicle was primarily for use outside Idaho. New residents entering Idaho with a vehicle titled in a state that does not impose a general sales and use tax will be required to complete and sign a Three Month Exemption Claim Form ST-102 and submit it to the Idaho Transportation Department or county assessor when applying for a title transfer. (2-18-02)

a. If the vehicle was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (7-1-93)

b. Exclusion from the tax applies only to motor vehicles owned by an individual. A privately owned motor vehicle is one which is owned by, and titled to, a private individual or individuals. (3-6-00)

05. Military Personnel. Military personnel receive no special exemption from the Idaho sales and use tax regarding motor vehicles or other tangible personal property. The exemptions discussed in this rule apply equally to military and nonmilitary personnel. A military person with a home of record other than Idaho is considered to be a nonresident. A military person whose home of record is Idaho is considered to be a resident of this state. Example: A military officer with a home of record in Oregon brings a vehicle purchased in Germany to Idaho upon being stationed at Mountain Home Air Force Base. During his first year at Mountain Home, the vehicle is present in Idaho for more than ninety (90) days. The exemption provided to nonresidents, as discussed in Subsection 107.03 of this rule, does not apply. Use tax applies to the fair market value of the vehicle. (7-1-93)

06. Tax Paid To Another State. When sales tax has been properly imposed by another state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. (7-1-93)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A Wyoming resident buys a vehicle there for ten thousand dollars ($10,000) two (2) months before moving to Idaho. He presents his Wyoming title to an Idaho county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to Wyoming was three hundred dollars ($300) when the vehicle was purchased. Credit for this amount is allowed against the ~~*five*~~ six hundred dollars ($~~5~~600) tax due Idaho. The assessor will collect ~~*two*~~ three hundred dollars ($~~2~~300) tax. (7-1-93)

c. Example: A vehicle was purchased by a Colorado resident two (2) months before moving to Idaho. The applicant paid three percent (3%) Colorado state sales tax, one and six tenths of one percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total Colorado general sales tax paid was ~~*five*~~ six and two tenths percent (~~5~~6.2%). Since the Idaho tax rate is ~~*five*~~ six percent (~~5~~6%), no tax is due Idaho because the amount of tax paid to Colorado exceeds the amount owed Idaho. ~~*(2-18-02)*~~( )

d. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the motor vehicle from tax. (7-1-93)

e. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

f. Taxes paid to another nation cannot be offset against the taxes owed to Idaho. (7-1-93)

07. Sales To Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and buyer must complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor or his representative and attached to the affidavit. (2-18-02)

b. This exemption does not apply if the seller did not pay tax when he acquired the vehicle. (7-1-93)

c. Example: An Oregon resident buys a vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the vehicle for ten thousand dollars ($10,000) to his son who is an Idaho resident. No exemption

applies, since the father did not pay a sales or use tax when he acquired the vehicle. The son is required to pay Idaho use tax on the ten thousand dollars ($10,000) purchase price of the vehicle. (7-1-93)

08. Sales To American Indians. An enrolled American Indian tribal member may buy a motor vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian Reservation. The Sales Tax Exemption Certificate-Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and the buyer must complete and sign Sales Tax Exemption Certificate - Transfer Affidavit Form ST-133 including the name of the tribe, Tribal Identification Number and the name of the Reservation upon which the sale and delivery occurred. The affidavit is then given to the Idaho Transportation Department or county assessor along with the title to the vehicle being transferred. (2-18-02)

09. Bulk Sale Transfers. A transfer or sale of a motor vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer must complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to present to the Idaho Transportation Department or county assessor when applying for transfer of title. The buyer must attach a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (2-18-02)

10. Vehicles And Vessels Purchased In Idaho By Nonresidents For Use Outside Idaho. (5-3-03)

a. Sales to nonresidents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), off-highway motorcycles, and snowmobiles for use out of this state, even though delivery is made within this state are exempt from tax when: (5-3-03)

i. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (5-3-03)

ii. The motor vehicles, vessels, ATVs, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than sixty (60) days in any twelve-month period. (5-3-03)

b. To claim the exemption, the buyer must provide the seller a completed and signed Sales Tax Exemption Certificate - Vehicle/Vessel Form ST104-MV. (5-3-03)

c. This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, or inflatable boats regardless of length when sold without a motor. (5-3-03)

d. For purposes of Subsection 107.10 of this rule, an ATV means any recreational vehicle with ~~*two*~~ three (~~*2*~~3) or more tires, weighing under ~~*six*~~ eight hundred fifty (~~*6*~~850) pounds, ~~*less than*~~ forty-eight (48) inches or less in width, having a wheel base of sixty-one (61) inches or less, and traveling on low pressure tires of less than ~~*seven*~~ ten (~~*7*~~10) psi~~*, and designed to be ridden by one (1) person*~~. ~~*(5-3-03)*~~(____)

e. For purposes of ~~*this*~~ Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: ~~*(5-3-03)*~~(____)

i. Sold together with a motor; or (5-3-03)

ii. Eleven (11) feet in length or more, not including canoes, kayaks, or inflatable boats unless such canoe, kayak, or inflatable boat is sold together with attached motor. (5-3-03)

11. Motor Vehicles And Trailers Used In Interstate Commerce. The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The owner must complete and sign the Sales Tax Exemption Certificate - Vehicle/Vessel Form ST-104MV, and provide it to the seller, the Idaho Transportation

Department or the county assessor when applying for title transfer. See Rule 101 of these rules. (5-3-03)

12. Related Party Transfers And Sales. Certain transfers and sales of motor vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner must complete and sign Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to submit to the Idaho Transportation Department or county assessor when applying for title transfer. (2-18-02)

(BREAK IN CONTINUITY OF SECTIONS)

112. DIRECT PAY AUTHORITY (Rule 112).

01. In General. Direct Pay Authorization is issued to certain taxpayers where it is to the mutual convenience of the Tax Commission, the taxpayer, and the taxpayer's vendors to have the sales and use tax liability upon the taxpayer's purchases determined by the taxpayer and reported directly to the state in the form of a use tax. This allows vendors to sell all items of tangible personal property to the particular taxpayer without charging any sales tax. The only effect of this arrangement is to shift the reporting responsibility to the taxpayer holding the direct pay authority. (7-1-93)

02. Purchases Subject To Tax. If the particular transaction would have been one subject to the sales tax without the direct pay authorization, then the direct pay authorization holder must pay the sales tax to the state even if the use of the item is not subject to use tax. For example, if a direct pay authority holder purchases goods in Idaho from a retailer holding an Idaho seller's permit, then the purchaser must pay sales tax on the transaction even if the goods are intended for use solely outside the state. (7-1-97)

03. Documentation. To make a purchase without paying sales tax to the vendor, the taxpayer holding the direct pay authorization must furnish to each of his vendors a copy of the letter from the Commission granting the direct pay authority. (7-1-93)

04. Holder's Responsibilities. The direct pay authorization is granted only to those taxpayers who have demonstrated, to the Commission's satisfaction, the accounting and technical capability to comply with the Sales Tax Act. Direct pay authority holders must make all purchases of tangible personal property tax exempt and all taxes due as required by the Idaho Sales Tax Act will be remitted directly to the Commission by the direct pay authority holder. Vendors will be allowed to sell all items of tangible personal property to the direct pay authority holder without charging sales tax provided they obtain and keep on file a copy of the letter granting the direct pay authority. (7-1-93)

05. Revocation. The Commission may revoke a direct pay authorization if it determines that the direct pay authority holder is not complying with this rule or if the holder is allowing contractors or other third parties to make exempt purchases under the holder's authority. Notice of revocation shall be given in the manner provided for deficiencies in taxes in Section 63-3629, Idaho Code, and shall be subject to review as provided in section 63-3631, Idaho Code. Should the Commission revoke a taxpayer's direct pay authority it shall be the taxpayer's responsibility to notify his vendors of the revocation. (7-1-97)

06. Tax Imposed By Hotel/Motel Room Sales Tax. Taxpayers granted direct pay authority may not use this authority for taxes imposed on hotel/motel room or campground space accommodations. State sales tax, Travel and Convention tax, and Greater Boise Auditorium District tax, when applicable, must be charged by and paid to the retailer by the direct pay permittee. (7-1-93)

07. Valid Only On Purchases Of Tangible Personal Property. The direct pay authority is valid only on purchases of tangible personal property. The holder may not use their direct pay authority when engaging contractors involved in improving real property. Special rules apply to contractors. Refer to ~~*Sales Tax Administrative*~~ Rules 012 through 015, and 066 of these rules. ~~*(7-1-97)*~~(____)

08. Expiration. Direct pay authorizations are granted for a period of not more than ~~*two*~~ five (~~2~~5) years. If the authorization is not renewed at the end of the expiration period, the authorization will expire automatically. ~~*(7-1-97)*~~(____)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 545 through 552.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, Alan Dornfest, at (208) 334-7530.

DATED this 13th day of November, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 545 through 552.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0301

NOTICE OF RULEMAKING - 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(s) 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 15, 2003.

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 313: At the request of the county assessors, Property Tax Administrative Rule 313 needs to be amended to delete an unnecessary reference to Idaho Code Section 63-602U and to clarify transient personal property that is not taxable. To make a technical correction.

Rule 316: Property Tax Administrative Rule 316 needs to be amended to be consistent with HB 142 as passed by the 2003 Legislature. The current rule provides for different rates of completion of the five-year plan each year than now provided by the current law as amended by the 2003 Legislature. To make technical corrections.

Rule 509: Property Tax Administrative Rule 509 needs to be amended to be consistent with HB 453 as passed by the 2003 Legislature. This rule needs to be amended so the county auditors include the value of the property exempted under Section 63-3029B, Idaho Code, on the abstract. To make technical corrections.

Rule 609: Property Tax Administrative Rule 609 needs to be amended to correct an inconsistency with amendments relating to beneficiary of trusts as passed by the 2001 Legislature in HB 150. For the purpose of the homeowner's exemption owner includes the beneficiary of a trust. To make technical corrections.

Rule 802: Property Tax Administrative Rule 802 needs to be amended to be consistent with HB 75 as passed by the 2003 Legislature. HB 75 provides for county auditors to submit by the fourth Monday in July to the State Tax Commission the values on the new construction roll making the submission of values on a corrected new construction roll by the first Monday in August unnecessary. The amendment to this rule also provides a date by which county auditors are to notify taxing districts of the values on the construction roll and resulting from annexation.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Alan Dornfest, Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36, Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0301

313. ASSESSMENT OF TRANSIENT PERSONAL PROPERTY (Rule 313).
Sections 63-213~~,~~ and 63-313~~, *and 63-602U*~~, Idaho Code. ~~*(5-3-03)*~~( )

01. Definitions. The following definitions apply for the assessment of transient personal property. (5-3-03)

a. Home County. Home county is identified in Section 63-313, Idaho Code, as the county selected by the owner of any transient personal property as that county where that transient personal property is usually kept. That county selected by the owner shall be a county in the state of Idaho. (5-3-03)

b. Periods of Thirty (30) Days or More. Periods of thirty (30) days or more mean increments of no less than thirty (30) consecutive, uninterrupted days, during which any transient personal property is located in any one (1) county. For any period of less than thirty (30) days, the property owner shall report the transient personal property as being in the home county, resulting in that transient personal property being assessed in the home county for the entire year or the entire portion of the year the property has been in taxable status and not been outside the state of Idaho. (5-3-03)

c. Prorated Assessment. Prorated assessment means the ratio of the number of days, exceeding twenty-nine (29), to three hundred sixty-five (365) days multiplied by the total market value of the transient personal property. For additional clarification, refer to the following examples. (5-3-03)

i. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (5-3-03)

ii. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the total market value in the second county and for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. (5-3-03)

iii. If located in a second Idaho county (not the home county) for thirty-one (31) consecutive, uninterrupted days, in a third Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, and in the home county for the remainder of the year, the transient personal property should be assessed for thirty-one/three hundred sixty-five (31/365) of the total market value in the second county, fifty-nine/three hundred sixty-five (59/365) of the total market value in the third county, and two hundred seventy-five/three hundred sixty-five (275/365) of the total market value in the home county. (5-3-03)

iv. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and later in that same county for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (5-3-03)

v. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty-five (35) days and taxed in the other state, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the value in the second county and for two hundred seventy-one/three hundred sixty-five (271/365) of the total market value in the home county. (5-3-03)

d. Transient Personal Property. Transient personal property is defined in Section 63-201, Idaho Code. (5-3-03)

02. Overassessment Prohibited. Section 63-213, Idaho Code, prohibits the assessment of any

property in any one (1) county for the same period of time that property has been assessed in another county. The sum of the assessments of transient personal property in the home county and each other county where the property has been located shall not exceed the market value of the property. (5-3-03)

03. Nontaxable Transient Personal Property. (____)

a. Transient Personal Property in Transit. Under Subsection 63-313(4) ~~*and Section 63-602U*~~, Idaho Code, any transient personal property only in transit through the home county or any other county and not remaining in any county for the purpose of use is not subject to property taxation. (____)

b. Sold Transient Personal Property on Which Taxes Have Been Paid. Under Subsection 63-313(4), Idaho Code, ~~A~~any transient personal property, which was sold by the owner in the home county and upon which the full current year's property taxes were paid, is not subject to property taxation for the current year in any other county regardless of whether that property is to be used in or only in transit through any other county. ~~*(5-3-03)*~~(____)

c. Qualified Investment Exemption. For information and directions relating to the qualified investment exemption, see Rule 988 of these rules. (____)

(BREAK IN CONTINUITY OF SECTIONS)

316. COMPLIANCE OF CONTINUING VALUATION PROGRAM (Rule 316).
Sections 63-314 and 63-316, Idaho Code. (5-3-03)

01. Definitions. (5-3-03)

a. Continuing Appraisal. "Continuing appraisal" means the program by which each assessor completes the assessment of all taxable properties each year. This term includes any appraising or indexing done to accomplish the continuing program of valuation as defined in Rule 314 of these rules. (5-3-03)

b. Monitor. "Monitor" means collecting data and compiling statistical reports that show the number and percentage of parcels physically inspected at scheduled intervals within each year of each five (5) year appraisal cycle. The term "monitor" also includes an examination of and summary report of compliance with the most recently completed ratio study under Section 63-109, Idaho Code, and Rule 131 of these rules showing the status of appraisal and indexing to achieve market value. (5-3-03)

c. Progress Reports. "Progress reports" mean any informational or statistical report compiled and distributed by the State Tax Commission regarding the physical appraisal progress of a county. (5-3-03)

d. Appraisal Cycle. "Appraisal cycle" means consecutive five (5) year periods beginning with appraisals completed for the 1998 property roll, as established by the requirement in Section 63-314, Idaho Code. (5-3-03)

e. Remediation Plan. "Remediation plan" means, a written statement of the actions that will be taken by the county not in compliance with the requirements of Section 63-314, Idaho Code, to bring the continuing program of valuation into compliance with said Section. (5-3-03)

02. Monitoring Procedure. The State Tax Commission will monitor compliance with the continuing program of valuation in each county no less than annually. The State Tax Commission will monitor the completion of the appraisal of not less than ~~*twenty*~~ fifteen percent (~~*20*~~15%) of all parcels by the end of the first year of the appraisal cycle, not less than ~~*forty*~~ thirty-five percent (~~*40*~~35%) by the end of the second year, not less than ~~*sixty*~~ fifty-five percent (~~*60*~~55%) by the end of the third year, not less than ~~*eighty*~~ seventy-five percent (~~*80*~~75%) by the end of the fourth year, and not less than one hundred percent (100%) by the end of the fifth year in order that all parcels are appraised not less than every five (5) years. As a result of the monitoring process, the State Tax Commission will prepare and distribute progress reports to each county assessor at the end of each monitoring period. Each monitoring

period will be conducted in the following manner: ~~(5-3-03)~~(____)

a. The State Tax Commission will compile a progress report each July. The State Tax Commission will use this progress report in each county to determine compliance with Section 63-314, Idaho Code. This report will consist of an analysis of the county's progress within the current appraisal cycle as well as a summary report of the most recently completed ratio study showing the status of appraisal and indexing to achieve market value. The State Tax Commission will notify each county assessor on or before August 15 each year of the current status of the continuing program of valuation progress and any necessary corrective action. The State Tax Commission will notify the board of county commissioners that this report has been provided to the county assessor. (5-3-03)

b. Upon receipt of a written request from the county assessor, the State Tax Commission will complete and distribute a six (6) month progress report in January. This January report will show the total parcels in the county, the number of parcels that need to be physically inspected for the current year's assessment, a summary report of the most recently completed ratio study, and the number of parcels upon which physical inspections were completed during the preceding six (6) months. The State Tax Commission will distribute any January progress report only to inform the county assessor of the status of the continuing program of valuation and will not use the data gathered for this report to determine compliance with Section 63-314, Idaho Code. The State Tax Commission will notify the board of county commissioners that this report has been provided to the county assessor. (5-3-03)

03. Remediation Plans. If the results of any July report show that a county has not achieved the adequate appraisal of the required percent of the parcels, as stated in Subsection 316.02 of this rule, the assessor and board of county commissioners will be required to submit to the State Tax Commission, a remediation plan that demonstrates how compliance will be achieved. The remediation plan will be submitted to the State Tax Commission on or before September 15. The State Tax Commission will determine whether the plan is acceptable on or before October 1. Once a remediation plan has been approved, the continuing valuation program of the county will be considered in compliance so long as the county meets the terms of the remediation plan. The State Tax Commission will monitor progress toward successful completion of any remediation plan at intervals scheduled with the county assessor. (5-3-03)

04. State Tax Commission To Ensure Corrective Action. (5-3-03)

a. During the first four (4) years of any appraisal cycle, if any July progress report shows that a county assessor has not achieved the adequate appraisal of the required percent of parcels, as stated in Subsection 316.02 and implementation of the subsequent remediation plan does not achieve the required percent or the next July progress report shows the number of completed appraisals continues to be less than the required percent, the State Tax Commission will begin proceedings to ensure corrective action is taken up to and including taking exclusive and complete control of the continuing program of valuation as provided for in Section 63-316, Idaho Code. (5-3-03)

b. If, at the end of any appraisal cycle a county has not achieved adequate appraisal of all parcels, the State Tax Commission may begin proceedings to ensure corrective action is taken, up to and including taking exclusive and complete control of the continuing program of valuation as provided for in Section 63-316, Idaho Code. If, at the end of an appraisal cycle, a county has not met the requirements of Section 63-314, Idaho Code, and no extension has been granted pursuant to the provisions of Section 63-316(6), Idaho Code, the county plan for the next appraisal cycle submitted to the State Tax Commission must include provision for field inspection of those parcels not field inspected by the end of the expired appraisal cycle and an additional field inspection of the same parcels for the current plan for the continuing program of valuation. (5-3-03)

05. Compliance Procedure Examples. (5-3-03)

a. Example 1: The following chart outlines what will occur if a county assessor fails to complete the appraisal of the required number of parcels for 2003 and subsequently fails to complete the appraisal of the required number of parcels for 2004.

January 2003 (If requested.)	-	Informational Progress Report
July 2003	-	First Compliance Progress Report

Compliance	-	No Action
Noncompliance	-	Remediation Plan and Monitoring
January 2004 (If requested.)	-	Informational Progress Report
July 2004	-	Second Compliance Progress Report
Compliance	-	No Action
Noncompliance	-	Enforcement of Section 63-316, Idaho Code (State Tax Commission may start proceedings to take exclusive and complete control of the program.)

(5-3-03)

b. Example 2: The following chart outlines what will occur if a county assessor successfully completes the appraisal of the required number of parcels for 2003, 2004, and 2005 but fails to complete the appraisal of the required number of parcels for 2006 and subsequently fails to complete the appraisal of the required number of parcels for 2007.

January 2003 (If requested.)	-	Informational Progress Report
July 2003	-	First Compliance Progress Report
Compliance	-	No Action
January 2004 (If requested.)	-	Second Informational Progress Report
July 2004	-	Second Compliance Progress Report
Compliance	-	No Action
January 2005 (If requested.)	-	Informational Progress Report
Compliance	-	No Action
July 2005	-	Third Compliance Progress Report
Compliance	-	No Action
January 2006 (If requested.)	-	Informational Progress Report
July 2006	-	Fourth Compliance Progress Report
Compliance	-	No Action
Noncompliance	-	Remediation Plan and Monitoring
January 2007 (If requested.)	-	Informational Progress Report
July 2007	-	Fifth Compliance Progress Report
Compliance	-	No Action
Noncompliance	-	Enforcement of Section 63-316, Idaho Code (State Tax Commission may start proceedings to take exclusive and complete control of the program.)

(5-3-03)

(BREAK IN CONTINUITY OF SECTIONS)

509. IDENTIFICATION OF URBAN RENEWAL INCREMENT AND PARTIAL EXEMPTION VALUES ON COUNTY AND SCHOOL DISTRICT ABSTRACTS OF VALUE (Rule 509).
Section 63-509, Idaho Code. (5-3-03)

01. County And School District Abstracts To Balance. The taxable value of property in each category as shown on the abstracts prepared and submitted ~~*pursuant to*~~ under Section 63-509, Idaho Code, shall equal the sum of the taxable value of property in each category as shown on the school district abstracts, required ~~*pursuant to*~~ under Rule 315 of these rules, for the portion of each school district located within each given county. ~~*(3-30-01)*~~(____)

02. Identification Of Increment. The value that exceeds the value on the base assessment roll in any urban renewal district, ~~*pursuant to*~~ under Chapter 29, Title 50, Idaho Code, and Rule 804 ~~*shall be*~~ of these rules is identified as the "increment". ~~*(3-30-01)*~~(____)

03. Increment And Exemption Values To Be Indicated. In addition to the value of exemptions required ~~*pursuant to*~~ under Section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections 63-602X, 63-602BB, ~~*and*~~ 63-602FF, and 63-3029B, Idaho Code, shall be indicated and subtracted from the taxable value shown for each category of property on each county and school district abstract. ~~*(5-3-03)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

609. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS (Rule 609).
Section 63-602G, Idaho Code. (3-15-02)

01. Homeowner's Exemption. This exemption shall also be known as the homeowner's exemption. (3-15-02)

02. Residential Improvements. Primary dwelling place means the claimant's dwelling place before April 15 of the year for which the claim is made. If the residential improvement becomes the claimant's primary dwelling place between January 1 and April 15, the claimant shall not have previously applied for the exemption under Section 63-602G, Idaho Code, for the same year. The primary dwelling place is the single place where a claimant has his true, fixed, and permanent home and principal establishment, and to which whenever the individual is absent he has the intention of returning. A claimant must establish the dwelling to which the claim relates as his primary dwelling place by clear and convincing evidence or by establishing that the dwelling is where the claimant resided before April 15 of the year for which the claim is made and: (3-15-02)

a. At least six (6) months during the prior year; or (3-23-94)

b. The majority of the time the claimant owned the dwelling if owned by the claimant less than one (1) year; or (3-23-94)

c. The majority of the time after the claimant first occupied the dwelling if occupied by the claimant less than one (1) year. (3-23-94)

03. Requirements. If these requirements are not met, the property upon which the claimant makes application shall be deemed to be the claimant's primary dwelling place if the claimant is otherwise qualified and resides in a care facility and does not allow the property upon which the claimant has made application to be occupied by persons paying a consideration excluding utilities to occupy the dwelling. A care facility is a hospital, skilled nursing facility, intermediate care facility or intermediate care facility for the mentally retarded as defined in Section 39-1301, Idaho Code, or a facility as defined in Section 39-3302(15), Idaho Code, or a dwelling other than the one upon which the applicant makes application where a claimant who is unable to reside in the dwelling upon which the

application is made lives and receives help in daily living, protection, and security. (3-15-02)

04. Owner. "Owner" means a person holding title in fee simple or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate. "Owner" shall also include any person who ~~*as grantor created a revocable or an irrevocable trust and named himself or herself as*~~ is a beneficiary of ~~*that*~~ a trust. ~~*"Owner" shall not include any person that otherwise occupies property as beneficiary of a trust.*~~ "Owner" includes a vendee in possession under a land sale contract. An "owner" shall also include a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation if that person has no less than a five percent (5%) ownership interest in the entity. ~~*(3-15-02)*~~(____)

05. Partial Ownership. Any partial ownership shall be considered ownership for determining qualification for the homeowner's exemption, however, the amount of the exemption shall be decided on the reduced proportion of the value commensurate with the proportion of partial ownership. Partial ownership, for purposes of this section, means any one (1) person's ownership when property is owned by more than one (1) person. The combined community property interests of both spouses shall not be considered partial ownership. The proportional reduction required under this subsection shall not apply to community property interests. Additionally, there is no reduction to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation. (3-15-02)

06. Certification. As an owner, the applying partner of a limited partnership, member of a limited liability company or shareholder of a corporation with no less than a five percent (5%) ownership interest in the entity must certify to the county assessor that he has not made application for this exemption in any other county or on any other residential improvement in this county. Although more than one residential improvement owned by the same partnership, limited liability company or corporation may qualify for this exemption, each partner, member or shareholder shall not receive this exemption on more than one residential improvement. (3-15-02)

07. Determination Of Residency. The State Tax Commission may release pertinent information from any Idaho income tax return to the county assessor and the county ~~*b*~~Board of ~~*e*~~Equalization for the sole purpose of providing one indicator of eligibility for the homeowner's exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure. ~~*(3-15-02)*~~(____)

(BREAK IN CONTINUITY OF SECTIONS)

802. BUDGET CERTIFICATION RELATING TO NEW CONSTRUCTION AND ANNEXATION (Rule 802).

Sections 63-802, 63-301A, and 63-602FF, Idaho Code. ~~*(5-3-03)*~~(____)

01. Definitions. (4-5-00)

a. "Change of Land Use Classification." "Change of land use classification" shall mean any change in land use resulting in a category change and in an increase in taxable land value to be reflected on the current assessment roll unless the increase in value was previously included on the new construction roll. Beginning with the assessment roll prepared to reflect value as of January 1, 1997, the increase in taxable land value due to change of land use classification shall be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (5-3-03)

b. "Nonresidential Structure." "Nonresidential structure" shall mean any structure listed by the assessor in any category not described as residential, manufactured homes, or improvements to manufactured homes pursuant to Rule 130 of these rules. (5-3-03)

02. New Construction Roll Listing. "Listing" shall mean a summary report of the net taxable value of

property listed on the new construction roll. This listing shall include the taxable value of qualifying new construction throughout each taxing district or unit, including qualifying new construction within any revenue allocation area within any urban renewal district encompassed by the taxing district or unit. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units shall be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (7-1-99)

03. Manufactured Housing. "Installation" of new or used manufactured housing shall mean capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

04. Partial New Construction Values. The net taxable market value attributable directly to new construction shall be reported on the new construction roll in the tax year it is placed on the current assessment roll. Any increase in a parcel's taxable value, due to new construction, shall be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. In the case of partially completed property previously reported on the property roll, but subsequently exempt pursuant to Section 63-602W, Idaho Code, the increase in value to be reported on the new construction roll following loss of this exemption shall be the difference between previously reported new construction roll value and the taxable value for the year in which the occupied property is first entered on the property roll. If any of this difference is attributable to inflation, such value shall not be included on the new construction roll. (7-1-99)

Example: Assume a partially completed, never occupied residential improvement was assessed at ten thousand dollars ($10,000) as of January 1, 1997. The improvement was occupied February 2, 1998. Assume the ten thousand dollars ($10,000) value was on the 1997 new construction roll. Assume that in 1999 the improvement is assessed at ninety thousand dollars ($90,000) and a forty-five thousand dollars ($45,000) homeowner's exemption is then deducted. Assume there has been no inflation. The amount that can be reported on the 1999 new construction roll is calculated as follows: (7-1-99)

1999 Value (before homeowner's exemption)	$90,000
1999 Homeowner's Exemption	<$45,000>
1999 Taxable Value (after homeowner's exemption)	$45,000
1997 Value Already Reported on New Construction Roll	<$10,000>
1999 New Construction Roll Value (this improvement)	$35,000

05. Change In Exemption Status. (5-3-03)

a. A previously exempt improvement which becomes taxable shall not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W, Idaho Code. (7-1-99)

b. For any rural subdivision parcels of land changing use as a result of removal of the exemption under Section 63-602FF, Idaho Code, the increase in value resulting from the removal of this exemption shall not be listed on the new construction roll when the increase in value was already listed on any previous year's new construction roll. (5-3-03)

06. ~~*Corrected*~~ Notification Of New Construction Roll And Annexation Values. ~~*The values shown on the listing required in Subsection 802.03 shall be subject to the adjustment if net taxable value for any property included on the new construction roll is changed by the county board of equalization meeting pursuant to Section 63-501, Idaho Code. Each county assessor must certify the corrected values to the appropriate county auditor.*~~ On or before the fourth Monday in July, ~~*E*~~each county auditor must report the ~~*corrected*~~ net taxable values on the new construction roll and within annexed areas for each appropriate taxing district or unit to ~~*the State Tax Commission and to each*~~ that taxing district ~~*prior to the first Monday of August on the notification required pursuant to Section 63-510(1), Idaho Code*~~ or unit. ~~*(7-1-99)*~~(____)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 553 through 557.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, Alan Dornfest, at (208) 334-7530.

DATED this 13th day of November, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 553 through 557.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0302

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is September 1, 2003.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, 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 15, 2003.

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Property Tax Administrative Rule 803 is being amended to implement HB 140 as passed by the 2003 Legislature changing the rule to provide directions and clarification relating to the property tax funded budgets for library districts when library districts consolidate with city library services.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Statutory timing requires the rule be adopted as a temporary rule by making changes relating to the property tax funded budgets for library districts when library districts consolidate with city library services.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary/proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Alan Dornfest,
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0302

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (Rule 803).
Sections 63-803 and 63-3067, Idaho Code. (3-15-02)

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 State Tax Commission the budget request from each Board of County Commissioners for each taxing district. This form shall 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 requesting action as provided in Section 63-809, Idaho Code. ~~*(4-5-00)*~~(9-1-03)T

b. "Prior Year's Market Value for Assessment Purposes." Prior year's market value for assessment purposes shall mean the value used to calculate levies during the immediate prior year. This value shall be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(f), Idaho Code, and for fire districts, pursuant to Section 31-1420(3), Idaho Code. (4-5-00)

c. "Annual Budget." For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget shall include any amount approved as a result of an election held pursuant to Sections 63-802(1)(f), 63-802(1)(g), or 31-1420(3), 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)(f), 63-802~~9~~(1)(g), and 31-1420(3), then the amount not used shall be added to the foregone increase amount determined for the taxing district. See the following example.

CERTIFIED PROPERTY TAX BUDGET LIBRARY DISTRICT*				
	FY 1999	FY 2000	FY 2001	FY 2002
Annual Budget	$10,000	$10,000	$10,700	$11,621
3% Increase	$0	$300	$321	$349
Subtotal	$10,000	$10,300	$11,021	$11,970
1999 Election Amount	$0	$400 of $1000	$600 of $1000	$0
Certified Budget	$10,000	$10,700	$11,621	$11,970

The Library District with zero ($0) new construction and annexation approves an additional budget amount of one thousand dollars ($1000) in 1999, but only certifies ~~*six*~~ four hundred dollars ($~~64~~00) for the year 2000. Note the example does not account for any foregone amount resulting from the district's decision to not increase its budget by three percent (3%) in 1997, 1998 or 1999. ~~(3-30-01)*~~(9-1-03)T

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 State Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (9-1-03)T

02. Budget Certification. The required budget certification shall be made to each Board of County Commissioners representing each county in which the district is located. The certification shall be on a form prescribed by the State Tax Commission. (4-5-00)

03. Budget Requested Documents. Each Board of County Commissioners shall submit to the State 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 shall not submit other documents unless requested to do

so by the State Tax Commission. Documents not to be submitted to the State Tax Commission unless requested include newspaper advertisements, school district budget books, entire budget documents, other than the budget request, and similar documents. Each taxing district certifying a budget request to finance the property tax funded portion of its annual budget shall complete the State Tax Commission's L-2 Form. (5-3-03)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form shall include the following information on or with this form. ~~*(4-5-00)*~~(9-1-03)T

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 brought forward from a prior year to help fund the approved budget. Cash forward balance (Column 3) is the difference between the total approved budget (Column 2) and the sum of amounts reported as other revenue not shown in Column 5 (Column 4), agricultural equipment property tax replacement (Column 5), and balance to be levied (Column 6). (3-15-02)

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. "Agricultural equipment property tax replacement." Report the amount of money to be received under Section 63-3067, Idaho Code. For school districts, report only the appropriate amount of such money to be subtracted as provided in Subsection 803.06 of this rule. ~~*(5-3-03)*~~(9-1-03)T

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 ~~*authority*~~ unit; ~~*(4-5-00)*~~(9-1-03)T

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)

h. Attached information. Other information submitted to the county auditor with the L-2. (9-1-03)T

i. For all taxing districts, L-2 worksheet. (9-1-03)T

ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (9-1-03)T

iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, and plant facility funds), notice of election and election results. (9-1-03)T

iv. Voter approved fund tracker. (9-1-03)T

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. (9-1-03)T

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. (9-1-03)T

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 Subsection 803.04.h.vi., of this rule. (9-1-03)T

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 shall 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 Pursuant To Section 63-3067, Idaho Code. Property tax replacement monies received pursuant to Section 63-3067, Idaho Code, must be reported on the L-2 form. For all taxing districts except school districts, these monies must be subtracted from the "balance to be levied". For school districts, only "appropriate property tax replacement monies" are to be subtracted. The reduced balance shall be used to compute levies, but the maximum amount permitted pursuant to Sections 63-802 and 33-802, Idaho Code, shall be based on the sum of these property tax replacement monies and the amount actually levied, or, for school districts, the sum of "appropriate property tax replacement monies" and the amount actually levied. ~~*(5-3-03)*~~(9-1-03)T

a. "Appropriate property tax replacement monies" is determined only for school districts and means all property tax replacement monies received pursuant to Section 63-3067, Idaho Code, except an amount equal to four thousands (0.004) multiplied by the year 2000 value of property exempted in Section 63-602EE, Idaho Code. If the amount so determined is greater than the total amount of property tax replacement monies, no property tax replacement monies received pursuant to Section 63-3067, Idaho Code, shall be subtracted from the school district maintenance and operation's (M&O) budget. (5-3-03)

b. After receipt from the counties of the year 2000 tax charges on property exempted in Section 63-602EE, Idaho Code, but no later than July 23, 2001, the State Tax Commission shall notify each county clerk of the amount of property tax replacement money to be paid to each taxing district in that county. Beginning in 2002 and thereafter, the State Tax Commission shall, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money to be paid to a taxing district or the "appropriate amount of property tax replacement money" to be paid to any school district changes from the amount paid in the preceding year. In 2002, the State Tax Commission shall also notify each county clerk of the amount of the "appropriate property tax replacement monies" to be subtracted before computing the M&O levy for each school district. (5-3-03)

c. By no later than the first Monday of August of each year, each county clerk shall notify each appropriate taxing district or unit of the total amount of property tax replacement monies that will be received and shall further notify each school district of the appropriate amount to be subtracted before the M&O levy is computed. (5-3-03)

d. The subtraction required in Subsection 803.06 may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code, and from school district maintenance and operation funds made pursuant to Section 33-802, Idaho Code. (3-15-02)

e. Levy limits shall be tested against the amount actually levied. (3-15-02)

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 Subsection 803.04.h.vi., of these rules shall be added to that library district's property tax funded budget in effect at the time of the election for consolidation. This total shall 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. (9-1-03)T

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 Subsection 803.04.h.vi., of these rules shall be subtracted from that city's total property tax funded budget in effect at the time of the election for the consolidation. This difference shall 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.(9-1-03)T

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0303

NOTICE OF RULEMAKING

PENDING RULE AND AMENDMENT TO TEMPORARY RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 63-105A, Idaho Code.

DESCRIPTIVE SUMMARY: The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any changes between the text of the temporary and proposed rule and text of the pending rule with an explanation of the reasons for the change.

The proposed Rule 988 is being amended from the proposed text by the inclusion of the following Subsection 988.15 and the current Subsection 988.15 is being redesignated as Subsection 988.16.

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 original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 558 through 562.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Alan Dornfest, at (208) 334-7530.

DATED this 13th day of November, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 03

PROPERTY TAX ADMINISTRATIVE RULES

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 558 through 562.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

Language That Has Been Deleted From The Original Proposed Rule Has Been Removed And New Language Is Shown In Italics

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO 35-0103-0303

SUBSECTIONS 988.15 and 988.16 (Partial Section)

988. ELECTION OF QUALIFIED PROPERTY FOR EXEMPTION (Rule 988).
Sections 63-302, 63-313, 63-404, and 63-3029B, Idaho Code. (1-1-04)T

15. ***Public Records And Exemption Of Certain QIE Information From Disclosure****. Public records are presumed to be open to the public. Records containing certain information pertaining to private businesses (such as trade secrets and other proprietary information) may be exempt from public disclosure (See Section 9-340D, Idaho Code) and may be protected from disclosure by the Idaho Trade Secrets Act, Chapter 8 Title 48, Idaho Code, and other laws. A taxpayer who submits information to the State Tax Commission or to a county assessor or board of equalization in accordance with this rule may designate all or part of the information as confidential. The designation must be made in writing and clearly identify the particular information deemed confidential. In addition, the front page of the submission must prominently state that the document contains information designated as confidential. The State Tax Commission, the county assessor and board of equalization shall treat the designated information as confidential, exempt from disclosure under Section 9-340D, Idaho Code and as subject to the Idaho Trade Secrets Act (see Chapter 8 Title 48, Idaho Code). Nothing in this paragraph limits exchanges of information between or among the State Tax Commission and county officials otherwise authorized by law.* *(1-1-04)T*

1~~5~~6. **Cross Reference**. For more information relating to procedures and requirements for QIE, refer to Section 63-3029B, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administrative and Enforcement Rules," Rule 450, and IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719. (1-1-04)T

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-0303

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2004.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 63-105A and 63-3624, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

DATE: **Tuesday, October 7, 2003**
TIME: **10:00 a.m.**
PLACE: **Conference Room 1CR5**
Idaho State Tax Commission
800 Park Bl., Plaza IV, Boise, ID

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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Property Tax Administrative Rule 988 is being promulgated to provide directions to taxpayers and assessors for implementation of the new property tax exemption provided by HB 453 beginning January 1, 2004.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Statutory timing requires the rule be adopted as a temporary rule by the adoption of HB 453 amending Section 63-3029B, Idaho Code, granting a property tax exemption to certain qualifying property for two years. A new Property Tax Administrative Rule 988 needs to be promulgated to implement this exemption.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being adopted as a temporary/proposed rule and the time constraints require having the schedule available to reflect the new rate.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Alan Dornfest, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Alan Dornfest
Tax Policy Supervisor
Idaho State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0103-0303

983. -- 98~~9~~7. (RESERVED).

988. ELECTION OF QUALIFIED PROPERTY FOR EXEMPTION (Rule 988).
Sections 63-302, 63-313, 63-404, and 63-3029B, Idaho Code. (1-1-04)T

01. Definitions. The following definitions apply for the purposes of the property tax exemption under Section 63-3029B, Idaho Code, and do not decide investment tax credit eligibility for Idaho income tax purposes. (1-1-04)T

a. Calendar year immediately following the taxable year in which the property was placed in service. "Calendar year immediately following the taxable year in which the property was placed in service" means the calendar year beginning after the calendar year the property was put to use or placed in a condition or state of readiness and availability for a specifically assigned function in the production of income. For example, all property meeting the following criteria must be granted the property tax qualified investment exemption for calendar years 2004 and 2005: (1-1-04)T

i. The property is eligible for the investment tax credit for Idaho income tax purposes. (1-1-04)T

ii. The taxpayer had an Idaho loss for income tax purposes in the correct year, as indicated in IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719, prior to making the election. (1-1-04)T

iii. The property was first placed in service in Idaho between January 1, 2003 and December 31, 2003. (1-1-04)T

iv. The taxpayer completed and will file a copy of the State Tax Commission election form (Form 49E) with the correct year's income tax return. (1-1-04)T

v. The taxpayer completed and timely returned a personal property declaration to each appropriate assessor listing the property and attaching the completed Form 49E. (1-1-04)T

b. Operator's Statement. The "operator's statement" is the annual statement listing all property subject to assessment by the state tax commission and prepared under Section 63-404, Idaho Code. (1-1-04)T

c. Personal Property Declaration. A "personal property declaration" is any form required for reporting personal property or transient personal property to the county assessor under Sections 63-302 or 63-313, Idaho Code, respectively. (1-1-04)T

d. Qualified Investment. "Qualified investment" means property that would have otherwise been taxable for property tax purposes and is eligible or qualified under Section 63-3029B, Idaho Code, provided that property is reported on the personal property declaration or operator's statement and is designated as exempt from property tax for two (2) years on Form 49E. (1-1-04)T

e. Qualified Investment Exemption. The "qualified investment exemption" (QIE) referred to in this rule is the property tax exemption under Section 63-3029B, Idaho Code. (1-1-04)T

02. Designation Of Property For Which Exemption Is Elected. The owner shall designate the property on which the QIE is elected. The owner shall make this designation on Form 49E and attach it to the personal property declaration or, for operating property, the operator's statement. The description of the property on Form 49E must be adequate to identify the property to be granted the exemption. In addition to all other steps required to complete the personal property declaration or operator's statement, the owner must provide on the personal property declaration or operator's statement the date the item elected for the QIE was placed in service. (1-1-04)T

03. Election For Investments Not Otherwise Required To Be Listed On The Personal Property Declaration. For investments, like single purpose agricultural or horticultural structures, that are not otherwise required to be listed on the personal property declaration, the owner must list that property to elect the QIE. As with any property designated for the QIE, the owner must attach Form 49E to the personal property declaration. (1-1-04)T

04. Continuation Of Listing. For all property designated for QIE, even though that property is exempt for two (2) years, the owner must list that property on the personal property declaration or operator's statement in the initial year for which the QIE is claimed and the following four (4) consecutive years, unless that property has been sold, otherwise disposed of, or ceases to qualify pursuant to Section 63-3029B, Idaho Code. (1-1-04)T

05. Period Of QIE. The QIE shall be granted for the two (2) calendar years immediately after the end of the calendar year in which the property acquired as a qualified investment was first placed in service in Idaho. (1-1-04)T

06. Election Specificity. The QIE election provided by Section 63-3029B, Idaho Code, shall be specific to each qualified item of property listed on the personal property declaration or operator's statement. An item of property that is a qualified investment, but for which there is no QIE election during the "calendar year immediately following the taxable year in which the property was placed in service" in Idaho, is not eligible for the QIE. (1-1-04)T

07. Notification To State Tax Commission By Assessor. (1-1-04)T

a. Upon Receipt of Form 49E or a Listing. Upon receiving Form 49E or any listing provided to comply with Subsection 988.08 or 988.12 of these rules, the county assessor shall send a copy of this form or listing to the state tax commission. (1-1-04)T

b. Upon Discovery of Changes. Upon discovering that property granted the QIE was sold, otherwise disposed of, or ceased to qualify under Section 63-3029B, Idaho Code, within the five (5) year period beginning with the date the property was placed in service, the county assessor shall notify the state tax commission immediately. The county assessor shall also provide this notification upon discovery that the owner first claiming the QIE failed to list the item of property on any personal property declaration or failed to file a personal property declaration in any year during this five (5) year period. This notice shall include: (1-1-04)T

i. Name of the owner receiving the QIE. (1-1-04)T

ii. A description of the property that received the QIE. (1-1-04)T

iii. The date the owner reported the item was first placed in service in Idaho. (1-1-04)T

iv. For each item, the amount of exempt value in the first year the QIE was elected. (1-1-04)T

08. Moved Personal Property. In order to provide unmistakable identification of the property, certain taxpayers must send written notification by the date provided in Section 63-302, 63-313, or 63-404, Idaho Code, when moving property that previously received the QIE. This notification: (1-1-04)T

a. Is required of taxpayers moving property between counties in Idaho during the five (5) year period beginning the date that property was placed in service; (1-1-04)T

i. For locally assessed property, the taxpayers send this notification to the assessor in the county that granted the QIE and the assessor in any Idaho county to which the property has been moved; (1-1-04)T

ii. For state tax commission assessed operating property owned by electric distribution, generation, and transmission companies, the taxpayers send this notification to the state tax commission; (1-1-04)T

b. Must include a listing which describes the property exactly as it was described on the original Form 49E or cross references the property originally listed on Form 49E; and (1-1-04)T

c. Is not required of taxpayers when the property is state tax commission assessed operating property other than property owned by electric distribution, generation, and transmission companies. (1-1-04)T

09. Notification Regarding Transient Personal Property. For transient personal property elected for the QIE, the definition of home county in Section 63-313, Idaho Code, and Rule 313 of these rules, applies. When a home county receives information of an election for QIE and a notice that the exempt property was used in another county in Idaho, the home county must forward information identifying that property to the other county(ies) in accordance with procedures in Section 63-313, Idaho Code. Also, the home county assessor shall send a copy of this notice to the state tax commission. (1-1-04)T

10. Partial Year Assessments. Property assessed based on a value prorated for a portion of the year in which the property is first placed in service may still be eligible for the QIE in the subsequent two (2) calendar years, provided the QIE is elected. (1-1-04)T

11. Limitation On Amount Of Exemption. (1-1-04)T

a. New Property. The QIE shall be for the full market value for assessment purposes for new property that is a qualifying investment. (1-1-04)T

b. Used Property. For each taxpayer, the QIE shall be limited to one hundred fifty thousand dollars ($150,000) in the cost of all qualifying used property in any one (1) year. See the following example, which assumes that each property is owned by one taxpayer and is a qualified investment.

Property Description (same taxpayer)	Cost	New or Used	Year 1 Market Value	Year 1 Exempt Value	Year 1 Taxable Value
Assembly line	$140,000	Used	$140,000	$140,000	$0
Computer 1	$40,000	Used	$40,000	$10,000	$30,000
Computer 2	$50,000	New	$50,000	$50,000	$0

In this example, "year 1" is the first year during which the qualified investment receives the QIE. (1-1-04)T

12. Multi-County Taxpayers. (1-1-04)T

a. Except taxpayers electing QIE for property that is state tax commission assessed operating property, any taxpayers electing the QIE for properties purchased new must indicate on Form 49E the county where each property is located or must complete a separate Form 49E and attach it to the personal property declaration submitted to each county. (1-1-04)T

b. Except taxpayers electing QIE for property that is state tax commission assessed operating property, any taxpayers electing the QIE for properties purchased used must attach any Form 49E listing property purchased used to the personal property declaration sent to each county. A Form 49E listing only property purchased used may be provided to comply with this requirement. (1-1-04)T

c. Any taxpayers electing QIE for property that is state tax commission assessed operating property and purchased new or used must indicate on Form 49E each county where each property is located and attach it to the operator's statement. (1-1-04)T

d. If multiple Form 49Es are submitted to one (1) or more assessors, a copy of each Form 49E must be attached to the correct year's income tax return. (1-1-04)T

13. Special Provisions For Operating Property. (1-1-04)T

a. For operating property, the market value of the QIE is calculated by multiplying the depreciated original cost of the property times the ratio of the correlated value determined under Subsection 405.08 of these rules to the cost approach value determined under Subsection 405.02 of these rules. (1-1-04)T

b. The following special provisions apply for the reduction in market value of operating property resulting from QIE being elected. (1-1-04)T

i. Reduction in Idaho value. For operating property except situs property and operating property owned by electric distribution, generation, and transmission companies, the reduction in market value will be made by subtracting the market value of the QIE from the allocated Idaho value before apportionment to any taxing district or unit. (1-1-04)T

ii. Reduction in market value of operating property owned by electric distribution, generation, and transmission companies. For operating property owned by electric distribution, generation, and transmission companies, the reduction in market value will be made by subtracting the market value of the QIE from the calculated market value by county before apportionment to any taxing district or unit within that county. (1-1-04)T

iii. Reduction in market value of situs property owned by operating property companies. For situs property owned by operating property companies, the reduction in market value will be made by subtracting the market value of the specific investment in the specific location. (1-1-04)T

14. Denial Of QIE. If the QIE is denied for all or part of the market value of any item for which the QIE had been claimed, the assessor shall notify the taxpayer electing the QIE and shall identify the basis for the denial. (1-1-04)T

15. Cross Reference. For more information relating to procedures and requirements for QIE, refer to Section 63-3029B, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administrative and Enforcement Rules," Rule 450, and IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719. (1-1-04)T

989. (RESERVED).

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 563 through 565.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 29th day of October, 2003.

James Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 10

IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 563 through 565.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.10 - IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-0301

NOTICE OF RULEMAKING - 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(s) 63-105 and 63-3624, 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 15, 2003.

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:

Section 63-2510A, Idaho Code provides a minimum bonding requirement for cigarette distributors but no maximum. Cigarette tax rule 017 (IDAPA 35.01.10.017) provides for a $200,000 maximum bond. With the enactment of H.B. 264 the cigarette tax rate was increased from $.29 per pack to $.57 per pack. In light of this increase, the Tax Commission is proposing that the maximum bond amount be deleted from the rule.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0110-0301

017. SECURITY FOR TAX REQUIRED (Rule 017).

01. Security For Payment Of Taxes. Every wholesaler liable for payment of cigarette taxes provided

by Chapter 25, Title 63, Idaho Code, shall at all times have in effect and on file with the State Tax Commission security for payment of the excise tax. The security shall be in the form and amount acceptable to the State Tax Commission, shall be payable to the State Tax Commission, and shall be conditioned upon remittance of taxes imposed on cigarettes by this state for which such wholesaler shall be liable, including any penalty and interest. (7-1-98)

a. The amount of the security shall be at least two (2) times the amount of the tax due on an average monthly cigarette tax return, using the previous twelve (12) month period as a base, but in no case shall be less than one thousand dollars ($1,000)~~*, nor greater than two hundred thousand dollars ($200,000)*~~. ~~*(7-1-93)*~~(____)

b. If a wholesaler wishes to hold an inventory of unused Idaho cigarette stamps in excess of the limitations set by ~~*Idaho Cigarette Tax Administrative*~~ Rule 015 of these rules, the wholesaler must increase the amount of the security on file with the State Tax Commission accordingly, or pay a deposit to the State Tax Commission for future taxes due which exceed the limitations. ~~*(7-1-98)*~~(____)

c. Example: A wholesaler has an average monthly tax liability of two thousand dollars ($2,000). The wholesaler is required by the State Tax Commission to post a security in the amount of four thousand dollars ($4,000). The wholesaler wishes to hold an unused Idaho cigarette stamp inventory of ten thousand eight hundred dollars ($10,800). The wholesaler must increase the amount of the security on file with the State Tax Commission by six thousand eight hundred dollars ($6,800), or pay a deposit of six thousand eight hundred dollars ($6,800) to be applied to future tax due to the State Tax Commission. (7-1-98)

02. Reviewing Security On File. The State Tax Commission will review the amount of security on file periodically, but no less than annually, and may increase or decrease the amount of the required security in accordance with the increase or decrease of the wholesaler's average monthly tax liability. (7-1-98)

03. New Wholesaler Application. When a new wholesaler applies for a cigarette wholesaler's permit, as provided by Section 63-2503, Idaho Code, the security required will be determined as follows: (7-1-93)

a. If a cigarette tax reporting history is available from a previous ownership of the business, the new wholesaler shall furnish security based on the most recent twelve (12) month history of the prior ownership. (7-1-93)

b. If there is no cigarette tax reporting history available from a previous ownership of the business, the new wholesaler shall furnish security in the amount of an estimated two (2) month tax liability of the new firm, or one thousand dollars ($1,000), whichever is greater. The estimate shall be prepared by the new wholesaler and shall be subject to review and approval by the State Tax Commission. (7-1-98)

04. Types Of Security. A wholesaler required to post security may, in lieu of posting a surety bond, deposit with the State Tax Commission any of the following equivalent to the amount of the security required. (7-1-98)

a. Bearer bonds or other similar obligations of the United States having a market value not less than the amount of the bond required and made payable to the State Tax Commission. (7-1-98)

b. Automatically renewable time certificates of deposit, not exceeding the federally insured amount, issued by a bank doing business in this state and insured by the Federal Deposit Insurance Corporation, made in the name of the depositor, payable to the State Tax Commission, and containing the provisions that interest earned shall be payable to the depositor. (7-1-98)

c. Investment certificates or share accounts, not exceeding the federally insured amount, issued by a savings and loan association doing business in this state, and insured by the Federal Savings and Loan Insurance Corporation. Evidence of the insured account, either certificate or passbook, must be delivered to the State Tax Commission, along with a properly executed assignment from whereby the fund on deposit is assigned and made payable to the State Tax Commission. (7-1-98)

d. Irrevocable letters of credit, not exceeding the federally insured amount, issued by a bank doing business in Idaho, and insured by the Federal Deposit Insurance Corporation, made to the benefit of the State Tax

Commission. The terms of the letter of credit must permit the State Tax Commission to make demand directly against the issuer of the letter of credit for any taxes, penalties, and interest due and unpaid, upon which the taxpayer's rights to appeal have expired, and for which the letter of credit was submitted to secure. (7-1-98)

e. Lawful money of the United States. Cash bonds must be submitted in the form of a cashier's check, money order, or other certified funds which are payable to the State Tax Commission. (7-1-98)

05. Taxpayer Petition For Release From Security Requirements. A security shall be required in all instances unless the State Tax Commission, upon petition by the taxpayer, determines that a security is not required. (7-1-98)

a. The following conditions must be met before the State Tax Commission will release a taxpayer from the posting of a security: The taxpayer has filed all cigarette tax returns including supplemental schedules on a timely basis for a period of not less than twelve (12) months, and the taxpayer has paid all cigarette tax due on a timely basis for a period of not less than twelve (12) months. (7-1-98)

b. Upon written petition from the taxpayer, the State Tax Commission will review the filing record of the taxpayer and, if determined necessary, examine his books and records within sixty (60) days. The State Tax Commission will advise the taxpayer of its determination no later than ninety (90) days from the date of receipt of the taxpayer's petition. (7-1-98)

c. If a petition for release of security is denied, notice shall be mailed to the taxpayer by certified mail. The notice shall include the reasons for the State Tax Commission's determination. If the taxpayer wishes to seek a redetermination of the decision, he must file a petition for redetermination in the manner set forth in Section 63-3045, Idaho Code. The petition for redetermination must be filed no later than thirty (30) days from the date on which the notice of determination is mailed to or served upon the claimant. (7-1-98)

06. Failure To File Timely After Release From Security. If a taxpayer has been released from security requirements and fails to file a cigarette tax return or fails to pay the cigarette tax due by the due date specified in Chapter 25, Title 63, Idaho Code, the State Tax Commission may immediately make demand for the tax return or payment, and demand that a security be posted. (7-1-98)

a. The demand shall be in writing and shall be personally served on the taxpayer or mailed to him by certified mail. (7-1-93)

b. If the taxpayer wishes to petition for redetermination of the demand, he must do so in writing within ten (10) days of the date upon which the demand is mailed to or served on him. (7-1-93)

c. Failure to file a petition for redetermination will cause the demand to become final and a jeopardy assessment will be issued. Immediate collection actions shall be taken which may include seizing all Idaho cigarette stamps held by the taxpayer, filing liens of record, seizing all cigarettes held in the inventory of the taxpayer, revoking the taxpayer's cigarette permit, or notifying the manufacturers of the cigarettes held in the taxpayer's inventory of all actions taken. (7-1-93)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.11 - IDAHO UNCLAIMED PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0111-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 566 and 567.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact James Husted, at (208) 334-7530.

DATED this 29th day of October, 2003.

James Husted, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 01, CHAPTER 11

IDAHO UNCLAIMED PROPERTY TAX ADMINISTRATIVE RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 566 and 567.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.01.11 - IDAHO UNCLAIMED PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0111-0301

NOTICE OF RULEMAKING - 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(s) 63-105 and 14-539, 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 15, 2003.

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 015: Amend Subsection 015.02 to read “fifty dollars ($50) or less” from “less than fifty dollars ($50).” Amend Subsection 015.03 to read “more than fifty dollars ($50)” rather than “fifty dollars ($50) or more.” This brings the rule into conformity with Sections 14-501 and 14-520, Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Jim Husted, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0111-0301

015. REPORT OF ABANDONED PROPERTY (Rule 015).

01. Incomplete Report. A report filed with the State Tax Commission must meet the requirements of a valid tax return as set out in Administrative and Enforcement Rule 150. A report that does not meet the requirements

of a valid tax return may be returned to the holder as incomplete. Any report returned to the holder as incomplete will not be treated as filed in compliance with Section 14-517, Idaho Code. (7-1-98)

02. Voluntary Payments Of Unclaimed Property. A holder who voluntarily reports and remits any intangible property, as defined in Section 14-501, Idaho Code, with a total value of ~~*less than*~~ fifty dollars ($50) or less to the administrator is relieved of all liability in accordance with Section 14-520, Idaho Code. The administrator will remit the funds to the appropriate state. ~~*(7-1-98)*~~( )

03. Underlying Shares And Cumulative Dividends. The holder must report and remit total cumulative dividends to date, together with the stock certificate, when the certificate is in the holder's possession, if the value of total cumulative dividends plus the value of the underlying shares belonging to the apparent owner is more than fifty dollars ($50)~~ *or more*~~. ~~*(7-1-98)*~~( )

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0301

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 568 through 572.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 02, CHAPTER 01

TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

There are no substantive changes from the proposed rule text.

The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 568 through 572.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION RULES GOVERNING ADMINISTRATION AND ENFORCEMENT

DOCKET NO. 35-0201-0301

NOTICE OF RULEMAKING - 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(s) 63-105 and 63-3039, 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 15, 2003.

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: Section 63-3045, Idaho Code, establishes a formula for calculating the yearly interest rate applied to deficiencies of tax and refunds. The rates are published in Administration and Enforcement Rule 310. The rule needs to be amended to add the interest rate for calendar year 2004.

Rule 400: Sections 63-3033 and 63-3046, Idaho Code, provide for various late filing, late payment and extension of time related penalties. Calculations established in the statutes use the terms “total tax due under the provision of this chapter,” “total tax due,” and “tax due on such return.” Because the income tax returns also provide lines for taxpayers to pay fuels tax due or sales/use tax due or to receive fuels tax refunds, solely for the convenience of the taxpayer, the calculations for computing penalties can sometimes be interpreted differently. The rules therefore need to be amended to clarify what the tax amounts are for these calculations.

Rule 704: HB 453, passed by the 2003 Legislature, amended Section 63-3029B, Idaho Code, to allow a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment. Rule 704 identifies the government agencies with whom the Tax Commission can exchange information. Amendments to the statute now allow the Tax Commission to exchange information with the county assessors to properly coordinate the exemption. The rule needs to be amended to identify what can be exchanged with the county assessors with regard to this exemption. To make technical correction.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd, Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0301

310. INTEREST ~~*ON AMOUNTS OF TAX ACCRUING OR UNPAID*~~ RATES (Rule 310).
Sections 63-3045 and 63-3073, Idaho Code. ~~*(3-20-97)*~~( )

01. ~~***July 1, 1981, Through December 31, 1993***~~ **In General**. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of ~~*the period from July 1, 1981, through December 31, 1993, subject to assessment of interest pursuant to*~~ a calendar year is determined in accordance with Section 63-3045, Idaho Code~~*, is twelve percent (12%) simple interest*~~. 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. 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. ~~*(3-20-97)*~~( )

02. ~~***Calendar Year 1994****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1994 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 93-64***~~ **Idaho Interest Rates And Applicable Revenue Rulings**.

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
July 1, 1981, through December 31, 1993	12% simple interest	Not Applicable
Calendar Year 1994	7% simple interest	Revenue Ruling 93-64
Calendar Year 1995	9% simple interest	Revenue Ruling 94-61
Calendar Year 1996	8% simple interest	Revenue Ruling 95-67
Calendar Year 1997	9% simple interest	Revenue Ruling 96-49
Calendar Year 1998	8% simple interest	Revenue Ruling 97-41
Calendar Year 1999	7% simple interest	Revenue Ruling 98-50
Calendar Year 2000	8% simple interest	Revenue Ruling 99-41
Calendar Year 2001	8% simple interest	Revenue Ruling 2000-45
Calendar Year 2002	7% simple interest	Revenue Ruling 2001-49
Calendar Year 2003	5% simple interest	Revenue Ruling 2002-61
Calendar Year 2004	6% simple interest	Revenue Ruling 2003-107

~~*(3-20-97)*~~( )

~~***03.*** ***Calendar Year 1995****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1995 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is nine percent (9%) simple interest. See Revenue Ruling 94-61.*** ***(3-20-97)***~~

~~***04.*** ***Calendar Year 1996****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1996 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 95-67.*** ***(3-20-97)***~~

~~***05.*** ***Calendar Year 1997****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1997 subject to assessment of interest pursuant to Section 63-3045, Idaho***~~

~~*Code, is nine percent (9%) simple interest. See Revenue Ruling 96-49.* (3-20-97)~~

~~***06.*** ***Calendar Year 1998****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1998 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 97-41.* (3-19-99)~~

~~***07.*** ***Calendar Year 1999****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 1999 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 98-50.* (4-5-00)~~

~~***08.*** ***Calendar Year 2000****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2000 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 99-41.* (4-5-00)~~

~~***09.*** ***Calendar Year 2001****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2001 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is eight percent (8%) simple interest. See Revenue Ruling 2000-45.* (2-23-01)~~

~~***10.*** ***Calendar Year 2002****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2002 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is seven percent (7%) simple interest. See Revenue Ruling 2001-49.* (3-15-02)~~

~~***11.*** ***Calendar Year 2003****. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of calendar year 2003 subject to assessment of interest pursuant to Section 63-3045, Idaho Code, is five percent (5%) simple interest. See Revenue Ruling 2002-61.* (5-3-03)~~

(BREAK IN CONTINUITY OF SECTIONS)

400. PENALTIES -- GENERAL RULES (Rule 400).
Sections 63-3033 and 63-3046, Idaho Code. ~~(3-20-97)~~(____)

01. Penalty Presumed Appropriate. If a taxpayer becomes liable to pay the Internal Revenue Service a penalty similar to one provided in Section 63-3046, Idaho Code, it shall be presumed the penalty is appropriate as part of the related state tax deficiency. (3-20-97)

02. ~~***Credits To Be Considered****. The penalties referred to in this rule apply to the net amount of the tax due after applicable credits.*~~ **Computation Of Tax Due Amounts For Extension Of Time Criteria**. For purposes of computing whether the taxpayer has met the extension of time criteria provided in Section 63-3033, Idaho Code, the terms, total tax due on the income tax return when it is filed, total tax due on the income tax return for the prior year, and total tax due under the provisions of this chapter shall mean amounts computed as follows: ~~(3-20-97)~~(____)

a. Include the income tax, the permanent building fund tax, tax from recapture of Idaho income tax credits, and any income tax credits. (____)

b. Exclude items reported on the income tax return that are not included in Title 63, Chapter 30, Idaho Code, such as sales or use tax due, fuels tax due, and special fuels or gasoline tax refunds. Payments for the amounts included in Subsection 400.02.a. are also excluded for purposes of this calculation. (____)

03. Computation Of Tax Due Amounts For Failure To File, Failure To Pay, Delinquent Filing, And Extension Penalties. For purposes of computing the failure to file, failure to pay, or delinquent filing penalties, provided by Section 63-3046, Idaho Code, and the penalty for failing to meet the extension criteria, provided by Section 63-3033, Idaho Code, the terms tax shown thereon to be due and tax due on such return, and the amount on which the extension penalty is applied shall mean amounts computed as follows: (____)

a. Include the income tax, the permanent building fund tax, tax from recapture of Idaho income tax credits, income tax credits, and any payments for these taxes for that year. ( )

b. Exclude items reported on the income tax return that are not included in Title 63, Chapter 30, Idaho Code, such as sales or use tax due, fuels tax due, and special fuels or gasoline tax refunds. ( )

0~~3~~4. Net Operating Loss And Capital Loss Carrybacks. If the tax due for the taxable year is reduced after the application of a net operating loss carryback or a capital loss carryback, the penalty shall be computed on the tax due prior to the application of the carryback. (5-3-03)

0~~4~~5. Minimum Penalty. A ten dollar ($10) minimum penalty applies to each penalty imposed by Subsection (a), (b), (c)(1), (d) or (e) of Section 63-3046 and by Section 63-3033, Idaho Code. For example, if a taxpayer fails to file only one (1) withholding tax statement, which generally results in a penalty of two dollars ($2) pursuant to Section 63-3046(e)(1), Idaho Code, a penalty of ten dollars ($10) will be applied. (3-15-02)

0~~5~~6. Dishonored Checks. The charge provided by Section 63-3046(h), Idaho Code, for each dishonored check or instrument is: (2-23-01)

a. Ten dollars ($10) if dishonored prior to July 1, 2001. (2-23-01)

b. Twenty dollars ($20) if dishonored on or after July 1, 2001. (2-23-01)

c. This charge may be added even if sufficient funds are in the taxpayer's account after the date of dishonor. (2-23-01)

(BREAK IN CONTINUITY OF SECTIONS)

704. DISCLOSURE OF INFORMATION -- GOVERNMENT AGENCIES AND OFFICIALS. (Rule 704). Sections 39-~~7~~8405, 50-1049, 63-2442, 63-3029B, 63-3077, 63-3077A, 63-3077B, 63-3077C, 63-3634A, and 67-4917C, Idaho Code. ~~(5-3-03)~~( )

01. Legislature. The Tax Commission shall disclose returns or return information to the Idaho Legislature on the written request of the chair of any committee of either branch of the Idaho Legislature on behalf of the committee. When authorized by statute, the Tax Commission shall disclose information to the Legislative Council, the Joint Legislative Oversight Committee, or to the Joint Finance and Appropriations Committee. (3-20-97)

02. Government Agencies Or Officials. The Tax Commission shall disclose information necessary to comply with provisions of the Idaho Code requiring reports or information to be provided to government agencies or officials. This includes the disclosure of tax returns and return information for use in enforcing child support obligations pursuant to Section 56-231, Idaho Code. (3-20-97)

03. Exchange Of Information. Information may be exchanged between the Tax Commission and: (4-5-00)

a. The Internal Revenue Service, as allowed by Section 63-3077(1)(a), Idaho Code; (5-3-03)

b. Other states, if reciprocal provisions for information exchanges are granted under Section 63-3077(1)(b), Idaho Code; (5-3-03)

c. County assessors, limited to: ( )

i. ~~i~~Information relating to the taxpayer's residence or domicile, Section 63-3077(4), Idaho Code; and ~~(5-3-03)~~( )

ii. Information related to the property tax exemption claimed in lieu of the Idaho investment tax credit, as allowed by Section 63-3029B, Idaho Code. ( )

d. Department of Labor, as allowed by Section 63-3077A, Idaho Code; (4-5-00)

e. Industrial Commission, as limited by Section 63-3077B, Idaho Code; (4-5-00)

f. Multistate Tax Commission, as allowed by Section 63-3077(1)(b), Idaho Code; (5-3-03)

g. Idaho Transportation Department, relating to: ( )

i. ~~f~~Fuels tax, as allowed by Section 63-2442, Idaho Code~~,~~; and ~~*relating to*~~ ( )

ii. ~~r~~Residency information, as allowed by Section 63-3634A, Idaho Code~~;~~. ~~*(5-3-03)*~~( )

h. Financial Management Services of the U. S. Department of the Treasury, as allowed by Section 63-3077(1)(a), Idaho Code; (5-3-03)

i. Governing entity of the International Fuels Tax Agreement, IFTA, Inc., as allowed by Section 63-3077(1)(b), Idaho Code; (5-3-03)

j. Department of Fish and Game, limited to information relating to an individual's place of residence or domicile, Section 63-3077C, Idaho Code; (5-3-03)

k. Attorney General, as limited by Section 39-~~7~~8405, Idaho Code; ~~*(5-3-03)*~~( )

l. Resort cities, as allowed by Section 50-1049, Idaho Code; and (5-3-03)

m. Auditorium districts, as allowed by Section 67-4917C, Idaho Code. (5-3-03)

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0302

NOTICE OF RULEMAKING - PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2004 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, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified 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 Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 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 changes between the text of the proposed rule and text of the pending rule.

The proposed Rule 450 is being amended from the proposed text for reference changes. In Subsection 450.01. a reference change was made.

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 original text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 573 and 574.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact Janice Boyd, at (208) 334-7530.

DATED this 13th day of November, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

IDAPA 35, TITLE 02, CHAPTER 01

TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 573 and 574.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

Language That Has Been Deleted From The Original Proposed Rule Has Been Removed And New Language Is Shown In Italics

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO 35-0201-0302

SUBSECTION 450.01. (Partial Section)

450. PROPERTY TAX EXEMPTION PENALTY (Rule 450).
Section 63-3029B, Idaho Code. ( )

01. In General. If a taxpayer is electing or has elected the property tax exemption allowed by Section 63-3029B, Idaho Code, for property sold or otherwise disposed of, or that ceases to qualify or failed to originally qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a penalty shall be computed by the Tax Commission. See IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 988, for information related to the election of qualified property for exemption. See IDAPA 35.01.0*1*, "*Income* Tax Administrative Rules," Rule 719, for information related to the requirement that the taxpayer had negative Idaho taxable income in the second preceding taxable year from the taxable year in which the qualified property was placed in service. ( )

2004 - Revenue and Tax House Pending Rule (Yellow)

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-0302

NOTICE OF RULEMAKING - 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(s) 63-105 and 63-3039, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

DATE: **Tuesday, October 7, 2003**
TIME: **10:00 a.m.**
PLACE: **Conference Room 1CR5**
Idaho State Tax Commission
800 Park Blvd., Plaza IV, Boise, ID

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:

Administration and Enforcement Rule 450: H.B. 453 passed by the 2003 Legislature, amended Section 63-3029B, Idaho Code, to allow a property tax exemption on personal property in lieu of claiming the investment tax credit on qualified investment. A new Administration and Enforcement Rule 450 is being promulgated to discuss specifics of the property tax exemption penalty.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

NEGOTIATED RULEMAKING: Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the proposed changes are of a simple nature.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Janice Boyd, at (208) 334-7530.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 15th day of August, 2003.

Janice Boyd
Tax Policy Specialist
Idaho State Tax Commission
800 Park Bl., Plaza IV
P.O. Box 36
Boise, ID 83722-0410

THE FOLLOWING IS THE TEXT OF DOCKET NO. 35-0201-0302

431. -- 4~~9~~49. (RESERVED).

450. PROPERTY TAX EXEMPTION PENALTY (Rule 450).
Section 63-3029B, Idaho Code. ( )

01. In General. If a taxpayer is electing or has elected the property tax exemption allowed by Section 63-3029B, Idaho Code, for property sold or otherwise disposed of, or that ceases to qualify or failed to originally qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a penalty shall be computed by the Tax Commission. See IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 988, for information related to the election of qualified property for exemption. See IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 719, for information related to the requirement that the taxpayer had negative Idaho taxable income in the second preceding taxable year from the taxable year in which the qualified property was placed in service. ( )

02. Calculation Of Penalty. A penalty of two (2) times the average urban property tax levy of the state of Idaho as calculated by the Tax Commission shall be multiplied by the claimed investment. For purposes of computing the penalty: ( )

a. Claimed investment shall be the value of the nonqualifying investment that would have been taxable for property tax purposes for the first year of the exemption if such exemption had not been allowed. ( )

b. Average urban property tax levy of the state shall be the levy computed as such by the Tax Commission for the first year for which property subject to the penalty was exempt. ( )

03. Notification That Property Ceases To Qualify. If property on which a taxpayer claimed the property tax exemption ceases to qualify during the recapture period or was incorrectly claimed by the taxpayer as qualified investment, the taxpayer shall notify the Tax Commission in writing, of such information. The taxpayer shall provide a schedule that includes a description of each property that ceases to qualify, the county the property was located in, and the original cost for the property. ( )

04. Notification Of Penalty Amount By Tax Commission. Upon receiving information that property on which the property tax exemption was claimed was sold or otherwise disposed of, or that ceases to qualify or failed to originally qualify during the recapture period, the Tax Commission shall issue a Notice of Deficiency in the manner provided in Section 63-3045, Idaho Code, to the owner of the nonqualifying property. ( )

05. Protest Of Penalty. If a taxpayer does not agree with the Notice of Deficiency issued to assert the penalty, the taxpayer may file a protest with the Tax Commission to request a redetermination of the deficiency. The protest shall meet the requirements as provided in Section 63-3045, Idaho Code, and Rule 320 of these rules. ( )

451. -- 499. (RESERVED).

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