TITLE 63
REVENUE AND TAXATION

CHAPTER 27
LICENSE TAX ON ELECTRICITY

63-2701. STATEMENT OF ELECTRIC GENERATING COMPANIES -- TAX. (1) In addition to the licenses and taxes now provided by law, each and every individual, firm, partnership, common law trust, corporation, association or other organization, now engaged or hereafter to engage in the generation, manufacture or production of electricity and electrical energy in the state of Idaho, through and by means of water power, for barter, sale, or exchange, and hereinafter referred to as the "producer," shall on or before the last day of each calendar month, render a statement to the state tax commission of the state of Idaho of all such electricity and electrical energy so generated, manufactured or produced by him or it in the state of Idaho, during the preceding calendar month and therewith pay a license tax of one-half mill per kilowatt hour on all such electricity and electrical energy so generated, manufactured or produced, except electricity and electrical energy generated or sold for use in manufacturing, mining, milling, smelting, refining and processing, as shown on such statement in the manner and within the time hereinafter provided.

(2) The state tax commission may by regulation provide for the filing of statements required in this section on a quarterly basis, in which case the statement shall be due on or before the last day of the calendar month following the end of the quarter to which the statement relates.

[(63-2701) 1931, (E.S.), ch. 3, sec. 1, p. 57; I.C.A., sec. 61-2201; am. 1949, ch. 248, sec. 1, p. 506; am. 1970, ch. 224, sec. 2, p. 631; am. 1986, ch. 91, sec. 1, p. 268.]

63-2702. PAYMENT OF TAX -- DISTRIBUTION OF REVENUE -- INTEREST ON DELINQUENCIES. (1) Said license tax shall be remitted with the statement required under section 63-2701, Idaho Code, and paid to the state tax commission, which shall distribute all moneys as follows:

(2) An amount of money shall be distributed to the state refund account sufficient to pay current refund claims. All refunds authorized by the state tax commission to be paid shall be paid through the state refund account, and those moneys are hereby continuously appropriated for that purpose. Such refunds shall be authorized for the purpose of repaying overpayments made under this chapter, for the purpose of repaying any tax, penalty, or interest illegally assessed or collected, or for the purpose of paying any judgement rendered against the state tax commission under the provisions of this chapter.

(3) The balance shall be distributed to the general account.

(4) Taxes not paid on the due date shall become delinquent and shall bear interest from said due date at the rate provided in section 63-3045, Idaho Code.

[(63-2702) 1931 (E.S.), ch. 3, sec. 2, p. 57; I.C.A., sec. 61-2202; am. 1971, ch. 63, sec. 1, p. 142; am. 1981, ch. 290, sec. 7, p. 602; am. 1986, ch. 73, sec. 12, p. 211; am. 1986, ch. 91, sec. 2, p. 268; am. 1987, ch. 260, sec. 3, p. 548.]

63-2702A. REFUNDS -- LIMITATIONS -- INTEREST. (1) If the tax commission determines that any amount due under this act has been paid more than once or has been erroneously or illegally collected or computed, the tax commission shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount then due and payable to the tax commission from that person and any balance refunded to the person by whom it was paid or to his successors, administrators or executors. The tax commission is authorized and the state board of tax appeals authorized to order the tax commission in proper cases to credit or refund such amounts whether or not such payments have been paid under protest and certify such refund to the state board of examiners.

(2) No such credit or refund shall be allowed or made after three (3) years from the time the payment was made, unless before the expiration of such period a claim therefor is filed by the taxpayer.

(3) Interest shall be allowed on the amount of such credits or refunds at the rate provided in section 63-3045, Idaho Code, from the date such tax was paid.

[63-2702A, added 1987, ch. 260, sec. 4, p. 548.]

63-2703. CERTIFICATE OF PRODUCER -- CONTENTS. Every producer referred to in section 63-2701 engaged in the production, generation or manufacture of electricity or electrical energy, shall make and file with the tax commission of the state of Idaho, on forms prescribed by the state tax commission, a duly acknowledged and verified certificate which shall contain: a, the name under which the producer is transacting business in the state of Idaho; b, his or its post-office address and principal place of business within the state; c, the address and location of his or its production plants or stations in Idaho; d, the name and address of the managing agent; e, the names and addresses of the several persons composing any firm or partnership constituting the producer, and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its officers, directors, resident general agent and attorney in fact; f, certified copies of any papers necessary to show that such producer has complied with the laws of the state of Idaho in order to transact business in Idaho.

[(63-2703) 1931 (E.S.), ch. 3, sec. 3, p. 57; I.C.A., sec. 61-2203; am. 1971, ch. 63, sec. 2, p. 142.]

63-2704. STATEMENT OF KILOWATT HOURS PRODUCED. Every such producer shall render to the state tax commission of the state of Idaho on forms prescribed, prepared and furnished by the state tax commission, the statement required under section 63-2701, Idaho Code, sworn to by the manager, president, secretary or treasurer of such producer, showing the number of kilowatt hours of electricity and electrical energy produced, generated or manufactured by him or it in the state of Idaho during the period to which the tax statement relates through and by means of water power, and the number of kilowatt hours subject to the tax imposed by this chapter. For the purpose of measuring such electricity and electrical energy such producer shall keep and maintain at the point or points of production, a recording watt hour meter or meters, or other suitable instrument for measuring the electricity or electrical energy produced, of a type to be approved by the state tax commission, and, subject to rules and regulations prescribed by the state

tax commission under this chapter, shall compute the number of kilowatt hours subject to the tax imposed by this chapter during each monthly period, such recordings and computations to be kept on file at the principal place of business of such producer within the state of Idaho and same together with the books and records of such producer shall be subject to the inspection of the state tax commission, their deputies or assistants, during reasonable business hours.

[(63-2704) 1931 (E.S.), ch. 3, sec. 4, p. 57; I.C.A., sec. 61-2204; am. 1949, ch. 248, sec. 2, p. 506; am. 1971, ch. 63, sec. 3, p. 142; am. 1986, ch. 91, sec. 3, p. 269.]

63-2705. EXEMPTION OF ELECTRICITY FOR PUMPING WATER FOR IRRIGATION PURPOSES. All electricity and electrical energy used for pumping water for irrigation purposes to be used on lands in the state of Idaho or for pumping water for drainage purposes on or from land in the state of Idaho is exempt from the provisions of this chapter, except in cases where the water so pumped is sold or rented to such irrigated lands: provided, the exemption here given shall accrue to the benefit of the consumer of such electricity or electrical energy: provided further, that the full amount of such license tax which would have been due from such producers of electricity and electrical energy, if such exemptions had not been made, shall be credited annually for the year in which the exemptions are made on the power bill to the consumer by the producer of such electricity and electrical energy, furnishing such power, and such producer shall include a statement of the amount of electricity and electrical energy exempted by this section, furnished by it for the purpose of pumping water for irrigation purposes on lands in the state of Idaho, or for the purpose of pumping water for drainage purposes on or from lands in the state of Idaho to the tax commission of the state of Idaho as a part of the statement required by section 63-2701, together with a statement of the credits made on the power bills to the consumers of such electricity and electrical energy for the pumping of water for irrigation to be used on lands in the state of Idaho, or for pumping water for drainage purposes on or from lands in the state of Idaho.

[(63-2705) 1931 (E.S.), ch. 3, sec. 5, p. 57; I.C.A., sec. 61-2205; am. 1941, ch. 41, sec. 1, p. 88; am. 1971, ch. 63, sec. 4, p. 142.]

63-2706. COMPLIANCE BY SUBSEQUENT OWNERS. Any producer of electricity or electrical energy referred to in section 63-2701 who shall hereafter engage in the generation, production or manufacture of electricity or electrical energy shall immediately upon purchasing or acquiring the plant, or installing equipment therefor, comply with the requirements of section 63-2703.

[(63-2706) 1931 (E.S.), ch. 3, sec. 6, p. 57; I.C.A., sec. 61-2206.]

63-2707. PENALTY FOR FALSE STATEMENT OR AFFIDAVIT. Any person, officer, partner, agent or representative of any producer referred to in section 63-2701, who shall make any false statement or affidavit in any certificate, report or statement herein required to be made to the state tax commission hereunder shall be deemed guilty of perjury and upon conviction shall be punished by imprisonment in the state penitentiary not less than one (1) nor more than fourteen (14) years.

[(63-2707) 1931 (E.S.), ch. 3, sec. 7, p. 57; I.C.A., sec. 61-2207; am. 1971, ch. 63, sec. 5, p. 142.]

63-2708. COLLECTION AND ENFORCEMENT -- ACTIONS AGAINST STATE OF IDAHO. (1) In addition to the enforcement and penalty provisions in this chapter, the deficiency in tax, notice of deficiency and collection and enforcement procedures provided by the Idaho income tax act, in sections 63-3030A, 63-3038, 63-3039, 63-3040, 63-3042, 63-3043, 63-3044, 63-3045, 63-3045A, 63-3045B, 63-3046, 63-3047, 63-3048 through 63-3065A, 63-3068, 63-3071, and 63-3075 through 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this chapter and for the assessment and collection of any amounts due under this chapter. Wherever liens or any other proceedings are defined as income tax liens or proceedings they shall, when applied in enforcement or collection under this chapter, be described as kilowatt hour tax liens and proceedings.

(2) The state tax commission may be made a party defendant in an action at law or in equity by any person aggrieved by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final judgment secured against the state tax commission, and said judgment shall be paid as provided for payment of refunds under this chapter.

[63-2708, added 1997, ch. 55, sec. 2, p. 93.]

63-2711. SEPARABILITY. If any section or provision of this chapter be adjudged unconstitutional or invalid for any reason, such adjudication shall not affect the validity of this chapter as a whole or of any section or provision thereof which is not specifically so adjudged unconstitutional or invalid.

[(63-2711) 1931 (E.S.), ch. 3, sec. 11, p. 57; I.C.A., sec. 61-2211.]