IDAHO COMMERCE

Idaho Incentives Manual 2023

Idaho Department of Commerce
Business Incentives Manual 2023

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TAX REIMBURSEMENT INCENTIVE (TRI)

TRI is a 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 determined 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.

TRI Requirements

- Companies in rural areas must create 20 new jobs and those in urban areas must create 50
- New jobs must be full time and pay equal to or greater than the average county wage
- Requires a meaningful community contribution
- Company must prove its stability and a significant economic impact to the community and Idaho
- Company must prove that the incentive is a critical factor to its decision

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Administrative Rules: 28.04.01 Tax Reimbursement Incentive Act

IDAPA 28
TITLE 04
CHAPTER 01
SECTION 000-220

28.04.01 – RULES GOVERNING THE IDAHO REIMBURSEMENT INCENTIVE ACT

000. LEGAL AUTHORITY.
These rules are promulgated under the legal authority of Section 67-4744, Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.04.01, "Rules Governing the Idaho Reimbursement Incentive Act." (4-11-15)

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 (7) new sections provide rulemaking authority to the Director of the Department of Commerce, a short title and legislative intent, an application and pre-application process, formation of incentive agreements with the business entity, reimbursement to the business entity 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. (4-11-15)

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. (4-11-15)

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. (4-11-15)

004. INCORPORATION BY REFERENCE.
There are no documents that have been incorporated by reference into this rule. (4-11-15)

005. 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. (4-11-15)

006. PUBLIC RECORDS ACT COMPLIANCE.
All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (4-11-15)

007. -- 099. (RESERVED)

100. DEFINITIONS AND ABBREVIATIONS.

Unless defined below, all words shall have the meaning ascribed in Chapter 47, Title 67, Sections 67-4737 through 67-4744, Idaho Code. The statutory definitions can be found here: http://legislature.idaho.gov/idstat/Title67/T67CH47SECT67-4738.htm. (4-11-15)

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. Also referred to as an Agreement. (4-11-15)

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. (4-11-15)

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. (4-11-15)

101. -- 129. (RESERVED)

130. 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 economy. The Tax Reimbursement Incentive is a performance-based economic development tool that provides a refundable tax credit up to thirty percent (30%) for up to fifteen (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. (4-11-15)

01. Available Credit. 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 investment for Idaho, among others. The credit authorized shall be the lowest approved percentage and term that will incentivize creation of new jobs and New State Revenue. (4-11-15)

02. Evaluation and Recommendation. Incentives will be evaluated and recommended to the Council by the Director, with final approval by the Council. The TRI will be governed by detailed incentive agreements between the Department and business entity. (4-11-15)

131. -- 149. (RESERVED)

150. 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. (4-11-15)

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. (4-11-15)

151. JOB CREATION CRITERIA.

01. **Rural Community**. The minimum new jobs required for a rural community is not less than twenty (20) over the term of the project. (4-11-15)

02. **Urban Community.** The minimum new jobs required for an urban community is not less than fifty (50) over the term of the project. (4-11-15)

03. **New Jobs**. New jobs must exceed the business entities' maximum number of full times jobs in Idaho during the twelve (12) months immediately preceding the date of the application. (4-11-15)

04. **Job Shift.** 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. (4-11-15)

05. **New Jobs Wages.** New jobs wages must 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. (4-11-15)

152. 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 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. (4-11-15)

02. Pre-Application. After the business entity's determination to proceed with a pre-application, the business entity, or its authorized representative, will be provided with a pre-application. 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. A pre-application shall detail the following: (4-11-15)

a. A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (4-11-15)

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; (4-11-15)

c. A letter from the city or county, or both, expressing a commitment to supply community contribution; (4-11-15)

d. Detailed description of the proposed capital investment; (4-11-15)

e. 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 (4-11-15)

f. Detailed description of the estimated new state tax revenues by tax to be generated by the project. (4-11-15)

03. Pre-Application Estimate Letter. Upon review and acceptance of a pre-application, the Director may issue an estimate letter to the business entity or its authorized representative, or both, which describes the estimated amount of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. This letter is not a binding commitment but an estimate based on the initial information supplied in the pre-application. (4-11-15)

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: (4-11-15)

a. A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (4-11-15)

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; (4-11-15)

c. A letter from the city or county, or both, describing their commitment to supply community contribution, a specific description of the contribution, and the amount of the contribution; (4-11-15)

d. Business entities currently doing business in Idaho will supply a letter from the Idaho State Tax commission confirming that the business entity 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; (4-11-15)

e. An estimate of Idaho goods and services to be consumed or purchased by the business entity during the term; (4-11-15)

f. Known or expected detriments to the environment or existing industries in the state; (4-11-15)

g. An anticipated project inception date and proposed schedule of progress; (4-11-15)

h. Any proposed performance requirements and measurements that must be met prior to issuance of the tax credit; (4-11-15)

i. A description of any proposed capital investment; (4-11-15)

j. A detailed schedule and description of the projected jobs to be created, the projected wages to be paid for those jobs, and the anticipated hiring schedule for those jobs; and (4-11-15)

k. The estimated new state tax revenues to be generated by the project. (4-11-15)

05. Application Recommendation Letter. Upon review of an application, the Director may issue a letter that 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. (4-11-15)

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. (4-11-15)

07. **Technical Review - Application**. The Director of the Department 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 business entity, 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. (4-11-15)

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 as follows: (4-11-15)

a. Request additional information or action from the Director in order to obtain necessary information to approve or reject the application; or (4-11-15)

b. Approve the application and instruct the Director to enter into an incentive agreement with the business entity; or (4-11-15)

c. Reject the application. (4-11-15)

d. 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. (4-11-15)

09. Pre-Application Schedule. The pre-application is open year round. Review of pre-applications are subject to the meeting schedule of Department staff. (4-11-15)

10. Application Schedule. The application is open year round. Review of applications is subject to the meeting schedule of Department Staff and the Council. The Council will meet no less than quarterly and has the ability to meet more often at the request of the Director. (4-11-15)

153. -- 159. (RESERVED)

160. 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, and that Council member shall abstain from discussing or voting on the application. (4-11-15)

161. -- 169. (RESERVED)

170. AGREEMENTS.

01. Incentive Agreement. At the direction of the Council, and in accordance with the criteria established by these rules, the Director shall enter into an incentive agreement with the business entity. (4-11-15)

02. Agreement Terms Defined. The incentive agreement shall contain any terms as approved by the Council, or deemed necessary by the state Deputy Attorney General, as well as define the following: (4-11-15)

a. Maximum term that shall not exceed fifteen (15) years; (4-11-15)

b. Projected new state revenues to be generated during the term; (4-11-15)

c. Method and recordkeeping requirements to determine projected new state revenue to be generated; (4-11-15)

d. The approved tax credit percentage applied to new state revenue each year the business entity is entitled to receive the reimbursement during the term of the meaningful project; (4-11-15)

e. The projected new jobs; (4-11-15)

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; (4-11-15)

g. The agreed upon and necessary proof of compliance required prior to tax credit issuance. Proof of compliance provided by the business entity must be adequate to demonstrate to the director that all requirements and measurements have been met for the business entity to receive the tax credit; (4-11-15)

h. The consequences of default by the business entity; (4-11-15)

i. The period to be used to determine the taxes paid at the date of application; (4-11-15)

j. Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. (4-11-15)

k. The federal employer identification or social security number for each individual or entity stated as the business entity in the incentive agreement; and (4-11-15)

l. Identification of the individual or entity that is or will be claiming the refundable credit. (4-11-15)

171. -- 179. (RESERVED)

180. TAX CREDIT AUTHORIZATION.

01. Claiming Tax Credit. No business entity may claim a tax credit unless the business entity has a tax credit authorization issued by the Department. A business entity 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. (4-11-15)

02. Duplicate Copy. The Department shall provide a duplicate copy of any tax credit authorization to the Tax Commission. (4-11-15)

181. -- 189. (RESERVED)

190. ANNUAL REPORTING BY APPLICANT.
Required Annual reporting shall be outlined in the incentive agreement and will include, but not be limited to, the following: (4-11-15)

01. New State Revenues. Supporting documentation of the new state revenues from the business entity's new project that were paid during the preceding calendar year. (4-11-15)

02. New Jobs Created. Supporting documentation of the new jobs that were created during the preceding tax year and the corresponding payroll information associated with the new jobs. (4-11-15)

03. Known or Expected Detriments. Known or expected detriments to the environment or existing industries in the state. (4-11-15)

04. Authorization Document. A document that expressly directs and authorizes the Tax Commission and Department of Labor to allow the Department access to the business entity's returns, filings and other information that may be necessary to verify or otherwise confirm the declared new state revenues, the new jobs and the associated payroll information. (4-11-15)

05. Tax Commission Letter. A letter from the Idaho State Tax Commission confirming that the business entity 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. (4-11-15)

06. Other Entitle to Rebate. 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. (4-11-15)

07. Supporting Documentation. Supporting documentation that the business entity has satisfied the measurements and requirements outlined in the incentive agreement. (4-11-15)

191. ANNUAL REPORTING BY DEPARTMENT.
The Department shall create an annual written report for the Governor and the Legislature describing the following: (4-11-15)

01. Successes. The Department's success under this act in attracting new jobs; (4-11-15)

02. Estimated Tax Credit Commitments. The estimated amount of tax credit commitments made by the Department and the period of time over which tax credits will be paid; (4-11-15)

03. Economic Impact to State. The economic impact to the state related to generating new state revenue and providing tax credits under this act; (4-11-15)

04. Estimated Costs and Benefits. The estimated costs and economic benefits of the tax credit commitments that the Department made; and (4-11-15)

05. Actual Costs and Benefits. The actual costs and economic benefits of the tax credit commitments
the Department made. (4-11-15)

06. Submittal of Report. 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. (4-11-15)

192. -- 199. (RESERVED)

200. AUDIT.
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. (4-11-15)

201. -- 209. (RESERVED)

210. CONTINUATION OF TAX CREDIT.
During the term of the project for each business entity, the Department shall review the business entity's annual report. Provided the business entity 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 business entity, and provide a duplicate copy of the tax credit authorization to the Tax Commission. The amount of the tax credit to be continued shall be in accordance with the credit percentages specified in the incentive agreement. The TRI shall not be extended beyond the term and length specified in the incentive agreement. (4-11-15)

211. TERMINATION OR SUSPENSION OF TAX CREDIT.
During the term of the project for each business entity, the Department shall review the business entity'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: (4-11-15)

01. Denial of Tax Credit. Deny the tax credit for that tax year; or (4-11-15)

02. Termination of Agreement. Terminate the incentive agreement for failure to meet the performance standards established in accordance with the terms outlined in the incentive agreement; or (4-11-15)

03. Request for Additional Documentation. Request the business entity to submit additional documentation. (4-11-15)

212. -- 219. (RESERVED)

220. SUSPENSION OF IDAHO REIMBURSEMENT INCENTIVE ACT.
The Director shall suspend the issuance of all new incentive agreements with business entities upon the occurrence of the following conditions: (4-11-15)

01. Temporary Spending Reduction. The governor orders a temporary reduction of general fund spending authority, pursuant to Section 67-3512A, Idaho Code; and (4-11-15)

02. Suspension of New Agreements. The governor issues an executive order directing the Department to suspend the issuance of new incentive agreements during the tax year in which the temporary reduction of general fund spending authority has been ordered and the executive order issued. (4-11-15)

03. Existing Approved Agreements. In the case of suspension all agreements that have been approved by the Council prior to the governor issuing an executive order, as provided in Subsections 026.01 and 026.02 of these rules, shall remain in full force and effect and shall not be modified or impaired as a result of the executive order. (4-11-15)

04. Support of Existing Agreements. During the period of time that new incentive 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. (4-11-15)

05. Removal of Suspension. The governor may remove the suspension issued by executive order. (4-11-15)

221. -- 999. (RESERVED)

Statute: 67-4737.-44. Idaho Reimbursement Incentive Act

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4737/

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.
History:
[67-4737, added 2014, ch. 336, sec. 1, p. 828.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4738/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 47
DEPARTMENT OF COMMERCE

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 collectively pay an average annual wage that equals or exceeds the average annual county wage of the county with jurisdiction over the local government providing the applicant's community match. 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 or franchise 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 and does not include taxes that are reimbursable by the federal government or any subdivision thereof. 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 or franchise tax, including income or franchise 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.

[67-4738, added 2014, ch. 336, sec. 1, p. 829; am. 2015, ch. 200, sec. 1, p. 609; am. 2017, ch. 149, sec. 1, p. 368.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4739/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
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DEPARTMENT OF COMMERCE

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) A letter 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 average wage to be paid for such jobs;

(k) A detailed description of the estimated new state tax revenues to be generated by the project;

(l) 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 (m) The federal employer identification or social security number for each individual or entity stated as the business entity in the agreement.

(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. [67-4739, added 2014, ch. 336, sec. 1, p. 830; am. 2015, ch. 200, sec. 2, p. 611.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4740/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 47
DEPARTMENT OF COMMERCE

67-4740. AGREEMENT WITH APPLICANT. 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 23 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; and

(i) Identification of the individual or entity that is or will be claiming the refundable credit.

(j) The agreement with the applicant shall specify that no credit will be allowed for taxes that have been or will be reimbursed by the federal government or any subdivision thereof.

History:[67-4740, added 2014, ch. 336, sec. 1, p. 831; am. 2015, ch. 200, sec. 3, p. 612; am. 2016, ch. 47, sec. 43, p. 128; am. 2017, ch. 149, sec. 2, p. 370.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4741/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
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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 tax year;

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

(c) 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;

(d) A letter 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) 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

(f) 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 24 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.

History:

[67-4741, added 2014, ch. 336, sec. 1, p. 832; am. 2015, ch. 200, sec. 4, p. 613.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4742/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
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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.

History:

[67-4742, added 2014, ch. 336, sec. 1, p. 832.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4743/

TITLE 67
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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.

History:

[67-4743, added 2014, ch. 336, sec. 1, p. 833.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4744/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
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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.

History:

[67-4744, added 2014, ch. 336, sec. 1, p. 833.]

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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.

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Administrative Rules: 28.03.01 - Idaho Opportunity Fund

IDAPA 28
TITLE 03
CHAPTER 01
SECTION 000-017

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 74, Chapter 1, 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)

05. 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: 67-4734.-36. Idaho Opportunity Fund

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4734/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
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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.

History:

[67-4734, added 2013, ch. 106, sec. 1, p. 249.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4735/

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.
History:
[67-4735, added 2013, ch. 106, sec. 1, p. 249.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title67/T67CH47/SECT67-4736/

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
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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.
History:
[67-4736, added 2013, ch. 106, sec. 1, p. 251.]

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WORKFORCE DEVELOPMENT TRAINING FUND GRANT PROGRAMS
Workforce Development Training Fund Policy

Adopted October 24, 2018

Goals of the Idaho Workforce Development Training Fund (WDTF) Grant Programs:

- Increase the economic mobility of Idahoans through training that leads to wage gains and retention.
- Provide timely assistance to businesses while shifting focus to broader talent pipeline development strategies that serve multiple employers.
- Support growth of the economy by assisting employers with job creation and integration of technology, specifically through the development of skills in their existing and/or new employees.
- Provide a return on investment to Idahoans as evidenced by increased wages, job creation, capital investment, retention of Idaho's workforce, credential attainment and/or customer satisfaction (employer and trainee).
- Promote innovation in talent development.
- Encourage replication of best practices in talent pipeline development.

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Industry Sector Grants

Eligibility

A business entity representing a consortium of at least three industry partners with a similar talent development needs. All industry partners must meet current WDTF business requirements for employer grants. The business entity may be any of the following:

- An industry partner.
- A non-profit or community-based organization.
- A public training provider.
- A private training provider.

The entity must be authorized to conduct business in Idaho and in good standing as evidenced through the Idaho Secretary of State and/or State Board of Education.

Training should provide transferrable skills gains for all individuals participating in the program. Training should lead to wage gains and/or promotional opportunities for incumbent employees of the consortium partners. Training may include traditional classroom delivery, online delivery and/or work-based learning delivery.

Exclusions

Soft-skill training is not excluded from sector grants; however, it must be embedded in the training. A sector grant application focused on soft-skill training alone would not be eligible for funding.

Fund Availability

Industry sector grants should provide a cost effective, reasonable training solution to the needs identified by the industry partners. The following factors will be evaluated by the Grant Review Committee:

- The number of industry partners involved,
- The cost per participant served by the grant,
- The sustainability of the training/education program beyond the grant period,
- The transferability of the skills provided through the training/education program,
- Whether industry recognized credentials are integrated into the training/education program,
- The entry level wage (at the county or state level, as appropriate) for the occupation(s) the training/education program is preparing individuals for,
- Past performance, if any, by the lead entity on prior grants.

Applications

Applicants must provide at a minimum:

- A description of the need for the training proposed in the application.
- The industry consortium, together with its training provider partner, must provide resources that directly support the proposed training, at a rate of no less than 25 percent cash, or no less 100 percent in-kind match, or a combination of cash and in-kind match. All consortium partners must sign an MOU using a template provided by the Council.

Reimbursable Expenditures

Eligible use of grant funds includes:

- Personnel costs for development and/or delivery of training; or tuition, fees, books and materials for existing training integrated into the program.
- Personnel costs for the industry mentor/on-the-job trainer for structured on-the-job training.
- Reasonable training facility costs.
- Reasonable equipment costs and supplies.
- Reasonable travel costs for the instructor and/or trainee.
- Reasonable outreach/marketing efforts to attract individuals to the training program.
- Cost of assessments associated with the provision of recognized credentials.
- Administrative costs cannot exceed ten percent (10%) of the WDTF grant award. Excess administrative costs may be applied towards match requirements.

Contractual Terms

- Grant term is three years.
- Grantees are required to submit quarterly reports as delineated in the written contract. The quarterly report will include provision of the entire 9-digit social security number of the trainees/participants, regardless of the age of the participant.
- Intellectual property, training curriculum and/or how-to guides may be retained by the Workforce Development Council to share with other partners statewide.

Performance Metrics

The return on investment shall be measured by:

- Number of individuals trained.
- Number receiving credential(s).
- Number of individuals employed within 30 days following the training.
- Number of individuals employed by the industry consortium (whether incumbent or new hires).
- Wage gains for individuals trained (the wage prior to training and at one-year post training).
- Retention in Idaho at one-year post training.
- Employer satisfaction with sector partnership.

Innovation Grants

Eligibility

The lead applicant must represent a community-based team with representation and support from business, education and other community partners as an ideal partnership. The lead applicant must be an entity physically located in the State of Idaho with the fiscal capacity to track funds and safeguard spending.

Innovation grants can fund projects that address local workforce development needs. Projects may provide skills training to individuals and/or assist individuals with connecting to careers.

- New or enhanced training must address specific employer-identified skills gaps in the community; training cannot supplant or compete with current training opportunities.
- Training may include work-based learning opportunities, classroom training or virtual training that addresses the skill gaps identified by employers in the community.
- Assisting individuals to connect to careers may include providing information and outreach on career education and workforce training opportunities and/or soft skill development.

Fund Availability

Innovation Grants are available for up to $25,000. Grantees may have more than one Innovation Grant project open. However, past performance will be reviewed and taken into consideration into future awards.
Applicants may apply for funding to serve more than one region. The budget for each region cannot exceed $25,000.

Applications

Applicants must provide at a minimum:

- A description of the need for the training and/or activities proposed in the project.
- A description of the populations targeted for the training and/or activities.
- A description of the community support and/or leveraged resources.

Reimbursable Expenditures

Innovation Grants are intended to support innovative approaches to workforce development. Applicants should propose reasonable budgets that directly support the project.

Contractual Terms

- Grant term is one year.
- Intellectual property, training curriculum and/or how-to guides may be retained by the Workforce Development Council to share with other partners statewide.

Performance Metrics

The return on investment shall be measured by:

- Number trained/impacted.
- Number receiving credential(s).
- Number of employers involved in project.
- Trainee/participant satisfaction.
- Employer satisfaction.
- Additional metrics proposed by applicant.
- If direct training is provided to adults, Council staff may require the grantee to collect social security numbers so that employment information can be tracked.

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Employer Grants

Eligibility

Idaho employers who are increasing their current workforce and/or retraining existing workers with skills necessary for specific economic opportunities or industrial expansion initiatives.

- Must be registered with the Secretary of State to do business in Idaho and be in "good standing".
- Entry level wage must be no lower than $12 per hour. Preference will be given for jobs that pay at or above the county average wage.
- Employer must provide a health benefit plan. “Health benefit plan” means:
    - any hospital or medical policy or certificate,
    - any subscriber contract provided by a hospital or professional service corporation, or managed care organization subscriber contract.

      Health benefit plan does not include:
        - Policies or certificates of insurance for specific disease,
        - Hospital confinement indemnity,
        - Accident-only, credit, dental, vision, medicare supplement, long term care or disability income insurance,
        - Student health benefits only coverage issued as a supplemental to liability insurance,
        - Workers compensation or similar insurance,
        - Automobile medical payment insurance,
        - Or nonrenewable short-term coverage issues for a period of twelve (12) months or less.

Exclusions

Temporary and contract positions do not qualify for training reimbursement.

- Employer training costs incurred during a temp-to-hire process with a temporary employment agency will become eligible for reimbursement at such time as the employee is hired into a full-time permanent position with the employer paying at least $12 per hour with employer assisted medical benefits. Temporary employees hired only to meet seasonal demand do not qualify as temp-to-hire.

Fund Availability

A quantitative funding model is used for validating eligibility and to determine the maximum amount of funding for training per job for new and retained jobs based on several weighted factors. The policy committee will review the quantitative funding model annually. If the applicant has received a WDTF grant previously, past performance will be reviewed and taken into consideration for future awards. Grantees may have only one Workforce Development Training Fund Employer grant open at a time.

Applications

Employer shall provide at a minimum:

- A description of the capital investments being made by the company and the need for training.
- A list of all positions and average wage.
- A training plan that includes the anticipated training vendor, training title, training description, skills attainment and cost. If the company provides internal training, the training must be a structured on-the-job training with a specific outline of the learning outcomes and how the effectiveness of the training will be measured.

Reimbursable Expenditures

WDTF grants may reimburse the following eligible expenses for training that provides transferrable skills gains or leads towards promotional opportunities:

- Training costs associated with vendor provided training including instructor wages, reasonable travel costs and materials.
- Training costs associated with structured internal training including instructor wages, reasonable travel costs and materials.

Expenditures that are not reimbursable:

- Employee onboarding,
- Wages paid to individuals receiving training.

Contractual Terms

- Grant period is for two years.
- Only Idaho taxable full-time, non-seasonal employees are eligible for reimbursement.
- Grantees are required to submit quarterly reports as delineated in the written contract. The quarterly report will include provision of the entire 9-digit social security number of the trainees/participants.
- The executive director of the Idaho Workforce Development Council is authorized to impose a claw back provision when they determine it to be in the best interest of the fund.

Performance Metrics

The return on investment shall be measured by:

- Number of employees trained.
- Wage gains at one-year post training.
- Employee retention (at the employer who trained them and/or another Idaho employer).
- Capital investment in expansion/technology updates that precipitated the grant.

Outreach Projects

Eligibility

Eligible applicants include:

- State Agencies
- Educational institutions
- Non-profit organizations
- Employers

Fund Availability

The Council approves an earmark of training funds annually for Outreach Projects. The Outreach committee will follow the proposal procedure to determine awards.

Proposals

Applicants must provide at a minimum:

- Organizational capacity resume.
- Resume or bio for the proposed project manager.
- Project timeline.
- Project description.
- Budget (including in-kind and matching funds).
- Description of how the project increases awareness of career opportunities for Idahoans.
- Break down of project audience reach.
- Anticipated outcomes.
- What metrics and reports will be delivered, and when.

Contractual Terms

- Project terms are up to 3 years.
- Data, metrics, and campaign assets may be retained by the Workforce Development Council to share with other partners statewide.

Performance Metrics

The return on investment shall be measured by:

- Number reached.
- Number engaged.
- Number recruited.
- If hard-to-reach individuals are engaged.
- Metrics identified in initial proposal.

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Statute: 72.1201.03 - Workforce Development Training Fund

From: https://legislature.idaho.gov/wp-content/uploads/statutesrules/idstat/Title72/T72CH12.pdf

TITLE 72
WORKER'S COMPENSATION AND RELATED LAWS — INDUSTRIAL COMMISSION
CHAPTER 12
WORKFORCE DEVELOPMENT COUNCIL

72-1201. CREATION OF WORKFORCE DEVELOPMENT COUNCIL — COMPOSITION — APPOINTMENT — EXECUTIVE DIRECTOR. (1) There is hereby established in the executive office of the governor the workforce development council. Members of the council and an executive director shall be appointed by and serve at the pleasure of the governor. The governor shall prescribe the structure, duties and functions of the council, which shall include but not be limited to the following:

(a) To serve as the state's coordinating body on matters related to workforce development policy and programs;

(b) To develop and provide oversight of procedures, criteria and performance measures for the workforce development training fund established under section 72-1203, Idaho Code; and

(c) To serve as the state workforce investment board in accordance with section 101 of the federal workforce innovation and opportunity act, 29 U.S.C. 3101 et seq., as amended, and federal regulations promulgated thereunder.

(2) The council may appoint special committees in connection with this section.

(3) The council may apply for and accept grants and contributions of funds from any public or private source.

(4) The executive director is authorized to hire and supervise support staff consistent with the mission and priorities of the council. The executive director shall be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho Code. Support staff shall be classified employees under the provisions of chapter 53, title 67, Idaho Code.

(5) Members of the council and any special committees who are not state employees shall be compensated for actual and necessary expenses as provided by section 59-509(b), Idaho Code.

History:

[72-1201, added 2018, ch. 47, sec. 1, p. 119.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title72/T72CH12/SECT72-1203/

TITLE 72
WORKER'S COMPENSATION AND RELATED LAWS — INDUSTRIAL COMMISSION
CHAPTER 12
WORKFORCE DEVELOPMENT COUNCIL

72-1203. 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 (7) 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 council.

(2) All moneys in the training fund are appropriated to the council 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 moneys available through existing training programs. The moneys in the training fund shall be used for the following purposes:

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

(b) To provide innovative training solutions to meet industry-specific workforce needs or local workforce challenges;

(c) To provide public information and outreach on career education and workforce training opportunities, including existing education and training programs and services not funded by the training fund; and

(d) For all administrative expenses incurred by the council, including those expenses 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), (b) and (c) of subsection (2) of this section shall be approved by the council based on procedures, criteria and performance measures established by the council.

(4) Expenditures from the training fund for purposes authorized in paragraph (d) of subsection (2) of this section shall be approved by the executive director. The executive director shall pay all approved expenditures as long as the training fund has a positive balance.

(5) The activities funded by the training fund will be coordinated with similar activities funded by the state division of career technical education.

(6) 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.

(7) 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-rated 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-rated employer. The training tax shall be due and payable at the same time and in the same manner as contributions.

(8) The provisions of chapter 13, title 72, Idaho Code, 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, methods of payment, penalties, interest, costs, liens, injunctive relief, collection procedures and refund procedures. The director of the department of labor is granted all rights, authority and prerogatives necessary to administer the provisions of this subsection. Moneys collected from an employer delinquent in paying the training tax shall first be applied to any penalties and interest imposed pursuant to the provisions of chapter 13, title 72, Idaho Code, and then pro rata to the training fund established in subsection (1) of this section. Any penalties and interest collected pursuant to this subsection shall be paid into the state employment security administrative and reimbursement fund, section 72-1348, Idaho Code, and any penalties or interest refunded under this subsection shall be paid from 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. The director of the department of labor may authorize refunds of training taxes erroneously collected and deposited in the training fund.

History:

[72-1203, added 2018, ch. 47, sec. 1, p. 119.]

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BUSINESS ADVANTAGE

IDAHO SMALL EMPLOYER INCENTIVE ACT

Incentive Package

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

To qualify:

- The business must create at least 10 new jobs each paying $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, 2030.

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Administrative Rules: 35.01.01.940-946 Idaho Small Employer Incentive Act

IDAPA 35
TITLE 01
CHAPTER 01
Section 940-946

940. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: DEFINITIONS (RULE 940).
Title 63, Chapter 44, Idaho Code. For purposes of administering the Idaho Small Employer Incentive Act of 2005, as modified by 2006 legislation, and Rules 940 through 946 of these rules, the following definitions apply: (3-30-07)

01. Buildings and Structural Components. Buildings and structural components shall 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. (3-30-07)

02. New Plant and Building Facilities. New plant and building facilities are facilities where employees are physically employed. (3-30-07)

3. Investment in New Plant. Investment in new plant shall mean new plant and building facilities: (3-30-07)

a. That are constructed or erected by the taxpayer, or (3-30-07)

b. That are acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition shall not qualify as new plant. (3-30-07)

c. That qualify for the investment tax credit under Section 63-3029B, Idaho Code, or is a building or structural components of buildings. (3-30-07)

04. Making Capital Investments. The date capital investments are considered made shall be determined in the same manner as the date assets are considered placed in service pursuant to the federal treasury regulations. (3-30-07)

05. New Employee. A new employee cannot be created by reorganizing the business in such a manner that the employee is reassigned to working in the project site instead of outside the project site. An employee within Idaho transferred to a qualifying position within the project site may qualify as a new employee if his previous position is filled by another employee creating a net new job in Idaho. An employee working outside of Idaho and transferred to a qualifying position within the project site may also qualify as a new employee. (3-30-07)

06. Project Period. The project period is a period of time that begins and ends as follows: (3-30-07)

a. The project period may begin on one (1) of the following dates, but not prior to January 1, 2006: (3-29-10)

i. The date of a physical change to the project site; or (3-30-07)

ii. The date new employees begin providing personal services at the project site. (3-30-07)

b. The project period shall end at the earliest of: (3-29-10)

i. The conclusion of the project, (3-29-10)

ii. Ten (10) years after the beginning of the project; or (3-29-10)

iii. December 31, 2030. (3-29-10)

07. Project Site. The project site may include one (1) location or more than one (1) location in Idaho. However, if more than one (1) location in Idaho is used, eighty percent (80%) or more of the investment required in the tax incentive criteria shall be located at one (1) contiguous site. (3-30-07)

08. Small Employer Investment Tax Credit. Small employer investment tax credit shall mean the additional income tax credit allowed by Section 63-4403, Idaho Code. (3-30-07)

09. Small Employer New Jobs Tax Credit. Small employer new jobs tax credit shall mean the additional income tax credit for new jobs allowed by Section 63-4405, Idaho Code. (3-30-07)

10. Small Employer Real Property Improvement Tax Credit. Small employer real property improvement tax credit shall mean the real property improvement tax credit allowed by Section 63-4404, Idaho Code. (3-30-07)

11. Small Employer Tax Incentive Criteria. Small employer tax incentive criteria shall mean the tax incentive criteria defined in Section 63-4402(2)(j), Idaho Code. See Rule 942 of these rules for more information. (3-30-07)

12. Small Employer Tax Incentives. Small employer tax incentives shall mean the tax incentives allowed by Title 63, Chapter 44, Idaho Code. (3-30-07)

941. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: IN GENERAL (RULE 941).

Sections 63-4401 and 63-4406, Idaho Code

01. Pass-Through Entities. The income tax credits 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 credits, for pass-through entities paying tax, and the application of limitations on passthrough credits. (3-30-07)

02. Reorganizations, Mergers and Liquidations. The small employer investment tax credit and rea property improvement tax credits shall be subject to recapture in accordance with Section 47, Internal Revenue Code, as in effect prior to the enactment of Public Law 101-508. Exceptions included in Section 47(b), Internal Revenue Code, to the general recapture rules, including a mere change in the form of conducting the trade or business and transactions to which Section 381(a), Internal Revenue Code, applies shall not cause recapture to occur so long as the property is retained in such trade or business as qualified investment in new plant and the taxpayer retains a substantial interest in such trade or business. To the extent that provisions of the Internal Revenue Code allow an acquiring taxpayer to succeed to and take into account unused investment credits of the distributor or transferor taxpayer, such provisions shall apply to the acquiring taxpayer with regard to any unused Idaho small employer investment tax credits and real property improvement tax credits. See Rule 946 of these rules for information related to the recapture required by an acquiring taxpayer. (3-30-07)

03. Relocations. The relocation from one (1) project site to a new project site within the state may not create new eligibility for the current or any succeeding business entity. (3-30-07)

04. Unitary Taxpayers. A corporation included as a member of a unitary group may elect to share the small employer investment tax credit, real property improvement tax credit, and new jobs tax credit it earns with

other members of the unitary group. Before the corporation may share the credit, it must claim the credit to the extent allowable against its tax liability. The credit available to be shared is the amount of each credit carryover and credit earned for the taxable year that exceeds the limitations provided for each credit. 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 carryforward. (3-30-07)

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.

1. 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)

943. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER INVESTMENT TAX CREDIT (RULE 943).
Sections 63-4403 and 63-4406, Idaho Code

01. Credit Allowed. (3-30-07)
a. The small employer investment tax credit allowed by Section 63-4403, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 2030. (3-29-10)
b. The credit applies to qualified investments placed in service during the project period. Qualified investments placed in service during the project period, but in a taxable year that does not qualify, shall not qualify for the small employer investment tax credit, but may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, the qualified investments placed in service during that taxable year shall not qualify for the small employer investment tax credit, but may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (3-30-07)
02. Taxpayers Entitled to the Credit. The small employer investment tax credit is allowed only to taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)
03. Qualified Investments. (3-30-07)
a. Investments in new plant must meet the definition of qualified investments found in Section 63-3029B, Idaho Code, and requirements of Rules 710 through 719 of these rules, in addition to the requirements of Section 63-4403, Idaho Code, and related rules to qualify as qualified investments. (3-30-07)
b. Qualified investments must be placed in service in Idaho, but may be located in or outside the project site to qualify. (3-30-07)

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

a. The small employer investment tax credit claimed during a taxable year may not exceed the lesser of: (3-30-07)
i. Seven hundred fifty thousand dollars ($750,000); or (3-30-07)
ii. 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 investment 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)

05. Carryovers. The carryover period for the small employer investment tax credit is fourteen (14) years (3-30-07)

06. Coordination With Investment Tax Credit Allowed by Title 63, Chapter 30, Idaho Code. A taxpayer who is eligible to claim the small employer investment tax credit is not eligible to claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. However, if a taxpayer has qualified investments in a taxable year in which the project period begins or ends, the taxpayer may qualify for both the small employer investment tax credit on property placed in service during the project period in that taxable year and for the investment tax credit allowed by Section 63-3029B, Idaho Code, for property placed in service before or after the project period in that taxable year. (3-30-07)

944. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER REAL PROPERTY IMPROVEMENT TAX CREDIT (RULE 944).

Sections 63-4404 and 63-4406, Idaho Code

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

a. The small employer real property improvement tax credit allowed by Section 63-4404, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 2030. (3-29-10)

b. The credit applies to buildings and structural components of buildings placed in service during the project period. Qualified investments placed in service during the project period, but in a taxable year that does not qualify, shall not qualify for the small employer real property improvement tax credit. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, the buildings and structural components placed in service during that taxable year shall not qualify for the small employer real property improvement tax credit. (3-30-07)

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

03. Buildings and Structural Components of Buildings. (3-30-07)

a. To qualify for the small employer real property improvement tax credit, buildings and structural components of buildings must meet the following requirements: (3-30-07)

i. The buildings and structural components of buildings must be new as defined in Subsection 940.03 of these rules. Structural components placed in service as part of a renovation of an existing building do not qualify. (3-30-07)

ii. The buildings and structural components of buildings must be placed in service at the project site. (3-30-07)

b. Buildings and structural components of buildings that meet the definition of qualified investments pursuant to Section 63-3029B, Idaho Code, shall not qualify for the small employer real property improvement tax credit. (3-30-07)

04. Limitations. The small employer real property improvement tax credit allowable in any taxable year shall be limited as follows: (3-30-07)

a. The small employer real property improvement tax credit claimed during a taxable year may not exceed the lesser of: (3-30-07)

i. One hundred twenty-five thousand dollars ($125,000); or (3-30-07)

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the small employer real property improvement 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)

05. Carryovers. The carryover period for the small employer real property improvement tax credit is fourteen (14) years.

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

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, 2030. (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)

946. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: RECAPTURE (RULE 946).
Section 63-4407, Idaho Code

01. Failure to Meet Tax Incentive Criteria. If a taxpayer fails to meet the small employer tax incentive criteria, the full amount of the small employer investment tax credit, real property improvement tax credit and new jobs tax credit claimed in any taxable year shall be recaptured. (3-30-07)

02. Year Deficiency Occurs. Recapture shall be a deficiency in tax in the taxable year when the disqualification first occurs. For investment in new plant, disqualification occurs when the property is disposed of or otherwise ceases to qualify. For new employees, disqualification occurs when the average number of qualifying employees for a taxable year in the recapture period falls below the average number of qualifying employees for the year in which the credit was earned in Section 63-4405, Idaho Code. (4-2-08)

03. Early Disposition of Investment in New Plant. (3-30-07)

a. If an investment in new plant is disposed of, or otherwise ceases to qualify, prior to the close of the recapture period, the recapture amount shall be computed by multiplying the credit earned by the applicable recapture percentage. (3-30-07)

b. The recapture percentage shall be determined as follows. If the property is disposed of or ceases to qualify within: (3-30-07)

i. One (1) full year or less from the date the property was placed in service, one hundred percent (100%) shall be used; (3-30-07)

ii. Two (2) full years or less, but more than one (1) full year from the date the property was placed in service, eighty percent (80%) shall be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the property was placed in service, sixty percent (60%) shall be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the property was placed in service, forty percent (40%) shall be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the property was placed in service, twenty percent (20%) shall be used. (3-30-07)

04. Failure to Maintain Increased Employment. (3-30-07)

a. If the average number of qualifying employees for the taxable year in which the credit was earned in Section 63-4405, Idaho Code, is not maintained for the entire recapture period, the recapture amount shall be computed by multiplying the credit earned by the applicable recapture percentage. (4-2-08)

b. The recapture percentage shall be determined as follows. If the level of employment is maintained: (4-2-08)

i. One (1) full year or less from the date the project period ends, one hundred percent (100%) shall be used; (3-30-07)

ii. Two (2) full years or less, but more than one (1) full year from the date the project period ends, eighty percent (80%) shall be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the project period ends, sixty percent (60%) shall be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the project period ends, forty percent (40%) shall be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the project period ends, twenty percent (20%) shall be used. (3-30-07)

c. Recapture shall not be required if a new employee is replaced by another employee who performs the same duties as the previous employee at a wage rate that would have resulted in the same amount of credit being earned. (3-30-07)

05. Reorganizations, Mergers and Liquidations. (3-30-07)

a. If the investment in new plant is disposed of or otherwise ceases to qualify before the close of the recapture period while in the hands of an acquiring taxpayer who succeeded to unused small employer investment tax credit or small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the acquiring taxpayer shall be responsible for any recapture that would have been applicable to the transferor. (3-30-07)

b. For purposes of computing the recapture when an acquiring taxpayer succeeded to unused small employer investment tax credit and small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the recapture period shall begin with the date on which the property was placed in service by the transferor taxpayer and shall end with the date of the disposition by, or cessation with respect to, the acquiring taxpayer. (3-30-07)

947. -- 999.(RESERVED)

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Statute: 63-4401.-09. The Idaho Small Employer Incentive Act

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4401/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4401. SHORT TITLE. This chapter shall be known and may be cited as "The Idaho Small Employer Incentive Act of 2005."

History:

[63-4401, added 2005, ch. 370, sec. 1, p. 1178; am. 2008, ch. 390, sec. 3, p. 1073.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4402/

TITLE 63
REVENUE AND TAXATION
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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 business entity, 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 business entity, during any taxable year for a business

entity 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. In the event the business is in operation for less than the entire taxable year, the number of employees of the business entity 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 are met.

(iii) Existing employees of the business entity who obtain new qualifying positions within the project site and employees transferred from a related business entity or acquired as part of the acquisition of a trade or business from another business entity 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, 2030, 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.

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 business entity meeting at a project site the requirements of subparagraphs (i) and (ii) of this paragraph.

(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 business entity's taxable year.

2. Employment increases above the ten (10) new employees described in subparagraph (ii)1. of this paragraph at the project site shall on average earn at least fifteen dollars and fifty cents ($15.50) per hour worked during the business entity'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 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 during the remainder of the project period.

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

(i) A single taxpayer; or

(ii) 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 purposes 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 a separate division, branch, or identifiable segment could be separately ascertained from the books of accounts and records.

History:

[63-4402, added 2005, ch. 370, sec. 1, p. 1179; am. 2006, ch. 314, sec. 1, p. 974; am. 2007, ch. 360, sec. 25, p. 1087; am. 2008, ch. 90, sec. 1, p. 250; am. 2009, ch. 191, sec. 1, p. 622; am. 2020, ch. 243, sec. 1, p. 710.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4403/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4403. ADDITIONAL INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) For taxable years beginning on or after January 1, 2006, and before December 31, 2030, 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, 2030, 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.

History:

[63-4403, added 2005, ch. 370, sec. 1, p. 1181; am. 2006, ch. 314, sec. 2, p. 977; am. 2009, ch. 191, sec. 2, p. 623; am. 2010, ch. 44, sec. 3, p. 82; am. 2020, ch. 243, sec. 2, p. 713.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4404/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4404. REAL PROPERTY IMPROVEMENT TAX CREDIT. (1) For taxable years beginning on or after January 1, 2006, and before December 31, 2030, 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.

History:

[63-4404, added 2005, ch. 370, sec. 1, p. 1181; am. 2006, ch. 314, sec. 3, p. 977; am. 2009, ch. 191, sec. 3, p. 624; am. 2020, ch. 243, sec. 3, p. 713.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4405/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

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, 2030, 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.

History:

[63-4405, added 2005, ch. 370, sec. 1, p. 1182; am. 2006, ch. 314, sec. 4, p. 978; am. 2009, ch. 191, sec. 4, p. 624; am. 2011, ch. 318, sec. 4, p. 928; am. 2020, ch. 243, sec. 4, p. 713.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4406/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

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.

History:

[63-4406, added 2005, ch. 370, sec. 1, p. 1182; am. 2006, ch. 195, sec. 7, p. 609; am. 2008, ch. 390, sec. 4, p. 1073.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4407/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

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.

History:

[63-4407, added 2005, ch. 370, sec. 1, p. 1183; am. 2007, ch. 10, sec. 5, p. 18.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4408/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4408. SALES AND USE TAX INCENTIVES — REBATES — RECAPTURE. (1) For calendar years beginning on January 1, 2006, and ending on December 31, 2030, 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;

(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.

Any recapture required by paragraph (b) or (c) of this subsection 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.

History:

[63-4408, added 2005, ch. 370, sec. 1, p. 1184; am. 2006, ch. 314, sec. 5, p. 979; am. 2009, ch. 191, sec. 5, p. 625; am. 2020, ch. 243, sec. 5, p. 714.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH44/SECT63-4409/

TITLE 63
REVENUE AND TAXATION
CHAPTER 44
THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4409. ADMINISTRATION. (1) 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.

(2) Within thirty (30) days after filing form 89SE with the commission to notify of the intent to claim credits associated with the provisions of this chapter, a business entity shall provide a written notice of the filing to the department of commerce.

History:

[63-4409, added 2005, ch. 370, sec. 1, p. 1184; am. 2020, ch. 243, sec. 6, p. 715.]

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Form 83: Idaho Small Employer Investment Tax Credit

From: https://tax.idaho.gov/taxes/income-tax/business-income/forms/0011_08-26-2019.pdf

IDAHO State Tax Commission

Form 83
Small Employer Investment Tax Credit

2022

Names as shown on return	Social Security number or EIN

Qualifying for the Credit

You can claim the small employer investment tax credit if you've certified on Form 89SE that you'll meet all the following tax incentive criteria at the project site during the project period:

- Capital investment in new plant and building facilities of at least $500,000
- Increased employment by at least 10 new employees, each earning at least $19.23 per hour and receiving health benefits
- 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 instructions for who's included in this calculation.

If you haven't filed Form 89SE with the Tax Commission or have been notified that you don't qualify for the small employer incentives, you don't 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 you claimed the property tax exemption for. Include Form 49E	2	
3. Subtract line 2 from line 1. This is the amount of qualified investments you may earn the small employer investment tax credit on	3	
4. Credit earned. Multiply line 3 by 3.75%	4	
5. Pass-through share of credit from an S corporation, partnership, trust, or estate	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 2022. Enter the amount from Form 83R, line 13. Include Form 83R	8	
9. Credit distributed to shareholders, partners, or beneficiaries	9	
10. Credit shared with unitary affiliates	10	
11. Total credit available subject to limitations. Add lines 4 through 7, then subtract lines 8 through 10	11	

12. Enter the Idaho income tax from your tax return			12
13. Credit for income tax paid to other states	13		
14. Credit for contributions to Idaho educational entities	14		
15. Investment tax credit. Include Form 49	15		
16. Credit for contributions to Idaho youth and rehabilitation facilities	16		
17. Credit for production equipment using post-consumer waste	17		
18. Promoter-sponsored event credit	18		
19. Credit for Idaho research activities from Form 67, line 29	19		
20. Broadband equipment investment credit from Form 68, line 18	20		
21. Reserved	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 smaller amount from lines 23, 24, or 25 here and on Form 44, Part I, line 6			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	28	
29. Credit carryover to future years. Subtract line 28 from line 27. Enter the amount here and on Form 44, Part I, line 6	29	

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IDAHO State Tax Commission

Form 83 — Instructions
Small Employer Investment Tax Credit

2022

General Instructions

Use Form 83 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're claiming the SE-ITC, you can't claim the ITC on the same property.

Qualifying Taxpayers

To qualify for the SE-ITC, you must certify by filing Form 89SE that you'll 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've been notified that you don't qualify for the small employer incentives, you can't claim this credit. If you don't qualify for the SE-ITC, you may be eligible to claim the ITC. See Idaho Form 49.

Qualifying Property

If you're a qualifying taxpayer, property that would qualify for the ITC qualifies for the SE-ITC. The property doesn't 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 before 1986. The property must have a useful life of three years or more and be property you're allowed to depreciate or amortize. 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 doesn't 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. (This doesn't 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 IRC Section 179
- Used property not acquired by purchase
- Property that's either nondepreciable or has a useful life of less than three years
- The portion of property used for personal use
- Used property in excess of $150,000 (total of all properties)
- 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
- Vehicles under 8,000 pounds gross vehicle weight

Property Used Both In and Outside of Idaho

If property is used both in and outside Idaho, compute the qualified investment for all 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. Use can be measured by machine hours, mileage, or any other method that accurately reflects the use.
2. Property Factor Numerator Method – Use the amount included in the Idaho property numerator for each asset.

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 Instead of ITC

If you placed personal property in service that qualifies for the ITC, you may elect to exempt this property from your property tax. You aren't 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 can't 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 tax year before the tax year when the property was placed in service. Negative Idaho taxable income must have been computed without any carryover or carryback of net operating losses.

Make the election on Form 49E and file it with the operator's statement or personal property declaration. Include a copy of the election form with the original income tax returns for the tax years when the property was placed in service.

Recapture

Compute recapture if you sell or otherwise dispose of the property or it no longer qualifies for the SE-ITC before it's been in service for five full years.

Compute recapture if you claimed the SE-ITC in an earlier year and didn't 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 and placed in service during the tax year that qualifies for the SE-ITC. List each item of property and its location, your basis in the item, whether the item is new or used, and the date placed in service. Don't 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 instead of earning the SE-ITC. Include applicable Forms 49E.

Line 5. Enter the amount of the SE-ITC that's being passed through by S corporations, partnerships, trusts, or estates in which you have an interest. This amount is reported on Form ID K-1, Part VII, line 47 or Form ID K-1, Part XI, line 70 (ABE).

Line 6. If you're 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 2021 Form 83, line 29.

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

Line 10. If you're 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 the shared credit and the computation of any credit carryovers.

Credit Limitations

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

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

1. Credit for income 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 post-consumer waste

6. Promoter-sponsored event credit
7. Credit for Idaho research activities
8. Broadband equipment investment credit

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

Line 13. Enter the credit for income tax paid to other states from Form 39R, Form 39NR, or Form 66. This credit is available only to individuals, trusts, or estates.

Line 26. Enter the smallest amount from lines 23, 24, or 25 on line 26. Enter this amount on Form 44, Part I, line 6 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 can be carried forward up to 14 tax years. Enter this amount on Form 44, Part I, line 6 in the Carryover column.

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Form 84: Idaho Small Employer Real Property Improvement Tax Credit

From: https://tax.idaho.gov/taxes/income-tax/business-income/forms/

IDAHO State Tax Commission

Form 84
Small Employer Real Property Improvement Tax Credit

2022

Names as shown on return	Social Security number or EIN

Qualifying for the Credit

You can claim the small employer real property improvement tax credit if you've certified on Form 89SE that you'll meet all the following tax incentive criteria at the project site during the project period:

- Capital investment in new plant and building facilities of at least $500,000
- Increased employment by at least 10 new employees, each earning at least $19.23 per hour and receiving health benefits.
- 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 instructions for who's included in this calculation.

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

Credit Available Subject to Limitation

1. Amount of investments in new plant and building facilities acquired during the tax year. Don't 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 an S corporation, partnership, trust, or estate	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 2022. Enter the amount from Form 84R, line 13. Include Form 84R	6	
7. Credit distributed to shareholders, partners, or beneficiaries	7	
8. Credit shared with unitary affiliates	8	
9. Total credit available subject to limitations. Add lines 2 through 5, then subtract lines 6 through 8	9	

10. Enter the Idaho income tax from your tax return			10	
11. Credit for income tax paid to other states	11			
12. Credit for contributions to Idaho educational entities	12			
13. Investment tax credit from Form 49, Part II, line 8	13			
14. Credit for contributions to Idaho youth and rehabilitation facilities	14			
15. Credit for production equipment using post-consumer waste	15			
16. Promoter-sponsored event credit	16			
17. Credit for Idaho research activities from Form 67, line 29	17			
18. Broadband equipment investment credit from Form 68, line 18	18			
19. Reserved	19			
20. Small employer investment tax credit from Form 83, line 28	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 7			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	26	
27. Credit carryover to future years. Subtract line 26 from line 25. Enter the amount here and on Form 44, Part I, line 7	27	

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IDAHO State Tax Commission

Form 84 — Instructions
Small Employer Real Property Improvement Tax Credit

2022

General Instructions

Use Form 84 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'll 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've been notified that you don't qualify for the small employer incentives, you can't claim this credit.

Qualifying Property

If you're a qualifying taxpayer, the SE-RPITC is allowed on buildings and structural components of buildings that don't 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 doesn't 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, to provide shelter or housing or to provide working office or parking space.

Structural components include parts of a building such as:

- Walls
- Partitions
- Floors
- 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
- Electrical wiring and lighting fixtures
- Chimneys
- Stairs, escalators, and elevators
- Sprinkler systems
- Fire escapes
- 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

Compute recapture if you sell or otherwise dispose of the property or it no longer qualifies for the SE-RPITC before it's been in service for five full years.

In addition, compute recapture if you claimed the SE-RPITC in an earlier year and don't 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 and placed in service during the tax year that qualifies for the SE-RPITC. List each item of property and its location, your basis in the item, and the date placed in service. Don't include any property placed in service before the date the project period began.

Line 3. Enter the amount of the SE-RPITC that's being passed through by S corporations, partnerships, trusts, or estates you have an interest in. This amount is from Form ID K-1, Part VII, line 48 or Form ID K-1, Part XI, line 71 (ABE).

Line 4. If you're 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 2021 Form 84, line 27.

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

Line 8. If you're 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 the 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 the shared credit and the computation of any credit carryovers.

Credit Limitations

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 income 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 post-consumer waste
6. Promoter-sponsored event credit
7. Credit for Idaho research activities
8. Broadband equipment investment credit
9. Small employer investment tax credit

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

Line 11. Enter the credit for income tax paid to other states from Form 39R, Form 39NR or Form 66. This credit is available only to individuals, trusts, or estates.

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

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 24. Enter the smaller amount from lines 22 or 23 here and on Form 44, Part I, line 7, 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 7 in the Carryover column.

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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

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 income 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 post-consumer waste
6. Promoter-sponsored event credit
7. Credit for Idaho research activities
8. Broadband equipment investment credit
9. Small employer investment tax credit

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

Line 11. Enter the credit for income tax paid to other states from Form 39R, Form 39NR or Form 66. This credit is available only to individuals, trusts or estates.

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

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 24. Enter the smaller amount from lines 22 or 23 here and on Form 44, Part I, line 7, 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 7 in the Carryover column.

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Form 85: Idaho Small Employer New Jobs Tax Credit

From: https://tax.idaho.gov/taxes/income-tax/business-income/forms/

IDAHO State Tax Commission

Form 85
Small Employer New Jobs Tax Credit

2022

Names as shown on return	Social Security number or EIN

Qualifying for the Credit

You can claim the small employer new jobs tax credit if you've certified on Form 89SE that you'll meet all the following tax incentive criteria at the project site during the project period:

- Capital investment in new plant and building facilities of at least $500,000
- Increased employment by at least 10 new employees, each earning at least $19.23 per hour and receiving health benefits
- 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 instructions for who's included in this calculation.

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

Credit Available Subject to Limitation

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 an S corporation, partnership, trust, or estate		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 2022. Enter the amount from Form 85R, line 11. Include Form 85R		14
15.	Credit distributed to shareholders, partners, or beneficiaries		15
16.	Credit shared with unitary affiliates		16
17.	Total credit available subject to limitations. Add lines 10 through 13, then subtract lines 14 through 16		17

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18.	Enter the Idaho income tax from your tax return		18	
19.	Credit for income tax paid to other states	19		
20.	Credit for contributions to Idaho educational entities	20		
21.	Investment tax credit from Form 49, Part II, line 8	21		
22.	Credit for contributions to Idaho youth and rehabilitation facilities	22		
23.	Credit for production equipment using post-consumer waste	23		
24.	Promoter-sponsored event credit	24		
25.	Credit for Idaho research activities from Form 67, line 29	25		
26.	Broadband equipment investment credit from Form 68, line 18	26		
27.	Reserved	27		
28.	Small employer investment tax credit from Form 83, line 28	28		
29.	Small employer real property improvement tax credit from Form 84, line 26	29		
30.	Add lines 19 through 29		30	
31.	Tax available after other credits. Subtract line 30 from line 18		31	
32.	Multiply line 18 by 62.5%		32	
33.	Total credit allowed on current year tax return. Enter the smaller amount from lines 17, 31 or 32 here and on Form 44, Part I, line 8		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	35	
36.	Credit carryover to future years. Subtract line 35 from line 34. Enter the amount here and on Form 44, Part I, line 8	36	

IDAHO State Tax Commission

Form 85 — Instructions
Small Employer New Jobs Tax Credit

2022

General Instructions

Use Form 85 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'll 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've 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 worked and
- Have worked a minimum of nine months during the tax year in which the credit is claimed

Calculating the Credit

Use the Employer Quarterly Unemployment Insurance Tax Reports and the Unemployment Insurance Wage Reports filed with the Idaho Department of Labor to compute the number of employees. 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 at the project site. 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 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. 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

To determine the credit allowed, each qualifying new employee must be identified based on their annual salary 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

Compute recapture if you don't maintain the required level of qualified new employees for five full years from the date the project period ends.

Also, compute recapture if you claimed the SE-NJTC in an earlier year and don't 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's more than one, the number is rounded down to the nearest whole number.

Line 5. To compute lines 5a through 5d, identify each individual who's a qualifying new employee and the annual average salary that the individual earned during the tax year. 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's being passed through by S corporations, partnerships, trusts, or estates in which you have an interest. Report this amount on Form ID K-1, Part VII, line 49 or Form ID K-1, Part XI, line 72 (ABE).

Line 12. If you're 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 2021 Form 85, line 36.

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

Line 16. If you're 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 the 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

The SE-NJTC is limited to the smaller of 62.5% of the 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 income 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 post-consumer waste
6. Promoter-sponsored event credit
7. Credit for Idaho research activities
8. Broadband equipment investment credit
9. Small employer investment tax credit
10. 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 income tax paid to other states from Forms 39R, 39NR, or 66. This credit is available only to individuals, trusts or estates.

Line 33. Enter the smallest amount from lines 17, 31, or 32 on line 33. Enter this amount on Form 44, Part I, line 8 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 8 in the Carryover column.

Contact us:
In the Boise area: (208) 334-7660 | Toll free: (800) 972-7660
Hearing impaired (TDD) (800) 377-3529
tax.idaho.gov/contact

Form 89SE: Certification for Idaho's Small Employer Tax Incentives

From: https://tax.idaho.gov/forms/EFO00044_09-23-2020.pdf

IDAHO State Tax Commission

Form 89SE
Certification for Idaho's Small Employer Tax Incentives

Business name			Federal Employer Identification Number (EIN)
Current business mailing address			Contact person and title
City	State	ZIP Code	Phone number of contact person

Qualifying for the Incentives

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

- Capital investment in new plant and building facilities of at least $500,000
- Increased employment by at least 10 new employees who each earn at least $19.23 per hour worked and receive health benefits
- 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 instructions for who's 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. If you don't provide the requested information, the Tax Commission may disallow 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 can't be earlier than January 1, 2006.

3. **Estimated/actual end date of project.** The project period can't be longer than 10 years or end later than December 31, 2030.

4. **Location of the project sites.** 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 investments 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 Research
Idaho State Tax Commission
PO Box 36
Boise ID 83722-0410

Mail copy to: Idaho Department of Commerce
700 W State St
PO Box 83720
Boise ID 83720-0093

or

Fax to: Tax Research
(208) 334-7690

Fax copy to: Idaho Commerce
(208) 334-2631

IDAHO State Tax Commission

Form 89SE — Instructions
Certification for Idaho's Small Employer Tax Incentives

General Instructions

File Form 89SE before claiming any incentives allowed by the Idaho Small Employer Incentive Act. Include a copy of Form 89SE with your Idaho income tax return for each tax year that you're claiming or carrying over the incentives.

Tax Incentive Criteria

To qualify, you must certify that you've met or will meet all of 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 worked
- If your new employment increased by more than the 10 new employees, these additional employees must earn an average of at least $15.50 per hour worked during your tax year. Don't include the wages of employees earning more than $48.08 per hour.

Project Site

This is the location of new plant and building facilities owned or leased by the taxpayer. 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

This 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 can't begin before January 1, 2006.

The project period ends when all of the project's facilities are placed in service but no longer than 10 years or later than December 31, 2030.

New Plant and Building Facilities

This includes property that meets either the definition of qualifed 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 doesn't qualify. New property is property acquired or constructed by the taxpayer whose original use begins with the taxpayer after acquisition or construction. Original use means the first use of the property, whether or not that corresponds to the use of the property by the taxpayer. Property used by the taxpayer before its acquisition doesn't 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
- Meet the applicable wage requirements

For this purpose, earnings include income subject to Idaho income tax withholding but don't include stock options or restricted stock grants.

An existing employee of the taxpayer or a related taxpayer who's transferred to a new position at the project site won't qualify as a new employee unless the transfer results in a net new job in Idaho.

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

Tax Incentives

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

Recapture

If you certify you'll meet the tax incentive criteria and then don't meet that criteria, you'll be required to recapture the full amount of any incentives claimed.

You may need to recapture all or a portion of the incentives if you:

- Dispose of an investment in new plant or building facilities or it no longer qualifies before being held for five years from the date placed in service
- Don't maintain the required level of employment for five years from the date the project period ends or
- Don't 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 and Chapter 6, Section 606A

Incentive	Credit Rate	Limitations	Carryover
Investment Tax Credit (SE-ITC) Form 83	3.75% on qualified investment that's placed in service during the project period anywhere in Idaho. Credit is instead of earning the 3% ITC.	Can't exceed 62.5% of tax Can't 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 don't qualify for the ITC and are placed in service during the project period at the project site.	Can't 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.)	Can't 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 on 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 where 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.

Write your business name, address, federal Employer Identification Number, contact person and title and the contact person's phone number in the space at the top of the form.

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

Line 2. Enter the date the project started or will start. The start date can't 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 can't be longer than 10 years or later than December 31, 2030.

Line 4. For each project site, provide the street address. Include the percent of the 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 doesn't 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 doesn't 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 don't 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.

Mail original to:
Tax Research
Idaho State Tax Commission
PO Box 36
Boise ID 83722-0410

Or fax original to: (208) 334-7690

Mail copy to:
Idaho Department of Commerce
700 W State St
PO Box 83720
Boise ID 83720-0093

Or fax copy to: (208) 334-2631

Contact us:
In the Boise area: (208) 334-7660 | Toll free: (800) 972-7660
Hearing impaired (TDD) (800) 377-3529
tax.idaho.gov/contact

Form TCR: Sales Tax Refund Claim

From: https://tax.idaho.gov/forms/EFO00127_05-27-2009.pdf

FORM **TCR**
EFO00127
05-27-2009

Idaho State Tax Commission

SALES TAX REFUND CLAIM

Please read instructions on back

Please don't write in this space.	EC	RC

I. GENERAL INFORMATION

1. Federal Employer Identification Number	1a. Social Security number	2. Permit number

3. Legal name	3a. Doing business as (DBA name)

4. Mailing address

5. City	State	ZIP

6. Name of person to contact	Telephone number
	( )

II. DETAILS OF REFUND CLAIM

Check the box that best describes the reason for your refund request. Attach copies of invoices or documents supporting this claim.

A. ☐ Bad debts B. ☐ Bookkeeping errors C. ☐ Motor vehicle D. ☐ Other

Description of Refund Claimed	Tax Paid
Total Refund Requested:	

III. REFUND CLAIM

I request a sales tax refund for the reasons indicated above. If box C. or D. is checked, I have requested a refund of these taxes from the seller and been denied. If the refund request is $100 or more, I have attached either a letter from the seller refusing to refund the tax or other proof that shows I can't get a refund from the seller.

I certify that all statements I have made on this form are true and correct to the best of my knowledge. I understand that if I falsify this form, I may be subject to criminal prosecution.

Authorized signature	Title	Date

EFO00127p2
05-27-2009

Sales Tax Refund Claim Instructions

Use Form TCR to claim a refund of Idaho sales or use tax.

I. GENERAL INFORMATION

1. Enter your federal Employer Identification Number (EIN) if you're a sole proprietor (with employees), partnership, limited liability company, S-corporation, or corporation.

1a. Enter your Social Security number if you're an individual not in business or if you're a sole proprietor. For sole proprietors, we require your Social Security number even if you have a federal Employer Identification Number (EIN).

2. Enter your number if you have a withholding, sales, or use tax permit number with the Idaho State Tax Commission.

3. If you're an individual not in business or a sole proprietor, enter your legal name. If you're not an individual or a sole proprietor, enter the EXACT name of your business under which the federal Employer Identification Number (EIN) was issued.

3a. If your business operates under a name other than your personal name or legal business name, enter its "doing business as" (DBA) name.

4. Enter your mailing address.

5. Enter your city, state, and zip code.

6. Enter the name and telephone number of the person to be contacted for more information about your refund request. If this person is not you, please attach a Power of Attorney.

II. DETAILS OF REFUND CLAIM

Check the box that best describes the type of refund you are claiming. The Tax Commission will review all refund claims.

Box A - Bad debts: If you wrote off bad debts for sales tax, you can claim a refund or credit for them in the month you made the bad debt adjustment on your books, or you can make your claim within three years from the time you paid the tax to the Tax Commission. In the area marked "Description of Refund Claimed," you should include the invoice number and date, customer's name, and amount of tax that's financed and was or will be written off as a bad debt on your income tax return. Also, indicate the tax year of your income tax return on which the bad debt adjustment was or will be taken. Include copies of appropriate schedules, invoices, and supporting documents showing the bad debt adjustment. For more information on bad debts, see Idaho Sales & Use Tax Administrative Rule 63.

Box B - Bookkeeping errors: If you have an invoice that shows the bookkeeping error, please attach a copy of it. If you don't have an invoice of the error, please attach copies of figures as reported and as they should have been reported. For more information, see Idaho Sales & Use Tax Administrative Rule 117.

If you're a buyer who's applying for a refund for a motor vehicle or the category of "Other," you must first try to get a refund from the seller. If the refund request is $100 or more, you may apply to the Tax Commission for a refund only if the seller refuses in writing to refund the tax, or you provide proof that you can't get the refund from the seller.

Box C - Motor vehicle: If you paid tax in error on a motor vehicle or trailer purchase, check this box. Explain your request and attach a copy of the receipt showing the tax you paid. Enclose any proof showing the tax wasn't due or, if you paid tax to another state, attach proof of the tax payment.

Box D - Other: Attach all documents that support your refund claim.

Enter the total amount of the refund you're requesting. Sign and date this form. Remember to attach any required documents.

If you need help with this form, call the Tax Commission at 334-7660 in the Boise area or (800) 972-7660 toll free.

Mail to: Idaho State Tax Commission
PO Box 36
Boise ID 83722-0410

PROPERTY TAX
Non-Retail Facilities Property Tax Exemption
PROPERTY TAX EXEMPTION NEW OR EXISTING PLANT AND BUILDING FACILITIES

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

To Qualify:

- Businesses must meet the minimum required investment as established by the applicable Idaho County, an amount not less than five hundred thousand dollars ($500,000) in new non-retail facilities.
- Minimum required investment for consideration can vary by county.
- 80% of investment must be made at one location

Note: Land is not included in the tax exemption.

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Administrative Rules: 35.01.03.631 - Property Tax Exemption New or Existing Plant and Building Facilities

IDAPA 35
TITLE 01
CHAPTER 03
SECTION 631

631. TAX EXEMPTION FOR INVESTMENT IN NEW OR EXISTING PLANT AND BUILDING FACILITIES UPON COUNTY COMMISSIONERS' APPROVAL (RULE 631).

Section 63-602NN, Idaho Code

01. The Investment in Plant. In order to qualify for this exemption a taxpayer must invest at least the minimum required investment as established by county ordinance in new or existing plant or building facilities excluding the investment in land. (3-28-18)

a. Ordinance to establish the minimum required investment. The county commissioners must pass an ordinance to establish any minimum required investment amount of not less than five hundred thousand dollars ($500,000). Once passed, any minimum so established shall remain in place until superseded by another ordinance. (3-28-18)

b. Frequency of ordinances to establish minimum required investment. Any ordinance establishing a minimum required investment must remain in effect during the tax year in which it is first in effect. After that tax year, the county commissioners may provide a different required investment amount by passing a new ordinance. However, any agreement entered into under minimum investment criteria established by prior ordinance will be effective for the duration of the exemption time period granted. (3-28-18)

02. The Exemption. The board of county commissioners may agree to exempt all or a portion of the value of non-retail commercial and industrial real property improvements and associated personal property that would otherwise be in excess of the base value for property designated as the defined project for a period of up to five (5)years. Real property improvements owned or leased, and personal property owned, by the taxpayer applying for the exemption may be granted the exemption. Land is not eligible to be included in this exemption. (3-28-18)

a. Base value. The base value is the taxable value, as found on the property roll, subsequent property roll, or missed property roll, of the property associated with the plant investment for the tax year immediately preceding the first year in which the exemption is to be granted. This includes the taxable value of existing buildings and personal property but not the taxable value of land. (3-28-18)

b. Site improvements. Site improvements, which may add value to land, but are not otherwise categorized as improvements for property tax purposes, are not eligible for this exemption. (3-28-18)

c. Mixed use properties. Non-retail portions of any mixed use building or structure otherwise used for commercial or industrial purposes may qualify. (3-28-18)

d. Application. Except as provided in Paragraph 631.02.f. with respect to occupancy tax, the taxpayer must make application by April 15 of the first year for which the exemption is sought. Such application must be made with the county commissioners who have complete discretion to accept or deny the application. (3-28-18)

e. Agreement for exemption. The agreement granting the exemption shall be considered a contract arrangement between the county and the taxpayer for the exemption time period as granted by the county commissioners, not to exceed five (5) years. The amount of exemption as provided by the agreement may be any amount related to taxable value added due to the investment, to the extent the property's total taxable value before considering the exemption exceeds the base value and the increase in value is not associated with or due to an increase in land value. (3-28-18)

f. Occupancy tax. As provided in Section 63-602Z, Idaho Code, the exemption may apply to property subject to occupancy tax. Granting of the exemption from occupancy tax will not reduce the period during which the property tax exemption provided in Section 63-602NN, Idaho Code, may be granted. The April 15 application deadline is not applicable to exemption from occupancy tax, which may be granted any time during the year. (3-28-18)

03. Examples. The exemption applies only to plant or building facilities in which the required investment is to be made during the project period and that are located at the project site. The exemption may be applied to any value increases if these increases are directly attributable to the investment. See the following clarifying examples, all of which are based on the assumptions that the county has established five hundred thousand dollars ($500,000) as the required minimum amount of investment and the county enters into an agreement with the taxpayers for the period shown in the examples. (3-28-18)

a. A company chooses your community to tear down an existing facility and build a new manufacturing facility. Prior to the project, the base value is four million dollars ($4,000,000) which is comprised of the market value of the land three million dollars ($3,000,000) and the market value of the existing facility at one million dollars ($1,000,000), thus, the base value is one million dollars ($1,000,000). After construction, the land and facility have a taxable value of thirteen million dollars ($13,000,000), three million ($3,000,000) of which is the land value. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be nine million dollars ($9,000,000). (3-28-18)

b. An existing company chooses to expand and build a new processing line. Prior to the project, the base value of the existing building and land is twelve million dollars ($12,000,000). After the expansion project is complete, the new processing line increased the value of the building and land to sixteen million dollars ($16,000,000), with all of the increase in value attributed to the building. Providing all conditions of the agreement have been met and the commissioners previously agreed to a full exemption, the exempt amount will be four million dollars ($4,000,000). No portion of the original taxable value of twelve million dollars ($12,000,000) can be granted this exemption. (3-28-18)

c. A company purchases an existing building and land which are valued at eight million dollars ($8,000,000). The company will purchase new equipment in the amount of three million dollars ($3,000,000). After the investment is made, the existing land, building and equipment are now valued at twelve million dollars ($12,000,000). The additional one million dollars ($1,000,000) in building value is attributed to the contributory value of the investment. The investment did not add value to the land. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be four million dollars ($4,000,000). No portion of the original taxable value of eight million dollars ($8,000,000) can be granted this exemption. (3-28-18)

d. A company buys a building with a prior year's value of one million dollars ($1,000,000). The company makes application to the county commissioners requesting a full exemption for the next five (5) years for any increases in value that are directly related to its plan to invest in the facility. An agreement is reached whereby the taxpayer will be granted a limited exemption for the increase in market value up to two million dollars ($2,000,000) for three years. In the first year, the company invests two million dollars ($2,000,000) in the facility and the market value of the building increases to two million five hundred thousand dollars ($2,500,000) (not all of the investment contributes to market value). Providing all conditions of the agreement have been met, the first year exempt amount will be one million five hundred thousand dollars ($1,500,000). In year two (2), the company invests an additional eight hundred thousand dollars ($800,000) and the value of the building increases to three million three hundred thousand dollars ($3,300,000). The exemption in year two (2) will be two million dollars ($2,000,000). This is the difference between the original base value of one million dollars ($1,000,000) and the current value in year two (2), but is limited by the agreed-upon two million dollar ($2,000,000) maximum. In year three (3), the company makes additional investments and the building value increases to four million dollars ($4,000,000). The exemption in year three (3) is limited to two million dollars ($2,000,000) as provided in the original agreement. Beginning in year four (4), there will be no exemption allowed under the original agreement. (3-28-18)

04. Cross Reference. See Rule 802 of these rules for instructions relating to the valuation of new construction. (5-8-09)

Statute: 63-602NN. Property Exempt from Taxation — Certain Business Property.

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH6/SECT63-602NN/

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602NN. PROPERTY EXEMPT FROM TAXATION — CERTAIN BUSINESS PROPERTY. (1) Provided that there is a plant investment that meets all tax incentive criteria as defined in subsection (2) of this section, the board of county commissioners may exempt all or a part of the change from the base value attributable directly to the plant investment.

(2) As used in this section:

(a) "Base value" means the assessed value on the county's property rolls of property associated with the plant investment from the year immediately preceding the year representing the beginning of the project period during which a plant investment pursuant to this section occurs.

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

(c) "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.

(d) "Plant investment" means investment in new or existing plant and building facilities. Such plant and building facilities include buildings or structural components of buildings, related parking facilities, food service facilities, business office facilities and other building facilities directly related to the business making the plant investment. Plant investment also includes investments in the personal property associated with the plant and its facilities.

(e) "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.

(f) "Project site" means an area or areas at which the affected 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 affected 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 plant investment is made at one (1) of the areas.

(g) "Tax incentive criteria" means the following conditions:

(i) The board of county commissioners shall by ordinance establish an investment amount not less than five hundred thousand dollars ($500,000) at all project sites within the county for which the exemption and all exemptions thereafter granted shall apply, thereby providing uniformity to all taxpayers;

(ii) The plant investment will bring significant economic benefits to the county; and

(iii) The plant or building facilities will be for nonretail purposes that are either commercial or industrial.

(3) The board of county commissioners may grant the property tax exemption for 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. If, within the project period, the use or nature of the defined project or investment in the new plant changes such that the project would no longer qualify for the tax exemption, the board of county commissioners may unilaterally terminate the agreement and withdraw the tax exemption.

(4) When considering whether to grant the property tax exemption, the board of county commissioners may consider trade secrets, as defined in section 74-107(1), Idaho Code, in executive session as allowed in section 74-206(1)(d), Idaho Code.

(5) Before granting a property tax exemption under this section, the board of county commissioners shall hold a public meeting regarding whether to grant the exemption. The board of county commissioners shall provide a summary of the application under consideration, a written notice of the time, date and location of the public meeting, and an invitation to participate in the meeting to all affected taxing districts, urban renewal agencies and the Idaho department of commerce at least five (5) calendar days before the meeting.

(6) 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.

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

History:

[63-602NN, added 2008, ch. 327, sec. 1, p. 897; am. 2010, ch. 133, sec. 2, p. 284; am. 2017, ch. 263, sec. 1, p. 655.]

Business Advantage Property Tax Exemption

PROPERTY TAX EXEMPTION NEW OR EXISTING PLANT AND BUILDING FACILITIES

Businesses that qualify for the Idaho Small Employer Incentive Act (Business Advantage) may also qualify to have all or a part of their new investment value exempted from property taxes for a determined period of time. County Board of Equalization must approve.

To Qualify:

- The business must create at least 10 new jobs each paying $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.

Note: Land is not included in the tax exemption.

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH6/SECT63-606A/

TITLE 63
REVENUE AND TAXATION
CHAPTER 6
EXEMPTIONS FROM TAXATION

63-606A. SMALL EMPLOYER GROWTH INCENTIVE EXEMPTION. (1) The county board of equalization of any county in which any property, the investment in which qualifies for the income tax credits described in sections 63-4403 and 63-4404, Idaho Code, is located may exempt all or a portion of the value of such property from property taxation. The board may grant the exemption when it finds that the investments in such property benefit the citizens within the county and taxing districts within the county in a manner and to such a degree that to grant the exemption is necessary and just.

(2) 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.

(3) Applications for the exemption under this section shall be considered by the board as other applications for exemption under section 63-501, Idaho Code. Upon request of the board, the state tax commission may disclose to the board or county official designated by the board information necessary to identify and determine the property upon which the exemption may be granted.

History:

[63-606A, added 2005, ch. 370, sec. 2, p. 1185.]

Large Business Property Tax Exemption

TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS

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 subjects 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.

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Administrative Rules: 35.01.03.630 Tax Exemption for New Capital Investments

IDAPA 35
TITLE 01
CHAPTER 03
SECTION 630

630. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS (RULE 630).
Section 63-4502, Idaho Code

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 board of county commissioners containing the following information: (4-4-13)

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 board of county commissioners at any time after the qualifying period begins. However, if the notification is submitted after April 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. Submittal of the notification required hereunder shall constitute application for the exemption in compliance with Section 63-602, Idaho Code. Until the taxpayer meets all the requirements for the New Capital Investments Tax exemption, for each year after the first year in which the exemption is granted, the notice must identify the name and address of the taxpayer and the location of the project site, but does not need to provide additional information as required in Paragraph 630.01.a. of this rule. (4-4-13)

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. (4-4-13)

a. 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 at the conclusion of the qualifying period. (4-4-13)

b. In the event that, at any time during the project period, the taxpayer no longer intends to fulfill the qualified new capital investment requirements, the taxpayer must notify the county commissioners who shall notify the county assessor. Upon receipt of such notification, the property shall be taxable for the remainder of the year in which the notification is provided, pursuant to Section 63-602Y, Idaho Code. Failure of the taxpayer

to provide such notice does not prevent the county assessor from discovering the taxpayer's intent through alternate procedures and then notifying the county commissioners that the requirements for the exemption are no longer met. In such an instance, the taxpayer must be notified and may appeal loss of the exemption to the county board of equalization as provided in Section 63-501A, Idaho Code. (4-4-13)

05. Continuation of Tax Exemption Following the End of the Project Period. (4-4-13)

a. At any time during the qualifying period, but not later than ninety (90) days after the conclusion of the qualifying period, the taxpayer must provide notice to the county commissioners with sufficient evidence to prove that the required qualifying new capital investment has been made. (4-4-13)

b. Once the taxpayer has successfully met all the requirements pursuant to Section 63-4502, Idaho Code, and provided notice to the county commissioners pursuant to Paragraph 630.05.a. of this rule, the county commissioners shall notify the county assessor and taxpayer of the taxpayer's continuing qualification for the exemption for all years thereafter. The county assessor shall retain this notice. (4-4-13)

c. After the year in which the taxpayer has been notified of continuing qualification as provided in Paragraph 630.05.b. of this rule, the taxpayer must continue to notify the county annually to identify the property to be exempted pursuant to Subsection 630.05. Failure to make such notification will not invalidate the exemption; the county assessor must then apply the exemption against the assessed value of the taxpayer's highest value parcel within the county. (4-4-13)

06. 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. (3-29-12)

Statute: 63-4502. Tax Exemption for New Capital Investment

From: https://legislature.idaho.gov/statutesrules/idstat/title63/t63ch45/sect63-4502/

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

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, operating 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 with the issuance of a building permit for a permanent building structure at a project site and ending no later than eighty-four (84) months a thereafter.

(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, installed or constructed.

(3) The property included in the calculation for purposes of determining a qualifying new capital investment value shall include all real or operating 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.

History:
[63-4502, added 2008, ch. 234, sec. 1, p. 712; am. 2011, ch. 10, sec. 1, p. 22; am. 2018, ch. 151, sec. 1, p. 309.]

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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 more than $800 million.

Include all real property owned, all personal property owned, leased, or rented otherwise subject to property tax.

To qualify:

- The business must make a yearly capital investment of at least $25 million within that county.
- Employee 1,500 full-time workers within in the county.

Statute: 63-602HH. Property Exempt from Taxation – Significant Capital Investments

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH6/SECT63-602HH/

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.

History:
[63-602HH, added 2005, ch. 284, sec. 1, p. 922; am. 2006, ch. 59, sec. 1, p. 183.]

$250,000 Personal Property Tax Exemption

Personal property tax exemption on the first $250,000 of personal property, such as equipment and furnishings. Yearly exemption.

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)(a) On and after January 1, 2015, except as provided in subsection (8) of this section, each person’s personal property, located in the county, and not otherwise exempt, shall be exempt to the extent of one hundred thousand dollars ($100,000).

(b) On and after January 1, 2022, except as provided in subsection (8) of this section, each person’s personal property, located in the county, and not otherwise exempt, shall be exempt to the extent of an additional amount of one hundred fifty thousand dollars ($150,000). The combined exemption under this paragraph and paragraph (a) of this subsection shall not exceed a total amount of two hundred fifty thousand dollars ($250,000).

(c) For the purposes of this section, a person includes two (2) or more people using the property in a common enterprise who are within a relationship described in section 267 of the Internal Revenue Code, as defined in section 63-3004, Idaho Code.

(d) On and after January 1, 2022, any locally assessed personal property is exempt from taxation if it is:

(i) Self-propelled, self-powered, or pull-type equipment and machinery;

(ii) Primarily employed for the use of construction, logging, or mining of salable minerals as defined in section 47-701A, Idaho Code; and

(iii) Designed to travel to various job sites.

(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)(a) of this section in that county for that year. No later than the third Monday of November 2022, the county clerk of each county shall certify to the state tax commission the amount of exemption from property taxes under subsection (2)(b) 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) Except as provided in subsection (7) of this section, a taxing district created prior to January 1, 2013, shall be eligible for reimbursement for the exemptions granted under subsection (2)(a) and (b) of this section. A taxing district created on and after January 1, 2013, and prior to January 1, 2022, shall be eligible for reimbursement of property taxes exempted only under subsection (2)(b) of this section. A taxing district created on or after January 1, 2022, shall not be eligible for reimbursement of any property taxes exempted under this section. 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 certifications 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 certifications 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.

(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. If the recovery is for property tax for which the state provided replacement money, the amounts recovered shall be reported and remitted to the state tax commission, which shall reimburse the general fund. The state tax commission will then notify each affected taxing district or unit of its proportionate share of the recovered property tax, which amount shall be deducted from future payments to be made pursuant to subsection (3) of this section.

(g) Thirty (30) days after the taxpayer is notified, as provided in paragraph (a) of this subsection, 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 paragraph (h) of this subsection, 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.

(8) For operating property with values apportioned to more than one (1) county, the personal property exemption shall be subtracted from the Idaho allocated value prior to apportionment and, for private railcar companies, prior

to determining whether their values are to be apportioned. Notwithstanding amounts calculated as provided in subsection (1) of this section, the amount of the exemption otherwise provided in subsection (2) of this section shall be calculated as follows:

(a) Take the lesser amount of:

(i) The number of counties in which a company has operating property multiplied by two hundred fifty thousand dollars ($250,000); or

(ii) The total statewide value of eligible personal property reported by the company.

(b) Reduce the amount calculated in paragraph (a) of this subsection by the value of any nonoperating personal property granted the exemption otherwise found in subsection (2) of this section, as reported by county assessors.

History:

[63-602KK, added 2008, ch. 400, sec. 2, p. 1093; am. 2009, ch. 42, sec. 1, p. 119; am. 2013, ch. 243, sec. 1, p. 581; am. 2014, ch. 357, sec. 4, p. 890; am. 2015, ch. 96, sec. 1, p. 233; am. 2021, ch. 360, sec. 9, p. 1122; am. 2022, ch. 225, sec. 2, p. 740.]

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SALES TAX
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.

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Administrative Rules: 35.01.02.079 Production Sales Tax Exemption

IDAPA 35
TITLE 01
CHAPTER 02
SECTION 079

079. PRODUCTION EXEMPTION (RULE 079).
Sections 63-3622, 63-3622D, & 63-3622HH, Idaho Code.

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)

j. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-29-17)

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. See Rule 083 of these rules regarding farming. (3-29-17)

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

d. 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)

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

f. 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)

g. 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)

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

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

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

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

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

m. Recreation-related vehicles as described in 63-3622HH, Idaho Code, regardless of use. (3-28-18)

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

o. 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)

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Statute: 63-3622D. Production Sales Tax Exemption

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH36/SECT63-3622D/

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, including birds, fish or other wildlife that are hunted or fished on property a business owns, controls or has the right to use and where the business collects sales tax for the charges imposed for the hunting or fishing activity, and including the cost of acquiring such birds, fish or other wildlife and the feed, supplies and labor used to raise or maintain such birds, fish or other wildlife.

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, fabricating, hunting or fishing operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property and including, but not limited to, ammunition, birds, fish or other wildlife; 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 subsection (a)(1), (2), (3) and (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 subsection (a)(1), (2), (3) and (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; and shall also be available to a

business, or separately operated segment of a business, engaged in offering the right to hunt birds or other wildlife or fish on property the business owns, controls or has the right to use, where the charges for such rights are subject to sales tax as provided in this chapter.

(d) The exemptions allowed in subsection (a)(1), (2), (3) and (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, storage and removal from 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) Tangible personal property used in any activities other than the actual manufacturing, processing, mining, farming, fabricating, hunting or fishing operations, such as office equipment and supplies, and equipment and supplies used in selling or distributing activities.

(2) Property used in transportation activities.

(3) 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.

(4) 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.

(5) 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.

(6) Motor vehicles and aircraft.

(7) 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.

(8) 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.

History:

[63-3622D, added 1984, ch. 239, sec. 5, p. 577; am. 1987, ch. 326, sec. 2, p. 682; am. 1989, ch. 257, sec. 2, p. 632; am. 1990, ch. 122, sec. 1, p. 292; am. 1990, ch. 431, sec. 2, p. 1195; am. 1990, ch. 437, sec. 1, p. 1205; am. 1991, ch. 321, sec. 3, p. 834; am. 1993, ch. 319, sec. 2, p. 1175; am. 1996, ch. 46, sec. 9, p. 129; am. 1999, ch. 42, sec. 6, p. 90; am. 2005, ch. 242, sec. 3, p. 754; am. 2006, ch. 315, sec. 1, p. 980; am. 2008, ch. 233, sec. 1, p. 710; am. 2015, ch. 85, sec. 1, p. 210; am. 2015, ch. 225, sec. 1, p. 690; am. 2016, ch. 86, sec. 1, p. 271.]

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Data Center Sales Tax Exemption

Beginning July 2020, new data centers choosing to locate in Idaho will be eligible for sales tax exemption on server equipment as well as construction materials used in the construction of the data center facility.

To be eligible for the tax exemption, companies must:

- Create and maintain at least 30 new jobs in Idaho within the first two years after beginning. operations, paying an average wage that is at or above the county average for the county in which the data center is located.
- Make a capital investment of at least $250,000,000 within 5 years after construction begins and be solely devoted to the purpose of providing the data center or have a separately operated segment of a business solely devoted to the purpose of providing the data center.

Companies need to certify in writing to the Idaho State Tax Commission that the project will meet statutory requirements. The Tax Commission will acknowledge the certification in writing. The company is then entitled to a provisional exemption on qualifying purchases.

Note: Companies seeking this incentive will not be eligible to apply for/receive Idaho's Tax Reimbursement Incentive.

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Statute: 63-3622VV. Idaho Information Technology Equipment

From: https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2020/legislation/H0521.pdf

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature Second Regular Session - 2020
IN THE HOUSE OF REPRESENTATIVES
HOUSE BILL NO. 521
BY REVENUE AND TAXATION COMMITTEEAN ACT

RELATING TO TAXATION; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622VV, IDAHO CODE, TO PROVIDE A SALES AND USE TAX EXEMPTION; AND AMENDING SECTION 63-301A, IDAHO CODE, TO EXCLUDE ITEMS THAT QUALIFY FOR A CERTAIN EXEMPTION FROM THE AMOUNT OF TAXABLE MARKET VALUE OF NEW CONSTRUCTION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622VV, Idaho Code, and to read as follows:

63-3622VV. IDAHO INFORMATION TECHNOLOGY EQUIPMENT. (1) On and after July 1, 2020, there is exempted from the taxes imposed by this chapter the purchase or use of eligible server equipment and new data center facilities, as defined in this section. The exemption provided in this section shall be available only to qualifying business entities and contractors installing eligible server equipment or building new data center facilities for qualifying business entities. The exemption provided in this section shall not be available for property that has been the subject of business incentives granted to a taxpayer or its affiliates, pursuant to the Idaho reimbursement incentive act, sections 67-4737 through 67-4744, Idaho Code.

(2) As used in this section:

(a) "Business entity" means a separate legal entity or separately operated segment of business that exists for the primary purpose of engaging in a commercial activity for profit and whose sole purpose is the operation of a data center. For the purposes of this section, a separately operated segment of business is a segment of a business for which separate records are maintained and that is operated by an employee or employees whose primary employment responsibility is to operate the business segment.

(b) "Cabling" means a fiber or copper cable used in data centers to connect information sources to a server or storage device.

(c) "Capital investment" means real or tangible personal property that is purchased for use in Idaho and is used by a business entity for the purpose of operating a data center.

(d) "Chiller" means a cooling system used in data centers to remove heat from an element and deposit it into another element.

(e) "Commencement of operations" means the date on which a certificate of occupancy is issued for a data center.

(f) "Data center" means a facility comprised of one (1) or more buildings in Idaho that is used to house eligible server equipment for the transmission and storage of data where the facility has the following characteristics:

(i) Uninterruptible power supplies, generator power, or both;
(ii) Sophisticated fire suppression and prevention systems; and
(iii) Enhanced physical security and restricted access.

(g) "Eligible server equipment" means new server equipment acquired by a qualifying business entity as described in this subsection that is maintained and operated in a data center located in Idaho for the sole purpose of data transmission and storage services, providing data and transaction processing services, information technology services, or computer collocation services. "Eligible server equipment" includes servers, rack servers, chillers, storage devices, generators, cabling, and enabling software integral to or installed on such equipment.

(h) "Generator" means an engine used in data centers to convert mechanical energy into electricity.

(i) "New data center facilities" means buildings or structural components of buildings, including equipment, materials, and fixtures thereof, that are used in or intended for use primarily as a data center in Idaho.

(j) "New jobs" means new jobs created in Idaho that are nonseasonal, full-time jobs that collectively pay an average weekly wage that equals or exceeds the average weekly wage for the county where the data center is located, as determined by the most recent report of the United States bureau of labor statistics. A job that merely changes locations within the state of Idaho shall not be considered a new job under this section. New jobs must exceed the business entity's highest number of full-time employees in Idaho during the twenty-four (24) months immediately preceding the commencement of operations of the data center.

(k) "Qualifying business entity" means a business entity that certifies to the state tax commission that it will make capital investments in one (1) or more data centers after July 1, 2020, in amounts of at least two hundred fifty million dollars ($250,000,000) in the aggregate within the first five (5) years after commencement of construction and that it will create and maintain at least thirty (30) new jobs at the data center within two (2) calendar years after the commencement of operations. Such business entities shall be entitled to a provisional exemption pursuant to this section during the period in which they make capital investments in data center property. If a business entity fails to meet the investment and job creation requirements provided within the time periods required in this section, it shall pay sales or use taxes that would have been due if not for the granting of the provisional exemption. If a business entity meets the investment and job creation requirements provided within the time periods required in this section, its provisional exemption shall become final without further action, and thereafter the exemption shall also apply to all additional purchases of eligible server equipment and purchases associated with constructing new data center facilities.

(l) "Rack server" means a computer in a data center dedicated to use as a server and designed to be installed in a framework called a rack.

(m) "Server" means a computer or computer program used in data centers that manages access to a centralized resource or service in a network.

(n) "Storage device" means a piece of computer equipment on which information can be stored and that is used in data centers.

(3) The state tax commission may promulgate rules to administer and enforce the provisions of this section, including the promulgation of rules relating to the provision of information necessary to certify that the taxpayer satisfies the criteria for a qualifying business entity. For the purpose of carrying out its duties to administer and enforce the provisions of this section, the state tax commission shall have the powers and duties provided by sections 63-217, 63-3038, 63-3039, 63-3042 through 63-3067, 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code.

SECTION 2. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

(a) The name of the taxpayer;

(b) The description of the new construction, suitably detailed to meet the requirements of the individual county;

(c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;

(d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;

(e) The amount of taxable market value added as provided in subsection (3)(g) of this section as a result of dissolution of any revenue allocation area;

(f) The amount of taxable market value to be deducted to reflect the adjustments required in paragraphs (f)(i), (f)(ii), (f)(iii) and (f)(iv) of this subsection:

(i) Any board of tax appeals or court-ordered value change, if property has a taxable value lower than that shown on any new construction roll in any one (1) of the immediate five (5) tax years preceding the current tax year;

(ii) Any reduction in value resulting from correction of value improperly included on any previous new construction roll as a result of double or otherwise erroneous assessment;

(iii) Any reduction in value, in any one (1) of the immediate five (5) tax years preceding the current tax year, resulting from a change of land use classification;

(iv) Any reduction in value resulting from the exemption provided in section 63-602W(4), Idaho Code, in any one (1) of the immediate five (5) tax years preceding the current tax year.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3)(f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value

sent by the county auditor to each taxing district. The value established pursuant to subsection (3)(f) of this section is subject to correction by the state tax commission until the first Monday in September and any such corrections shall be sent to the appropriate county auditor, who shall notify any affected taxing districts.

(3) The value shown on the new construction roll shall include the taxable market value increase from:

(a) Construction of any new structure that previously did not exist; or

(b) Additions or alterations to existing nonresidential structures; or

(c) Installation of new or used manufactured housing that did not previously exist within the county; or

(d) Change of land use classification; or

(e) Property newly taxable as a result of loss of the exemption provided by section 63-602W(3) or (4), Idaho Code; or

(f) The construction of any improvement or installation of any equipment used for or in conjunction with the generation of electricity and the addition of any improvement or equipment intended to be so used, except property that has a value allocated or apportioned pursuant to section 63-405, Idaho Code, or that is owned by a cooperative or municipality as those terms are defined in section 61-332A, Idaho Code, or that is owned by a public utility as that term is defined in section 61-332A, Idaho Code, owning any other property that is allocated or apportioned. No replacement equipment or improvements may be included; or

(g) Provided such increases do not include increases already reported on the new construction roll as permitted in paragraphs (j) and (k) of this subsection, increases in value over the base value of property on the base assessment roll within an urban renewal revenue allocation area that has been terminated pursuant to section 50-2909(4), Idaho Code, to the extent that this increment exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value. Notwithstanding other provisions of this section, the new construction roll shall not include new construction located within an urban renewal district's revenue allocation area, except as provided in this paragraph; or

(h) New construction, in any one (1) of the immediate five (5) tax years preceding the current tax year, allowable but never included on a new construction roll, provided however, that, for such property, the value on the new construction roll shall reflect the taxable value that would have been included on the new construction roll for the first year in which the property should have been included.

(i) Formerly exempt improvements on state college or state university-owned land for student dining, housing, or other education-related purposes approved by the state board of education and board of regents of the university of Idaho as proper for the operation of such state college or university provided however, such improvements were never included on any previous new construction roll.

(j) Increases in base value when due to previously determined increment value added to the base value as required in sections 50-2903 and 50-2903A, Idaho Code, due to a modification of the urban renewal plan. In this case, the amount added to the new construction roll will equal

the amount by which the increment value in the year immediately preceding the year in which the base value adjustment described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value.

(k) Increases in base value when due to previously determined increment value added to the base value as a result of a de-annexation within a revenue allocation area as defined in section 50-2903, Idaho Code. In this case, the amount added to the new construction roll will equal the amount by which the increment value in the year immediately preceding the year in which the de-annexation described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value within the area subject to the de-annexation.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3) or (4), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3)(g) of this section.

(5) The amount of taxable market value of new construction shall not include any new construction of property that has been granted a provisional property tax exemption, pursuant to section 63-1305C, Idaho Code. A property owner may apply to the board of county commissioners, if an application is required pursuant to section 63-602, Idaho Code, for an exemption from property tax at the time the initial building permits are applied for or at the time construction of the property has begun, whichever is earlier, or at any time thereafter.

(6) The amount of taxable market value of new construction shall not include any new construction of property for which an exemption from sales and use tax has been granted pursuant to section 63-3622VV, Idaho Code.

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Idaho Semiconductors for America Act

The Idaho Semiconductors for America Act provides qualifying Idaho semiconductor companies with a sales and use tax exemption on the purchase of qualifying construction and building materials. This legislation was passed in the 2022 legislative session and is codified in statute. It was dependent upon the Federal CHIPS and Science Act of 2022 which was signed into law on August 9, 2022.

To be eligible for the tax exemption, companies must:

- To qualify for the exemption in this section, an applicant must submit a project outline to the Idaho department of commerce on or before December 31, 2026. Modifications to an approved qualifying project outline must be submitted to the Idaho department of commerce on or before December 31, 2040.
- Project outlined must also qualify for the Federal CHIPS and Science Act of 2022.

63-3622WW. IDAHO SEMICONDUCTORS FOR AMERICA ACT. (1) This section shall be known and may be cited as the "Idaho Semiconductors for America Act."

(2) It is the intent of the legislature that the Idaho semiconductors for America act will meet all criteria set forth in federal law and program guidelines from the United States department of commerce or other delegated agency of the federal government to implement the domestic fabrication, assembly, testing, advanced packaging, or research and development of semiconductors to mitigate domestic supply chain risks, increase economic competitiveness, protect intellectual property, and decrease national security risks.

(3) On and after July 1, 2022, there is exempted from the taxes imposed by this chapter the purchase or use of construction and building materials directly used for a qualifying purpose by a qualifying covered entity for a qualifying project in Idaho during the project term. To qualify for the exemption in this section, an applicant must submit a project outline to the Idaho department of commerce on or before December 31, 2026. Modifications to an approved qualifying project outline must be submitted to the Idaho department of commerce on or before December 31, 2040.

(4) As used in this section:

(a) "Construction and building materials" means materials and supplies permanently installed or placed in or on a qualifying project. The term does not mean equipment, tools, and supplies used to construct or build the project.

(b) "Covered contractor" means any contractor, including subcontractors, that incurs costs and taxes from work done for a qualifying covered entity for a qualifying project.

(c) "Covered entity" means a private entity, a consortium of private entities, or a consortium of public and private entities with a demonstrated ability to engage in a qualifying project.

(d) "Project term" means the time period beginning on July 1, 2022, and ending upon the completion of the construction of the qualifying project, but no later than December 31, 2040.

(e) "Qualifying covered entity" means a covered entity that submits a qualifying project outline to the Idaho department of commerce that:

(i) Qualifies for a new, meaningful semiconductor incentive offered by the federal government for the purpose of implementing the domestic fabrication, assembly, testing, advanced packaging, or research and development of semiconductors to mitigate domestic supply chain risks, increase economic competitiveness, protect intellectual property, decrease national security risks, and any other reasons deemed necessary by the federal government. Meaningful incentives by the federal government include but are not limited to funding the CHIPS for America act, 15 U.S.C. 4651 through 4658, or providing and funding other such semiconductor investment tax credits; and

(ii) Qualifies for a meaningful incentive from the state of Idaho for a qualifying project for a qualifying purpose. Examples of meaningful incentives from the state of Idaho include but are not limited to the Idaho reimbursement

incentive act, sections 67-4737 through 67-4744, Idaho Code; the Idaho small employer incentive act of 2005, chapter 44, title 63, Idaho Code; and the Idaho new capital investments incentives act of 2008, chapter 45, title 63, Idaho Code.

(f) "Qualifying project" means a new project for a qualified purpose by a covered entity.

(g) "Qualifying project outline" means a document submitted by a qualified covered entity to the Idaho department of commerce describing a new semiconductor project in Idaho that meets the definitions of a qualifying project in this section.

(h) "Qualifying purpose" means activities conducted in Idaho to construct, expand, or modernize a facility for the fabrication, assembly, testing, advanced packaging, or research and development of semiconductors, including a facility used primarily for qualified research for such purposes based on the criteria in section 41 of the Internal Revenue Code, including:

(i) A facility built for purposes of discovering information used for semiconductor fabrication, assembly, testing, or advanced packaging;

(ii) A technological facility built for semiconductor fabrication, assembly, testing, or advanced packaging;

(iii) A facility that is intended to be useful in the development of a new or improved business component of the qualifying covered entity used in semiconductor fabrication, assembly, testing, or advanced packaging; or

(iv) A facility where substantially all of the activities occurring at or in it constitute elements of a process of experimentation for semiconductor fabrication, assembly, testing, or advanced packaging for a purpose described in 26 U.S.C. 41(d)(3).

(5) The provisions of this section are contingent on the enactment and funding of a federal law providing a new and meaningful federal semiconductor incentive by December 31, 2026. If no such incentive is enacted and funded on or before December 31, 2026, no project or covered entity may qualify for an exemption under this section.

History:

[63-3622WW, added 2022, ch. 162, sec. 1, p. 552.]

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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.

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Administrative Rules: 35.01.03.37 Aircraft Sales Exemption

IDAPA 35
TITLE 01
CHAPTER 02
SECTION 037

037. AIRCRAFT AND FLYING SERVICES (RULE 037).
Section 63-3622GG, Idaho Code

01. Definitions. For the purposes of this rule, the following terms have the following meanings: (7-1-94)

a. Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, wildlife viewing, hot air balloon rides, or other similar activities. (4-11-06)

b. Freight. Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. See Subsection 037.06 of this rule. (4-11-06)

c. Transportation of Passengers. The transportation of passengers means the service of transporting passengers from one (1) point to another. It does not include survey flights, recreational or sightseeing flights, nor does it include any flight that begins and ends at the same point. (4-11-06)

d. Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code. (7-1-94)

e. Nonresident Businesses and Other Organizations. A corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state, and does not have consistent operations in this state. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more aircraft is not a nonresident. The use of an aircraft owned by such an entity will be subject to use tax upon its first use in Idaho. (4-4-13)

f. Day. For the purpose of this rule any part of a day is a day. (7-1-94)

g. Transportation of freight or passengers for hire. “Transportation of freight or passengers for hire” means the business of transporting persons or property for compensation from one (1) location on the ground or water to another. (4-4-13)

h. Common Carrier. The operation of an aircraft in the transportation of freight or passengers for hire by members of the public. When operating as a common carrier, the operator or owner of an aircraft usually charges a rate that will generate a profit. For flights in which federal regulations limit or minimize this profit, the aircraft is likely not operating as a common carrier. (4-4-13)

i. Public. The public does not include: (4-4-13)

i. Owners or operators of the aircraft; (4-4-13)

ii. Employees of the aircraft owner or operator; (4-4-13)

iii. Guests of the aircraft owner or operator; (4-4-13)

iv. Any of the above with the same relationship to a parent of the aircraft owner, a subsidiary of that parent, or a subsidiary of the aircraft owner; (4-4-13)

v. An individual or entity flying under a time sharing agreement which is an arrangement where an aircraft owner leases his aircraft with flight crew to another individual or entity and the aircraft owner limits the amount charged in accordance with federal regulations; or (4-4-13)

vi. An individual or entity flying under an interchange agreement which is an arrangement where an aircraft owner leases his aircraft to another aircraft owner in exchange for equal time on the other owner’s aircraft and any fees charged may not exceed the difference between the costs of owning, operating, and maintaining the two (2) aircraft. (4-4-13)

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; (3-29-17)

c. That is a fixed-wing aircraft primarily used as an air tactical group supervisor platform under a contract with a governmental entity for wildfire activity; or (3-29-17)

d. 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 037.05 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)

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Statute: 63-3622GG. Aircraft Sales Tax Exemption

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH36/SECT63-3622GG/

TITLE 63
REVENUE AND TAXATION
CHAPTER 36
SALES TAX

63-3622GG. AIRCRAFT. 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), (2) and (5) 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.

(5) The sale, lease, purchase or use of fixed-wing aircraft primarily used as an air tactical group supervisor platform under contract with a governmental entity for wildfire activity.

History:

[63-3622GG, added 1988, ch. 352, sec. 2, p. 1053; am. 1994, ch. 44, sec. 1, p. 72; am. 2001, ch. 98, sec. 1, p. 247; am. 2003, ch. 9, sec. 3, p. 21; am. 2009, ch. 91, sec. 2, p. 268; am. 2012, ch. 47, sec. 1, p. 142; am. 2016, ch. 326, sec. 1, p. 907.]

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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: 63-3622X. Pollution Control Equipment Sales Tax

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH36/SECT63-3622X/

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.

History:

[63-3622X, added 1984, ch. 239, sec. 25, p. 584; am. 1987, ch. 326, sec. 6, p. 685; am. 1997, ch. 273, sec. 1, p. 798; am. 1999, ch. 42, sec. 12, p. 98; am. 2006, ch. 326, sec. 1, p. 1029; am. 2007, ch. 290, sec. 1, p. 825.]

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Clean Room Sales Tax Exemption

Any tangible personal property that is used exclusively in a clean room or to maintain the environment of a clean room, is exempt from sales tax.

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Statute: 63-3622NN. Clean Room Sales Tax Exemption

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH36/SECT63-3622NN/

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.

History:

[63-3622NN, added 1999, ch. 130, sec. 1, p. 375; am. 2005, ch. 242, sec. 2, p. 753.]

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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.

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Administrative Rules: 35.01.02.090 Gas, Water, Electricity Delivered to Customers

IDAPA 35
TITLE 01
CHAPTER 02
SECTION 090

090. GAS, WATER, ELECTRICITY DELIVERED TO CUSTOMERS (RULE 090).

Section 63-3622F, Idaho Code

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)

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Statue: 63-3622F. Gas, Water, Electricity Delivered to Customers

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH36/SECT63-3622F/

TITLE 63
REVENUE AND TAXATION
CHAPTER 36
SALES TAX

63-3622F. UTILITIES. There is exempted from the taxes imposed by this chapter the sale or purchase of natural gas, electricity, and water when delivered to consumers at the place of consumption by means of pipes, wires, mains or similar systems.

History:

[63-3622F, added 1984, ch. 239, sec. 7, p. 578; am. 1993, ch. 26, sec. 3, p. 89.]

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Computer Sales tax

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.

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Administrative Rules: 35.01.02.027 Computer Equipment, Software, and Data Services

IDAPA 35
TITLE 01
CHAPTER 02
SECTION 027

027. COMPUTER EQUIPMENT, SOFTWARE, AND DATA SERVICES (RULE 027).
Section 63-3616, Idaho Code

01. Definitions. For purposes of this rule, the following terms will have the following meanings: (4-11-15)

a. Canned Software. Canned software is prewritten software which is offered for sale, lease, or use to customers on an off-the-shelf basis with little or no modification at the time of the transaction beyond specifying the parameters needed to make the program run. Evidence of canned software includes the selling, licensing, or leasing of identical software more than once. Software may qualify as custom software for the original purchaser, licensee, or lessee, but become canned software when sold to others. Canned software includes program modules which are prewritten and later used as part of a larger computer program. (4-11-15)

b. Computer. A computer is a programmable machine or device having information processing capabilities and includes word, data, and math processing equipment, testing equipment, programmable microprocessors, and any other integrated circuit embedded in manufactured machinery or equipment. (4-11-15)

c. Computer Hardware. Computer hardware is the physical computer assembly and all peripherals, whether attached physically or remotely by any type of network, and includes all equipment, parts and supplies. (4-11-15)

d. Computer Program. A computer program, or simply a program, is a sequence of instructions written for the purpose of performing a specific operation in a computer. (4-11-15)

e. Computer Software. Computer software, or simply software, is defined as any of the following: (4-11-15)

i. A computer program; (4-11-15)

ii. Any part of a computer program; (4-11-15)

iii. Any sequence of instructions that operates automatic data processing equipment; or (4-11-15)

iv. Information stored in an electronic medium. (4-11-15)

f. Custom Software. Custom software is software designed and written by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's particular needs. (4-11-15)

g. Digital Product. See definition for "Information Stored in an Electronic Medium" in Subsection 027.01.h. (4-11-15)

h. Information Stored in an Electronic Medium. Any electronic data file other than a computer program which can be contained on and accessed from storage media. The term includes audio and video files and any documents stored in an electronic format. For purposes of this rule, the term is interchangeable with "digital product." (4-11-15)

i. Load and Leave Method. A method of software delivery in which the vendor or an agent of the vendor loads software onto the user's storage media at the user's location but does not transfer storage media containing the software to the user. (4-11-15)

j. Remotely Accessed Computer Software. Computer software that a user accesses over the internet, over private or public networks, or through wireless media, and the user only has the right to use or access the software by means of a license, lease, subscription, service, or other agreement. (4-11-15)

k. Storage Media. Storage media include, but are not limited to, hard disks, optical media discs, diskettes, magnetic tape data storage, solid state drives, and other semiconductor memory chips used for nonvolatile storage of information readable by a computer. (4-11-15)

02. Computer Hardware. The sale or lease of computer hardware is a sale at retail. Sales tax is imposed based on the total purchase price, lease, or rental charges. See Rule 024 of these rules. (4-11-15)

03. Canned Software. When canned software is sold and delivered on storage media to the user and the storage media remains in the possession of the user, it is tangible personal property and the sale is taxable. If the storage media is sold along with other computer hardware, any canned software loaded on the storage media is tangible personal property the sale of which is taxable. If canned software is sold and delivered electronically or by the load and leave method, it is not tangible personal property and the sale is not taxable. If canned software is sold using a physical package but the package does not contain the canned software on storage media, it is not tangible personal property and the sale is not taxable. For example, if a printed key code is sold in a box that allows the user to download canned software and activate the canned software using the key code, the sale is not taxable. (4-11-15)

a. If canned software is loaded on a user's computer but has minimal or no functionality without connecting to the provider's servers over the internet, the sale of that canned software may still be taxable based upon the delivery method of the canned software as outlined in Subsection 027.03 of this rule. (4-11-15)

b. Special rules apply to digital music, digital books, digital videos, and digital games. See Subsections 027.06 and 027.07 of this rule. (3-25-16)

c. When a sale of canned software is taxable, tax applies to the entire amount charged to the customer for canned software. If the consideration consists of license fees, royalty fees, right to use fees or program design fees, whether for a period of minimum use or for extended periods, all fees are includable in the purchase price subject to tax. (4-11-15)

04. Remotely Accessed Computer Software. Remotely accessed computer software is not tangible personal property and charges to use or access such software are not subject to tax. (4-11-15)

05. Maintenance Contracts. Maintenance contracts sold in connection with the sale or lease of canned software generally provide that the purchaser will be entitled to receive periodic program enhancements and error correction, often referred to as upgrades, either on storage media or through remote telecommunications. The maintenance contract may also provide that the purchaser will be entitled to telephone or on-site support services. (3-6-00)

a. If the maintenance contract is required as a condition of the sale, lease, or rental of canned software, the gross sales price is subject to tax if the software to which the contract applies is subject to tax. Tax applies whether or not the charge for the maintenance contract is separately stated from the charge for software. In determining whether an agreement is optional or mandatory, the terms of the contract shall be controlling. (4-11-15)

b. If the maintenance contract is optional to the purchaser of canned software: (3-30-07)

i. Then only the portion of the contract fee representing upgrades is subject to sales tax if the fee for any maintenance agreement support services is separately stated and the upgrades are delivered on storage media; (4-11-15)

ii. If the fee for any maintenance agreement support services is not separately stated from the fee for upgrades and the upgrades are delivered on storage media, then fifty percent (50%) of the entire charge for the maintenance contract is subject to sales tax; (4-11-15)

iii. If the maintenance contract only provides upgrades delivered on storage media, and no maintenance agreement support services, then the entire sales price of the contract is taxable; (4-11-15)

iv. If the maintenance contract only provides support services, and the customer is not entitled to or does not receive any canned computer software upgrades or enhancements, then the sale of the contract is not taxable. (3-30-07)

c. If an optional software maintenance contract provides for software updates to be delivered electronically but also allows a customer to receive software updates on storage media, no portion of the contract is taxable unless the customer actually receives software updates on storage media. (4-11-15)

06. Digital Products. Digital music, digital books, digital videos, and digital games are tangible personal property regardless of the delivery or access method but only if the purchaser has a permanent right to use the digital music, digital books, digital videos, or digital games. Where the purchaser has a permanent right to use these digital products, the sale is taxable. Leases or rentals of these digital products are not taxable. (3-25-16)

a. Other than digital music, digital books, digital videos, or digital games, information stored in an electronic medium is tangible personal property only if it is transferred to the user on storage media that is retained by the user. (3-25-16)

b. If a digital game requires the internet for some or all of its functionality, the sale of that digital game is taxable if the purchaser has a permanent right to use the digital game. If a user pays a periodic subscription charge to play a digital game, the periodic subscription charge is not taxable. If a user pays a periodic subscription charge for a gaming service that enables certain functionality such as multiplayer capability in one or more digital games, the periodic charge is not taxable. (3-25-16)

07. Digital Subscriptions. Digital subscriptions consist of an agreement with a seller that grants a user the right to obtain or access digital products in a fixed quantity or for a fixed period of time. Digital subscriptions are not taxable. (3-25-16)

08. Reports Compiled by a Computer. The sale of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer and sold or reproduced for sale in substantially the same form as it is produced is a sale of tangible personal property and is taxable if the final product is printed or delivered in an electronic format on storage media. If a report is compiled from information furnished by the same person to whom the finished report is sold, the report will be subject to tax unless the person selling the report performs some sort of service regarding the data or restates the data in substantially different form than that from which it was originally presented or delivers the report to the purchaser electronically. (3-25-16)

a. Example: An accountant uses a computer to prepare financial statements from a client's automated accounting records. No tax will apply since what is sought is the accountant's expertise and knowledge of generally accepted accounting principles. (7-1-93)

b. Example: A company sells mailing lists which are transferred to the user on storage media that remains in the possession of the user. The seller compiles all the mailing lists from a single data base. Since the same data base is used for all such mailing lists it is not custom software. Therefore, the sale is subject to tax. (4-11-15)

c. Example: An auto parts retailer hires a data processing firm to optically scan and record its parts book on a computer disk. No analysis or other service is performed regarding the data. Essentially, this is the same as making a copy of the parts books and the sale is, therefore, subject to tax. (7-1-93)

d. When additional copies of records, reports, manuals, tabulations, etc., are provided, tax applies to the charges made for the additional copies. Additional copies are all copies in excess of those produced simultaneously with the production of the original and on the same printer, where the copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means. (7-1-93)

e. Charges for copies produced by means of photocopying, multilithing, or by other means are subject to tax. (7-1-93)

09. Online or Remote Data Storage. Charges to store data on storage media owned and controlled by another party is a nontaxable service. (4-11-15)

10. Training Services. Separately stated charges for training services are not subject to the tax, unless they are incidental services agreed to be rendered as a part of the sale of tangible personal property as provided by Rule 011 of these rules. (3-6-00)

a. When separate charges are made for training materials, such as books, manuals, or canned software, sales tax applies. (7-1-93)

b. When training materials are provided at no cost to the purchaser in conjunction with the sale of tangible personal property, the training materials are considered to be included in the sales price of the tangible personal property. (7-1-93)

c. When no tangible personal property, computer hardware or canned software, is sold and training materials are provided at no charge to the customer, the provider of the training is the consumer of the training materials and must pay sales tax or accrue and remit use tax. (3-6-00)

11. Custom Software. The transfer of title, possession, or use for a consideration of custom software is not subject to sales tax. Custom software is specified, designed, and created by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's particular needs. The term includes those services that are represented by separately stated and identified charges for modification to existing canned software which are made to the special order of the customer, even though the sales, lease, or license of the existing program remains taxable. Examples of services that do not result in custom software include loading parameters to initialize program settings and arranging preprogrammed modules to form a complete program. (7-1-93)

a. Tax does not apply to the sale, license, or lease of custom software regardless of the form or means by which the program is transferred. The tax does not apply to the transfer of custom software or custom programming services performed in connection with the sale or lease of computer equipment if such charges are separately stated from the charges for the equipment. (3-6-00)

b. If the custom programming charges are not separately stated from the sale or lease of equipment, they will be considered taxable as part of the sale. (7-1-93)

c. Custom software includes a program prepared to the special order of a customer who will use the program to produce and sell or lease copies of the program. The sale of the program by the customer for whom the custom software was prepared will be a sale of canned software. (7-1-93)

Statute: 63-3616 Tangible Personal Property

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH36/SECT63-3616/

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 when the purchaser has a permanent right to use such software and, regardless of the method of delivery or access. If the right to use digital music, digital books, digital videos or digital games is conditioned upon continued payment from the purchaser it is not a permanent right of use.

(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.

History:

[63-3616, added 1965, ch. 195, sec. 16, p. 408; am. 1986, ch. 192, sec. 1, p. 488; am. 1993, ch. 26, sec. 2, p. 88; am. 1998, ch. 50, sec. 1, p. 201; am. 2013, ch. 271, sec. 1, p. 707; am. 2014, ch. 340, sec. 1, p. 858; am. 2015, ch. 202, sec. 1, p. 615.]

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Form ST-101: Sales Tax Resale or Exemption Certificate
Form ST-103C: Sales Tax Exemption Certificate Real Property Contractors

IDAHO State Tax Commission

Form ST-101
Sales Tax Resale or Exemption Certificate

(*Contractors improving real property, use Form ST-103C*)

Buyer's name			Seller's name		
Address			Address		
City	State	ZIP code	City	State	ZIP code

Seller: All purchases might not qualify for the exemption claimed. Refer to the instructions for information about each exemption, and items on which you should collect tax.

Buyer: Complete the section that applies to you. If the goods you're buying don't qualify for the exemption you're claiming, you will be responsible for the tax due. Refer to the instructions for information about each exemption, and items on which you should pay tax.

1. Buying for Resale. I'll sell, rent, or lease the goods I'm buying in the regular course of my business.

a. Describe the primary nature of your business _____ (*required*)

Describe the products you sell, rent, or lease _____ (*required*)

b. Check the box that applies:

- ☐ Idaho registered retailer; seller's permit number _____ (*required - see instructions*)
- ☐ Wholesaler only; no retail sales
- ☐ Retailer selling only through a marketplace facilitator
- ☐ Out-of-state retailer; no Idaho business presence
- ☐ Idaho registered prepaid wireless service seller; E911 fee permit number _____ (*required - see instructions*)

2. Producer Exemptions (see instructions). Describe the products you produce. _____ (*required*)

I'll put the goods that I'm buying to an exempt use in the business selected below:

- ☐ Broadcasting
- ☐ Logging
- ☐ Publishing free newspapers

Production Exemption (check all that apply):

- ☐ Fabricating
- ☐ Farming
- ☐ Hunting or fishing operation
- ☐ Manufacturing
- ☐ Mining
- ☐ Processing
- ☐ Ranching

3. Exempt Buyers. Purchases made directly by the entities listed below are exempt. Check the box that applies.

- ☐ Advocates for Survivors of Domestic Violence and Sexual Assault, Inc.
- ☐ American Indian tribes
- ☐ American Red Cross
- ☐ Amtrak
- ☐ Blind Services Foundation, Inc.
- ☐ Canal companies (*nonprofit only*)
- ☐ Centers for independent living
- ☐ Children's free dental service clinics (*nonprofit only*)
- ☐ Credit unions (state/federal)
- ☐ Emergency medical services (EMS) agencies (*nonprofit only*)
- ☐ Forest protective associations
- ☐ Government (U.S./Idaho)
- ☐ Hospitals (*nonprofit only*)
- ☐ Idaho Foodbank Warehouse, Inc.
- ☐ Museums (*nonprofit only*)
- ☐ Qualifying health organizations (*see instructions for list*)
- ☐ Schools (*nonprofit only*)
- ☐ Senior citizen centers (*nonprofit only*)
- ☐ Volunteer fire departments (*nonprofit only*)

4. Other Exempt Goods and Buyers (see instructions).

- ☐ Aerial tramway component or snowmaking/grooming equipment
- ☐ American Indian buyer holding Tribal ID No. _____
  You can't use this form for vehicle or vessel purchases (see instructions)
- ☐ Certified data center
- ☐ Church buying goods for food bank or to sell meals to members
- ☐ Food bank or soup kitchen buying food or food service goods
- ☐ Heating fuels
- ☐ Irrigation equipment and supplies used for agriculture
- ☐ Livestock sold at a public livestock market
- ☐ Medical items that qualify (*see instructions*)
- ☐ Pollution control items
- ☐ Qualified semiconductor project
- ☐ Research and development goods
- ☐ Other goods or entity exempt by law under the following statute _____ (*required*)

By signing this form, I certify that the statements I made on this form are true and correct. I know that submitting false information can result in criminal and civil penalties.

Buyer's signature	Buyer's name (please print)	Title
Buyer's federal EIN or driver's license number and state of issue		Date

EFO00149 10-27-2022

IDAHO State Tax Commission

Form ST-101 — Instructions
Sales Tax Resale or Exemption Certificate

General. This form is valid only if all information has been completed. The seller must keep a copy of the completed form on file. The seller is responsible for collecting sales tax if the form isn't completed.

Buyer, if the goods you're buying don't qualify for the exemption you're claiming, you will be responsible for the tax due.

1. Buying for Resale

Buyers must have an Idaho seller's or E911 fee permit number unless they're:

- Wholesalers who make no retail sales.
- Retailers selling only through marketplace facilitators. (A marketplace facilitator is a person who provides a marketplace for third-party sellers.)
- Out-of-state retailers with no Idaho business presence (e.g., physical location, representatives, employees, etc.).

An Idaho seller's or E911 fee permit number has nine digits, such as 000123456. You can validate a permit number by visiting **tax.idaho.gov/validseller** or contacting the Tax Commission.

2. Producer Exemptions

Businesses that primarily produce products for resale don't have to pay tax on goods that they directly and primarily use in the production process. Businesses offering the right to hunt or fish as a taxable activity don't have to pay tax on goods that they directly and primarily use in the hunting or fishing activity.

Qualifying businesses must pay sales tax on all of the following:

- Transportation equipment and supplies
- Goods used in selling or distribution
- Janitorial or cleaning equipment or supplies
- Maintenance or repair equipment and supplies
- Office equipment and supplies
- Any licensed motor vehicle or trailer and parts
- Aircraft and parts
- Recreational vehicle (e.g., snowmobile, ATV, off-highway motorcycle, camper, travel trailer)
- Goods that become improvements to real property (e.g., fence posts)

Loggers, broadcasters, and publishers of newspapers that are free to the public and contain at least 10% informational content (not ads) have a similar exemption. Sellers still must charge these businesses tax on purchases of the bulleted items listed above.

Seller: *For producer exemptions, you can stamp or imprint an exemption statement on the front of the invoice. (Contact the Tax Commission to get the required language for the exemption statement.)*

3. Exempt Buyers

These buyers are exempt from tax on all purchases.

Advocates for Survivors of Domestic Violence and Sexual Assault, Inc.

American Indian tribes. Only tribal entities qualify.

American Red Cross.

Amtrak.

Blind Services Foundation, Inc.

Canal companies. Only nonprofit canal companies qualify.

Centers for independent living. To qualify, a center must be a private, nonprofit, nonresidential organization in which at least 51% of the board, management, and staff are persons with disabilities.

The center also must meet all of these criteria:

- It's designed and operated within a local community by individuals with disabilities.
- It provides a variety of independent living services and programs.
- It's cross-disability.

Children's free dental service clinics. Only nonprofit children's free dental service clinics qualify.

Credit unions. Both state and federal credit unions qualify.

Emergency medical service (EMS) agencies. Only nonprofit emergency medical service agencies qualify.

Forest protective associations.

Government. Only the U.S. government and Idaho state, county, city, and other political subdivisions qualify. Sales to other states and their political subdivisions are taxable.

Hospitals. Only licensed nonprofit hospitals qualify. Nursing homes or similar institutions don't.

Idaho Foodbank Warehouse, Inc.

Museums. Only nonprofit museums qualify. A museum collects, preserves, and displays objects and information to help the public interpret the past and present and to explore the future. Examples include institutions that exhibit science, history, art, and culture as well as zoos and aquariums.

Qualified health organizations:

- American Cancer Society
- American Diabetes Association
- American Heart Association
- American Lung Association of Idaho
- Arc, Inc., The
- Arthritis Foundation
- Camp Rainbow Gold
- Children's Home Society of Idaho
- Easter Seals
- Family Services Alliance of Southeast Idaho
- Idaho Association of Free and Charitable Clinics and its member clinics
- Idaho Community Action Agencies
- Idaho Cystic Fibrosis Foundation
- Idaho Diabetes Youth Programs
- Idaho Epilepsy League
- Idaho Primary Care Association and its community health centers
- Idaho Ronald McDonald House
- Idaho Women's and Children's Alliance
- March of Dimes
- Mental Health Association
- Muscular Dystrophy Foundation
- National Multiple Sclerosis Society
- Rocky Mountain Kidney Association
- Special Olympics Idaho
- United Cerebral Palsy

Schools. Certain public or nonprofit schools qualify. These schools include:

- Colleges and universities
- Primary, secondary, and charter schools
- Idaho Digital Learning Academy

Auxiliary organizations such as parent-teacher associations, booster clubs, and alumni groups don't qualify.

Schools primarily teaching subjects like business, dance, theater arts, music, cosmetology, writing, and gymnastics don't qualify.

Senior citizen centers. Only nonprofit community centers for senior citizens qualify.

Volunteer fire departments. Only nonprofit volunteer fire departments qualify.

4. Other Exempt Goods and Buyers

If buyers claim an exemption that isn't listed on this form, they must mark the "Other" box and list the section of the law that applies to the exemption. Otherwise, this certificate isn't valid.

Aerial tramway, snowmaking/grooming equipment. The sale, storage, use, or other consumption of parts, materials, or equipment that will become a component of an aerial passenger tramway are exempt from tax.

Snowgrooming and snowmaking equipment the owner or operator of a downhill ski area buys and uses to prepare and maintain the downhill ski slopes accessed by aerial tramways also is exempt. An aerial tramway includes chair lifts, gondolas, T-bar and J-bar lifts, platter lifts, rope tows, and similar devices. See Idaho Code section 63-3622Y.

American Indians. Sales to an enrolled Indian tribal member are exempt if the goods are delivered on the reservation. The buyer's Tribal Identification Number is required. For sales of vehicles or boats, use Form ST-133, *Sales Tax Exemption Certificate - Family or American Indian Sales*.

Certified data centers. Only data centers certified with the Tax Commission qualify. Certified data centers can buy the following without paying sales tax:

- Eligible server equipment including servers, rack servers, chillers, storage devices, generators, cabling, and enabling software integral to or installed on such equipment.
- New data center facilities, meaning the building or structural components of a building used primarily as a data center, including equipment, materials, and fixtures.

Churches. Churches can buy food for meals they sell to members or qualifying goods for their food bank without paying tax.

Food banks and soup kitchens. Food banks and soup kitchens can buy food or other goods used to grow, store, prepare, or serve food exempt from sales tax. The exemption doesn't include licensed motor vehicles or trailers. See Idaho Code section 63-3622O.

Heating fuels. Heating fuels such as wood, coal, petroleum, propane, and natural gas are exempt when purchased to heat an enclosed building or a building under construction, or when used for cooking or water heating. See Idaho Code section 63-3622G.

> ***Seller:*** *For heating fuel, you can stamp or imprint an exemption statement on the front of the invoice. Contact the Tax Commission to get the required language for the exemption statement.*
>
> *Sales of liquid propane in units of 15 gallons or less that are identified in the vendor's records as cylinder sales are exempt from tax. You don't have to keep a Form ST-101 on file for them.*

Irrigation equipment and supplies. All irrigation equipment and supplies used directly and primarily for agriculture are exempt. See Idaho Code section 63-3622W.

Livestock. Sales of cattle, sheep, mules, horses, pigs, and goats are exempt when sold at a public livestock market. Sales of other animals don't qualify. See Idaho Code section 63-3622MM.

Medical items. Only the following prescribed medical goods qualify if a licensed practitioner will administer or distribute them: drugs, contact lenses, eyeglasses, oxygen, insulin, syringes, prosthetic devices, durable medical equipment, dental and orthopedic appliances (including fillings), urinary and colostomy supplies, enteral and parenteral feeding equipment and supplies, hemodialysis and peritoneal dialysis drugs and supplies, and chemicals and equipment used to test or monitor blood or urine of a diabetic. See Idaho Code section 63-3622N.

Pollution control items. The following items qualify: tangible personal property purchased to meet air or water quality standards of a federal or state agency; liners and reagents purchased to meet water quality standards; tangible personal property purchased to meet air or water quality standards and which become an improvement to real property of manufacturing, mining, farming or toxic waste treatment and storage businesses; and "dry-to-dry transfer systems" used in the dry cleaning industry. This exemption doesn't apply to items used in road construction, septic or sewer systems, drinking water treatment, or soil erosion prevention. Motor vehicles and buildings don't qualify. See Idaho Code section 63-3622X.

Qualified semiconductor projects. Applicants must submit a qualifying project outline to the Idaho Department of Commerce. Qualifying covered entities can purchase materials and supplies permanently installed or placed in or on a qualifying project without paying sales tax. A qualifying project includes activities conducted in Idaho to construct, expand, or modernize a facility for fabrication, assembly, testing, advanced packaging, or research and development of semiconductors. See Idaho Code section 63-3622WW.

Research and development (R&D). Purchases of goods that are primarily used to develop, design, manufacture, process, or fabricate a product or potential product qualify for exemption. See Idaho Code section 63-3622RR.

The Idaho National Laboratory and its contractors can claim an R&D exemption to buy goods directly and primarily used to advance scientific knowledge in areas that don't have a commercial application. Items that will become a part of real property don't qualify. See Idaho Code section 63-3622BB.

Contact us:
In the Boise area: (208) 334-7660 | Toll free: (800) 972-7660
Hearing impaired (TDD) (800) 377-3529
tax.idaho.gov/contact

IDAHO State Tax Commission

Form ST-103C
Sales Tax Exemption Certificate
Real Property Contractors

Buyer's name			Seller's name		
Address			Address		
City	State	ZIP code	City	State	ZIP code
Contractor's license number					

Seller: Each exemption a customer claims on this form might have special rules (see instructions). It's your responsibility to learn the rules. You must charge tax on goods that don't qualify for a claimed exemption.

Buyer: Complete the section that applies to you.

1. **Contractors Buying for Resale.** This exemption only applies to goods that will enter resale inventory sold in the regular course of business. If you remove goods from nontaxed resale inventory and install or affix them to real property in Idaho, you will owe Idaho use tax.

   a. Describe the type of contract work you do: _____

   Describe the type of goods you sell at retail (without installation): _____

   b. Check the box that applies:

   ☐ Idaho seller's permit number _____ *(required - see instructions)*

   ☐ Out-of-state retailer; no Idaho business presence

2. **Contractor Exemptions.** This exemption certificate only applies to the project described. (see instructions)

   a. Invoice, purchase order, or job number that corresponds with this project _____

   b. City and state where job is located _____

   c. Project owner name _____

   d. This exempt project is (check appropriate box):

   ☐ An agricultural irrigation project.

   ☐ A certified data center project.

   ☐ In a nontaxing state. (To qualify, materials must become part of the real property.)

   ☐ For production equipment owned by a producer who qualifies for the production exemption.

   ☐ A pollution control project for a qualifying contracting, mining, or farming business.

   ☐ A qualified clean room.

   ☐ A qualified semiconductor project.

By signing this form, I certify that the statements I made on this form are true and correct. I know that submitting false information can result in criminal and civil penalties.

Buyer's signature	Buyer's name (please print)	Title
Buyer's federal EIN or driver's license number and state of issue		Date

EFO00332 10-13-2022

IDAHO State Tax Commission

Form ST-103C — Instructions
Sales Tax Exemption Certificate
Real Property Contractors

1. Buying for Resale

Contractors only making improvements, alterations, or repairs to real property in Idaho aren't retailers and can't buy goods for resale. Contractors who both improve real property and sell materials without installation can buy materials exempt for resale. If materials are withdrawn from a nontaxed resale inventory for use in an Idaho real property improvement contract, the cost of those materials is subject to use tax.

Buyers must have an Idaho seller's permit number unless they're out-of-state retailers with no Idaho business presence (e.g., physical location, representatives, employees, etc.).

An Idaho seller's permit number has nine digits, such as 000123456. You can validate a permit number by visiting **tax.idaho.gov/validseller** or contacting the Tax Commission.

2. Contractor Exemptions

Seven exemptions apply to contractors:

- Agricultural irrigation
- Certified data centers
- Nontaxing states
- Pollution control
- Production equipment
- Qualified clean room
- Qualified semiconductor project

To claim one of these exemptions, contractors must identify the project owner, location, and the invoice, purchase order, or job number that corresponds with this project.

Agricultural irrigation. Irrigation equipment and materials for an agricultural irrigation project are exempt. An irrigation system for a golf course or a residence doesn't qualify. See Idaho Code section 63-3622W.

Certified data centers. Contractors working on a certified data center project can buy building materials, equipment, and fixtures that will become part of the new data center facility without paying sales tax.

This exemption doesn't apply to tools, equipment, or building materials that don't become part of the data center facility. See Idaho Code section 63-3622VV.

Nontaxing state. Construction materials for a job in a nontaxing state are exempt from Idaho sales tax. This exemption applies only to materials that will become part of real property and only if the contractor isn't subject to a use tax or a similar tax in the other state. Jobs in Alaska, Oregon, and Montana qualify, as do some jobs in Washington. See Idaho Code section 63-3622B.

Production equipment. A contractor installing production equipment for a producer can buy the equipment and supplies exempt from tax. This exemption doesn't apply to materials that become part of real property. See Idaho Code section 63-3622D.

Pollution control items. The following items qualify: tangible personal property purchased to meet air or water quality standards and which become an improvement to real property of manufacturing, mining, farming or toxic waste treatment and storage businesses; and "dry-to-dry transfer systems" used in the dry cleaning industry. This exemption doesn't apply to items used in road construction, septic or sewer systems, drinking water treatment, or soil erosion prevention. Motor vehicles and buildings don't qualify. See Idaho Code section 63-3622X.

Qualified clean rooms. A clean room used in manufacturing. See Idaho Code section 63-3622NN.

Qualified semiconductor projects. Contractors working on a qualified semiconductor project can buy construction and building materials to be permanently installed or placed in a qualifying project without paying sales tax. See Idaho Code section 63-3622WW.

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75.5%

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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.

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Administrative Rules: 35.01.01.710 Idaho Investment Tax Credit

IDAPA 35
TITLE 01
CHAPTER 01
SECTION 710

710. IDAHO INVESTMENT TAX CREDIT: IN GENERAL (RULE 710).
Section 63-3029B, Idaho Code

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 will be limited by the following: (3-20-14)

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)

e. Used Property Limitation. The term used property limitation shall mean the one hundred fifty thousand dollar ($150,000) limitation imposed by Section 48, Internal Revenue Code of 1986 prior to November 5, 1990. (4-4-13)

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 when the bonus firstyear depreciation was also allowed in computing depreciation for Idaho. (3-20-14)

Statute: 63-3029B. Income Tax Credit for Capital Investment

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH30/SECT63-3029B/

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 74-107, 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.

History:

[63-3029B, added 1982, ch. 48, sec. 1, p. 72; am. 1987, ch. 319, sec. 1, p. 671; am. 1992, ch. 153, sec. 1, p. 459; am. 1993, ch. 2, sec. 1, p. 4; am. 1994, ch. 247, sec. 6, p. 790; am. 1995, ch. 94, sec. 1, p. 270; am. 1996, ch. 40, sec. 4, p. 107; am. 2000, ch. 457, sec. 1, p. 1430; am. 2000, ch. 479, sec. 5, p. 1655; am. 2001, ch. 270, sec. 6, p. 984; am. 2001, ch. 386, sec. 5, p. 1353; am. 2003, ch. 345, sec. 1, p. 923; am. 2004, ch. 204, sec. 1, p. 621; am. 2005, ch. 23, sec. 1, p. 61; am. 2006, ch. 195, sec. 2, p. 600; am. 2008, ch. 319, sec. 3, p. 883; am. 2011, ch. 271, sec. 1, p. 738; am. 2012, ch. 40, sec. 1, p. 123; am. 2015, ch. 141, sec. 160, p. 504.]

College Savings Contribution Tax Credit

Employers are eligible to receive a 20% tax credit for contributions made to an employee's IDeal college savings account. The tax credit is capped at $500 per employee, per taxable year.

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HB 550: Income Tax Credit for Contributions to an Idaho College Savings Program Account

From: https://legislature.idaho.gov/wp-content/uploads/sessioninfo/2020/legislation/H0550.pdf

HOUSE BILL NO. 550
BY REVENUE AND TAXATION COMMITTEE
AN ACT

RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3029M, IDAHO CODE, TO PROVIDE FOR AN INCOME TAX CREDIT FOR EMPLOYER CONTRIBUTIONS TO AN IDAHO COLLEGE SAVINGS PRO5 GRAM ACCOUNT; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE AP6 PLICATION.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3029M, Idaho Code, and to read as follows:

63-3029M. INCOME TAX CREDIT FOR EMPLOYER CONTRIBUTIONS TO IDAHO COLLEGE SAVINGS PROGRAM ACCOUNTS. (1) Subject to the limitations of this section, for taxable years beginning on and after January 1, 2020, there shall be allowed to an employer a nonrefundable credit against taxes imposed by this chapter for each of the employer's contributions to an employee's Idaho college savings program account established pursuant to chapter 54, title 33, Idaho Code.

(2) The credit allowed by this section shall be in the amount of twenty percent (20%) of the total contributions per employee, but may not exceed five hundred dollars ($500) per employee, per taxable year.

(3) If the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit that exceeds the taxpayer's income tax liability may be carried forward for a period that does not exceed the next five (5) taxable 25 years.

(4) As used in this section, the term "employee" means a person who, during the taxable year for which the credit is allowed, is subject to Idaho income tax withholding, whether or not any amounts are required to be withheld, and who is covered by the employer for unemployment insurance purposes under chapter 13, title 72, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2020.

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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.

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Administrative Rules: 35.01.01.750 Broadband Equipment Investment Credit

IDAPA 35
TITLE 01
CHAPTER 01
SECTION 750-753

750. BROADBAND EQUIPMENT INVESTMENT CREDIT: IN GENERAL (RULE 750).
Section 63-3029I, Idaho Code

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 will be limited as follows: (4-11-15)

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)

i. The fourteen (14) year carryover period provided by section 63-3029I(7), Idaho Code, extends throughout the fourteen (14) taxable years following the year in which the equipment was installed. The fourteen (14) year carryover period begins to run regardless of whether the taxpayer has sought and received approval from the Idaho public utilities commission (PUC). (4-11-15)

ii. Once a taxpayer has received the approval order from the PUC, the broadband tax credit may be claimed or transferred. If the statute of limitations has expired for filing a return to claim the credit for the taxable year of the installation, the taxpayer cannot claim any credit for that taxable year, but must calculate how much of the credit the taxpayer could have used to determine the amount of credit available to carry forward pursuant to section 63-3029I(7), Idaho Code. (4-11-15)

iii. Example: A calendar year filer installed qualifying equipment on July 20, 2001. However, it was not until 2013 that the taxpayer sought and received the approval order from the PUC. The fourteen (14) year

carryover period already began to run based on the installation date and will expire at the end of the 2015 taxable year. On March 10, 2013 the taxpayer is preparing his tax returns and considering how much broadband credit is available and to which taxable years it could be applied to. The taxpayer can file an amended return to claim the credit starting with taxable year 2009 (prior years would be out of the statute of limitations for filing an amended return assuming all returns had been timely filed and no other special circumstances had held the period open). The taxpayer must look back to taxable year 2001 (the year of installation) to see how much credit the taxpayer could have used in each taxable year up to 2009 to determine how much credit carryover amount is still available pursuant to the carryover limitations of section 63-3029I(7), Idaho Code. The taxpayer must use up or transfer any unused credit before taxable year 2016; after taxable year 2015, the carry forward period will expire and any unused credit will no longer be available for the taxpayer to apply or transfer. (4-11-15)

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 will apply to the broadband equipment investment credit except that limitations referenced in Subsection 711.01 of these rules will be those limitations as provided in Section 63-3029I, Idaho Code. (4-11-15)

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)

751. (RESERVED)

752. BROADBAND EQUIPMENT INVESTMENT CREDIT: RECAPTURE (RULE 752).
Section 63-3029I, Idaho Code

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

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)

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Statute: 63-3029I. Broadband Income Tax Credit

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH30/SECT63-3029I/

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 (10-1-99ed.), 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.

History:

[63-3029I, added 2001, ch. 386, sec. 8, p. 1356; am. 2002, ch. 35, sec. 9, p. 73; am. 2003, ch. 89, sec. 1, p. 270; am. 2004, ch. 345, sec. 2, p. 1027; am. 2005, ch. 23, sec. 4, p. 66; am. 2012, ch. 14, sec. 3, p. 28.]

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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.

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Administrative Rules: 35.01.01.105-106 Adjustments to Taxable Income

IDAPA 35
TITLE 01
CHAPTER 01
SECTION 105-106

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 are measured by net income and 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. (3-20-14)

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 or Passive Loss Carryover Deduction. As provided in Section 63-3022(i), Idaho Code: (3-20-14)

a. A corporation must add a capital loss or passive loss that was deducted in computing taxable income if the loss occurred during a taxable year when the corporation did not transact business in Idaho. However, a capital loss is not required to be added back where the corporation was part of a unitary group and at least one (1) member of the group was taxable by Idaho for the taxable year in which the loss was incurred. (3-20-14)

b. An individual must add a capital loss or passive loss that was deducted in computing taxable income if the loss was incurred in an activity not taxable by Idaho at the time it was incurred. (4-4-13)

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 nonIdaho 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 nonIdaho 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)

106. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF CORPORATIONS (RULE 106).

Section 63-3022, Idaho Code. As provided in Section 63-3022(d), Idaho Code, add the federal dividends received deduction subtracted in computing taxable income. (5-3-03)

Statute: 63-3022. Adjustments to Taxable Income

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH30/SECT63-3022/

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 63-3022U, 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 that are measured by net income, or for which a credit is allowable under section 63-3029, Idaho Code, and 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, but before January 1, 2013, 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. At the election of the taxpayer, the two (2) year carryback may be forgone 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.

(2) A net operating loss for any taxable year commencing on or after January 1, 2013, 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 only if an amended return carrying the loss back is filed within one (1) year of the end of the taxable year of the net operating loss that results in such carryback.

(3) 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. The carryback shall be limited to a total of fifty thousand dollars ($50,000) in the case of an individual filing as married filing separate in the year of the loss.

(4) 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.

(5) The term "income" as used in this subsection means Idaho taxable income as defined in this chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245, 245A, 246A, 250 and 965 of the Internal Revenue Code (relating to dividends received by corporations and other special deductions) 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, a passive loss or a capital 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 paragraph (1) or (2) of this subsection at the option of the taxpayer:

(1) The standard deduction as defined in section 63 of the 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 for any tax period ending on or prior to December 31, 2016, deduct the amount contributed to a college savings program but not more than four thousand dollars ($4,000) per tax year. In the case of an individual and for any tax period starting on or after January 1, 2017, deduct

the amount contributed to a college savings program, but not more than six thousand dollars ($6,000) per tax year. For those married and filing jointly, deduct the amount contributed to a college savings program, but not more than twice of that allowed for an individual. To be qualified for this deduction, the contribution must be made during the taxable year and made to an Idaho college savings program account as described in chapter 54, title 33, Idaho Code.

(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. The addition provided in this subsection is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income.

(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 or to a qualified ABLE program as defined in section 529A of the Internal Revenue Code. 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 was deducted on the account owner's Idaho income tax return for the year of the transfer and the prior taxable year.

History:[63-3022, added 1959, ch. 299, sec. 22, p. 613; am. 1961, ch. 328, sec. 5, p. 622; am. 1963, ch. 339, sec. 3, p. 971; am. 1965, ch. 316, sec. 3, p. 880; am. 1967, ch. 294, sec. 2, p. 828; am. 1969, ch. 319, sec. 7, p. 982; am. 1970, ch. 222, sec. 4, p. 621; am. 1971, ch. 64, sec. 1, p. 146; am. 1972, ch. 398, sec. 3, p. 1149; am. 1973, ch. 45, sec. 1, p. 80; am. 1975, ch. 33, sec. 1, p. 57; am. 1975, ch. 90, sec. 1, p. 184; am. 1976, ch. 271, sec. 1, p. 916; am. 1977, ch. 84, sec. 1, p. 170; am. 1978, ch. 139, sec. 1, p. 314; am. 1979, ch. 91, sec. 1, p. 218; am. 1980, ch. 2, sec. 1, p. 4; am. 1980, ch. 4, sec. 1, p. 7; am. 1980, ch. 90, sec. 1, p. 194; am. 1981, ch. 130, sec. 1, p. 217; am. 1981, ch. 201, sec. 2, p. 355; am. 1982, ch. 135, sec. 1, p. 384; am. 1983, ch. 161, sec. 1, p. 463; am. 1983, ch. 257, sec. 1, p. 680; am. 1983, ch. 258, sec. 1, p. 685; am. 1984, ch. 35, sec. 2, p. 55; am. 1986, ch. 90, sec. 2, p. 262; am. 1987, ch. 93, sec. 2, p. 177; am. 1987, ch. 149, sec. 1, p. 295; am. 1989, ch. 76, sec. 1, p. 135; am. 1989, ch. 181, sec. 1, p. 450; am. 1990, ch. 63, sec. 1, p. 138; am. 1990, ch. 223, sec. 1, p. 593; am. 1990, ch. 307, sec. 1, p. 844; am. 1990, ch. 326, sec. 8, p. 894; am. 1991, ch. 7, sec. 2, p. 19; am. 1991, ch. 55, sec. 2, p. 100; am. 1991, ch. 318, sec. 3, p. 826; am. 1992, ch. 11, sec. 3, p. 18; am. 1993, ch. 3, sec. 1, p. 6.; am. 1993, ch. 284, sec. 2, p. 959; am. 1994, ch. 39, sec. 1, p. 57; am. 1994, ch. 186, sec. 1, p. 607; am. 1994, ch. 247, sec. 1, p. 777; am. 1995, ch. 83, sec. 2, p. 240; am. 1995, ch. 111, sec. 9, p. 351; am. 1995, ch. 362, sec. 3, p. 1268; am. 1996, ch. 340, sec. 2, p. 1142; am. 1997, ch. 57, sec. 5, p. 97; am. 1998, ch. 20, sec. 1, p. 119; am. 1998, ch. 42; sec. 2, p. 176; am. 1999, ch. 70, sec. 1, p. 191; am. 2000, ch. 38, sec. 4, p. 72; am. 2000, ch. 213, sec. 2, p. 581; am. 2001, ch. 46, sec. 1, p. 85; am. 2001, ch. 270, sec. 1, p. 977; am. 2002, ch. 33, sec. 1, p. 63; am. 2003, ch. 6, sec. 1, p. 11; am. 2003, ch. 10, sec. 1, p. 22; am. 2004, ch. 30, sec. 2, p. 57; am. 2005, ch. 14, sec. 2, p. 42; am. 2006, ch. 63, sec. 1, p. 193; am. 2007, ch. 190, sec. 1, p. 559; am. 2008, ch. 261, sec. 1, p. 756; am. 2010, ch. 44, sec. 1, p. 78; am. 2012, ch. 10, sec. 1, p. 17; am. 2012, ch. 14, sec. 1, p. 25; am. 2013, ch. 2, sec. 2, p. 4; am. 2013, ch. 4, sec. 1, p. 7; am. 2013, ch. 112, sec. 1, p. 268; am. 2014, ch. 9, sec. 1, p. 9; am. 2017, ch. 20, sec. 1, p. 36; am. 2017, ch. 84, sec. 1, p. 228; am. 2018, ch. 3, sec. 2, p. 7; am. 2018, ch. 46, sec. 3, p. 112; am. 2018, ch. 109, sec. 1, p. 221.]

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5% Research and Development Income Tax

Businesses conducting basic and qualified research may earn an income tax credit of 5% that may be carried forward up to 14 years.

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Administrative Rules: 35.01.01.720-723 Credit for Idaho Research Activities

IDAPA 35
TITLE 01
CHAPTER 01
SECTION 720-723

720. CREDIT FOR IDAHO RESEARCH ACTIVITIES: IN GENERAL (RULE 720).
Section 63-3029G, Idaho Code

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)

721. CREDIT FOR IDAHO RESEARCH ACTIVITIES: ELECTIONS (RULE 721).
Section 63-3029G, Idaho Code

01. Election to Be Treated as a Start-Up Company. Regardless of whether a taxpayer qualifies as a start-up company for purposes of the federal credit for increasing research activities under Section 41, Internal Revenue Code, a taxpayer may elect to be treated as a start-up company for the credit for Idaho research activities. (3-15-02)

a. The election once made is irrevocable. (3-15-02)

b. The election is made by checking the appropriate box on Form 67. (4-7-11)

c. A taxpayer who makes the election under Section 63-3029G, Idaho Code, to be treated as a start-up company must use the fixed-base percentage that would be used by the taxpayer if the taxpayer had qualified as a start-up company for purposes of the federal credit under Section 41, Internal Revenue Code. For example, if the taxpayer's fiscal year beginning in 2001 is the 8th such taxable year beginning after December 31, 1993 in which the taxpayer had Idaho qualified research expenses, the fixed-base percentage is one-half (1/2) of the percentage that the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years. (4-7-11)

02. Unitary Sharing. A corporation included as a member of a unitary group may elect to share the credit for Idaho research activities it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the credit for Idaho research activities to the extent allowable against its tax liability. The credit available to be shared is the amount of credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029G(3), Idaho Code, or Paragraph 720.02.b. of these rules, whichever is applicable. 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 carryforward. (3-15-02)

722. (RESERVED)

723. CREDIT FOR IDAHO RESEARCH ACTIVITIES: RECORD-KEEPING REQUIREMENTS (RULE 723).
Section 63-3029G, Idaho Code

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)

f. 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)

724. -- 729. (RESERVED)

Statute: 63-3029G. Credits for Research Activities Conducted in This State

From: https://legislature.idaho.gov/statutesrules/idstat/Title63/T63CH30/SECT63-3029G/

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.

History:

[63-3029G, added 2001, ch. 386, sec. 6, p. 1355; am. 2002, ch. 35, sec. 1, p. 67; am. 2004, ch. 345, sec. 1, p. 1025; am. 2010, ch. 44, sec. 2, p. 80.]

Form 49: Idaho Investment Tax Credit

From: https://tax.idaho.gov/forms/EFO00030_03-04-2016.pdf

FORM **49** EFO00030 03-04-2016

IDAHO INVESTMENT TAX CREDIT 2016

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

PART I -- CREDIT AVAILABLE SUBJECT TO LIMITATION

1. a. Amount of qualified investments acquired during the tax year. Include a complete list	1a	
b. Amount of investments for which you claimed the property tax exemption. Include Form 49E	1b	
c. Subtract line 1b from line 1a. This is the amount of qualified investments on which you may earn the investment tax credit (ITC)	1c	
2. Credit earned. Multiply line 1c by 3%	2	
3. Pass-through share of credit from an S corporation, partnership, trust, or estate:		

a. Pass-through Entity Name	b. Pass-through Entity EIN	c. Pass-through Share of ITC

Total column c	3	
4. Credit received through unitary sharing. Include a schedule	4	
5. Carryover of investment tax credit from prior years. Include Form 49C or other schedule	5	
6. Credit distributed to shareholders, partners, or beneficiaries	6	
7. Credit shared with unitary affiliates	7	
8. Total credit available subject to limitation. Add lines 2 through 5 then subtract lines 6 and 7	8	

PART II -- LIMITATION

1. Enter the Idaho income tax from your return		1	
2. Credit for income tax paid to other states		2	
3. Idaho income tax after credit for income tax paid to other states. Subtract line 2 from line 1		3	
4. Credit for contributions to Idaho educational entities		4	
5. Tax available after credits. Subtract line 4 from line 3	5		
6. 50% of tax after credit for income tax paid to other states. Multiply line 3 by 50%	6		
7. Investment tax credit available. Enter the amount from Part I, line 8	7		
8. Investment tax credit allowed. Enter the smallest amount from lines 5, 6, or 7 here and on Form 44, Part I, line 1		8	

QUALIFYING DEPRECIABLE PROPERTY

Idaho 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 instead 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
- 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
- The cost of property expensed under IRC Section 179
- Property subject to 60-month amortization
- Used property not acquired by purchase
- The portion of property used for personal use
- Used property in excess of $150,000
- Horses
- Property not used in Idaho
- Vehicles under 8,000 pounds gross vehicle weight (GVW)

EFO00030p2
03-04-2016

Instructions for Idaho Form 49

GENERAL INSTRUCTIONS

Form 49 is used to calculate the investment tax credit (ITC) earned or allowed. Each member of a unitary group of corporations that earns or is allowed the credit must complete a separate Form 49.

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 correctly included in the Idaho property numerator for each asset.

The amount computed in method #2 will generally be the same as that computed in method #1 unless your business uses the Multistate Tax Commission special industry regulations to compute its factors.

Carryover Periods
Compute the ITC carryover on Form 49C.

- For property acquired after 1989 but before tax years beginning in 2000, the credit carryover is limited to seven tax years unless the credit hasn't been carried over seven tax years before 2000. If the credit has been carried forward less than seven tax years, and is eligible for carryover to tax years beginning on or after 2000, the carryover period is limited to 14 tax years.
- For credit earned in tax years beginning on or after January 1, 2000, the credit carryover is limited to 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 aren't 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 can't claim the 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 included with the original income tax return(s) for the tax year(s) in which the property was placed in service.

Biofuel Infrastructure Investment Tax Credit
If you placed biofuel infrastructure in service during the tax year and are claiming the biofuel infrastructure investment tax credit, you can't claim the ITC on the same property.

Recapture
You must compute recapture if you sell or otherwise dispose of the property or it ceases to qualify for the ITC before it has been in service for five full years. File Form 49R if you claimed the ITC. File Form 49ER if you claimed the property tax exemption.

SPECIFIC INSTRUCTIONS

Instructions are for lines not fully explained on the form.

PART I - CREDIT AVAILABLE SUBJECT TO LIMITATION

Line 1a. Include a list of all property you acquired and placed in service during the tax year that qualifies for the ITC. The list should identify each item of property and its location, your basis in the item, whether the item is new or used, and the date placed in service. The basis of qualified property is the Idaho adjusted basis computed without regard to bonus depreciation. Don't include any property on which you're claiming the biofuel infrastructure investment tax credit, or any property you're expensing under IRC Section 179.

Line 1b. Enter the amount of qualified investments for which you claimed the property tax exemption. This exemption is allowed instead of earning the ITC. Include applicable Form(s) 49E.

Line 3. Include a list of all ITC that is being passed through by S corporations, partnerships, trusts, or estates in which you have an interest. This amount is reported on Form ID K-1, Part D, line 1. The list should identify each entity by name, EIN, and the amount of ITC that is being passed through.

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 ITC carryover from prior years. The amount is computed on Form 49C or on a separate schedule. Include a copy of Form 49C or the schedule. See General Instructions for the carryover period allowed.

Line 6. If you are an S corporation, partnership, trust, or estate, enter the amount of credit that passed through to shareholders, partners, or beneficiaries.

Line 7. 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 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.

PART II - LIMITATION
The ITC is limited to 50% of your Idaho income tax after deducting:

- Credit for income taxes paid to other states
- Credit for contributions to Idaho educational entities

Line 1. 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 2. Enter the credit for income tax paid to other states from Form 39R or Form 39NR. This credit is available only to individuals, trusts, and estates.

Line 8. Enter the smallest amount from lines 5, 6, or 7. Carry this amount to Form 44, Part I, line 1, and enter it in the Credit Allowed column.

COMMUNITY DEVELOPMENT BLOCK GRANT

The Idaho Community Development Block Grant program (CDBG) assists Idaho cities and counties with the development of needed public infrastructure.

The program is administered by Idaho Commerce with funds received annually from the U.S. Department of Housing and Urban Development. ICDBG funds are used to construct projects that benefit low and moderate-income persons, help prevent or eliminate slum and blight conditions, or solve catastrophic health and safety threats in local areas.

Eligible Applicants

- Only incorporated cities with a population under 50,000, or counties, are eligible to apply for ICDBG funds.
- Special service providers, such as fire districts, senior citizen centers, and water or sewer districts must be sponsored by a city or county.
- Award amounts are limited to a maximum of $500,000.

Eligible Activities

- PUBLIC FACILITIES CONSTRUCTION AND IMPROVEMENTS
    - Sewer and water systems, streets, fire stations, removal of architectural barriers, and other public infrastructure. Communities can extend infrastructure to public housing projects or assist homeowners with improvements. Applications are due annually in November.

- ECONOMIC DEVELOPMENT PROJECTS
    - Public facility construction and improvements that support companies who are expanding and creating new jobs or new companies that will be creating jobs. Applications are due quarterly: March, June, September and December.

Application Deadlines

- **Public Facilities and Downtown Revitalization grant applications:** Friday before Thanksgiving
- **Job Creation grant applications:** Third Monday of December, March, June and September

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RURAL COMMUNITY INVESTMENT FUND

The mission of the Rural Community Investment Fund program is to provide funds to rural areas for building public infrastructure or facilities in support of economic expansion and job creation. Created by the Idaho State Legislature in 2001, this state-funded grant program is a component of the Rural Initiative.

Eligible Applicants

- Cities with a population of less than 25,000.
- Counties may apply for countywide projects that have a measurable rural benefit – the sole beneficiary of the project cannot be a large city.
- Indian Tribes may apply if the project site is located on reservation land and within a community of less than 25,000 or the project has a measurable rural benefit and the sole beneficiary of the project cannot be a large city.

The three eligible applicant categories may sub-grant Rural Community Invest Fund funds to an eligible and Idaho Commerce approved sub-recipient.

Eligible Activities

- **Eligible activities** include extension of streets, water and sewer lines, and/or utilities to a site for a new business or industrial park; acquisition or construction of buildings for lease by a company; and provision of telecommunications, power, gas, and rail upgrades necessary for business expansions. City halls and schools are not eligible.
- **Grant Size:** Grant limits are $50,000 to $500,000.
- **Local Match:** Local match is required, but there is no set amount.
- **Evaluation Criteria:** Applications will be evaluated on the impact to the areas. Other evaluation factors include the number and quality of jobs created by the project, long-term economic impact, community support, and project financing and readiness.

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IDAHO GEM GRANT

Created by the Idaho State Legislature in 2001 under the auspices of the Rural Initiative, the Idaho Gem Grant Program (IGG) provides assistance to rural communities for the planning and implementation of economic development projects.

Eligible Applicants

- The program is open to any rural community with a population of 10,000 persons or less.
- Applications must be submitted by a city, county or tribal government.
- As of 2005, a community is no longer required to be a designated “Gem Community” to be eligible for an Idaho Gem Grant.

Eligible Activities

- Idaho Gem Grants are focused on job creation and retention and awards are limited to the hard implementation costs of economic development projects.
- Examples of eligible projects include water and sewer infrastructure for a new business, remediation of slum and blight conditions blocking business development, placemaking projects with a nexus to the attraction of workforce and tourism and matching funds for the creation of assets with a high certainty of aiding future economic development efforts.
- The range of eligible projects is broad.
- Gem Grants may not be used for ongoing overhead, operating costs, or staff costs.
- In addition, funds shall not be used for the construction, rehabilitation, or operation of active churches, schools, general government facilities, jails or state or federal facilities; nor shall they be used for political activities.
- **Grant Size:** Grants of up to $50,000 may be awarded to eligible communities for the purpose of developing assets directly connected to private sector job creation. While Grants may be awarded for a maximum of $50,000, the Department will be looking favorably at applications demonstrating fiscal responsibility, significant matching funds and conservatism.

Application Deadlines

- Idaho Gem Grant applications will be accepted online and are reviewed on a quarterly basis, or at any time that the Director of Idaho Commerce determines it necessary to take advantage of special opportunities that further the primary objectives of the IGG program.
- Current deadlines are the third Monday in March, June, September, and December:
- IGG grant applications must be submitted online via the Idaho Commerce grant portal. Please contact us to request access to the Idaho Commerce grant portal.

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Administrative Rules: 28.02.04 Idaho Gem Grant Program

IDAPA 28
TITLE 02
CHAPTER 04

28.02.04 – IDAHO GEM GRANT PROGRAM

000. LEGAL AUTHORITY.
These rules are promulgated under the legal authority of Section 67-4702, Idaho Code. (7-1-05)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 28.02.04, "Idaho Gem Grant Program." (7-1-05)

02. Scope. The Idaho Gem Grant (IGG) Program was created as part of Governor Kempthorne's Rural Development Initiative. Successive sessions of the Idaho State Legislature made funds available to the Idaho Department of Commerce to fund the Governor's IGG Program. These rules implement the Department's procedures for project selection, award and disbursement of grant moneys for the Governor's IGG Program. (7-1-05)

002. WRITTEN INTERPRETATIONS.
The Department has no written interpretations of these rules. (7-1-05)

003. ADMINISTRATIVE APPEALS.
The award of grants under the IGG Program is a discretionary action to be performed by the Department. There is no provision for administrative appeal under these rules. (7-1-05)

004. INCORPORATION BY REFERENCE.
The IGG Program Handbook is incorporated herein by reference. Copies of this document are available for public inspection and copying at the address indicated below or through the internet at www.commerce.idaho.gov. (7-1-05)

005. OFFICE -- OFFICE HOURS, MAILING ADDRESS, AND STREET ADDRESS.
The headquarters of the Idaho Department of Commerce is in Boise, Idaho. Office hours are from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The Department's mailing address for information regarding the IGG Program is: Idaho Department of Commerce, P.O. Box 83720, Boise ID 83720-0093. The street address is 700 West State Street, Boise, Idaho. The telephone number is (208) 334-2470 and the FAX number is (208) 334-2631. (7-1-05)

006. PUBLIC RECORDS ACT COMPLIANCE.
All rules contained in this chapter are subject to and in compliance with the Idaho Public Records Act (Title 74, Chapter 1, Idaho Code). (7-1-05)

007. -- 011. (RESERVED)

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)

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NEW MARKET TAX CREDITS

The New Markets Tax Credit (NMTC) program provides capital for businesses, developers, and non-profits to help make their projects a reality. Funding provided through this program works with equity investments and debt financing to create the most flexible capital stack available today. This innovative financing also ensures that important projects receive the capital they need to get to the finish line. Today, New Markets Tax Credits have become one of the most competitive sources of financing available in the United States.

What does this mean in plain English? A qualifying project can receive 18–23% of the financing it needs in the form of a very low interest loan that, ultimately, can be forgiven and would not have to be repaid.

Criteria for NMTC projects:

- Project is in a qualifying census tract, OR (2) Project will mainly hire or serve low-income people.
- Project is over $4 million in total project costs.
- No more than 80% of the Project's ongoing revenue will come from housing rental income.
- Project can demonstrate it needs NMTC financing assistance.
- Project will benefit the community.

For a Map of all the New Market Tax Credit areas in Idaho visit:
IDAHO NEW MARKET TAX CREDIT AREA MAP

Or, www.gemstateprospector.com > Mapping > Map Layers > Incentives > New Market Tax Credit

Managed by: Mofi
Website: www.mofi.org
Email: info@mofi.org
Phone: 844.728.9234

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OPPORTUNITY ZONES

Created by the Tax Cuts and Jobs Act of 2017, Opportunity Zones are a federal tax incentive designed to encourage the reinvestment of capital gains into economically distressed Census tracts nominated by the Governor and designated by the U.S. Department of Treasury. In order to access the incentive, investors must create a stand alone Opportunity Fund capitalized with capital gains from other investments. 90% or more of the Opportunity Fund must be invested into an operating business or a business property located in an Opportunity Zone. Upon sale, Opportunity Fund Investments held for 10 years or more, may exclude their capital gains from federal taxes.

More information regarding Opportunity Zones is available from the Internal Revenue Service
https://www.irs.gov/credits-deductions/businesses/opportunity-zones

Idaho Opportunity Zone List

Applicant Name	County	Census Tract
City of Boise	Ada	16001002000
Meridian	Ada	16001010321
New Meadows	Adams	16003950100
Pocatello	Bannock	16005001601
Benewah County	Benewah	16009950100
Bonner County	Bonner	16017950300
Boundary County	Boundary	16021970200
Canyon County	Canyon	16027022200
Nampa	Canyon	16027020200
Canyon County	Canyon	16027022100
Clearwater County	Clearwater	16035970100
Nez Perce Tribe	Clearwater	16035940000
Mountain Home	Elmore	16039960300
Gooding	Gooding	16047960100
Kooskia	Idaho	16049940000
Riggins	Idaho	16049960400
Jerome	Jerome	16053970400
Post Falls	Kootenai	16055000602
Moscow	Latah	16057005400
Moscow	Latah	16057005100
Kamiah	Lewis	16061940001
Rupert	Minidoka	16067970500
Lewiston	Nez Perce	16069960300
Payette	Payette	16075960200
Shoshone County	Shoshone	16079960300
Buhl	Twin Falls	16083000400
Twin Falls	Twin Falls	16083001100
Valley County	Valley	16085970300

Opportunity Zone Map: https://www.cims.cdfifund.gov/preparation/?config=config_nmtc.xml

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Form 8996: Qualified Opportunity Fund

From: https://www.irs.gov/pub/irs-pdf/f8996.pdf

Form **8996**
(Rev. December 2021)
Department of the Treasury
Internal Revenue Service

Qualified Opportunity Fund

► Go to *www.irs.gov/Form8996* for instructions and the latest information.
► Attach to your tax return. See instructions.

OMB No. 1545-0123

Attachment Sequence No. **996**

Name

Employer identification number

Part I General Information and Certification

1 Type of taxpayer: ☐ Corporation ☐ Partnership

2 Is the taxpayer organized for the purpose of investing in qualified opportunity zone (QOZ) property (other than another qualified opportunity fund (QOF))?

☐ **No. STOP.** Do not file this form with your tax return.

☐ **Yes.** Go to line 3.

3 Is this the first period the taxpayer is a QOF?

☐ **Yes.** By checking this box, you certify that by the end of the taxpayer's first QOF year, the taxpayer's organizing documents include a statement of the entity's purpose of investing in QOZ property and a description of the trade or business(es) that the QOF is engaged in either directly or through a QOZ business. See instructions.

☐ **No.**

4 If you checked "Yes" on line 3, provide the first month in which the fund chose to be a QOF . . . . . ►

5 Did any investor dispose of, in part or in whole, their equity interest in the fund?

☐ **Yes.** Attach a statement with each investor's name, the date of disposal, and the interest that they transferred during the QOF's tax year.

☐ **No.**

6 ☐ Do not check this box. Reserved for future use.

Part II Investment Standard Calculation

7	Enter the amount from Part VI, line 2, for total QOZ property held by the taxpayer on the last day of the first 6-month period of the taxpayer's tax year. See instructions if Part I, line 3, is "Yes"	7	
8	Total assets held by the taxpayer on the last day of the first 6-month period of the taxpayer's tax year. See instructions if Part I, line 3, is "Yes"	8	
9	Divide line 7 by line 8	9	
10	Enter the amount from Part VI, line 3, for total QOZ property held by the taxpayer on the last day of the taxpayer's tax year	10	
11	Total assets held by the taxpayer on the last day of the taxpayer's tax year	11	
12	Divide line 10 by line 11	12	

Part III Qualified Opportunity Fund Average and Penalty

13	Add lines 9 and 12	13	
14	Divide line 13 by 2.0. See instructions if Part I, line 3, is "Yes"	14	
15	Is line 14 equal to or more than 0.90? ☐ **Yes.** Enter -0- on this line and file this form with your tax return. ☐ **No.** The fund has failed to maintain the investment standard. Complete Part IV to figure the penalty. Enter the penalty from line 8 of Part IV on this line. See instructions	15	

Part IV Line 15 Penalty

If you checked "No" in Part III, line 15, complete Part IV to figure the penalty. Enter the number from line 8 below on Part III, line 15. See instructions if Part I, line 3, is "Yes."

		(a) Month 1	(b) Month 2	(c) Month 3	(d) Month 4	(e) Month 5
1	Total assets on the last day of the month					
2	Multiply line 1 by 0.90					
3	Total QOZ property on the last day of the month					
4	Subtract line 3 from line 2. If less than zero, enter -0-					
5	Underpayment rate					
6	Multiply line 4 by line 5					
7	Divide line 6 by 12.0. Round up to two decimal places. See instructions if Part I, line 3, is "Yes"					

	(f) Month 6	(g) Month 7	(h) Month 8	(i) Month 9	(j) Month 10	(k) Month 11	(l) Month 12
1							
2							
3							
4							
5							
6							
7							

8 **Penalty.** Add columns (a) through (l) of line 7. Enter the total here and on Part III, line 15 . . . . . $

Part V QOZ Business Property—Directly Owned or Leased by Taxpayer

Enter every QOZ where QOZ business property directly owned or leased by the taxpayer is located	QOZ business property held directly on last day of the first 6-month period of the tax year		QOZ business property held directly on last day of the tax year	
(a) QOZ No.	(b) Owned Property Value	(c) Leased Property Value	(d) Owned Property Value	(e) Leased Property Value
1 If the taxpayer directly owned/leased QOZ business property used in one or more QOZs, see instructions and enter the total QOZ business property value from the separate statement				

Part VI QOZ Stock or Partnership Interests

For every QOZ business in which the taxpayer holds stock or a partnership interest, enter every QOZ in which the tangible property of the QOZ business is located and the EIN of that QOZ business		Value of QOZ stock or partnership interest held on last day of the first 6-month period of the tax year apportioned to each QOZ	Tangible property held by QOZ business on last day of the first 6-month period of the tax year		Value of QOZ stock or partnership interest held on last day of the tax year apportioned to each QOZ	Tangible property held by QOZ business on last day of the tax year	
(a) QOZ No. (Indicate non-QOZs by 99999999999)	(b) EIN of QOZ Business	(c) Investment Value	(d) Owned Property Value	(e) Leased Property Value	(f) Investment Value	(g) Owned Property Value	(h) Leased Property Value
1 If additional lines are needed, see instructions and enter total QOZ business value held by the taxpayer from Part VII, line 2, columns (c) and (f)							

2 6-month test QOZ property. Add Part V, columns (b) and (c), and Part VI, column (c). Enter the total here and on Part II, line 7 . . . . . .

3 Year-end test QOZ property. Add Part V, columns (d) and (e), and Part VI, column (f). Enter the total here and on Part II, line 10 . . . . . .

4 Type of accounting method used to value the property listed on this form.

- ☐ Applicable financial statement valuation method.
- ☐ Alternative valuation method.

Part VII **QOZ Stock or Partnership Interests** *(continued)*

For every QOZ business in which the taxpayer holds stock or a partnership interest, enter every QOZ in which the tangible property of the QOZ business is located and the EIN of that QOZ business		Value of QOZ stock or partnership interest held on last day of the first 6-month period of the tax year apportioned to each QOZ	Tangible property held by QOZ business on last day of the first 6-month period of the tax year		Value of QOZ stock or partnership interest held on last day of the tax year apportioned to each QOZ	Tangible property held by QOZ business on last day of the tax year	
(a) QOZ No. (indicate non-QOZs by 99999999999)	**(b)** EIN of QOZ Business	**(c)** Investment Value	**(d)** Owned Property Value	**(e)** Leased Property Value	**(f)** Investment Value	**(g)** Owned Property Value	**(h)** Leased Property Value
1 If taxpayer invested in QOZ business(es) that have locations in more than the QOZs listed in Part VI and above, see instructions and enter total QOZ business value held by the taxpayer from continuation sheet . .							
2 Total columns (c) and (f). Enter the total here and on Part VI, line 1, columns (c) and (f), respectively . .							

Opportunity Zones FAQ's: https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions

PRIVATE ACTIVITY BONDS

Private Activity Bonds (PABs) are taxed exempt fixed income instruments. Simply put, it is another way for a business or developer to finance certain types of projects or what the Internal Revenue Service (IRS) calls "Qualified Activities" (QAs). Often, but not in all cases, PABs may be used alongside other tax and business incentives. Some examples of QAs include manufacturing facilities (aka Small Issue or Industrial Revenue Bonds), broadband infrastructure, and carbon capture projects.

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. The sponsoring government is not responsible for bond repayment and the bonds do not affect the government's credit rating. A bond election is not required.

The benefits of Industrial Revenue Bonds (IRBs) include lower interest rates rate (due to the bonds tax-exempt status), more flexible terms vs a traditional bank loan, and for larger projects an avenue for diversifying risk.

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.

Learn more: https://commerce.idaho.gov/content/uploads/2023/01/2023-PAB-Guide-Final-1.pdf

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Statute: 50.2801-05. Idaho Private Activity Bond Ceiling Allocation Act

From: https://legislature.idaho.gov/statutesrules/idstat/Title50/T50CH28/

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.

History:

[50-2801, added 1985, ch. 227, sec. 1, p. 543; am. 1988, ch. 303, sec. 1, p. 959.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title50/T50CH28/SECT50-2802/

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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.

History:

[50-2802, added 1985, ch. 227, sec. 1, p. 544; am. 1988, ch. 303, sec. 2, p. 959.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title50/T50CH28/SECT50-2803/

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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.
History:
[50-2803, added 1985, ch. 227, sec. 1, p. 544; am. 1988, ch. 303, sec. 3, p. 960; am. 2000, ch. 432, sec. 1, p. 1389.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title50/T50CH28/SECT50-2804/

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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.
History:
[50-2804, added 1985, ch. 227, sec. 1, p. 544; am. 1988, ch. 303, sec. 4, p. 960; am. 2000, ch. 432, sec. 2, p. 1389.]

From: https://legislature.idaho.gov/statutesrules/idstat/Title50/T50CH28/SECT50-2805/

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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.

History:

[50-2805, added 1985, ch. 227, sec. 1, p. 545.]