Business. Opportunity.

Business Incentive Manual 2015

IDAHO
COMMERCE

Idaho Department of Commerce Business Incentives Manual 2015

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TAX REIMBURSEMENT INCENTIVE (TRI)

TRI is a new performance-based economic development incentive that provides a tax credit up to 30% for up to 15 years on new corporate income tax, sales tax, and payroll taxes paid as a result of a new qualifying project. To qualify, a new project must meet certain requirements for creating high-paying jobs in Idaho. The credit is refundable and is available to both existing and new companies. The tax credit percentage and project term is negotiated based upon the quality of jobs created, regional economic impact and return on investment for Idaho. All incentives will be approved by the Idaho Economic Advisory Council and will be governed by detailed agreements between the Department of Commerce and incented companies.

Administrative Rules (temporary)-Tax Reimbursement Incentive (TRI)

28.04.01 - RULES OF THE TAX REIMBURSEMENT INCENTIVE

000. LEGAL AUTHORITY.
These rules are promulgated under the legal authority of Section 67-4744, Idaho Code.
001. TITLE AND SCOPE.
01. Title. These rules shall be cited as IDAPA 28.04.01, the “Tax Reimbursement Incentive.”
02. Scope. These rules implement House Bill No. 546, as amended in the Senate, and enacted by the Second Regular Session of the Sixty-second Legislature and signed into law on April 3, 2014. These rules amend Chapter 47, Title 67, Idaho Code, by the addition of new sections 67-4737 through 67-4744, Idaho Code. The seven new sections provide rule making authority to the Director of the Department of Commerce (Department), a short title and legislative intent, an Application and Application process, formation of agreements with the Applicant, reimbursement to the Applicant through an earned tax credit, annual reporting procedure and requirement of an annual report to the Legislature by the Director of the Department of Commerce.

002. WRITTEN INTERPRETATIONS.
The Department may have written statements that pertain to the interpretation of these rules or to the documentation of compliance with these rules. These documents are available for public inspection at the Department’s office.

003. ADMINISTRATIVE APPEALS.
The award of a credit under the Tax Reimbursement Incentive Act is made at the recommendation of the Director of the Department of Commerce and approval of the Economic Advisory Council (Council). In light of the negotiated nature of awarding the Tax Reimbursement Incentive (TRI), there is no administrative appeal under these rules. Nothing in this section shall prohibit an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code.
004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The mailing address of the Department for information regarding the Tax Reimbursement Incentive Act is: 700 West State Street, PO Box 83720, Boise, ID 83702-0093; the telephone number is (208) 334-2470; and the facsimile number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8am to 5pm, Monday through Friday, excluding holidays.

005. PUBLIC RECORDS ACT COMPLIANCE.
All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code).

006. –012. (RESERVED).

013. DEFINITIONS & ABBREVIATIONS. Unless defined below, all words shall have the meaning ascribed in Chapter 47, Title 67, Section 4738, Idaho Code.

01. Incentive Agreement. A reimbursement contract between the Department and the Business Entity which details any instruction provided by the Council in addition to the requirements detailed in Chapter 47, Title 67, Section 4740, Idaho Code.

02. Pre-Application. A form, paper or electronic, that is completed by the Business Entity or on behalf of the Business Entity by an authorized economic development or local government representative when details about the Meaningful Project are not fully known. A Pre-Application necessitates that an

Application is completed by the Business Entity or its authorized representative at a later time, and prior to award of a Tax Credit.

03. Tax Reimbursement Incentive Act (TRI). A performance based tax reimbursement mechanism available to existing Idaho businesses and new businesses creating jobs in Idaho. Also known as the Idaho Reimbursement Incentive Act.

014. PROGRAM INTENT. The TRI is designed to accelerate the growth of new business opportunities, encourage the creation of high-paying jobs, and diversify the state's and local community's economy. The Tax Reimbursement Incentive is a performance-based economic development tool that provides a refundable tax credit up to 30% for up to 15 years on new Business Entity income tax, sales tax, and payroll taxes paid as a result of Meaningful Project. The TRI will perpetually generate the revenues needed to fund the incentive.

This credit is available to both existing and new companies seeking expansion in the state. The tax credit percentage and project term are negotiated based upon the quantity and quality of jobs created, state/regional economic impact and return on taxpayer investment for Idaho, among others.

The Tax Reimbursement Incentive authorized shall be the lowest approved percentage and term that will incentivize creation of New Jobs and New State Revenue.

Incentives will be evaluated and recommended to the Council by the Director, with final approval by the Council. The TRI will be governed by Incentive Agreements between the Department and Applicant.

015. ELIGIBILITY.

01. Eligible Recipients. Recipients of the TRI are limited to existing Business Entities located in Idaho seeking to expand their companies within the state of Idaho, and Business Entities, new to Idaho, seeking to relocate to, or expand in, the state of Idaho.

02. Eligible Projects. An eligible project is an expansion of an existing business located in Idaho or the creation of new business operations in Idaho that generate the minimum required New Jobs based on Rural or Urban location.

016. JOB CREATION AND WAGE CRITERIA.

01. The Minimum New Jobs required for a Rural community is not less than twenty (20) over the Term of the project.

02. The Minimum New Jobs required for an Urban community is not less than fifty (50) over the Term of the project.

03. New jobs must exceed the Applicant's maximum number of full times jobs in Idaho during the twelve (12) months immediately preceding the date of the Application.

04. A job that shifts from one (1) location within the state of Idaho to another location within the state of Idaho is not considered a new job.

05. New Jobs must pay wages that equal or exceed the average annual county wage in the county where the jobs are located. The Department will annually publish the average county wage based on the most recent, non-preliminary information, obtained from the Idaho Department of Labor.

017. APPLICATION PROCESS.

01. Inquiry. The Business Entity, or its authorized representative, may engage an authorized representative from the Department to complete an initial screening process. The screening process will assist the Business Entity in determining to proceed with a Pre-Application or Application. Information necessary during screening includes general details about the Meaningful Project, the number of Full-Time jobs, the number of New Jobs, the Minimum New Jobs, the Rural or Urban area under consideration, the industry, the community contribution, as well as any other information requested to determine eligibility. The Business Entity, in consultation with the Department's representative, shall make a determination to proceed with a Pre-Application or a full Application depending on the project timeline, known project details or other factors associated with the project.

02. Pre-Application. After the Business Entity's determination to proceed with a Pre--Application, the Business Entity will be provided with access to a Pre-Application that shall detail the following:

a. complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project;
b. a statement of dependency explaining whether the project will occur or how it will be altered if the Application is denied by the Council;
c. letter from the city and/or county expressing a commitment to supply community contribution;
d. description of the proposed capital investment, if any;
e. description of jobs to be created, an approximation of the number of such jobs to be created and the projected wages to be paid for such jobs; and
f. description of the estimated new state tax revenues to be generated by the project.

A Pre-Application may be completed by the Business Entity or an authorized representative of the Business Entity, such as an economic development or local government representative.

03. Pre-Application Estimate Letter. Upon Department review and acceptance of a Pre-Application, the Director may issue an estimate letter to the Business Entity, and/or its authorized representative, which describes the estimated amount of the tax credit, the estimated term of the tax credit, and any other contingencies determined necessary by the Department. This letter is a non-binding estimate based on the initial information supplied in the Pre-Application.

04. Application. After the Business Entity's determination to proceed with an Application, the Business Entity will be given access to the Application which shall include, but not be limited to, the following information:

a. complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project;
b. an affidavit of criticality explaining that without the TRI incentive, the Business Entity would be forced to alter its project or not choose Idaho;
c. letter from the city and/or county describing the commitment to supply a community contribution, along with a specific description and amount of the contribution;
d. Business Entities currently doing business in Idaho will supply a letter from the Idaho state tax commission confirming that the Applicant is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission;
e. an estimate of Idaho goods and services to be consumed or purchased by the Applicant during the term;
f. known or expected detriments to the environment or existing industries in the state;

g. an anticipated project inception date and proposed schedule of progress;
h. proposed performance requirements and measurements that must be met prior to issuance of the tax credit;
i. a detailed description of the proposed capital investment;
j. a detailed description of jobs to be created, an approximation of the number of such jobs to be created and the projected wages to be paid for such jobs; and
k. the estimated New State Revenues, by tax type, to be generated by the project.

05. Application Recommendation Letter. Upon review of an Application, the Director may issue a letter which details the Director's anticipated recommendation to the Council. The letter may include the percentage of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. All Application recommendation letters shall contain a "subject to Economic Advisory Council approval" contingency clause.

06. Technical Review – Pre-Application. The Director and Department staff will complete a technical review of each Pre-Application. Upon satisfaction that all Pre-Application requirements are met, the Director may issue an estimate letter.

07. Technical Review –Application. The Director and Department staff will complete a technical review and economic impact analysis of each Application. The technical review will consider many economic factors and external information sources, such as but not limited to, the region, industry, financial health and history of the Applicant, as well as the quality, quantity and economic impact of New Jobs and New State Revenue. Upon satisfaction that all Application requirements are met, the Director may submit a recommendation for award to the Council.

08. Economic Advisory Council. The Council shall review the Application and the Director recommendations. Following review the council shall have the following three (3) options:

a. request additional information or action from the Director in order to obtain necessary information to approve or reject the Application; or
b. approve the Application and instruct the Director to enter into an Agreement with the Applicant; or
c. reject the Application. An approval or rejection from the council shall not be considered a contested case pursuant to Chapter 52, Title 67, Idaho Code, provided, however, that nothing in this section shall prohibit an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code.

09. Pre-Application Schedule. The Pre-Application is open year round. Review of Pre-Applications is subject to the meeting schedule of Department staff.

10. Application Schedule. The Application is open year round. Review of Applications is subject to the meeting schedule of Department staff.

Review of Applications by the Council is subject to the meeting schedule of the Council. The Council will meet no less than quarterly, and has the ability to meet more often at the request of the Director.

018. CONFLICT OF INTEREST. Conflict of Interest is defined by Idaho's Office of the Attorney General as any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or member of the person's household, or a business with which the person or a member of the person's household is associated. In the event Department staff, including the Director has a conflict of interest regarding an Application, the conflict shall be fully disclosed to the Director and the Council, and that person shall abstain from decision making or evaluation of the Application. In the event a Council member has a conflict of interest regarding an Application, the Council

member shall fully disclose such conflict to the Director and the Council member shall abstain from voting on the Application

019. AGREEMENTS. At the direction of the Council, and in accordance with the criteria established by these rules, the Director shall enter into a reimbursement incentive Agreement with the Applicant. The Agreement shall contain any terms as approved by the Council, terms deemed necessary by the state Deputy Attorney General, as well as the following:

a. maximum term; which shall not exceed fifteen (15) years
b. projected new state revenues to be generated during the term
c. method and recordkeeping requirements to accomplish (b)
d. the approved tax credit percentage applied to New State Revenue each year the applicant is entitled to receive the reimbursement during the term of the Meaningful Project;
e. the projected New Jobs;
f. the terms and conditions of any and all performance requirements and measurements that must be met prior to the issuance of a tax credit authorization;
g. the agreed upon and necessary proof of compliance required prior to tax credit issuance.
h. the consequences of default by the applicant;
i. the period to be used to determine the taxes paid at the date of Application;
j. identification of any individual or entity included within the Application that is entitled to a rebate pursuant to section 63-3641 or is required to obtain a separate seller's permit pursuant to chapter 36, title 63, Idaho Code.
k. the federal employer identification and social security number for each individual or entity included within the definition of Business Entity and that is included within the filing of the Application; and
l. identification of the individual or entity that is or will be claiming the refundable credit.

020. TAX CREDIT AUTHORIZATION. No Applicant may claim a tax credit unless the Applicant has a Tax Credit Authorization issued by the Department. An Applicant may claim a tax credit on its tax return, in the amount listed on the Tax Credit Authorization for the year listed on the Tax Credit Authorization.

The Department shall provide a duplicate copy of any Tax Credit Authorization to the Idaho state tax commission.

021. ANNUAL REPORTING BY APPLICANT. Required annual reporting shall be outlined in the Agreement and shall include, but not be limited to:

a. supporting documentation of the new state revenues from the applicant's new project that were paid during the preceding calendar year;
b. supporting documentation of the new jobs that were created during the preceding calendar year and the corresponding payroll information associated with the new jobs;
c. known or expected detriments to the state or existing industries in the state;
d. a document that expressly directs and authorizes the Idaho state tax commission and Idaho department of labor to allow the department access to the applicant's returns and other information that may be necessary to verify or otherwise confirm the declared new state revenues, new jobs and the associated payroll information;
e. letter from the Idaho state tax commission confirming that the applicant is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission;
f. identification of any individual or entity included within the Application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to chapter 36, title 63, Idaho Code; and
g. supporting documentation that the business entity has satisfied the measurements and requirements outlined in the agreement.

022. ANNUAL REPORTING BY DEPARTMENT. The Department shall create an annual written report for the Governor and the Legislature describing the following:

a. the Department's success under this act in attracting new jobs;
b. the estimated amount of tax credit commitments made by the Department and the period of time over which tax credits will be paid;
c. the economic impact on the state related to generating new state revenue and providing tax credits under this act;
d. the estimated costs and economic benefits of the tax credit commitments that the Department made; and
e. the actual costs and economic benefits of the tax credit commitments the Department made.

The report shall be submitted to the Office of the Governor and the appropriate Legislative committee chairmen in a timely manner following the close of the state's fiscal year

023. AUDIT OF DEPARTMENT. On or before November 1, 2015 and every year thereafter, the Department shall arrange for an independent third party audit pursuant to Chapter 47, Title 67, Idaho Code. The Department shall consider any audit recommendations provided during the audit and implement changes as necessary as a result of those recommendations.

024. CONTINUATION OF TAX CREDIT. During the term of the Project for each Applicant, the Department shall review the Applicant's annual report. Provided the Applicant provides a reasonable justification for authorizing or continuing a tax credit, the Department shall determine the amount of the tax credit to be granted, issue a tax credit authorization to the Applicant, and provide a duplicate copy of the tax credit authorization to the Idaho state tax commission. The amount of the tax credit to be continued shall be in accordance with the credit percentages specified in the agreement. The TRI shall not be extended beyond the term and length specified in the Agreement.

025. TERMINATION OR SUSPENSION OF TAX CREDIT. During the term of the Project for each Applicant, the Department shall review the Applicant's annual report and if the information provided is inadequate or inaccurate to provide a reasonable justification for authorizing or continuing a tax credit, the Department shall:

a. deny the tax credit for that tax year, or

b. terminate the Agreement for failure to meet the performance standards established in in the Agreement, or

c. request the applicant to submit additional documentation.

026. SUSPENSION OF IDAHO REIMBURSEMENT INCENTIVE ACT. The Director shall suspend the issuance of all new Agreements with Applicants upon the occurrence of the following conditions:

a. the governor orders a temporary reduction of general fund spending authority, pursuant to section 67-3512A, Idaho Code; and

b. the governor issues an executive order directing the Department to suspend the issuance of new agreements during the tax year in which the temporary reduction of general fund spending authority has been ordered and the executive order issued.

In the case of suspension all Agreements that have been approved by the Council prior to the governor issuing an executive order as provided by (a) and (b) above, shall remain in full force and effect and shall not be modified or impaired as a result of the executive order.

During the period of time that new agreements have been suspended, the Director shall maintain the necessary services required to support all existing agreements and comply with all required reporting and review responsibilities.

The governor may, by executive order, remove the suspension issued.

Statute-Tax Reimbursement Incentive (TRI)

From: http://www.legislature.idaho.gov/idstat/Title67/T67CH47.htm

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 47

DEPARTMENT OF COMMERCE

67-4737. IDAHO REIMBURSEMENT INCENTIVE ACT -- SHORT TITLE -- LEGISLATIVE INTENT. Sections 67-4737 through 67-4744, Idaho Code, shall be known and may be cited as the "Idaho Reimbursement Incentive Act." The Idaho legislature finds that in order to compete more effectively in a national and global marketplace for economic expansion, business retention and job creation, a number of states, including Idaho, have deemed it necessary to create economic-based incentives for the creation of quality jobs. Further, the Idaho legislature desires to create the Idaho reimbursement incentive act to be a performance-based tax reimbursement mechanism available to existing Idaho businesses and new businesses creating jobs in Idaho when the same are in good standing in the state of Idaho.

67-4738. DEFINITIONS. As used in sections 67-4737 through 67-4744, Idaho Code:

(1) "Applicant" means a business entity that intends to create new jobs and submits an application for reimbursement to the department in accordance with this act.

(2) "Application" means a form approved by the director of the department containing all information required by the provisions of this act.

(3) "Approved percentage" means the amount of new state revenue the applicant is entitled to receive in the form of a tax credit over the term of the project. The approved percentage shall not exceed thirty percent (30%) of the new state revenue over the term of the project subject to the criteria as established by rules.

(4) "Business entity" means a single business, a separate division, branch or identifiable segment, or a group of businesses related through ownership pursuant to section 267 of the Internal Revenue Code. For the purpose of this subsection, a "separate division, branch, or identifiable segment" shall be deemed to exist if, prior to the date of application, the income and expense attributable to such "separate division, branch, or identifiable segment" could be separately ascertained from the books of accounts and records.

(5) "Community match" means a commitment by the local government that demonstrates its active support of the applicant creating new jobs in its jurisdiction. Such match may include, but shall not be limited to, a contribution of money, fee waivers, in-kind services, the provision of infrastructure or a combination thereof. Such match shall also include a letter of commitment by the governing elected officials of the jurisdiction detailing the local government's support that shall be included as part of an application.

(6) "Council" means the economic advisory council created pursuant to chapter 47, title 67, Idaho Code.

(7) "Department" means the Idaho department of commerce.

(8) "Director" means the director of the Idaho department of commerce.

(9) "Full-time job" means a job in which an individual is employed by the applicant and performs such duties at least thirty (30) hours per week.

(10) "Meaningful project" means an expansion of an existing business located in Idaho or the creation of new business operations in Idaho that generate the minimum required new jobs and otherwise qualify under the provisions of this act.

(11) "Minimum new jobs" means new jobs created by the applicant that shall be not less than twenty (20) such jobs over the term of the project if created within a rural community, or not less than fifty (50) such jobs over the term of the project if created within an urban community. An applicant will not be eligible for tax credit during the term of the project until the minimum new jobs have been added.

(12) "New jobs" means new jobs created in Idaho in accordance with this act that are nonseasonal, full-time jobs that pay annual wages that equal or exceed the average annual county wage where the jobs will be created. For purposes of this act, a job that shifts from one (1) location within the state of Idaho to another location shall not be considered a new job. New jobs must exceed the applicant's maximum number of full-time jobs in Idaho during the twelve (12) months immediately preceding the date of application.

(13) "New state revenue" means the Idaho portion of state corporate income tax, personal income tax and sales and use tax that is paid by the applicant in excess of those taxes paid at the date of application and is attributable only to the new growth upon which the application is based. New state revenue does not include taxes paid during the term that is attributable to those operations that existed prior to the application. New state revenue shall include:

(a) Incremental new state sales and use tax revenues as governed by chapter 36, title 63, Idaho Code, that have been paid by the applicant on their own purchases as a result of a meaningful project;

(b) Incremental new state income tax, including income tax generated by corporations, pass-through entities, as defined in section 63-3006C, Idaho Code, or proprietorships, pursuant to chapter 30, title 63, Idaho Code, that have been paid by an applicant as a result of a meaningful project;

(c) Incremental new state personal income taxes, as governed by chapter 30, title 63, Idaho Code, withheld on behalf of the applicant's employees, resulting from new jobs in a meaningful project, as evidenced by payroll withholding records indicating the amount of employee income taxes withheld and transmitted to the tax commission. Incremental new state personal income taxes shall not exceed the maximum allowable percentage of gross wages paid during a corresponding period that shall be the lesser of seven percent (7%) or the highest incremental state income tax rate.

(14) "Rural community" means, at the time of application, a city with a population of less than twenty-five thousand (25,000) persons or an unincorporated area within a county.

(15) "Tax commission" means the Idaho state tax commission.

(16) "Tax credit" means a refundable tax credit authorized by the director of the department. The tax commission shall make a refund to an applicant that is granted a tax credit under this section if the amount of the tax credit exceeds the applicant's tax liability for a taxable year. The credit may be used as a credit against the income or franchise tax contained in chapter 30, title 63, Idaho Code.

(17) "Tax credit amount" means the amount the department authorizes as a tax credit for a taxable year.

(18) "Term of project" or "term" means the number of years an applicant is authorized to receive a tax credit under this act that shall not exceed fifteen (15) years subject to the criteria as established by rules.
(19) "Urban community" means, at the time of application, a city with a population of at least twenty-five thousand (25,000), provided however, that a city of less than twenty-five thousand (25,000) that is adjoining an urban community shall be considered urban.

67-4739. APPLICATION -- PROCESS -- AGREEMENTS -- REIMBURSEMENT. (1) A business entity may claim a refundable tax credit for creating a minimum number of new jobs in the state of Idaho. In order to be considered for participation, an applicant or its designated representative must submit an application to the director and shall include:

(a) A complete description of the proposed project and the economic benefit that will accrue to the state as a result of the project;

(b) A description or explanation of whether the project will occur or how it will be altered if the tax credit application is denied by the council;

(c) Proof of a community match;

(d) An affidavit from the tax commission confirming that the applicant is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission;

(e) A detailed statement with an estimate of Idaho goods and services to be consumed or purchased by the applicant during the term;

(f) Known or expected detriments to the state or existing industries in the state;

(g) An anticipated project inception date and proposed schedule of progress;

(h) Proposed performance requirements and measurements that must be met prior to issuance of the tax credit;

(i) A detailed description of the proposed capital investment;

(j) A detailed description of jobs to be created, an approximation of the number of such jobs to be created and the projected wages to be paid for such jobs; and
(k) A detailed description of the estimated new state tax revenues to be generated by the project.
(2) Upon satisfaction by the director that all requirements are met pursuant to this chapter, the director shall submit such application to the council. The council shall review the application, may request additional information and shall approve or reject the application. An approval or rejection from the council shall not be considered a contested case pursuant to chapter 52, title 67, Idaho Code; provided, however, that nothing in this section shall prohibit an aggrieved applicant from seeking judicial review as provided in chapter 52, title 67, Idaho Code.
(3) If the council approves the application, the council shall instruct the director to enter into an agreement with the applicant with the terms of the council's approval. If the council rejects an application, the applicant may reapply with a new application.

(4) In the event a member of the council has a conflict of interest on an application that is before the council, the member shall fully disclose it to the council and abstain from any vote on the application.

67-4740. AGREEMENT WITH APPLICANT. (1) With instruction from the council, and in accordance with criteria as established by rules, the director of the department shall enter into a reimbursement incentive agreement with the applicant, provided the agreement defines the following in addition to the terms as approved by the council:
(a) The term of the agreement which in no case shall exceed fifteen (15) years;
(b) The projected new state revenues to be generated during the term of the project;
(c) The method and recordkeeping requirements to be used by the applicant to determine the new state revenue paid by the applicant. The approved tax credit percentage applied to new state revenue each year the applicant is entitled to receive the reimbursement during the term of the project;
(d) The projected new jobs;
(e) The terms and conditions of any and all requirements and measurements that must be met prior to the issuance of a tax credit authorization;
(f) The agreed upon and necessary proof of compliance required prior to tax credit issuance. Proof of compliance provided by the applicant must be adequate to demonstrate to the director that all requirements and measurements have been met for the applicant to receive the tax credit;
(g) The consequences of default by the applicant;
(h) The period to be used to determine the taxes paid at the date of application;
(i) Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to chapter 36, title 63, Idaho Code.
(j) The federal employer identification and social security number for each individual or entity included within the definition of business entity and that is included within the filing of the application; and
(k) Identification of the individual or entity that is or will be claiming the refundable credit.

67-4741. APPLICANT’S ANNUAL REPORTING PROCEDURE. (1) On an annual basis during the term of the project, the applicant shall submit to the department reporting information outlined in the agreement that shall include, but not be limited to, the following:

(a) Supporting documentation of the new state revenues from the applicant's new project that were paid during the preceding calendar year;

(b) Supporting documentation of the new jobs that were created during the preceding calendar year;

(c) Known or expected detriments to the state or existing industries in the state;
(d) A document that expressly directs and authorizes the tax commission and department of labor to allow the department access to the applicant's returns and other information that may be necessary to verify or otherwise confirm the declared new state revenues;
(e) An affidavit from the tax commission confirming that the applicant is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission;
(f) Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code,

or is required to obtain a separate seller's permit pursuant to chapter 36, title 63, Idaho Code; and
(g) Supporting documentation that the business entity has satisfied the measurements and requirements outlined in the agreement.

(2) If, after review and audit of the information provided by the applicant, or after review of the ongoing performance of the applicant, the department determines that the information is inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the department shall:
(a) Deny the tax credit for such tax year;
(b) Terminate the agreement for failure to meet the performance standards established in the agreement; or
(c) Inform the applicant that the returns or other information are inadequate and request the applicant to submit additional documentation.

(3) If, after review and/or audit of the information provided by the applicant, the department determines that the information provided by the applicant provides reasonable justification for authorizing a tax credit, the department shall, based upon the returns and other information:
(a) Determine the amount of the tax credit to be granted to the applicant which amount shall be the lowest approved percentage that will incentivize creation of new jobs and new state revenue;
(b) Issue a tax credit authorization to the applicant; and
(c) Provide a duplicate copy of the tax credit authorization to the tax commission.
(4) No applicant may claim a tax credit unless the applicant has a tax credit authorization issued by the department. An applicant may claim a tax credit in the amount listed on the tax credit authorization on its tax return.

67-4742. ANNUAL REPORTING BY DEPARTMENT. (1) The department shall create an annual written report for the governor and the legislature describing:

(a) The department's success under this act in attracting new jobs;

(b) The estimated amount of tax credit commitments made by the department and the period of time over which tax credits will be paid;

(c) The economic impact on the state related to generating new state revenue and providing tax credits under this act;
(d) The estimated costs and economic benefits of the tax credit commitments that the department made; and
(e) The actual costs and economic benefits of the tax credit commitments the department made.

(2) On or before November 1, 2015, and every year thereafter, the department shall:
(a) Conduct an independent, third-party audit of the tax credits issued under this act;
(b) Evaluate the tax credits issued under this act and the effectiveness of the tax credits; and
(c) Make recommendations concerning whether the tax credits should be continued, modified or repealed.

(3) The audit as set forth herein shall include an evaluation of:
(a) The amount of tax credits granted; and
(b) The effectiveness of the department's internal controls within the application and approval process pursuant to this chapter.
(4) The results of such audit and the director's recommendations shall be forwarded in a timely manner to the office of the governor and to the appropriate legislative committee chairmen.

67-4743. SUSPENSION OF IDAHO REIMBURSEMENT INCENTIVE ACT. (1) The director shall suspend the issuance of all new agreements with applicants upon the occurrence of the following conditions:

(a) The governor orders a temporary reduction of general fund spending authority, pursuant to section 67-3512A, Idaho Code; and

(b) The governor issues an executive order directing the department to suspend the issuance of new agreements during the tax year in which the temporary reduction of general fund spending authority has been ordered and the executive order issued.

(2) Pursuant to this chapter, all agreements that have been approved by the council prior to the governor issuing an executive order as provided by subsection (1) (b) of this section shall remain in full force and effect and shall not be modified or impaired as a result of the executive order.

(3) During the period of time that new agreements have been suspended, the director shall maintain the necessary services required pursuant to this chapter to support all existing agreements and comply with all required reporting and review responsibilities.

(4) The governor may, by executive order, remove the suspension issued pursuant to subsection (1) (b) of this section.

67-4744. DIRECTOR RULEMAKING AUTHORITY. The director shall promulgate rules pursuant to chapter 52, title 67, Idaho Code, in the furtherance of the objectives of this act.

OPPORTUNITY FUND

The Idaho Opportunity Fund (IOF) is a discretionary grant program that was established in 2013 with the intent of serving as a “deal closing fund” to strengthen Idaho’s competitive ability to support expansion of existing Idaho businesses and recruit new companies to the state, ultimately creating new jobs and economic growth in Idaho. Beyond the requirements of other grant programs offered through the state of Idaho, the Idaho Opportunity Fund requires three key components:

1. **Eligible Applicants**

Idaho local governments (cities, counties, towns, etc.)

2. **Eligible Projects**

The Director of the Department of Commerce may, in his sole discretion, award Idaho Opportunity Fund grants to local governments for public costs incurred with the purpose to retain, expand or attract jobs to the State of Idaho. Eligible projects include:

- Construction of, or improvements to, new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations.
- Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects.
- Flood zone or environmental hazard mitigation.

3. **Community Match**

The local government must be able to provide allowable match in a negotiated amount that represents a material commitment from the local government that is commensurate with the local government’s financial condition. The Director of the Department of Commerce has the authority to approve alternate forms of match or waive local match requirements.

Administrative Rules-Idaho Opportunity Fund

IDAPA 28

TITLE 03, CHAPTER 01

28.03.01 - RULES OF THE IDAHO OPPORTUNITY FUND

000. LEGAL AUTHORITY.

These rules are promulgated under the legal authority of Section 67-4733, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.03.01, “Rules of the Idaho Opportunity Fund.”

(3-20-14)

02. Scope. These rules implement House Bill H100, enacted by the First Regular Session of the Sixty-second Legislature and signed into law on March 21, 2013. These rules amend Chapter 47, Title 67, Idaho Code, by the addition of new sections 67-4732 through 67-4736, Idaho Code. The three (3) new sections provide a short title and legislative intent, provide rulemaking authority to the Director of the Department of Commerce create the Opportunity Fund in the State Treasury, provide for the makeup and use of the fund, provide that agreements are required for disbursement of funds and provide for annual reporting by the Director of the Department of Commerce. (3-20-14)

002. WRITTEN INTERPRETATIONS.

The Department has no written interpretations of these rules. (3-20-14)

003. ADMINISTRATIVE APPEALS.

The award of grants under the Opportunity Fund are made at the discretion of the Director of the Department of Commerce. In light of the discretionary nature of awarding these grants, there is no administrative appeal under these rules.
(3-20-14)

004. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.

The mailing address of the Department for information regarding the Opportunity Fund Act is: 700 West State Street, PO Box 83720, Boise, ID 83702-0093; the telephone number is (208) 334-2470; and the facsimile number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8am to 5pm, Monday through Friday, excluding holidays.
(3-20-14)

005. PUBLIC RECORDS ACT COMPLIANCE.

All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (title 9, chapter 3, Idaho Code).
(3-20-14)

006. -- 009. (RESERVED)

013. DEFINITIONS.

01. Company Performance Agreement. An agreement between a local government and a Grantee

Business, in addition to any requirements in rules adopted by the Department. (3-20-14)

02. Department. Idaho Department of Commerce. (3-20-14)

03. Grantee Business. A non-governmental company or organization that receives funding through a Company Performance Agreement. (3-20-14)

04. Local Government Grant Agreement. An agreement between the Department and one (1) or more local governments. (3-20-14)

06. Public Cost. Any cost incurred by the state of Idaho or local government of the state of Idaho for the purpose of promoting economic development to retain, expand, or attract quality jobs in industries deemed vital to the health of the local and statewide economy. Public costs do not include impact fees or easements. (3-20-14)

014. GRANT AWARDS.

01. Funding. The Director of the Department may, in his sole discretion, award Opportunity Fund grants to local government for public costs incurred with the purpose to retain, expand or attract jobs which shall include: (3-20-14)

a. Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations; (3-20-14)

b. Flood zone or environmental hazard mitigation; or (3-20-14)

c. Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects. (3-20-14)

02. Local Match. The local government must provide allowable local match. Allowable match includes those costs which are allowable within the Opportunity Fund and must be provided by the local government as cash, in-kind services, fee waivers (such as development impact fees), donation of assets, the provision of infrastructure or a combination thereof. The match must represent a material commitment from the local government that is commensurate with the local government's financial condition. The Director of the Department has the authority to approve other forms of local match or waive the local match requirements. (3-20-14)

03. Local Government Grant Agreements. Local Government Grant Agreements will be entered into between the Department and one (1) or more local governments, and shall contain the following provisions:

(3-20-14)

a. A commitment on the part of the local government to match, in whole or in part, the funds allocated by the Department; (3-20-14)

b. A provision requiring the local government to recapture any funds to which the local government is entitled under the Company Performance Agreement; (3-20-14)

c. A provision requiring repayment from the local government to the Department for any funds used for unapproved purposes or disbursed prior to compliance with the Company Performance Agreement or achievement of the job creation or other performance targets; (3-20-14)

d. A provision allowing the Department access to records possessed by the local government necessary to ensure compliance with the Company Performance Agreement and with the requirements of the Opportunity Fund; (3-20-14)

e. A provision establishing a schedule for the disbursement of funds from the Opportunity Fund to the local government that reflects the disbursement schedule established in the Company Performance Agreement; and (3-20-14)

f. Any other lawful provision the Department deems necessary to ensure the proper use of state funds. (3-20-14)

04. Company Performance Agreements. Company Performance Agreements will be entered into between one (1) or more local governments and a Grantee Business, and may contain the following provisions: (3-20-14)

a. A commitment to create or retain a specified number of jobs within a specified salary range at a specific location; (3-20-14)

b. A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained; (3-20-14)

c. A commitment to complete the construction related to the agreed upon capital expenditures; (3-20-14)

d. A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met; (3-20-14)

e. A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time; (3-20-14)

f. A commitment to provide proof satisfactory to the local government and the Department of new jobs created or existing jobs retained and the salary level of those jobs; (3-20-14)

g. A provision that funds received under the Company Performance Agreement may be used only for a purpose as authorized by the Opportunity Fund; (3-20-14)

h. A provision allowing the Department or the local government to inspect the records of the Grantee Business as required to confirm compliance with the Company Performance Agreement or with the requirements of the Opportunity Fund. The provision shall limit the access of the Department and/or local government to only those records of the Grantee Business that are necessary to ensure compliance; (3-20-14)

i. A provision establishing the method for determining compliance with the Company Performance

Agreement; (3-20-14)

j. A provision establishing a schedule for disbursement of funds under the Company Performance Agreement that allows disbursement of funds only in proportion to the amount of performance completed under the Company Performance Agreement;
(3-20-14)

k. A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a Grantee Business subsequently fails to comply with the terms of the Company Performance Agreement;
(3-20-14)

l. A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other performance targets; and (3-20-14)

m. Any other lawful provision the Department or the local government finds necessary to ensure the proper use of state or local funds. (3-20-14)

05. Disbursements. Funds will be disbursed from the Opportunity Fund to the local government as defined in the Local Government Grant Agreement and after the local government has demonstrated that the Grantee Business has complied with the terms of the Company Performance Agreement. (3-20-14)

06. Award Amounts. The amount of each grant shall be determined by the Director, in his sole discretion.
(3-20-14)

016. REPORTING.

01. Quarterly. The Director of the Department shall report to the Economic Advisory Council quarterly on the grant activity and performance. (3-20-14)

02. Annually. The Director of the Department shall publish an annual report regarding the state of the Opportunity Fund no later than September 30 each year. The report shall contain information on the commitment of funds, disbursement and use of the funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created. The annual report will be made available to the Governor, the Joint Finance-Appropriations Committee and the public.
(3-20-14)

017. -- 999. (RESERVED)

Statute-Opportunity Fund

http://legislature.idaho.gov/idstat/Title67/T67CH47SECT67-4734PrinterFriendly.htm

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 47

DEPARTMENT OF COMMERCE

67-4734. IDAHO OPPORTUNITY FUND. There is hereby created in the state treasury the Idaho opportunity fund. Moneys in the Idaho opportunity fund may be expended by the Idaho department of commerce, pursuant to the provisions of this act, to assist in securing commitments for the retention and expansion of existing businesses and recruitment of new businesses.

(1) Moneys deposited in the fund. The following amounts shall be deposited in the fund:

(a) Any amounts appropriated by the legislature for the fund for purposes described by this section;

(b) Repayment of any moneys originally distributed from the fund that were improperly disbursed pursuant to the company performance agreement or the local government grant agreement; and

(c) Gifts, grants and other donations received for the fund.

(2) Use of funds. Moneys in the Idaho opportunity fund may be allocated to local governments for any lawful purpose consistent with the intent of this act, which purposes shall include:

(a) Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations;

(b) Flood zone or environmental hazard mitigation; and

(c) Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects.

http://www.legislature.idaho.gov/idstat/Title67/T67CH47SECT67-4735.htm

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 47

DEPARTMENT OF COMMERCE

67-4735. AGREEMENTS REQUIRED AND DISBURSEMENT OF FUNDS. (1) Funds may be disbursed from the Idaho opportunity fund only in accordance with this act and rules adopted by the department, and only in accordance with agreements entered into between the department and one (1) or more local governments, and agreements between the local government and a grantee business as set forth herein.

(2) Company performance agreements. An agreement between a local government and a grantee business, in addition to any requirements in rules adopted by the department, may contain the following provisions:

(a) A commitment to create or retain a specified number of jobs within a specified salary range at a specific location;

(b) A commitment regarding the time period in which the jobs will be created or retained and the minimum time period for which the jobs must be maintained;

(c) A commitment to complete the construction related to the agreed upon capital expenditures;

(d) A provision that a reasonable percentage of the total amount of the grant be withheld until specified performance targets are met;

(e) A provision that a reasonable percentage of the total amount of the grant be withheld until the specified number of jobs are maintained for a specified period of time;

(f) A commitment to provide proof satisfactory to the local government and the director of new jobs created or existing jobs retained and the salary level of those jobs;

(g) A provision that funds received under the agreement may be used only for a purpose as authorized by this act;

(h) A provision allowing the director or the local government to inspect all records of the business that may be used to confirm compliance with the agreement or with the requirements of this act;

(i) A provision establishing the method for determining compliance with the agreement;

(j) A provision establishing a schedule for disbursement of funds under the agreement that allows disbursement of funds only in proportion to the amount of performance completed under the agreement;

(k) A provision requiring repayment of grant funds and corresponding terms for repayment, if applicable, in the event a business subsequently fails to comply with the terms of the agreement;

(l) A provision that any repayments of grant funds required if the performance targets are not achieved may be prorated to reflect a partial attainment of job creation or other performance targets; and

(m) Any other lawful provision the director or the local government finds necessary to ensure the proper use of state or local funds.

(3) Local government grant agreement. An agreement between the department and one (1) or more local governments shall contain the following provisions:

(a) A commitment on the part of the local government to match, in whole or in part, the funds allocated by the department. A local match may include, but shall not be limited to, money, fee waivers, in-kind services, donation of assets, the provision of infrastructure or a combination thereof. The director of the department of commerce shall have the authority to waive the local match requirement;

(b) A provision requiring the local government to recapture any funds to which the local government is entitled under the company performance agreement;

(c) A provision requiring repayment from the local government to the department for any funds used for unapproved purposes or disbursed prior to compliance with the company performance agreement or achievement of the job creation or other performance targets;

(d) A provision allowing the department access to all records possessed by the local government necessary to ensure compliance with the company performance agreement and with the requirements of this act;

(e) A provision establishing a schedule for the disbursement of funds from the Idaho opportunity fund to the local government that reflects the disbursement schedule established in the company performance agreement; and

(f) Any other lawful provision the department deems necessary to ensure the proper use of state funds.

(4) Disbursement of funds. Funds may be disbursed from the Idaho opportunity fund to the local government only after the local government has demonstrated that the business has complied with the negotiated terms of the company performance agreement. The department shall disburse funds allocated under the Idaho opportunity fund to a local government in accordance with the disbursement schedule established in the local government grant agreement.

http://www.legislature.idaho.gov/idstat/Title67/T67CH47SECT67-4736.htm

TITLE 67

STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 47

DEPARTMENT OF COMMERCE

67-4736. ANNUAL REPORT BY DIRECTOR. The director of the department of commerce shall annually publish a report regarding the state of the Idaho opportunity fund and cause the same to be made available to the public. The report shall contain information on the commitment of funds, disbursement and use of funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created as result of grant funds distributed

in the prior year. The report is due no later than the last day of September each year. The director shall also provide such report to the governor and the joint finance-appropriations committee during each regular session of the Idaho state legislature. In addition, the director of the department of commerce shall provide reports on the grant activity and performance to the economic advisory council on a quarterly basis during the year.

WORKFORCE DEVELOPMENT TRAINING FUND

The Workforce Development Training Fund (WDTF) can reimburse employee training costs to eligible companies that are bringing jobs to Idaho, adding jobs through expansion or upgrading skills of current workers who are at risk of being permanently laid off. The fund is financed by employers through an offset to the unemployment insurance tax.

Eligibility requirements

- Your company produces a product or service that is mainly sold (more than 50 percent) outside the region where the business is located OR the company is in the health care industry
- The starting wage is $12 an hour or more for the new positions being created OR positions being retained
- The company provides employer assisted medical benefits
- The company is increasing its current workforce OR is retraining existing staff in order to avoid layoffs

Statute-Workforce Development Training Fund

From: http://www.legislature.idaho.gov/idstat/Title72/T72CH13SECT72-1336.htm:

TITLE 72
WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION
CHAPTER 13
EMPLOYMENT SECURITY LAW

72-1336.ADVISORY BODY AND SPECIAL COMMITTEES.

(1) The governor shall appoint a workforce development council in accordance with section 111 of the federal workforce investment act of 1998, as amended (29 U.S.C. 2821) and federal regulations promulgated thereunder. Members of the body shall serve at the pleasure of the governor and shall be reimbursed for ordinary and actual expenses. The governor shall prescribe the duties and functions of the workforce development council which shall include, but not be limited to, the following:

(a) To serve as an advisory body to the department on matters related to workforce development policy and programs;

(b) To approve and provide oversight of department expenditures from the employment security special administration fund established under section 72-1347A, Idaho Code;

(c) To develop and provide oversight of procedures, criteria and performance measures for the workforce development training fund established under section 72-1347B, Idaho Code; and

(d) To serve as the state workforce investment board in accordance with section 111 of the federal workforce investment act of 1998, as amended, and federal regulations promulgated thereunder.

(2) The director may appoint special committees in connection with the administration of this chapter.

From: http://www.legislature.idaho.gov/idstat/Title72/T72CH13SECT72-1347B.htm

TITLE 72
WORKER'S COMPENSATION AND RELATED LAWS -- INDUSTRIAL COMMISSION
CHAPTER 13
EMPLOYMENT SECURITY LAW

72-1347B. Workforce development training fund.

(1) There is established in the state treasury a special trust fund, separate and apart from all other public funds of this state, to be known as the workforce development training fund, hereinafter "training fund." Except as provided herein, all proceeds from the training tax defined in subsection (4) of this section shall be paid into the training fund. The state treasurer shall be the custodian of the training fund and shall invest said moneys in accordance with law. Any interest earned on the moneys in the training fund shall be deposited in

the training fund. Moneys in the training fund shall be disbursed in accordance with the directions of the director. In any month when the unencumbered balance in the training fund exceeds six million dollars ($6,000,000), the excess amount over six million dollars ($6,000,000) shall be transferred to the employment security reserve fund, section 72-1347A, Idaho Code. For the purposes of this subsection (1), the unencumbered balance in the training fund is the balance in such fund reduced by the sum of:

(a) The amounts that have been obligated pursuant to fully-executed workforce development training fund contracts; and

(b) Any administrative costs related to the training fund that are due and payable.

(2) All moneys in the training fund are perpetually appropriated to the director for expenditure in accordance with the provisions of this section. The purpose of the training fund is to provide or expand training and retraining opportunities in an expeditious manner that would not otherwise exist for Idaho's workforce. The training fund is intended to supplement, but not to supplant or compete with, money available through existing training programs. The moneys in the training fund shall be used for the following purposes:

(a) To provide training for skills necessary for specific economic opportunities and industrial expansion initiatives;

(b) To provide training to upgrade the skills of currently employed workers at risk of being permanently laid off;

(c) For refunds of training taxes erroneously collected and deposited in the workforce training fund;

(d) For all administrative expenses incurred by the department associated with the collection of the training tax and any other administrative expenses associated with the training fund.

(3) Expenditures from the training fund for purposes authorized in paragraphs (a) and (b) of subsection (2) of this section shall be approved by the director, and the director of the department of commerce, in consultation with the office of the governor, based on procedures, criteria and performance measures established by the council appointed pursuant to section 72-1336, Idaho Code. The activities funded by the training fund will be coordinated with similar activities funded by the state division of professional-technical education. Expenditures from the training fund for purposes authorized in paragraphs (c) and (d) of subsection (2) of this section shall be approved by the director. The director shall pay all approved expenditures as long as the training fund has a positive balance. The council shall report annually to the governor and the joint finance-appropriations committee the commitments and expenditures made from the training fund in the preceding fiscal year and the results of the activities funded by the training fund.

(4) A training tax is hereby imposed on all covered employers required to pay contributions pursuant to section 72-1350, Idaho Code, with the exception of deficit employers who have been assigned a taxable wage rate from rate class six pursuant to section 72-1350, Idaho Code. The training tax rate shall be equal to three percent (3%) of the taxable wage rate then in effect for each eligible,

standard-rated and deficit employer. The training tax shall be due and payable at the same time and in the same manner as contributions. This subsection is repealed effective January 1, 2018, unless, prior to that date, the Idaho legislature approves the continuation of this subsection by repeal of this sunset clause.

(5) The provisions of this chapter which apply to the payment and collection of contributions also apply to the payment and collection of the training tax, including the same calculations, assessments, method of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. In the administration of the provisions of this section, the director is granted all rights, authority, and prerogatives granted under the provisions of this chapter. Moneys collected from an employer delinquent in paying contributions, reserve taxes and the training tax shall first be applied to any penalty and interest imposed pursuant to the provisions of this chapter and shall then be applied pro rata to delinquent contributions to the employment security fund, section 72-1346, Idaho Code, delinquent reserve taxes to the reserve fund, section 72-1347A, Idaho Code, and delinquent training taxes to the training fund. Any interest and penalties collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any interest or penalties refunded under this subsection shall be paid out of that same fund. Training taxes paid pursuant to this section shall not be credited to the employer's experience rating account and may not be deducted by any employer from the wages of individuals in its employ. All training taxes shall be deposited in the clearing account of the employment security fund, section 72-1346, Idaho Code, for clearance only and shall not become part of such fund. After clearance, the moneys shall be deposited in the training fund established in subsection (1) of this section.

(6) Administrative costs related to the training fund shall be paid from the training fund in accordance with subsection (3) of this section.

BUSINESS ADVANTAGE

Incentive Package

Businesses that invest a minimum of $500,000 in new facilities and create at least 10 new jobs averaging $40,000 annually plus benefits may qualify for a variety of incentives.

To qualify:

- The business must create at least 10 new jobs paying on average $40,000/year ($19.23/hour) plus benefits.
- The average wage of any additional new employee during project period must be $15.50/hour plus benefits
- The business must invest $500,000 in new facilities
- Project period ends when facilities put into service

Incentives:

- **Investment Tax Credit of 3.75%** - The credit is limited to 62.5% of the taxpayer's tax or $750,000 whichever is less for the taxable year. Can be carried forward 14 years.
- **Real Property Improvement Tax Credit of 2.5% -** A nonrefundable credit against income taxes that is allowed on new plant and buildings and structural components that do not qualify for ITC. The credit cannot exceed $125,000 in any one taxable year and has a 14-year carry forward provision.
- **New Jobs Income Tax Credit** – This credit can be applied for new jobs according to the following scale:

  24.04/hr to 28.85/hr = $1500/job
  28.86/hr to 36.06/hr = $2000/job
  36.07/hr to 43.27/hr = $2500/job
  43.28/hr or more = $3000/job

  Employee must work 9 months before credit applies.
- **Sales and Use Tax Rebate** – A 25% rebate is available on all sales and use tax that the taxpayer or its contractors actually paid for any property constructed, located or installed within the project site during the project period.
- **Small Employer Growth Incentive Exemption** – Local county commissions have the authority to exempt all or a part of the new investment value from property taxes for a determined period of time.

Project period – no earlier than January 1, 2006 ending December 31, 2020.

Administrative Rules-Business Advantage

942. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER TAX INCENTIVE CRITERIA (RULE 942).
Section 63-4402, Idaho Code.
(3-30-07)

01. In General. The small employer tax incentive criteria are the minimum requirements a taxpayer must meet in order to be eligible for small employer tax incentives. To meet the small employer tax incentive criteria a taxpayer must satisfy the following requirements at the project site, during the project period: (3-30-07)

a. Making capital investment in new plant and building facilities totaling five hundred thousand dollars ($500,000) or more;
(3-30-07)

b. Increasing employment by at least ten (10) new employees who meet the requirements of Section 63-4402(2)(j)(ii)(1), Idaho Code;
(3-30-07)

c. Employment increases more than the ten (10) new employees described in Paragraph 942.01.b. of this rule shall meet the requirements of Section 63-4402(2) (j)(ii)(2), Idaho Code; and
(3-30-07)

d. Once the increase in employment has been reached, maintaining that increased employment in Idaho for the remainder of the project period.
(3-30-07)

02. Certification. A taxpayer shall certify that he has met, or will meet, the small employer tax incentive criteria before he can claim any of the small employer tax incentives. Certification shall be accomplished by filing the applicable form as prescribed by the Tax Commission. The certification form shall include the following information and be filed with the Tax Commission prior to claiming any of the small employer tax incentives: (3-30-07)

a. A description of the qualifying project; (3-30-07)

b. The estimated or actual start date of the project;
(3-30-07)

c. The estimated or actual end date of the project; (3-30-07)

d. The location of the project site or sites;
(3-30-07)

e. The estimated or actual number of new jobs created during the project period; and
(3-30-07)

f. The estimated or actual cost of capital investment in new plant and building facilities for each year in the project period.
(3-30-07)

03. Copy of Certification Form Required. A copy of the certification form shall be attached to the Idaho income tax return for each taxable year that a small employer income tax incentive is claimed or carried over. (3-30-07)

945. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER NEW JOBS TAX CREDIT (RULE 945).
Sections 63-4405 and 63-4406, Idaho Code.
(3-30-07)

01. Credit Allowed. (3-30-07)

a. The small employer new jobs tax credit allowed by Section 63-4405, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 2020. (3-29-10)

b. The credit applies to new employees hired during the project period. New employees hired during the project period, but in a taxable year that does not qualify, shall not qualify for the small employer new jobs tax credit. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, new employees hired during that taxable year shall not qualify for the small employer new jobs tax credit, but may qualify for the credit for qualifying new employees allowed by Section 63-3029F, Idaho Code.
(3-30-07)

c. The applicable credit rate per new employee depends on the wage rate received by a qualifying new employee.
(3-30-07)

02. Taxpayers Entitled to the Credit. The small employer new jobs tax credit is allowed only to taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)

03. Calculating Number of Employees.
(3-30-07)

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Sections 63-4402(2)(e) and 63-4405, Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following:
(3-30-07)

i. The employee must have worked primarily within the project site for the taxpayer.
(3-30-07)

ii. The employee must have received earnings at a rate of more than twenty-four dollars and four cents ($24.04) per hour worked.
(3-30-07)

iii. The employee must have been eligible to receive employer provided coverage under a health plan described in Section 41-4703, Idaho Code.
(3-30-07)

iv. The employee must have been subject to Idaho income tax withholding.
(3-30-07)

v. The employee must have been covered for Idaho unemployment insurance purposes.
(3-30-07)

vi. The employee must have been employed on a regular full-time basis. An employee who customarily performs duties at least forty (40) hours per week on average for the taxable year shall be considered employed on a regular full-time basis. Leased employees do not qualify as employees of the lessee.
(3-30-07)

vii. The employee must have been performing such duties for the taxpayer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify.
(3-30-07)

b. Idaho Department of Labor Reports. The taxpayer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees.
(3-30-07)

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation.
(3-30-07)

04. Calculating the Number of New Employees. (3-30-07)

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following:
(3-30-07)

i. The number of employees for the prior taxable year; or (3-30-07)

ii. The average of the number of employees for the three (3) prior taxable years.
(3-30-07)

b. The requirements as to who qualifies for the calculation of number of employees in Paragraph 945.03.a., of this rule shall apply in computing the number of employees in Subparagraphs 945.04.a.i., and 945.04.a.ii., of this rule. Calculations used in computing the number of new employees for the prior taxable year and average for the three (3) prior taxable years shall be made consistent with the computations for the current taxable year.
(3-30-07)

c. The number of new employees shall be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned.
(3-30-07)

05. Computing the Credit Earned. The taxpayer shall identify each new employee who qualifies for the credit and his annual salary for the taxable year.
(3-30-07)

a. If during the taxable year the new employee earned more than twenty-four dollars and four cents ($24.04) per hour worked but less than or equal to an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked, the credit for such new employee shall be one thousand five hundred dollars ($1,500).
(3-30-07)

b. If during the taxable year the new employee earned more than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked but less than or equal to an average rate of thirty-six dollars and six cents ($36.06) per hour worked, the credit for such new employee shall be two thousand dollars ($2,000).
(3-30-07)

c. If during the taxable year the new employee earned more than an average rate of thirty-six dollars and six cents ($36.06) per hour worked but less than or equal to an average rate of forty-three dollars and twenty seven cents ($43.27) per hour worked, the credit for such new employee shall be two thousand five hundred dollars ($2,500).
(3-30-07)

d. If during the taxable year the new employee earned more than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked, the credit for such new employee shall be three thousand dollars ($3,000).
(3-30-07)

06. Limitations. The small employer new jobs tax credit allowable in any taxable year shall be limited as follows:
(3-30-07)

a. The small employer new jobs tax credit claimed during a taxable year may not exceed sixty-two and five-tenths percent (62.5%) of the tax, after allowing all other income tax credits that may be claimed before the small employer new jobs tax credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits.
(3-30-07)

b. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules.
(3-30-07)

07. Carryovers. The carryover period for the small employer new jobs tax credit is ten (10) years.
(3-30-07)

08. Coordination with Credit for Qualifying New Employees Allowed by Title 63, Chapter 30, Idaho Code. A taxpayer who has new employees who are eligible for the small employer new jobs tax credit may not claim the credit for qualifying new employees allowed by Section 63-3029F, Idaho Code, with respect to the same employees. However, a taxpayer may claim the credit for qualifying new employees for any new employees who do not meet the requirements for the small employer new jobs tax credit, but who meet the requirements of Sections 63-3029E and 63-3029F, Idaho Code. (3-30-07)

Statute-Business Advantage

From: http://legislature.idaho.gov/idstat/Title63/T63CH44.htm

TITLE 63

REVENUE AND TAXATION

CHAPTER 44

THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4402. Definitions.

(1) The definitions contained in the Idaho income tax act, shall apply to this chapter unless modified in this chapter or unless the context clearly requires another definition.

(2) As used in this chapter:

(a) "Commission" means the Idaho state tax commission.

(b) "New plant and building facilities" means facility or facilities, including related parking facilities, where employees are physically employed.

(c) "Idaho income tax act" means chapter 30, title 63, Idaho Code.

(d) "Investment in new plant" means investment in new plant and building facilities that are:

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(e) "New employee":

(i) Means an individual, employed primarily within the project site by the taxpayer, subject to Idaho income tax withholding whether or not any amounts are required to be withheld, covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, and who was eligible to receive employer provided coverage under a health benefit plan as described in section 41-4703, Idaho Code, during the taxable year. A person shall be deemed to be so employed if such person performs duties on a regular full-time basis.

(ii) The number of employees employed primarily within the project site by the taxpayer, during any taxable year for a taxpayer shall be the mathematical average of the number of such employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (e)(i) of this subsection (2). In the event the business is

in operation for less than the entire taxable year, the number of employees of the taxpayer for the year shall be the average number actually employed during the months of operation, provided that the qualifications of paragraph (e)(i) of this subsection (2) are met.

(iii) Existing employees of the taxpayer who obtain new qualifying positions within the project site and employees transferred from a related taxpayer or acquired as part of the acquisition of a trade or business from another taxpayer within the prior twelve (12) months are not included in this definition unless the new position or transfer creates a net new job in Idaho.

(f) "Project period" means the period of time beginning at a physical change to the project site or the first employment of new employees located in Idaho who are related to the activities at the project site, and ending when the facilities constituting the project are placed in service, but no later than December 31, 2020 and no longer than ten (10) years after the beginning.

(g) "Project site" means an area or areas at which new plant and building facilities are located and at which the tax incentive criteria have been or will be met and which are either:

(i) A single geographic area located in this state at which the new plant and building facilities owned or leased by the taxpayer are located; or

(ii) One (1) or more geographic areas located in this state if eighty percent (80%) or more of the investment required by subsection (2)(j)(i) of this section is made at one (1) of the areas.

(iii) The project site must be identified and described to the commission by a taxpayer subject to tax under the Idaho income tax act, in the form and manner prescribed by the commission.

(h) "Qualified investment" shall be defined as in section 63-3029B, Idaho Code.

(i) "Recapture period" means:

(i) In the case of credits described in sections 63-4403 and 63-4404, Idaho Code, the same period for which a recapture of investment tax credit under section 63-3029B, Idaho Code, is required; or

(ii) In the case of credits described in section 63-4405, Idaho Code, five (5) years from the date the project period ends.

(j) "Tax incentive criteria" means a taxpayer meeting at a project site the requirements of subparagraphs (i) and (ii) of this paragraph (j).

(i) During the project period, making capital investments in new plant of at least five hundred thousand dollars ($500,000) at the project site.

(ii) During a period of time beginning on January 1, 2006, and ending at the conclusion of the project period:

1. Increasing employment at the project site by at least ten (10) new employees each of whom must earn at least nineteen dollars and twenty-three cents ($19.23) per hour worked during the taxpayer's taxable year.

2. Employment increases above the ten (10) new employees described in subparagraph (ii)1. of this paragraph (j) at the project site shall on average earn at least fifteen dollars and fifty cents ($15.50) per hour worked during the taxpayer's taxable year. Calculation of the group average earnings shall not include amounts paid to any employee earning more than forty-eight dollars and eight cents ($48.08) per hour.

3. Earnings calculated pursuant to subparagraph (ii) of this paragraph (j) shall include income upon which Idaho income tax withholding is required under section 63-3035, Idaho Code, but shall not include income such as stock options or restricted stock grants.

4. For purposes of determining whether the increased employment threshold has been met, employment at the project site shall be determined by calculating the increase of such new employees reported to the Idaho department of labor for employment security purposes over the employees so reported as of the beginning of the project period or no earlier than January 1, 2006, whichever is larger; and

5. Maintaining net increased employment in Idaho required by subparagraph (ii) of this paragraph (j) during the remainder of the project period.

(k) "Taxpayer," for purposes of paragraphs (j) and (e) of this subsection (2), means either:

(i) A single taxpayer; or

(ii) In the context of a unitary group filing a combined report under section 63-3027(t), Idaho Code, all members of a unitary group includable in a combined report for the tax years in which the credit provided for by this chapter may be claimed. For all other purposes, the terms of section 63-3009, Idaho Code, and section 63-3027(t)(1), Idaho Code, apply to the meaning of "taxpayer."

TITLE 63

REVENUE AND TAXATION

CHAPTER 44

THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4403. Additional income tax credit for capital investment. [effective until December 31, 2020]

(1) For taxable years beginning on or after January 1, 2006, and before December 31, 2020, and subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, in regard to qualified investments made after the beginning of the project period and before December 31, 2020, in lieu of the investment tax credit provided in section 63-3029B, Idaho Code, be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of three and seventy-five one hundredths percent (3.75%) of the amount of qualified investment made during the project period, wherever located within this state.

(2) The credit allowed by this section shall not exceed sixty-two and five-tenths percent (62.5%) of the tax liability of the taxpayer.

(3) The credit allowed by this section shall not exceed seven hundred fifty thousand dollars ($750,000) in any one (1) taxable year.

63-4404. Real property improvement tax credit. [EFFECTIVE UNTIL DECEMBER 31, 2020]

(1) For taxable years beginning on or after January 1, 2006, and before December 31, 2020, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall be allowed a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, in the amount of two and five-tenths percent (2.5%) of the investment in new plant which is incurred during the project period applicable to the project site in which the investment is made.

(2) The credit allowed by this section shall not exceed one hundred twenty-five thousand dollars ($125,000) in any one (1) taxable year.

(3) No credit is allowable under this section for a qualified investment in regard to which a credit under section 63-4403, Idaho Code, is available.

(4) The credit allowed by this section is limited to buildings and structural components of buildings related to new plant and building facilities.

63-4405. Additional income tax credit for new jobs.

(1) Subject to the limitations of this chapter, for taxable years beginning on or after January 1, 2006, and before December 31, 2020, a taxpayer who has certified that the tax incentive criteria will be met within a project site during a project period shall, for the number of new employees earning more than a rate of twenty-four dollars and four cents ($24.04) per hour worked, in lieu of the credit amount in subsection (3) of section 63-3029F, Idaho Code, be allowed the credit provided by this section. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following:

(a) The number of employees for the prior taxable year; or

(b) The average of the number of employees for the three (3) prior taxable years.

(2) The credit provided by this section shall be:

(a) One thousand five hundred dollars ($1,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than twenty-four dollars and four cents ($24.04) per hour worked but equal to or less than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked;

(b) Two thousand dollars ($2,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked but equal to or less than an average rate of thirty-six dollars and six cents ($36.06) per hour worked;

(c) Two thousand five hundred dollars ($2,500) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of thirty-six dollars and six cents ($36.06) per hour worked but equal to or less than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked;

(d) Three thousand dollars ($3,000) for each new employee whose annual salary during the taxable year for which the credit is earned is greater than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked.

(3) The credit allowed by subsection (1) of this section shall apply only to employment primarily within the project site. No credit shall be earned unless such employee shall have performed such duties for the taxpayer for a minimum of nine (9) months during the taxable year for which the credit is claimed.

(4) The credit allowed by this section shall not exceed sixty-two and five-tenths percent (62.5%) of the tax liability of the taxpayer.

(5) Employees transferred from a related taxpayer or acquired from another taxpayer within the prior twelve (12) months shall not be included in the computation of the credit unless the transfer creates a net new job in Idaho.

63-4406. Limitations, and other provisions on credits against income taxes.

(1) In addition to other needed rules, the state tax commission may promulgate rules prescribing:

(a) In the case of S corporations, partnerships, trusts or estates, a method of attributing a credit under this chapter to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate; and

(b) The method by which the carryover of credits and the duty to recapture credits shall survive and be transferred in the event of reorganizations, mergers or liquidations.

(2) In the case of a unitary group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credits against income tax provided by sections 63-4403, 63-4404 and 63-4405, Idaho Code, earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the limitation in subsection (3) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member or members who earned the credit are no longer included in the combined group.

(3) The total of all credits allowed by sections 63-4403, 63-4404 and 63-4405, Idaho Code, together with any credits carried forward under subsection (4) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter and the Idaho income tax act.

(4) If the credits exceed the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed:

(a) The next fourteen (14) taxable years in the case of credits allowed by sections 63-4403 and 63-4404, Idaho Code; or

(b) The next ten (10) taxable years in the case of credits allowed by section 63-4405, Idaho Code.

63-4407. Recapture.

(1) In the event that any person to whom a tax credit allowed by section 63-4403, 63-4404 or 63-4405, Idaho Code, fails to meet the tax incentive criteria, the full amount of the credit shall be subject to recapture by the commission.

(2) If, during any taxable year, an investment in new plant is disposed of, or otherwise ceases to qualify with respect to the taxpayer, prior to the close of the recapture period, recapture of the credit allowed by sections 63-4403 and 63-4404, Idaho Code, shall be determined for such taxable year in the same proportion and subject to the same provisions as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(3) In the event that the employment level for which the credit allowed in section 63-4405, Idaho Code, is not maintained for the entire recapture period, recapture of the credit allowed in section 63-4405, Idaho Code, shall be determined for such taxable year in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code. This subsection shall not be construed to require that the required level of employment must be met by the same individual employees.

(4) Any amount subject to recapture is a deficiency in tax for the amount of the credit in the taxable year in which the disqualification first occurs and may be enforced and collected in the manner provided by the Idaho income tax act, provided however, that in lieu of the provisions of section 63-3068(a), Idaho Code, the period of time within which the commission may issue a notice under section 63-3045, Idaho Code, in regard to an amount subject to recapture shall be the later of five (5) years after the end of the taxable year in which the project period ends or three (3) years after the end of the taxable year in which any amounts carried forward under section 63-4406, Idaho Code, expire.

63-4408. Sales and use tax incentives -- Rebates -- Recapture. [EFFECTIVE UNTIL DECEMBER 31, 2020]

(1) For calendar years beginning on January 1, 2006, and ending on December 31, 2020, subject to the limitations of this chapter, a taxpayer who has certified that the tax incentive criteria will be met within the project site shall be entitled to receive a rebate of twenty-five percent (25%) of all sales and use taxes imposed by chapter 36, title 63, Idaho Code, and that the taxpayer or its contractors actually paid in regard to any property constructed, located or installed within the project site during the project period for that site.

(2) Upon filing of a written refund claim by the taxpayer entitled to the rebate, and subject to such reasonable documentation and verification as the commission may require, the rebate shall be paid by the commission as a refund allowable under section 63-3626, Idaho Code. A claim for rebate under this section must be filed on or before the last day of the third calendar year following the year in which the taxes sought to be rebated were paid or the right to the rebate is lost.

(3) Any rebate paid shall be subject to recapture by the commission:

(a) At one hundred percent (100%) in the event that the tax incentive criteria are not met at the project site during the project period, or

(b) In the event that the property is not used, stored or otherwise consumed within the project site for a period of sixty (60) consecutive full months after the property was placed in service, or

(c) In the event that the employment required in section 63-4402(2)(j), Idaho Code, is not maintained for sixty (60) consecutive full months from the date the project period ends.

(d) Any recapture required by subsection (3)(b) or (3)(c) of this section shall be in the same proportion as an amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(4) Any recapture amount due under this section shall be a deficiency in tax for the period in which the disqualification first occurs for purposes of section 63-3629, Idaho Code, and may be enforced and collected in the manner provided by the Idaho sales tax act, provided however, that in lieu of the provisions of section 63-3633, Idaho Code, the period of time within which the commission may issue a notice under section 63-3629, Idaho Code, in regard to an amount subject to recapture, shall be the later of five (5) years after the end of the taxable year, for income tax purposes, in which the project period ends.

(5) The rebate allowed by this section is limited to sales and use taxes actually paid by the taxpayer or its contractors for taxable property related to new plant and building facilities.

63-4409. Administration.

The commission shall enforce the provisions of this chapter and may prescribe, adopt, and enforce reasonable rules relating to the administration and enforcement of those provisions, including the promulgation of rules relating to information necessary to certify that the incentive criteria have been or will be met. For the purpose of carrying out its duties to enforce or administer the provisions of this chapter, the commission shall have the powers and duties provided by sections 63-3038, 63-3039, 63-3042 through 63-3067, 63-3068, 63-3071, 63-3074 through 63-3078 and 63-217, Idaho Code.

FORM **83** EFO00011 06-13-14

IDAHO SMALL EMPLOYER INVESTMENT TAX CREDIT

2014

Name(s) as shown on return	Social Security Number or EIN

QUALIFYING FOR THE CREDIT

You may claim the small employer investment tax credit if you have certified on Form 89SE that you will meet the following tax incentive criteria at the project site during the project period:

1. Capital investment in new plant and building facilities of at least $500,000,
2. Increased employment by at least 10 new employees who each earn at least $19.23 per hour and receive health benefits, and
3. For new employment increases above the 10 new employees, the average wages of the additional new employees are at least $15.50 per hour worked. See the instructions for who is included in this calculation.

If you have not filed Form 89SE with the Tax Commission or have been notified that you do not qualify for the small employer incentives, you do not qualify for this credit. Complete Form 49 for any investments that qualify for the regular investment tax credit.

CREDIT AVAILABLE SUBJECT TO LIMITATION

1. Amount of qualified investments acquired during the tax year. Include a complete list of qualified investments	1	
2. Amount of investments for which you claimed the property tax exemption. Include Form 49E	2	
3. Subtract line 2 from line 1. This is the amount of qualified investments on which you may earn the small employer investment tax credit	3	
4. Credit earned. Multiply line 3 by 3.75%	4	
5. Pass-through share of credit from a partnership, S corporation, estate or trust	5	
6. Credit received through unitary sharing. Include a schedule	6	
7. Carryover of small employer investment tax credit from prior years	7	
8. Carryover eliminated due to recapture in 2014. Enter the amount from Form 83R, line 13. Include Form 83R	8	
9. Credit distributed to partners, shareholders or beneficiaries	9	
10. Credit shared with unitary affiliates	10	
11. Total credit available subject to limitations. Add lines 4 through 7 and subtract lines 8 through 10	11	

CREDIT LIMITATIONS

If you are claiming the credit for qualifying new employees, compute the limitation on Form 55, then complete lines 27 through 29 on this form.
If you are not claiming the credit for qualifying new employees, complete lines 12 through 29.

12. Enter the Idaho income tax from your tax return			12	
13. Credit for tax paid to other states	13			
14. Credit for contributions to Idaho educational entities	14			
15. Investment tax credit	15			
16. Credit for contributions to Idaho youth and rehabilitation facilities	16			
17. Credit for production equipment using postconsumer waste	17			
18. Promoter sponsored event credit	18			
19. Credit for Idaho research activities	19			
20. Broadband equipment investment credit	20			
21. Incentive investment tax credit	21			
22. Add lines 13 through 21			22	
23. Tax available after other credits. Subtract line 22 from line 12	23			
24. 62.5% of tax. Multiply line 12 by 62.5%	24			
25. Credit allowable subject to limitation of tax. Enter the smaller of: a. the amount from line 11 or b. $750,000	25			
26. Total credit allowed on current year tax return. Enter the smallest amount from lines 23, 24, or 25 here and on Form 44, Part I, line 8			26	

CREDIT CARRYOVER

27. Total credit available subject to limitations. Enter the amount from line 11	27	
28. Credit allowed. Enter the amount from line 26 or from Form 55, Part II, line 23	28	
29. Credit carryover to future years. Subtract line 28 from line 27. Enter the amount here and on Form 44, Part I, line 8	29	

Instructions for Idaho Form 83

GENERAL INSTRUCTIONS

Form 83 is used to calculate the Idaho small employer investment tax credit (SE-ITC) earned or allowed. Each member of a unitary group of corporations that earns or is allowed the credit must complete a separate Form 83.

The SE-ITC is allowed for property that qualifies for the 3% investment tax credit (ITC). If you are claiming the SE-ITC, you may not also claim the ITC on the same property.

QUALIFYING TAXPAYERS

To qualify for the SE-ITC, you must certify by filing Form 89SE that you will meet the tax incentive criteria at the project site during the project period. If you have not filed Form 89SE with the Tax Commission, or you have been notified that you do not qualify for the small employer incentives, you may not claim this credit. If you do not qualify for the SE-ITC, you may be eligible to claim the ITC. See Idaho Form 49.

QUALIFYING PROPERTY

If you are a qualifying taxpayer, property that would qualify for the ITC qualifies for the SE-ITC. The property does not have to be located at the project site to qualify. However, it does have to be placed in service during the project period.

Property that qualifies for the ITC generally follows the definition of qualified property found in the Internal Revenue Code (IRC), Sections 46 and 48 as in effect prior to 1986. The property must have a useful life of three years or more and be property for which you are allowed the deduction for depreciation or amortization in lieu of depreciation. Qualifying property includes the following property used in a trade or business:

- Tangible personal property - machinery and equipment
- Other tangible property - property used as an integral part of manufacturing, production, extraction, or furnishing transportation, communications, or utility services, or research facilities and bulk storage facilities used in connection with those businesses
- Elevators and escalators
- Single purpose agricultural or horticultural structures
- Qualified timber property
- Petroleum storage facilities
- Qualified broadband equipment as approved by the Idaho Public Utilities Commission

Nonqualifying Property

Property that does not qualify includes:

- Buildings and their structural components (this property may qualify for the small employer real property improvement tax credit - see Idaho Form 84)
- Property used in lodging facilities that rent 50% or more of their lodging units for periods of 30 days or longer, such as apartment houses or rental homes. (Does not apply to hotels and motels that rent more than half their units for periods of less than 30 days.) Nonqualifying property includes property used in the living quarters, lobby furniture, office equipment, and laundry and swimming pool facilities, but excludes certain coin-operated machines.
- The cost of property expensed under Section 179, IRC
- Property subject to 60-month amortization
- Used property not acquired by purchase
- Property that is either nondepreciable or has a useful life of fewer than three years
- The portion of property used for personal use
- Used property in excess of $150,000
- Horses

Idaho Exceptions to IRC Sections 46 and 48

Idaho law specifically excludes the following property from qualifying for the Idaho ITC:

- Property not used in Idaho, and
- Vehicles under 8,000 pounds gross weight.

Property Used Both In and Outside Idaho

If property is used both in and outside Idaho, compute the qualified investment for all such property using one of the following methods:

1. Percentage-of-Use Method - Multiply the investment in each asset by a fraction where Idaho use is the numerator and total use is the denominator. Usage can be measured by machine hours, mileage or any other method that accurately reflects the usage.
2. Property Factor Numerator Method - Use the amount included in the Idaho property numerator for each property.

CARRYOVER PERIODS

SE-ITC that was earned but not used against tax may be carried forward for 14 tax years. For purposes of the carryover period, a short tax year counts as one tax year.

ELECTION TO CLAIM TWO-YEAR PROPERTY TAX EXEMPTION AND FORGO INVESTMENT TAX CREDIT

If you placed personal property in service that qualifies for the ITC, you may elect to exempt this property from your property tax. You are not eligible for the election if your rate of charge or rate of return is regulated or limited by federal or state law. The exemption from the property tax is for two years. After the two years you must pay any applicable property tax. You cannot claim the SE-ITC for any property that you elect to exempt from property tax.

The election is available if you had negative Idaho taxable income in the second preceding tax year from the tax year in which the property was placed in service. Negative Idaho taxable income must have been computed without regard to any carryover or carryback of net operating losses.

The election must be made on Form 49E and filed with the operator's statement or personal property declaration. A copy of the election form must be attached to the original income tax return(s) for the tax year(s) in which the property was placed in service.

RECAPTURE

You must compute recapture if you sell or otherwise dispose of the property or it ceases to qualify for the SE-ITC before it has been in service for five full years.

Also, you must compute recapture if you claimed the SE-ITC in an earlier year and fail to meet the tax incentive criteria you certified to on Idaho Form 89SE.

File Form 83R if you claimed the SE-ITC. File Form 49R if you claimed the ITC or Form 49ER if you claimed the property tax exemption.

SPECIFIC INSTRUCTIONS

Instructions are for lines not fully explained on the form.

CREDIT AVAILABLE SUBJECT TO LIMITATION

Line 1. Include a list of all property you acquired during the tax year that qualifies for the SE-ITC. The list should identify what each item of property is, your basis in the item and the date placed in service. Do not include any property placed in service before the date the project period began.

Line 2. Enter the amount of qualified investments for which you claimed the property tax exemption. This exemption is allowed in lieu of earning the SE-ITC. Include applicable Form(s) 49E.

Line 5. Enter the amount of the SE-ITC that is being passed through by partnerships, S corporations, estates or trusts in which you have an interest. This amount is reported on Form ID K-1, Part D, line 9.

Line 6. If you are a member of a unitary group, enter the amount of credit you received from another member of the unitary group.

Line 7. Enter the carryover computed on your 2013 Form 83, line 29.

Line 9. If you are a partnership, S corporation, trust or estate, enter the amount of credit that passed through to partners, shareholders, or beneficiaries.

Line 10. If you are a member of a unitary group, enter the amount of credit you earned that you elect to share with other members of your unitary group. Before you can share your credit, you must use the credit up to the allowable limitation of your tax liability.

Corporations claiming the SE-ITC must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers.

CREDIT LIMITATIONS

If you are claiming against tax the Idaho credit for qualifying new employees, skip lines 12 through 26 and compute the limitations on Form 55, Idaho Credit for Qualifying New Employees, Part II, Credit Limitations. Return to Form 83, line 27 to compute the credit carryover.

The SE-ITC is limited to the smaller of $750,000, 62.5% of your tax liability, or the Idaho income tax after allowing all other tax credits that may be claimed before the SE-ITC.

The following credits must be applied to the tax before the SE-ITC:

1. Credit for tax paid to other states
2. Credit for contributions to Idaho educational entities
3. Investment tax credit
4. Credit for contributions to Idaho youth and rehabilitation facilities
5. Credit for production equipment using postconsumer waste
6. Promoter sponsored event credit
7. Credit for qualifying new employees
8. Credit for Idaho research activities
9. Broadband equipment investment credit
10. Incentive investment tax credit

Line 12. Enter the amount of your Idaho income tax. This is the computed tax before adding the permanent building fund tax or any other taxes, or subtracting any credits.

Line 13. Enter the credit for tax paid to other states from Form 39R or Form 39NR. This credit is available only to individuals, estates, and trusts.

Line 14. Enter the credit for contributions to Idaho educational entities from the appropriate Idaho income tax return.

Line 15. Enter the investment tax credit allowed from Form 49, Part II, line 8.

Line 16. Enter the credit for contributions to Idaho youth and rehabilitation facilities from the appropriate Idaho income tax return.

Line 17. Enter the credit for production equipment using post-consumer waste from the appropriate Idaho income tax return.

Line 18. Enter the promoter sponsored event credit from the appropriate Idaho income tax return.

Line 19. Enter the credit allowed for Idaho research activities from Form 67, line 29.

Line 20. Enter the amount allowed for the broadband equipment investment tax credit from Form 68, line 18.

Line 21. Enter the credit allowed for the incentive investment tax credit from Form 69, line 16.

Line 26. Enter the smallest amount from lines 23, 24, or 25 on line 26. Enter this amount on Form 44, Part I, line 8 in the Credit Allowed column.

CREDIT CARRYOVER

Line 29. The amount of credit available that exceeds the total credit allowed on the current year tax return may be carried forward up to 14 tax years. Enter this amount on Form 44, Part I, line 8 in the Carryover column.

FORM 84 EFO00010 06-25-14

IDAHO SMALL EMPLOYER REAL PROPERTY IMPROVEMENT TAX CREDIT

2014

Name(s) as shown on return	Social Security Number or EIN

QUALIFYING FOR THE CREDIT

You may claim the small employer real property improvement tax credit if you have certified on Form 89SE that you will meet the following tax incentive criteria at the project site during the project period:

1. Capital investment in new plant and building facilities of at least $500,000,
2. Increased employment by at least 10 new employees who each earn at least $19.23 per hour and receive health benefits, and
3. For new employment increases above the 10 new employees, the average wages of the additional new employees are at least $15.50 per hour worked. See the instructions for who is included in this calculation.

If you have not filed Form 89SE with the Tax Commission or have been notified that you do not qualify for the small employer incentives, you do not qualify for this credit.

CREDIT AVAILABLE SUBJECT TO LIMITATION

1. Amount of investments in new plant and building facilities acquired during the tax year. Do not include any qualified investments reported on Form 83. Include a complete list of the investments qualifying for this credit	1	
2. Credit earned. Multiply line 1 by 2.5%	2	
3. Pass-through share of credit from a partnership, S corporation, estate or trust	3	
4. Credit received through unitary sharing. Include a schedule	4	
5. Carryover of small employer real property improvement tax credit from prior years	5	
6. Carryover eliminated due to recapture in 2014. Enter the amount from Form 84R, line 13. Include Form 84R	6	
7. Credit distributed to partners, shareholders or beneficiaries	7	
8. Credit shared with unitary affiliates	8	
9. Total credit available subject to limitations. Add lines 2 through 5 and subtract lines 6 through 8	9	

CREDIT LIMITATIONS

If you are claiming the credit for qualifying new employees, compute the limitation on Form 55, then complete lines 25 through 27 on this form.
If you are not claiming the credit for qualifying new employees, complete lines 10 through 27.

10. Enter the Idaho income tax from your tax return			10	
11. Credit for tax paid to other states	11			
12. Credit for contributions to Idaho educational entities	12			
13. Investment tax credit	13			
14. Credit for contributions to Idaho youth and rehabilitation facilities	14			
15. Credit for production equipment using postconsumer waste	15			
16. Promoter sponsored event credit	16			
17. Credit for Idaho research activities	17			
18. Broadband equipment investment credit	18			
19. Incentive investment tax credit	19			
20. Small employer investment tax credit	20			
21. Add lines 11 through 20			21	
22. Tax available after other credits. Subtract line 21 from line 10			22	
23. Credit allowable subject to limitation of tax. Enter the smaller of: a. the amount from line 9 or b. $125,000			23	
24. Total credit allowed on current year tax return. Enter the smaller amount from lines 22 or 23 here and on Form 44, Part I, line 9			24	

CREDIT CARRYOVER

25. Total credit available subject to limitations. Enter the amount from line 9	25	
26. Credit allowed. Enter the amount from line 24 or from Form 55, Part II, line 25	26	
27. Credit carryover to future years. Subtract line 26 from line 25. Enter the amount here and on Form 44, Part I, line 9	27	

Instructions for Idaho Form 84

GENERAL INSTRUCTIONS

Form 84 is used to calculate the Idaho small employer real property improvement tax credit (SE-RPITC) earned or allowed. Each member of a unitary group of corporations that earns or is allowed the credit must complete a separate Form 84.

QUALIFYING TAXPAYERS

To qualify for the SE-RPITC, you must certify by filing Form 89SE that you will meet the tax incentive criteria at the project site during the project period. If you have not filed Form 89SE with the Tax Commission, or you have been notified that you do not qualify for the small employer incentives, you may not claim this credit.

QUALIFYING PROPERTY

If you are a qualifying taxpayer, the SE-RPITC is allowed on buildings and structural components of buildings that do not qualify for the investment tax credit. The buildings and structural components must be at the project site and placed in service during the project period.

The buildings and structural components must be new property. Used property does not qualify for this credit.

Buildings and structural components mean buildings and structural components of buildings as defined in Federal Treasury Regulation Section 1.48-1 for Internal Revenue Code Section 48 repealed by Public Law 101-508.

Building generally means any structure enclosing a space within its walls, and usually covered by a roof, the purpose of which is to provide shelter or housing, or to provide working, office, or parking space.

Structural components include such parts of a building as walls, partitions, floors, and ceilings and any permanent coverings to these items such as paneling or tiling; windows and doors; all components of a central air conditioning or heating system; plumbing and plumbing fixtures; electric wiring and lighting fixtures; chimneys; stairs, escalators, and elevators; sprinkler systems; fire escapes; and other components relating to the operation or maintenance of a building.

CARRYOVER PERIODS

SE-RPITC that was earned but not used against tax may be carried forward for 14 tax years. For purposes of the carryover period, a short tax year counts as one tax year.

RECAPTURE

You must compute recapture if you sell or otherwise dispose of the property or it ceases to qualify for the SE-RPITC before it has been in service for five full years.

In addition, you must compute recapture if you claimed the SE-RPITC in an earlier year and fail to meet the tax incentive criteria that you certified to on Idaho Form 89SE.

If you claimed the SE-RPITC and recapture is now required, file Form 84R.

SPECIFIC INSTRUCTIONS

Instructions are for lines not fully explained on the form.

CREDIT AVAILABLE SUBJECT TO LIMITATION

Line 1. Include a list of all property you acquired during the tax year that qualifies for the SE-RPITC. The list should identify what each item of property is, your basis in the item and the date placed in service. Do not include any property placed in service before the date the project period began.

Line 3. Enter the amount of the SE-RPITC that is being passed through by partnerships, S corporations, estates or trusts in which you have an interest. This amount is from Form ID K-1, Part D, line 10.

Line 4. If you are a member of a unitary group, enter the amount of credit you received from another member of the unitary group.

Line 5. Enter the carryover from your 2013 Form 84, line 27.

Line 7. If you are a partnership, S corporation, trust or estate, enter the amount of credit that passed through to partners, shareholders, or beneficiaries.

Line 8. If you are a member of a unitary group, enter the amount of credit you earned that you elect to share with other members of your unitary group. Before you can share your credit, you must use the credit up to the allowable limitation of your tax liability.

Corporations claiming the SE-RPITC must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers.

CREDIT LIMITATIONS

If you are claiming against tax the Idaho credit for qualifying new employees, skip lines 10 through 24 and compute the limitations on Form 55, Idaho Credit for Qualifying New Employees, Part II, Credit Limitations. Return to Form 84, line 25 to compute the credit carryover.

The SE-RPITC is limited to the smaller of $125,000 or the Idaho income tax after allowing all other tax credits that may be claimed before the SE-RPITC.

The following credits must be applied to the tax before the SE-RPITC:

1. Credit for tax paid to other states
2. Credit for contributions to Idaho educational entities
3. Investment tax credit
4. Credit for contributions to Idaho youth and rehabilitation facilities
5. Credit for production equipment using postconsumer waste
6. Promoter sponsored event credit
7. Credit for qualifying new employees
8. Credit for Idaho research activities
9. Broadband equipment investment credit
10. Incentive investment tax credit
11. Small employer investment tax credit

Line 10. Enter the amount of your Idaho income tax. This is the computed tax before adding the permanent building fund tax or any other taxes, or subtracting any credits.

Line 11. Enter the credit for tax paid to other states from Form 39R or Form 39NR. This credit is available only to individuals, estates, and trusts.

Line 12. Enter the credit for contributions to Idaho educational entities from the appropriate Idaho income tax return.

Line 13. Enter the investment tax credit allowed from Form 49, Part II, line 8.

Line 14. Enter the credit for contributions to Idaho youth and rehabilitation facilities from the appropriate Idaho income tax return.

Line 15. Enter the credit for production equipment using post-consumer waste from the appropriate Idaho income tax return.

Line 16. Enter the promoter sponsored event credit from the appropriate Idaho income tax return.

Line 17. Enter the credit allowed for Idaho research activities from Form 67, line 29.

Line 18. Enter the amount allowed for the broadband equipment investment tax credit from Form 68, line 18.

Line 19. Enter the credit allowed for the incentive investment tax credit from Form 69, line 16.

Line 20. Enter the small employer investment tax credit allowed from Form 83, line 28.

Line 24. Enter the smaller amount from lines 22 or 23 on line 24. Enter this amount on Form 44, Part I, line 9 in the Credit Allowed column.

CREDIT CARRYOVER

Line 27. The amount of credit available that exceeds the total credit allowed on the current year tax return may be carried forward up to 14 tax years. Enter this amount on Form 44, Part I, line 9 in the Carryover column.

FORM **85**
EFO00017
06-13-14

IDAHO SMALL EMPLOYER NEW JOBS TAX CREDIT

2014

Name(s) as shown on return	Social Security Number or EIN

QUALIFYING FOR THE CREDIT

You may claim the small employer new jobs tax credit if you have certified on Form 89SE that you will meet the following tax incentive criteria at the project site during the project period:

1. Capital investment in new plant and building facilities of at least $500,000,
2. Increased employment by at least 10 new employees who each earn at least $19.23 per hour and receive health benefits, and
3. For new employment increases above the 10 new employees, the average wages of the additional new employees are at least $15.50 per hour worked. See the instructions for who is included in this calculation.

If you have not filed Form 89SE with the Tax Commission or have been notified that you do not qualify for the small employer incentives, you do not qualify for this credit.

CREDIT AVAILABLE SUBJECT TO LIMITATIONS

1. The average number of qualifying employees during the tax year			1	
2. The average number of qualifying employees during the three preceding tax years	2			
3. The average number of qualifying employees during the preceding tax year	3			
4. Subtract the greater of line 2 or 3 from line 1 and enter the difference. This is the number of qualifying new employees. The amount must equal or exceed one			4	
5. **Number of qualifying new employees listed on line 4 whose annual salary during the tax year the credit was earned was:**				
a. greater than $24.04 per hour worked but equal to or less than an average rate of $28.85 per hour worked	5a			
b. greater than an average rate of $28.85 per hour worked but equal to or less than an average rate of $36.06 per hour worked	5b			
c. greater than an average rate of $36.06 per hour worked but equal to or less than an average rate of $43.27 per hour worked	5c			
d. greater than an average rate of $43.27 per hour worked	5d			
$1,500 Credit				
6. Multiply the number on line 5a by $1,500			6	
$2,000 Credit				
7. Multiply the number on line 5b by $2,000			7	
$2,500 Credit				
8. Multiply the number on line 5c by $2,500			8	
$3,000 Credit				
9. Multiply the number on line 5d by $3,000			9	
10. Add lines 6 through 9. This is your total small employer new jobs tax credit earned this tax year			10	
11. Pass-through share of credit from a partnership, S corporation, estate or trust			11	
12. Credit received through unitary sharing. Include a schedule			12	
13. Carryover of small employer new jobs tax credit from prior years			13	
14. Carryover eliminated due to recapture in 2014. Enter the amount from Form 85R, line 11. Include Form 85R			14	
15. Credit distributed to partners, shareholders or beneficiaries			15	
16. Credit shared with unitary affiliates			16	
17. Total credit available subject to limitations. Add lines 10 through 13 and subtract lines 14 through 16			17	

CREDIT LIMITATIONS

If you are claiming the credit for qualifying new employees, compute the limitation on Form 55, then complete lines 34 through 36 on this form.
If you are not claiming the credit for qualifying new employees, complete lines 18 through 36.

18. Enter the Idaho income tax from your tax return			18	
19. Credit for tax paid to other states	19			
20. Credit for contributions to Idaho educational entities	20			
21. Investment tax credit	21			
22. Credit for contributions to Idaho youth and rehabilitation facilities	22			
23. Credit for production equipment using postconsumer waste	23			
24. Promoter sponsored event credit	24			
25. Credit for Idaho research activities	25			
26. Broadband equipment investment credit	26			
27. Incentive investment tax credit	27			
28. Small employer investment tax credit	28			
29. Small employer real property improvement tax credit	29			
30. Add lines 19 through 29			30	
31. Tax available after other credits. Subtract line 30 from line 18			31	
32. 62.5% of tax. Multiply line 18 by 62.5%			32	
33. Total credit allowed on current year tax return. Enter the smallest amount from lines 17, 31, or 32 here and on Form 44, Part I, line 10			33	

CREDIT CARRYOVER

34. Total credit available subject to limitations. Enter the amount from line 17	34	
35. Credit allowed. Enter the amount from line 33 or from Form 55, Part II, line 27	35	
36. Credit carryover to future years. Subtract line 35 from line 34. Enter the amount here and on Form 44, Part I, line 10	36	

Instructions for Idaho Form 85

GENERAL INSTRUCTIONS

Form 85 is used to calculate the Idaho small employer new jobs tax credit (SE-NJTC) earned or allowed. Each member of a unitary group of corporations that earns or is allowed the credit must complete a separate Form 85.

If the project period began during this tax year and didn't cover a period of at least nine months, you don't qualify for the SE-NJTC this year.

QUALIFYING TAXPAYERS
To qualify for the SE-NJTC, you must certify by filing Form 89SE that you will meet the tax incentive criteria at the project site during the project period. If you haven't filed Form 89SE with the Tax Commission, or you have been notified that you don't qualify for the small employer incentives, you can't claim this credit.

QUALIFYING NEW EMPLOYEES FOR THE SE-NJTC
To qualify for the credit, the new employee must:

- Qualify as a new employee for purposes of the small employer tax incentive criteria discussed above,
- Earn more than $24.04 per hour, and
- Have worked a minimum of nine months during the tax year in which the credit is claimed.

CALCULATING THE CREDIT
The Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor are used to compute the number of employees. However, only those employees who meet the definition of “new employee” can be included when computing the SE-NJTC. Don't include any employees who don't work primarily in the project site. You must keep records to support the computations.

The number of employees employed primarily at the project site during a tax year is the average of the number of such employees reported to the Idaho Department of Labor during the 12 months of the tax year. If the project period began during the tax year, the number of employees for the year is the average number actually employed during the months of the project period. However, you can't earn the credit if the project period didn't cover at least nine months during the first tax year. These employees may qualify for the credit the next year.

The number of qualifying new employees is the increase in the number of qualifying employees for the current tax year over the greater of the following:

- The average number of qualifying employees for the three preceding tax years, or
- The average number of qualifying employees for the preceding tax year.

The number of qualifying new employees must be rounded down to the nearest whole number.

CREDIT RATES
Each qualifying new employee must be identified in order to determine the credit allowed, which is based on the annual salary of the employee as shown in the following table.

CARRYOVER PERIODS
The SE-NJTC earned but not used against tax may be carried forward for 10 tax years. For purposes of the carryover period, a short tax year counts as one tax year.

If the annual salary is greater than …	But equal to or less than an average rate of ...	Then the credit earned is ...
$24.04 per hour	$28.85 per hour	$1,500
An average rate of $28.85 per hour	$36.06 per hour	$2,000
An average rate of $36.06 per hour	$43.27 per hour	$2,500
An average rate of $43.27 per hour		$3,000

RECAPTURE
You must compute recapture if you don't maintain the required level of new employees for five full years from the date the project period ends.

Also, you must compute recapture if you claimed the SE-NJTC in an earlier year and fail to meet the tax incentive criteria you certified to on Idaho Form 89SE.

If you claimed the SE-NJTC and recapture is now required, file Form 85R.

SPECIFIC INSTRUCTIONS

Instructions are for lines not fully explained on the form.

CREDIT AVAILABLE SUBJECT TO LIMITATION
Line 1. Determine the average number of qualifying employees during the tax year by adding the number of qualifying employees reported for each month on your Idaho Employer Quarterly Unemployment Insurance Tax Reports and dividing that amount by the number of months of operation during the tax year. Don't include any employees who weren't employed primarily at the project site.

Line 2. Determine the average number of qualifying employees during the three preceding tax years by dividing the total of the average number of qualifying employees reported on your Idaho Employer Quarterly Unemployment Insurance Tax Reports for each preceding year by three. If the project period existed less than three tax years, use the number of tax years in operation.

Line 3. Determine the average number of qualifying employees during the preceding tax year by adding the number of qualifying employees reported for each month on your Idaho Employer Quarterly Unemployment Insurance Tax Reports and dividing that amount by the number of months of operation during the preceding tax year. Enter zero if the project period covered less than nine months the preceding tax year.

Line 4. No credit is allowed unless the number on this line equals or exceeds one. If it is more than one, the number is rounded down to the nearest whole number.

Line 5. To complete lines 5a through 5d, you must be able to identify each individual who is a qualifying new employee and the annual average salary earned during the tax year by that individual. Enter the number of qualifying new employees according to their annual salary earned for the tax year. The amounts listed on lines 5a through 5d can't exceed the number on line 4.

Line 11. Enter the amount of the SE-NJTC that is being passed through by partnerships, S corporations, estates or trusts in which you have an interest. This amount is reported on Form ID K-1, Part D, line 11.

Line 12. If you are a member of a unitary group, enter the amount of credit you received from another member of the unitary group.

Line 13. Enter the carryover from your 2013 Form 85, line 36.

Line 15. If you are a partnership, S corporation, trust or estate, enter the amount of credit that passed through to partners, shareholders, or beneficiaries.

Line 16. If you are a member of a unitary group, enter the amount of credit you earned that you elect to share with other members of your unitary group. Before you can share your credit, you must use the credit up to the allowable limitation of your tax liability.

Corporations claiming the SE-NJTC must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers.

CREDIT LIMITATIONS

If you are claiming against tax the Idaho credit for qualifying new employees, skip lines 18 through 33 and compute the limitations on Form 55, Idaho Credit for Qualifying New Employees, Part II, Credit Limitations. Return to Form 85, line 34 to compute the credit carryover.

The SE-NJTC is limited to the smaller of 62.5% of your tax liability or the Idaho income tax after allowing all other tax credits that may be claimed before the SE-NJTC.

The following credits must be applied to the tax before the SE-NJTC:

1. Credit for tax paid to other states
2. Credit for contributions to Idaho educational entities
3. Investment tax credit
4. Credit for contributions to Idaho youth and rehabilitation facilities
5. Credit for production equipment using postconsumer waste
6. Promoter sponsored event credit
7. Credit for qualifying new employees
8. Credit for Idaho research activities
9. Broadband equipment investment credit
10. Incentive investment tax credit
11. Small employer investment tax credit
12. Small employer real property improvement tax credit

Line 18. Enter the amount of your Idaho income tax. This is the computed tax before adding the permanent building fund tax or any other taxes, or subtracting any credits.

Line 19. Enter the credit for tax paid to other states from Form 39R or Form 39NR. This credit is available only to individuals, estates, and trusts.

Line 20. Enter the credit for contributions to Idaho educational entities from the appropriate Idaho income tax return.

Line 21. Enter the investment tax credit allowed from Form 49, Part II, line 8.

Line 22. Enter the credit for contributions to Idaho youth and rehabilitation facilities from the appropriate Idaho income tax return.

Line 23. Enter the credit for production equipment using post-consumer waste from the appropriate Idaho income tax return.

Line 24. Enter the promoter sponsored event credit from the appropriate Idaho income tax return.

Line 25. Enter the credit allowed for Idaho research activities from Form 67, line 29.

Line 26. Enter the amount allowed for the broadband equipment investment tax credit from Form 68, line 18.

Line 27. Enter the credit allowed for the incentive investment tax credit from Form 69, line 16.

Line 28. Enter the small employer investment tax credit allowed from Form 83, line 28.

Line 29. Enter the small employer real property improvement tax credit allowed from Form 84, line 26.

Line 33. Enter the smallest amount from lines 17, 31, or 32 on line 33. Enter this amount on Form 44, Part I, line 10 in the Credit Allowed column.

CREDIT CARRYOVER

Line 36. The amount of credit available that exceeds the total credit allowed on the current year tax return may be carried forward up to 10 tax years. Enter this amount on Form 44, Part I, line 10, in the Carryover column.

FORM **89SE**
EFO00044
02-13-13

CERTIFICATION FOR IDAHO'S SMALL EMPLOYER TAX INCENTIVES

Business name	Federal employer identification number
Business mailing address	Contact person and title
City, state and zip code	Telephone number of contact person

QUALIFYING FOR THE INCENTIVES

To claim the Idaho small employer incentives, you must certify that you have met, or will meet, the following tax incentive criteria at the project site during the project period:

1. Capital investment in new plant and building facilities of at least $500,000,
2. Increased employment by at least 10 new employees who each earn at least $19.23 per hour worked and receive health benefits, and
3. For new employment increases above the 10 new employees, the average wages of the additional new employees is at least $15.50 per hour worked. See the instructions for who is included in this calculation.

The following information is required to certify that the proposed project will meet the small employer tax incentive criteria during the project period. Failure to provide the requested information may result in the Tax Commission denying any tax incentives claimed under the Idaho Small Employer Incentive Act.

1. **Description of qualifying project**

   _____

   _____

   _____

2. **Estimated/actual start date of project.** The start date is the earlier of the date the first physical change to the project site occurs or the date new employees related to the project site are first employed in Idaho. The start date cannot be earlier than January 1, 2006.

   _____

3. **Estimated/actual end date of project.** The project period cannot be longer than 10 years or end later than December 31, 2020.

   _____

4. **Location of the project site(s).** Identify the street address for each site. If more than one location, identify the percent of the investment projected at each site once the project is completed.

   _____

   _____

   _____

5. **Estimated/actual number of new jobs created during the project period.** For each year in the project period, enter the tax year followed by the number of new jobs created during that year.

   Yr_____ # of jobs_____ Yr_____ # of jobs_____

   Yr_____ # of jobs_____ Yr_____ # of jobs_____

   Yr_____ # of jobs_____ Yr_____ # of jobs_____

   Yr_____ # of jobs_____ Yr_____ # of jobs_____

   Yr_____ # of jobs_____ Yr_____ # of jobs_____

   Total # of jobs _____

6. **Estimated/actual cost of capital investments in new plant and building facilities.** For each year in the project period, list the actual or projected cost of capital investments in new plant and building facilities.

a. **Qualified investment.** This is property that generally qualifies for the Idaho investment tax credit, including computers, equipment, furniture, etc. Enter the tax year followed by the cost of qualified investment placed in service during that year.

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Total Amount_____

b. **Buildings and their structural components, including parking garages.** Enter the tax year followed by the cost of buildings and structural components placed in service during that year.

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Yr_____ Amount_____ Yr_____ Amount_____

Total Amount_____

7. **Total plant and building facilities cost by location**

_____

_____

_____

CERTIFICATION BY TAXPAYER

Under penalties of perjury, I declare that to the best of my knowledge and belief this information is true, correct and complete.

Signature of officer	Date
Title	Phone number of officer

Mail to: TAX POLICY
IDAHO STATE TAX COMMISSION
PO BOX 36
BOISE ID 83722

or

Fax to: TAX POLICY
(208) 334-7844

Instructions for Idaho Form 89SE

GENERAL INSTRUCTIONS

You must file Form 89SE prior to claiming any incentives allowed by the Idaho Small Employer Incentive Act. A copy of Form 89SE must be included with your Idaho income tax return for each tax year in which you are claiming or carrying over the incentives.

TAX INCENTIVE CRITERIA

To qualify you must certify that you have met, or will meet, the following tax incentive criteria at the project site during the project period:

- Invest at least $500,000 in new plant and building facilities,
- Increase employment at the project site by at least 10 new employees, who each earn at least $19.23 per hour, and
- If your new employment increased by more than the 10 new employees, these additional new employees must on average earn at least $15.50 per hour worked during your tax year. Do not include the wages of employees earning more than $48.08 per hour.

Project Site
Project site is where new plant and building facilities owned or leased by the taxpayer are located. The project site can be one or more geographic areas in Idaho, but only if 80% or more of the investment required is located at one of the areas.

Project Period
Project period is the period of time that begins at the earlier of:

- A physical change to the project site, or
- The first employment of new employees in Idaho who are related to the activities at the project site.

The project period cannot begin before January 1, 2006.

The project period ends when the facilities constituting the project are placed in service, but no longer than 10 years or later than December 31, 2020.

New Plant and Building Facilities
New plant and building facilities include property that meets either the definition of qualified investment for purposes of the investment tax credit (ITC) or is a building or a structural component of a building.

The property must be new property. Used property does not qualify. New property is property acquired or constructed by the taxpayer whose original use begins with the taxpayer after such acquisition or construction. Original use means the first use to which the property is put, whether or not that corresponds to the use of the property by the taxpayer. Property used by the taxpayer prior to its acquisition does not qualify.

New Employees
To qualify as a new employee for the tax incentive criteria, an employee must:

- Be employed primarily at the project site by the taxpayer,
- Have wages subject to Idaho income tax withholding,
- Be covered for Idaho unemployment insurance purposes,
- Be eligible to receive employer provided coverage under a health plan described in Idaho Code section 41-4703,
- Be employed on a regular full-time basis, and
- Meet the applicable wage requirements.

For this purpose, earnings include income subject to Idaho income tax withholding, but do not include stock options or restricted stock grants.

An existing employee of the taxpayer or a related taxpayer who is transferred to a new position at the project site will not qualify as a new employee, unless the transfer results in a net new job in Idaho.

Once reached, the net increase in employment at the project site must be maintained for the rest of the project period.

TAX INCENTIVES

If you have met, or will meet the tax incentive criteria, you are eligible to claim the tax incentives listed in the table on page 2.

RECAPTURE

If you certify you will meet the tax incentive criteria, and then fail to meet the tax incentive criteria, you will be required to recapture the full amount of any incentives claimed under the Act.

Recapture of all or a portion of the incentives may also be necessary if you:

- Dispose of an investment in new plant or building facilities or it ceases to qualify prior to it being held for five years from the date placed in service,
- Do not maintain the required level of employment for five years from the date the project period ends, or
- Do not use, store, or otherwise consume property that was allowed a sales tax exemption within the project site for a period of five full years from the date the property was placed in service.

SMALL EMPLOYER INCENTIVE ACT — Idaho Code, Title 63, Chapter 44 & Chapter 6, Section 606A			
Incentive	**Credit Rate**	**Limitations**	**Carryover**
Investment Tax Credit (SE-ITC) Form 83	3.75% on qualified investment that is placed in service during the project period anywhere in Idaho. Credit is in lieu of earning the 3% ITC.	Cannot exceed 62.5% of tax. Cannot exceed $750,000 in any tax year	14 years
Real Property Improvement Tax Credit (SE-RPITC) Form 84	2.5% on investments in new plant and buildings and structural components of buildings that do not qualify for the ITC and are placed in service during the project period at the project site.	Cannot exceed $125,000 in any tax year	14 years
New Jobs Tax Credit (SE-NJTC) Form 85	Varying credit rate from $1,500 to $3,000 per qualifying new employee. Employee must earn a minimum of $24.04 per hour to qualify, be employed primarily within the project site on a full-time basis, and work a minimum of nine months during the tax year. (See other requirements under New Employees.)	Cannot exceed 62.5% of tax	10 years
Sales Tax Rebate Form TCR	25% rebate of all sales and use taxes that the taxpayer or its contractors actually paid in regard to new plant and building facilities property constructed, located or installed within the project site during the project period.		
Growth Incentive Exemption	County Board of Equalization of county in which property that qualifies for the ITC or RPITC is located can exempt all or part of the value of the property from property tax.		

SPECIFIC INSTRUCTIONS

Instructions are for lines not fully explained on the form.

HEADING
Write your business name, address, federal employer identification number, contact person and title, and the contact person's telephone number in the space at the top of the form.

Line 1. Provide a detailed description of the project that qualifies for the incentives. Attach additional sheets as necessary.

Line 2. Enter the date the project started or will start. The start date cannot be earlier than January 1, 2006. The start date is the earlier of the date the first physical change to the project site is scheduled to occur or the date new employees related to the project site will be first employed in Idaho.

Line 3. Enter the date the project ended or is scheduled to end. This date cannot be longer than 10 years or later than December 31, 2020.

Line 4. For each project site, provide the street address. Include the percent of the new plant and building facilities invested in the project that will be located at each separate location. The total of these percents must equal 100%.

Line 5. For each year in the project period, enter the actual or estimated number of new jobs that have been, or will be, created within the project site. If a year listed on the form does not fall within the project period, leave it blank.

Line 6. For each year in the project period, enter the actual or estimated costs of capital investment in new plant and building facilities located within the project site. If a year listed on the form does not fall within the project period, leave it blank.

List the cost of property that qualifies for the ITC in 6a. List the cost of buildings and their structural components that do not qualify for the ITC in 6b.

Line 7. For each location in your project site, identify the total actual or projected cost of new plant and building facilities. The total of these amounts should match the sum of the totals for lines 6a and 6b.

PROPERTY TAX EXEMPTION

Manufacturing Facilities Property Tax Exemption

Businesses that invest in new manufacturing facilities may receive partial or full property tax exemptions on new plants and building facilities and all personal property related thereto from local county commissioners.

To Qualify:

- Businesses must invest a minimum of $3 million in new manufacturing facilities (Manufacturing defined as producing tangible personal property or intellectual property intended for ultimate sale at retail.)
- 80% of investment must be made at one location.

Note: Land is not included in the tax exemption.

Administrative Rules-Manufacturing Facilities Property Tax Exemption

631. Tax exemption for investment in new plant and building facilities upon county commissioners' approval (rule 631).
Section 63-602NN, Idaho Code. (5-8-09)

01. The Investment in Plant. In order to qualify for this exemption a taxpayer must invest at least three million dollars ($3,000,000) in new plant and building facilities excluding the investment in land. See Section 63-602NN, Idaho Code.
(5-8-09)

02. The Exemption. The board of county commissioners may exempt all or a portion of the market value of the project for a period of up to five (5) years. Land is not to be included in this exemption. See Section 63-602NN(2), Idaho Code.
(5-8-09)

03. Cross Reference. See Rule 802 of these rules for instructions relating to the valuation of new construction.

(5-8-09)

Statute-Manufacturing Facility Property Tax Exemption

From: http://www.legislature.idaho.gov/idstat/Title63/T63CH6SECT63-602NN.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602NN. Property exempt from taxation -- Certain business property.

(1) During tax year 2008, and each year thereafter, a board of county commissioners may declare that all or a portion of the market value of a defined project based on investment in new plant and building facilities meeting tax incentive criteria as defined in subsection (2) of this section shall be exempt from property taxation.

(2) As used in this section:

(a) "Defined project" means a written plan presented to the county commissioners by a taxpayer outlining projected investment in new plant for new plant and building facilities during a project period and located at a project site.

(b) "Investment in new plant" means investment in new plant and building facilities that are:

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(c) "New plant and building facilities" means a manufacturing facility or facilities and personal property related thereto, producing tangible personal property or intellectual property intended for ultimate sale at retail, including related parking facilities, food service facilities, business office facilities and other building facilities directly related to the manufacturing business.

(d) "Project period" means the period of time beginning at the earlier of a physical change to the project site or the first employment of new employees or contractors located in Idaho who are related to the activities at the project site, but no earlier than January 1, 2008.

(e) "Project site" means an area or areas at which new plant and building facilities are located and at which the tax incentive criteria have been or will be met and which are either:

(i) A single geographic area located in this state at which the new plant and building facilities owned or leased by the taxpayer are located; or

(ii) One (1) or more geographic areas located in this state if eighty percent (80%) or more of the investment required in subsection (2)(h) of this section is made at one (1) of the areas.

(f) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(g) "Building or structural components of buildings" means real property improvements to land as defined in section 63-201(11), Idaho Code, which are owned or leased by the taxpayer and located in Idaho within the boundaries of the project site.

(h) "Tax incentive criteria" means a taxpayer at a project site meeting the requirements of subparagraphs (i) and (ii) of this paragraph:

(i) During the project period, making capital investments in new plant of at least three million dollars ($3,000,000) at the project site;

(ii) The taxpayer can demonstrate to the county that significant economic benefits will accrue to the county.

(3) The board of county commissioners may grant the property tax exemption for all or a portion of the market value of the defined project for a period of up to five (5) years. The agreement shall be considered a contract arrangement between the county and the taxpayer for the exemption time period granted by the board of county commissioners and the annual approval provision contained in subsection (3) of section 63-602, Idaho Code, shall not apply to the exemption provided in this section as long as the contract enumerated in this section is valid and in force and effect.

(4) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section 63-301A, Idaho Code, until the exemption ceases.

(5) The legislature declares this exemption necessary and just.

$100,000 Personal Property Tax Exemption

Businesses are allowed a personal property tax exemption on the first $100,000 of personal property.

Administrative Rules-$100,000 Personal Property Tax Exemption

626. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY (RULE 626). Sections 63-105(A), 63-201, 63-302, 63-308, 63-313, 63-602Y, and 63-602KK, Idaho Code. (3-20-14)

01. Locally Assessed Property - Application Required. (3-20-14)

a. The taxpayer must file one (1) or more of the lists of taxable personal property as required by Section 63-302, Section 63-313, or Section 63-602Y, Idaho Code if the total market value of the property to be listed is greater than one hundred thousand dollars ($100,000). The filing of said list(s) shall constitute the filing of an application for exemption. For purposes of reporting personal property, the value is to be based on market value, not book value. (3-20-14)

b. Taxpayers establishing initial eligibility for the exemption provided in Section 63-602KK(2), Idaho Code, may in lieu of a list, file only an application attesting to ownership of otherwise taxable personal property having a cost of one hundred thousand dollars ($100,000) or less. In providing such cost, newly acquired personal property items acquired at a price of three thousand dollars ($3,000) or less, that are exempt pursuant to Section 63-602KK(1), Idaho Code, shall not be included. The application must be filed no later than April 15th of the first year for which the exemption is claimed. (3-20-14)

Statute-$100,000 Personal Property Tax Exemption

http://legislature.idaho.gov/idstat/Title63/T63CH6SECT63-602KK.htm

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602KK. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY.
(1) (a) An item of taxable personal property purchased on or after January 1, 2013, shall be exempt from property taxation if the item of taxable personal property has an acquisition price of three thousand dollars ($3,000) or less.
(b) For purposes of this section, the term "acquisition cost" means all costs required to put an item of taxable personal property into service and includes:
(i) The purchase price of a new or used item;
(ii) The cost of freight and shipping;
(iii) The cost of installation, engineering, erection or assembly; and
(iv) Sales and use taxes.
(c) For purposes of this subsection, an "item of taxable personal property" means equipment, machinery, furniture or other personal property that is functioning at its highest and best use for the purpose it was designed and constructed and is generally capable of performing that function without being combined with other items of personal property. An item of taxable personal property is not an individual component part of a piece of equipment, machinery, furniture or other personal property as a whole. An item of taxable personal property does not include an improvement to real property, a part that will become an improvement, or anything defined as a fixture.

(2) On and after January 1, 2013, each taxpayer's personal property, located in the county, which is not otherwise exempt, shall be exempt to the extent of one hundred thousand dollars ($100,000). For the purposes of this section, a taxpayer includes two (2) or more individuals using the property in a common enterprise or a related group of two (2) or more organizations when the individuals or organizations are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code.
(3) (a) No later than the third Monday of November 2013, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (2) of this section, in that county for that year. The certification shall identify the property receiving tax reductions, the value of the property, the property's location, the amount of the tax levy applicable to personal property in the location, and the tax before and after the exemption allowed in subsection (2) of this section. The certification shall be in the form prescribed by the state tax commission and shall include such additional information as the commission may require by rule as needed to implement the purpose of this section. The certification shall be reviewed and, if necessary, corrected by the state tax commission.
(b) For the year beginning January 1, 2014, and every year thereafter, the amount of annual replacement of property tax on personal property exempted pursuant to subsection (2) of this section shall be the amount approved by the state tax commission pursuant to paragraph (a) of this subsection.
(4) (a) Subject to the limitations of this section, the state tax commission shall reimburse from the amount appropriated for personal property tax replacement in section 63-3638, Idaho Code, the county treasurer of each county for the reduction on the certification provided in subsection (3) of this section. The county

treasurer shall reimburse from the amount received to each taxing district within the county an amount in proportion to the amount of reduction shown on the certification in subsection (3) of this section as corrected. The amount that would otherwise be attributable to tax revenues derived from tax levies on personal property exempted by this section within an existing revenue allocation area as defined in section 50-2903(15), Idaho Code, shall be paid directly by the county treasurer to such public body or agency entitled thereto, equal to the amounts that would have been distributed in accordance with the formula for such distribution set forth in section 50-2908, Idaho Code. Taxing districts created on or after January 1, 2013, shall not be eligible for the reimbursement provided for in this paragraph.

(b) The state tax commission shall pay one-half (1/2) of the reimbursement provided in this section no later than December 20 of each year, and the second one-half (1/2) shall be paid by no later than June 20 of the following year. The money received by the county tax collector under the provisions of this section may be considered by counties and other taxing districts and budgeted against at the same time, and in the same manner, and in the same year as revenues from taxation. The total amount paid to the county treasurers shall not exceed the amount certified to the state tax commission under subsection (3) of this section.

(c) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received from distributions pursuant to section 63-3638, Idaho Code, as property tax replacement for the taxable value of property exempt from taxation pursuant to this section shall be treated as property tax revenues.

(5) (a) Nothing contained in this section shall affect the taxation of forest lands or forest products pursuant to chapter 17, title 63, Idaho Code, or the taxation of the net profits of mines pursuant to chapter 28, title 63, Idaho Code.

(b) The exemption from personal property tax provided for in subsection (2) of this section shall not apply to motor vehicles, recreational vehicles, aircraft and boats that are not registered with the state of Idaho and for which required registration fees have not been paid.

(6) (a) The application for the exemption provided for in subsection (2) of this section shall be in the form prescribed by the state tax commission and shall include such information as the state tax commission may require by rule as needed to implement the purpose of this section including, but not limited to, a list of each item of personal property, the purchase date of each item of personal property, the unit cost of each item of personal property, if more than the exemption allowed in subsection (1) of this section, and the total cost of the items of personal property.

(b) The application for this exemption, if the county is capable of so providing, may be transmitted by the county assessor electronically, as that term is defined in section 63-115, Idaho Code, when requested by the taxpayer, or mailed by the county assessor to the taxpayer, or his agent or representative at the taxpayer's last known post office address, no later than March 1 of each year. The transmission or mailing of the application shall also include the taxpayer's application for the exemption allowed by this section for the last year in which the taxpayer filed an application.

(c) A taxpayer need only make application for the exemption in this section once as long as all of the following conditions are met:

(i) The taxpayer has received the exemption during the previous year as a result of him making a valid application as defined in this section.

(ii) The amount of the exemption allowed by this section is more than the taxable value of personal property owned by the taxpayer.

(iii) The taxpayer has not made purchases of personal property, excluding items of taxable personal property exempted pursuant to subsection (1) of this section,

that would cause the taxable value of the personal property owned by the taxpayer to exceed the maximum amount allowed as an exemption by this section.

(d) Knowingly failing to report changes in the taxable value of personal property that exceed the amount of the exemption allowed pursuant to this section shall subject the taxpayer to a fine not in excess of ten thousand dollars ($10,000) in addition to other penalties set forth in this chapter.

(7) Recovery of property tax exemptions allowed by this section but improperly claimed:

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed, the county assessor shall decide whether the exemption claimed should have been allowed, and if not, notify the board of county commissioners, at which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) The assessment and collection of the recovery of property tax must begin within the seven (7) year period beginning on the date the assessment notice reflecting the improperly claimed exemption was required to be mailed to the taxpayer.

(c) The taxpayer may appeal to the board of tax appeals the decision by the board of county commissioners to assess the recovery of property tax within thirty (30) days of the date the county assessor sent the notice to the taxpayer pursuant to this section.

(d) For purposes of calculating the tax, the amount of the recovered property tax shall be for each year the exemption allowed by this section was improperly claimed or approved, up to a maximum of seven (7) years. The amount of the recovery of property tax shall be calculated using the product of the amount of exempted value for each year multiplied by the levy for that year plus costs, late charges and interest for each year at the rates equal to those provided for delinquent property taxes during that year. In cases of fraud, the fine set forth in subsection (6)(d) of this section shall be assessed for each tax year.

(e) Any recovery of property tax shall be due and payable no later than the date provided for property taxes in section 63-903, Idaho Code, and if not timely paid, late charges and interest, beginning the first day of January in the year following the year the county assessor sent the notice to the taxpayer pursuant to this section, shall be calculated at the current rate provided for property taxes.

(f) Recovered property taxes shall be billed, collected and distributed in the same manner as property taxes, except each taxing district or unit shall be notified of the amount of any recovered property taxes included in any distribution.

(g) Thirty (30) days after the taxpayer is notified, as provided in subsection (7)(a) of this section, the assessor shall record a notice of intent to attach a lien. Upon the payment in full of such recovered property taxes prior to the attachment of the lien as provided in subsection (7)(h) of this section, or upon the successful appeal by the taxpayer, the county assessor shall record a rescission of the intent to attach a lien within seven (7) business days of receiving such payment or within seven (7) business days of the county commissioners' decision granting the appeal.

(h) Any unpaid recovered property taxes shall become a lien upon the taxpayer's personal property in the same manner as provided for property taxes in section 63-206, Idaho Code, except such lien shall attach as of the first day of January in the year following the year the county treasurer sent the notice to the taxpayer pursuant to this section.

(i) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection as recovery of property tax shall be treated as property tax revenue.

Business Inventory and Computer Software Tax Exemption

Tangible personal property is tax exempt. Computer software that is delivered electronically, remotely accessed, or delivered by the ‘load and leave’ method the vendor loads the software at the user’s location but does not transfer any tangible personal property containing the software to the user, is exempt from Idaho sales and use tax.

Statute-Business Inventory Tax Exemption

From http://www.legislature.idaho.gov/idstat/Title63/T63CH6SECT63-602W.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602W. Business inventory exempt from taxation -- Business inventory that is a component of real property that is a single family dwelling.

The following property is exempt from property taxation: business inventory. For the purpose of this section, "business inventory" means all items of tangible personal property or other property, including site improvements, described as:

(1) All livestock, fur-bearing animals, fish, fowl and bees.

(2) All nursery stock, stock-in-trade, merchandise, products, finished or partly finished goods, raw materials, and all forest products subject to the provisions of chapter 17, title 63, Idaho Code, supplies, containers and other personal property which is held for sale or consumption in the ordinary course of the taxpayer's manufacturing, farming, wholesale jobbing, or merchandising business.

(3) Residential improvements never occupied. Once residential improvements are occupied as defined in section 63-317, Idaho Code, they shall be subject to the tax provided by section 63-317, Idaho Code. The provisions of section 63-602Y, Idaho Code, shall not apply to the exemption provided by this subsection. The exemption provided by this subsection applies only to improvements to real property, and only until first occupied. For purposes of this section, the term "residential improvements" means only:

(a) Single family residences; or

(b) Residential townhouses; or

(c) Residential condominium units.

The nonresidential portion of an improvement to real property that is used or is to be used for residential and nonresidential purposes does not qualify for the exemption provided by this section. If an improvement contains multiple residential units, each such unit shall lose the exemption provided in this section when it becomes occupied.

(4) Site improvements, that are associated with land, such as roads and utilities, on real property held by the land developer for sale or consumption in the ordinary course of the land developer's business until other improvements, such as buildings or structural components of buildings, are begun or title to the land is conveyed from the land developer. An application is required for the exemption provided in this subsection.

Statute-Computer Software Property Tax Exemption

From http://legislature.idaho.gov/idstat/Title63/T63CH36SECT63-3616PrinterFriendly.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 36
SALES TAX

63-3616. TANGIBLE PERSONAL PROPERTY. (a) The term "tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

(b) The term "tangible personal property" includes any computer software except the following: custom computer programs; computer software that is delivered electronically; remotely accessed computer software; and computer software that is delivered by the load and leave method where the vendor or its agent loads the software at the user's location but does not transfer any tangible personal property containing the software to the user. As used in this subsection, the term "remotely accessed computer software" means computer software that a user accesses over the internet, over private or public networks, or through wireless media, where the user has only the right to use or access the software by means of a license, lease, subscription, service or other agreement. Notwithstanding the foregoing exclusions of certain types of computer software from the definition of tangible personal property, tangible personal property shall include computer software that constitutes digital music, digital books, digital videos and digital games, regardless of the method by which the title, possession or right to use such software is transferred to the user. As used in this subsection, the term "digital videos" means prerecorded video products and shall not include live broadcasts, television or cable broadcasts or video conferencing products.

(i) As used in this subsection, the term "computer software" means any computer program, part of a program or any sequence of instructions for automatic data processing equipment or information stored in an electronic medium.

(ii) As used in this subsection, the term "custom computer program" means any computer software, as defined in this subsection, which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer. The term does not include a "canned" or prewritten program which is held or existing for general or repeated sale, lease or license, even if the program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the purchaser.

(c) The term "tangible personal property" does not include advertising space when sold to an advertiser or its agent by the publisher of the newspaper or the magazine in which the advertisement is displayed or circulated.

Large Business Property Tax Exemption

Businesses that invest a minimum of $1 billion in capital improvements will receive a property tax exemption on all property in excess of $400 million in value per year.

To Qualify:

- The property must be located in a single Idaho county.
- The property must be eligible for the federal investment tax credit, as defined in sections 46 (c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46 (f) of the Internal Revenue Code and is not a motor vehicle under eight thousand pounds gross weight.
- The improvements, acquisition or construction must be real or personal property related plant and building facilities.

Administrative Rules-Large Business Property Tax Exemption

630. Tax exemption for new capital investments (rule 630).
Section 63-4502, Idaho Code.
(3-29-12)

01. Notification of New Capital Investment. (3-29-12)

a. Prior to receiving the benefit of the tax exemption, the taxpayer shall notify the county in which the project site is located that the taxpayer expects to meet the criteria of the New Capital Investments Tax exemption. Notification shall be accomplished by submitting a written declaration or notification with the county assessor and the board of county commissioners containing the following information: (3-29-12)

i. The name and address of the taxpayer; (3-29-12)

ii. A description of the new capital investment project; (3-29-12)

iii. The assessor's parcel number(s) identifying the location of the project site; (3-29-12)

iv. The date that the qualifying period began; (3-29-12)

v. A statement that the taxpayer will make a qualified new capital investment of at least one billion dollars ($1,000,000,000) within the qualifying period, which shall be specified. (3-29-12)

b. The notification required hereunder may be submitted by the taxpayer to the county assessor and the board of county commissioners at any time after the qualifying period begins. However, if the notification is submitted after May 15 in a given year a taxpayer may receive the benefit of the exemption only for tax years following the year in which the notification is filed. (3-29-12)

02. Property of the Taxpayer. Property of a taxpayer includes all real or personal property that is owned by or leased to the taxpayer under an agreement that makes the taxpayer responsible for the payment of any property taxes on the property. (3-29-12)

03. New Construction. Property taxable under Section 63-4502, Idaho Code and that qualifies for listing on the new construction roll as described by Section 63-301(A)3, Idaho Code, should be listed on the new construction roll. (3-29-12)

04. Failure to Make the Qualifying New Capital Investment. If the taxpayer fails to make the qualifying new capital investment during the qualifying period, the property shall lose the exemption granted by this section beginning with the tax year immediately following the conclusion of the qualifying period. (3-29-12)

05. Cross Reference. For an explanation of the treatment of new construction relating to Sections 63-802 and 63-301A, Idaho Code, see Rule 802 of these rules.

Statute-Large Business Property Tax Exemption

From: http://www.legislature.idaho.gov/idstat/Title63/T63CH45.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 45
NEW CAPITAL INVESTMENTS INCENTIVE ACT

63-4501.SHORT TITLE.

This chapter shall be known and may be cited as the "Idaho New Capital Investments Incentive Act of 2008."

63-4502. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS.

(1) For calendar years beginning on or after January 1, 2008, the net taxable value of all property of a taxpayer, whether acquired before, during or after the qualifying period, in excess of four hundred million dollars ($400,000,000) located within a single county in Idaho shall be exempt from property taxation and any special assessment, but only if the taxpayer makes a qualifying new capital investment as defined in subsection (2) of this section.

(2) For purposes of this section, the following definitions shall apply:

(a) "Qualifying new capital investment" means an investment of at least one billion dollars ($1,000,000,000) made during the qualifying period by the acquisition, construction, improvement or installation of real or personal property related to new plant and building facilities at a project site located within the county referred to in subsection (1) of this section.

(b) "New plant and building facilities" means:

(i) Qualified investments as defined in section 63-3029B, Idaho Code; or

(ii) Buildings or structural components of buildings, including equipment, materials and fixtures thereof whether used at a project site or temporarily stored off-site in the county referred to in subsection (1) of this section and intended for use at a project site.

(c) "Qualifying period" means an eighty-four (84) month period of time beginning at the first inspection of the permanent building structure at a project site following issuance of the building permit, but in no case earlier than January 1, 2008, and ending no later than eighty-four (84) full months after such inspection takes place.

(d) "Project site" means an area or areas at which the new plant and building facilities described in subsection (2)(b) of this section are built.

(3) The property included in the calculation for purposes of determining a qualifying new capital investment value shall include all real property owned, and all personal property owned, leased or rented. With respect to leased or rented personal property, only that portion of the property for which a taxpayer is contractually liable for payment of property taxes thereon, shall be included in the calculation of the investment.

(4) Notwithstanding the exemption provided in subsection (4) of section 63-3029B, Idaho Code, no other exemption from property tax or any special assessment provided by the statutes of this state shall be applicable to any property described in subsection (2) of this section with respect to a year in which the incentives set forth in subsection (1) of this section apply to any of the same property.

(5) Property subject to the provisions of this section shall not be included on any property roll or any new construction roll prepared by the county assessor in accordance with section 63-301 or 63-301A, Idaho Code, respectively.

(6) The state tax commission shall adopt all rules that may be necessary to implement the provisions of this section.

Large Employer Property Tax Exemption

Businesses that employ at least 1,500 people within a single Idaho county may receive a property tax exemption on property values in excess of $800 million.

To qualify:

- The business must make a yearly capital investment of at least $25 million within that county.

Statute-Large Employer Property Tax Exemption

From http://www.legislature.idaho.gov/idstat/Title63/T63CH6SECT63-602HH.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602HH. Property exempt from taxation -- Significant capital investments.

(1) The net taxable value of all property of a taxpayer in excess of eight hundred million dollars ($800,000,000) located within a single county in Idaho shall be exempt from property taxation and any special assessment.

(2) The property included in the calculation of the exemption set forth in this section shall include all real property owned, and all personal property owned, leased, or rented that would otherwise be subject to property tax; provided however, with respect to leased or rented personal property, only that portion of the property which a taxpayer is contractually liable for payment of property taxes thereon shall be included in the calculation of the exemption.

(3) Leased or rented personal property, included in the calculation of the exemption provided by this section shall not be assessable against the owner of such property.

(4) The exemption set forth in this section shall apply first to owned real and personal property and, if exhausted, shall then apply to leased or rented personal property.

(5) The taxpayer owning, leasing, or renting the property included in the calculation of the exemption shall designate the property to which the exemption applies.

(6) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, in the immediately preceding calendar year, failed to make significant capital investments of at least twenty-five million dollars ($25,000,000), by the acquisition or improvement of real or personal property located within the county referred to in subsection (1) of this section.

(7) The exemption set forth in this section shall not be available to any taxpayer with respect to a given year who, as of the first day of such year, did not employ or engage on a regular full-time basis, or the equivalent thereof, at least one thousand five hundred (1,500) workers within the county referred to in subsection (1) of this section.

(8) Except for the exemption provided for in subsection (4) of section 63-3029B, Idaho Code, no other exemption from property tax or any special assessment provided by the statutes of this state shall be applicable to any property described in subsection (2) of this section with respect to a year in which the exemption set forth in subsection (1) of this section applies to any of the same property.

(9) Property exempted under this section shall not be included on any new construction roll prepared by the county assessor in accordance with section 63-301A, Idaho Code.

(10) The state tax commission shall adopt all rules that may be necessary to implement this section.

Water or Air Pollution Control Tax Exemption

Property that is utilized to control or prevent water or air pollution are tax exempt.

Administrative Rules-Water or Air Pollution Control Tax Exemption

619. PROPERTY EXEMPT FROM TAXATION -- FACILITIES FOR WATER OR AIR POLLUTION CONTROL (RULE 619).

01. Exempt Property. Only those portions of installations, facilities, machinery, or equipment which are devoted exclusively to elimination, control, or prevention of water or air pollution are exempt. The owner of the property shall annually apply for exemption.

02. Calculation of Partial Exemption. The exemption shall not include the percentage of the value for any portion of the facility which is used for the production of marketable by-products. The exempted value is the difference between the market value of the pollution control facilities and the present value of the net income from the sale of by-products. Net income shall be determined by subtracting the expenses of sale, raw materials required to produce by-products, and transportation to F.O.B. point from gross sales of recovered by-product.

Statute-Water or Air Pollution Control Tax Exemption

From http://www.legislature.idaho.gov/idstat/Title63/T63CH6SECT63-602P.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602P. Property exempt from taxation -- Facilities for water or air pollution control.

(1) The following property is exempt from taxation: facilities, installations, machinery or equipment, attached or unattached to real property, and designed, installed and utilized in the elimination, control or prevention of water or air pollution, or, in event such facilities, installations, equipment or machinery shall also serve other beneficial purposes and uses, such portion of the assessed valuation thereof as may reasonably be calculated to be necessary for and devoted to elimination, control or prevention of water or air pollution. The state tax commission or county assessor shall determine such exempt portion, and shall not include as exempt any portion of any facilities which have value as the specific source of marketable byproducts.

(2) If any water corporation, as defined by section 61-125, Idaho Code, regulated by the Idaho public utilities commission is or has been ordered by the state board of health [and welfare] or the Idaho public utilities commission to install equipment designed and utilized in the elimination, control or prevention of water pollution, the Idaho public utilities commission shall notify the Idaho state tax commission of the percentage such property bears to the total invested plant of the company and said portion shall be exempt from property taxation. Said percentage reported to the Idaho state tax commission by the Idaho public utilities commission may be contested by any person or party at a public hearing held before the Idaho state tax commission.

Remediated Land Tax Exemption

Environmental remediation is the removal of pollution or contaminants from water (both ground water and surface water) and soil. Remediation restores brownfield sites either for redevelopment or to return them to their natural state. A partial tax exemption is available for remediated land.

Administrative Rules-Remediated Land Tax Exemption

628. PARTIAL EXEMPTION FOR REMEDIATED LAND (RULE 628).

01. Definitions. For the purpose of implementing the partial exemption for remediated land the following terms are defined. (7-1-98)

Application for Partial Exemption. The “application for partial exemption” is the form, provided by the State Tax Commission, available from the State Tax Commission or the county assessor and used to apply for the exemption provided by Section 63-602BB, Idaho Code. (7-1-98)

b. Certificate of Completion. The “certificate of completion” is the document issued by the

Department of Environmental Quality after the successful completion of a voluntary remediation work plan pursuant to Section 39-7207(1), Idaho Code. The person receiving the “certificate of completion” shall record a copy of the “certificate of completion” with the deed for the “site” on which the remediation took place pursuant to Section 39-7207(2), Idaho Code. (7-1-98)

c. Covenant Not to Sue. The “covenant not to sue” is the document issued by the Department of

Environmental Quality pursuant to Section 39-7207(4), Idaho Code, upon request from a person receiving the “certificate of completion.” (7-1-98)

d. Qualifying Owner. The “qualifying owner” is the entity identified as the owner on the deed to the property at the time the “certificate of completion” is issued by the Department of Environmental Quality. (7-1-98)

e. Remediated Land. The “remediated land” is the “site” on which the remediation, as defined in

Section 39-7203(7), Idaho Code, has been completed. (7-1-98)

f. Remediated Land Value. The “remediated land value” is the market value for assessment purposes of the land on January 1 of the year following the issuance of the “certification of completion” (after remediation) less the market value for assessment purposes of the land on January 1 prior to the issuance of the “certification of completion” (before remediation). (7-1-98)

g. Site. As defined in Section 39-7203(8), Idaho Code, a “site” is a parcel of real estate for which an application has been submitted under Section 39-7204, Idaho Code. The “site” shall be that parcel identified on the application as described in IDAPA 58.01.18, “Idaho Land Remediation Rules,” Subsection 020.02.c., including the assessor’s parcel numbers(s) and on the voluntary remediation work plan as described in IDAPA 58.01.18, Section 022. (7-1-98)

02. Procedures to Qualify for the Exemption. The “qualifying owner,” or agent thereof, must complete the following procedures for the “site” to qualify for the exemption. (7-1-98)

a. Obtain and complete the “application for partial exemption.” (7-1-98)

b. Submit the “application for partial exemption” and copies of the “certificate of completion” and the “covenant not to sue” to the county assessor of the county in which the “site” is located. If the legal description of the “site” and a map identifying the location and size of facilities and relevant features is included in the

information supporting the voluntary remediation work plan, pursuant to IDAPA 58.01.18, “Idaho Land Remediation Rules,” Subsection 022.03.a.i., a copy of this information shall be included with the “application for partial exemption.” (7-1-98)

c. File the “application for partial exemption” with the county assessor on or before March 15 of the year for which the exemption is claimed. The “application for partial exemption” must be filed only once, during the first year of seven (7) year exemption period. (7-1-98)

03. Calculation of the Exemption. The exemption is fifty percent (50%) of the “remediated land value.” This exempt value is constant throughout the term of the exemption. The amount of the exemption shall never exceed the current market value of the land.

04. Exempt Value Subject to Taxation. For any property eligible for the exemption provided by Section 63-602BB, Idaho Code, the exempt value will immediately be subject to taxation when any of the following events occur: (3-30-01)

a. If the “covenant not to sue” is rescinded during any year the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. Pursuant to IDAPA 58.01.18, Subsection 025.02, the Department of Environmental Quality shall notify the assessor of the county in which the “site” is located that the “covenant not to sue” is rescinded. (3-30-01)

b. If the “site” is transferred to a new owner during any year in which the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. (7-1-98)

c. The seven (7) year exemption period expires. (3-30-01)

05. Sites Previously Granted the Exemption are Ineligible. No “site” shall be granted the exemption provided in this section if said “site” had been previously granted this exemption regardless of whether the entire seven (7) years of the exemption had been used.

Statute-Remediated Land Tax Exemption

From http://www.legislature.idaho.gov/idstat/Title63/T63CH6SECT63-602BB.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602BB. Partial exemption for remediated land.

(1) During the tax year 1997 and each year thereafter, a site as defined in section 39-7203, Idaho Code, and qualifying under chapter 72, title 39, Idaho Code, shall be eligible for property tax exemption not to exceed seven (7) years.

(2) "Remediated value" shall mean market value for assessment purposes of the land on January 1, less the market value for assessment purposes of the land on the January 1 prior to the year in which the remediation was completed.

(3) The exemption shall amount to fifty percent (50%) of the remediated land value. The exempted value assessed under this formula shall remain constant throughout the period of the exemption.

(4) The exemption allowed by this section may be granted only if:

(a) The covenant not to sue as provided in section 39-7207, Idaho Code, remains in full force and effect for the entire period of exemption;

(b) The site remains in the possession of the owner for the entire exemption period.

(5) The exemption allowed by this section may be rescinded if:

(a) The covenant not to sue as provided in section 39-7207, Idaho Code, is rescinded by the department;

(b) The site is transferred to a new owner.

(6) The owner need only make application for the exemption described in this section once over the course of the seven (7) year period.

(7) No owner of a site shall be granted the exemption provided in this section if said site has been:

(a) Previously granted the exemption provided in this section regardless of whether the entire seven (7) years of the exemption have been used;

(b) Denied by the department as a qualifying site pursuant to chapter 72, title 39, Idaho Code.

(8) The legislature declares this exemption to be necessary and just.

Goods-In-Transit Tax Exemption

The state's free port law provides that goods in-transit (goods purchased by a carrier in its business and delivered outside the state under a bill of lading for use by the carrier in its business) are exempt from taxation.

Administrative Rules-Goods-in-Transit Tax Exemption

313.ASSESSMENT OF TRANSIENT PERSONAL PROPERTY (RULE 313).
Sections 63-213, 63-313, and 63-602KK, Idaho Code. (5-8-09)

01. Definitions. The following definitions apply for the assessment of transient personal property. (5-3-03)

a. Home County. Home county is identified in Section 63-313, Idaho Code, as the county selected by the owner of any transient personal property as that county where that transient personal property is usually kept. That county selected by the owner shall be a county in the state of Idaho. (5-3-03)

b. Periods of Thirty (30) Days or More. Periods of thirty (30) days or more mean increments of no less than thirty (30) consecutive, uninterrupted days, during which any transient personal property is located in any one (1) county. For any period of less than thirty (30) days, the property owner shall report the transient personal property as being in the home county. (4-4-13)

c. Prorated Assessment. Prorated assessment means the ratio of the number of days, exceeding twenty-nine (29), to three hundred sixty-five (365) days multiplied by the total market value of the transient personal property. For additional clarification, refer to the following examples. (5-3-03)

i. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (5-3-03)

ii. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the total market value in the second county and for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. (5-3-03)

iii. If located in a second Idaho county (not the home county) for thirty-one (31) consecutive, uninterrupted days, in a third Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, and in the home county for the remainder of the year, the transient personal property should be assessed for thirty-one/three hundred sixty-five (31/365) of the total market value in the second county, fifty-nine/three hundred sixty-five (59/365) of the total market value in the third county, and two hundred seventy-five/three hundred sixty-five (275/365) of the total market value in the home county. (5-3-03)

iv. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and later in that same county for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (5-3-03)

v. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty-five (35) days and taxed in the other state, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the value in the second county and for two hundred seventy-one/three hundred sixty-five (271/365) of the total market value in the home county. However, if the property in this example that was outside the state of Idaho for thirty-five (35) days was not taxed in the other state, then the time should be counted in the home county, and the property therefore should be assessed for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. (4-4-13)

d. Transient Personal Property. Transient personal property is defined in Section 63-201, Idaho Code. (5-3-03)

02. Overassessment Prohibited. Section 63-213, Idaho Code, prohibits the assessment of any property in any one (1) county for the same period of time that property has been assessed in another county. The sum of the assessments of transient personal property in the home county and each other county where the property has been located shall not exceed the market value of the property. (5-3-03)

03. Nontaxable Transient Personal Property. (3-20-04)

a. Transient Personal Property in Transit. Under Subsection 63-313(4), Idaho Code, any transient personal property only in transit through the home county or any other county and not remaining in any county for the purpose of use is not subject to property taxation. (3-20-04)

b. Sold Transient Personal Property on Which Taxes Have Been Paid. Under Subsection 63-313(4), Idaho Code, any transient personal property, which was sold by the owner in the home county and upon which the full current year's property taxes were paid, is not subject to property taxation for the current year in any other county regardless of whether that property is to be used in or only in transit through any other county. (3-20-04)

c. Qualified Investment Exemption. For information and directions relating to the qualified investment exemption, see Rule 988 of these rules. (3-20-04)

04. Exempt Transient Personal Property. (5-8-09)

a. Section 63-602KK, Idaho Code, when applicable provides for exemption of each eligible taxpayer's personal property to the extent of one hundred thousand dollars ($100,000) within each county. The limit on the exemption shall apply to the sum of the taxpayer's non-transient personal property and transient personal property. Prior to applying the exemption, transient personal property shall be allocated among the counties based on the prorated value as provided in Subsection 63-313(2), Idaho Code. (5-8-09)

b. In cases where the taxpayer has transient personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply. Should the taxpayer not make an election as to where to apply the exemption, the county shall have discretion regarding the property to which the exemption shall apply. (5-8-09)

Statute-Goods-In-Transit Tax Exemption

From http://www.legislature.idaho.gov/idstat/Title63/T63CH6SECT63-602U.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602U. Property exempt from taxation -- Personal property shipped into the state and stored in a public or private warehouse structure, and designated for shipment out of the state to be considered in transit.

(1) Personal property shipped into this state and stored in a public or private warehouse structure, which property is not offered for sale in Idaho and designated for reshipment outside of the state, is considered to be "in transit" and shall be exempt from taxation. Such property shall not be deprived of exemption because while in storage, awaiting such further shipment, such personal property is labeled, packaged, disassembled, divided, broken in bulk, relabeled, or repackaged, or because the personal property is held for resale to customers outside the state of Idaho. Provided that all personal property claimed to be exempt "in transit" be labeled as such and shall be designated immediately upon receipt as being in transit upon the books and records of the warehouse, whether public or private, wherein the same is located. The books and records of such storage warehouse shall contain a full, true and correct inventory of all such property, together with the date of receipt of same, the point of origin, the date of its withdrawal, and, if known, the ultimate destination thereof. The books and records pertaining to the storage of any such in transit property shall be opened to inspection by any taxing authority in the state of Idaho having jurisdiction thereof upon reasonable demand having been made.

(2) Public warehousing is the storing of personal property by any person, firm or corporation regularly engaged in the business of storing such property for hire.

(3) Private warehousing is the storage of personal property by any person, firm or corporation which is carrying on the activity of warehousing or storing such property only in the operation of his or its own business. This exemption shall only apply to private storage from and after a notice, describing by address and physical premises, is filed with the county assessor, which notice shall be filed annually.

Motor Vehicle Tax Exemption

Administrative Rules-Motor Vehicle Tax Exemption

IDAPA 35

TITLE 01

CHAPTER 03

35.01.03 - PROPERTY TAX ADMINISTRATIVE RULES

612. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES, RECREATIONAL VEHICLES, AND VESSELS PROPERLY REGISTERED (RULE 612).
Sections 49-123, 49-401, 49-402A, 49-422, 49-432, 49-445, 49-446, and 63-602J, Idaho Code. (4-4-13)

01. Motor Vehicle Defined. Motor vehicle means any vehicle as defined in Section 49-123(2)(g), Idaho Code, and any personal property permanently affixed to that vehicle. (4-11-06)

02. Exempt Motor Vehicles. Except as provided in Subsection 612.03 of this rule, any motor vehicle, as defined in Subsection 612.01 of this rule, registered for any part of the previous year under Chapter 4, Title 49, Idaho Code, is exempt from property taxation under Sections 49-401 and 63-602J, Idaho Code. (4-11-06)

03. Taxable Vehicles. The following registered or permitted vehicles are taxable and not eligible for the exemption under Sections 49-401 and 63-602J, Idaho Code. (4-11-06)

a. Any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. (4-11-06)
b. Any manufactured home registered under Section 49-422, Idaho Code. (4-11-06)

Statute-Motor Vehicle Tax Exemption

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602J. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES AND VESSELS PROPERLY REGISTERED. The following property is exempt from taxation: motor vehicles properly registered and for which the required fee has been paid under the provisions of the laws of the state of Idaho, recreational vehicles for which the fees imposed by law have been paid and vessels for which the certificate of registration fees imposed by law have been paid.

SALES TAX EXEMPTION

Production Sales Tax Exemption

The production exemption eliminates sales tax on purchases of materials and supplies used directly in the production process by farmers, manufacturers and other producers. The exemption also applies to purchases of certain kinds of production equipment. The equipment must be “directly” (its function must be a direct part of the production process) and “primarily” (more than 50% of its use must be in the production process) used in the production process.

To qualify:

- The business or segment of a business (a division or branch with its own identity and separate accounting records) must spend the majority of its time producing products that will be resold.
- The business or segment of a business must be engaged in one of these activities:
  - Farming
  - Mining
  - Ranching
  - Fabrication
  - Manufacturing
  - Processing
- The business or segment of a business must be “primarily” devoted to producing a product for resale. This means that more than 50% of its activities must involve production.
- The business or segment of a business needs to own the goods being manufactured, processed, etc. The production exemption does not apply to the service-oriented businesses, with the exception of custom farming and contract mining.

Purchases that are exempt:

The production exemption allows tax-free purchases of:

- Raw materials that become part of a final product
- Chemicals and catalysts that affect a production by causing a physical change and removing impurities.
- Equipment or other tangible personal property which is “primarily” and “directly” used in the production process.
- Safety equipment and supplies that are used directly in the production process and used to meet required standards set by state and federal agencies.

Administrative Rules-Production Sales Tax Exemption

079. PRODUCTION EXEMPTION (RULE 079).

01. In General. Section 63-3622D, Idaho Code, known as the production exemption, provides an exemption from sales and use taxes for certain tangible personal property used in production activities. The production activities include: (5-8-09)

a. A manufacturing, processing, or fabrication operation primarily devoted to producing tangible personal property that it will sell and is intended to be ultimately sold at retail. (5-8-09)

b. The following types of businesses may also qualify for the exemption, even though they perform services and do not actually sell tangible personal property: (5-8-09)

i. The business of custom farming or operating a farm or ranch for profit. (7-1-93)

ii. The business of contract mining or operating a mine for profit. (6-23-94)

iii. Businesses devoted to processing tangible personal property for use as fuel for the production of energy. (5-8-09)

02. Qualifying Businesses. The production exemption applies only to a business or a separately operated segment of a business that primarily produces tangible personal property which is intended for ultimate sale at retail. (7-1-93)

a. For the purposes of this rule, a separately operated segment of a business is a segment of a business for which separate records are maintained and which is operated by an employee or employees whose primary employment responsibility is to operate the business segment. (7-1-93)

b. The production exemption does not include the performance of contracts to improve real property, such as road or building construction, or to service-related businesses not devoted to the production of tangible personal property for ultimate sale at retail. (7-1-93)

c. To qualify for the production exemption, a business must sell the products it produces or processes. The only exceptions are businesses primarily devoted to processing fuel to be used for the production of energy; custom farming; and contract mining. (5-8-09)

03. Exempt Purchases. As applied to manufacturing, processing, mining, or fabrication operations, sales and purchases of the following tangible personal property are exempt, except as limited by other subsections of this rule: (4-11-06)

a. Raw materials that become an ingredient or component part of the product which is produced. (7-1-93)

b. Equipment and supplies used or consumed primarily and directly in the production process and which are necessary or essential to perform the operation. To qualify, the production use must be the primary use of the equipment and supplies. Also, the equipment and supplies must be used directly in the production process. (7-1-93)

c. Chemicals and catalysts consumed in the production process which are used directly in the process but which do not become an ingredient or component part of the property produced. (7-1-93)

d. Repair parts, lubricants, hydraulic oil, and coolants, which become a component part of production equipment. (7-1-93)

e. Fuel, such as diesel, gasoline, and propane used in equipment while performing production exempt activities. (7-1-93)

f. Chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries. (7-1-93)

g. Safety equipment and supplies required by a state or federal agency when used directly in a production area. (7-1-93)

h. Equipment such as cranes, manlifts, and scissorlifts used primarily to install production equipment. (7-1-93)

i. Equipment used primarily to fabricate production equipment. (7-1-93)

04. Production Process Beginning and End. The production process begins when raw materials used in the process are first handled by the operator at the processing plant or site. The production process ends when the product is placed in storage, however temporary, ready for shipment or when it reaches the final form in which it will be sold at retail, whichever occurs last. (7-1-93)

05. Taxable Purchases. The production exemption does not include any of the following: (4-11-06)

a. Motor vehicles required to be licensed by Idaho law. A motor vehicle required to be licensed, but not actually licensed, is taxable. A motor vehicle not required to be licensed is exempt under the production exemption only if it meets the tests in Subsection 079.03 of this rule. (7-1-93)

b. Repair parts for any equipment which does not qualify for the production exemption. (7-1-93)

c. A hand tool with a unit price of one hundred dollars ($100) or less, regardless of how necessary the tool may be to production, how directly it may be used in the process, or how specialized it may be. (7-1-93)

d. Office equipment and supplies. (7-1-93)

e. Safety equipment and supplies used somewhere other than a production area, such as an office, or which are not required by a state or federal agency even if used in a production area. (7-1-93)

f. Equipment and supplies used in selling and distribution activities. (7-1-93)

g. Janitorial equipment and supplies, other than disinfectants used in the dairy industry to clean pipes, vats, and udders, and clean-in-place equipment and chemicals used in food processing or food manufacturing. (7-1-93)

h. Maintenance and repair equipment and supplies which do not become component parts of production equipment, such as welders, welding gases, shop equipment, etc. (7-1-93)

i. Transportation equipment and supplies. (7-1-93)

j. Aircraft of any type and supplies. (7-1-93)

k. Paint, plastic coatings, and similar products used to protect and maintain equipment, whether applied to production equipment or other equipment. (7-1-93)

l. Other incidental items not directly used in production. (7-1-93)

m. Fuel used in equipment while performing activities that do not qualify for the production exemption. (7-1-93)

n. Recreation-related vehicles regardless of use. Recreation-related vehicles are: snowmobiles; off-highway motorbikes and dual purpose motorcycles (a dual purpose motorcycle is designed for use off developed roadways and highways, but is also equipped to be operated legally on public roads and highways); motorcycles, motor scooters and motorized bikes; all-terrain vehicles (ATV's), not including tractors (a tractor is a motorized vehicle designed and used primarily as a farm implement for drawing plows, tillage equipment, and other farm implements); portable truck campers designed for temporary living quarters; camping, park, travel, and fifth-wheel travel-type trailers designed to provide temporary living quarters; motor homes; buses and van-type vehicles converted to recreational use as temporary living quarters. Buses and vans are considered recreational vehicles if they have at least four (4) of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, and separate one hundred ten to one hundred twenty-five (110-125) volt electrical power supply or LP gas supply. (7-1-93)

o. Parts to repair recreation-related vehicles. (7-1-93)

p. Equipment used primarily to construct, improve, alter or repair real property. (7-1-93)

06. Real Property. The production exemption applies only to tangible personal property. It does not apply to real property or to tangible personal property purchased with the intention of becoming improvements or fixtures to real property. The production exemption does not apply to equipment and materials primarily used to improve real property. (3-20-14)

07. Change in Primary Use of Property. If tangible personal property is purchased for a use which qualifies for the production exemption but later is used primarily for another purpose, it becomes taxable at its fair market value when it ceases to qualify for the exemption. For instance, a loader may be used primarily in a mining operation when purchased. If the primary use of the loader is later changed from mining to road building, it becomes taxable at its fair market value when it ceases to be used for mining. If tax is paid on tangible personal property because no exemption applies at the time of purchase, and the property later becomes eligible for the production exemption, no refund is due the owner. (7-1-93)

08. Transportation Activities. Equipment and supplies used in transportation activities do not qualify for the production exemption. (7-1-93)

a. Transportation includes the movement of tangible personal property over private or public roads or highways, canals, rivers, rail lines, through pipelines or slurry lines, or on private or public aircraft. (7-1-93)

b. Transportation includes movements of tangible personal property from one separate location which is a continuous manufacturing, processing, mining, fabricating or farming activity to another separate location which is a continuous exempt activity or process. (7-1-93)

c. Transportation includes movement of raw materials, except farm produce, from a point of initial extraction or severance or importation to a point where processing, manufacturing, refining or fabrication begins. See Rule 083 of these rules regarding farming. (3-15-02)

09. Exemption Certificate. To claim the production exemption the customer must complete an exemption certificate for the seller's records. See Rule 128 of these rules. (3-15-02)

10. Special Rules. Special rules apply to irrigation equipment, contractors, loggers, and farmers who act as retailers. Refer to the specific rules relating to those subjects. (7-1-93)

Statute-Production Sales Tax Exemption

From: http://www.legislature.idaho.gov/idstat/Title63/T63CH36SECT63-3622D.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 36
SALES TAX

63-3622D. Production exemption.

There are exempted from the taxes imposed by this chapter:

(a) The sale at retail, storage, use or other consumption in this state of:

(1) Tangible personal property which will enter into and become an ingredient or component part of tangible personal property manufactured, processed, mined, produced or fabricated for sale.

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, or fabricating operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property; provided that the use or consumption of such tangible personal property is necessary or essential to the performance of such operation.

(3) Chemicals, catalysts, and other materials which are used for the purpose of producing or inducing a chemical or physical change in the product or for removing impurities from the product or otherwise placing the product in a more marketable condition as part of an operation described in subsection (a)(2) of this section, and chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries.

(4) Safety equipment and supplies required to meet a safety standard of a state or federal agency when such safety equipment and supplies are used as part of an operation described in subsection (a)(2) of this section.

(5) Plants to be used as part of a farming operation.

(b) Other than as provided in subsection (c) of this section, the exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section are available only to a business or separately operated segment of a business which is primarily devoted to producing tangible personal property which that business will sell and which is intended for ultimate sale at retail within or without this state. A contractor providing services to a business entitled to an exemption under this section is not exempt as to any

property owned, leased, rented or used by it unless, as a result of the terms of the contract, the use of the property is exempt under section 63-3615(b), Idaho Code.

(c) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in farming or mining, whether as a subcontractor, contractor, contractee or subcontractee, when such business or segment of a business is primarily devoted to producing tangible personal property which is intended for ultimate sale at retail within or without this state, without regard to the ownership of the product being produced.

(d) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also be available to a business, or separately operated segment of a business, engaged in the business of processing materials, substances or commodities for use as fuel for the production of energy, whether as a subcontractor, contractor, contractee or subcontractee, without regard to the ownership of the materials, substances or commodities being processed and irrespective of whether the materials, substances or commodities being processed are intended for ultimate sale at retail within or without this state.

(e) As used in this section, the term "directly used or consumed in or during" a farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including, the planting, growing, harvesting and initial storage of crops and other agricultural products and movement of crops and produce from the place of harvest to the place of initial storage. It includes disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking equipment.

(f) The exemptions allowed in this section do not include machinery, equipment, materials and supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating operations such as maintenance and janitorial equipment and supplies.

(g) Without regard to the use of such property, this section does not exempt:

(1) Hand tools with a unit purchase price not in excess of one hundred dollars ($100). A hand tool is an instrument used or worked by hand.

(2) Tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming or fabricating operations such as office equipment and supplies, and equipment and supplies used in selling or distributing activities.

(3) Property used in transportation activities.

(4) Machinery, equipment, tools or other property used to make repairs. This subsection does not include repair parts that become a component part of tangible property exempt from tax under this section or lubricants, hydraulic oil, or coolants used in the operation of tangible personal property exempt under this section.

(5) Machinery, equipment, tools or other property used to manufacture, fabricate, assemble or install tangible personal property which is:

(i) Not held for resale in the regular course of business; and

(ii) Owned by the manufacturer, processor, miner, farmer or fabricator;

provided, however, this subsection does not prevent exemption of machinery, equipment, tools or other property exempted from tax under subsection (a)(2) or (a)(3) of this section.

(6) Any improvement to real property or fixture thereto or any tangible personal property which becomes or is intended to become a component of any real property or any improvement or fixture thereto.

(7) Motor vehicles and aircraft.

(8) Tangible personal property used or consumed in processing, producing or fabricating tangible personal property exempted from tax under this chapter in sections 63-3622F and 63-3622I, Idaho Code.

(9) Tangible personal property described in section 63-3622HH, Idaho Code.

(h) Any tangible personal property exempt under this section which ceases to qualify for this exemption, and does not qualify for any other exemption or exclusion of the taxes imposed by this chapter, shall be subject to use tax based upon its value at the time it ceases to qualify for exemption. Any tangible personal property taxed under this chapter which later qualifies for this exemption shall not entitle the owner of it to any claim for refund.

Aircraft Sales Tax Exemption

Certain materials, parts and components installed on certain aircrafts are exempt from the sales and usage tax. These exemptions are as followed: Sale, lease, purchase, or use of aircraft primarily used to provide passenger or freight services for hire as a common carrier and air ambulance services.

To qualify:

- A Person operating the aircraft must obey Idaho, federal and foreign laws.
- Aircraft is used to provide services indiscriminately to the public.
- Aircraft itself transports the person or property from one location on the ground or water to another.
- Aircraft will be taken from the point of delivery to a point outside of Idaho.
- Aircraft will not be used in Idaho for more than ninety (90) days in any (12) month period.
- Repair and replacement materials and parts installed in or affixed or applied to, or sold, leased or purchased must adhere to industry standards and federal aviation administration (FAA) approved materials. Parts and components installed on non-resident privately owned aircraft by qualified employees of an FAA approved Idaho repair station are exempt.

*Tools and equipment used in remodeling, repair or maintenance are not exempt.

Administrative Rules-Aircraft Sales Exemption

02. Sales of Aircraft. Sales of aircraft are taxable unless an exemption applies. Section 63-3622GG, Idaho Code, provides an exemption for the sale, lease, purchase, or use of an aircraft: (4-11-06)

a. Primarily used to provide passenger or freight services for hire as a common carrier; (4-4-13)

i. Example 1: An aircraft is flown for the following activities: the aircraft owner's personal vacations, flight instruction, and charter operations for hire as a common carrier. The flight hours for each activity are forty-five (45), sixty-five (65) and seventy-five (75) hours respectively in a consecutive twelve (12) month period. The combined flight hours for the taxable uses of the aircraft, owner and flight instruction, (45 + 65 = 110 hours) are more than the hours operating as a common carrier (75 hours). Since the greater use of the aircraft is performing activities that do not qualify for an exemption, the use of the aircraft will be taxable at fair market value as of that point in time.
(3-20-14)

ii. Example 2: A charter aircraft service uses an aircraft for three purposes: flight instruction, air ambulance service, and charter flights operated as a common carrier. The flight hours for each activity are one hundred (100), sixty (60) and fifty (50) respectively in a consecutive twelve (12) month period. The combined flight hours for the exempt uses of the aircraft, as an air ambulance and as a common carrier (60 + 50 = 110 hours), are more than the hours used for flight instruction one hundred (100) hours. Since the greater use of the aircraft is performing activities that qualify for an exemption, the use of the aircraft will be exempt. (3-20-14)

b. Primarily used for emergency transportation of sick or injured persons; or (2-18-02)

c. Purchased for use outside this state, when the aircraft is upon delivery taken outside this state, but only if: (3-20-04)

i. The aircraft is sold to a nonresident as defined in Subsection 037.01.d. or 037.01.e. of this rule; and (3-30-07)

ii. The registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any consecutive twelve (12) month period. (4-4-13)

03. Sales of Aircraft Repair Parts to Nonresidents. Subject to the restrictions of Section 63-3622GG, Idaho Code, sales of aircraft repair parts are exempt from tax when installed on an aircraft owned by a nonresident individual or business as defined in Subsection 037.01 of this rule. (4-4-13)

04. Federal Law Prohibits States From Taxing Sales of Air Transportation. See 49 U.S.C. Section 40116. For this reason, sales of intrastate transportation as described by Section 63-3612(i), Idaho Code, are not taxable in Idaho. (4-11-06)

05. Rentals and Leases of Aircraft. The rental or lease of an aircraft without operator is a sale subject to sales tax, other than as provided in Subsection 037.02 of this rule. See Rule 024 of these rules. (4-11-06)

06. Aerial Contracting Services. Businesses primarily engaged in the application of agricultural chemicals as described in Federal Aviation Regulation Part 137, or in activities involving the carrying of external loads as described in Federal Aviation Regulation Part 133, such as aerial logging, are performing aerial contracting services. Such businesses are not primarily engaged in the transportation of freight. (4-11-06)

a. Aircraft purchased, rented, or leased for aerial contracting are subject to tax. It makes no difference whether or not the service is provided to a government agency or a private individual or company. Sales or use tax also applies to the purchase of repair parts, oil, and other tangible personal property. (4-4-13)

b. When aircraft held for resale are used by the owner, who is an aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (4-11-06)

07. Air Ambulance Service. Charges for the emergency transportation of sick or injured persons, including standby time, are not subject to sales tax. (7-1-94)

08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not subject to sales tax. (7-1-94)

a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are subject to sales or use tax. (7-1-94)

b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

09. Recreational Flights. Sales and purchase of aircraft used primarily for providing recreational flights are subject to sales or use tax. (4-11-06)

10. Aircraft Held for Resale. Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business. (7-1-94)

a. Rentals of aircraft held for resale are taxable as provided by Subsection 037.04 of this rule.(7-1-93)

b. When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used. (7-1-94)

c. Parts and oil purchased to repair or maintain aircraft held for resale are not subject to sales tax. The aircraft dealer must provide the supplier with a properly completed resale certificate. See Rule 128 of these rules. (2-18-02)

11. Fuel. The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax. (7-1-94)

Statute-Aircraft Sales Tax Exemption

From: http://legislature.idaho.gov/idstat/Title63/T63CH36SECT63-3622GG.htm

TITLE 63
REVENUE AND TAXATION
CHAPTER 36
SALES TAX

63-3622GG. Aircraft. [effective until June 30, 2016] There is exempted from the taxes imposed by this chapter:

(1) The sale, lease, purchase, or use of aircraft primarily used to provide passenger or freight services for hire as a common carrier only if:

(a) The person operates the aircraft under the authority of the laws of this state, the United States or any foreign government; and

(b) The aircraft is used to provide services indiscriminately to the public; and

(c) The aircraft itself transports the person or property from one (1) location on the ground or water to another.

(2) The sale, lease, purchase or use of aircraft primarily used for air ambulance services.

(3) The sale, lease or purchase of aircraft for use outside this state by nonresidents, even though delivery be made within this state, but only when:

(a) The aircraft will be taken from the point of delivery to a point outside this state;

(b) The aircraft will not be used in this state more than ninety (90) days in any twelve (12) month period.

(4) Repair and replacement materials and parts installed in or affixed or applied to, or sold, leased or purchased to be installed in or affixed or applied to, aircraft in connection with the remodeling, repair or maintenance of aircraft described under subsections (1) and (2) of this section and industry standard, federal aviation administration (FAA) approved materials, parts and components installed on non-resident privately owned aircraft by qualified employees of an FAA approved Idaho repair station are exempt. Tools and equipment utilized in performing such remodeling, repair or maintenance are not exempt.

Pollution Control Equipment Sales Tax Exemption

Businesses purchasing required pollution control equipment are exempt from sales tax on those purchases. Required pollution control facilities are exempt from property tax.

To qualify:

- Sale, use, or purchase of tangible personal property acquired and primarily used for the purpose of meeting air or water quality standards, rules or regulations of a state or federal agency having authority to regulate and set air or water quality emission standards are exempt from sale tax.

Purchases that are exempt:

The production exemption allows tax-free purchases of:

- Dry cleaning equipment to protect employees from exposure to (perchloroethylene). Dry cleaning machines meeting these standards are referred to as “dry to dry transfer systems.”
- Liner or reagent required to meet water quality standards.
- The sale, use, or purchase of tangible personal property that becomes a component, fixture or improvement to realty acquired and primary used for the purpose of meeting air or water quality emission standards, rules or regulations when purchased by manufacturing, mining or farming businesses that qualify for the exemption provided by section 63-3622D, Idaho Code. Does not apply to property used to treat drinking water or air that is not required for a production process.
- Contractors working for a manufacturing, mining or farming businesses that qualify for the exemption provided by section 63-3622D, Idaho Code.

Statute-Pollution Control Equipment Sales Tax

From: http://www.legislature.idaho.gov/idstat/Title63/T63CH36SECT63-3622X.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 36
SALES TAX

63-3622X. Pollution control equipment.

(1) There is hereby exempted from the taxes imposed by this chapter the sale, use or purchase of tangible personal property acquired and primarily used for the purpose of meeting air or water quality standards, rules or regulations of a state or federal agency having authority to regulate and set air or water quality emission standards.

(2) The exemption provided in subsection (1) of this section applies to and includes:

(a) The purchase of dry cleaning equipment that is designed to protect employees from exposure to perchloroethylene as well as retaining the fluid in the machine in order to protect sewer systems and air quality standards. Dry cleaning machines meeting these standards are referred to as "dry to dry transfer systems";

(b) The purchase of a liner or reagent required to meet water quality standards, rules or regulations of a state or federal agency having authority to regulate and set water quality standards regardless of whether the liner or reagent later becomes or is intended to become a component of any real property or improvement or fixture thereto;

(c) The sale, use or purchase of tangible personal property that becomes a component, fixture or improvement to realty acquired and primarily used for the purpose of meeting air or water quality emission standards, rules or regulations when purchased by:

(i) Manufacturing, mining or farming businesses that qualify for the exemption provided by section 63-3622D, Idaho Code, but not including property used to treat drinking water or to treat air or water that is not required for a production process;

(ii) Contractors working for manufacturing, mining or farming businesses that qualify for the exemption provided by section 63-3622D, Idaho Code, who purchase, use or install qualifying material at the direction of a project owner, but not including property used to treat drinking water or to treat air or water that is not required for a production process; or

(iii) Businesses principally devoted to treating and storing hazardous or toxic waste; and

(d) Tangible personal property that is necessary for the operation of property that qualifies for the exemption available in paragraph (c) of this subsection.

(3) The exemption provided in subsection (1) of this section does not apply to or include:

(a) Motor vehicles or aircraft, without regard to the use to which such motor vehicles or aircraft are put;

(b) The sale, use or purchase of fixtures, plumbing fixtures, pipe, pumps or other items used to treat or transport wastewater to a wastewater treatment plant that is owned by a wastewater operator as defined in section 54-2403, Idaho Code;

(c) The sale, use or purchase of fixtures or tangible personal property that is used to treat or transport drinking water by a drinking water operator as defined in section 54-2403, Idaho Code;

(d) The sale, use or purchase of property used to prevent soil erosion;

(e) The sale, use or purchase of property that is affixed to realty and that is used in road construction or the construction of residential or commercial buildings or other improvements to realty owned by persons other than the businesses described in subsection (2)(c) of this section;

(f) The sale, use or purchase of property used to construct buildings or structures that merely house pollution control equipment or a pollution control facility, including both building materials and construction equipment and including equipment used for excavation;

(g) The sale, use or purchase of tangible personal property used to install pollution control equipment or facilities; or

(h) The sale, use or purchase of tangible personal property that will become part of a septic tank or septic system.

Clean Room Sales Tax Exemption

Any tangible personal property that is used exclusively used in a clean room or to maintain the environment of a clean room, is exempt from sales tax.

Statute-Clean Room Sales Tax Exemption

From: http://www.legislature.idaho.gov/idstat/Title63/T63CH36SECT63-3622NN.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 36
SALES TAX

63-3622NN. Clean rooms.

(1) There is exempted from the taxes imposed by this chapter the sale at retail, storage, use or other consumption in this state of tangible personal property which is exclusively used in or to maintain the environment of, or is or becomes a component part of, a clean room, without regard to whether the property is actually contained within the clean room or whether such tangible personal property ultimately becomes affixed to or incorporated into real property.

(2) The following definitions apply to this section:

(a) "Clean room" means an environment in a defined space, within a larger building, where humidity, temperature, particulate matter and contamination are precisely and regularly controlled; and

(i) Which is a "Class 10,000" clean room or better, and
(ii) In which the primary activities are:

1. Activities which qualify for the production exemption in section 63-3622D, Idaho Code, resulting in the manufacture of products which are either semiconductors, products manufactured using semiconductor manufacturing processes, or equipment used to manufacture semiconductors;

2. Activities which qualify for the research and development exemption in section 63-3622RR, Idaho Code; or

3. A combination of the activities described in subparagraphs 1. and 2. above.

(b) "Class 10,000 clean room" means a specified area in which the concentration of airborne particulates of five-tenths (0.5) micrometers or larger is regularly maintained at a level of cleanliness no greater than ten thousand (10,000) particles per cubic foot of air.

(c) "Semiconductor" means a small piece of semiconductor material including silicon:

(i) On which an integrated circuit is embedded, or

(ii) Which is altered in the manufacturing process by primarily using semiconductor processes.

(d) "Integrated circuit" means a complex of multiple active electronic components and their interconnections built upon a semiconductor substrate.

(e) "Semiconductor manufacturing processes" means chemical vapor deposition, plasma vapor deposition, wet and dry etch, chemical mechanical planarization or polishing and such other manufacturing processes generally recognized by the semiconductor industry as being standard processes in the industry.

(f) Property is "exclusively used" for a purpose when its use for any other purpose is insignificant or inconsequential.

Utility and Industrial Fuels Tax Exemption

Businesses are exempt from paying sales tax on utilities and industrial fuels. Examples include power, water, natural gas, and telephone.

Administrative Rules-Utility and Industrial Fuels Tax Exemption

IDAPA 35

TITLE 01

CHAPTER 02

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

090. GAS, WATER, ELECTRICITY DELIVERED TO CUSTOMERS (RULE 090).

01. In General. Gas, water and electricity delivered to customers shall include those products of public or private utility service or user's cooperative or similar organizations when sold to customers for such customer's use. (7-1-93)

02. Telephone Service. Electricity shall also include the dial tone for telephone utility service. (7-1-93)

Sales Tax Exemption Form ST-101

INCOME TAX CREDIT

3% Investment Tax Credit

Tax Credit
Businesses that make qualifying new investments may earn an income tax credit. This credit can offset up to 50% of a company's state income tax liability and may be carried forward up to 14 years.

To qualify:

- Qualifying property is new or used depreciable property. Idaho adopted the definition of qualifying property found in Internal Revenue Code (IRC) Sections 46(c) and 48 in effect prior to 1986 for this credit.
- The depreciable life must be three years or more.
- Property not used in Idaho and vehicles under 8,000 pounds gross weights do not qualify.

Property used in a trade or business that does qualify includes:

1. Tangible personal property-machinery and equipment.
2. Other tangible property used as an integral part of manufacturing, production, extraction, furnishing, transportation, communications, utility services, or research facilities and bulk storage facilities used in connection with those businesses.
3. Elevators and escalators.
4. Single purpose agricultural or horticultural structures, such as a commercial greenhouse or a milking barn.
5. Certain qualified timber property.
6. Petroleum storage facilities.

Property that does not qualify includes:

1. Buildings and their structural components.
2. Property used primarily for lodging. This is an apartment house or other facility where sleeping accommodations are provided and rented. The rental period is normally more than 30 days. (Tangible personal property used in a facility that rents rooms for a period of less than 30 days does qualify.)
3. Property expensed under Section 179, IRC.
4. Property subject to 60-month amortization.
5. Used property:
    a. not acquired by purchase; or
    b. in excess of $150,000; or
    c. acquired from a related person. This includes a person acquiring property they used prior to the acquisition.
6. Property that is either non-depreciable or has a useful life of fewer than three years.
7. The portion of property that is for personal use.
8. Horses.

Qualified Investment Exemption:

- This exemption may be applied in lieu of the investment tax credit. A two-year exemption from property tax on qualified personal property is available only if a loss was incurred in the second preceding tax year in which the property is placed in service. The loss must have been computed without regard to any net operating loss carry over or carry back.

Administrative Rules-3% Investment Tax Credit

710. IDAHO INVESTMENT TAX CREDIT: IN GENERAL (RULE 710).
Section 63-3029B, Idaho Code.
(3-20-97)

01. Credit Allowed. The investment tax credit allowed by Section 63-3029B, Idaho Code, applies to investments made during tax years beginning on and after January 1, 1982, that qualify pursuant to Sections 46(c), 47, and 48, Internal Revenue Code, as in effect prior to amendment by Public Law 101-508. Investments must also meet the requirements of Section 63-3029B, Idaho Code, and Rules 710 through 719 of these rules.
(5-8-09)

02. Limitations. The investment tax credit allowable in any taxable year shall be limited by the following: (3-20-97)

a. Tax liability. (3-30-01)

i. For taxable years beginning on or after January 1, 2000, the credit claimed may not exceed fifty percent (50%) of the tax after credit for taxes paid another state.
(3-30-01)

ii. For taxable years beginning on or after January 1, 1995 and before January 1, 2000, the credit claimed may not exceed forty-five percent (45%) of the tax after credit for taxes paid another state.
(3-30-01)

b. Credit for qualifying new employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code.
(3-30-01)

c. Unitary taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules.
(3-30-01)

d. Nonrefundable credits. The investment tax credit is a nonrefundable credit. It is applied to the income tax liability in the priority order for nonrefundable credits described in Rule 799 of these rules.
(3-15-02)

03. Carryovers. (3-20-97)

a. Investment tax credit earned on investments made on or after January 1, 1990, but not claimed against tax in the year earned is eligible for a seven (7) year carryover. If a credit carryover from these years is available to be carried into taxable years beginning on or after January 1, 2000, the credit carryover is extended from seven (7) years to fourteen (14) years. (3-30-01)

b. For example, a calendar year taxpayer earned investment tax credit in calendar year 1993. The taxpayer was unable to use all the credit in that year and in the subsequent carryover years. Carryover was remaining into the seventh and final carryover year, calendar year 2000. Since the taxpayer had eligible carryover going into a taxable year beginning on or after January 1, 2000, the carryover period changes from seven (7) years to fourteen (14)

years. Assuming the carryover is available for the entire carryover period, and that there are no short period years, the last year that the carryover can be used will be calendar year 2007. If the seventh carryover year was a taxable year beginning prior to January 1, 2000, the carryover period has expired and is not extended.

(3-30-01)

c. Investment tax credit earned on investments made in taxable years beginning on or after January 1, 2000, but not claimed against tax in the year earned is eligible for a fourteen (14) year carryover.

(3-30-01)

04. Motor Vehicle. Motor vehicle means a self-propelled vehicle that is registered or may be registered for highway use pursuant to the laws of Idaho. Gross vehicle weight is determined by the manufacturer's specified gross vehicle weight.
(3-20-97)

05. Expensed Property. The cost of property that the taxpayer elects to expense pursuant to Section 179, Internal Revenue Code, is not a qualified investment.
(3-30-01)

06. Bonus Depreciation. The cost of property that the taxpayer elects to deduct as bonus first-year depreciation pursuant to Section 168(k), Internal Revenue Code, is not a qualified investment for property acquired after 2007.
(5-8-09)

711. IDAHO INVESTMENT TAX CREDIT: TAXPAYERS ENTITLED TO THE CREDIT (RULE 711).
Section 63-3029B, Idaho Code.
(3-20-97)

01. Unitary Taxpayers. A corporation included as a member of a unitary group may elect to share the investment tax credit it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the investment tax credit to the extent allowable against its tax liability.
(2-27-12)

a. The credit available to be shared is the amount of investment tax credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029B(4), Idaho Code. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carry forward. (2-27-12)

b. In the taxable year when a corporation that earned the investment tax credit is acquired or disposed of, only a portion of the tax of the other members of the unitary group may be offset with shared investment tax credit from that corporation. To determine the allowable portion of the tax, a percentage is calculated by dividing the number of days that the corporation that earned the investment tax credit is included in the unitary group's taxable year by the total number of days in the taxable year. The tax for each member with an Idaho filing requirement is multiplied by the percentage. The result is the amount of tax that can be offset with a share of the credit, subject to other limitations imposed by law or related rules.
(2-27-12)

02. Conversion of C Corporation to S Corporation. (3-20-97)

a. An investment tax credit carryover earned by a C corporation that has converted to an S corporation is allowed against the S corporation's tax on net recognized built-in gains and excess net passive income. The credit is allowed against this tax until the carryover period has expired. The credit is not allowed against the tax computed pursuant to Section 63-3022L, Idaho Code. In addition, the credit may not be passed through to the S corporation shareholders. (2-27-12)

b. The election to file as an S corporation does not cause recapture of investment tax credit. However, the S corporation shall be liable for any recapture of credit originally claimed by the C corporation as provided by Rule 715 of these rules. (3-20-97)

03. Agricultural Cooperatives. The portion of the investment tax credit earned by an agricultural cooperative that it cannot use for the taxable year shall be allocated to the members of the cooperative. If qualifying property is disposed of or ceases to qualify prior to the close of its estimated useful life, the recapture of credit as provided by Rule 715 of these rules applies as though the cooperative did not allocate any of the original credit to the members. (3-20-97)

a. The distribution to members is made as provided in Rule 785 of these rules. (3-15-02)

b. The investment tax credits claimed by the agricultural cooperative and its members may not be more than one hundred percent (100%) of the credit earned. (3-20-97)

04. Leased Property. Generally the credit for qualified investments in leased property is claimed by the lessor. A lessee may claim the investment tax credit on leased property only as provided in Paragraphs 711.04.a. and 711.04.b. of this rule. (3-29-10)

a. If the lessor elected to pass the investment tax credit to the lessee and filed the federal election pursuant to the Internal Revenue Code and Treasury Regulations prior to the 1986 Tax Reform Act, the investment tax credit shall be claimed by the lessee. Both parties must attach the original election and a schedule identifying the qualifying property. (3-20-97)

b. If a taxpayer is a lessee in a conditional sales contract, he is entitled to the investment tax credit on any qualifying property subject to the contract since the lessee is considered the purchaser of the property. (3-20-97)

715. IDAHO INVESTMENT TAX CREDIT: RECAPTURE (RULE 715).
Section 63-3029B, Idaho Code. (3-20-97)

01. In General. If a taxpayer is claiming or has claimed the investment tax credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. (3-20-97)

02. Recomputation of the Investment Tax Credit. (3-20-97)

a. The recomputation of the credit and any recapture of prior credits is made pursuant to the Internal Revenue Code and Treasury Regulations for the taxable year in which the property is disposed of or ceases to qualify.
(3-20-97)

b. The recapture is computed by multiplying the credit by the applicable recapture percentage in Subsection 715.04.
(3-20-97)

c. The recapture of credit previously claimed against tax in prior taxable years is an addition to tax in the taxable year in which the property is disposed of or ceases to qualify. The addition to tax does not affect the computation of limitations used to determine the amount of investment tax credit or any other Idaho credit that may be claimed in the year of the recapture. (3-20-97)

03. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify.
(3-20-97)

04. Applicable Recapture Percentages. For qualified business property placed in service after December 31, 1990, the recapture amount is computed by multiplying the credit earned by the applicable recapture percentage. The length of time the asset qualifies determines the recapture percentage as follows:
(3-20-97)

a. If less than one (1) year, use one hundred percent (100%);
(3-20-97)

b. If more than one (1) year but less than two (2) years, use eighty percent (80%);
(3-20-97)

c. If more than two (2) years but less than three (3) years, use sixty percent (60%);
(3-20-97)

d. If more than three (3) years but less than four (4) years, use forty percent (40%);
(3-20-97)

If more than four (4) years but less than five (5) years, use twenty percent (20%).
(3-20-97)

Statute-3% Investment Tax Credit

From http: http://www.legislature.idaho.gov/idstat/Title63/T63CH30SECT63-3029B.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 30
INCOME TAX

63-3029B. Income tax credit for capital investment.

(1) At the election of the taxpayer there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

(a) The tax credit carryovers; and

(b) The tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section "qualified investment" means certain property which:

(a) (i) Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the Internal Revenue Code subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code and is not a motor vehicle under eight thousand (8,000) pounds gross weight; or

(ii) Is qualified broadband equipment as defined in section 63-3029I, Idaho Code; and

(b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and

(c) Has a situs in Idaho as determined under subsection (9) of this section.

(4) (a) For qualified investments placed in service in 2003 and thereafter, a taxpayer, other than a person whose rate of charge or rate of return, or both, is regulated or limited according to federal or state law, may elect, in lieu of the credit provided by this section, a two (2) year exemption from all taxes on personal property on the qualified investment. The exemption from personal property tax shall apply to the year the election is filed as provided in this section and the immediately following year. The election provided by this paragraph is available only to a taxpayer whose Idaho taxable income, before application of net operating losses carried back or forward, in the second preceding taxable year in which the investment is placed in service is negative.

(b) The election shall be made in the form prescribed by the state tax commission and shall include a specific description and location of all qualified investments placed into service and located in the jurisdiction of the assessing authority, a designation of the specific assets for which the exemption is claimed, and such other information as the state tax commission may require. The election must be made by including the election form with the listing of personal property required by section 63-302, Idaho Code, or, in the case of operating property assessed under chapter 4, title 63, Idaho Code, with the operator's statement required by section 63-404, Idaho Code. Once made the election is irrevocable. If no election is made, the election is not otherwise available. A copy of the election form must also be attached to the original income tax return due for the taxable year in which the claim was made.

(c) The state tax commission and the various county assessors are authorized to exchange information as necessary to properly coordinate the exemption provided in this subsection. Information disclosed to county officials under this subsection may be used only to determine the validity or amount of a taxpayer's entitlement to the exemption provided in this section, and is not otherwise subject to public disclosure as provided in section 9-340D, Idaho Code.

(d) In the event that an investment in regard to which the election under this subsection was made is determined by the state tax commission:

(i) To not be a qualified investment, or

(ii) To have ceased to qualify during the recapture period, or

(iii) To be otherwise not qualified for the election,
the taxpayer shall be subject to recapture of the property tax benefit.

(e) The benefit to be recaptured in subsection (4)(d) of this section shall be computed in the manner required in subsection (7) of this section and such recapture amount shall be subject to assessment in the same manner as a deficiency in tax under this chapter. For purposes of calculating the recapture, the property tax benefit shall be:

(i) In the case of locally assessed property located in a single county or nonapportioned centrally assessed property, the market value of exempted property times the average property tax levy for that county in the year or years for which the exemption was claimed.

(ii) In the case of other centrally assessed property and property located in more than one (1) county, the market value of exempted property times the average urban property tax levy of the state as determined by the state tax commission in each of the years for which the exemption was claimed.

(f) In the event that a recapture of the exemption is required under this subsection (4), the person claiming the exemption shall report the event to the state tax commission in the manner the state tax commission may by rule require. The report shall be due no later than the due date of that person's income tax return under this chapter for the taxable year in which the event

occurs. The recapture amount is due and payable with the report. Any amount of recapture not paid is a deficiency within the meaning of section 63-3044, Idaho Code.

(g) All moneys collected by the state tax commission pursuant to this subsection, which amounts are continuously appropriated for this purpose, shall be deposited with the state treasurer and placed in the state refund account, as provided by section 63-3067, Idaho Code, to be remitted to the county within which the property was located that was not a qualified investment or ceased to qualify during the recapture period. The county shall distribute this remittance to all appropriate taxing districts based on the proportion each appropriate taxing district's levy is to the total of all the levies of the taxing districts for the tax code area where the property was located for each year the exemption was granted. If any taxing district is dissolved or disincorporated, the proportionate share of the remittance to be distributed to that taxing district shall be deposited in the county current expense fund.

(h) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection shall be treated as property tax revenue by taxing districts.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section, the amount of the credit allowed shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(6) If the sum of credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (5) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the fourteen (14) succeeding taxable years so long as the qualified investment property for which the unused credit was granted otherwise remains a qualified investment as determined under subsection (3) of this section in each of the taxable years during the recapture period. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (5) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of the recapture period, shall be determined according to the applicable recapture provisions of the Internal Revenue Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(8) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the Internal Revenue Code shall be disregarded. "Qualified investment" shall not include any amount for which a deduction is allowed under section 168(k) or section 179 of the Internal Revenue Code in computing Idaho taxable income.

(9) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. The Idaho situs of property must be established by records maintained by the taxpayer which are created reasonably contemporaneously with the use of the property.

(10) In the case of property used both in and outside Idaho, the taxpayer, electing to claim the credit provided in this section, must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:

(a) The amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service; provided, that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based upon the percentage of use in Idaho during the first ninety (90) days of use of the asset;

(b) The investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, for the same year.

(11) References to sections 46, 48 and 49 of the "Internal Revenue Code" mean those sections as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

Broadband Income Tax Credit

Businesses that purchase qualified broadband equipment and infrastructure for the benefit of end users in Idaho may earn a 3% income tax credit up to $750,000. This credit is transferable and may be carried forward up to 14 years.

Administrative Rules-Broadband Income Tax Credit

750. BROADBAND EQUIPMENT INVESTMENT CREDIT: IN GENERAL (RULE 750).
Section 63-3029I, Idaho Code.
(3-15-02)

01. Credit Allowed. The broadband equipment investment credit allowed by Section 63-3029I, Idaho Code, applies to investments made during taxable years beginning on and after January 1, 2001. The investment must also meet the requirements of Section 63-3029B, Idaho Code, and related rules as to what constitutes qualified investment.
(4-6-05)

02. Limitations. The broadband equipment investment credit allowable in any taxable year shall be limited as follows:
(3-15-02)

a. The broadband equipment investment credit claimed during a taxable year may not exceed the lesser of:
(3-15-02)

i. Seven hundred fifty thousand dollars ($750,000); or
(3-15-02)

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the broadband equipment investment credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits.
(3-15-02)

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the broadband equipment investment credit is limited by the provisions of Section 63-3029F, Idaho Code.
(3-15-02)

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules.
(3-15-02)

d. Transferred Credit. Limitations apply to each transferee as if the transferee had earned the credit.
(3-15-02)

03. Carryovers. (3-15-02)

a. The carryover period for the broadband equipment investment credit is fourteen (14) years.
(3-15-02)

b. See Rule 793 of these rules for the rules regarding the carryover of transferred credit.
(3-15-02)

04. Taxpayers Entitled to the Credit. Rule 711 of these rules shall apply to the broadband equipment investment credit except that limitations referenced in Subsection 711.01 of these rules shall be those limitations as provided in Section 63-3029I, Idaho Code.
(4-6-05)

05. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits.

(3-15-02)

752. BROADBAND EQUIPMENT INVESTMENT CREDIT: RECAPTURE (RULE 752).
Section 63-3029I, Idaho Code.
(3-15-02)

01. In General. If a taxpayer is claiming or has claimed the broadband equipment investment credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit shall be made. See Rule 715 of these rules.
(3-15-02)

02. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify.
(3-15-02)

03. Transferred Credit. The transferor is responsible for the recapture or recomputation of the credit when the property ceases to qualify.
(3-15-02)

753. BROADBAND EQUIPMENT INVESTMENT CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 753).
Section 63-3029I, Idaho Code.
(3-15-02)

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the broadband equipment investment credit claimed on an income tax return subject to examination. The records must include all of the following:
(3-15-02)

a. The order from the Idaho Public Utilities Commission confirming that the installed equipment is qualified broadband equipment.
(3-15-02)

b. A description of the property; (3-15-02)

c. The asset number assigned to the item of property, if applicable;
(3-15-02)

d. The acquisition date and date placed in service;
(3-15-02)

e. The basis of the property; and (3-15-02)

f. The retirement, disposition, or date transferred out of Idaho, or date no longer used in Idaho, if applicable.
(3-15-02)

02. Accounting Records Subject to Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: (3-15-02)

a. Source documents supporting the application to the Idaho Public Utilities Commission; (3-15-02)

b. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; (3-15-02)

c. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; (3-15-02)

d. Records verifying ownership including purchase contracts and cancelled checks; (3-15-02)

e. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho; and (3-15-02)

f. A system that verifies that property on which the broadband equipment investment credit was claimed continues to maintain its status as Idaho qualifying property throughout the recapture period. (3-15-02)

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. (3-15-02)

04. Unitary Taxpayers. Corporations claiming broadband equipment investment credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. (3-15-02)

05. Credit Transferred. A taxpayer that transfers the broadband equipment investment credit shall continue to be subject to the record-keeping requirements of this rule for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. (3-15-02)

Statute-Broadband Income Tax Credit

From: http://www.legislature.idaho.gov/idstat/Title63/T63CH30SECT63-3029I.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 30
INCOME TAX

63-3029I. Income tax credit for investment in broadband equipment.

(1) Subject to the limitations of this section, for taxable years beginning after January 1, 2001, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for qualified expenditures in qualified broadband equipment in Idaho.

(2) The credit permitted in subsection (1) of this section shall be three percent (3%) of the qualified investment in qualified broadband equipment in Idaho and shall be in addition to the credit for capital investment permitted by section 63-3029B, Idaho Code.

(3) As used in this section the term:

(a) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(b) "Qualified broadband equipment" means equipment that qualifies for the credit for capital investment permitted by section 63-3029B, Idaho Code, and is capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber, and

(i) In the case of a telecommunications carrier, such qualifying equipment shall be necessary to the provision of broadband service and an integral part of a broadband network. "Telecommunications carrier" has the meaning given such term by section 47 U.S.C. 153 of the communications act of 1934, as amended, but does not include a commercial mobile service provider.

(ii) In the case of a commercial mobile service carrier, such qualifying equipment shall extend from the subscriber side of the mobile telecommunications switching office to a transmitting/receiving antenna, including such antenna, on the outside of the structure in which the subscriber is located. "Commercial mobile service carrier" means any person authorized to provide commercial mobile radio service to subscribers as defined in section 20.3 of title 47, Code of Federal Regulations (10-1-99 ed.), as amended.

(iii) In the case of a cable or open video system operator, such qualifying equipment shall extend from the subscriber's side of the headend to the outside of the structure in which the subscriber is located. The terms "cable operator" and "open video system operator" have the meanings given such terms by sections 602(5) and 653, respectively, of the communications act of 1934, as amended.

(iv) In the case of a satellite carrier or a wireless carrier other than listed above, such qualifying equipment is only that equipment that extends from a transmitting/receiving antenna, including such antenna, which transmits and receives signals to or from multiple subscribers to a transmitting/receiving antenna on the outside of the structure in which the subscriber is located. "Satellite carrier" means any person using the facilities of a satellite or satellite services licensed by the federal communications commission and operating a fixed-satellite service or direct broadcast satellite services to provide point-to-multipoint distribution of signals. "Other wireless carrier" means any person, other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video operator, or satellite carrier, providing broadband services to subscribers through the radio transmission of energy.

(v) In the case of packet switching equipment, such packet equipment installed in connection with other qualifying equipment listed in subsections (3)(b)(i) through (3)(b)(iv) of this section, provided it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. "Packet switching" means controlling or routing the path of a digital transmission signal which is assembled into packets or cells.

(vi) In the case of multiplexing and demultiplexing equipment, such equipment only to the extent that it is deployed in connection with providing broadband services in locations between packet switching equipment and the structure in which the subscriber is located. "Multiplexing" means the transmission of two (2) or more signals over a communications circuit without regard to the communications technology.

(vii) Any property not primarily used to provide services in Idaho to public subscribers is not qualified broadband equipment.

(4) No equipment described in subsections (3)(b)(i) through (3)(b)(vi) of this section shall qualify for the credit provided in subsection (1) of this section until the taxpayer applies to and obtains from the Idaho public utilities commission an order confirming that the installed equipment is qualified broadband equipment. Applications submitted to the commission shall be governed by the commission's rules of procedure. The commission may issue procedural orders necessary to implement this section.

(5) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (7) of this section shall not, in any one (1) taxable year, exceed the lesser of:

(a) The amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Seven hundred fifty thousand dollars ($750,000).

When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(6) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group

but not used by that member may be used by another member of the group, subject to the provisions of subsection (7) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (5) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(8) In the event that qualified broadband equipment upon which the credit allowed by this section has been used ceases to qualify for the credit allowed by section 63-3029B, Idaho Code, or is subject to recapture of that credit, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(9) (a) Subject to the requirements of this subsection, a taxpayer who earns and is entitled to the credit or to an unused portion of the credit allowed by this section may transfer all or a portion of the unused credit to:

(i) Another taxpayer required to file a return under this chapter; or

(ii) To an intermediary for its use or for resale to a taxpayer required to file a return under this chapter.

In the event of either such a transfer, the transferee may claim the credit on the transferee's income tax return originally filed during the calendar year in which the transfer takes place and, in the case of carryover of the credit, on the transferee's returns for the number of years of carryover available to the transferor at the time of the transfer unless earlier exhausted.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is less than the amount claimed by the transferor of the credit or that the credit is subject to recapture, the commission shall assess the amount of overstated or recaptured credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

(10) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

Net Operating Loss

Deductions
Idaho offers a net operating loss income tax provision for losses up to $100,000 per tax year. Losses may be carried back for two years, or, if not absorbed in those two years, the remainder may be carried forward for up to 20 years.

Administrative Rules-Net Operating Loss Income Tax

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (RULE 105). Section 63-3022, Idaho Code. The following items must be added by all taxpayers in computing Idaho taxable income.
(2-27-12)

01. State and Local Income Taxes. As provided in Section 63-3022(a), Idaho Code, state and local income taxes that were deducted in computing taxable income must be added. This includes taxes paid to states other than Idaho and their political subdivisions, and amounts paid by an S corporation on capital gains, built-in gains, and excess net passive income.
(2-27-12)

02. Net Operating Loss Deduction. As provided in Section 63-3022(b), Idaho Code, the amount of the net operating loss deduction included in taxable income must be added.
(2-27-12)

03. Capital Loss Carryover Deduction. As provided in Section 63-3022(i), Idaho Code:
(3-30-01)

a. A corporation must add a capital loss that was deducted in computing taxable income if the capital loss occurred during a taxable year when the corporation did not transact business in Idaho, unless the corporation was part of a unitary group with at least one (1) member of the group taxable by Idaho for that taxable year.
(2-27-12)

b. An individual must add a capital loss that was deducted in computing taxable income if the capital loss was incurred in an activity not taxable by Idaho at the time it was incurred.
(2-27-12)

04. Interest and Dividend Income Exempt From Federal Taxation. As provided in Section 63- 3022M, Idaho Code, certain interest and dividend income that is exempt from federal income tax must be added. For example, interest income from state and local bonds that is exempt from federal income tax pursuant to Section 103, Internal Revenue Code, must be added.
(2-27-12)

a. Interest from bonds issued by the state of Idaho or its political subdivisions is exempt from Idaho income tax and, therefore, is not required to be added to taxable income.
(3-20-97)

b. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, must be prorated between the Idaho and non- Idaho interest income as provided in Subsections 105.04.b.i. and 105.04.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income must be offset by the expenses prorated to that interest income. The allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets must be attached to the return. (2-27-12)

i. Expenses prorated to Idaho state and municipal interest income are based on the ratio of Idaho state and municipal interest income to total state and municipal interest income.
(2-27-12)

ii. Expenses prorated to non-Idaho state and municipal interest income are based on the ratio of non- Idaho state and municipal interest income to total state and municipal interest income.

(2-27-12)

05. Interest Expense Attributable to Tax-Exempt Interest Income. As provided by Section 63- 3022M, Idaho Code, a taxpayer must add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of these rules for the computation of the interest expense offset related to tax-exempt interest. (2-27-12)

06. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. The amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes must be added. The adjustments required by this subsection do not apply to property acquired after 2007 or before 2010.

(2-27-12)

Statute-Net Operating Loss

From http://www.legislature.idaho.gov/idstat/Title63/T63CH30SECT63-3022.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 30
INCOME TAX

63-3022. Adjustments to taxable income.

The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022Q, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

(a) Add any state and local taxes, as defined in section 164 of the Internal Revenue Code and, measured by net income, paid or accrued during the taxable year adjusted for state or local tax refunds used in arriving at taxable income.

(b) Add the net operating loss deduction used in arriving at taxable income.

(c) (1) A net operating loss for any taxable year commencing on and after January 1, 2000, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the two (2) immediately preceding taxable years. Any portion of the net operating loss not subtracted from income in the two (2) preceding years may be subtracted from income in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The sum of the deductions may not exceed the amount of the net operating loss deduction incurred. At the election of the taxpayer, the two (2) year carryback may be foregone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted. The election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner prescribed in the rules of the state tax commission and once made is irrevocable for the year in which it is made. The term "income" as used in this subsection (c) means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(2) Net operating losses incurred by a corporation during a year in which such corporation did not transact business in Idaho or was not included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, may not be subtracted. However, if at least one (1) corporation within a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred, then the net operating loss may be subtracted. Net operating losses incurred by a person, other than a corporation, in activities not taxable by Idaho may not be subtracted.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue Code (relating to dividends received by corporations) as limited by section 246(b)(1) of said code.

(e) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.

(f) Subtract the amount of any income received or accrued during the taxable year which is exempt from taxation by this state, under the provisions of any other law of this state or a law of the United States, if not previously subtracted in arriving at taxable income.

(g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:

(1) Distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section.

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

(h) In the case of an individual who is on active duty as a full-time officer, enlistee or draftee, with the armed forces of the United States, which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more, deduct compensation paid by the armed forces of the United States for services performed outside this state. The deduction is allowed only to the extent such income is included in taxable income.

(i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, add any capital loss or passive loss deducted which loss was incurred during any year in which such corporation did not transact business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons, other than corporations, add any capital loss or passive loss deducted which was incurred in activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (c) of this section or a capital loss or passive loss provided for in section 1212 of the Internal Revenue Code.

(j) In the case of an individual, there shall be allowed as a deduction from gross income either (1) or (2) at the option of the taxpayer:

(1) The standard deduction as defined in section 63, Internal Revenue Code.

(2) Itemized deductions as defined in section 63 of the Internal Revenue Code except state or local taxes measured by net income and general sales taxes as either is defined in section 164 of the Internal Revenue Code.

(k) Add the taxable amount of any lump sum distribution excluded from gross income for federal income tax purposes under the ten (10) year averaging method. The taxable amount will include the ordinary income portion and the amount eligible for the capital gain election.
(l) Deduct any amounts included in gross income under the provisions of section 86 of the Internal Revenue Code relating to certain social security and railroad benefits.

(m) In the case of a self-employed individual, deduct the actual cost of premiums paid to secure worker's compensation insurance for coverage in Idaho, if such cost has not been deducted in arriving at taxable income.

(n) In the case of an individual, deduct the amount contributed to a college savings program pursuant to chapter 54, title 33, Idaho Code, but not more than four thousand dollars ($4,000) per tax year. If the contribution is made on or before April 15, 2001, it may be deducted for tax year 2000 and an individual can make another contribution and claim the deduction according to the limits provided in this subsection during 2001 for tax year 2001, as long as the contribution is made on or before December 31, 2001.

(o) In the case of an individual, add the amount of a nonqualified withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, less any amount of such nonqualified withdrawal included in the individual's federal gross income pursuant to section 529 of the Internal Revenue Code.

(p) In the case of an individual, add the amount of a withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, transferred to a qualified tuition program, as defined in section 529 of the Internal Revenue Code, that is operated by a state other than Idaho. The addition provided in this subsection is limited to the amount of the contributions to the Idaho individual trust account or savings account by the account owner that were deducted on the account owner's income tax return for the year of the transfer and the prior taxable year.

5% Research and Development

Businesses conducting basic and qualified research may earn an income tax credit of 5% that may be carried forward up to 14 years.

Administrative Rules-5% Research and Development Income Tax

720. CREDIT FOR IDAHO RESEARCH ACTIVITIES: IN GENERAL (RULE 720).
Section 63-3029G, Idaho Code.
(3-15-02)

01. Definitions. The Idaho credit is computed using the same definitions of qualified research expenses, qualified research, basic research payments, and basic research as are found in Section 41, Internal Revenue Code, except only the amounts related to research conducted in Idaho qualify for the Idaho credit. If an expense does not qualify for the federal credit under Section 41, Internal Revenue Code, it will not qualify for purposes of the Idaho credit.
(4-7-11)

02. Limitations. The credit for Idaho research activities allowable in any taxable year is limited as follows: (4-7-11)

a. Tax Liability. The total amount of any credit for Idaho research activities claimed during a taxable year may not exceed one hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the credit for Idaho research activities, regardless of whether the credit for Idaho research activities results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-15-02)

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the credit for Idaho research activities is limited by the provisions of Section 63-3029F, Idaho Code.
(3-15-02)

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules.
(3-15-02)

03. Carryovers. The carryover period for the credit for Idaho research activities is fourteen (14) years.
(3-15-02)

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits.
(3-15-02)

05. Short Taxable Year Calculations. Short taxable year calculations provided in Section 41, Internal Revenue Code, and related regulations are used to compute the Idaho credit if the taxpayer must use short taxable year calculations for purposes of computing the federal credit.
(4-7-11)

723. CREDIT FOR IDAHO RESEARCH ACTIVITIES: RECORD-KEEPING REQUIREMENTS (RULE 723).
Section 63-3029G, Idaho Code.
(3-15-02)

01. Information Required. Each taxpayer must retain and make available, on request, records for each item included in the computation of the credit for Idaho research activities claimed on an Idaho income tax return. The records must include all of the following:
(3-15-02)

a. Verification that the research was conducted in Idaho; (3-15-02)

b. Verification that wages included in the computation were for qualified service performed by an employee in Idaho;
(3-15-02)

c. Verification that supplies included in the computation were used for research conducted in Idaho;
(3-15-02)

d. Verification that contract research expenses were for research conducted in Idaho;
(3-15-02)

e. Verification that the research activities meet the definition of qualified research; and
(3-15-02)

Verification that the amounts included in the Idaho computation are includable in the computation of the federal credit allowed by Section 41, Internal Revenue Code.
(3-15-02)

02. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed.
(3-15-02)

03. Unitary Taxpayers. Corporations claiming the credit for Idaho research activities must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers.
(3-15-02)

Statute-5% Research and Development Income Tax

From: http://www.legislature.idaho.gov/idstat/Title63/T63CH30SECT63-3029G.htm:

TITLE 63
REVENUE AND TAXATION
CHAPTER 30
INCOME TAX

63-3029G. Credits for research activities conducted in this state -- Carry forward.

(1) (a) Subject to the limitations of this section, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025 and 63-3025A, Idaho Code, for increasing research activities in Idaho.

(b) The credit allowed by subsection (1)(a) of this section shall be the sum of:

(i) Five percent (5%) of the excess of qualified research expenses for research conducted in Idaho over the base amount; and

(ii) Five percent (5%) basic research payments allowable under subsection (e) of section 41 of the Internal Revenue Code for basic research conducted in Idaho.

(c) The credit allowed by subsection (1)(a) of this section shall be computed without regard to the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code or the alternative simplified credit provided for in section 41(c)(5) of the Internal Revenue Code.

(2) As used in this section:

(a) The terms "qualified research expenses," "qualified research," "basic research payments" and "basic research" shall be as defined in section 41 of the Internal Revenue Code except that the research must be conducted in Idaho.

(b) The term "base amount" shall mean an amount calculated as provided in sections 41(c) and 41(h) of the Internal Revenue Code, except that:

(i) A taxpayer's gross receipts include only those gross receipts attributable to sources within this state as provided in subsections (q) and (r) of section 63-3027, Idaho Code; and

(ii) Notwithstanding section 41(c) of the Internal Revenue Code, for purposes of calculating the base amount, a taxpayer:

(A) May elect to be treated as a start-up company as provided in section 41(c)(3)(B) of the Internal Revenue Code, regardless of whether the taxpayer meets the requirements of section 41(c)(3)(B)(i)(I) or (II) of the Internal Revenue Code; and

(B) May not revoke an election to be treated as a start-up company.

(3) The credit allowed by subsection (1)(a) of this section together with any credits carried forward under subsection (5) of this section shall not exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter. When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(4) In the case of a group of corporations filing a combined report under subsection (t) of section 63-3027, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group. For a combined group of corporations, any member of the group may claim credit carried forward unless the member who earned the credit is no longer included in the combined group.

(5) The credit allowed by subsection (1)(a) of this section shall be claimed for the taxable year during which the taxpayer qualifies for the credit. If the credit exceeds the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(6) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships, trusts or estates, a method of attributing the credit under this section to the shareholders, partners or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust or estate.

Investment Tax Credit Form 49

COMMUNITY DEVELOPMENT BLOCK GRANT

Community Development Block Grants (CDBG) help cities, with a population of less than 50,000, with infrastructure improvements in support of business development in order to retain and create jobs. Eligible activities include, but are not limited to:

- Acquisition of real property which is deteriorated or underdeveloped
- Construction or rehabilitation of public facilities and other site improvements

Award amounts are limited to a maximum of $500,000.

Administrative Rules-Community Development Block Grant

IDAPA 28

TITLE 02

CHAPTER 01

IDAPA 28 - DEPARTMENT OF COMMERCE

28.02.01 - IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

009. DEFINITIONS.

For the purposes of these rules, the following words are defined. (7-6-94)

01. Allocation. The state of Idaho's share of the Small Cities Community Development Block Grant Program as determined by the funding formula contained in the Housing and Community Development Act of 1974, as amended. (7-6-94)

02. Appropriation. The Federal funding, as set by Congress, for the Department of Housing and Urban Development (HUD). (7-6-94)

03. CDBG. The Community Development Block Grants, especially the Small Cities Program administered by HUD. (7-6-94)

04. Department. The Idaho Department of Commerce. (3-29-10)

05. Grant. The transfer of ICDBG funds, in accordance with state and federal law, from the Department to a unit of local government for the specific purpose of accomplishing the project described in the Application. (7-6-94)

06. ICDBG. The Idaho Community Development Block Grants. The Idaho Department of Commerce administered Small Cities ICDBG Program. (7-6-94)

010. GENERAL OBJECTIVES.

01. National Objectives. The primary objective of this program is to develop viable communities by expanding economic opportunities and providing decent housing, "principally for persons of low and moderate incomes." Consistent with this primary objective, projects funded under Idaho's Community Development Block Grant Program must be designed so that each activity will benefit either low and moderate income persons, will aid in the prevention or elimination of slums and blight, or will meet other community development needs having a particular urgency because of existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. (7-6-94)

02. State Objectives. The state's objective of the Idaho Community Development Block Grant (ICDBG) program is to assist Idaho communities in developing their economy, public facilities and housing to provide greater opportunities, principally for low and moderate income citizens, through: increasing economic opportunities by assisting business expansions and job creation; improving community infrastructure to accommodate economic growth and eliminate health and safety problems; improving housing stock and expanding housing choices; and rebuilding or revitalizing blighted areas. (7-6-94)

03. ICDBG Funds. ICDBG funds shall not be used to fund projects or activities which can be funded primarily by other state, private or federal resources. (7-6-94)

011. GRANT PROGRAM.

01. Grant Types. The following six (6) types of grants are available under the Idaho Community Development Block Grant program: Public Facility or Housing (PFH); Economic Development (ED); Community Center (CC) or Senior Citizen Center (SR); and Imminent Threat (IT). (7-1-98)

02. General Descriptions. In any project, eligibility must meet two (2) tests. First, the project must be described by one (1) or more eligible activities (Section 022) and second, the project must qualify in a national objective (Section 015). (7-6-94)

03. Public Facility or Housing Grants. (7-6-94)

a. Public facility projects are those that construct or improve facilities including, but not limited to, sewer or water systems, streets, curbs, gutters, and sidewalks, fire stations, public medical and health facilities, libraries, group homes, publicly owned commercial or industrial property. Some public facilities such as city halls, courthouses, police stations, jails, and schools are by definition ineligible (Section 052) or have extreme difficulty meeting a national objective. Other public facilities such as solid waste disposal, parks, maintenance shops are sometimes eligible only in very narrow circumstances. (7-1-98)

b. Housing projects are those that improve or construct housing units for low and moderate income families. Projects include, but are not limited to, rehabilitation of public housing, rental rehabilitation, owner-occupied housing rehabilitation, acquisition of real property for rental rehabilitation, acquisition of land and site development for new rental housing, replacement housing, rehabilitation of school buildings into housing, acquisition of sites, site development and acquisition of manufactured housing for manufactured home parks.(7-6-94)

04. Economic Development Grants. There are two (2) types of Economic Development projects.(7-6-94)

a. The first is the provision of infrastructure, usually sewer, water, or street, to a specific business expansion or new location. Manufacturing or processing companies are the more competitive projects. The grant funds assist with the public costs of extending services in exchange for a commitment from the business to create jobs for low and moderate income persons. (7-6-94)

b. The second grant is to assist with downtown revitalization. The downtown merchants and landowners must organize themselves and develop a plan of specific improvement actions. The downtown area must meet the slum and blight national objective. (7-6-94)

05. Center Grants. (7-1-98)

a. Community Center Grants. Community Center projects are a specific type of public facility project. Funds are set aside for these facilities only. Community centers must be owned or operated for the benefit of all project area or neighborhood residents. (7-1-98)

b. Senior Citizen Center Grants. Senior Citizen Center projects are a specific type of public facilities project. Funds are set aside for these facilities and community centers only. The center must be owned or operated for the benefit of senior citizens. (7-1-98)

06. Imminent Threat Grants. Imminent Threat projects are those which correct or eliminate a recent threat to human health or safety (see Section 021 and Section 108). (7-6-94)

07. Grant Award System. Since demand for grants far exceeds available funds, a competitive system is used to select grants, except for the imminent threat and technical assistance grants. Grant applications shall be submitted, rated and selected for funding according to the criteria and procedures established by these rules. (7-6-94)

012. ELIGIBLE APPLICANTS.

Applicants for the Idaho Community Development Block Grants are limited to general purpose units of government in Idaho. Those include incorporated cities not designated by HUD as an “entitlement city” and counties. Counties may apply on behalf of unincorporated communities (a community not organized, incorporated or chartered under the laws of the state of Idaho) or unincorporated urbanized areas (suburban areas of a city not annexed into the city). Special purpose districts are not eligible, although they may be involved in the execution of a project by mutual agreement. Indian tribes are not eligible to apply since funds are available to them under a special HUD program. (7-6-94)

013. QUALIFICATION OF APPLICANTS.

Applicants shall only apply for a grant for a project which lies within their jurisdictional or impact area boundary. The project must address the needs of the residents of their jurisdiction or impact area. Applications shall not be submitted in behalf of other jurisdictions solely for administrative convenience (see Section 014). Counties may apply in behalf of more than one (1) unincorporated community or unincorporated urbanized area. However, counties may apply for only one (1) grant which has county-wide benefit. Counties or cities may apply on behalf of senior citizen groups for a senior citizen facility grant. Applying for a PFH grant does not disqualify an applicant from applying for a CC or SR grant. Applicants shall apply for only one (1) project from each setaside with the exception of economic development projects. In accordance with Subsection 082.05 of these rules, applicants must be eighty percent (80%) drawn down from any prior PFH grants as of the last date for accepting applications. ED applicants for job creation projects may apply for one (1) ED grant in any quarterly application cycle. If applicants have an existing ED grant it must be under contract prior to submitting a new ED application. A county or a city shall not be eligible to apply for a grant if it has unresolved audit findings, any unresolved disallowed costs, or any unresolved prior performance problems from any previous grants in any category. (3-19-99)

014. JOINT APPLICATIONS.

A city and a county may apply jointly when solving a shared problem requires mutual action. A “shared problem” must lie in areas of contiguous or overlapping jurisdictions, and this must be documented in the Application. One (1) unit must be designated as the responsible unit for administrative purposes. Written cooperation agreements must also be submitted. The cooperation agreement must cover the entire project from application to operation and maintenance. A joint application solely for administrative convenience or one (1) in which several jurisdictions are addressing similar, but unrelated, circumstances does not qualify as a joint application to solve a mutual problem.

(7-6-94)

015. NATIONAL OBJECTIVES.

To receive ICDBG funds, each eligible activity within a project (Section 022) must serve one (1) of the following national objectives: principally benefit at least fifty-one percent (51%) low and moderate income persons; aid in the prevention or elimination of slum and blight; or meet other community development needs having a particular urgency because of existing conditions which pose a serious and immediate threat to the health or safety of residents where other financial resources are not available. (7-6-94)

023. ACQUISITION OF REAL PROPERTY.

ICDBG funds may be used to acquire real property in whole, or in part, by purchase, long-term lease (if for fifteen (15) years or more), donation, or otherwise. The following real property or interests therein is eligible for acquisition: property which is blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth; property which is appropriate for rehabilitation or conservation activities; property which is appropriate for the preservation or restoration of historic sites; the beautification of urban land; the conservation of open spaces, natural resources, and scenic areas; the provision of recreational opportunities; or the guidance of urban development; property which is to be used for the provision of public works, facilities, and improvements eligible for assistance under these rules; and property which is to be used for housing. (7-6-94)

024. PUBLIC FACILITIES AND IMPROVEMENTS.

The acquisition, construction, rehabilitation, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promotes energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements. Included are facilities to provide shelter for persons having special needs provided such facilities are not prohibited by the new housing construction prohibition. (7-6-94)

025. CODE ENFORCEMENT.

Code enforcement involves the payment of salaries and overhead cost directly related to the enforcement of local codes. ICDBG funds may be used only in deteriorated or deteriorating areas where enforcement, together with public or private improvements or services, may be expected to arrest the decline of the area. (7-6-94)

026. CLEARANCE AND DEMOLITION.

Clearance, demolition, removal of buildings and facilities, and movement of structures to other sites. (7-6-94)

027. REMOVAL OF ARCHITECTURAL BARRIERS.

Removal of material and architectural barriers which restrict the mobility and accessibility of elderly and persons with disabilities to publicly or privately owned buildings, facilities and improvements. (7-6-94)

040. SPECIAL ECONOMIC DEVELOPMENT ACTIVITIES.

01. Economic Development Activities. Grant funds may be used for economic development activities which directly assist a specific business firm. In authorizing activities, the Department will take into account the amount of permanent employment to be generated which is available to low and moderate income persons, the necessity of the assistance or activity to stimulate private investment and the degree of impact on the economic conditions of the applicant. (7-6-94)

02. Eligible Activities. The following are eligible activities that may be carried out: (7-6-94)

a. Acquisition, construction, reconstruction, or installation of publicly-owned commercial or industrial buildings and structures, and other publicly-owned real property equipment and improvements, including public facilities, utilities, and other on site improvements, including railroad spurs, electrical, gas and telephone services. Such activities may be carried out by the grantee, sub-recipient, or private nonprofit firms. Rehabilitation of privately-owned commercial or industrial buildings is eligible under Subsection 040.02.b. or Subsection 051.01.

(3-30-07)

b. A project may include the provision of direct financial assistance to private-for-profit businesses including, but not limited to, assistance through grants, loans, loan guarantees, interest supplements, or technical assistance and other forms of support, for any eligible activities to carry out an economic development project, excluding these described as ineligible in Subsection 052.01. In order to ensure that any such assistance does not unduly enrich the for-profit business, an analysis shall be conducted to determine that the amount of any financial assistance to be provided is not excessive, taking into account the actual needs of the business in making the project financially feasible and the extent of public benefit expected to be derived from the economic development project as described in 24 CFR Part 570.482(e) and (f). (3-30-07)

RURAL COMMUNITY BLOCK GRANT

Rural Community Block Grants (RCBG) help rural communities, with a population of 25,000 or less, counties and Tribes with infrastructure improvements in support of business development in order to retain and create jobs. Eligible activities include, but are not limited to:

- Expand the capacity of infrastructure, usually water, sewer or streets, or other infrastructure utilities to a specific business expansion or new location, that will result in job creation
- Rehabilitate privately owned existing buildings or structures used for business, commercial, or industrial purposes
- Eliminate conditions which impair economic growth or present an economic liability to the area

Award amounts are limited to a maximum of $350,000.

Administrative Rules-Rural Community Block Grant

IDAPA 28

TITLE 02

CHAPTER 05

28.02.05 - RURAL COMMUNITY BLOCK GRANT PROGRAM (RCBG)

010. DEFINITIONS.

All definitions pertaining to the RCBG Program shall be incorporated in the RCBG Application Handbook.

(3-15-02)

011. ELIGIBLE APPLICANTS.

Applicants for the Idaho Rural Community Block Grants are as follows: (3-15-02)

01. City Applicants. Rural cities are those generally less than twenty-five thousand (25,000) in population. Cities contiguous to large cities are not eligible to apply. (4-4-13)

02. County Applicants. Counties may apply for county wide projects or on behalf of unincorporated communities. Counties cannot apply for projects that benefit larger cities. (3-15-02)

03. Special Purpose Districts. Special purpose districts are not eligible, although they may be involved in the execution of a project by mutual agreement. (3-15-02)

04. Indian Tribes. Indian tribes may be considered as an applicant or may be a partner in a project by mutual agreement. (3-15-02)

012. GRANT PROGRAM.

01. Eligible Activities. (3-15-02)

a. Projects to provide or expand the capacity of infrastructure, usually water, sewer or streets, or other infrastructure utilities to a specific business expansion or new location that will result in job creation; (3-15-02)

b. Acquisition and/or rehabilitation of real property to lease/purchase to a company for construction of a new plant building; (3-15-02)

c. Construction of a commercial building for a company to lease/purchase; (3-15-02)

d. Provision of publicly regulated utilities such as telecommunications, power, gas and rail upgrades needed for business expansions; (3-15-02)

e. Match for other state and federal funding programs, including, but not limited to the Community

Development Block Grant Program and Economic Development Administration grants; (3-15-02)

f. Consulting, engineering and planning studies needed for a potential grant project; (3-15-02)

g. Elimination of substandard physical conditions which impairs sound growth or presents an economic liability on an area or spot basis. (3-15-02)

h. Funds may be used to finance the substantial rehabilitation of privately owned existing buildings or structures used for business, commercial, or industrial purposes. (3-15-02)

02. Other Eligible Activities. (3-15-02)

a. Code Enforcement. Code enforcement involves the payment of salaries and overhead cost directly related to the enforcement of local codes. RCBG funds may be used only in deteriorated or deteriorating areas where enforcement, together with public or private improvements or services, may be expected to arrest the decline of the area. (3-15-02)

b. Environmental Review. Environmental review of the environmental conditions or impact of a project. (3-15-02)

c. Mixing Eligible and Ineligible Activities. A public facility eligible for RCBG assistance may be funded even if it is part of a multiple-use building containing ineligible uses if: (3-15-02)

i. The eligible portion of the building is a designated and discreet area of the building; (3-15-02)

ii. The applicant can determine the costs attributable to the eligible use or eligible portion of the facility as distinct from the overall costs of the facility. (3-15-02)

d. Clearance of Buildings. Clearance, demolition, removal of buildings and facilities, and movement of structures to other sites. (3-15-02)

e. Disposition of Property. Costs associated with the disposition (through sale, lease, donation, or otherwise) of any real property acquired with RCBG funds, or with the retention of real property for public purposes. Reasonable costs of temporarily managing such property (or property acquired under urban renewal) until final disposition of the property is made. Disposition costs include fees paid for: appraisals, surveys, marketing, legal services, financial services, transfer taxes and other costs involved in the transfer of ownership of property. Any proceeds from the disposition of such property shall be considered program income. (3-15-02)

f. Relocation Payment. Relocation payments and assistance for displaced individuals, families, business organizations, and farm operations when determined by the grantee to be appropriate. (3-15-02)

g. Administrative Activities. Payment of reasonable administrative costs and carrying charges related to the planning and implementation, including the management, coordination and monitoring of activities necessary for the completion of successful grant projects. These cost shall not exceed five percent (5%) of the RCBG.

(3-15-02)

h. Technical Assistance. RCBG funds may be used by the grantee (or provided by a grantee to a sub-grantee) to increase their capacity to carry out eligible economic development activities. Such costs are not included in the five percent (5%) limitation on administrative and planning costs. (3-15-02)
i. Allowable Costs in Application. An applicant may be reimbursed for some of the administrative or engineering costs incurred during the preparation of the Application. No such expenses incurred will be reimbursed unless a grant is awarded. Such expenses are the responsibility of the applicant if a grant is not awarded. Any such administrative costs become part of and cannot exceed the five percent (5%) limitation on administrative costs of the grant. (3-15-02)

013. INELIGIBLE ACTIVITIES.

As a general rule, any activity not authorized in these rules is ineligible to receive RCBG funds. This section identifies two (2) areas that are ineligible and provides guidance in determining eligibility of other activities frequently associated with economic development. The following activities may not be carried out using RCBG funds: (3-15-02)

01. General Conduct of Government. Assistance to buildings, or portions thereof, used predominantly for the general conduct of government. However, the removal of architectural barriers and historic preservation of such building is eligible. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body or the recipient meets regularly, courthouses, jails, police stations, and other state or local government office buildings. Also ineligible are school buildings, school offices, and university and college vocational-technology facilities. Where acquisition of real property includes an existing building and improvements, part of which is to be utilized for the general conduct of government, the acquisition cost attributable to the land is eligible, provided a national objective is met with the other eligible use of the property and building. Only the portion of the building required for the eligible activity is an eligible grant expense. (3-15-02)

02. Local Government Expenses. Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with RCBG funds. (3-15-02)

03. Political Purposes. (3-15-02)

04. Churches. (3-15-02)

05. Equipment. The purchase of equipment, fixtures, motor vehicles, furnishings or other personal property, which is not an integral structural fixture, is generally ineligible. RCBG funds may be used; however, to purchase such items when necessary for use by a recipient or its sub-recipients in the administration of activities assisted with RCBG funds. (3-15-02)

06. Operating and Maintenance Expenses. (3-15-02)

014. -- 018. (RESERVED)

019. GRANT APPLICATION PROCESS.

The required RCBG Application process is described in the RCBG Application Handbook. (3-15-02)

020. SUBMITTAL OF APPLICATIONS.

Applications must be mailed or hand-delivered to the Department’s mailing address. (3-15-02)

APPLICATION REVIEW.

Any applicant or project not meeting the threshold criteria shall be disqualified and the Application shall not be reviewed further. (3-15-02)

022. PRESENTATION TO ECONOMIC ADVISORY COUNCIL.

01. Presentations. Presentations shall be made by key elected officials of the applicant. These elected officials include mayors, council members or county commissioners or other project partners. The presentation should include: (3-15-02)

a. The need for the project; (3-15-02)

b. The local commitment to the project; (3-15-02)

c. The economic impact of the project on the community; and (3-15-02)

d. Any additional information that should be given special consideration. (3-15-02)

023. REVIEW AND RANKING CRITERIA FOR RURAL COMMUNITY APPLICATIONS.

(One Thousand (1,000) Points Possible. (3-15-02)

01. Community Distress Factors -- Two Hundred (200) Points. (3-15-02)

a. High unemployment. (3-15-02)

b. Low per capita income. (3-15-02)

c. Sudden distress. (3-15-02)

d. Other long term distress factors. (3-15-02)

e. Lack of developed business sites/infrastructure. (3-15-02)

f. Lack of resources to impact distress factors. (3-15-02)

02. Project Benefits -- Two Hundred (200) Points. (3-15-02)

a. Impact on distress factors. (3-15-02)

b. Direct job creation or retention. (3-15-02)

c. Job quality and fringe benefits. (3-15-02)

d. Indirect secondary jobs. (3-15-02)

e. Project and business management capacity. (3-15-02)

f. Long-term program. (3-15-02)

g. Indirect investment potential. (3-15-02)

h. Direct investment in community asset. (3-15-02)

i. Minority benefit. (3-15-02)

03. Community Project Support -- Two Hundred (200) Points. (3-15-02)

Project support and involvement. (3-15-02)

b. Local investment. (3-15-02)

c. Other match. (3-15-02)

04. Project Feasibility -- Two Hundred (200) Points. (3-15-02)

a. Planning, costs and schedule. (3-15-02)

b. Cost estimates. (3-15-02)

c. Business Commitment. (3-15-02)

d. Creation of marketable asset. (3-15-02)

05. Economic Advisory Council -- Two Hundred (200) Points. (3-15-02)

024. -- 030. (RESERVED)

031. STANDBY APPLICATIONS.

At its quarterly meeting, the Economic Advisory Council may recommend Applications for funding even though not enough funds are available to fund the project(s). These Applications become standby projects. Standby projects shall be eligible for funding should additional funds become available or surplus funds exist. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the

Governor for funding. Standby status shall continue through the fourth quarterly meeting. The Application must remain eligible and must continue to meet all requirements of the program rules. (3-15-02)

032. LOSS OF VIABILITY.

01. Loss of Viability Criteria. (3-15-02)

a. The inability to secure the other project financing; (3-15-02)

b. The lack of due diligence to pursue the implementation of project requirements; (3-15-02)

c. The lack of local coordination with all funding and regulatory agencies; (3-15-02)

d. The inability to develop agreements necessary to manage the cash flow and ownership of the project where several different entities are involved in the project; or (3-15-02)

e. The inability to complete a project of the same general size and benefits as presented in the Application. (3-15-02)

02. Process. (3-15-02)

a. If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, the Department may terminate its award status. The Department shall, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable. The applicant shall have a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the applicant's award status shall be terminated and the funds may be available for the next standby project. (3-15-02)

b. After a grant contract has been executed, the Department shall periodically evaluate the progress of the project. If, at any time, the project loses viability or cannot be completed as described in the Application and contract, the Department shall, by letter, notify the grantee that the grant contract shall be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period, demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant shall be terminated. (3-15-02)

033. -- 999. (RESERVED)

GEM GRANT

The GEM grant helps small communities, with a population of 10,000 or less, fund community development projects for the purpose of:

- Improving the local economy
- Retaining or creating jobs
- Promoting the community for economic development and tourism
- Assisting business expansion and diversification

The maximum amount that can be awarded is $50,000. Communities must provide a minimum of 20% matching funds of either cash or in-kind donations for the total amount of GEM grant funds received. The GEM grant is a cost reimbursement program.

Administrative Rules-GEM Grant

IDAPA 28

TITLE 02

CHAPTER 04

28.02.04 - IDAHO GEM GRANT PROGRAM

012. PRIMARY OBJECTIVES.

The primary objectives of the IGG Program are to fund community development projects of rural communities for the purpose of: (7-1-05)

01. Improving the Local Economy. (2-7-94)

02. Retaining or Creating Jobs. (2-7-94)

03. Promoting the Community for Economic Development and Tourism. (2-7-94)

04. Assisting Business Expansion and Diversification. (2-7-94)

013. ELIGIBLE APPLICANTS.

Idaho rural communities under ten thousand (10,000) persons and other Idaho rural communities at the discretion of the Director of the Department of Commerce are eligible to apply for IGGs up to a maximum of fifty thousand dollars ($50,000). IGGs to city and county governments may be administered by their designees as established by formally adopted resolutions. (7-1-05)

014. ELIGIBLE ACTIVITIES.

For a project to be eligible for IGG funding the project must meet one (1) or more of the IGG program's primary objectives listed in Section 012 of these rules. (7-1-05)

015. ELIGIBLE COSTS.

01. Eligible Costs. Eligible costs for the use of IGG funds are limited to: (7-1-05)

a. Materials. (2-7-94)

b. Construction contracts. (2-7-94)

c. Architect and engineering services and legal and professional services required for project implementation. (3-15-02)

d. Equipment. (2-7-94)

e. Equipment installation. (2-7-94)

f. Advertising. (2-7-94)

g. Printing. (2-7-94)

h. Construction of infrastructure for economic expansion. (3-15-02)

i. Rehabilitation and development of public property to support business development. (7-1-05)

j. Acquisition of real estate for business development. (3-15-02)

k. Matching funds for other state, federal and foundation economic development grants. (7-1-05)

016. INELIGIBLE ACTIVITIES/COSTS.

IGG funds shall not be used for: (7-1-05)

01. Payroll Costs. Payroll costs for city, county, development corporation or other community agencies. (2-7-94)

02. Real Property Acquisition. Construction, rehabilitation, or operation of schools, general government facilities, jails or state facilities. (3-15-02)

03. Administrative Costs. Expenses related to administering IGGs will not be reimbursable to the grantee from IGG funds. (7-1-05)

04. Political Activities. IGG funds shall not be used for political purposes or to engage in lobbying or other partisan political activities. (7-1-05)

05. Religious Activities. IGG funds shall not be used for the construction, rehabilitation or operation of active churches or religious structures used for religious purposes. (7-1-05)

017. SELECTION.

The IGG process is competitive on a quarterly cycle and is dependent upon grant fund availability. The following process will be used to select which eligible proposals will be funded: (7-1-05)

01. Review of Proposals. Department staff review proposals for completeness and compliance with these rules and make recommendations for funding to the Department's Director. (7-1-05)

02. Grant Awards. The Department's Director, in his sole discretion, makes all IGG awards. The

Director may make grant awards at any time the Director determines it necessary to take advantage of special opportunities that further the primary objectives of the IGG Program. (7-1-05)

018. -- 019. (RESERVED)

020. APPLICATION PROCESS.

01. Applications. Applications for IGGs may be submitted by eligible communities at any time. (7-1-05)

02. Application For Funding. Application for funding is made by submitting one (1) copy of the grant proposal in the required format to the Department. (7-1-05)

021. -- 029. (RESERVED)

030. PROPOSAL FORMAT.

IGG applications shall be submitted on eight and one-half by eleven inches (8 1/2" x 11") white paper. The text shall be typed, with numbered pages. The types of headings, required content and numbering systems shall conform to the latest revision of the IGG Handbook. (7-1-05)

031. MATCHING FUNDS.

All IGG grantees must provide a minimum of twenty percent (20%) matching funds of either cash or in-kind donations for the total amount of IGG funds received. Matching funds can be comprised of any combination of cash and in-kind donations and must meet the following criteria: (7-1-05)

01. Source. Matching funds can be from private, local, state, federal, or foundation sources. (7-1-05)

02. Relation to Project. All matching funds must be related to the planning, implementation or operation of the project being funded. (7-1-05)

03. Documentation of Matching Funds. Matching funds must be documented by receipt, invoice, time cards, or by other written documentation signed by the donor. (7-1-05)

04. IGG Funds. IGG funds may be used as matching funds for other state, federal and foundation grant programs. (7-1-05)

05. Administrative Expenses Used as Matching Funds. Up to two thousand five hundred dollars

($2,500) of the grantee's administrative expenses related to the project being funded may be used as matching funds for the grant. (7-1-05)

032. GRANT PAYMENT.

Payment of IGGs will be made in the following manner: (7-1-05)

01. Payment of Funds. Grantees shall receive payment of IGG funds on a cost reimbursement basis.

Grant payment procedures will be established in the IGG Contract. To receive reimbursement, the grantee must submit receipts and matching funds documentation to the Department for the reimbursement amount being requested. The Department will reimburse allowable costs up to the maximum grant amount for which both receipts and matching funds documentation have been provided. The grantee shall be responsible for any discrepancies in documentation. (7-1-05)

02. Special Circumstances. In special circumstances due to the small size of the community or the nature of the project, grantees may request receipt of IGG funds on other than a cost reimbursement basis. The Department will review the requests and determine in its sole discretion whether different payment procedures are warranted to avoid hardship to the community. (7-1-05)

033. REPORTING.

All IGG recipients are required to submit the following two (2) reports: (7-1-05)

01. Status Report. A status report is required with each request for payment. It should contain the following information: (3-15-02)

a. A short narrative outlining the project status, successes, and problems, and (7-1-05)

b. Press clippings, pictures and other information about the project as available. (2-7-94)

02. Final Report. All grantees shall submit a final report containing the following information: (2-7-94)

a. A narrative describing the success of the project. (2-7-94)

b. A description of the impact the project has had and will have on the community including long term benefits anticipated. (2-7-94)

c. A description of any special contributions or work provided on the project. (2-7-94)

d. Any other information, pictures or press clippings about the project that have not already been submitted. (7-1-05)

034. PROJECT DURATION.

Grantees are encouraged to limit the duration of their projects to twelve (12) months or less. (2-7-94)

035. CONFLICT OF INTEREST.

No official, officer, employee, family member or agent of the Department or of a grantee shall profit financially, directly or indirectly, from IGG funds under their direction or control. (7-1-05)

036. CREDIT STATEMENT.

All activities funded by the IGG Program shall credit the program. The following credit statement shall be placed on all IGG funded brochures, slide shows, videos, films, displays, advertising, press releases and other printed materials: “This publication made possible by an Idaho Gem Grant, Idaho Department of Commerce” or “paid, Idaho Gem Grant, Idaho Department of Commerce.” (7-1-05)

01. Failure to Comply. Failure to credit the IGG Program as required above may, at the Department’s sole discretion, disqualify the grantee from receiving IGG funding for that portion of the project for which credit was not given. (7-1-05)

02. Other Credit. Credit may also be given to other sources of assistance. (2-7-94)

037. -- 039. (RESERVED)

040. BID PROCESS FOR THE PURCHASE OF GOODS OR SERVICES OVER $25,000.

IGG grantees shall contact a minimum of three (3) vendors for quotes or bids for the purchase of goods or services over twenty-five thousand dollars ($25,000). Prior to reimbursement for such costs, the following information shall be submitted to the Department: (7-1-05)

01. Item or Service Purchased. A detailed description of the item or service purchased or to be purchased. (7-1-05)

02. Bid Verification. Written documentation of three (3) or more businesses or vendors contacted by

IGG grantees for bids or quotes. The documentation must list the businesses or vendors contacted and indicate their response. The documentation must also include a list of all businesses or vendors contacted whether or not a response was received. (7-1-05)

03. Reasons for Selection. Grantees justification for the business or vendor selected. (7-1-05)

041. PROJECT AMENDMENT.

Projects may be amended at any time prior to project completion by mutual written agreement of the grantee and the Department. Grantees must submit a written request to the Department, and receive written approval, prior to modifying the budget or scope of work of a project. (2-7-94)

042. LOSS OF PROJECT VIABILITY.

It is the responsibility of the IGG grantee to give immediate written notification to the Department as soon as the grantee becomes aware that its project has lost viability. If a project loses its viability after selection for funding and prior to any expenditure of IGG funds, the project shall be terminated and the Department’s IGG award shall be voided. If a project loses its viability after the grantee expends IGG funds, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department may, in its sole discretion, agree to modify, restructure or amend the project. (7-1-05)

043. TERMINATION OF FUNDING.

Funding for projects may be terminated by the Department at any time for the misuse of IGG funds. Upon receipt of a written notice of termination from the Department, the grantee must immediately stop all expenditures of IGG funds and return all unspent IGG funds to the Department. The Department will make a final payment to the grantee based on the work completed, allowable costs incurred and the documentation provided by the grantee as required by these rules. (7-1-05)

044. -- 999. (RESERVED)

NEW MARKET TAX CREDIT

The New Markets Tax Credit Program (NMTC Program) was established by Congress in 2000 to spur new or increased investments into operating businesses and real estate projects located in distressed and low-income communities. The NMTC Program attracts investment capital to low-income communities by permitting individual and corporate investors to receive a tax credit against their Federal income tax return in exchange for making equity investments in specialized financial institutions called Community Development Entities (CDEs). The credit totals 39% of the original investment amount and is claimed over a period of seven years (five percent for each of the first three years, and six percent for each of the remaining four years). The investment in the CDE cannot be redeemed before the end of the seven-year period.

More information at the Community Development Financial Institutions Fund website, http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=5

To determine which communities have New Market Tax Credit zones, http://www.bakertilly.com/landing/nmtc-lihtc-mapping-tool

INDUSTRIAL REVENUE BONDS

An Industrial Revenue Bond (IRB) differs from traditional government revenue bonds as the bonds are issued on behalf of a private sector business. IRBs are typically used to support a specific project, such as a new manufacturing facility.

The bond issue is created and organized by a sponsoring government, with the proceeds used by the private business. The business is responsible for bond repayment. The sponsoring government holds title to the underlying collateral until the bonds are paid in full. This arrangement provides tax exempt status to the bonds, and many times a property tax exemption on the collateral. The sponsoring government is not responsible for bond repayment and the bonds do not affect the government's credit rating. IRBs are desired as the private business receives a lower interest rate (due to the bonds tax-exempt status), a property tax exemption, and a long-term, fixed rate financing package.

Bond proceeds may be used for a variety of purposes, including land acquisition, building construction, machinery and equipment, real estate development fees, and the cost of bond issuance.

In the United States IRBs are governed by IRS statute and include the following provisions:

- The maximum amount of bonds that may be issued or outstanding is $10 million.
- Total capital expenditures at the project site may not exceed $20 million total
- Total IRBs outstanding at the company in the U.S. may not exceed $40 million total

Statute-Bond Ceiling Allocations Act

From: http://www.legislature.idaho.gov/idstat/Title50/T50CH28.htm:

TITLE 50
MUNICIPAL CORPORATIONS
CHAPTER 28
IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

50-2801. Definitions.

As used in sections 50-2801 through 50-2805, Idaho Code:

(1) "Bond" means any obligation for which an allocation of the volume cap is required by the code.

(2) "Certificates" mean mortgage credit certificates described in section 25 of the code.

(3) "Code" means the Internal Revenue Code of 1986, as amended, and any related treasury regulations.

(4) "Executive order" means the executive order or other administrative action of the governor pursuant to section 50-2804, Idaho Code, and any amendments thereto.

(5) "Governmental unit" means (i) any county, city or port district, (ii) any public corporation created pursuant to section 50-2703, Idaho Code, or other entity acting on behalf of one or more counties, cities, or both, (iii) the state, or (iv) any other entity authorized to issue bonds.

(6) "Project" means the facility or facilities to be financed in whole or in part with the proceeds of the bonds, or a program in which the proceeds of the bonds are used directly or indirectly to finance loans to individuals for educational expenses.

(7) "State" means the state of Idaho, any of its agencies, and any of its institutions of higher education.

(8) "State ceiling" means the ceiling for the state as computed under section 146(d) of the code.

(9) "Volume cap" means the volume cap for the state as computed under section 146 of the code.

(10) "Year" means each calendar year beginning calendar year 1987.

50-2802. Finding and declaration of necessity.

The legislature hereby finds and declares that the Tax Reform Act of 1986 imposes an annual state ceiling on the amount of bonds or certificates that may be issued, the interest on which is excludable from gross income for purposes of federal income taxation; that section 146(e)(1) of the code provides that the

legislature may enact a different formula for allocating the state ceiling among the governmental units different from the formula contained in the code; and that a different formula is necessary to allocate the state ceiling by the least complicated method possible and to insure an efficient use of the state ceiling

50-2803. Allocation formula.

The entire state ceiling for the year, including any carry-forward under section 146(f) of the Internal Revenue Code, shall be allocated by the following formula. The state ceiling shall be allocated by the state to governmental units, as needed to finance qualified projects and programs under the Internal Revenue Code, as amended, on the basis of effective utilization, need, economic impact and efficient distribution of resources throughout the state by the department of commerce. The allocation formula established by this section shall be implemented and administered by the governor pursuant to the terms and provisions of an executive order which shall make provisions for priorities of projects and programs based on the formula. No qualified applicant for the state ceiling shall render decisions in the allocation formula.

50-2804. Authority of the governor.

The governor is authorized and directed to provide for the implementation and administration of the allocation formula established in section 50-2803, Idaho Code, by executive order. The executive order shall: (i) establish rules and procedures for the form, contents, submission, processing, priorities and approval of applications for allocations of the state ceiling; (ii) designate an agency for receipt, verification and approval of applications and for authorization of allocations; (iii) provide for the carry-forward of an allocation under section 146(f) of the code; (iv) provide for the issuance to governmental units of certificates evidencing an allocation of the state ceiling; (v) establish a period of time within which allocations must be used; (vi) provide for a means of reallocating portions of the state ceiling with respect to allocations for bonds or certificates that are not actually issued or are issued in a lesser amount than that portion of the state ceiling which was allocated to the bonds; and (vii) provide for, through the establishment of rules and procedures or otherwise, any other matters necessary or desirable to implement and administer the allocation formula and to provide for an efficient use of the state ceiling.

50-2805. Miscellaneous.

(1) No action taken pursuant to this chapter shall be deemed to create an obligation, debt or liability of any governmental unit or be deemed to constitute an approval of any obligations issued or to be issued hereunder.

(2) If any provision of this chapter shall be held to be or shall, in fact, be invalid, inoperative or unconstitutional, the defect of the provision shall not affect any other provision of this chapter or render it invalid, inoperative or unconstitutional. To the extent this chapter shall be held to be or shall, in fact, be invalid, inoperative or unconstitutional, all allocations of the state ceiling previously made under this chapter shall be treated as allocations made by the legislature.

(3) The state pledges and agrees with the holders of any bonds with respect to a project for which an allocation of the state ceiling was applied for by a governmental unit and which has been granted under this chapter that the state will not retroactively alter the allocation of the state ceiling to the governmental unit for such bonds.

REPEALED INCENTIVES

Hire One Administrative Rules

755. HIRE ONE ACT CREDIT FOR QUALIFYING NEW EMPLOYEES: IN GENERAL (RULE 755).
Section 63-3029F, Idaho Code, as in effect for taxable years beginning in or after 2011 and before 2014. (2-27-12)

01. In General. For taxable years beginning on and after January 1, 2011, and before 2014, the Hire One Act allows an employer who is subject to the Idaho income tax to earn a credit for a qualifying new employee. Because an employee must be hired on or after April 15, 2011, to qualify, the credit generally cannot be earned in a taxable year that begins prior to January 15, 2011. (2-27-12)

02. Qualifying Employer. A qualifying employer is a rated employer under the Idaho Employment Security Law, but does not include a governmental agency or nonprofit entity. For purposes of Section 63-3029F, Idaho Code, and Rules 755 through 759 of these rules, a nonprofit entity includes any entity that is exempt from the Idaho income tax under Section 63-3025B, Idaho Code, including those entities that are exempt except for paying income tax on unrelated business income. (2-27-12)

03. Pass-Through Entities. The credit earned by a pass-through entity is refunded to the pass-through entity, rather than passed through to the owner. (2-27-12)

04. Unitary Corporations. Each corporation in a unitary group must separately calculate the amount of the Hire One Act credit based on its own employees and may not include the employees of other corporations included in the combined group. (2-27-12)

05. Employer-Provided Health Care Benefits. For purposes of administering the Hire One Act and Rules 755 through 759 of these rules, “employer-provided” and “health care benefits” are defined as provided in Rule 756 of these rules. (2-27-12)

06. Seasonal or New Business. An individual employed in a seasonal or new business that was in operation for less than nine (9) consecutive months cannot qualify as a new employee. (2-27-12)

07. Carryover. Because the credit is a refundable credit, no carryover is allowed. Credit not claimed within the time allowed under Section 63-3072, Idaho Code, for claiming a refund is lost. (2-27-12)

Hire One Statute

TITLE 63
REVENUE AND TAXATION
CHAPTER 30
INCOME TAX

63-3029F. Special credit available -- New employees. [effective until january 1, 2014.]

(1) For the period January 1, 2011, through December 31, 2013, any rated employer under chapter 13, title 72, Idaho Code, that is not a governmental or nonprofit entity shall be allowed a credit, in an amount determined under subsection (3) of this section, against the tax imposed by this chapter, other than the tax imposed by section 63-3082, Idaho Code, for any taxable year during which the rated employer's employment of new employees increases above the taxpayer's average employment for either the prior taxable year or the average of three (3) prior taxable years, whichever is higher. No credit shall be allowed under this section unless the number of new employees equals or exceeds one (1) person. The new employee must have been hired on or after April 15, 2011, received qualifying employer-provided health care benefits as determined by the state tax commission and be employed in a county in the state of Idaho with an unemployment rate based on the benchmarked annual unemployment rate as determined by the department of labor on the date the new employee was hired of:

(a) Ten percent (10%) or more at average annual earnings of twelve dollars ($12.00) or more per hour; or
(b) Less than ten percent (10%) at average annual earnings of fifteen dollars ($15.00) or more per hour.

(2) As used in this section:

(a) The term "new employee" means a person subject to Idaho income tax withholding whether or not any amounts are required to be withheld, employed by the taxpayer in a trade or business and covered for unemployment insurance purposes under chapter 13, title 72, Idaho Code, during the taxable year for which the credit allowed by this section is claimed. A person shall be deemed to be so engaged if such person performs duties on:

(i) A regular full-time basis; or

(ii) A part-time basis if such person is customarily performing such duties at least twenty (20) hours per week.

No credit shall be earned unless the new employee shall have performed such duties for the taxpayer for a minimum qualifying period of nine (9) consecutive months with any part of the qualifying period ending during the taxable year for which the credit is claimed.

(b) The provisions of paragraph (a) of this subsection notwithstanding, no credit shall be allowed for employment of persons by a taxpayer who acquires a trade or business from another taxpayer or who operates in a place of business the same or substantially identical trade or business as operated by another taxpayer within the prior twelve (12) months, except as the prior

taxpayer would have qualified under the provisions of paragraph (c) of this subsection. Employees transferred from a related taxpayer shall not be included in the computation of the credit.

(c) The number of employees during any taxable year for any taxpayer shall be the mathematical average of the number of employees reported to the Idaho department of labor for employment security purposes during the twelve (12) months of the taxable year which qualified under paragraph (a) of this subsection. In the event the business is in operation for less than the entire taxable year, the number of employees of the business for the year shall be the average number actually employed during the months of operation, providing that the qualifications of paragraph (a) of this subsection are met.

(d) "Same or a substantially identical trade or business" means a trade or business in which the products produced or sold, or the activities conducted are the same in character and use and are produced, sold or conducted in the same manner as, or for the same types of customers as, the products or activities produced, sold or conducted in another trade or business.

(e) The term "positive-rated employer" means an employer under the employment security law with a taxable wage rate that is less than the wage rate assigned to standard-rated employers as determined by the director of the department of labor according to section 72-1350, Idaho Code.

(f) The term "standard-rated employer" means an employer under the employment security law assigned a standard taxable wage rate by the director of the department of labor according to section 72-1350, Idaho Code.

(g) The term "deficit-rated employer" means an employer under the employment security law with a taxable wage rate that is higher than the wage rate assigned to standard-rated employers as determined by the director of the department of labor according to section 72-1350, Idaho Code.

(3) For positive-rated employers the credit authorized in subsection (1) of this section shall be six percent (6%) of the gross salary paid to the eligible new employee during the initial twelve (12) months of employment and claimed during the qualifying taxable year. For standard-rated employers the credit authorized in subsection (1) of this section shall be four percent (4%) of the gross salary paid to the eligible new employee during the initial twelve (12) months of employment and claimed during the qualifying taxable year. For deficit-rated employers the credit authorized in subsection (1) of this section shall be two percent (2%) of the gross salary paid to the eligible new employee during the initial twelve (12) months of employment and claimed during the qualifying taxable year. If the credit authorized by this section exceeds the tax liability of the taxpayer, the excess shall be refunded.

(4) To claim the credit, rated employers must attach to the employer's income tax return the taxable wage rate notice issued by the department of labor for the income tax year for which the credit is claimed.

(5) The state tax commission shall promulgate rules in compliance with chapter 52, title 67, Idaho Code, to administer the provisions of this section.