

Dear Senators JOHNSON, Bayer, Burgoyne, and  
Representatives COLLINS, Trujillo, Erpelding:

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

IDAPA 35.01.09 - Idaho County Option Kitchen and Table Wine Tax Administrative Rules -  
Proposed Rule (Docket No. 35-0109-1701);

IDAPA 35.01.10 - Idaho Cigarette and Tobacco Products Tax Administrative Rules - Proposed Rule  
(Docket No. 35-0110-1701);

IDAPA 35.01.12 - Idaho Beer Tax Administrative Rules - Proposed Rule (Docket No. 35-0112-1701).

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 08/03/2017. 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 08/31/2017.

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 334-4834, 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:** Legislative Research Analyst - Kristin Ford

**DATE:** July 17, 2017

**SUBJECT:** State Tax Commission

IDAPA 35.01.09 - Idaho County Option Kitchen and Table Wine Tax Administrative Rules - Proposed Rule (Docket No. 35-0109-1701)

IDAPA 35.01.10 - Idaho Cigarette and Tobacco Products Tax Administrative Rules - Proposed Rule (Docket No. 35-0110-1701)

IDAPA 35.01.12 - Idaho Beer Tax Administrative Rules - Proposed Rule (Docket No. 35-0112-1701)

IDAPA 35.01.09 - Idaho County Option Kitchen and Table Wine Tax Administrative Rules - Proposed Rule (Docket No. 35-0109-1701). The Idaho State Tax Commission submits notice of proposed rulemaking at IDAPA 35.01.09 -- Idaho County Option Kitchen and Table Wine Tax Administrative Rules. The proposed rule deletes Rule 17 relating to administrative appeals, adds administrative appeals provisions to Rule 3 and creates a new Rule 6 to incorporate by reference and make applicable the general Tax Commission administration and enforcement rules to the Idaho County Option Kitchen and Table Wine Act. The Commission states that it did not engage in negotiated rulemaking because the changes were made to meet rulewriting guidelines. The Commission's proposed rule is authorized pursuant to sections 63-105, 23-1323 and 23-1322A, Idaho Code.

IDAPA 35.01.10 - Idaho Cigarette and Tobacco Products Tax Administrative Rules - Proposed Rule (Docket No. 35-0110-1701). The Idaho State Tax Commission submits notice of proposed rulemaking at IDAPA 35.01.10 - Idaho Cigarette and Tobacco Products Tax Administrative Rules. The proposed rule adds a new Rule 6 to incorporate by reference and make applicable the general Tax Commission administration and enforcement rules to the Idaho Cigarette and Tobacco Products Tax Act. The Commission states that it did not engage in negotiated rulemaking because the changes were made to meet rulewriting guidelines. The Commission's proposed rule is authorized pursuant to sections 63-105, 63-3039, 63-2516 and 63-2563, Idaho Code.

IDAPA 35.01.12 - Idaho Beer Tax Administrative Rules - Proposed Rule (Docket No. 35-0112-1701). The Idaho State Tax Commission submits notice of proposed rulemaking at IDAPA 35.01.12 - Idaho Beer Tax Administrative Rules. The proposed rule deletes Rule 14 relating to administrative appeals, adds administrative appeals provisions to Rule 3 and creates a new Rule 6 to incorporate by reference and make applicable the general Tax Commission administration and enforcement rules to the Idaho Beer Act. The Commission states that it did not engage in negotiated rulemaking because the changes were made to meet rulewriting guidelines. The Commission's proposed rule is authorized pursuant to sections 63-105, 23-1050A and 23-1051, Idaho Code.

Mike Nugent, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

cc: State Tax Commission  
Sherry Briscoe

## IDAPA 35 – IDAHO STATE TAX COMMISSION

### 35.01.09 – IDAHO COUNTY OPTION KITCHEN AND TABLE WINE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0109-1701

#### 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 and 23-1323, Idaho Code, and Section 23-1322A, 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 July 19, 2017.

The hearing site(s) 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:

Rule 003 – Administrative Appeals. This rule provides for administrative appeals procedures for wine tax appeals. The current rule incompletely lists only Idaho Code Section 63-3049, Judicial Review, relating to administrative appeals. The rule will be amended to include administrative appeals procedures included in Rule 017, Redetermination, Collection, and Enforcement.

Rule 006 – Incorporation By Reference. This new rule includes selected provisions of Rule 017, Redetermination, Collection, and Enforcement, which is being deleted. Rule 017 incorporates by reference the Tax Commission Administrative and Enforcement Rules, IDAPA 35.02.01.

Rule 017 – Redetermination, Collection, And Enforcement. This rule is being deleted and the provisions included in Rule 003, Administrative Appeals, and Rule 006, Incorporation by Reference. Rules 003 and 006 both include provisions relating to the administration and enforcement of the wine tax.

**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(2), Idaho Code, negotiated rulemaking was not conducted because the rules were amended to meet the rule writing guidelines.

**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:

Currently, this rule chapter does not conform to the incorporation by reference provision of the Administrative Procedure Act. Rule 017, Redetermination, Collection, and Enforcement, is being deleted and the provisions of this section are included in amended Rule Sections 003 and 006. IDAPA 35.02.01, “Tax Commission Administration and Enforcement Rules” as they relate to income tax administration and enforcement statutes authorized by Section 23-1322A, Idaho Code, are incorporated by reference in Rule 006.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact the undersigned.

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 July 26, 2017.

DATED this 7th day of June 2017.

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. 35-0109-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**003. ADMINISTRATIVE APPEALS (RULE 003).**

Section 23-1322A.

These rules only apply to the imposition and collection of wine tax. This chapter ~~does~~ allows administrative relief ~~of~~ the provisions outlined herein under as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code, and related rules. (7-1-93)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. INCORPORATION BY REFERENCE (RULE 006).**

Section 23-1322A.

These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," relating to the statutes authorized by Section 23-1322A, Idaho Code, and will apply to wine tax collection and enforcement unless they are expressly contrary to the "Idaho County Option Kitchen and Table Wine Act" and these rules. Wherever the terms income or income tax are used in those statutes and rules, the terms wine or wine tax shall be substituted for purposes of the "Idaho County Option Kitchen and Table Wine Act" and these rules. (    )

**0067. -- 009. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~017. REDETERMINATION, COLLECTION, AND ENFORCEMENT (RULE 017).~~**

~~01. **Administrative Appeals.** Sections 63-3042 through 63-3065A, 63-3068, and 63-3070, Idaho Code, govern the method for administrative appeals, appeals to the Board of Tax Appeals, and appeals to Idaho's District and Supreme Courts, as well as collection and enforcement of the wine tax. The provisions and terms of those Income Tax statutes and Income Tax Rules promulgated thereunder, to the extent consistent with the Idaho County Option Kitchen and Table Wine Act and these rules, are hereby adopted by this reference as if stated in full in this rule.~~ (7-1-93)

~~02. **Substitution of Terms.** Wherever the terms income or income tax are used in those statutes and rules, the terms wine or wine tax shall be substituted for purposes of the County Option Kitchen and Table Wine Act and these rules.~~ (7-1-93)

~~03. **Copies of Code and Rules Available.** Copies of Idaho Code provisions and rules that deal with procedures for redetermination, collection, enforcement, and other matters are available at offices of the Division of Statewide Administrative Rules and at those libraries specified in Section 67-5205(e), Idaho Code.~~ (7-1-93)

## IDAPA 35 – IDAHO STATE TAX COMMISSION

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

DOCKET NO. 35-0110-1701

#### 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, 63-3039, 63-2516, and 63-2563, 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 July 19, 2017.

The hearing site(s) 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:

Rule 006 – Incorporation By Reference. This new rule incorporates by reference IDAPA 35.02.01, “Tax Commission Administrative and Enforcement Rules” related to income tax administration and enforcement statutes adopted in Sections 63-2516 and 63-2563, Idaho Code.

**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(2), Idaho Code, negotiated rulemaking was not conducted because the rules were amended to meet the rule writing guidelines.

**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:

Currently, these administrative rules have no incorporation by reference rule in conformance with the rule writer guidelines. Cigarette and Tobacco Tax Rule 006, Incorporation by Reference, will incorporate income tax administrative and enforcement rules related to income tax administration and enforcement statutes adopted in Sections 63-2516 and 63-2563, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact the undersigned.

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 July 26, 2017.

DATED this 7th day of June, 2017.

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. 35-0110-1701  
(Only Those Sections With Amendments Are Shown.)

**006. INCORPORATION BY REFERENCE (RULE 006).**

Sections 63-2516 and 63-2563, Idaho Code.

These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," relating to the statutes authorized by Sections 63-2516 and 63-2563, Idaho Code, and will apply to cigarette and tobacco tax collection and enforcement unless they are expressly contrary to the "Cigarette and Tobacco Products Taxes Act" and these rules. Wherever the terms income or income tax are used in those statutes and rules, the terms cigarette, cigarette tax, tobacco, or tobacco tax shall be substituted for purposes of the "Cigarette and Tobacco Products Taxes Act" and these rules. ( )

**0067. -- 009. (RESERVED)**

## IDAPA 35 – IDAHO STATE TAX COMMISSION

### 35.01.12 – IDAHO BEER TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0112-1701

#### 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 and 23-1051, Idaho Code, and Section 23-1050A, 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 July 19, 2017.

The hearing site(s) 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:

Rule 003 – Administrative Appeals. This rule provides for administrative appeals procedures for beer tax appeals. The current rule incompletely lists only Idaho Code Section 63-3049, Judicial Review, relating to administrative appeals. The rule will be amended to include administrative appeals procedures included in Rule 014, Redetermination, Collection, and Enforcement.

Rule 006 – Incorporation By Reference. This new rule includes selected provisions of Rule 014, Redetermination, Collection, and Enforcement, which is being deleted. Rule 014 incorporates by reference IDAPA 35.02.01, “Tax Commission Administrative and Enforcement Rules.”

Rule 014 – Redetermination, Collection, And Enforcement. This rule is being deleted and the provisions included in Rule 003, Administrative Appeals, and Rule 006, Incorporation by Reference. Rules 003 and 006 both include provisions relating to the administration and enforcement of the beer tax.

**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(2), Idaho Code, negotiated rulemaking was not conducted because the rules were amended to meet the rule writing guidelines.

**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:

Currently, these administrative rules have no incorporation by reference rule in conformance with the rule writer guidelines. There is an incorporation by reference in Beer Tax Rule 014, Redetermination, Collection, and Enforcement. This incorporation by reference will be deleted from Rule 014 and used to create Beer Tax Rule 006, Incorporation by Reference. The incorporated references are Income Tax Administration and Enforcement rules related to Income Tax Administration and Enforcement Statutes authorized by Section 23-1050A, Idaho Code.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact the undersigned.

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 July 26, 2017.

DATED this 7th day of June, 2017.



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. 35-0112-1701**  
**(Only Those Sections With Amendments Are Shown.)**

**003. ADMINISTRATIVE APPEALS (RULE 003).**

Section 23-1050A, Idaho Code.

These rules only apply to the imposition and collection of beer tax. This chapter ~~does~~ allows administrative relief of the provisions outlined herein under as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code, and related rules. (7-1-93)(\_\_\_\_)

**(BREAK IN CONTINUITY OF SECTIONS)**

**006. INCORPORATION BY REFERENCE (RULE 006).**

Section 23-1050A, Idaho Code.

These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," relating to the statutes authorized by Section 23-1050A, Idaho Code, and will apply to beer tax collection and enforcement unless they are expressly contrary to the "Beer Act" and these rules. Wherever the terms income or income tax are used in those statutes and rules, the terms beer or beer tax shall be substituted for purposes of the "Beer Act" and these rules. (\_\_\_\_)

**006~~7~~. -- 009. (RESERVED)**

**(BREAK IN CONTINUITY OF SECTIONS)**

**~~014. REDETERMINATION, COLLECTION, AND ENFORCEMENT (RULE 014).~~**

~~01. **Administrative Appeals.** Sections 63-3042 through 63-3065A, 63-3068, and 63-3070, Idaho Code, govern the method for administrative appeals, appeals to the Board of Tax Appeals, and appeals to Idaho's District and Supreme Courts, as well as collection and enforcement of the beer tax. The provisions and terms of those Income Tax statutes and Income Tax Rules promulgated thereunder, to the extent consistent with the Act and these Beer Tax Rules, are hereby adopted by this reference as if stated in full in this rule.~~ (7-1-93)

~~02. **Substitution of Terms.** Wherever the terms income or income tax are used in those statutes and rules, the terms beer or beer tax shall be substituted for purposes of the Act and these rules.~~ (7-1-93)

~~03. **Copies of Code and Rules Available.** Copies of Idaho Code provisions and rules which deal with procedures for redetermination, collection, enforcement, and other matters are available at offices of the Tax Commission and at those libraries specified in Section 67-5205(c), Idaho Code.~~ (7-1-93)