

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 37

BY RINGO

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3048, IDAHO CODE, TO REMOVE  
2 THE MONETARY REQUIREMENT ON APPLICABILITY OF THE STATE ON ADJUSTED  
3 OR COMPROMISED CASES, TO REQUIRE INCREASED INVOLVEMENT OF STATE TAX  
4 COMMISSIONERS AND AUDIT STAFF IN FINALIZING SETTLEMENT AND CLOSING  
5 AGREEMENTS, TO REQUIRE CERTAIN WRITTEN DETAIL IN SETTLEMENT AND CLOSING  
6 AGREEMENTS AND TO REQUIRE CERTAIN WRITTEN DETAIL IN ANNUAL REPORTS TO  
7 THE LEGISLATURE.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 63-3048, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 63-3048. ADJUSTED OR COMPROMISED CASES -- SETTLEMENT AND CLOSING  
13 AGREEMENTS. (a) The state tax commission or its delegate is authorized to  
14 enter into an agreement in writing with any person relating to the liability  
15 of such person, or of the person for whom he is acting, in respect of any tax  
16 under this chapter for any taxable period ending prior to the date of the  
17 agreement.

18 (b) ~~Where the amount in issue relating to the tax liability of any tax-~~  
19 ~~payer is equal to or exceeds fifty thousand dollars (\$50,000) and the commis-~~  
20 ~~sion has delegated the authority to enter into a settlement or closing agree-~~  
21 ~~ment for such liability to an individual commissioner, t~~The following mini-  
22 imum standards of procedure shall apply:

23 (1) In addition to the individual commissioner delegated the princi-  
24 pal responsibility to negotiate on behalf of the commission, ~~a second~~  
25 ~~commissioner~~ at least two (2) other commissioners shall be present for  
26 a final review of the negotiated settlement or closing agreement. ~~Both~~  
27 All commissioners shall be required to sign the settlement or closing  
28 agreement to make it binding and complete.

29 (2) In addition to the ~~two (2)~~ commissioners present at the final re-  
30 view, a representative of the office of the attorney general shall be  
31 present as well as tax commission staff, which shall include ~~a tax pol-~~  
32 ~~icy specialist and either a representative~~ the auditor or auditor su-  
33 pervisor from the audit division or other division where the case origi-  
34 nated.

35 (3) The tax policy specialist or deputy attorney general assigned to a  
36 settlement or closing agreement shall prepare and submit to the commis-  
37 sion a written summary for the final review explaining the terms of the  
38 settlement or closing agreement. The summary shall include ~~any all com-~~  
39 ~~ments and recommendations of agency staff including audit staff~~ the au-  
40 ditor or auditor supervisor.

1 (4) The tax commission shall retain a copy of all settlement and closing  
2 agreements and, in addition, all summaries prepared pursuant to subsec-  
3 tion (b) (3) of this section.

4 (c) The tax commission shall submit an annual report to the governor and  
5 the legislature by March 1 of each year summarizing all settlement and clos-  
6 ing agreements entered into during the previous calendar year. ~~as defined by~~  
7 ~~subsection (b) of this section~~ This report shall be published and maintained  
8 on the tax commission website and shall include for each settlement and clos-  
9 ing agreement all of the following information:

10 (1) The name or names of the taxpayers who are parties to the settle-  
11 ment.

12 (2) The total amount in dispute.

13 (3) Any possible future tax consequences of the settlement.

14 (4) The amount agreed to pursuant to the settlement.

15 (5) A summary of all facts, issues and conclusions relevant to the dis-  
16 pute and the reasons why the settlement is in the best interests of the  
17 state of Idaho.

18 ~~(d) The tax commission shall promulgate administrative rules in com-~~  
19 ~~pliance with chapter 52, title 67, Idaho Code, to implement the provisions of~~  
20 ~~this section~~ The report shall not include any information that relates to any  
21 trade secret, patent, process, style of work, apparatus, business secret,  
22 or organizational structure that, if disclosed, would adversely affect the  
23 taxpayer or the national defense.

24 (e) The commission shall adopt rules establishing criteria for deter-  
25 mining when and whether to enter into settlement or closing agreements with  
26 taxpayers. These rules shall require the existence of doubt as to liability,  
27 doubt as to collectability or extreme hardship of the taxpayer.

28 (1) The tax commission shall promulgate administrative rules in com-  
29 pliance with chapter 52, title 67, Idaho Code, to implement the provi-  
30 sions of this section.

31 (2) Such agreement shall be final and conclusive and, except upon a  
32 showing of fraud or malfeasance, or misrepresentation of a material  
33 fact:

34 (1i) The case shall not be reopened as to matters agreed upon or  
35 the agreement modified by any officer, employee, or agent of the  
36 state.

37 (2ii) In any suit, action, or proceeding, such agreement, or  
38 any determination, assessment, collection, payment abatement,  
39 refund, or credit made in accordance therewith, shall not be an-  
40 nulled, modified, set aside, or disregarded.