

Dear Senators SIDDOWAY, Rice, Werk, and
Representatives COLLINS, Wood, Burgoyne:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the State Tax Commission:

IDAPA 35.02.01 - The Tax Commission Administration and Enforcement Rules - Proposed Rule
(Docket No. 35-0201-1401).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/07/2014. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/09/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Local Government & Taxation Committee and the House Revenue & Taxation Committee

FROM: Principal Legislative Research Analyst - Brooke Brouman

DATE: October 21, 2014

SUBJECT: State Tax Commission

IDAPA 35.02.01 - The Tax Commission Administration and Enforcement Rules - Proposed Rule (Docket No. 35-0201-1401)

The State Tax Commission's proposed rule adds the interest rate for calendar year 2015 and the Revenue Ruling where the federal rate for the calculation can be found. The Commission's proposed rule also revises procedures on settlements over \$50,000, including changes to requirements for a final review, a written summary and a final review when the offer to settle is based on the inability to pay. The Commission states that these revisions reflect current changes in the agency.

Negotiated rulemaking was not conducted because the changes are simple in nature.

The proposed rule is within the authority granted to the Commission in Sections 63-105 and 63-3039, Idaho Code.

cc: State Tax Commission
Sherry Briscoe

IDAPA 35 - STATE TAX COMMISSION

35.02.01 - TAX COMMISSION ADMINISTRATION AND ENFORCEMENT RULES

DOCKET NO. 35-0201-1401

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 Sections 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, 2014.

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 is being amended to add the interest rate for calendar year 2015 and the Revenue Ruling where the federal rate for the calculation can be found.

Rule 501 is being amended to reflect current division changes in the agency.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were of a simple nature.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian at (208) 334-7670.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before Wednesday, October 22, 2014.

DATED this 27th day of August, 2014.

Cynthia Adrian
Tax Policy Specialist
Idaho State Tax Commission
P.O. Box 36
Boise, ID 83722-0410
(208) 334-7670

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0201-1401
(Only those Sections being amended are shown.)

310. INTEREST RATES (RULE 310).

Sections 63-3045 and 63-3073, Idaho Code.

(3-20-04)

01. In General. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year is determined in accordance with Section 63-3045, Idaho Code. 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 of this rule. 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.

(4-6-05)

02. 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
Calendar Year 2005	6% simple interest	Revenue Ruling 2004-69
Calendar Year 2006	6% simple interest	Revenue Ruling 2005-57
Calendar Year 2007	7% simple interest	Revenue Ruling 2006-44
Calendar Year 2008	7% simple interest	Revenue Ruling 2007-57
Calendar Year 2009	5% simple interest	Revenue Ruling 2008-46
Calendar Year 2010	5% simple interest	Revenue Ruling 2009-29
Calendar Year 2011	4% simple interest	Revenue Ruling 2010-20
Calendar Year 2012	4% simple interest	Revenue Ruling 2011-20
Calendar Year 2013	3% simple interest	Revenue Ruling 2012-24

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
Calendar Year 2014	4% simple interest	Revenue Ruling 2013-18
<u>Calendar Year 2015</u>	<u>4% simple interest</u>	<u>Revenue Ruling 2014-22</u>

(3-20-14)()

(BREAK IN CONTINUITY OF SECTIONS)

501. PROCEDURES ON SETTLEMENTS OVER FIFTY THOUSAND DOLLARS (RULE 501).

Section 63-3048, Idaho Code.

(3-29-10)

01. Signatures for Settlement. For settlement agreements where the amount in issue equals or exceeds fifty thousand dollars (\$50,000), the signature of two (2) commissioners is required on the settlement agreement to make it binding and complete. One of the commissioners signing must be delegated the responsibility for oversight of the tax type subject to the settlement. (3-29-10)

02. Amount in Issue. The amount in issue is defined as the Notice of Deficiency amount, plus or minus any adjustments previously communicated in writing to the taxpayer, minus the proposed settlement amount. (3-29-10)

a. Example 1. The audit staff issues a Notice of Deficiency to the taxpayer for one hundred fifty thousand dollars (\$150,000). The taxpayer then submits documentation for additional examination by the Commission or its staff. As a result of the examination, the amount claimed due is reduced to one hundred twenty thousand dollars (\$120,000), and the taxpayer is notified in writing. The taxpayer then submits an offer to settle for eighty thousand dollars (\$80,000). The amount in issue is forty thousand dollars (\$40,000). (3-29-10)

b. Example 2. Same facts as in Paragraph 501.02.a., except the taxpayer makes the offer to settle before the Commission communicates the reduction in the amount claimed due based on the additional documentation. In this case, the amount in issue is seventy thousand dollars (\$70,000) (NOD amount of \$150,000 - settlement offer of \$80,000 = \$70,000), because the Commission has not communicated the allowance of the deduction to the taxpayer, and the taxpayer is not aware of the adjustment at the time he made the offer. (3-29-10)

c. Example 3. The taxpayer files a refund claim of one hundred thousand dollars (\$100,000). The audit staff reviews the claim and determines the taxpayer is entitled to a refund of twenty thousand dollars (\$20,000). The taxpayer protests the denial of the remaining eighty thousand dollars (\$80,000). The taxpayer makes an offer to settle by proposing a refund of seventy-five thousand dollars (\$75,000). The amount in issue is fifty-five thousand dollars (\$55,000), which is the difference between the refund allowed and the proposed settlement amount. The calculation is as follows:

Audit staff NOD amount	(\$20,000)
Less settlement offer	- (\$75,000)
Amount in issue	(\$55,000)

(3-29-10)

d. Example 4. The taxpayer files a refund claim of one hundred thousand dollars (\$100,000). The audit staff reviews the claim and determines the taxpayer is not entitled to a refund and instead owes fifty thousand dollars (\$50,000). The audit staff issues a Notice of Deficiency for fifty thousand dollars (\$50,000) and a denial of the refund claim. The taxpayer submits additional documentation for examination by the Commission or its staff. After review, the amount claimed due is reduced to thirty thousand dollars (\$30,000), and this is communicated to the taxpayer in writing. The taxpayer then offers to settle by proposing a refund of forty thousand dollars (\$40,000). The

amount in issue is seventy thousand dollars (\$70,000). The calculation is as follows:

Audit staff NOD amount	\$50,000
Less adjustment submitted to taxpayer	-\$20,000
Amount claimed due	\$30,000
Less settlement offer	-\$40,000
Amount in issue	\$70,000

(3-29-10)

- e. For purposes of the amount in issue, interest will be updated to the date of the offer. (3-29-10)

03. Final Review. When considering a proposed settlement, and the amount in issue equals or exceeds fifty thousand dollars (\$50,000), the Commission will hold a final review before deciding to finalize the settlement. The meeting on the final review will be attended by at least two (2) commissioners, ~~a~~ the tax policy specialist manager or designee, a deputy attorney general, and a representative from the division in which the Notice of Deficiency originated. The representative shall will be either the division administrator or the bureau chief. One of the commissioners must be the commissioner delegated oversight responsibility for the tax at issue, and the other commissioner signing the settlement agreement must attend the final review. The purpose of the final review is to evaluate the merits of the proposed settlement. (3-29-10)()

04. Written Summary. The deputy attorney general or tax policy specialist designee at the final review shall will prepare a written summary of the proposed settlement. The summary shall will include recommendations of the audit staff as well as recommendations of the preparer. The summary shall will be provided to those attending the review. This summary does not preclude the Commission from seeking a separate analysis from other agents of the Commission. A copy of the summary, along with a copy of the related settlement agreement, shall will be maintained in separate files of the Commission. Such files may not be disclosed or inspected under the public records law. (3-29-10)()

05. Final Review When the Offer to Settle is Based on Inability to Pay. If the taxpayer's offer is based on inability to pay, a representative of the ~~Field Services Bureau~~ Collection Division will be provided a copy of the Written Summary and given an opportunity to participate in the final review. The representative attending the final review on behalf of the ~~Field Service Bureau~~ Collection Division will be the division administrator or the ~~bureau chief~~ designee. (3-29-10)()

06. Annual Summary. The Commission shall will submit an annual report to the governor and legislature by March 1 of each year summarizing all settlement agreements entered into during the previous calendar year in which the amount in issue equals or exceeds fifty thousand dollars (\$50,000). The annual summary shall will be based on the written summary for all applicable cases. The annual summary shall will not contain any confidential taxpayer information but shall will include a brief general description of each settlement. The annual summary shall will be a public record subject to disclosure and inspection. (3-29-10)()

07. Applicable Settlements. This rule applies to those matters when a protest has been timely filed pursuant to Section 63-3045, Idaho Code, and before the tax has been assessed, and to cases in which a decision of the Tax Commission has been appealed to the Board of Tax Appeals or to a court. However, this rule shall will not apply to settlements where the amount in issue is less than fifty thousand dollars (\$50,000). (3-29-10)()