

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 35.01.10 - Idaho Cigarette and Tobacco Products Tax Administrative Rules - Proposed Rule  
(Docket No. 35-0110-1801).

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 10/09/2018. 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 11/06/2018.

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 334-4854, 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 19, 2018

**SUBJECT:** State Tax Commission

IDAPA 35.01.10 - Idaho Cigarette and Tobacco Products Tax Administrative Rules - Proposed Rule (Docket No. 35-0110-1801)

#### Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking relating to the Cigarette Tax. The agency states that the proposed rule limits all cigarette wholesalers, bonded or unbonded, to an unused stamp inventory equal to two times their average monthly tax liability.

#### Negotiated Rulemaking / Fiscal Impact

The agency states that negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the June 6, 2018 edition of the Idaho Administrative Bulletin, Vol. 18-6, page 116. No fiscal impact is expected.

#### Statutory Authority

The proposed rule appears to be within the agency's statutory authority pursuant to sections 63-105(2) and 63-2527, Idaho Code.

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

### 35.01.10 – IDAHO CIGARETTE AND TOBACCO PRODUCTS TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0110-1801

#### 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, 63-2516, 63-2523, and 63-3039, Idaho Code, and Sections 63-2510 and 63-22510A, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Send requests for accommodation at least five (5) days prior to the hearing, to the agency contact below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Rule 015, Stamps--Source, Amount, and Limitations –** The proposed rule limits all wholesalers that stamp cigarettes to an unused stamp inventory equal to two times their average tax liability. Bonded and unbonded wholesalers will have the same limitations on their unused stamp inventory.

**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(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the June 6, 2018 Idaho Administrative Bulletin, [Vol. 18-6, page 116](#).

**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 the undersigned using the information below.

Anyone may submit written comments regarding this proposed rulemaking. Send all written comments to the undersigned on or before September 26, 2018.

Dated this 31st day of July, 2018.

Don Williams, Tax Policy Specialist  
State Tax Commission  
P.O. Box 36  
Boise, ID 83722-0410  
Phone: (208) 334-7855  
Fax: (208) 334-7846  
[Don.williams@tax.idaho.gov](mailto:Don.williams@tax.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0110-1801  
(Only Those Sections With Amendments Are Shown.)

015. STAMPS-SOURCE, AMOUNT, **AND** LIMITATIONS (RULE 015).  
Sections 63-2510 and 63-2510A, Idaho Code

01. **Obtaining Stamps.** Cigarette stamps may only be obtained ~~at~~ from the Boise office of the Commission. (7-1-93)( )

02. **Unused Stamp Inventory.** Wholesalers may not hold an inventory of unused Idaho ~~cigarette~~ stamps, the face value of which exceeds the amount of their bonding ~~ing or three months estimated average tax liability~~ whichever is greater. See Rule 017 of these rules regarding bonding. Where no bond is required, wholesalers may not hold an inventory of unused Idaho cigarette stamps, the face value of which exceeds two (2) times the wholesaler's average monthly tax liability. (7-1-93)( )

03. **Filing and Paying Timely.** Failure to file a cigarette tax return or pay the tax on a timely basis will result in no additional stamps being issued by the Commission to a wholesaler until clear and convincing evidence is received by the Commission that the return has been filed or ~~that~~ the tax has been paid. (7-1-93)( )

04. **Physical Security.** Wholesalers are responsible for the face value of all stamps received from the Commission. Wholesalers must provide ~~proper~~ physical security for the stamps in their possession. (7-1-93)( )