

August 31, 2022



Via email: kimberlee.stratton@tax.idaho.gov

Kimberlee Stratton
Administrative Rules Coordinator
Idaho State Tax Commission

Re: Income Tax: Docket 35.01.01

Dear Ms. Stratton:

Idaho Association of Commerce & Industry ("IACI") appreciates the opportunity to provide further comments on the Tax Commission's negotiated rulemaking regarding Zero-Based Rulemaking for Income Taxes, Docket 35.01.01.

These comments are specific to the Zero-based rulemaking in Sections 001-299 and 700-999.

As a general comment IACI members believe definitions and examples should remain in the rule. This belief remains even when a definition is defined elsewhere in statute or federal code. In the case of complicated income tax rules, removing definitions that can be found elsewhere actually makes the rule more difficult for Idaho businesses and citizens to comply with. Likewise, there are very good reasons for the examples to be codified in the rule to protect taxpayers and make the rules easier to comply with.

Generally, we have categorized our comments into two areas:

- Category A: Change does not necessarily impact application of statute; however content is helpful to taxpayer (references to related sections of rules, clearer communication, etc.).
- Category B: Disagree with change because impacts interpretation/application of statute. (Includes all examples).

An example of a Category A item is as follows: Some of the proposed rule's changes could cause increased confusion for taxpayers, best illustrated by Rule 105, at pdf page 15. The intro to the section says "the following" shall be added back in computing Idaho taxable income. Then, of the list of six items that are to be added back pursuant to the statute, four have been stricken. Without going back to the statute to compare to the new rule, one would think there are only two things to be added back, not six.

Obviously, this type of change makes it more difficult for the taxpayer to comply with the law, which does not seem to be the intent of the rulemaking. To the extent that this type of change occurs within the proposed rule IACI would ask that the original language be retained for the sake of clarity.

Additional comments for both Category A and B items are outlined below. We have also noted some open questions that may need further discussion.

Sections 000-129

Idaho Rules Page 13, Section 010.02

Keep this content, as it is helpful to the taxpayer.

Idaho Rules Page 13, Section 010.03

Keep this content, as it is helpful to the taxpayer.

Idaho Rules Page 14, Section 016.05.a-f

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 16, Section 030.01. a-c

Keep this content, as it is helpful to the taxpayer.

Idaho Rules Page 16, Section 030.03

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 16, Section 031.01

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 16, Section 031.02.a-c

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute

Idaho Rules Page 18, Section 032.03.d

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 19, Section 033.01.b

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute

Idaho Rules Page 19, Section 034.02, Sentence 2

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute.

Idaho Rules Page 20, Section 040.01.b

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 20, Section 040.03.a-b

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 32, Section 121.03.a – pro-rating guidance

OPEN: No code section is referenced in the ISTC comments, so unable to confirm inclusion in statutes.

Idaho Rules Page 32, Section 121.03.b

OPEN: No code section is referenced in the ISTC comments, so unable to confirm inclusion in statutes.

b. ~~If an itemized deduction allowable for federal income tax purposes is reduced for the mortgage interest credit or the foreign tax credit, the amount that would have been allowed if the federal credit had not been claimed is allowed as an itemized deduction.~~ (7-1-09)

Idaho Rules Page 32, Section 121.04.a-b

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute. Only reference is to Instructions.

Idaho Rules Page 34, Section 122.02.a

Keep this content, as the date is not included in the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute so unable to verify that dates deduction is allowable is duplicative of statute.

Idaho Rules Page 34, Section 125.01

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 40, Section 165.02.c

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute. Only reference is to Instructions.

See guidance in previous item for qualifying individual.

Idaho Rules Page 41, Section 170.01

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. Section 63-3022H does not include a reference to IRC 1222(9).

Idaho Rules Page 41, Section 170.02.b

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 41, Section 170.03.a-b

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute. Only reference is to Guidance. Assuming the expectation is to include this content in guidance published online. 63-3022H does not reference the IRC sections.

Idaho Rules Page 41, Section 170.03.c

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 41, Section 170.06.a-b

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 43, Section 171.06.d

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 43, Section 171.08

Keep this content, as it is more straightforward than the statute and therefore may impact interpretation/application of the statute

Idaho Rules Page 43, Section 172.01

Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. Inclusion of the word "only" narrows the scope and is not included in the statute. This change seems to widen the scope.

Idaho Rules Page 44, Section 172.04.a-c

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 44, Section 173.03.a

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 45, Section 173.03.b-e

Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 45, Section 180.03.a

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 47, Section 190.05 Sentences 4-7
Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 47, Section 193.01 Sentence 2
Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute.

OPEN: Is this being deleted because it relates to tax years outside of the statute of limitations?

Idaho Rules Page 47, Section 193.02
Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 48, Section 193.03 -05
Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute. Only reference is to Instructions, which do not have the same authority.

Idaho Rules Page 48, Section 193.06
Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute. Only reference is to Guidance, which does not have the same authority.

Idaho Rules Page 48, Section 194.01
Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No reference by ISTC to statute. Only reference is to Instructions, which do not have the same authority.

Idaho Rules Page 49, Section 194.02
Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 50, Section 194.03
Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 51, Section 194.04
Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 52, Section 194.05
Keep examples, as they impact interpretation and ability to enforce.

Idaho Rules Page 52, Section 194.06
Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. No percentages listed in 63-3022P or 63-3022Q.
No reference by ISTC to statute. Only reference is to Guidance, which does not have the same authority.

Idaho Rules Page 52, Section 195.01
Keep this content, as the guidance is not a duplication of the statute content and therefore may impact interpretation/application of the statute. 63-3022R does not include, "to the extent recovery is included in federal taxable income of the current year."

Idaho Rules Page 61, Section 253.01.b

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 62, Section 254.03.a, Last Sentence

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 62, Section 254.03.b, date removed

Keep this content, as it is helpful to the taxpayer

Idaho Rules Page 62, Section 254.03.c, Last Sentence

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 62, Section 254.04, Last Sentence

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 62, Section 254.05, Last Sentence

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 63, Section 254.16, Last Sentence

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

Idaho Rules Page 64, Section 254.17, Last Sentence

Keep this content, as it is helpful to the taxpayer – reference to related sections of rules

These summarize our current comments regarding Sections 001-299 and 700-999. IACI will submit separate comments for Sections 300-699.

We appreciate the Commission's willingness to consider retaining several of the definitions and examples in the existing rule. Thank you for the opportunity to comment on this rulemaking.

Sincerely,



Alex LaBeau
President

cc: Mark Wynn, Chair, IACI Tax Committee
Cynthia Adrian, Chair, ITC Income Tax Rules Committee
Bobbi-Jo Meuleman, Deputy Chief of Staff, Governor Little