

Dear Senators RICKS, Schroeder, Rabe, and
Representatives CANNON, Ehlers, Necochea:

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

IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-2401);

IDAPA 35.01.03 - Property Tax Administrative Rules - Temporary and Proposed Rule (Docket
No. 35-0103-2402).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 11/29/2024. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/27/2024.

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.



Terri Kondeff
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: Senior Legislative Drafting Attorney - Peter Cook

DATE: November 12, 2024

SUBJECT: State Tax Commission

IDAPA 35.01.03 - Property Tax Administrative Rules - Proposed Rule (Docket No. 35-0103-2401)

IDAPA 35.01.03 - Property Tax Administrative Rules - Temporary and Proposed Rule (Docket No. 35-0103-2402)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking related to Property Tax Administrative Rules (Docket No. 35-0103-2401) and notice of temporary and proposed rulemaking related to Property Tax Administrative Rules (Docket No. 35-0103-2402).

Regarding the proposed rulemaking related to Property Tax Administration (Docket No. 35-0103-2401), the State Tax Commission states that the reason for the proposed rule change is that an updated calculation is required to determine "Animal Unit per Month" or "AUM" for purposes of the valuation of certain agricultural land in IDAPA 35.01.03.617 (Agriculture Land Valuation Definitions and Guidelines). (Although the State Tax Commission states in its descriptive summary that Section 63-602K, Idaho Code, is the governing code section, it appears that this section was redesignated as Section 63-205C, Idaho Code, which is now the governing provision concerning the valuation of agricultural land; this statute authorizes the State Tax Commission to adopt rules to implement the section.) The proposed rule change includes a revision of the AUM calculation.

Regarding the temporary and proposed rulemaking related to Property Tax Administration (Docket No. 35-0103-2402), the State Tax Commission states that the reason for the proposed rule change is that the current IDAPA 35.01.03.810 (Property Tax Relief) is in conflict with changes to the statute pursuant to the passage of House Bill 521 during the 2024 legislative session; specifically, regarding the procedures for distributing property tax relief payments appropriated by the Idaho Legislature. House Bill 521 eliminated one of the three original property tax relief programs and therefore the rule change is necessary to align with the change to statute. In reviewing the temporary and proposed rule, it appears that it eliminates language that is no longer necessary and revises certain other provisions to align with the changes to statute.

Negotiated Rulemaking / Fiscal Impact

The State Tax Commission states that as to Docket No. 35-0103-2401, negotiated rulemaking was conducted and notice was published in the July 3, 2024, Idaho Administrative Bulletin, and as to Docket No.

Paul Headlee, Deputy Director Legislative Services Office	Matt Drake, Manager Research & Legislation	Keith Bybee, Manager Budget & Policy Analysis	April Renfro, Manager Legislative Audits	Norma Clark, Manager Information Technology
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Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

35-0103-2402, it did not engage in negotiated rulemaking as the changes were made in order to conform to changes in statute.

Statutory Authority

This rulemaking appears to be authorized pursuant to chapters 2, 7, and 9, title 63, and chapter 52, title 67, Idaho Code.

cc: State Tax Commission
Kimberlee Stratton

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

Per the Idaho Constitution, all administrative rules may 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 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-2401

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 Section 63-105, 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 18, 2024.

The hearing site 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:

Property Tax Administrative Rule 617 addresses the income capitalization approach used for Animal Units per Month (AUM) for grazing land assessments in Idaho. The rule provides the formula used by county assessors to properly value specific types of Agricultural land. The statute, Section 63-602K, Idaho Code, doesn't specify the formula and corrected calculation instruction is needed.

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 July 3, 2024 Idaho Administrative Bulletin, [24-7, pages 269-270](#).

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 temporary and proposed rule, contact Alan Dornfest at Alan.Dornfest@tax.idaho.gov or (208) 334-7742.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2024.

DATED this 4th day of September, 2024.

Kimberlee Stratton
Rules Coordinator, Government Affairs
Idaho State Tax Commission
11321 W. Chinden Blvd., Boise ID 83714
PO Box 36, Boise ID 83722-0036
(208) 334-7544

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0103-2401
(Only Those Sections With Amendments Are Shown.)

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

617. AGRICULTURAL LAND VALUATION DEFINITIONS AND GUIDELINES.
Section 63-205C, Idaho Code

01. Definitions. (7-1-24)

a. The actual use value of agricultural land will be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-205C, Idaho Code, plus a component for the local tax rate. The Actual Use Value will be considered market value for assessment purposes. (7-1-24)

b. Economic rent is the average gross income per acre received by a landlord from either a cash rent or crop share rental agreement. Only the rent solely attributable to the agricultural land is included in economic rent. (7-1-24)

c. Net Income (Rent) is determined by deducting the landlord's share of all typical current expenses from economic rent per acre. (7-1-24)

d. Agricultural Area is an identifiable geographical area of similar agricultural land. (7-1-24)

02. Determination of Average Crop Rental Rates. (7-1-24)

a. Determine the average per acre gross income from individual crop cash rents, whole farm cash rents, or crop share typical to the Agricultural Area over the immediate past five (5) growing seasons as reported by local farmers. (7-1-24)

b. If data from local farmers is insufficient, data typical to the Agricultural Area from third party providers, such as the United States Department of Agriculture (USDA), University of Idaho Crop Enterprise Budgets, or similar sources, may be used. (7-1-24)

c. The choice to use cash rent or crop share analysis in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available when developing a supportable value conclusion. (7-1-24)

03. Determination of Farm Credit Services Capitalization Rate. (7-1-24)

a. The Tax Commission will gather the interest rate data from the Spokane office of the Farm Credit Services, average the rate over the immediate past five (5) years and distribute the rate annually to assessors by the second Monday in September. (7-1-24)

b. The local tax rate component is the rate most applicable to the Agricultural Area. (7-1-24)

c. The local tax rate will be added to the Farm Credit Services capitalization rate to develop the overall capitalization rate. (7-1-24)

04. Calculation of Net Income from a Cash Rent Analysis. ~~Net Income from cash rent for land secondary categories 1 and 3 is calculated in the following manner:~~ (7-1-24) ()

a. Crops Grown. Determine the crops typically grown in the area. (7-1-24)

b. Economic Rent. Determine the average per acre gross income from individual crop rents or whole farm cash rents typical to the Agricultural Area over the immediate past five (5) years. (7-1-24)

c. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. (7-1-24)

d. Landlord's Net Income. Subtract the landlord's share of all typical expenses from the average gross income per acre for the immediately preceding year to determine net income. (7-1-24)

05. Calculation of Net Income from a Crop Share Analysis. ~~Net income from crop share rent for secondary land categories 1 and 3 is calculated in the following manner:~~ (7-1-24)()

a. Crops Grown. Determine the crops typically grown in the Agricultural Area. (7-1-24)

b. Average Crop Production. Determine the most recent five (5) year average production for typical crops grown in the Agricultural Area. (7-1-24)

c. Average Commodity Prices. The Tax Commission will publish five (5) year average crop prices by surveying publicly available data from various sources, including the annual crop summary published by the USDA National Agricultural Statistics Service (NASS). Average crop prices determined in this manner by the Tax Commission should be considered guidelines when determining net income, subject to modification based on local market data. (7-1-24)

d. Gross Income. Multiply average crop production per acre by the average commodity price to determine gross income per acre. (7-1-24)

e. Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the Agricultural Area. (7-1-24)

f. Landlord's Expenses. Determine the landlord's share of all typical expenses paid in the immediately preceding growing season. (7-1-24)

g. Net Income. Subtract the landlord's share of all typical expenses from the landlord's share of gross income to determine net income. (7-1-24)

06. Calculation of Grazing and Meadow Land Net Income. ~~Net income from grazing and meadow rent for land secondary categories 2, 4, and 5 is calculated in the following manner.~~ (7-1-24)()

a. Animal Unit Month (AUM) ~~Defined. An AUM consists of the amount feed for a~~ is the amount of feed the land produces to sustain a one thousand (1,000) pound cow-calf pair, or other animal equivalent for one month. (7-1-24)()

b. Determine the ~~gross yearly income of an number of AUMs~~ by multiplying the ~~five (5) year average of locally reported rent per AUM or third party provider equivalent by the average number of cow-calf pairs, or animal unit equivalent, grazing a land parcel by the number~~ of months ~~of the grazing season~~ grazed. (7-1-24)()

c. ~~Divide the total acres grazed by the total number of cow-calf pairs, or other animal equivalent, to determine the number of acres making up an AUM. Multiply the number AUMs by the five (5) year average of locally reported or third party provided rents per AUM to arrive at the total AUM income.~~ (7-1-24)()

d. Divide the total AUM income ~~per AUM~~ by the number of acres ~~per AUM to determine a gross annual income per acre~~ grazed to calculate the gross income per acre. (7-1-24)()

e. Subtract landlord's typical expenses from the immediately preceding year to determine net income per acre. (7-1-24)

~~07. Calculation of Value Estimate per Acre to be used for Categories 1-5. Divide the Net Operating Income by the overall capitalization rate to calculate a value estimate per acre. (7-1-24)~~

~~087. Cross Reference. See Rules 645 and Rule 131 of these rules. (7-1-24)~~

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0103-2402

NOTICE OF RULEMAKING – TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is July 30, 2024.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 63-105, 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 18, 2024.

The hearing site 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 the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Rule section 810 now conflicts with the current statute due to the passage of House Bill 521 during the 2024 legislative session. This rule guides local county governments on procedures necessary to distribute property tax relief payment appropriated by the Idaho Legislature. Those procedures changed with the passage of House Bill 521, including the elimination of one of the three original property tax relief programs.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This rule is necessary for “compliance with deadlines in amendments to governing law or federal programs”.

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: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the changes were made to conform to new statute.

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 temporary and proposed rule, contact Alan Dornfest at Alan.Dornfest@tax.idaho.gov or (208) 334-7742.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 25, 2024.

DATED this 4th day of September, 2024.

Kimberlee Stratton
Rules Coordinator, Government Affairs
Idaho State Tax Commission
11321 W. Chinden Blvd., Boise ID 83714
PO Box 36. Boise ID 83722-0036
(208) 334-7544

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT
OF DOCKET NO. 35-0103-2402
(Only Those Sections With Amendments Are Shown.)**

35.01.03 – PROPERTY TAX ADMINISTRATIVE RULES

810. PROPERTY TAX RELIEF.

Sections 33-911, 57-810, 63-724, 63-902, 63-315, Idaho Code.

01. Procedures Regarding School District Facilities Fund. The Tax Commission will notify each county clerk no later than the first Monday in September each year of the amounts being distributed annually, pursuant to Section 33-911, Idaho Code, to each school district. Such A amounts received by each school district must be reported on the L2 form and subtracted from property tax otherwise to be certified for the following funds:

~~(7-1-24)~~(7-30-24)T

a. Bonds. (7-1-24)

b. Temporary Supplemental Funds. (7-1-24)

c. School District plant facilities and safe school plant facilities funds. (7-30-24)T

02. Additional School District Facilities Funds. If the amount received by the school district from the school district facilities fund exhausts the payments for bonds, ~~and~~ temporary supplemental funds, and plant facilities funds, the remaining sums of money are ~~saved in a reserve account and~~ not subtracted from other school district levies as provided in Section 33-911(2)(d), Idaho Code. ~~(7-1-24)~~(7-30-24)T

03. Procedures Regarding Homeowner Property Tax Relief. (7-1-24)

a. The homeowner property tax relief roll certified in August will be the preliminary roll and will include the market value, amount of homestead exemption granted, and net taxable value for the portion of each homestead, as defined in Section 63-701, Idaho Code, granted the homestead exemption. (7-1-24)

i. No property granted the homestead exemption after the second Monday in July each year is to be included in this roll. (7-1-24)

ii. No improvement granted the homestead exemption on property subject to occupancy tax, as provided in Section 63-317, Idaho Code, is to be included in this roll. Land associated with such improvement may be included if it is part of the homestead and if it has a homestead exemption granted by the second Monday in July. (7-1-24)

iii. The amount of each homestead property's net taxable value attributable to increment and base, as defined in Section 50-2903, Idaho Code, will be shown on this roll. (7-1-24)

iv. The amount of taxable value to which tax levies will apply will be shown on this roll. In the case of taxing districts that do not levy property tax against all otherwise taxable property, the net taxable value of the homestead applicable to each taxing district will be shown. (7-1-24)

~~b. The completed homeowner property tax relief roll certified by the fourth Monday in October will include the following information in addition to the information provided in Subsection 03 of these rules.~~ (7-1-24)

~~i. The current year's tax levy applicable to the homestead and eligible for homeowner property tax relief pursuant to Section 63-724, Idaho Code.~~ (7-1-24)

~~ii. The amount of property taxes levied on the homestead based on levies eligible for homeowner property tax relief. (7-1-24)~~

~~iii. The total homeowner property tax relief for all eligible properties in the county. (7-1-24)~~

~~iv. The total amount of homeowner property tax relief based on increment value. (7-1-24)~~

eb. Actual tax relief provided to each homestead and shown on property tax notices will be based on current year's eligible levies applied to properties on the homeowner property tax relief roll, provided however, the amounts so determined will be reduced proportionally so that the total provided to all eligible homeowners will not exceed the percentage and amounts certified to the county by the Tax Commission as provided in Section 63-724, Idaho Code. ~~(7-1-24)~~(7-30-24)T

dc. The provision in Section 63-724, Idaho Code, that requires homeowner property tax relief monies to be distributed in the same manner as property tax includes allocation to urban renewal agencies and all taxing districts as otherwise required. (7-1-24)

~~**04. Procedures for Additional Property Tax Relief.** The procedures in this subsection pertain to the distributions to each county pursuant to Section 57-810(2), Idaho Code, other than the amounts distributed to the school district facilities fund. (7-1-24)~~

~~**a.** The amount of property tax levied for the current year and approved by the Tax Commission will be the total amount based on approved property tax budgets for all taxing districts and amounts otherwise allocated to urban renewal agencies in each county. When this amount is determined for taxing districts located in more than one (1) county, each county's share will be based on the prorated amount of the district's property tax being levied in that county. (7-1-24)~~

~~**b.** In addition to the market values submitted to the Tax Commission pursuant to Section 63-510, Idaho Code, each county auditor will include the net taxable value and increment value applicable to each urban renewal revenue allocation area within each taxing district. (7-1-24)~~

ed. Tax relief amounts provided pursuant to Section 57-810(2), Idaho Code, will be subtracted prior to determining amounts otherwise certified to the Tax Commission on the property tax reduction roll pursuant to Section 63-707, Idaho Code. (7-1-24)

054. Tax Cancellations and Levy Corrections. Tax cancellations and levy corrections pursuant to Section 63-810, Idaho Code, occurring after certification of tax relief amounts to be paid by the Tax Commission to each county will not alter amounts to be paid by the Tax Commission. Counties receiving tax relief payments that exceed the amount that would have been paid had the tax cancellations or levy corrections been known at the time of the certification of tax relief amounts will remit the excessive amount to the state general fund using the procedure required for homeowner property tax relief overpayments in Section 63-724, Idaho Code. (7-1-24)