

Dear Senators JOHNSON, Bayer, Burgoyne, and
Representatives COLLINS, Kauffman, Erpelding:

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

IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1801).

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 09/21/2018. 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 10/22/2018.

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: Division Manager - Kristin Ford

DATE: September 04, 2018

SUBJECT: State Tax Commission

IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1801)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking relating to the Income Tax. There are many miscellaneous changes being made in this rule docket:

Rule 015 clarifies how the Tax Commission applies federal retroactive provisions and provides that uncodified provisions of federal law are included when calculating Idaho taxable income.

Rule 017 tells taxpayers how to report federal Section 965 deemed repatriation income on an Idaho return.

Rule 075 adds the tax brackets for calendar year 2018 and removes the bracket for calendar year 2013.

Rule 108 and Rule 253 comply with section 63-3022, Idaho Code, by mirroring statutory language regarding when nonqualified withdrawals from a college savings plan may be added to taxable income.

Rule 185 increases the amount of the income tax deduction for adoption expenses, pursuant to the 2018 change to section 63-3022I, Idaho Code.

Rule 263 adds the 2018 amount of guaranteed payments that are sourced as compensation for services (adjusted annually by the Tax Commission pursuant to section 63-3026A(3)(a), Idaho Code).

Rule 300 adds a chart of the corporate income tax rates.

Rules 745-748 are being deleted because the underlying statute has expired (Credit for Qualifying New Employees).

Rules 755-759 are being deleted because the underlying statute has expired (Hire One Act).

Rules 760 and 763 are being deleted because the underlying statute has expired (Incentive Investment Tax Credit).

Rules 765-767 are being deleted because the underlying statute has expired (Biofuel Infrastructure Investment Tax Credit).

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
Budget & Policy Analysis

April Renfro, Manager
Legislative Audits

Glenn Harris, Manager
Information Technology

Rules 790, 791 and 793 are being amended to delete reference to the expired Incentive Investment Tax Credit.

Rule 799 is being amended to delete provisions relating to expired statutes and to add reference to the new Idaho child tax credit found in section 63-3029L, Idaho Code.

Rule 830 changes the date the withholding reconciliation return must be filed from the last day of February to the last day of January.

Rules 890 and 891 are being amended to comply with the 2018 changes to section 63-3069, Idaho Code, which revises the time period within which a taxpayer must notify the Tax Commission of a change in federal taxable income or in taxes paid to another state.

Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was not conducted due to the simple nature of the rules. No fiscal impact is expected.

Statutory Authority

The proposed rule appears to be within the agency's statutory authority under sections 63-105 and 63-3039, Idaho Code, in addition to the other statutory citations provided in the Summary section of this memo.

cc: State Tax Commission
Kimberlee Stratton

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 35 – STATE TAX COMMISSION
35.01.01 – INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-1801
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 August 15, 2018

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 – The changes to this rule clarify how the Tax Commission applies Federal retroactive provisions and clarify that uncodified provisions of federal law are included when calculating Idaho taxable income.

RULE 017 – This new rule tells taxpayers how to report federal section 965 deemed repatriation income on the Idaho return.

RULE 075 – Rule 075 is being amended to add the tax brackets for calendar year 2018 and remove the information for calendar year 2013 so only five years of historical data is retained in the rule.

RULE 108 – Rule 108 is being amended consistent with 2018 HB515. This change adds the statement that the addition to taxable income for a nonqualified withdrawal from a college savings plan is limited to contributions previously exempt from Idaho income tax and earnings generated from the program as long as the earnings aren't already included in federal adjusted gross income.

RULE 185 – Rule 185 is being amended consistent with 2018 HB453. This change increases the amount of the income tax deduction for adoption expenses from \$3,000 to \$10,000.

RULE 253 – Rule 253 is being amended consistent with 2018 HB515. This change adds the statement that the addition to taxable income for a nonqualified withdrawal from a college savings plan is limited to contributions previously exempt from Idaho income tax and earnings generated from the program as long as the earnings aren't already included in federal adjusted gross income.

RULE 263 – Rule 263 is being amended to add the amount of guaranteed payments that are sourced as compensation for services for calendar year 2018.

RULE 300 – We've added a section to this rule to list the corporate tax rates for 2001 through 2018.

RULES 745-748 – Rules 745-748 are being deleted since the statute is expired (Credit for Qualifying New Employees).

RULES 755-759 – Rules 755-759 are being deleted since the statute is expired (Hire One Act).

RULES 760 & 763 – Rules 760 & 763 are being deleted since the statute is expired (Incentive Investment Tax Credit).

RULES 765-767 – Rules 765-767 are being deleted since the statute is expired (Biofuel Infrastructure Investment Tax Credit).

RULES 790, 791 & 793 – Rules 790, 791 & 793 are being amended to delete the references to the incentive investment tax credit since the statute is expired.

RULE 799 – Rule 799 is being amended to delete sections for statutes that no longer exist and add the new Idaho child tax credit.

RULE 830 – Changes the date the withholding reconciliation return must be filed from the last day of February to the last day of January.

RULES 890 and 891 – Rules 890 and 891 are being amended consistent with 2018 HB382. This change modifies the time period that a taxpayer has to notify the Tax Commission of a change in federal taxable income or in tax paid to another state.

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

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rules are simple in 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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Cynthia Adrian, (208) 334-7670. For general questions, contact Kimberlee Stratton, (208) 334-7544.

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 August 22, 2018.

DATED this 6th day of July, 2018.

Cynthia Adrian, Tax Policy Specialist
State Tax Commission
800 Park Blvd., Plaza IV
P.O. Box 36
Boise, ID 83722-0410
Phone: (208) 334-7670
Fax: (208) 334-7844

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0101-1801
(Only Those Sections With Amendments Are Shown.)

015. INTERNAL REVENUE CODE (RULE 015).
Section 63-3004, Idaho Code

01. Interpretations. Interpretations of the Internal Revenue Code may be found in various sources. These sources include decisions of the Tax Court, Congressional Committee Reports, General Counsel Memoranda, Decisions of the Federal and State Courts on federal income tax issues and Treasury Regulations. These interpretations are adopted by this reference to the extent that they are not in conflict with or inconsistent with the

Idaho Code or administrative rules.

(3-20-97)

02. Internal Revenue Code Definition. The definition of the term “Internal Revenue Code,” as defined in Section 63-3004, Idaho Code, includes all uncodified provisions in federal law that relate to provisions of the Internal Revenue Code and also includes any other provision of federal law that is used to determine federal taxable income. ()

03. Retroactive Amendments. For the purpose of determining federal taxable income, any retroactive amendments to the Internal Revenue Code that are enacted on or before the date found in Section 63-3004(a), Idaho Code, are applied retroactively to the extent allowed under federal law. ()

024. Tax Commission Granted Discretion in Determining Correctness of Tax Return. Discretion granted to the Secretary of the Treasury to determine or reallocate items of income or adjustments to income, deductions, expenses, credits or other subjects of taxation by the Internal Revenue Code may also be exercised by the Tax Commission and its authorized agents, employees and deputies to enforce and administer the Idaho Income Tax Act and these rules. (3-20-97)

(BREAK IN CONTINUITY OF SECTIONS)

017. TREATMENT OF THE SECTION 965 OF THE INTERNAL REVENUE CODE INCREASE IN SUBPART F INCOME AND RELATED EXCLUSIONS (RULE 017).

Subpart F income as defined in Section 952, Internal Revenue Code, is gross income under Section 951(a), Internal Revenue Code, and included in a taxpayer’s taxable income under the Internal Revenue Code. Idaho taxpayers must include the Section 965, Internal Revenue Code, increase in their subpart F income (Section 965(a) reduced by Section 965(b), Internal Revenue Code), when computing their Idaho taxable income regardless of how such income is reported to the Internal Revenue Service on the federal income tax form. ()

0178. -- 024. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).
Section 63-3024, Idaho Code

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate for the latest five (5) years are identified in Subsection 075.03 of this rule. The Idaho income tax brackets are adjusted for inflation. The maximum tax rate as listed for the applicable taxable year in Subsection 075.03 of this rule applies in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-7-11)

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

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household is twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (4-7-11)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax is computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount is multiplied by two (2). (4-7-11)

03. Tables Identifying the Idaho Tax Rates and Income Tax Brackets. (3-20-04)

a. For taxable years beginning in 2013:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,409	\$0	+	1.6% of taxable income
\$1,409	\$2,818	\$22.54	+	3.6% of the amount over \$1,409
\$2,818	\$4,227	\$73.26	+	4.1% of the amount over \$2,818
\$4,227	\$5,636	\$131.03	+	5.1% of the amount over \$4,227
\$5,636	\$7,045	\$202.89	+	6.1% of the amount over \$5,636
\$7,045	\$10,568	\$288.84	+	7.1% of the amount over \$7,045
\$10,568 or more		\$538.94	+	7.4% of the amount over \$10,568

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2013.

(3-20-14)

b. For taxable years beginning in 2014:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,429	\$0	+	1.6% of taxable income
\$1,429	\$2,858	\$22.86	+	3.6% of the amount over \$1,429
\$2,858	\$4,287	\$74.30	+	4.1% of the amount over \$2,858
\$4,287	\$5,716	\$132.89	+	5.1% of the amount over \$4,287
\$5,716	\$7,145	\$205.77	+	6.1% of the amount over \$5,716
\$7,145	\$10,718	\$292.94	+	7.1% of the amount over \$7,145
\$10,718 or more		\$546.59	+	7.4% of the amount over \$10,718

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2014.

(4-11-15)

eb. For taxable years beginning in 2015:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,452	\$0	+	1.6% of taxable income
\$1,452	\$2,904	\$23.23	+	3.6% of the amount over \$1,452
\$2,904	\$4,356	\$75.50	+	4.1% of the amount over \$2,904
\$4,356	\$5,808	\$135.03	+	5.1% of the amount over \$4,356

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$5,808	\$7,260	\$209.08	+	6.1% of the amount over \$5,808
\$7,260	\$10,890	\$297.65	+	7.1% of the amount over \$7,260
\$10,890 or more		\$555.38	+	7.4% of the amount over \$10,890

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.

(3-25-16)

dc. For taxable years beginning in 2016:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,454	\$0	+	1.6% of taxable income
\$1,454	\$2,908	\$23.26	+	3.6% of the amount over \$1,454
\$2,908	\$4,362	\$75.60	+	4.1% of the amount over \$2,908
\$4,362	\$5,816	\$135.21	+	5.1% of the amount over \$4,362
\$5,816	\$7,270	\$209.36	+	6.1% of the amount over \$5,816
\$7,270	\$10,905	\$298.05	+	7.1% of the amount over \$7,270
\$10,905 or more		\$556.14	+	7.4% of the amount over \$10,905

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2016.

(3-29-17)

ed. For taxable years beginning in 2017:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,472	\$0	+	1.6% of taxable income
\$1,472	\$2,945	\$23.56	+	3.6% of the amount over \$1,472
\$2,945	\$4,417	\$76.57	+	4.1% of the amount over \$2,945
\$4,417	\$5,890	\$136.94	+	5.1% of the amount over \$4,417
\$5,890	\$7,362	\$212.03	+	6.1% of the amount over \$5,890
\$7,362	\$11,043	\$301.85	+	7.1% of the amount over \$7,362
\$11,043 or more		\$563.21	+	7.4% of the amount over \$11,043

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2017.

(3-28-18)

e. For taxable years beginning in 2018:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,504	\$0	+	1.125% of taxable income
\$1,504	\$3,008	\$16.92	+	3.125% of the amount over \$1,504
\$3,008	\$4,451	\$63.91	+	3.625% of the amount over \$3,008
\$4,511	\$6,015	\$118.42	+	4.625% of the amount over \$4,511
\$6,015	\$7,519	\$187.97	+	5.625% of the amount over \$6,015
\$7,519	\$11,279	\$272.56	+	6.625% of the amount over \$7,519
\$11,279 or more		\$521.63	+	6.925% of the amount over \$11,279

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2018.

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(BREAK IN CONTINUITY OF SECTIONS)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (RULE 108).

Section 63-3022, Idaho Code

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, an individual must add the taxable amount of a lump sum distribution excluded from taxable income. (4-7-11)

02. Withdrawals from an Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, an account holder must 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. (4-7-11)

03. Withdrawals from an Idaho College Savings Program. (4-2-08)

a. As provided in Section 63-3022(o), Idaho Code, an account owner must add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (3-20-04)()

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007 to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

04. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, an eligible educator as defined in Section 62, Internal Revenue Code, must add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. (4-4-13)

05. State and Local Sales Tax. As provided in Section 63-3022(j), Idaho Code, an individual must add the amount of state and local general sales taxes deducted as an itemized deduction. (4-7-11)

(BREAK IN CONTINUITY OF SECTIONS)

185. ADOPTION EXPENSES (RULE 185).

Section 63-3022I, Idaho Code

01. In General. Subject to the limitations of Subsection 185.02, adoptive parents may deduct from taxable income legal and medical expenses related to the adoption of a child. Travel expenses related to the adoption may not be deducted. (3-20-97)

02. Maximum Deduction. The deduction allowed for a successful adoption is limited to a maximum of deduction for each adopted child. For taxable years beginning before 2018, the maximum deduction is three thousand dollars (\$3,000). For taxable years beginning after 2017, the maximum deduction is ten thousand dollars (\$10,000) regardless of whether the deduction is claimed in one (1) or more years. If a taxpayer adopts more than one (1) child, he is allowed a deduction not to exceed three thousand dollars (\$3,000) for the adoption of each child. (3-20-97)()

a. Examples: ()

i. A taxpayer spent five thousand dollars (\$5,000) in 2017 and four thousand dollars (\$4,000) in 2018 to adopt a child. He can deduct three thousand dollars (\$3,000) in 2017 and four thousand dollars (\$4,000) in 2018. ()

ii. A taxpayer spent five thousand dollars (\$5,000) in 2017 and fifteen thousand dollars (\$15,000) in 2018 to adopt a child. He can deduct three thousand dollars (\$3,000) in 2017 and seven thousand dollars (\$7,000) in 2018. ()

03. Ineligible Expenses. (3-20-97)

a. The costs associated with an unsuccessful attempt to adopt a child do not qualify for the deduction. (3-20-97)

b. A deduction is not allowed for expenses incurred in violation of state or federal law or for a surrogate parenting arrangement. (3-20-97)

04. Year Deduction Allowed. The deduction is allowed in the taxable year the expense is paid. A taxpayer shall file an amended return if he claimed any adoption expenses related to an unsuccessful attempt to adopt in a previous taxable year. (3-20-97)

05. Financial Assistance. Eligible expenses shall be reduced by amounts received as financial aid for the adoption, or from a grant pursuant to a federal, state, or local program. (3-20-97)

(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. The following items must be added to Idaho adjusted gross income in computing the Idaho adjusted income of nonresident and part-year resident individuals. (4-7-11)

01. Interest and Dividends Not Taxable Pursuant to the Internal Revenue Code. (3-20-97)

a. Part-Year Residents. Interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho must be added. However, interest received from

obligations of the state of Idaho or any political subdivision of Idaho is exempt from Idaho income tax and is not added. (4-7-11)

b. Nonresidents. Interest and dividend income reportable from a pass-through entity that was transacting business in Idaho must be added to the extent the income was apportioned or allocated as Idaho income. See Rule 263 of these rules for multistate apportionment rules. (4-7-11)

02. Net Operating Loss Deduction. The amount of the net operating loss deduction included in Idaho adjusted gross income must be added. (4-7-11)

03. Capital Loss. Capital losses included in Idaho adjusted gross income must be added 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. (4-7-11)

04. Lump Sum Distributions. Part-year residents must add the taxable amount of a lump sum distribution deducted in calculating taxable income received while residing in or domiciled in Idaho. This includes both the ordinary income portion and the amount eligible for the capital gain election. (4-7-11)

05. Idaho Medical Savings Account. An account holder must add the amount of any nonqualified withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. (4-7-11)

06. Idaho College Savings Program. (4-7-11)

a. An account owner must add the amount of a nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's Idaho adjusted gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (4-7-11)()

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007, to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

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 acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. An individual must add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. This addition does not apply to depreciation computed on property acquired after 2007 or before 2010. (2-27-12)

08. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, the amount of out-of-pocket classroom expenses deducted pursuant to Section 62, Internal Revenue Code, must be added. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).
Section 63-3026A(3), Idaho Code

01. In General. The taxable amount of a shareholder's pro rata share or a partner's distributive share of

business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. (3-20-97)

02. Nonbusiness Income. Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. (3-20-97)

03. Pass-Through Items. Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: (3-20-97)

- a. Ordinary income or loss from trade or business activities; (3-20-97)
- b. Net income or loss from rental real estate activities; (3-20-97)
- c. Net income or loss from other rental activities; (3-20-97)
- d. Interest income; (3-20-97)
- e. Dividends; (3-20-97)
- f. Royalties; (3-20-97)
- g. Capital gain or loss; (3-20-97)
- h. Other portfolio income or loss; (3-20-97)
- i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. (3-20-97)

04. Guaranteed Payments Treated As Compensation. (3-20-14)

a. Guaranteed payments to an individual partner up to the amount shown in paragraph 263.04.b. in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. (3-20-14)

b. The amount of guaranteed payments that are sourced as compensation for services is as follows:

TAX YEAR	AMOUNT
<u>2018</u>	<u>\$263,000</u>
2017	\$257,500
2016	\$254,250
2015	\$254,000
2014	\$250,000
2013	\$250,000

(~~3-28-18~~)()

(BREAK IN CONTINUITY OF SECTIONS)

300. TAX ON CORPORATIONS (RULE 300).
Sections 63-3025 and 63-3025A, Idaho Code

01. Excise Tax. A corporation excluded from the tax on corporate income imposed by Section 63-3025, Idaho Code, is subject to the excise tax imposed by Section 63-3025A, Idaho Code. If a corporation is subject to the excise tax imposed by Section 63-3025A, Idaho Code, it is not subject to the tax on corporate income imposed by Section 63-3025, Idaho Code. (3-20-97)

02. Minimum Tax. A name-holder or inactive corporation that is authorized to do business in Idaho shall pay the minimum tax of twenty dollars (\$20) even though the corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. See Subsection 300.03. (3-20-97)

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. A corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. (3-20-97)

04. Protection Under Public Law 86-272. A corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. (3-30-07)

05. Corporate Income Tax Rates.

PERIOD	TAX RATE
<u>2018 and after</u>	<u>6.925%</u>
<u>2012-2017</u>	<u>7.4%</u>
<u>2001-2011</u>	<u>7.6%</u>

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(BREAK IN CONTINUITY OF SECTIONS)

~~731. -- 744. (RESERVED)~~

~~**745. CREDIT FOR QUALIFYING NEW EMPLOYEES: REVENUE-PRODUCING ENTERPRISE (RULE 745).**~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2009 and before April 15, 2011. (4-4-13)~~

~~**01. In General.** A revenue-producing enterprise is defined in Section 63-3022H, Idaho Code, and Rule 172 of these rules. (4-7-11)~~

~~**02. Multiple Activities.** If a taxpayer's trade or business includes both a revenue-producing enterprise and other activities, the taxpayer must calculate qualifying new employees based on that portion of the Idaho business that qualifies as a revenue-producing enterprise. (3-30-07)~~

~~**03. Seasonal or New Business.** An individual employed in a seasonal or new business that was in operation during the taxable year for less than nine (9) months does not qualify as a new employee. (3-30-01)~~

~~**04. Unitary Taxpayers.** The activities of a taxpayer that qualify as a revenue-producing enterprise are determined separately for each corporation that is a member of the unitary group. (4-7-11)~~

~~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 after 2004 and before April 15, 2011. (4-4-13)~~

~~**01. In General.** An employer may be able to earn either a one thousand dollar (\$1,000) credit or a five hundred dollar (\$500) credit for a qualifying new employee. However, the employer cannot earn both credits for the same employee. The applicable credit rate depends on whether the new employee meets certain wage and benefit criteria. If the new employee does not meet the criteria for either credit rate, the employer may not claim the credit for such new employee. (4-7-11)~~

~~**02. Qualifying for the One Thousand Dollar (\$1,000) Credit.** (4-6-05)~~

~~**a.** The new employee must meet both of the following criteria to qualify for the one thousand dollar (\$1,000) credit: (4-6-05)~~

~~**i.** He must have received annual earnings at an average rate of fifteen dollars and fifty cents (\$15.50) or more per hour worked; and (4-6-05)~~

~~**ii.** He must have been eligible to receive employer provided coverage under an accident or health plan described in Section 105, Internal Revenue Code. (4-6-05)~~

~~**b.** The new employee does not have to be employed in a revenue-producing enterprise to qualify for the one thousand dollar (\$1,000) credit. (4-6-05)~~

~~**03. Qualifying for the Five Hundred Dollar (\$500) Credit.** If a new employee does not meet the criteria for the one thousand dollar (\$1,000) credit, the employer may be eligible to claim the five hundred dollar (\$500) credit. To qualify for the five hundred dollar (\$500) credit, the new employee must have been employed in a revenue-producing enterprise as defined in Section 63-3029E, Idaho Code. (4-6-05)~~

~~**04. 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: (3-20-04)~~

~~**i.** The employee must have been subject to Idaho income tax withholding. (3-20-04)~~

~~**ii.** The employee must have been employed by the employer 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. (4-6-05)~~

~~**iii.** The employee must have been performing such duties for the employer 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. (4-6-05)~~

~~**iv.** The employee must have been covered for Idaho unemployment insurance purposes. (3-20-04)~~

~~**b.** Idaho Department of Labor Reports. The employer 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. (4-6-05)~~

~~**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)~~

~~**05. 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. ~~In determining who qualifies to be included in the number of employees, the law applicable to the year in which the credit is being earned must be used in calculating the number of employees for the prior years. The computations of the number of employees for the prior taxable year and average for the three (3) prior taxable years must be made consistent with the computations and law applicable for the taxable year in which the credit is earned. (4-7-11)~~

~~i. For example, an employer may qualify as a revenue-producing enterprise under the law applicable to 2010, but did not qualify as a revenue-producing enterprise under the law applicable to the prior years. For purposes of calculating the five hundred dollar (\$500) credit earned in 2010, the number of employees for the prior years must be calculated using the law applicable to 2010. (4-7-11)~~

~~ii. The employer must include in the number of employees for the prior years employees who qualify under the current law, even though the employer was unable to include these employees as qualifying employees in the prior years and did not earn the credit in the prior years. (4-7-11)~~

c. ~~The number of new employees must be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (4-6-05)~~

d. ~~The employer must determine the number of new employees who qualify for the one thousand dollar (\$1,000) credit and the number who qualify for the five hundred dollar (\$500) credit. If the new employees do not meet the criteria set forth in Sections 63-3029E and 63-3029F, Idaho Code, and this rule, the employer may not earn the credit. For example, if a new employee has an average wage rate of ten dollars (\$10) and the employer's business does not qualify as a revenue-producing enterprise, the new employee does not qualify for either the one thousand dollar (\$1,000) credit or the five hundred dollar (\$500) credit. (4-7-11)~~

06. Computing the Credit Earned. ~~The credit earned is the lesser of the amounts determined in Paragraphs 746.06.a. and 746.06.b. of this rule. (4-6-05)~~

a. ~~The number of new employees who qualify for the five hundred dollars (\$500) credit multiplied by five hundred dollars (\$500), plus the number of new employees who qualify for the one thousand dollar (\$1,000) credit multiplied by one thousand dollars (\$1,000); or (4-6-05)~~

b. ~~The net income of the trade or business, as determined pursuant to Rule 747 of these rules, multiplied by three and one-quarter percent (3.25%). (4-6-05)~~

07. Limitations. ~~In the year the credit for qualifying new employees is earned or claimed: (3-20-04)~~

a. ~~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. (4-6-05)~~

b. ~~See Section 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits. (4-6-05)~~

08. Carryover. ~~(2-27-12)~~

a. ~~To claim the carryover, the employer 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 employer is not required to recapture the credit claimed in previous taxable~~

~~years. However, the employer must recompute the credit based on the reduced employment level to determine the correct amount of carryover. (2-27-12)~~

~~b. The credit may be carried forward only to taxable years beginning prior to January 1, 2011. If there is any credit remaining after application to taxable years beginning prior to January 1, 2011, any further benefit from the credit is lost. (2-27-12)~~

~~09. **Pass-Through Entities.** See Rule 785 of these rules for pass-through entities and the calculation of credits. (3-15-02)~~

~~10. **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 63-3029P, Idaho Code, and Rule 799 of these rules for the priority order of credits. (4-6-05)~~

~~**747. CREDIT FOR QUALIFYING NEW EMPLOYEES: NET INCOME OF A TRADE OR BUSINESS (RULE 747).**~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2004 and before April 15, 2011. (4-4-13)~~

~~01. **Net Income From the Taxpayer's Trade or Business.** If a taxpayer is claiming the credit under Section 63-3029F, Idaho Code, the net income of the taxpayer's trade or business will be calculated as follows: (4-4-13)~~

~~a. **Proprietorships.** The amount of income from Idaho activities that is reported as net profit or net loss on Schedule C or Schedule F. (3-30-01)~~

~~b. **C Corporations.** The amount of Idaho taxable income, reported on Idaho Form 41, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (3-30-01)~~

~~c. **S Corporations.** The amount of Idaho taxable income reported on Idaho Form 41S, modified as follows: the deduction for income reported by shareholders on their Idaho income tax returns must be added back, the addition for compensation or income attributable to individual shareholders who do not report this income on Idaho income tax returns must be deducted, and any nonbusiness income and expenses allocable to Idaho must be excluded. (4-4-13)~~

~~d. **Partnerships.** The amount of Idaho taxable income reported on Idaho Form 65, modified as follows: the deduction for income reported by partners on their Idaho income tax returns must be added back, the addition for compensation or income attributable to individual partners who do not report this income on Idaho income tax returns must be deducted, and any nonbusiness income and expenses allocable to Idaho must be excluded. (4-4-13)~~

~~02. **Unitary Taxpayers.** Each corporation included in a unitary combined group must use its Idaho taxable income as determined pursuant to Section 63-3027, Idaho Code, modified to restore all net operating loss deductions, and excluding any nonbusiness income and expenses allocable to Idaho. (4-4-13)~~

~~**748. CREDIT FOR QUALIFYING NEW EMPLOYEES: RECORD-KEEPING REQUIREMENTS (RULE 748).**~~

~~Sections 63-3029E and 63-3029F, Idaho Code, as in effect for taxable years beginning after 2001 and before April 15, 2011. (4-4-13)~~

~~01. **Information Required.** Each taxpayer must retain and make available, on request, records to document the credit earned or claimed. The records must include all of the following: (5-3-03)~~

- a.* ~~The Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor;~~ (5-3-03)
- b.* ~~Payroll records and reports documenting length of employment and hours worked;~~ (5-3-03)
- c.* ~~The computation of the number of qualifying new employees;~~ (3-30-01)
- d.* ~~The qualification as a revenue-producing enterprise;~~ (3-30-01)
- e.* ~~The computation of the credit;~~ (3-30-01)
- f.* ~~The computation of net income;~~ (3-30-01)
- g.* ~~The continued maintenance of adequate employment levels into carryover years; and~~ (3-30-01)
- h.* ~~The computation of any carryovers.~~ (3-30-01)
- 02.** ~~**Failure to Maintain Adequate Records.** Failure to maintain any of the records required by this rule may result in the disallowance of the credit.~~ (3-15-02)

731. -- 749. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

~~**755. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: IN GENERAL (RULE 755).** Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~**01. In General.** For taxable years beginning on and after January 1, 2011, and before 2014, the Hire One Act allows an employer who is subject to the Idaho income tax to earn a credit for a qualifying new employee. Because an employee must be hired on or after April 15, 2011, to qualify, the credit generally cannot be earned in a taxable year that begins prior to January 15, 2011. (2-27-12)~~

~~**02. Qualifying Employer.** A qualifying employer is a rated employer under the Idaho Employment Security Law, but does not include a governmental agency or nonprofit entity. For purposes of Section 63-3029F, Idaho Code, and Rules 755 through 759 of these rules, a nonprofit entity includes any entity that is exempt from the Idaho income tax under Section 63-3025B, Idaho Code, including those entities that are exempt except for paying income tax on unrelated business income. (2-27-12)~~

~~**03. Pass-Through Entities.** The credit earned by a pass-through entity is refunded to the pass-through entity, rather than passed through to the owner. (2-27-12)~~

~~**04. Unitary Corporations.** Each corporation in a unitary group must separately calculate the amount of the Hire One Act credit based on its own employees and may not include the employees of other corporations included in the combined group. (2-27-12)~~

~~**05. Employer-Provided Health Care Benefits.** For purposes of administering the Hire One Act and Rules 755 through 759 of these rules, “employer-provided” and “health care benefits” are defined as provided in Rule 756 of these rules. (2-27-12)~~

~~**06. Seasonal or New Business.** An individual employed in a seasonal or new business that was in operation for less than nine (9) consecutive months cannot qualify as a new employee. (2-27-12)~~

~~**07. Carryover.** Because the credit is a refundable credit, no carryover is allowed. Credit not claimed within the time allowed under Section 63-3072, Idaho Code, for claiming a refund is lost. (2-27-12)~~

~~756. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: EMPLOYER-PROVIDED HEALTH CARE BENEFITS (RULE 756).~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~01. Employer-Provided. "Employer-provided" means an individual's employer must pay the following percentages of the cost of an employee's premium for health care benefits as defined in Subsection 756.02 of this rule: (2-27-12)~~

~~a. At least eighty percent (80%) of the cost of the employee's premium if such employee had single coverage. (2-27-12)~~

~~b. At least seventy percent (70%) of the cost of the employee's premium if such employee had family coverage. (2-27-12)~~

~~02. Health Care Benefits. "Health care benefits" means coverage offered through a group health plan for employees that includes hospital, medical and surgical expense coverage set forth as follows: (2-27-12)~~

~~a. An accident and sickness insurance policy that provides hospital, medical and surgical expense coverage, to an aggregate maximum of not less than five hundred thousand dollars (\$500,000); (2-27-12)~~

~~b. Coinsurance percentage per year per covered person not to exceed fifty percent (50%) of covered charges, provided that the coinsurance out-of-pocket maximum combined with any deductibles does not exceed four percent (4%) of the aggregate maximum limit under the policy for each covered person; (2-27-12)~~

~~c. A deductible stated on a per person, per family, per illness, per benefit period, per year basis, or a combination of these bases not to exceed four percent (4%) of the aggregate maximum limit under the policy for each covered person for at least: (2-27-12)~~

~~i. Daily hospital room and board expenses subject only to limitations based on average daily cost of the semiprivate room rate in the area where the insured resides; (2-27-12)~~

~~ii. Miscellaneous hospital services; (2-27-12)~~

~~iii. Surgical services; (2-27-12)~~

~~iv. Anesthesia services; (2-27-12)~~

~~v. In-hospital medical services; and (2-27-12)~~

~~vi. Out-of-hospital care, consisting of physicians' services rendered on an ambulatory basis where coverage is not provided elsewhere in the policy for diagnosis and treatment of sickness or injury, diagnostic x-ray, laboratory services, radiation therapy, and hemodialysis ordered by a physician. (2-27-12)~~

~~d. Additional benefits. Health care benefits must also provide not fewer than three (3) of the following additional benefits: (2-27-12)~~

~~i. In-hospital private duty registered nurse services; (2-27-12)~~

~~ii. Convalescent nursing home care; (2-27-12)~~

~~iii. Diagnosis and treatment by a radiologist or physiotherapist; (2-27-12)~~

~~iv. Rental of special medical equipment, as defined by the insurer in the policy; (2-27-12)~~

~~v. Artificial limbs or eyes, casts, splints, trusses or braces; (2-27-12)~~

- vi. ~~Treatment for functional nervous disorders, and mental and emotional disorders; or~~ (2-27-12)
- vii. ~~Out-of-hospital prescription drugs and medications.~~ (2-27-12)

~~**03. Non-Qualifying Health Care Benefits.** Health care benefits do not include limited benefit policies or certificates of insurance for specific disease, hospital confinement indemnity, accident only, credit, dental, vision, medicare supplement, long term care, or disability income insurance, student health benefits only coverage issued as a supplement to liability insurance, worker's compensation or similar insurance, automobile medical payment insurance or nonrenewable short term coverage issued for a period of twelve (12) months or less. (2-27-12)~~

~~**04. Waiting Period.** To qualify as employer provided health care benefits, the health care benefits plan may not have a waiting period of more than two (2) months from the date of an employee's first day of employment. The Hire One Act credit cannot be earned on a new employee who is covered by a plan with a waiting period longer than two (2) months from the employee's first day of employment. (2-27-12)~~

~~**757. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: DETERMINATION OF QUALIFYING NEW EMPLOYEES (RULE 757.)**~~

~~Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

~~**01. Calculating Average Employment for a Taxable Year.** (2-27-12)~~

~~**a.** Number of Qualifying Employees. Only employees who meet the qualifications set forth in Section 63-3029F(2)(a), Idaho Code, are included when computing the average employment for a taxable year. Such requirements include the following: (2-27-12)~~

- i. ~~The employee must have been subject to Idaho income tax withholding. (2-27-12)~~
- ii. ~~The employee must have been covered for Idaho unemployment insurance purposes. (2-27-12)~~
- iii. ~~The employee must have been employed by the employer 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. (2-27-12)~~
- iv. ~~The employee must have been performing such duties for the employer for a minimum of nine (9) consecutive months, with at least part of that time performed in the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) consecutive months does not qualify. (2-27-12)~~
- v. ~~The employee must not have been transferred from a related taxpayer. (2-27-12)~~

~~**b.** Idaho Department of Labor Reports. The employer must begin with its Idaho Department of Labor reports to determine the number of employees for each month of the taxable year. However, an employee listed in these reports does not automatically qualify to be included in the calculation of the number of employees. The employer must determine how many employees included in these reports meet the qualifications under Section 63-3029F, Idaho Code, and Paragraph 757.01.a. of this rule. Only those qualifying employees are included in the monthly total. (2-27-12)~~

~~**c.** Calculation. The number of qualifying employees for each month are added together and the total is divided by the number of months of operation for the taxable year. This is the employer's average employment for the taxable year. (2-27-12)~~

~~**02. Calculating the Number of Qualifying New Employees.** (2-27-12)~~

~~**a.** The number of qualifying new employees is the increase in the employer's average employment of qualifying employees for the taxable year over the greater number of the following: (2-27-12)~~

- i. ~~The employer's average employment of qualifying employees for the prior taxable year; or (2-27-12)~~

- ii. ~~The employer's average employment of qualifying employees for the three (3) prior taxable years. (2-27-12)~~
- ~~b. The number of qualifying new employees must be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (2-27-12)~~
- ~~03. Identification of New Employees. The employer must identify the specific new employees. The new employees are those qualifying employees who were last hired by the employer based on the date the employee first performed services for the employer. (2-27-12)~~
- ~~04. Eligible New Employee. The new employee must meet the qualifications listed in Paragraphs 757.04.a. through 757.04.c. of this rule in order to be an eligible new employee. (2-27-12)~~
- ~~a. Average Annual Earnings. The new employee must have earned annual wages at a rate averaging at least:~~
- ~~i. Twelve dollars (\$12) per hour worked if the employee was employed in a county with an unemployment rate of ten percent (10%) or more as of the date the new employee was hired; or (2-27-12)~~
- ~~ii. Fifteen dollars (\$15) per hour worked if the employee was employed in a county with an unemployment rate below ten percent (10%) as of the date the new employee was hired. (2-27-12)~~
- ~~b. The new employee must have been hired on or after April 15, 2011. (2-27-12)~~
- ~~c. The new employee must have received employer-provided health care benefits as defined in Rule 756 of these rules. (2-27-12)~~
- ~~05. Computation of Average Annual Earnings. Average annual earnings is computed as follows:~~
- ~~a. For hourly employees, the gross wages paid by the employer is divided by the number of hours worked for the taxable year. (2-27-12)~~
- ~~b. For salaried employees, the gross wages paid is divided by two thousand eighty (2,080) hours if employed on a full time basis for the entire taxable year. If a salaried employee is regularly scheduled to work more or less than forty (40) hours per week, the computation must be adjusted accordingly to determine the hourly rate. For example, if an employee is regularly assigned to work a thirty-two (32) hour week and worked for the employer the entire taxable year, the gross wages actually paid must be divided by one thousand six hundred sixty-four (1,664). The total hours must not be reduced for days taken off, such as for vacation, sick leave, or personal days, if such days off were paid. If the employee's annual salary is adjusted for days taken off that are not paid, the number of hours should be adjusted in a consistent manner. (2-27-12)~~
- ~~c. If the new employee is determined to be eligible for the credit, the credit is computed as provided in Rule 758 of these rules. (2-27-12)~~

~~758. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: CALCULATION OF CREDIT (RULE 758).
Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~

- ~~01. Computation of Credit. The credit for an eligible new employee is calculated by multiplying the gross salary paid to the eligible new employee for the initial twelve (12) months of employment by the applicable credit rate. The credit is not allowed for new employees who were part of a trade or business the employer acquired from another taxpayer, or of an employer who operates in a place of business the same or a substantially identical trade or business as operated by another taxpayer within the prior twelve (12) months, except as the prior taxpayer in either situation would have qualified. (2-27-12)~~

- ~~02. **Gross Salary.** Gross salary does not include: (2-27-12)~~
- ~~a. Nontaxable fringe benefits; (2-27-12)~~
 - ~~b. Tips paid by customers of the employer. (2-27-12)~~
 - ~~c. Wages that are subsidized through another taxpayer or program, including any federal or state grant. (2-27-12)~~
- ~~03. **Credit Rate.** The applicable credit rate is determined based on the employer's rating from the Idaho Department of Labor for unemployment purposes that applies to the calendar year in which the taxable year begins. For example, the rating received by an employer in December 2011 will apply to taxable years beginning in 2012. The credit rate is six percent (6%) for a positive-rated employer, four percent (4%) for a standard-rated employer, and two percent (2%) for a deficit-rated employer. (2-27-12)~~
- ~~04. **Employed in a County.** To be employed in a county, at least some of the employee's service must be performed in that county. An employee is employed in a county if: (2-27-12)~~
- ~~a. The employee's service is performed entirely within the county; (2-27-12)~~
 - ~~b. The employee's service is performed both in and outside the county, but the service performed outside the county is incidental to the employee's service in the county; or (2-27-12)~~
 - ~~c. Some of the service is performed in the county and:
i. The base of operations is located in the county or; (2-27-12)
ii. If there is no base of operations, the place from which the service is directed or controlled is in the county; or (2-27-12)
iii. The base of operations or the place from which the service is directed or controlled is not in any county in which some part of the service is performed, but the individual's residence is in the county. (2-27-12)~~
- ~~759. **HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: RECORD-KEEPING REQUIREMENTS (RULE 759).**
Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)~~
- ~~01. **Information Required to be Included With Idaho Return.** An employer must include with the Idaho income tax return on which the Hire One Act credit is claimed a copy of the taxable wage rate notice issued by the Department of Labor for that income tax year. Notices that cannot be included with an electronically filed return must be separately mailed to the Tax Commission. No credit may be allowed if this notice is not included with the Idaho income tax return or mailed separately to the Tax Commission. (2-27-12)~~
- ~~02. **Information Required to be Retained By Employer.** An employer claiming the Hire One Act credit must retain and make available, on request, records to document the credit claimed. The records must include all of the following: (2-27-12)~~
- ~~a. The Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor; (2-27-12)~~
 - ~~b. Payroll records and reports documenting start and end of employment dates, if applicable, and hours worked by employee; (2-27-12)~~
 - ~~c. The computation of the number of qualifying employees including a listing of all such employees by name and social security number; (2-27-12)~~
 - ~~d. Records verifying gross salary paid and county employed in for the employees identified as the new~~

- employees; (2-27-12)
- ~~e. Records documenting a new employee's coverage under the employer-provided health care benefits; and (2-27-12)~~
- ~~f. Documentation from the Department of Labor verifying the employer's tax rate. (2-27-12)~~
- ~~03. **Failure to Maintain Adequate Records.** Failure to maintain any of the records required by this rule may result in the disallowance of the credit. (2-27-12)~~

760. IDAHO INCENTIVE INVESTMENT TAX CREDIT: IN GENERAL (RULE 760).
Section 63-3029J, Idaho Code

- ~~01. **Credit Allowed.** The incentive investment tax credit allowed by Section 63-3029J, Idaho Code, applies to investments made during the taxable year that begins in 2001. The investment must also meet the requirements of Section 63-3029B, Idaho Code, and related rules as to what constitutes qualified investment. (3-15-02)~~
- ~~02. **Limitations.** The incentive investment tax credit allowable in any taxable year shall be limited as follows: (3-15-02)~~
- ~~a. The incentive investment tax credit claimed during a taxable year may not exceed the lesser of: (3-15-02)~~
- ~~i. Five hundred thousand dollars (\$500,000); or (3-15-02)~~
- ~~ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the incentive investment tax credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-15-02)~~
- ~~b. **Credit for Qualifying New Employees.** If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the incentive investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (3-15-02)~~
- ~~c. **Unitary Taxpayers.** Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-15-02)~~
- ~~d. **Transferred Credit.** Limitations apply to each transferee as if the transferee had earned the credit. (3-15-02)~~
- ~~03. **Carryovers.** (3-15-02)~~
- ~~a. The carryover period for the incentive investment tax credit is fourteen (14) years. (3-15-02)~~
- ~~b. See Rule 793 of these rules for the rules regarding the carryover of transferred credit. (3-15-02)~~
- ~~04. **Taxpayers Entitled to the Credit.** Rule 711 of these rules shall apply to the incentive investment tax credit except that limitations referenced in Subsection 711.01 shall be those limitations as provided in Section 63-3029J, Idaho Code. (3-15-02)~~
- ~~05. **Pass-Through Entities.** The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. (3-15-02)~~

~~761. -- 762. (RESERVED)~~

~~763. IDAHO INCENTIVE INVESTMENT TAX CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 763).~~

~~Section 63-3029J, Idaho Code~~

~~01. Information Required. Each taxpayer who earns the incentive investment tax credit shall be subject to the record-keeping requirements set forth in Rule 716 of these rules. In addition, the taxpayer shall maintain records to identify the location and utilization by Idaho county for each item of property. (3-15-02)~~

~~02. Credit Transferred. A taxpayer that transfers the incentive investment tax credit shall continue to be subject to the record-keeping requirements of this rule and Rule 716 of these rules, for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. (3-15-02)~~

~~764. (RESERVED)~~

~~765. BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT: IN GENERAL (RULE 765).~~

~~Section 63-3029M, Idaho Code~~

~~01. Credit Allowed. The biofuel infrastructure investment tax credit allowed by Section 63-3029M, Idaho Code, may be earned during taxable years beginning on and after January 1, 2007, and before December 31, 2011. It applies to qualified investment placed in service after July 1, 2007. (4-2-08)~~

~~a. Qualified investment placed in service on or before July 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on May 15, 2007, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service after July 1, 2007. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (4-2-08)~~

~~b. Qualified investment placed in service after July 1, 2007, during a taxable year beginning before January 1, 2007, does not qualify for the biofuel infrastructure investment tax credit. The investment may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if pumps to be used for biofuel are placed in service in Idaho on August 1, 2007, during a taxable year that begins on October 1, 2006, the biofuel pumps do not qualify for the biofuel infrastructure investment tax credit since they were not placed in service in a taxable year beginning on or after January 1, 2007, and before December 31, 2011. The biofuel pumps will qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (4-2-08)~~

~~02. Qualified Investment. For purposes of the biofuel infrastructure investment tax credit, qualified investment includes the following: (4-2-08)~~

~~a. New fueling infrastructure dedicated to the purpose of selling or offering for sale biofuel. New fueling infrastructure shall mean investment in fueling infrastructure that: (4-2-08)~~

~~i. Is constructed or erected by the taxpayer, or (4-2-08)~~

~~ii. Is acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition shall not qualify as new infrastructure. (4-2-08)~~

~~b. Costs to upgrade existing fueling infrastructure that was previously incompatible to enable it to offer biofuel. Such costs include expenses related to the cleaning of existing fuel storage tanks, trucks, or other equipment for the purpose of providing biofuels. (4-2-08)~~

~~c. Fueling infrastructure means necessary tanks, piping, pumps, pump stands, hoses, monitors, (4-2-08)~~

~~blending equipment, meters, rack injection systems, or any other equipment and the costs to install the equipment that is necessary for a fuel distributor or a retail fuel outlet to offer biofuel for sale. (4-2-08)~~

~~**03. Reduction to Qualified Investment for Biofuel Infrastructure Grants.** Each taxpayer who receives a biofuel infrastructure grant as allowed by Section 42-1806, Idaho Code, shall reduce the amount of qualified investment computed under Section 63-3029M, Idaho Code, by the amount of the biofuel infrastructure grant received during the taxable year. (3-29-10)~~

~~**04. Limitations.** Regardless of whether the biofuel infrastructure investment tax credit available in a taxable year results from a carryover earned in prior years, credit earned in the current year, or both, the biofuel infrastructure investment tax credit allowable in any taxable year shall be limited as follows: (4-2-08)~~

~~**a. Tax liability.** The biofuel infrastructure investment tax credit claimed during a taxable year may not exceed the lesser of: (4-2-08)~~

~~**i.** Fifty percent (50%) of the tax; or (4-2-08)~~

~~**ii.** One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the biofuel infrastructure investment tax credit. See Rule 799 of these rules for the priority order for nonrefundable credits. (4-2-08)~~

~~**b. Credit for Qualifying New Employees.** If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the biofuel infrastructure investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (4-2-08)~~

~~**c. Unitary Taxpayers.** Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (4-2-08)~~

~~**05. Carryovers.** The carryover period for the biofuel infrastructure investment tax credit is five (5) years. (4-2-08)~~

~~**06. Taxpayers Entitled to the Credit.** The biofuel infrastructure investment tax credit is allowed to fuel distributors and retail fuel dealers. Rule 711 of these rules shall apply to the biofuel infrastructure investment tax credit, except that limitations referenced in Subsection 711.01 of these rules shall be those limitations as provided in Section 63-3029M, Idaho Code. (4-2-08)~~

~~**07. Pass-Through Entities.** The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. (4-2-08)~~

~~**08. Coordination With Investment Tax Credit and Property Tax Exemption in Lieu of the Investment Tax Credit.** (4-2-08)~~

~~**a.** A taxpayer who elects to claim the biofuel infrastructure investment tax credit on qualified investment may not claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. A taxpayer may, however, claim the investment tax credit on property for which he is not claiming the biofuel infrastructure investment tax credit. (4-2-08)~~

~~**b.** A taxpayer who elects to claim the property tax exemption in lieu of the investment tax credit allowed by Section 63-3029B, Idaho Code, may not claim the biofuel infrastructure investment tax credit on the same property. (4-2-08)~~

~~**c.** A taxpayer may claim the investment tax credit, the property tax exemption in lieu of the investment tax credit, and the biofuel infrastructure investment tax credit in the same taxable year. However, only one (1) of the incentives may be claimed on any one (1) property. (4-2-08)~~

~~766. **BIOFUEL INFRASTRUCTURE INVESTMENT TAX CREDIT: RECAPTURE (RULE 766).**
Section 63-3029M, Idaho Code~~

~~**01. In General.** If a taxpayer is claiming or has claimed the biofuel infrastructure investment tax credit for property that ceases to qualify pursuant to Section 63-3029M, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. See Rule 715 of these rules. The qualified investment shall cease to qualify if any of the following occur prior to the end of the recapture period: (4-2-08)~~

- ~~a. The biofuel infrastructure is sold or otherwise disposed of; (4-2-08)~~
- ~~b. The biofuel infrastructure is moved out of Idaho; or (4-2-08)~~
- ~~c. The biofuel infrastructure ceases to be used in connection with offering biofuel for sale. (4-2-08)~~

~~**02. Unitary Taxpayers.** The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. (4-2-08)~~

~~767. **BIOFUEL INFRASTRUCTURE INVESTMENT CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 767).**
Section 63-3029M, Idaho Code~~

~~**01. Information Required.** Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the biofuel infrastructure investment tax credit claimed on an income tax return subject to examination. The records must include all of the following: (4-2-08)~~

- ~~a. A description of the property; (4-2-08)~~
- ~~b. The asset number assigned to the item of property, if applicable; (4-2-08)~~
- ~~c. The acquisition date and date placed in service; (4-2-08)~~
- ~~d. The basis of the property; (4-2-08)~~
- ~~e. The location and utilization (the usage both in and outside Idaho) of the property including information identifying that the property was used for biofuel; and (4-2-08)~~
- ~~f. The retirement, disposition, or date transferred out of Idaho, date no longer used in Idaho, or date the biofuel was no longer offered for sale on a continuous basis, if applicable. (4-2-08)~~

~~**02. Accounting Records Subject to Examination.** Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: (4-2-08)~~

- ~~a. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; (4-2-08)~~
- ~~b. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; (4-2-08)~~
- ~~c. Records verifying ownership including purchase contracts and proof of payment; (4-2-08)~~
- ~~d. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho and the purchase of biofuel offered for resale; and (4-2-08)~~
- ~~e. A system that verifies that property on which the biofuel infrastructure investment tax credit was claimed continues to maintain its status as qualified investment throughout the recapture period. (4-2-08)~~

~~03. **Failure to Maintain Adequate Records.** Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. (4-2-08)~~

~~04. **Unitary Taxpayers.** Corporations claiming the biofuel infrastructure investment tax credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. (4-2-08)~~

768~~55~~. -- 769. (RESERVED)

(BREAK IN CONTINUITY OF SECTIONS)

790. TRANSFER OF CREDIT: IN GENERAL (RULE 790).

Sections 63-3029I and 63-3029J, Idaho Code

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. (3-20-04)

03. Transfer Limited. (3-20-04)

~~**a.** 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 a transfer may not transfer the credit to another taxpayer. (3-20-04)~~

~~**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. (3-20-04)~~

~~**eb.** A taxpayer who receives credit through unitary sharing may not transfer the credit to another taxpayer. (3-20-04)~~

791. TRANSFER OF CREDIT: NOTIFICATION OF INTENDED TRANSFER (RULE 791).

Sections 63-3029I and 63-3029J, Idaho Code

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: (3-20-04)

- a. Name, address, and federal employer identification number of the transferor or intermediary; (3-20-04)
- 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; (3-20-04)
- f. Signature of authorized individual for transferor or intermediary; and (3-20-04)
- 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. (3-20-04)()

(BREAK IN CONTINUITY OF SECTIONS)

793. TRANSFER OF CREDIT: TRANSFEREE (RULE 793).

Sections 63-3029I and 63-3029J, Idaho Code

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. The credit may not be claimed on a tax return that begins prior to January 1, 2001. (3-20-04)

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. (3-20-04)

~~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. (3-20-04)~~

~~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. (3-20-04)~~

~~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. (3-20-04)~~

~~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. (3-20-04)

794. -- 798. (RESERVED)

799. PRIORITY ORDER OF CREDITS AND ADJUSTMENTS TO CREDITS (RULE 799).

Section 63-3029P, Idaho Code

- 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.** Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)
 - h.** ~~Credit for qualifying new employees as authorized by Sections 63-3029E and 63-3029F, Idaho Code;~~ (3-15-02)
 - i.** Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)
 - ji.** Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)
 - kl.** ~~Incentive investment tax credit as authorized by Section 63-3029J, Idaho Code.~~ (3-15-02)
 - lj.** Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-11-06)
 - mk.** Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-11-06)
 - nl.** Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-11-06)
 - om.** Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (3-30-07)

- ~~p.~~ ~~Biofuel infrastructure investment tax credit as authorized by Section 63-3029M, Idaho Code.~~ (4-2-08)
- ~~n.~~ ~~Idaho child tax credit as authorized by Section 63-3029L, Idaho Code.~~ ()
- 03. Adjustments to Credits.** (4-11-06)
- a.** Adjustments to the amount of a credit earned shall be determined pursuant to the law applicable to the taxable year in which the credit was earned. (4-11-06)
- b.** Adjustments to the amount of a credit earned may be made even though the taxable year in which the credit was earned is closed due to the statute of limitations. Such adjustments to the earned credit shall also apply to any taxable years to which the credit was carried over. (4-11-06)
- c.** If the taxable year in which the credit was earned or carried over to is closed due to the statute of limitations, any adjustments to the credit earned shall not result in any tax due or refund for the closed taxable years. However, the adjustments may result in tax due or a refund in a carryover year if the carryover year is open to the statute of limitations. (4-11-06)

(BREAK IN CONTINUITY OF SECTIONS)

830. INFORMATION RETURNS (RULE 830).

Section 63-3037, Idaho Code

- 01. In General.** Information returns are not required to be filed with the Tax Commission except as follows: (3-20-97)
- a.** Form 1098, Mortgage Interest Statement, if the property was located in Idaho. (4-5-00)
- b.** Form 1099-A, Acquisition or Abandonment of Secured Property, if the property was located in Idaho. (4-5-00)
- c.** Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, if the property was located in Idaho or the service was performed in Idaho. (4-5-00)
- d.** Form 1099-C, Cancellation of Debt, if the secured property was located in Idaho. (4-5-00)
- e.** Form 1099-MISC, Miscellaneous Income, if it was issued for transactions related to property located or utilized in Idaho or for services performed in Idaho. (4-5-00)
- f.** Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc., if Idaho income tax was withheld. (4-5-00)
- g.** Form 1099-S, Proceeds From Real Estate Transactions, if it was issued for transactions related to property located in Idaho. (4-5-00)
- h.** Form W-2G, Certain Gambling Winnings, if the gambling took place in Idaho. (7-1-98)
- 02. Submitting Returns.** Information returns must be submitted to the Tax Commission through electronic filing or on a paper copy of federal Form 1099. (4-7-11)
- 03. Due Date of Information Returns.** Information returns are made on a calendar year basis. The due date for information returns submitted through electronic filing or on paper is the last day of February following the close of the calendar year. (4-7-11)
- 04. Voluntary Withholding.** Each person who withholds Idaho income tax from amounts reported on

information returns required by Section 63-3037, Idaho Code, must: (4-7-11)

- a. Obtain an Idaho withholding account number as required by Rule 870 of these rules; and (4-7-11)
- b. Submit an annual reconciliation return to the Tax Commission and comply with the requirements provided for filing of annual reconciliation returns as discussed in Rule 872 of these rules. The reconciliation return must report amounts paid during the preceding calendar year and reconcile the state income tax withheld with the tax remitted for the preceding calendar year. The reconciliation return must be filed on or before the last day of ~~February~~ January. ~~(4-7-11)~~()

(BREAK IN CONTINUITY OF SECTIONS)

890. NOTICE OF ADJUSTMENT OF FEDERAL TAX LIABILITY (RULE 890).
Section 63-3069, Idaho Code

- 01. Final Determination.** The term final determination as used in Section 63-3069, Idaho Code means final federal determination as defined in Section 63-3068(f), Idaho Code. (3-20-97)
- 02. Written Notice.** (3-20-97)
 - a. Written notice shall include copies of all Revenue Agents' reports, and any other documents and schedules required to clarify the adjustments to taxable income. If the final determination results in a refund of state taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-20-97)
 - b. Written notice included with an income tax return for a year or years other than the year subject to the federal adjustment shall not constitute the required notification. (3-20-97)
- 03. Immediate Notification.** The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within ~~sixty~~ one hundred twenty (~~60~~120) days of the final determination. ~~(3-20-97)~~()

891. NOTICE OF ADJUSTMENT OF STATE OR TERRITORY TAX LIABILITY (RULE 891).
Sections 63-3069 and 63-3069A, Idaho Code

- 01. Final Determination.** The term final determination of any deficiency or refund of income tax due to another state or territory as used in Section 63-3069, Idaho Code, shall mean the final resolution of all issues that were adjusted by the other state or territory. (3-30-01)
- 02. Written Notice.** (3-30-01)
 - a. Written notice shall include copies of all reports issued by the other state or territory, and any other documents and schedules required to clarify the adjustments to taxable income of the state or territory. If the final determination results in a refund of Idaho taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-30-01)
 - b. Written notice included with an income tax return for a year or years other than the year subject to the adjustment by the state or territory shall not constitute the required notification. (3-30-01)
- 03. Immediate Notification.** The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within ~~sixty~~ one hundred twenty (~~60~~120) days of the final determination. ~~(3-30-01)~~()