

Dear Senators Ricks, Adams, Rabe, and
Representatives Cannon, Weber, Gannon:

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. 35-0101-2601).

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 10/23/2026. 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 11/20/2026.

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: October 06, 2026

SUBJECT: State Tax Commission

IDAPA 35.01.01 - Income Tax Administrative Rules-Proposed Rule (Docket No. 35-0101-2601)

Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking for the rules governing income taxes, IDAPA 35.01.01. The Commission states that the proposed rules reflect recent changes to Idaho Code, specifically: (1) amending Rule 799 to reflect the sunset of the Idaho Child Tax Credit (section 63-3029L, Idaho Code); (2) amending Rule 771 to reflect changes to the Grocery Credit (section 63-3024A, Idaho Code), including renaming the credit the "Food Tax Credit" (which matches the catch line of the code section) and removing the \$20 additional amount for seniors so it is standardized for all recipients; (3) amending Rule 252 (Income Adjustments) to insert new deductions for the "Enhanced Deduction for Seniors" and "Qualified Passenger Loan Interest Deduction," to "align Idaho's income-adjustment provisions with the federal definitions and requirements incorporated under House Bill 559" (which addressed the Idaho Code's conformity with the Internal Revenue Code changes contained in the One Big Beautiful Bill Act); and (4) amending Rule 895 to remove outdated language and to remove a provision concerning Federal Determinations to align with changes to Idaho Code made by House Bill 733. It appears that these proposed changes to the administrative rules align with the above-mentioned changes to Idaho Code.

Items to note for clarification:

1. With respect to Rule 771 (Food Tax Credit), the descriptive summary states that the bill removing the \$20 additional credit amount for seniors was House Bill 605, however, it appears that the bill that made this change was House Bill 231 (2025).
2. With respect to Rule 252 (Income Adjustments), the descriptive summary identifies two new deductions (the "Enhanced Deduction for Seniors" and the "Qualified Passenger Loan Interest Deduction"), however, the proposed text appears to add two other items: "Qualified tips from Federal Schedule 1-A" and "Qualified overtime compensation from Federal Schedule 1-A," which are both included under subsection 252.02. It appears that these two additions are also in response to the Idaho Code's conformity with the Internal Revenue Code made by House Bill 559.

Negotiated Rulemaking / Fiscal Impact

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

The Commission states that negotiated rulemaking was conducted, and the Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the July 1, 2026, Bulletin 35-0101-2601, Idaho Administrative Bulletin, Vol. 26-7, page 87. It also states that no new fees are reflected in the rulemaking and that no negative fiscal impact to the General Fund exceeding \$10,000 is anticipated.

Statutory Authority

The Commission appears to have the authority to promulgate its proposed rules pursuant to chapters 1 and 30, title 63, Idaho Code, including sections 63-105 and 63-3039, Idaho Code, and chapter 52, title 67, Idaho Code. The proposed rules appear to properly implement the above-mentioned changes to Idaho Code.

cc: State Tax Commission
Aaron Yost

***** 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 – STATE TAX COMMISSION
35.01.01 – INCOME TAX ADMINISTRATIVE RULES
DOCKET NO. 35-0101-2601
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: A public hearing concerning this rulemaking will be held as follows:

Thursday, September 10, 2026 10:00 AM (MT)
In Person: Coral Conference Room Idaho State Tax Commission 11321 W. Chinden Blvd., Bldg. 2 Boise, ID 83714-1021 Join from the meeting link https://idahogov.webex.com/idahogov/j.php?MTID=m6e173f95ef714988fa710a5adf2a663a Meeting number: 2867 435 4563 Meeting password: q8TBkQiuB83 Join by phone: +1-415-655-0001 US Toll Meeting number: 2867 435 4563

The hearing site(s) will be accessible to people 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:

The State Tax Commission will perform a critical review of changes to statutes and existing rules chapter. We will rewrite sections of this chapter by standard rulemaking and contemplate the following:

- Rule 799 (Child Tax Credit): Eliminates the Idaho Child Tax Credit in its entirety. The credit sunset on December 31, 2025, pursuant to Idaho Code § [63-3029L](#).
- Rule 771 (Grocery Credit): Renames the Grocery Credit program as the Food Tax Credit. Removes the additional \$20 resident credit previously granted to individuals age 65 or older, standardizing the benefit as provided in [House Bill 605](#).
- Rule 252 (Income Adjustments): This inserts two new deductions, “Enhanced Deduction for Seniors” and “Qualified Passenger Loan Interest Deduction.” These changes align Idaho’s income-adjustment provisions with the federal definitions and requirements incorporated under [House Bill 559](#) (The One Big Beautiful Bill Act).
- Rule 895 (Limitation of Assessment): Removes outdated language concerning Federal Determinations. Revises the assessment timeline so that the statutory period begins on the date of the IRS determination, removing the requirement for taxpayers to mail a physical copy to the Idaho State Tax Commission, consistent with [House Bill 733](#).

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 as a result of this rulemaking: None.

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 July 1, 2026, Bulletin 35-0101-2601, Idaho Administrative Bulletin, Vol. 26-7, page 87.

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: There are no documents incorporated by reference affected by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Trisha Thomas at trisha.thomas@tax.idaho.gov or (208) 332-6691.

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 October 2, 2026.

DATED this 2nd day of September, 2026.

Philip Johnson, Tax Research Specialist/Rules Officer
Idaho State Tax Commission
11321 W. Chinden Blvd., Bldg. 2, Boise ID 83714
PO Box 36, Boise ID 83722-0036
philip.johnson@tax.idaho.gov
(208) 334-7505

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0101-2601
(Only Those Sections With Amendments Are Shown.)

35.01.01 – INCOME TAX ADMINISTRATIVE RULES

252. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADJUSTMENTS ALLOWED IN COMPUTING IDAHO ADJUSTED GROSS INCOME (RULE 252).

Section 63-3026A(6), Idaho Code

01. In General. Deductions allowed in computing adjusted gross income will be allowed in computing Idaho adjusted gross income unless specifically denied by Idaho law. The amount allowed will be computed as provided in this rule. Each computation in this rule will include the amounts reported for the taxable year unless otherwise indicated. (4-6-23)

02. Deductions Directly Related to Specific Items of Income or Property. If the deduction directly relates to a specific item of income or property, the allowable deduction will be computed by dividing the amount of related income reported in Idaho income by the total of such related income reported in federal income. This percentage is multiplied by the deduction to arrive at the amount allowed as an Idaho deduction. If the deduction is related to property that did not generate income during the taxable year, the deduction will be allowed in the proportion that the property to which the deduction relates was located in Idaho. Examples of some of these deductions include the following: (4-6-23)

a. Penalty on early withdrawal of savings. The allowable deduction will be computed by dividing the interest income of the time savings deposit subject to the penalty included in Idaho income by the total interest income of the time savings deposit included in federal income. This percentage is multiplied by the penalty deduction allowed for federal purposes. (4-6-23)

b. Certain business expenses of reservists, performing artists, and fee-basis government officials. (4-6-23)

c. Jury duty pay remitted to an employer. (4-6-23)

d. Deductible expenses related to income from the rental of personal property engaged in for profit. (4-6-23)

e. Reforestation amortization and expenses. The allowable deduction will be computed by dividing the income from the related timber operations included in Idaho income by the total income from the related timber operations. If there is no income from the related timber operations for the year of the deduction, the allowable deduction will be computed based on the percentage of property in Idaho to total property to which the reforestation amortization and expenses relate. This percentage is multiplied by the reforestation amortization and expense deduction allowed for federal income tax purposes. (4-6-23)

f. Repayment of supplemental unemployment benefits. The allowable deduction will be computed by dividing the supplemental unemployment benefits included in Idaho income by the total supplemental unemployment benefits reported in federal income. This percentage is multiplied by the repayment deduction allowed for federal purposes. (4-6-23)

g. Attorney fees and court costs. The allowable deduction will be computed by dividing the total income related to the attorney fees and court costs included in Idaho income by the total income from such actions. This percentage is multiplied by the attorney fees and court costs allowed for federal purposes. (4-6-23)

h. Qualified tips from Federal Schedule 1-A. ()

i. Qualified overtime compensation from Federal Schedule 1-A. ()

03. Deductions Allowed Based on Qualifying Types of Income. If the deduction is dependent on the taxpayer earning a qualifying type of income, the allowable deduction will be computed by dividing the amount of the qualifying income reported in Idaho income by the total of such qualifying income reported. This percentage is multiplied by the deduction to arrive at the amount allowed as an Idaho deduction. (4-6-23)

a. Payments to an individual retirement account (IRA), federal health savings or medical savings account, or Section 501(c)(18)(D) retirement plan. The allowable deduction will be computed by dividing the taxpayer's Idaho compensation by the taxpayer's total compensation. This percentage is multiplied by the deduction allowed for federal purposes. For purposes of this rule, compensation means "compensation" as defined in Section 219(f)(1), Internal Revenue Code, and Treasury Regulation Section 1.219-1(c)(1). Idaho compensation is determined pursuant to Rule 270 of these rules. (4-6-23)

b. Payments to a Keogh retirement plan, simplified employee pension (SEP) Plan, SIMPLE Plan, self-employment tax, and self-employment health insurance. The allowable deduction will be computed by dividing the taxpayer's self-employment income from Idaho sources by the taxpayer's total self-employment income. This percentage is multiplied by the self-employment deductions allowed for federal purposes. (4-6-23)

04. Other Deductions. Deductions that do not relate to specific items of income or to the earning of qualifying income will be allowed in the proportion that Idaho total income bears to federal total income. The federal net operating loss deduction is not included in either the federal total income or the Idaho total income for this calculation. Such deductions include the following: (4-6-23)

- a. Alimony payments. (4-6-23)
- b. Moving expenses. (4-6-23)
- c. Student loan interest payments. (4-6-23)
- d. Tuition and fees deduction. (4-6-23)
- e. Enhanced deduction for seniors from Federal Schedule 1-A. ()
- f. Qualified passenger loan interest deduction from Federal Schedule 1-A. ()

(BREAK IN CONTINUITY OF SECTIONS)

771. ~~GROCERY~~ **FOOD TAX CREDIT: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007 (RULE 771).**

Section 63-3024A, Idaho Code

~~01.~~ **Residents.** (4-6-23)

~~a.~~ The additional twenty dollar (\$20) credit may not be claimed for other dependents who are age sixty-five (65) or older. (4-6-23)

021. Part-Year Residents. A part-year resident is entitled to a prorated credit based on the number of months ~~he was~~ they were domiciled in Idaho during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. If the credit exceeds ~~his~~ their tax liability, the part-year resident is not entitled to a refund. (4-6-23)()

032. Circumstances Causing Ineligibility. A resident or part-year resident individual is not eligible for the credit for the month or part of the month for which the individual: (4-6-23)

a. Received assistance under the federal food stamp program; or (4-6-23)

b. Was incarcerated. (4-6-23)

043. Nonresidents. A nonresident is not entitled to the credit even though the individual may have been employed in Idaho for the entire year. (4-6-23)

054. Members of the Uniformed Services. A member of the uniformed services who is: (4-6-23)

a. Domiciled in Idaho is entitled to this credit; (4-6-23)

b. Residing in Idaho but who is a nonresident pursuant to the Servicemembers Civil Relief Act is not entitled to this credit. (4-6-23)

065. Spouse or Dependents of Members of the Uniformed Services. Beginning on January 1, 2009, a spouse of a nonresident member of the uniformed services stationed in Idaho who has the same domicile as the military service member's home of record and who is residing in Idaho solely to be with the servicemember is a nonresident and is not entitled to the ~~grocery food tax~~ credit. A spouse who is domiciled in Idaho is entitled to the credit. The domicile of a dependent child is presumed to be that of the nonmilitary spouse. (4-6-23)()

(BREAK IN CONTINUITY OF SECTIONS)

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. (4-6-23)

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: (4-6-23)

a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (4-6-23)

b. For part-year residents only, the ~~grocery~~ food tax credit as authorized by Section 63-3024A, Idaho Code; (4-6-23)()

c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (4-6-23)

d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (4-6-23)

e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (4-6-23)

f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (4-6-23)

g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (4-6-23)

h. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (4-6-23)

i. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (4-6-23)

j. Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-6-23)

k. Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-6-23)

l. Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-6-23)

m. Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (4-6-23)

~~**n.** Idaho child tax credit as authorized by Section 63-3029L, Idaho Code. (4-6-23)~~

~~**on.**~~ **on.** Credit for employer contributions to employee's Idaho college savings program account as authorized by Section 63-3029M, Idaho Code. (4-6-23)

03. Adjustments to Credits. (4-6-23)

a. Adjustments to the amount of a credit earned is determined pursuant to the law applicable to the taxable year in which the credit was earned. (4-6-23)

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 also applies to any taxable years to which the credit was carried over. (4-6-23)

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 does 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. (4-6-23)

(BREAK IN CONTINUITY OF SECTIONS)

895. PERIOD OF LIMITATION ON ASSESSMENT AND COLLECTION OF TAX (RULE 895).

Sections 63-3068 and 63-3069A, Idaho Code

~~**01. Federal Determination.** The additional one (1) year period of limitation provided in Sections 63-3068(f) and 63-3068(j), Idaho Code, does not begin to run if the final federal determination is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's representative. The Internal Revenue Service and other taxing agencies are not representatives of taxpayers. (4-6-23)~~

02. State or Territory Determination. The additional one (1) year period of limitation provided in Section 63-3069A(2)(b), Idaho Code, does not begin to run if the final determination of income tax due to another state or territory is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's representative. Taxing agencies of other states or territories are not representatives of taxpayers. (4-6-23)

03. Protest of a Notice of Deficiency. If a taxpayer protests a Notice of Deficiency, the expiration of the period of limitations provided in Section 63-3068, Idaho Code, is suspended. (4-6-23)

04. Waiver of the Period of Limitation. If a taxpayer executes a waiver to extend the period of limitation, the waiver will state the taxpayer's name as shown on the tax return. If a group return is filed, the waiver applies to each corporation included in the combined group. (4-6-23)

05. Duplicate Returns. If a return is filed pursuant to Section 63-217(1)(b), Idaho Code, where the taxpayer establishes by competent evidence that the return was deposited in the United States mail or with a qualifying private delivery service (See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010) on or before the date for filing and the Tax Commission has notified the taxpayer that it has not received the return, the taxpayer is to submit a duplicate return within fifteen (15) days of such notification for the newly filed return to qualify as a duplicate return. The period of limitations for a duplicate return is the later of one (1) year from the filing of the duplicate return or the date provided for in Section 63-3068, Idaho Code. (4-6-23)

896. REQUEST FOR PROMPT ACTION BY THE TAX COMMISSION (RULE 896).

Section 63-3068(e), Idaho Code

01. Requirements of a Valid Request for Prompt Action. The personal representative, executor, administrator, or other fiduciary representing the estate of a decedent is to file the request for prompt action in writing with the Tax Commission. The request must meet the following qualifications: (4-6-23)

- a. It must be filed after the applicable return has been filed; (4-6-23)
- b. It must be filed separately from any other document; (4-6-23)
- c. It must identify the taxpayer by name and identification number and the taxable periods for which the prompt action is requested; and (4-6-23)
- d. It must clearly state that it is a request for prompt action pursuant to Section 63-3068(e), Idaho Code. (4-6-23)

02. Applicable Returns. A request for prompt action does not apply to any return filed after the request has been filed. The request applies only to returns reflecting income earned or other activities and transactions occurring during the lifetime of the decedent or by ~~his~~ their estate during the period of administration. ~~(4-6-23)~~ ()