

Dear Senators RICE, Grow, Burgoyne, and  
Representatives COLLINS, Stevenson, Erpelding:

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. 35-0101-1903).

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 07/29/2019. 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 08/26/2019.

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.



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:** Division Manager - Kristin Ford

**DATE:** July 09, 2019

**SUBJECT:** State Tax Commission

IDAPA 35.01.01 - Income Tax Administrative Rules - Proposed Rule (Docket No. 35-0101-1903)

#### Summary and Stated Reasons for the Rule

The State Tax Commission submits notice of proposed rulemaking relating to the Income Tax. The proposed rule modifies the income tax brackets in Rule 075 and the amount of payments that are sourced as compensation for services in Rule 263 to account for annual consumer price index changes for tax year 2019, as required by Idaho Code 63-3024 and 63-3026A(3), respectively.

#### Negotiated Rulemaking/Fiscal Impact

The agency states that negotiated rulemaking was not conducted because the rules are simple in nature. No negative fiscal impact to the General Fund exceeding \$10,000 is expected.

#### Statutory Authority

The proposed rule changes are within the agency's statutory authority pursuant to sections 63-105, 63-3024, 63-3026A, and 63-3039, 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.

Kristin Ford, Manager  
Research & Legislation

Paul Headlee, Manager  
Budget & Policy Analysis

April Renfro, Manager  
Legislative Audits

Glenn Harris, Manager  
Information Technology

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**IDAPA 35 – STATE TAX COMMISSION**  
**35.01.01 – INCOME TAX ADMINISTRATIVE RULES**  
**DOCKET NO. 35-0101-1903**  
**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 63-3039, 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 17, 2019.

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 075 – The changes to this rule add the tax brackets for calendar year 2019 and remove the information for calendar year 2014 so only five years of historical data is retained in the rule.

Rule 263 – The changes to this rule add the amount of guaranteed payments that are sourced as compensation for services for calendar year 2019.

**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 are simple in nature.

**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 proposed rule, contact Cynthia Adrian, (208) 334-7670.

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 24, 2019.

DATED this 3rd day of July, 2019.

Cynthia Adrian, Income Tax Policy Specialist  
State Tax Commission  
800 Park Blvd., Plaza IV  
P.O. Box 36  
Boise, ID 83722-0410  
Phone: (208) 334-7670  
Fax: (208) 334-7690  
[cynthia.adrian@tax.idaho.gov](mailto:cynthia.adrian@tax.idaho.gov)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 35-0101-1903  
(Only Those Sections With Amendments Are Shown.)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).  
Section 63-3024, Idaho Code

01. **In General.** The tax rates applied to the Idaho taxable income of an individual, trust or estate for the latest five (5) years are identified in Subsection 075.03 of this rule. The Idaho income tax brackets are adjusted for inflation. The maximum tax rate as listed for the applicable taxable year in Subsection 075.03 of this rule applies in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-7-11)

02. **Tax Computation.** (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household is twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (4-7-11)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars (\$30,000), the tax is computed as if they had taxable income of fifteen thousand dollars (\$15,000). The tax amount is multiplied by two (2). (4-7-11)

03. **Tables Identifying the Idaho Tax Rates and Income Tax Brackets.** (3-20-04)

*a. For taxable years beginning in 2014:*

<i>IF IDAHO TAXABLE INCOME IS</i>		<i>IDAHO TAX</i>		
<i>At least</i>	<i>But less than</i>	<i>Is</i>		<i>Plus</i>
\$1	\$1,429	\$0	+	1.6% of taxable income
\$1,429	\$2,858	\$22.86	+	3.6% of the amount over \$1,429
\$2,858	\$4,287	\$74.30	+	4.1% of the amount over \$2,858
\$4,287	\$5,716	\$132.89	+	5.1% of the amount over \$4,287
\$5,716	\$7,145	\$205.77	+	6.1% of the amount over \$5,716
\$7,145	\$10,718	\$292.94	+	7.1% of the amount over \$7,145
\$10,718 or more		\$546.59	+	7.4% of the amount over \$10,718

*Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2014.*

(4-11-15)

*b.a.* For taxable years beginning in 2015:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,452	\$0	+	1.6% of taxable income
\$1,452	\$2,904	\$23.23	+	3.6% of the amount over \$1,452
\$2,904	\$4,356	\$75.50	+	4.1% of the amount over \$2,904
\$4,356	\$5,808	\$135.03	+	5.1% of the amount over \$4,356
\$5,808	\$7,260	\$209.08	+	6.1% of the amount over \$5,808
\$7,260	\$10,890	\$297.65	+	7.1% of the amount over \$7,260
\$10,890 or more		\$555.38	+	7.4% of the amount over \$10,890

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.

(3-25-16)

**eb.** For taxable years beginning in 2016:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,454	\$0	+	1.6% of taxable income
\$1,454	\$2,908	\$23.26	+	3.6% of the amount over \$1,454
\$2,908	\$4,362	\$75.60	+	4.1% of the amount over \$2,908
\$4,362	\$5,816	\$135.21	+	5.1% of the amount over \$4,362
\$5,816	\$7,270	\$209.36	+	6.1% of the amount over \$5,816
\$7,270	\$10,905	\$298.05	+	7.1% of the amount over \$7,270
\$10,905 or more		\$556.14	+	7.4% of the amount over \$10,905

Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2016.

(3-29-17)

**dc.** For taxable years beginning in 2017:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,472	\$0	+	1.6% of taxable income
\$1,472	\$2,945	\$23.56	+	3.6% of the amount over \$1,472
\$2,945	\$4,417	\$76.57	+	4.1% of the amount over \$2,945
\$4,417	\$5,890	\$136.94	+	5.1% of the amount over \$4,417
\$5,890	\$7,362	\$212.03	+	6.1% of the amount over \$5,890
\$7,362	\$11,043	\$301.85	+	7.1% of the amount over \$7,362

\$11,043 or more		\$563.21	+	7.4% of the amount over \$11,043
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2017.				

(3-28-18)

**ed.** For taxable years beginning in 2018:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,504	\$0	+	1.125% of taxable income
\$1,504	\$3,008	\$16.92	+	3.125% of the amount over \$1,504
\$3,008	\$4,511	\$63.91	+	3.625% of the amount over \$3,008
\$4,511	\$6,015	\$118.42	+	4.625% of the amount over \$4,511
\$6,015	\$7,519	\$187.97	+	5.625% of the amount over \$6,015
\$7,519	\$11,279	\$272.56	+	6.625% of the amount over \$7,519
\$11,279 or more		\$521.63	+	6.925% of the amount over \$11,279
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2018.				

(3-26-19)

**e.** For taxable years beginning in 2019:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	But less than	Is		Plus
\$1	\$1,541	\$0	+	1.125% of taxable income
\$1,541	\$3,081	\$17.33	+	3.125% of the amount over \$1,541
\$3,081	\$4,622	\$65.47	+	3.625% of the amount over \$3,081
\$4,622	\$6,162	\$121.32	+	4.625% of the amount over \$4,622
\$6,162	\$7,703	\$192.57	+	5.625% of the amount over \$6,162
\$7,703	\$11,554	\$279.22	+	6.625% of the amount over \$7,703
\$11,554 or more		\$534.37	+	6.925% of the amount over \$11,554
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2019.				

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**(BREAK IN CONTINUITY OF SECTIONS)**

**263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).**  
Section 63-3026A(3), Idaho Code

**01. In General.** The taxable amount of a shareholder’s pro rata share or a partner’s distributive share of business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. (3-20-97)

**02. Nonbusiness Income.** Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. (3-20-97)

**03. Pass-Through Items.** Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: (3-20-97)

- a. Ordinary income or loss from trade or business activities; (3-20-97)
- b. Net income or loss from rental real estate activities; (3-20-97)
- c. Net income or loss from other rental activities; (3-20-97)
- d. Interest income; (3-20-97)
- e. Dividends; (3-20-97)
- f. Royalties; (3-20-97)
- g. Capital gain or loss; (3-20-97)
- h. Other portfolio income or loss; (3-20-97)
- i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. (3-20-97)

**04. Guaranteed Payments Treated As Compensation.** (3-20-14)

a. Guaranteed payments to an individual partner up to the amount shown in paragraph 263.04.b. in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. (3-20-14)

b. The amount of guaranteed payments that are sourced as compensation for services is as follows:

TAX YEAR	AMOUNT
<del>2019</del>	<del>\$269,500</del>
2018	\$263,000
2017	\$257,500
2016	\$254,250
2015	\$254,000
2014	\$250,000
2013	\$250,000

~~(3-26-19)( )~~

**05. Distributions.** (2-27-12)

- a.** Partnerships. The amount of distributions received by a partner that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 731, Internal Revenue Code, by the Idaho apportionment factor of the partnership. (2-27-12)
- b.** S Corporations. The amount of distributions received by a shareholder that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 1368, Internal Revenue Code, by the Idaho apportionment factor of the S corporation. (2-27-12)
- c.** The Idaho apportionment factor for purposes of Paragraphs 263.05.a. and 263.05.b. of this rule is determined pursuant to Section 63-3027, Idaho Code, and related rules. (2-27-12)