Idaho Department of Commerce Business Incentives Manual 2020

Table of Contents

TAX REIMBURSEMENT INCENTIVE (TRI) 5

Administrative Rules: 28.04.01 Tax Reimbursement Incentive Act 6

Statute: 67-4737.-44. Idaho Reimbursement Incentive Act 14

OPPORTUNITY FUND 22

Administrative Rules: 28.03.01 - Idaho Opportunity Fund 23

Statute: 67-4734.-36. Idaho Opportunity Fund 27

WORKFORCE DEVELOPMENT TRAINING FUND GRANT PROGRAMS 31

Workforce Development Training Fund Policy 31

Industry Sector Grants 32

Innovation Grants 34

Employer Grants 35

Outreach Projects 37

Statute: 72.1201.03 - Workforce Development Training Fund 38

BUSINESS ADVANTAGE 42

Administrative Rules: 35.01.01.940-946 Idaho Small Employer Incentive Act 43

Statute: 63-4401.-09. The Idaho Small Employer Incentive Act 52

Form 83: Idaho Small Employer Investment Tax Credit 63

Form 84: Idaho Small Employer Real Property Improvement Tax Credit 67

Form 85: Idaho Small Employer New Jobs Tax Credit 70

Form 89SE: Certification for Idaho's Small Employer Tax Incentives 74

Form TCR: Sales Tax Refund Claim 78

PROPERTY TAX EXEMPTION 81

Property Tax Exemption Administrative Rules & Statue 81

Administrative Rules: 35.01.03 Property Tax Administrative Rules 81

Statue: 63-602. Property Exempt from Taxation 81

Non-Retail Facilities Property Tax Exemption 85

Administrative Rules: 35.01.03.631 - Property Tax Exemption New or Existing Plant and Building Facilities 86

Statute: 63-602NN. Property Exempt from Taxation — Certain Business Property 88

Statute: 63-606A. Property Exempt from Taxation — Business Advantage 90

SALES TAX EXEMPTION **92**
Production Sales Tax Exemption 92
Administrative Rules: 35.01.02.079 Production Sales Tax Exemption 93
Statute: 63-3622D. Production Sales Tax Exemption 96
Data Center Sales Tax Exemption 100
Statute: 63-3622VV. Idaho Information Technology Equipment 101
Form ST-101: Sales Tax Resale or Exemption Certificate 106
Aircraft Sales Tax Exemption 112
Administrative Rules: 35.01.03.37 Aircraft Sales Exemption 113
Statute: 63-3622GG. Aircraft Sales Tax Exemption 116
Pollution Control Equipment Sales Tax Exemption 118
Statute: 63-3622X. Pollution Control Equipment Sales Tax 119
Clean Room Sales Tax Exemption 122
Statute: 63-3622NN. Clean Room Sales Tax Exemption 123
Utility and Industrial Fuels Tax Exemption 125
Administrative Rules: 35.01.02.090 Gas, Water, Electricity Delivered to Customers 126
Statue: 63-3622F. Gas, Water, Electricity Delivered to Customers 127
Computer Sales tax 129
Administrative Rules: 35.01.02.027 Computer Equipment, Software, and Data Services 130
Statute: 63-3616 Tangible Personal Property 134
Form ST-101: Sales Tax Resale or Exemption Certificate 135
INCOME TAX CREDIT **140**
3% Investment Tax Credit 140
Administrative Rules: 35.01.01.710 Idaho Investment Tax Credit 141
Statute: 63-3029B. Income Tax Credit for Capital Investment 143
College Savings Contribution Tax Credit 148
HB 550: Income Tax Credit for Contributions to an Idaho College Savings Program Account 149
Broadband Income Tax Credit 151
Administrative Rules: 35.01.01.750 Broadband Equipment Investment Credit 152
Statute: 63-3029I. Broadband Income Tax Credit 155
Net Operating Loss 159
Administrative Rules: 35.01.01.105-106 Adjustments to Taxable Income 160
Statute: 63-3022. Adjustments to Taxable Income 162
5% Research and Development Income Tax 166
Administrative Rules: 35.01.01.720-723 Credit for Idaho Research Activities 167
Statute: 63-3029G. Credits for Research Activities Conducted in This State 169
Form 49: Idaho Investment Tax Credit 171

COMMUNITY DEVELOPMENT BLOCK GRANT 174
Administrative Rules: 28.02.01.009 Idaho Community Development Block Grant 175
RURAL COMMUNITY BLOCK GRANT 215
Administrative Rules: 28.02.05 - Rural Community Block Grant (RCBG) 216
IDAHO GEM GRANT 223
Administrative Rules: 28.02.04 Idaho Gem Grant Program 224
NEW MARKET TAX CREDITS 230
OPPORTUNITY ZONES 232
Idaho Opportunity Zone List 232
Form 8996: Qualified Opportunity Fund 262
INDUSTRIAL REVENUE BONDS 268
Statute: 50.2801-05. Idaho Private Activity Bond Ceiling Allocation Act 269

Page intentionally left blank

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

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

CHAPTER 47
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

CHAPTER 47
DEPARTMENT OF COMMERCE

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

CHAPTER 47
DEPARTMENT OF COMMERCE

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
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 47
DEPARTMENT OF COMMERCE

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

CHAPTER 47
DEPARTMENT OF COMMERCE

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.]

Page intentionally left blank

OPPORTUNITY FUND

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

1. **Eligible Applicants**
Idaho local governments (cities, counties, towns, etc.)

2. **Eligible Projects**
The Director of the Department of Commerce may, in his sole discretion, award Idaho Opportunity Fund grants to local governments for public costs incurred with the purpose to retain, expand or attract jobs to the State of Idaho. Eligible projects include:
   - Construction of, or improvements to, new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations.
   - Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects.
   - Flood zone or environmental hazard mitigation.

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

Administrative Rules: 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

CHAPTER 47
DEPARTMENT OF COMMERCE

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

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

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

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

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

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

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

(b) Flood zone or environmental hazard mitigation; and

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

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

CHAPTER 47
DEPARTMENT OF COMMERCE

67-4736. ANNUAL REPORT BY DIRECTOR. The director of the department of commerce shall annually publish a report regarding the state of the Idaho opportunity fund and cause the same to be made available to the public. The report shall contain information on the commitment of funds, disbursement and use of funds, the number of jobs committed and created, the total capital expenditures resulting from grant funds and the median wage of total jobs created as result of grant funds distributed in the prior year. The report is due no later than the last day of September each year. The director shall also provide such report to the governor and the joint finance-appropriations committee during each regular session of the Idaho state legislature. In addition, the director of the department of commerce shall provide reports on the grant activity and performance to the economic advisory council on a quarterly basis during the year.
History:
[67-4736, added 2013, ch. 106, sec. 1, p. 251.]

Page intentionally left blank

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.

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.

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.

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.]

This Page Intentionally Left Blank

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.

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)

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

CHAPTER 44

THE IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005

63-4402. DEFINITIONS. (1) The definitions contained in the Idaho income tax act shall apply to this chapter unless modified in this chapter or unless the context clearly requires another definition.

(2) As used in this chapter:

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

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

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

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

(i) Qualified investments; or

(ii) Buildings or structural components of buildings.

(e) "New employee":

(i) Means an individual, employed primarily within the project site by the 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.]

Form 83: Idaho Small Employer Investment Tax Credit

https://tax.idaho.gov/forms/EFO00011_08-26-2019.pdf

IDAHO State Tax Commission

Form 83
Small Employer Investment Tax Credit

2019

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 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 and receive 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 2019. 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	

EFO00011 08-26-2019

Form 83 — Instructions
Small Employer Investment Tax Credit

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
- Property subject to 60-month amortization
- 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 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. You can measure usage by machine hours, mileage or any other method that accurately reflects the usage.
2. Property Factor Numerator Method – Use the amount included in the Idaho property numerator for each 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 you claimed the property tax exemption for. 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 you have an interest in. This amount is reported on Form ID K-1, Part VII, line 47.

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 2018 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 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.

Form 84: Idaho Small Employer Real Property Improvement Tax Credit

https://tax.idaho.gov/forms/EFO00010_07-05-2019.pdf

IDAHO State Tax Commission

Form 84
Small Employer Real Property Improvement Tax Credit

2019

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 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 and receive 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 2019. 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	

EFO00010 07-05-2019

IDAHO State Tax Commission

Form 84 — Instructions Small Employer Real Property Improvement Tax Credit

2019

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
- Electric 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.

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 2018 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 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.

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 85: Idaho Small Employer New Jobs Tax Credit

https://tax.idaho.gov/forms/EFO00017_08-28-2019.pdf

IDAHO State Tax Commission

Form 85
Small Employer New Jobs Tax Credit

2019

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 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 and receive 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 2019. 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	

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 Credit

2019

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 you have an interest in. Report this amount on Form ID K-1, Part VII, line 49.

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 2018 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.

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

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

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

Page intentionally left blank

PROPERTY TAX EXEMPTION

Property Tax Exemption Administrative Rules & Statue

Administrative Rules: 35.01.03 Property Tax Administrative Rules

From: https://adminrules.idaho.gov/rules/current/35/350103.pdf

Statue: 63-602. Property Exempt from Taxation

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

TITLE 63
REVENUE AND TAXATION

CHAPTER 6
EXEMPTIONS FROM TAXATION

63-602. PROPERTY EXEMPT FROM TAXATION. (1) Property shall be exempt from taxation as provided in titles 21, 22, 25, 26, 31, 33, 39, 41, 42, 49, 50, 67 and 70, Idaho Code, and in chapters 6, 24, 30, 35 and 45, title 63, Idaho Code; provided, that no deduction shall be made in assessment of shares of capital stock of any corporation or association for exemptions claimed under this section, and provided further, that the term "full cash value" wherever used in this act shall mean the actual assessed value of the property as to which an exemption is claimed.

(2) The use of the words "exclusive" or "exclusively" in this chapter shall mean used exclusively for any one (1) or more, or any combination of, the exempt purposes provided hereunder and property used for more than one (1) exempt purpose, pursuant to the provisions of sections 63-602A through 63-602OO, Idaho Code, shall be exempt from taxation hereunder as long as the property is used exclusively for one (1) or more or any combination of the exempt purposes provided hereunder.

(3) All exemptions from property taxation claimed shall be approved annually by the board of county commissioners or unless otherwise provided:

(a) Exemptions pursuant to sections 63-602A, 63-602F, 63-602I, 63-602J, 63-602K for land of more than five (5) contiguous acres, 63-602L(1), 63-602M, 63-602R, 63-602S, 63-602U,63-602V, 63-602W, 63-602Z, 63-602DD(1), 63-602EE, 63-602OO, 63-2431, 63-3502, 63-3502A and63-3502B, Idaho Code, do not require application or approval by the board of county commissioners. For all other exemptions in title 63, Idaho Code, the process of applying is as specified in the exemption statutes or, if no process is specified and application is necessary to identify the property eligible for the exemption, annual application is required. Exemptions in other titles require no application.

(b) For exemptions that require an application, provided such exemptions are for property otherwise subject to assessment by the county assessor, the application must be made to the county commissioners by April 15 and the taxpayer and county assessor must be notified of any decision by May 15, unless otherwise provided by law. The decision of the county commissioners and any subsequent assessment notices sent to the taxpayer may be appealed to the county board of equalization pursuant to sections 63-501 and 63-501A, Idaho Code.

(c) For exemptions that require an application, provided such exemptions are for property otherwise subject to assessment by the state tax

commission, application for exemption shall be included with the annual operator's statement as required pursuant to section 63-404, Idaho Code. Notice of the decision and its effect on the assessment will be provided in accordance with procedures specified in chapter 4, title 63, Idaho Code. Appeals shall be made to the state tax commission in accordance with section 63-407, Idaho Code.

(4) An owner of property that is intended for a tax exempt purpose may apply to the board of county commissioners for a provisional property tax exemption, pursuant to section 63-1305C, Idaho Code.

History:

[63-602 added 1996, ch. 98, sec. 7, p. 348; am. 2010, ch. 133, sec. 1, p. 283; am. 2012, ch. 4, sec. 3, p. 7; am. 2014, ch. 20, sec. 1, p. 26; am. 2018, ch. 194, sec. 3, p. 434.]

63-601 ALL PROPERTY SUBJECT TO TAXATION.

63-602 PROPERTY EXEMPT FROM TAXATION.

63-602A PROPERTY EXEMPT FROM TAXATION — GOVERNMENT PROPERTY.

63-602B PROPERTY EXEMPT FROM TAXATION — RELIGIOUS LIMITED LIABILITY COMPANIES, CORPORATIONS OR SOCIETIES.

63-602C PROPERTY EXEMPT FROM TAXATION — FRATERNAL, BENEVOLENT, OR CHARITABLE LIMITED LIABILITY COMPANIES, CORPORATIONS OR SOCIETIES.

63-602D PROPERTY EXEMPT FROM TAXATION — CERTAIN HOSPITALS.

63-602E PROPERTY EXEMPT FROM TAXATION — PROPERTY USED FOR SCHOOL OR EDUCATIONAL PURPOSES.

63-602F PROPERTY EXEMPT FROM TAXATION.

63-602G PROPERTY EXEMPT FROM TAXATION — HOMESTEAD.

63-602H VALUE OF RESIDENTIAL PROPERTY IN CERTAIN ZONED AREAS.

63-602I PROPERTY EXEMPT FROM TAXATION — HOUSEHOLD GOODS, WEARING APPAREL AND OTHER PERSONAL EFFECTS IN CERTAIN CASES.

63-602J **PROPERTY EXEMPT FROM TAXATION — MOTOR VEHICLES AND VESSELS PROPERLY REGISTERED.**

63-602K PROPERTY EXEMPT FROM TAXATION — SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND.

63-602L **PROPERTY EXEMPT FROM TAXATION — INTANGIBLE PERSONAL PROPERTY.**

63-602M PROPERTY EXEMPT FROM TAXATION — CERTAIN SECURED DUES AND CREDITS.

63-602N PROPERTY EXEMPT FROM TAXATION — IRRIGATION WATER AND STRUCTURES — CERTAIN PROPERTY OF IRRIGATION DISTRICTS OR CANAL COMPANIES.

63-602O PROPERTY EXEMPT FROM TAXATION — PROPERTY USED FOR GENERATING AND DELIVERING ELECTRICAL POWER FOR IRRIGATION OR DRAINAGE PURPOSES AND PROPERTY USED FOR TRANSMITTING AND DELIVERING NATURAL GAS ENERGY FOR IRRIGATION OR DRAINAGE PURPOSES.

63-602P **PROPERTY EXEMPT FROM TAXATION — FACILITIES FOR WATER OR AIR POLLUTION CONTROL.**

63-602Q PROPERTY EXEMPT FROM TAXATION — CERTAIN COOPERATIVE TELEPHONE LINES.

63-602R PROPERTY EXEMPT FROM TAXATION — AGRICULTURAL CROPS.

63-602S PROPERTY EXEMPT FROM TAXATION — FRUITS AND VEGETABLES HELD FOR HUMAN CONSUMPTION, AND SEEDS, SHIPPED OUT OF THE STATE.

63-602T **PROPERTY EXEMPT FROM TAXATION — PERSONAL PROPERTY MANUFACTURED OR PROCESSED IN THIS STATE AND ACTUALLY SOLD AND SHIPPED OUT OF STATE.**

63-602U **PROPERTY EXEMPT FROM TAXATION — PERSONAL PROPERTY SHIPPED INTO THE STATE AND STORED IN A PUBLIC OR PRIVATE WAREHOUSE STRUCTURE, AND DESIGNATED FOR SHIPMENT OUT OF THE STATE TO BE CONSIDERED IN TRANSIT.**

63-602V **PROPERTY EXEMPT FROM TAXATION — PERSONAL PROPERTY SHIPPED INTO THE STATE AND STORED IN THE ORIGINAL PACKAGE.**

63-602W **BUSINESS INVENTORY EXEMPT FROM TAXATION — BUSINESS INVENTORY THAT IS A COMPONENT OF REAL PROPERTY THAT IS A SINGLE FAMILY DWELLING.**

63-602X PROPERTY EXEMPT FROM TAXATION — CASUALTY LOSS.

63-602Y PROPERTY EXEMPT FROM TAXATION — EFFECT OF CHANGE OF STATUS.

63-602Z EXEMPTION FROM OCCUPANCY TAX.

63-602AA PROPERTY EXEMPT FROM TAXATION — EXCEPTIONAL SITUATIONS.

63-602BB **PARTIAL EXEMPTION FOR REMEDIATED LAND.**

63-602CC PROPERTY EXEMPT FROM TAXATION — QUALIFIED EQUIPMENT UTILIZING POSTCONSUMER WASTE OR POSTINDUSTRIAL WASTE.

63-602DD MANUFACTURED HOMES USED UNDER A DEALER'S PLATE OR AS A SHEEP AND COW CAMP.

63-602EE PROPERTY EXEMPT FROM TAXATION — CERTAIN TANGIBLE PERSONAL PROPERTY.

63-602GG PROPERTY EXEMPT FROM TAXATION — LOW-INCOME HOUSING OWNED BY NONPROFIT ORGANIZATIONS.

63-602GG PROPERTY EXEMPT FROM TAXATION — LOW-INCOME HOUSING OWNED BY NONPROFIT ORGANIZATIONS.

63-602HH **PROPERTY EXEMPT FROM TAXATION — SIGNIFICANT CAPITAL INVESTMENTS.**

63-602II PROPERTY EXEMPT FROM TAXATION — UNUSED INFRASTRUCTURE.

63-602JJ PROPERTY EXEMPT FROM TAXATION — CERTAIN PROPERTY OF PRODUCER OF ELECTRICITY BY MEANS OF WIND, SOLAR OR GEOTHERMAL ENERGY.

63-602KK **PROPERTY EXEMPT FROM TAXATION — CERTAIN PERSONAL PROPERTY.**

63-602NN **PROPERTY EXEMPT FROM TAXATION — CERTAIN BUSINESS PROPERTY.**

63-602OO PROPERTY EXEMPT FROM TAXATION — OIL OR GAS RELATED WELLS.

63-603 ELECTRIC, OR GAS, PUBLIC UTILITIES PUMPING WATER FOR IRRIGATION OR DRAINAGE — REDUCTION OF ASSESSMENT IN ACCORDANCE WITH EXEMPTION — CREDIT ON CUSTOMERS' BILLS OR PAYMENT TO CONSUMERS.

63-604 LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED.

63-605 LAND USED TO PROTECT WILDLIFE AND WILDLIFE HABITAT.

63-606A SMALL EMPLOYER GROWTH INCENTIVE EXEMPTION. "BUSINESS ADVANTAGE"

Page intentionally left blank

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.

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.]

Statute: 63-606A. Property Exempt from Taxation — Business Advantage

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.]

Page intentionally left blank

SALES TAX EXEMPTION

Production Sales Tax Exemption

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

To qualify:

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

Purchases that are exempt:

The production exemption allows tax-free purchases of:

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

Administrative Rules: 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)

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.]

This Page Intentionally Left Blank

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.

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 COMMITTEE
AN 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 ad justments 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.

Form ST-101: Sales Tax Resale or Exemption Certificate

https://tax.idaho.gov/forms/EFO00149_07-13-2020.pdf

IDAHO State Tax Commission

Form ST-101
Sales Tax Resale or Exemption Certificate

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

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

a. List the primary nature of your business _____. Describe the products you sell, rent, or lease _____.

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). I'm in the business of producing _____. 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 ☐ Hunting or fishing operation ☐ Mining ☐ Ranching
☐ Farming ☐ Manufacturing ☐ Processing

3. Exempt Buyers. All purchases are exempt and no permit number is required. 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
☐ Volunteer fire departments

4. Contractor Exemptions (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):

☐ In a nontaxing state. (To qualify, materials must become part of the real property.)
☐ An agricultural irrigation project.
☐ For production equipment owned by a producer who qualifies for the production exemption.
☐ A certified data center project.

5. 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
☐ 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 07-13-2020

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

General. Sellers must charge tax to any customer and on any goods that don't qualify for a claimed exemption and are taxable by law. The form is valid only if all information is complete. The seller must keep the form.

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.

Volunteer fire departments.

4. Contractor Exemptions

Four exemptions apply to contractors:

- Agricultural irrigation
- Certified data centers
- Nontaxing states
- Production equipment

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.

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. (See section 5 for more information about certified data centers.)

This exemption doesn't apply to tools, equipment, or building materials that don't become part of the data center facility.

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.

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.

5. 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 for more details.

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 for more details.

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 for more details

> ***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 for more details.

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 for more details.

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 63-3622NN for more details.

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 for more details.

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 for more details.

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 for more details.

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

This Page Intentionally Left Blank

Aircraft Sales Tax Exemption

Certain materials, parts and components installed on certain aircrafts are exempt from the sales and usage tax. These exemptions are as followed: Sale, lease, purchase, or use of aircraft primarily used to provide passenger or freight services for hire as a common carrier and air ambulance services.

To qualify:

- A Person operating the aircraft must obey Idaho, federal and foreign laws.
- Aircraft is used to provide services indiscriminately to the public.
- Aircraft itself transports the person or property from one location on the ground or water to another.
- Aircraft will be taken from the point of delivery to a point outside of Idaho.
- Aircraft will not be used in Idaho for more than ninety (90) days in any (12) month period.
- Repair and replacement materials and parts installed in or affixed or applied to, or sold, leased or purchased must adhere to industry standards and federal aviation administration (FAA) approved materials. Parts and components installed on non-resident privately owned aircraft by qualified employees of an FAA approved Idaho repair station are exempt.

*Tools and equipment used in remodeling, repair or maintenance are not exempt.

Administrative Rules: 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)

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.]

This Page Intentionally Left Blank

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.]

Page intentionally left blank

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.

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.]

This Page Intentionally Left Blank

Utility and Industrial Fuels Tax Exemption

Businesses are exempt from paying sales tax on utilities and industrial fuels. Examples include power, water, natural gas, and telephone.

Administrative Rules: 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)

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.]

This Page Intentionally Left Blank

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.

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.]

Form ST-101: Sales Tax Resale or Exemption Certificate

https://tax.idaho.gov/forms/EFO00149_12-04-2018.pdf

IDAHO State Tax Commission

Form ST-101
Sales Tax Resale or Exemption Certificate

Buyer's Name			Seller's Name		
Address			Address		
City	State	ZIP Code	City	State	ZIP Code

Seller: Each exemption a customer may claim on this form has special rules (see instructions). It's your responsibility to learn the rules. You must charge tax to customers on goods that don't qualify for a claimed exemption and are taxable by law.
Buyer: Complete the section that applies to you.

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

a. Primary nature of business _____ Describe the products you sell, lease, or rent _____

b. Check the box that applies: ☐ Idaho registered retailer; seller's permit number _____ (required - see instructions)

☐ Wholesale only; no retail sales ☐ 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). I will put the goods purchased to an exempt use in the business indicated below.

☐ Broadcasting
☐ Logging
☐ Publishing Free Newspapers

☐ Production Exemption (check all that apply):
☐ Fabricating ☐ Hunting or Fishing Operation ☐ Manufacturing ☐ Processing
☐ Farming ☐ Mining ☐ Ranching

List the products you produce: _____

3. Exempt Buyer. All purchases are exempt, and no permit number is required. Check the box that applies.

☐ Advocates for Survivors of Domestic Violence and Sexual Assault, Inc.
☐ American Indian Tribe
☐ American Red Cross
☐ Amtrak
☐ Blind Services Foundation, Inc.
☐ Canal Company (*nonprofit only*)
☐ Centers for Independent Living
☐ Children's Free Dental Service Clinic (*nonprofit only*)
☐ Credit Union (state/federal)
☐ Emergency Medical Service Agency (*nonprofit only*)
☐ Forest Protective Association
☐ Government Entity (U.S./Idaho)
☐ Hospital (*nonprofit only*)
☐ Idaho Foodbank Warehouse, Inc.
☐ Museum (*nonprofit only*)
☐ Qualifying Health Organization (see instructions for list)
☐ School (*nonprofit only*)
☐ Senior Citizen Center
☐ Volunteer Fire Department

4. Contractor Exemptions (see instructions).

a. Invoice, purchase order, or job number to which this claim applies _____

b. City and state where job is located _____

c. Project owner name _____

d. This exempt project is (check appropriate box)

☐ In a nontaxing state (To qualify, materials must become part of the real property)
☐ An agricultural irrigation project
☐ For production equipment owned by a producer who qualifies for the production exemption

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

☐ Aerial tramway component or snowmaking/grooming equipment
☐ Aircraft (fixed-wing) primarily used as an air tactical group supervisor platform
☐ Aircraft primarily used to transport passengers or freight for hire
☐ Aircraft purchased by nonresident for out-of-state use
☐ American Indian buyer holding Tribal ID No._____ This form doesn't apply to vehicles or boats (see instructions)
☐ Church buying goods for food bank or to sell meals to members
☐ Food bank or soup kitchen buying food or food service goods
☐ Heating fuel
☐ Irrigation equipment and supplies used for agriculture
☐ Livestock sold at a public livestock market
☐ Medical items that qualify
☐ Pollution control items
☐ 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 12-04-2018 Page 1

IDAHO State Tax Commission

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

General. Sellers must charge tax to any customer and on any goods that don't qualify for a claimed exemption and are taxable by law. The form is valid only if all information is complete. The seller must keep the form.

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 or are 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. The certificate isn't valid if the number contains another number, such as a federal Employer Identification Number. 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/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-road 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 must still 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, centers must be **all** of these:

- Nonresidential
- Nonprofit
- Run by disabled persons
- Provide independent living programs to people with various disabilities

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 Agencies. Only nonprofit emergency medical service agencies qualify.

Forest Protective Associations.

Government Entities. Only the U.S. government and Idaho state, county, and city governments 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. Only nonprofit schools qualify. These schools include colleges and universities; primary, secondary, and charter schools; and the Idaho Digital Learning Academy. Schools primarily teaching subjects like business, dancing, dramatics, music, cosmetology, writing, and gymnastics don't qualify. Auxiliary organizations such as parent-teacher associations, booster clubs, and alumni groups don't qualify.

Senior Citizen Centers.

Volunteer Fire Departments.

4. CONTRACTOR EXEMPTIONS. Three exemptions apply to contractors: Agricultural Irrigation, Nontaxing State, and Production Equipment. In each case, contractors must list the job location and project owner. They must also list whether the exemption claim applies to all purchases for a specific job number or to a specific invoice or purchase order.

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.

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.

Production Equipment. A contractor who installs production equipment for a producer can buy the materials for the equipment exempt from tax. This exemption doesn't apply to materials that become part of real property.

5. 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, or this certificate isn't valid.

Aerial Tramway, Snowmaking/Grooming Equipment. The sale, storage, use or other consumption of parts, material, or equipment that will become a component of an aerial passenger tramway are exempt from tax.

Snowgrooming and snowmaking equipment purchased and used by the owner or operator of a downhill ski area to prepare and maintain the downhill ski slopes accessed by aerial tramways is also exempt. An aerial tramway includes chair lifts, gondolas, T-bar and J-bar lifts, platter lifts, rope tows, and similar devices.

Aircraft Primarily Used to Transport Passengers or Freight for Hire. Only aircraft purchased by an airline, charter service, air ambulance service, or air freight company qualify. Parts for the exempt aircraft are also exempt. Examples of aircraft that don't qualify for this exemption are those used for recreational flights, aerial spraying, dumping, or logging.

Aircraft Primarily Used as an Air Tactical Group Supervisor Platform. Fixed-wing aircraft primarily used as an air tactical group supervisor platform,

under contract with a government entity for wildfire activity, are exempt. Parts for these exempt aircraft are also exempt.

Aircraft Purchased by Nonresidents for Out-of-State Use. An aircraft purchased by a nonresident is exempt if it will be immediately removed from Idaho and registered in another state. It can't be stored or used in Idaho more than 90 days in any 12-month period.

A nonresident corporation, partnership, limited liability company, or other organization that meets the requirements listed above can claim the exemption if it also meets **all** of these additional requirements:

- It isn't formed under the laws of Idaho
- It isn't required to be registered with the Idaho Secretary of State to do business in Idaho
- It doesn't have significant contacts with Idaho and doesn't have consistent operations in Idaho

Repair parts that an FAA-approved Idaho repair station installs on a nonresident's aircraft qualify for exemption. Aircraft kits and hang gliders don't qualify.

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*.

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.

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.

> ***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 liquified 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.

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.

Medical Items. Only the following prescribed medical goods qualify if a licensed practitioner will administer or distribute them: drugs, contacts, 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.

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" that the dry cleaning industry uses. This exemption doesn't apply to items used in road construction, septic or sewer systems, treating drinking water, or preventing soil erosion. Motor vehicles and buildings don't qualify. See Idaho Code section 63-3622X for more details.

Research and Development (R&D). Purchases of goods that are directly and primarily used to develop, design, manufacture, process, or fabricate a product or potential product qualify. Also, 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.

Page intentionally left blank

INCOME TAX CREDIT

3% Investment Tax Credit

Tax Credit
Businesses that make qualifying new investments may earn an income tax credit. This credit can offset up to 50% of a company's state income tax liability and may be carried forward up to 14 years.

To qualify:

- Qualifying property is new or used depreciable property. Idaho adopted the definition of qualifying property found in Internal Revenue Code (IRC) Sections 46(c) and 48 in effect prior to 1986 for this credit.
- The depreciable life must be three years or more.
- Property not used in Idaho and vehicles under 8,000 pounds gross weights do not qualify.

Property used in a trade or business that does qualify includes:

1. Tangible personal property-machinery and equipment.
2. Other tangible property used as an integral part of manufacturing, production, extraction, furnishing, transportation, communications, utility services, or research facilities and bulk storage facilities used in connection with those businesses.
3. Elevators and escalators.
4. Single purpose agricultural or horticultural structures, such as a commercial greenhouse or a milking barn.
5. Certain qualified timber property.
6. Petroleum storage facilities.

Property that does not qualify includes:

1. Buildings and their structural components.
2. Property used primarily for lodging. This is an apartment house or other facility where sleeping accommodations are provided and rented. The rental period is normally more than 30 days. (Tangible personal property used in a facility that rents rooms for a period of less than 30 days does qualify.)
3. Property expensed under Section 179, IRC.
4. Property subject to 60-month amortization.
5. Used property:
    a. not acquired by purchase; or
    b. in excess of $150,000; or
    c. acquired from a related person. This includes a person acquiring property they used prior to the acquisition.
6. Property that is either non-depreciable or has a useful life of fewer than three years.
7. The portion of property that is for personal use.
8. Horses.

Qualified Investment Exemption:

- This exemption may be applied in lieu of the investment tax credit. A two-year exemption from property tax on qualified personal property is available only if a loss was incurred in the second preceding tax year in which the property is placed in service. The loss must have been computed without regard to any net operating loss carry over or carry back.

Administrative Rules: 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.]

Page intentionally left blank

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.

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

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.

This Page Intentionally Left Blank

Broadband Income Tax Credit

Businesses that purchase qualified broadband equipment and infrastructure for the benefit of end users in Idaho may earn a 3% income tax credit up to $750,000. This credit is transferable and may be carried forward up to 14 years.

Administrative Rules: 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)

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.]

This Page Intentionally Left Blank

Net Operating Loss

Deductions
Idaho offers a net operating loss income tax provision for losses up to $100,000 per tax year. Losses may be carried back for two years, or, if not absorbed in those two years, the remainder may be carried forward for up to 20 years.

Administrative Rules: 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.]

This Page Intentionally Left Blank

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.

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

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.

Page intentionally left blank

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.

- SENIOR CITIZEN AND COMMUNITY CENTERS
    - Rehabilitation, expansion and construction. Applications are due annually in March.

Application Deadlines

- **Public Facilities and Downtown Revitalization grant applications:** Friday before Thanksgiving
- **Senior/Community Center Grant applications:** First Friday of March
- **Job Creation grant applications:** Third Monday of December, March, June and September

Administrative Rules: 28.02.01.009 Idaho Community Development Block Grant

IDAPA 28
TITLE 02
CHAPTER 01

28.02.01 – IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (ICDBG)

000. LEGAL AUTHORITY. In 1981 Congress amended the Community Development Act of 1974 to allow states to assume the Department of Housing and Urban Development's State Community Development Block Grant Program. The Department of Commerce, through these rules, is implementing the state's administration of the State Community Development Block Grant program as authorized by the Housing and Community Development Act of 1974, as amended, (42 USC, Sec. 5301) and Department of Housing and Urban Development Rules 24 CFR, Part 570, Subpart I. Funds which are appropriated annually by Congress are allocated by statutory formula to each state. This chapter is adopted in accordance with Section 67-4702(2), Idaho Code. (7-1-16)

001. TITLE AND SCOPE. These rules establish the process and procedures for application for and the awarding of Idaho Community Development Block Grants. Since the application process is competitive in nature, close attention to these requirements is necessary to prepare a successful project. Contact with Department staff is helpful, and encouraged, in determining eligibility for a proposed project. Department staff is also available for technical assistance and answers to questions about the rules. (7-6-94)

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. (3-29-10)

003. ADMINISTRATIVE APPEALS. IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Section 100, et seq., shall apply. (3-29-10)

004. INCORPORATION BY REFERENCE. IDAPA 28.02.01 incorporates by reference the following: (3-29-10)

01. 24 CFR 570.489, dated April 1, 2014. Access to this document is available through the Department of Commerce website at http://commerce.idaho.gov/. (7-1-16)

02. 24 CFR 570.611, dated April 1, 2014. Access to this document is available through the Department of Commerce website at http://commerce.idaho.gov/. (7-1-16)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The street address of the office of the Idaho Department of Commerce is 700 W. State Street, Boise, Idaho 83720. The mailing address of the Department is P. O. Box 83720, Boise, Idaho 83720-0093. The office is open from 8 a.m. to 5 p.m., except Saturday, Sunday, and legal holidays. The telephone number of the Department is (208) 334-2470. The Department's facsimile number is (208) 334-2631. (3-29-10) 006. PUBLIC RECORDS ACT COMPLIANCE. Department records are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-29-10)

007. -- 008. (RESERVED)

009. DEFINITIONS. For the purposes of these rules, the following words are defined. (7-6-94)

01. Allocation. The state of Idaho's share of the Small Cities Community Development Block Grant Program as determined by the funding formula contained in the Housing and Community Development Act of 1974, as amended. (7-6-94)

02. Appropriation. The Federal funding, as set by Congress, for the Department of Housing and Urban Development (HUD). (7-6-94) 03. CDBG. The Community Development Block Grants, especially the State Program administered by HUD. (7-1-16)

04. Department. The Idaho Department of Commerce. (3-29-10)

05. Grant. The transfer of ICDBG funds, in accordance with state and federal law, from the Department to a unit of local government for the specific purpose of accomplishing the project described in the Application. (7-6-94)

06. ICDBG. The Idaho Community Development Block Grants. The Idaho Department of Commerce administered Small Cities ICDBG Program. (7-6-94)

010. GENERAL OBJECTIVES.

01. National Objectives. The primary objective of this program is to develop viable communities by expanding economic opportunities and providing decent housing, "principally for persons of low and moderate incomes." Consistent with this primary objective, projects funded under Idaho's Community Development Block Grant Program must be designed so that each activity will benefit either low and moderate income persons, will aid in the prevention or elimination of slums and blight, or will meet other community development needs having a particular urgency because of existing conditions which pose a serious and immediate threat to the health or welfare of the community where other financial resources are not available to meet such needs. (7-6-94)

02. State Objectives. The state's objective of the Idaho Community Development Block Grant (ICDBG) program is to assist Idaho communities in developing their economy, public facilities and housing to provide greater opportunities, principally for low and moderate income citizens, through: increasing economic opportunities by assisting business expansions and job creation; improving community infrastructure to accommodate economic growth and eliminate health and safety problems; improving housing stock and expanding housing choices; and rebuilding or revitalizing blighted areas. (7-6-94)

011. GRANT PROGRAM.

01. Grant Types. The following six (6) types of grants are available under the Idaho Community Development Block Grant program: Public Facility or Housing (PFH); Economic Development (ED); Community Center (CC) or Senior Citizen Center (SR); and Imminent Threat (IT). (7-1-98)

02. General Descriptions. In any project, eligibility must meet two (2) tests. First, the project must be described by one (1) or more eligible activities (Section 022) and second, the project must qualify in a national objective (Section 015). (7-6-94)

03. Public Facility or Housing Grants. (7-6-94)

a. Public facility projects are those that construct or improve facilities including, but not limited to, sewer or water systems, streets, curbs, gutters, and sidewalks, fire stations, public medical and health facilities, libraries, group homes, publicly owned commercial or industrial property. Some public facilities such as city halls, courthouses, police stations, jails, and schools are by definition ineligible (Section 052) or have extreme difficulty meeting a national objective. (7-1-16)

b. Housing projects are those that improve or rehabilitate housing units for low and moderate income families. Projects include, but are not limited to, rehabilitation of public housing, rental rehabilitation, owner-occupied housing rehabilitation, acquisition of real property for rental rehabilitation, acquisition of land and site development for new rental housing, replacement housing, rehabilitation of school buildings into housing, acquisition of sites, site development and acquisition of manufactured housing for manufactured home parks. (7-1-16)

04. Economic Development Grants. There are two (2) types of Economic Development projects. (7-6-94)

a. The first is the provision of infrastructure, usually sewer, water, or street, to a specific business expansion or new location. Manufacturing or processing companies are the more competitive projects. The grant funds assist with the public costs of extending services in exchange for a commitment from the business to create jobs for low and moderate income persons. (7-6-94)

b. The second grant is to assist with downtown revitalization. The downtown merchants and landowners must organize themselves and develop a plan of specific improvement actions. The downtown area must meet the slum and blight national objective. (7-6-94)

05. Center and Park Grants. Community Center Grants, Senior Center Grants, and Public Park Grants are specific types of public facility projects. Funds are set aside for these facilities only. Community Centers, Senior Centers, and Public Parks must be owned or operated for the benefit of all project area or neighborhood residents. (7-1-16)

06. Imminent Threat Grants. Imminent Threat projects are those which correct or eliminate a recent threat to human health or safety (see Section 021 and Section 108). (7-6-94)

07. Grant Award System. Since demand for grants far exceeds available funds, a competitive system is used to select grants, except for the imminent threat and technical assistance grants. Grant applications shall be submitted, rated and selected for funding according to the criteria and procedures established by these rules. (7-6-94)

012. ELIGIBLE APPLICANTS. Applicants for the Idaho Community Development Block Grants are limited to general purpose units of government in Idaho. Those include incorporated cities not designated by HUD as an "entitlement city" and counties. Counties may apply on behalf of unincorporated communities (a community not organized, incorporated or chartered under the laws of the state of Idaho) or unincorporated urbanized areas (suburban areas of a city not annexed into the city). Special purpose districts are not eligible, although they may be involved in the execution of a project by mutual agreement. Indian tribes are not eligible to apply since funds are available to them under a special HUD program. (7-6-94)

013. QUALIFICATION OF APPLICANTS.
Applicants shall only apply for a grant for a project which lies within their jurisdictional or impact area boundary. The project must address the needs of the residents of their jurisdiction or impact area. Applications shall not be submitted in behalf of other jurisdictions solely for administrative convenience (see Section 014). Counties may apply in behalf of more than one (1) unincorporated community or unincorporated urbanized area. However, counties may apply for only one (1) grant which has county-wide benefit. Counties or cities may apply on behalf of senior citizen groups for a senior citizen facility grant. Applying for a PFH grant does not disqualify an applicant from applying for a CC or SR grant. Applicants shall apply for only one (1) project from each setaside with the exception of economic development projects. In accordance with Subsection 082.05 of these rules, applicants must be eighty percent (80%) drawn down from any prior PFH grants as of the last date for accepting applications. ED applicants for job creation projects may apply for one (1) ED grant in any quarterly application cycle. If applicants have an existing ED grant it must be under contract prior to submitting a new ED application. A county or a city shall not be eligible to apply for a grant if it has unresolved audit findings, any unresolved disallowed costs, or any unresolved prior performance problems from any previous grants in any category. (3-19-99)

014. JOINT APPLICATIONS.
A city and a county may apply jointly when solving a shared problem requires mutual action. A "shared problem" must lie in areas of contiguous or overlapping jurisdictions, and this must be documented in the Application. One (1) unit must be designated as the responsible unit for administrative purposes. Written cooperation agreements must also be submitted. The cooperation agreement must cover the entire project from application to operation and maintenance. A joint application solely for administrative convenience or one (1) in which several jurisdictions are addressing similar, but unrelated, circumstances does not qualify as a joint application to solve a mutual problem. (7-6-94)

015. NATIONAL OBJECTIVES.
To receive ICDBG funds, each eligible activity within a project (Section 022) must serve one (1) of the following national objectives: principally benefit at least fifty-one percent (51%) low and moderate income persons; aid in the prevention or elimination of slum and blight; or meet other community development needs having a particular urgency because of existing conditions which pose a serious and immediate threat to the health or safety of residents where other financial resources are not available.

(7-6-94)

016. BENEFIT TO LOW AND MODERATE INCOME PERSONS.

01. Definition. Members of a family having an income within family income standards established by HUD for housing and community development programs. Unrelated individuals are considered one (1) person families. Low income is defined as families with income of fifty percent (50%) or less of the county median income. Moderate income is defined as families with income of eighty percent (80%) or less of the county median income. HUD established that county median income is the greater of either the county median income or the median income of the "non-entitlement" area of the state. Activities considered to benefit LMI persons are divided into four (4) categories: area benefit activity, limited clientele activity, housing activity, and job creation or retention activity. (7-6-94)

02. Area Benefit Activity. A grant project which meets the needs of LMI persons residing in an area where at least fifty-one percent (51%) of the residents are LMI persons. The benefits of this project are available to all persons in the area regardless of income. Such an area need not have the same boundaries as census tracts or other officially recognized boundaries but must be the entire area served by the project. A project that serves an area that is not primarily residential in character (i.e. street construction in an industrial park) shall not qualify under this category. (7-6-94)

03. Limited Clientele Activity. A grant project which benefits a specific group of people, at least fifty-one percent (51%) of whom are LMI persons. Limited clientele activities also include special projects to remove material and architectural barriers which restrict the mobility and accessibility of elderly or adults with disabilities to publicly-owned and privately-owned non-residential buildings. To qualify in limited clientele activity, the activity must meet one (1) of the following tests: (7-1-16)

a. Benefits a clientele group who are generally presumed to be principally LMI persons. Currently, the following groups are presumed by HUD to meet this criterion: elderly persons, homeless persons, adults with disabilities, migrant farm workers, abused children, battered spouses, illiterate adults, or adults living with the disease AIDS; (7-1-16)

b. Information on family or household size and income proves that at least fifty-one percent (51%) of the clientele are persons whose family income does not exceed the LMI limit; or (7-1-16)

c. Income eligibility requirements limit the activity exclusively to LMI persons; or (7-6-94)

d. By the nature and location it may be concluded that the clientele will primarily be LMI persons; or (7-6-94)

e. A special project directed to removal of material and architectural barriers which restrict the mobility and accessibility of elderly or persons with disabilities to publicly owned and privately owned non-residential buildings, facilities and improvements, and the common areas of residential structures containing more than one (1) dwelling unit. (7-6-94)

04. Housing Activity. A grant project which adds to or improves permanent, residential structures which, upon completion, will be occupied by LMI households. This project may include, but not necessarily be limited to, the acquisition or rehabilitation of property and conversion of non-residential structures. (7-1-16)

a. The housing may be either one (1) family or multifamily structures. If the structure contains two (2) dwelling units, at least one (1) must be so occupied, and if the structure contains more than two (2) dwelling

units, at least fifty-one percent (51%) of the units must be so occupied. Where two (2) or more rental buildings being assisted are or will be located on the same or contiguous properties, and the buildings will be under common ownership and management, the grouped buildings may be considered for this purpose as a single structure. For rental housing, occupancy by low and moderate income households must be at affordable rents to qualify under this criterion. The unit of general local government shall adopt and make public its standards for determining "affordable rents" for this purpose. (7-6-94)

b. The following shall also qualify under this criterion. When less than fifty-one percent (51%) of the units in a structure will be occupied by low and moderate income households, ICDBG assistance may be provided in the following limited circumstances: the assistance is for an eligible activity to reduce the development cost of the new construction of a multifamily, non-elderly rental housing project; not less than twenty percent (20%) of the units will be occupied by low and moderate income households at affordable rents; and the proportion of the total cost of developing the project to be borne by ICDBG funds is no greater than the proportion of units in the project that will be occupied by low and moderate income households. (7-6-94)

05. Job Creation or Retention Activity. A grant project which creates or retains permanent jobs, at least fifty-one percent (51%) of which are either taken by LMI persons or considered to be available to LMI persons. (7-6-94)

a. Acceptable documentation on applicant/employee family income includes any of the following: (3-20-97)

i. Notice that employee/applicant is a referral from state, county, or local employment agency or other entity that agrees to refer individuals who they determine to be low or moderate income based on HUD's criteria. These entities must maintain documentation which is to be available for grantee, Department, or federal inspection; or (3-20-97)

ii. Written certification signed by the employee/applicant of family income and size to establish income status showing either: The actual income of the family; or, a statement that the family income is below that required by CDBG standards. These forms must include a statement that they are subject to verification by the local or federal government; or (3-20-97)

iii. Evidence that employee/applicant qualifies for assistance under another program with income qualification criteria at least as restrictive as those used by HUD (e.g., referrals from the Workforce Investment Act (WIA) program), except for referrals under the WIA program for dislocated workers. (4-11-06)

b. For an activity designed to create permanent jobs where at least fifty-one percent (51%) of the jobs, computed on a full time equivalent basis, involve the employment of low and moderate income persons. For an activity that creates jobs, the unit of general local government must document that at least fifty-one percent (51%) of the jobs will be "held by", or will be made "available to", low and moderate income persons. The unit of local government and the business must determine at the time of pre-application whether they will use "held by" or the "available to" criteria as their method of documenting LMI jobs. (7-1-16)

c. For an activity that retains jobs, the unit of general local government must document that the jobs would actually be lost without the ICDBG assistance and that either or both of the following conditions apply with respect to at least fifty-one percent (51%) of the jobs at the time the ICDBG assistance is provided: The job is known to be held by a low or moderate income person; or the job can reasonably be expected to turn over within the following two (2) years and that it will be filled by, or that steps will be taken to ensure that it is made available to, a low or moderate income person upon turnover. (7-6-94)

d. Jobs will be considered to be "available to" low and moderate income persons for these purposes only if: special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs, or the business agrees to hire unqualified persons and provide training; and the unit of general local government and the assisted business take actions to ensure that low and moderate income persons receive first consideration for filling such jobs. First consideration shall consist of the business using a hiring practices that in all likelihood will result in over fifty-one percent (51%) of persons hired

being LMI persons, the business must seriously consider/interview an adequate number of LMI applicants, the availability of transportation must be considered to allow LMI persons to commute to the job site. The hiring practice used to make jobs available to LMI persons shall be identified in the pre-application and approved by the Department. (3-20-97)

e. As a general rule, each assisted business shall be considered to be a separate activity for purposes of determining whether the activity qualifies under this paragraph, except: in certain cases, such as where ICDBG funds are used to acquire, develop or improve a real property (e.g., a business incubator or an industrial park), the requirement may be met by measuring jobs in the aggregate for all the businesses that locate on the property, provided the businesses are not otherwise assisted by ICDBG funds; and where ICDBG funds are used to pay for the staff and overhead costs of a subrecipient specified in Section 105(a)(15) of the Act making loans to businesses from non-ICDBG funds, this requirement may be met by aggregating the jobs created by all of the businesses receiving loans during any one (1) year period. (7-6-94)

f. In any case where ICDBG funds are used for public improvement (e.g., water, sewer and road) and the national objective is to be met by job creation or retention as a result of the public improvement, the requirement shall be met as follows: the assistance must be reasonable in relation to the number of jobs expected to be created or retained by the affected business(es) within two (2) years from the completion of the public improvement. If the ICDBG assistance is under ten thousand dollars ($10,000) per job created or retained, then only businesses applying for ICDBG assistance need to be assessed for low and moderate income job creation or retention. If the ICDBG equals or exceeds ten thousand dollars ($10,000) per job then any business benefiting by the public improvement, for a period of up to one (1) year after the physical completion of the public improvement, must be assessed for low and moderate income job creation or retention. (3-29-10)

017. -- 019. (RESERVED)

020. AID IN PREVENTION/ELIMINATION OF SLUMS AND BLIGHT.

01. Definition. The area impairs the sound growth of a community, constitutes an economic liability or a social liability to the community, or contains conditions which are a menace to public health, safety or welfare. Any Eligible Activity may be used to remove conditions that are contributing to the slum and blighting conditions. Activities may address slum and blight conditions on either an area basis or spot basis. (7-1-16)

02. Elimination of Slum or Blight on an Area Basis. To qualify under the national objective of slum/ blight on an area basis, a project must meet the criteria as defined in 24 CFR 570.483(c)(1). (7-1-16) 03. Elimination of Slum or Blight on a Spot Basis. To comply with the national objective of elimination or prevention of slums or blight outside a slum or blighted area, a project must meet the criteria as defined in 24 CFR 570.483(c)(2). (7-1-16)

021. AID IN MEETING URGENT NEEDS.

An urgent need/imminent threat is a catastrophic or emergency situation which creates an impending or immediate threat, danger or peril to human health or safety; the existence of physical harm to people, but not to their property, welfare, or economic well-being. The danger or harm must be imminent or have occurred. Situations or circumstances which result from neglect or lack of local initiative, or gradually become urgent are not considered imminent threats. The cause of the emergency must be beyond the ability to plan and budget for. (7-6-94)

022. ELIGIBLE ACTIVITIES.

An activity as identified in 24 CFR 570.482 eligible activities that also meets one (1) of the three (3) national objectives is considered eligible and may be financed in whole or in part with Idaho Community Development Block Grant (ICDBG) funds. Each grantee must ensure and maintain evidence that each of its ICDBG-funded activities meets one (1) of the national objectives. A grant project shall consist of a combination of eligible activities. Each activity must also be in compliance with the following conditions: (7-1-16)

01. Environmental Review. An environmental review and clearance procedure (contained in the Code of Federal Regulations (24 CFR Part 58)) must be completed for each project consisting of activities as defined in this Section. (7-6-94)

02. Cost Principles. Costs incurred must conform with the requirements of OMB Circulars A-87 "Cost Principles Applicable to Grants and Contracts with State and Local Governments" or A-122, "Cost Principles for Nonprofit Organizations." (7-6-94)

03. Mixing Eligible and Ineligible Uses. A public facility eligible for ICDBG assistance may be funded even if it is part of a multiple-use building containing ineligible uses if: (7-6-94)

a. The eligible portion of the building is a designated and discreet area of the building; (7-6-94)

b. The applicant can determine the costs attributable to the eligible use or eligible portion of the facility as distinct from the overall costs of the facility. (7-6-94)

04. Special Assessments. (7-6-94)

a. Definition. The recovery of the capital costs of a public improvement, such as streets or sewer lines, through a fee or charge levied or filed as a lien against a parcel of real estate as a direct result of benefit derived from the installation of a public improvement. The fee amount represents the pro-rata share of the capital costs of the public improvement levied against the benefiting properties. The term does not relate to user fees or taxes or the establishment of the value of real estate for the purpose of levying real estate, property or ad valorem taxes. (7-6-94)

b. Restrictions. For projects funded beginning in 1984, no special assessments will be levied against properties owned and occupied by low and moderate income persons to recover that portion of a capital expenditure funded in whole or in part by ICDBG funds. This includes fees or assessments made as a condition to obtain access to a facility. Grant recipients may levy assessments to recover the portion of a capital expenditure funded from other sources if the assessments of the low and moderate income owner-occupants are paid with ICDBG funds. Funds collected through special assessments are not program income if the assessment of LMI owner-occupants are paid with ICDBG funds. ICDBG funds may be used to pay for assessments levied against property owned and occupied by low and moderate income persons even if the public facility improvements are financed solely from other sources, and if the improvements were carried out in compliance with ICDBG rules. (7-6-94)

05. Beneficiary Data. Each grantee shall collect and maintain data on the persons to directly benefit from the grant project. The data shall include information on race, gender and ethnic characteristics of persons who are applicants for, participants in, or beneficiaries of the grant project. (7-6-94)

06. Administrative Activities. Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development, housing activities, and the costs related to the establishment and administration of federally approved enterprise zones; to carry out management, coordination and monitoring of activities necessary for effective planning and implementation, including the provision of information and resources to residents of areas in which community development and housing activities are to be concentrated with respect to the planning and execution of such activities including planning under 24 CFR 570.482. These costs shall not exceed ten percent (10%) of ICDBG grant funds and any program income. (7-1-16)

023. -- 051. (RESERVED)

052. INELIGIBLE ACTIVITIES.

As a general rule, any activity not authorized in Section 022 of these rules is ineligible to receive ICDBG funds. This section identifies two (2) areas that are ineligible and provides guidance in determining eligibility of other activities frequently associated with housing and community development. (7-6-94)

01. The Following Activities May Not Be Carried Out Using ICDBG Funds. (7-6-94)

a. Assistance to buildings, or portions thereof, used predominantly for the general conduct of government. (However, the removal of architectural barriers and historic preservation involving such buildings is eligible.) Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body of the recipient meets regularly, courthouses, jails, police stations, and other state or local government office buildings. Also ineligible are school buildings, school offices, and university and college vo-tech facilities. Where acquisition of real property includes an existing building and improvements, part of which is to be utilized for the general conduct of government, the acquisition cost attributable to the land is eligible, provided a national objective is met with the other eligible use of the property and building. Of building costs, only the portion of the building required for eligible activity is an eligible grant expense. (7-6-94)

b. Except as specifically authorized in these rules or under OMB Circular A-87, expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with ICDBG funds. (7-6-94)

c. ICDBG funds shall not be used to finance facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration. However, a facility originally financed in whole or in part with ICDBG funds may be used on an incidental basis to hold political meetings, candidate forums, or voter registration campaigns, provided that all parties and organizations have access to the facility on an equal basis and are assessed equal rent or use charges, if any. (7-6-94)

d. Assistance may not be used for construction, rehabilitation, removal of architectural barriers or the operation of active churches or structures used for religious purposes. (7-6-94)

02. Authorization to Use ICDBG Funds. The following activities may not be carried out using ICDBG funds unless authorized under provisions of Section 040, specifically noted herein, or carried out by a subrecipient under the provisions of Section 045. (7-6-94)

a. The purchase of equipment with ICDBG funds is generally ineligible. The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation or use allowances (pursuant to OMB Circular A-87 or A-122 as applicable) for an eligible activity is an eligible use of ICDBG funds. The purchase of construction equipment for use as part of a solid waste disposal facility is eligible under Section 024. The purchase of equipment, fixtures, motor vehicles, furnishings or other personal property which is not an integral structural fixture is generally ineligible. ICDBG funds may be used, however, to purchase (in accordance with OMB Circulars A-87 or A-122 as applicable) such items when necessary for use by a recipient or its sub-recipients in the administration of activities assisted with ICDBG funds, or when eligible as fire fighting equipment, or as a public service under Section 034. (7-6-94)

b. Payment of operating and maintenance expenses. As a general rule, any expense associated with repairing, operating, or maintaining public facilities and services is ineligible. Specific exceptions to this general rule are operating and maintenance expenses associated with public service activities and interim assistance and office space for program staff employed in carrying out the ICDBG program. For example, where a public service is being assisted with ICDBG funds, the cost of operating and maintaining that portion of the facility in which the service is located is eligible as part of the public service. Examples of ineligible operating and maintenance expenses are: maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities are ineligible costs. Examples of maintenance and repair activities for which ICDBG funds may not be used include: the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas and the replacement of expended street light bulbs; payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities are ineligible costs; assistance may not be used for the construction of new permanent residential structures or for any program to subsidize or finance such new construction, except: as provided under the last resort housing provisions set forth in 24 CFR Part 42; or, when carried out by a sub-recipient pursuant to Section 045. Activities in support of the development of LMI housing, including clearance, site assemblage, provision of site improvements and provision of public improvements and certain housing preconstruction costs, are not considered as activities to subsidize or finance new residential

construction. Assistance shall not be used for income payments for housing or any other purpose. Examples of ineligible income payments include the following: payments for income maintenance, housing allowances, down payments, and mortgage subsidies. (7-6-94)

053. GRANT APPLICATION PROCESS.

01. Grant Application. The Grant Application generally consists of a Notice of Intent to apply, the Application, and an Addendum. These are submitted to the Department at different times in the application process. (7-6-94)

a. Notice of Intent. A one (1) page letter sent to the Department as soon as a community decides to submit a grant application. This is an optional, but strongly recommended, step. It allows the Department to assist the community with eligibility and structuring of the proposed project. (7-6-94)

b. Application. The major required document which describes and documents the applicant's proposed project. It contains the information required to document that the proposed project will meet a national objective and consists of eligible activity(ies). The Application is the basis of the Department's and the EAC's review and ranking of the project. (7-6-94)

c. Addendum**.** Additional information required by the Department to further document the project or to fulfill additional federal requirements once the Application has been selected by the Economic Advisory Council. (7-6-94)

02. Project. A project shall address a single need and may consist of one (1) or more eligible activities which are to be undertaken with the ICDBG funds and any other funds committed to the project. A project also includes all the benefits which are to result from the related activities and from compliance with all federal and state laws and regulations which are conditions of the grant. The principal activity which directly addresses the problem area shall represent a majority of funds requested; other activities must be incidental to, and in support of, the principal activity. For example, a program which addresses a housing need might include housing rehabilitation as the principal activity. Support activities such as street improvements or demolition must be incidental and clearly in support of the principal activity. (7-6-94)

03. Funding. In addition to ICDBG funds, the other funds committed to a project are divided into other government funds, local matching funds, and private funds. Other government funds are from state, federal, or foundation sources provided to the grantee for the project. Local matching funds are defined as cash donations, capital reserves, program income (Section 171), cash resulting from debt financing, local improvement districts, general obligation or revenue bonds, tax levies, land sales or miscellaneous revenue. Local matching funds are generally those funds and contributions raised by the residents of the grantee. Also to be considered as local matching funds are the fair market value of the time of local government crews (force account) working on the project, donations of land, materials, and equipment for the project, waiver of local fees, and volunteer labor. Private funds are from individuals, businesses, or corporations which are spent on private property, but are necessary to the completion of the project and the generation of the benefits. Direct loans to individuals on housing projects will not be considered local match. (4-11-06)

04. Documentation. Firm evidence of in-kind contributions of equipment or materials will be considered as cash. The market value of land may be considered as local match if the value of the real estate is documented by appraisal or assessment. Architectural or engineering estimates of labor, materials and equipment should be prepared to determine value of these items. Volunteer labor should be estimated by man hour, types of skills needed and wage rates. Documentation of insurance coverage for volunteers should be included in the application. This documentation should be a letter from the insurance agent of the community or civic group. (7-1-16)

054. -- 060. (RESERVED)

061. NOTICE OF INTENT SOLICITED.
The Notice of Intent to apply shall be submitted in a letter from the Chief Elected Official. Notices for ED projects shall be continuously accepted and reviewed. Submittal is optional, but strongly recommended. First priority for technical assistance and staff travel will be given to those applicants which submit a Notice of Intent to apply. IT projects do not submit a Notice of Intent. (7-1-16)

062. SUBMITTAL OF NOTICES OF INTENT, APPLICATIONS, AND ADDENDA.
Applications may be mailed, hand-delivered, or submitted electronically. All Applications and Addenda must be postmarked or dated by a commercial carrier not later than midnight of the announced Application deadline date. Any Application or Addendum not meeting the following closing date criteria will be disqualified and returned to the applicant. An Application and Addendum will be considered to be received on time under either one (1) of the following circumstances: (7-1-16)

01. Sent by Mail or Private Commercial Carrier. It was sent by mail or private commercial carrier no later than the closing date, as evidenced by a U.S. Postal Service date postmark or by a commercial carrier date. Applicants are responsible for assuring that the U.S. Post Office or private commercial carrier dates the application package. Applicants should be aware that not all post offices or private commercial carriers provide a dated postmark unless specifically instructed to do so. (7-6-94)

02. Hand-Delivered. Hand-delivered Applications and Addenda will be accepted during the normal working hours. In establishing the date of receipt of hand-delivered Applications and Addenda, reliance will be placed on documentary evidence of receipt maintained by the Department. (7-6-94)

03. Electronically. Electronically submitted Applications and Addenda must be submitted by midnight of the deadline date. (7-1-16)

063. APPLICATION REVIEW. The Applications received shall be reviewed for eligibility according to Subsection 074.05. Any applicant or project not meeting the threshold criteria shall be disqualified and the Application shall not be reviewed further. Department staff shall then review the qualified Applications and assign points according to the criteria contained in the applicable grant review and ranking section. The points for each Application shall be totaled and the Applications ranked in descending order to determine the more competitive projects. These points, rankings and any other information shall constitute the staff recommendation to the Economic Advisory Council (EAC). The staff may recommend that projects be redesigned for greater efficiency, better benefits, greater cost effectiveness, or more local effort. (7-6-94)

064. SELECTION OF APPLICATIONS BY ECONOMIC ADVISORY COUNCIL. Each grant category has different criteria which the EAC will consider in reviewing each Application and making a recommendation to the Governor. These criteria are described within each grant category section. (7-6-94)

065. PRESENTATION TO ECONOMIC ADVISORY COUNCIL. The applicant's presentation to the Advisory Council shall be optional and may be done through teleconferencing. The presentation shall be made by an elected official of the local government applying for a grant. These elected officials include the mayor or council members or county commissioners. Others may be involved in the presentation to present additional information. The presentation should briefly review the project, the local commitment to the project, the local effort on the project, the degree of local economic impact from the project and the degree to which the project improves the community as a place to live. (4-11-06)

066. INVITATION TO SUBMIT APPLICATION ADDENDA. For public facility, housing and downtown revitalization applications, the Council will review the staff recommendation and the information presented. The Council will assign their points and will direct the Department to invite the highest rated applicants to submit application Addenda. (3-30-07)

067. ECONOMIC ADVISORY COUNCIL POINTS. The Council, in assigning these points to the Applications and Addenda, shall consider the degree of impact from the project upon the community and shall compare similar type projects with each other. Consideration may include local ability to finance the project, local effort and commitment to the project, and local and regional economic impact of the project. These points shall be assigned to Applications based upon the Council's review of the information contained in the Application and the staff's

review and recommendations. These points shall be assigned to the Addendum by the Economic Advisory Council after their review of the Applications and Addenda. The Council shall decide on the amount of points to be assigned to each Application in the Council's regular meeting for reviewing Applications or at a special meeting according to Subsection 094.04. (4-11-06)

068. -- 070. (RESERVED)

071. APPLICATION. Sections 072 through 074 shall apply to both the Application and the Addendum. The applicant is responsible, however, to include sufficient detail about the proposed project to demonstrate the worthiness of the Application. It is important to quantify the information wherever possible. Short, concise Applications are encouraged. (7-6-94)

072. FORMAT. The Application and Addendum form and format shall be submitted to the Department of Commerce as prescribed in the ICDBG Application Handbook. (7-1-16)

073. (RESERVED)

074. SECTIONS.
The Application shall consist of the following sections: (7-6-94)

01. Cover. The cover shall contain "An application for an Idaho Community Development Block Grant by the _____ (City/County) of _____ (Name) _____ Date:_____." (one (1) page) (7-6-94)

02. Cover Letter. A cover letter signed by the Mayor or the Chairman of the Board of County Commissioners on official stationery. This is the official letter of application for a grant. (one (1) page) (7-6-94)

03. Table of Contents. (one (1) page) (7-6-94)

04. ICDBG Application Information Form. Fully completed and signed by the applicant. (one (1) page) (7-6-94)

05. Threshold Factors. The first four (4) factors must all be answered in the affirmative before an Application is to be reviewed and ranked. For public facility, housing and downtown revitalization projects an Application shall include Subsections 074.05.a. through 074.05.d. An Addendum, where required, shall include Subsections 074.05.e. through 074.05.g. All other application types must include Subsections 074.05.a. through 074.05.g. (3-30-07)

a. The applicant must be an eligible applicant (Section 012). Describe how the applicant meets the eligibility criteria. If this is a joint or in-behalf-of application, describe agreements and arrangements for managing the grant and the project. (7-6-94)

b. The project shall be an eligible activity(ies). Describe why the project and the various activities are eligible according to the rules in Section 022. (7-6-94)

c. The applicant shall adopt a citizen participation plan and shall conduct a public participation process. Applicants shall submit a copy of the Citizen Participation Plan and results of citizen involvement in developing the project. A copy of the Citizen Participation Plan must be submitted with the Application. An ICDBG may be awarded only if the grantee certifies that it is following a detailed citizen participation plan which: provides for and encourages citizen participation, with particular emphasis on participation of persons of low and moderate income who are residents of slum and blight areas or provides for participation of residents in low and moderate income neighborhoods as defined by the applicant; provides citizens with reasonable and timely access to local meetings, information, and records relating to the grantee's proposed use of funds; provides for public hearings to obtain citizen views and to respond to proposals and questions at all stages of the community development program, including, at least, the development of needs, the review of proposed activities, and review of program performance. Hearings shall be held after adequate notice, at times and locations convenient to potential or actual beneficiaries, and with accommodation for persons with disabilities; provides for a timely written answer to written complaints and grievances, within fifteen (15) working days where practicable; and identifies how the

needs of non-English speaking residents will be met in the case of public hearings where a significant number of non-English speaking residents can be reasonably expected to participate. (3-19-99)

d. At least one (1) public hearing is required to permit public examination and appraisal of the Application. Public hearings shall be scheduled in ways and at times to provide for full participation of citizens. The building or facility must be accessible to persons with disabilities. All information presented in the hearings shall also be available, upon request, in a form usable by persons with disabilities. Proper notification shall be given by a public advertisement in a local newspaper no less than seven (7) days prior to the meeting date. The seven (7) days shall be counted beginning the date the advertisement appears and ending the day before the date of the hearing. The notice shall include: a brief description of the proposed project; the amount of funds being requested; the time and place of the public hearing, including a statement that the hearing will be held in a handicapped accessible facility; notification that both written and verbal comments will be accepted; and a description of the availability of services for persons with disabilities, upon request. It is recommended the applicant also post notification of the public hearing at various public locations and use other media notices of the hearing. At a minimum, applicants shall provide in the minutes of the meeting, evidence the following occurred at the public hearing: The Application and Application Handbook were available for review; the amount of funds available for local community development and housing activities was discussed; the range of activities to be undertaken was presented including community impact and benefit to low and moderate income (LMI) persons; verification that citizen's comments and views on the proposed Application were considered prior to submittal and, if determined appropriate, a description of how the Application was modified; a copy of the public notice, minutes and a list of those attending the public hearing(s); a description of any plans for the project regarding citizen participation, i.e., the formation of a citizen's advisory committee; and a description of any assistance for persons with disabilities requested and provided. (3-20-97)

e. The applicant shall have the administrative capacity to administer the grant. This means having started the procurement process for a Department-approved grant administrator in accordance with Section 212. The grant administrator should be included in project development and Application writing efforts. (7-1-16)

f. The applicant shall have adopted a Fair Housing Ordinance or resolution. This ordinance or resolution must have been adopted and publicly advertised within the twelve (12) month period preceding the Addendum deadline date for public facility, housing and downtown revitalization projects and the twelve (12) month period preceding the application deadline date for senior/community center, imminent threat and economic development job documentation projects. Once the Fair Housing Resolution or Ordinance has been adopted, applicants do not have to re-adopt the Resolution or Ordinance. The applicant will be required to show documentation the Resolution or Ordinance was published within the previous twelve (12) month period. (3-30-07)

g. The applicant shall either certify it will follow the Idaho Department of Commerce's Antidisplacement Plan or have adopted an Anti-Displacement and Relocation Plan. If the applicant adopts its own plan, the ordinance or resolution must have been publicly advertised within the twelve (12) month period preceding the Addendum deadline date for public facility, housing and downtown revitalization projects and the twelve (12) month period preceding the application deadline date for senior/community center, imminent threat and economic development job documentation projects. Once the Anti-Displacement and Relocation Plan has been adopted, applicants do not have to re-adopt the Plan. The applicant will only be required to show documentation the Plan was published within the previous twelve (12) month period. (3-30-07)

06. General Project Description. This is the critical section of the Application. It should include enough information for the reviewer to clearly understand the community, its needs, the project, and how the grant will help to solve the community problem. The information in each ranking section should substantively expand upon the project description. The narrative should succinctly describe the following items: a description of the community as to size, location and economy; a thorough assessment of all the community's needs and how the proposed project is a priority in comparison with the other needs addressed. The applicant should also include a description which discusses how the existing condition came about, the number of people affected, and the seriousness of the problem(s); the particular project that is being proposed shall be described in detail. Describe the project, the various components, anticipated costs, schedule of activities, maps showing the location of the project and a map of the boundaries of the project area. This description shall be detailed enough

that it can be used to write a contract scope of work; describe the benefits of the project, how it solves the identified need, and how it will enhance the community and its economy. Provide a demographic profile of the persons to benefit. Describe how the project meets the state objectives of the ICDBG program (see Sections 000, 010, and 011); and if program income is expected to be generated, a re-use plan must be developed according to Section 175. (7-1-16)

07. ICDBG Budget Form Fully Completed by the Applicant. (one (1) page) (7-6-94)

08. Assurances. The applicant shall sign the Assurances Form certifying that it will comply with the following federal laws and regulations: National Environmental Policy Act of 1969; Civil Rights Act of 1964 Pub.L 88-352; Civil Rights Act of 1968 Pub.L 90-284; Age Discrimination Act of 1975; Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 as amended and the implementing regulations at 49 CFR Part 24; Rehabilitation Act of 1973, Section 504 "Handicapped Accessibility"; Housing and Community Development Act of 1974 as amended Pub. L 93-383; Davis-Bacon Act (40-USC 276a--5); Historic Preservation Act; Anti-Lobbying Certification; Excessive Force Certification; and Section 106 of the Housing and Urban Recovery Act of 1983, certifying they will: minimize displacement and follow a residential anti-displacement and relocation assistance plan, affirmatively further fair housing, provide citizen participation, not use assessments or fees on low and moderate income owner occupants to recover capital costs of ICDBG-funded public improvements; Prohibition of Use of Assistance For Employment Relocation, Section 588 of the Quality Housing and Work Responsibility Act of 1998 Pub. L 105-276. (one (1) page). (3-30-01)

09. Review and Ranking Narrative. The applicant shall address each point category in the order given in the review and ranking section of the applicable grant category. (7-1-16)

10. Additional Information from Applicant (Appendix). Maps, letters of support, technical studies and appropriate background documentation should be placed in this section and bound into the Application (no page limit). (7-6-94)

075. -- 079. (RESERVED)

080. ALLOWABLE COSTS IN APPLICATION.

In accordance with Subsection 152.07, an applicant which has been invited to submit an Addendum in any grant category may be reimbursed for some of the administrative or engineering costs incurred during the preparation of the Addendum. No such expenses incurred will be reimbursed unless a grant is awarded. Such expenses are the responsibility of the applicant if a grant is not awarded. Any such administrative costs become part of and cannot exceed the ten percent (10%) limitation on administrative costs of the grant. (7-6-94)

081. PUBLIC FACILITIES AND HOUSING GRANTS.

Public Facilities and Housing Grants refers to provision of local government utilities or facilities or the rehabilitation of housing for low to moderate income persons. PFH grants may be funded to a maximum of five hundred thousand dollars ($500,000). The PFH selection process consists of two (2) major components, the Application and the Addendum. See Section 092 entitled "Award Process" for details of the award process. See Subsection 135.02 of these rules for "Tag-on For Accessibility For Persons With Disabilities." (7-1-16)

082. APPLICATION.

01. Notice of Intent. Submitted according to Section 061. (7-6-94)

02. Information to Be Included in Application. Sections 072 through 074. (7-6-94)

03. Deadline. The Application is due in November, the Friday before Thanksgiving. The Addendum is due the first Friday of March. (3-20-97)

04. Presentation. According to Section 065. (7-6-94)

05. Restrictions. An applicant is not qualified to apply for a PFH grant if they have a currently funded PFH grant, the funds of which are not eighty percent (80%) drawn down as shown on the Department's records as of the last dates for accepting Applications. (7-6-94)

083. REVIEW AND RANKING CRITERIA.
Each PFH Application shall be reviewed and ranked by the following criteria. The applicant must address each category in narrative form. If a category is not applicable, please note that in the appropriate section. The evaluation of each criteria is made using the general project description as a reference point. The information provided in each review and ranking section should elaborate upon the general project description. The maximum number of points is one thousand (1,000). (7-6-94)

084. PROGRAM IMPACT.
Three hundred (300) points. Some or all of the points may be granted in each subcategory. The local financing factors, which represents the largest portion of the total number of points each applicant may receive, is intended to ensure that the best overall proposals are selected for funding. The score on this factor is determined by evaluating how effectively local funds are used in comparison with other applicants. The Department may require an applicant to provide supplemental financial information to clarify the local ability to finance all or a portion of a proposed ICDBG project. The applicant should provide evidence or documentation of the nature, amount and/or value of match committed to the project. Housing projects should (if match is not committed) provide the names of the agency, staff person and program(s) which may provide match, a description of the program and a time table for the match approval process. (7-1-16)

01. Percentage of ICDBG Dollars in Total Project (thirty (30) points). All Applications will be ranked by percentage of (ICDBG) funds requested divided by total project costs. Total project costs are the total funds committed from all sources - federal, state, local and private funds. The applicant must clearly identify the other funding sources with dollar amounts from each. The rankings shall be divided into four (4) equal categories. The lowest ICDBG percent (%) receives the most points and the highest ICDBG percent (%) receives the least points. Points will be assigned according to the following schedule: (7-1-16)

a. First Quartile -- thirty (30) points. (7-1-16)

b. Second Quartile -- twenty (20) points. (7-1-16)

c. Third Quartile -- ten (10) points. (7-1-16)

d. Fourth Quartile -- zero (0) points. (7-6-94)

02. Percentage of Local Matching Funds (sixty (60) points). All Applications will be ranked by the percentage of local matching funds divided by the total of local match and ICDBG funds. The highest percentage of local dollars will receive the highest points. See Subsection 053.03 for definition of local match. The rankings shall be divided into four (4) equal categories. The highest local match percentage (%) receives the most points and the lowest local match percentage (%) receives the least points. Points will be assigned according to the following schedule: (4-11-06)

a. First Quartile -- sixty (60) points. (7-6-94)

b. Second Quartile -- forty (40) points. (7-6-94)

c. Third Quartile -- twenty (20) points. (7-6-94)

d. Fourth Quartile -- zero (0) points. (7-6-94)

03. ICDBG Dollars per Person (fifty (50) points). The ratio of total persons directly benefited by the project, compared to ICDBG funds requested (ICDBG dollars per person) shall be ranked and divided into quartiles. The lowest ICDBG dollars receives the most points and the highest ICDBG dollars receives the least points. The points shall be assigned to the ratio of ICDBG dollars per person as follows: (7-6-94)

a. First Quartile -- fifty (50) points. (7-6-94)

b. Second Quartile -- thirty (30) points. (7-6-94)

c. Third Quartile -- fifteen (15) points. (7-6-94)

d. Fourth Quartile -- zero (0) points. (7-6-94)

04. Local Matching Funds per Person (sixty (60) points). The ratio of total persons directly benefited by the project, compared to local matching funds shall be ranked and divided into quartiles. The Department may request supplemental financial data from any applicant to determine local ability to finance a proposed project or clarify a community's financial situation. The Department may take into consideration a community's ability to contribute local matching funds in determining all rating and ranking points. The highest local funds per person receives the most points and the lowest local funds per person receives the least points. The points shall be assigned to the ratio of local matching funds per person as follows: (4-11-06)

a. First Quartile -- sixty (60) points. (3-19-99)

b. Second Quartile -- forty (40) points. (3-19-99)

c. Third Quartile -- twenty (20) points. (3-19-99)

d. Fourth Quartile - zero (0) points. (7-6-94)

05. Eligible Activity Priority Ranking (one hundred (100) points). Each eligible activity (Sections 022 through 051) is assigned a priority point factor. The applicant should list the activities and the ICDBG funds budgeted to each. These points shall be assigned to an Application based upon the percentage of the total ICDBG funds committed to each activity and multiplied by the priority points assigned to each. The total of the priority points so calculated is the total of the priority points for the Application. Health and safety-related projects are defined as sewer, water, fire protection facilities, medical facilities, nursing homes, streets, and other similar projects. Social service facilities are defined to include community centers, senior centers, libraries, assisted housing, shelter care, senior housing, auditoriums, cultural facilities, recreation facilities, and parks.

TABLE 1 -- "Eligible Activity Priority Ranking"	
Acquisition of Real Property	Seventy five (75) points
Public Facilities and Infrastructure	One hundred (100) points
Engineering - Architectural	One hundred (100) points
Code Enforcement	Fifty (50) points
Clearance and Demolition	Fifty (50) points
Removal of Architectural Barriers	One hundred (100) points
Rental Income Payments	Zero (0) points
Disposition of Property	Ten (10) points
Public Services	Zero (0) points
Completion of Urban Renewal Projects	Zero (0) points
Relocation Payments	Twenty-five (25) points
Planning Activities	Zero (0) points
Administration Activities	One hundred (100) points
Grants to Nonprofit Community Organizations	Zero (0) Points
Grants to Nonprofit Community Organizations for Housing Projects	Seventy-five (75) points
Energy Planning	Zero (0) points
Housing Rehabilitation	Seventy-five (75) points

085. NATIONAL OBJECTIVES. Two hundred sixty (260) points.
The Application must qualify in one (1) of two (2) national objective categories: benefit to low and moderate income persons or the prevention or elimination of slum and blight. If the Application does not qualify in at least one (1) category it will be declared ineligible for review and ranking. The Application will not be considered further. The applicant must choose only one (1) of the two (2) categories in which to compete. (7-6-94)

01. Benefit to Low and Moderate Income (LMI) Persons (two hundred sixty (260) points). To qualify in the LMI category the applicant shall demonstrate at least fifty-one percent (51%) benefit to LMI persons. (3-20-97)

a. The applicant shall show that the project shall principally benefit a majority of LMI residents of the project area. Benefit is shown only if it meets one (1) of the following criteria: the activity shall be carried out in a service or benefit area consisting of fifty-one percent (51%) LMI persons and provide services to such persons; the activity shall involve facilities designed for use predominantly by persons of LMI; or the activity shall improve permanent, residential structures which will be occupied by LMI households upon completion. See Section 016 for more information. (7-1-16)

b. LMI beneficiaries shall be verified by an appropriate source(s). Numbers shall be documented either by census data or a reliable survey. This material shall be verifiable by the Department of Commerce Multiplier effects or ratios shall not be considered in assigning benefit points because these numbers do not show direct benefit. The cost of planning, management, and administration shall not be included in calculating benefit of LMI persons. (7-1-16)

c. Applicants shall provide additional beneficiary information and data as instructed in the Application Handbook. (7-1-16)

d. LMI Need points for Public Facility projects will be determined according to the following standards. Critical Need receives the full eighty (80) points. Critical is defined as existing (officially identified) violations of federal or state health or safety regulations. Moderate Need is an officially identified problem related to health and safety regulations, but the situation is not in violation of any regulation. Moderate Need receives sixty (60) points. Potential Need is related to solving a current situation that would become a violation if left uncorrected. Potential Needs receives forty (40) points. Community Need is a general improvement not related to health and safety, but is a major improvement in community services and infrastructure. Community Need receives twenty (20) points. Applicants for fire safety projects can receive up to eighty (80) points in the need category if they can document how the proposed project is directly related to efforts to comply with the state's currently adopted fire code or National Fire Protection Association Standards - fifty (50) points; maintenance and personnel training is conducted and documented - fifteen (15) points; the community participates in the Fire Incident Reporting System to the State Fire Marshal's office - fifteen (15) points. (3-30-01)

e. Identification of Impact (sixty (60) points). The applicant shall submit the following: specific identification of the project activities that will be undertaken to meet identified LMI needs. A distinction must also be made regarding direct and indirect benefits; a discussion of project impact in providing long-term permanent solutions to alleviate the need(s) identified above; identify procedures that are or will be developed to measure impact throughout the project; and describe and provide documentation of the process used to identify the LMI needs. Documented health and safety needs are awarded higher points. Applicants for fire safety projects can receive up to sixty (60) points in the impact category if they document; (7-1-16)

i. How the proposed project affects response time, recruitment of volunteers, and fire insurance rating - sixty (60) points; (7-1-16)

02. Housing Need and Impact. (7-6-94)

a. Identification of Need (eighty (80) points) points). An applicant shall develop a housing needs assessment to determine the need for a housing grant. Information to be collected about the community shall include population and growth, family size, the number of elderly, persons with disabilities, minority persons, and family income. Housing information collected shall be total number of units, number of rental units, age of

housing, vacancy rates, overcrowding, number of substandard units in the community, and the number of each type of housing, i.e. owner, rental, institutional and seasonal. The applicant shall address how the proposed housing project will meet the needs outlined in the housing conditions study. The maximum points will be assigned to those housing projects meeting the most need as outlined in the housing needs assessment. (3-19-99)

b. Identification of Impact (sixty (60) points). (7-1-16)

i. In the housing impact area, points would be awarded on the level of income the proposed project would target, based on the following formulas: (3-19-99)

(1) Percent of eighty percent (80%) of median income x forty (40) = (7-1-16)

(2) Percent of fifty percent (50%) of median income x sixty (60) = (7-1-16)

(3) Percent of thirty percent (30%) of median income x sixty (60) = (7-1-16)

ii. Applicants will be required to submit a written management plan showing how the housing units would be allocated to the different income levels and show how the proposed housing matches the needs outlined in the need category. Housing market data will also be required for this category. (3-19-99)

03. Low and Moderate Income Percentage Points (one hundred (100) points). Points will be assigned according to the percentage of LMI in the project area. They are:

TABLE 2 -- “Percentage of LMI in Project Area”	
Percentage	Points
0 - 50.00%	zero (0
51.00 - 60.00%	twenty (20)
60.01 - 70.00%	forty (40)
70.01 - 80.00%	sixty (60)
80.01 - 90.00%	eighty (80)
90.01 - 100.00%	one hundred (100)

(7-6-94)

04. Prevention or Elimination of Slum and Blight (two hundred forty (240) points). To qualify in the Slum and Blight category, the applicant shall receive at least one hundred (100) total points by demonstrating that the proposed project will have a direct impact on the elimination or prevention of slum and blight conditions. In evaluating impact, the information described below shall be considered (see Slum and Blight definition, Section 020). (7-1-16)

a. Provide the following community data: location of the project area including a narrative description and map(s) showing the boundaries of the area; and an official declaration by the governing body that the area is an “Area of Slum and Blight.” (7-6-94)

b. Identify need (one hundred thirty (130) points). Describe the nature and seriousness of existing conditions/needs in the project area. References to published engineering studies or surveys or letters from appropriate local agencies shall be included. Use maps to locate the conditions and their relationship to each other. The applicant shall describe the nature and seriousness of the need as it exists in the following areas: the number, location, and type of deteriorating structures present in the project area; the unsafe/unsanitary conditions that exist in the structures and area; the infrastructure and site improvements that are deteriorating (i.e., streets, sidewalks, parking lots, utilities, driveways, fences and landscaping); the danger to life and/or property that exists from fire, hazards or other causes; or the condition of the property that impairs economic growth in the community by being an economic or social liability. (7-6-94)

c. Identify Impact (one hundred ten (110) points). Specify how project activities will eliminate or prevent conditions of slum and blight. Identify the impact of the proposed project in providing permanent solutions to alleviate the identifiable conditions. Identify the procedure that is or will be developed to measure impact throughout the project. (7-1-16)

086. -- 089. (RESERVED) 090. PROJECT CATEGORIES.
Two hundred and twenty (220) points. PFH Applications shall address each of the categories below. The project description and its benefits should be discussed in previous sections. This section is a measure of the preparedness of the project and the community to undertake the project. To earn points, the applicant must demonstrate that the appropriate actions, procedures, agencies, permits, financing and inspections to initiate and complete the project were discovered and show how much has been completed. The object is to have well thought out projects which will then be quickly executed if funded. The items identified in the following categories must be related to each other. (3-30-01)

01. Planning, Previous Actions and Schedule (two hundred twenty (220) points). According to the categories listed below, the applicant shall describe and document the process used to plan the project and describe the components of the project. The completeness of the process and project detail earn more points. (7-1-16)

a. Design Professional (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has issued an RFP and completed a design professional selection process. The process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, proof of published notice if applicable, and completed evaluation rating sheets must be submitted to receive full points. (4-11-06)

b. Grant Administration (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has issued an RFP and completed the administrator selection process. The process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, solicitation process, and completed evaluation rating sheets must be submitted to receive full points. (4-11-06)

c. Plan/Studies (thirty (30) points). A maximum of thirty (30) points will be awarded in this category if the applicant documents a plan or a study has been completed which includes a survey of the existing condition of the system or facility, develops and screens alternatives to enable the system to meet future needs, selects a recommended alternative, and evaluates the potential impact of the project on the environment. For pre-fab buildings, provide a letter from local building officials that the building meets state of Idaho building, electrical, and plumbing codes. Include additional information by project type: (7-1-16)

i. Water and sewer system projects. A conditional approval issued by DEQ on the facilities study or the project's specification and drawings. (4-11-06)

ii. Health care facility projects. A letter of intent submitted to the Idaho Bureau of Facilities Standards describing the proposed scope of work. Provide a copy of the letter and any response from the Bureau of Facilities Standards. (4-11-06)

iii. Road and transportation system projects. Conditional approval of construction plans by the Idaho Transportation Department or local highway district. (4-11-06)

iv. Housing projects. Project meets the community's comprehensive plan and zoning ordinance. Also, completed a financial performance and management plan. (4-11-06)

v. Fire or EMT station projects. A public works or design professional facilities review. The review shall include survey of existing condition of the building (if applicable), an analysis of costs including rehabilitation costs versus new construction, site location consideration including environmental issues, existing building problems, and the need for the size of the facility. (4-11-06)

d. Environmental Scoping (ten (10) points). A maximum of ten (10) points will be awarded if the applicant or sub-recipient has completed a Field Notes Checklist as prescribed in the ICDBG Application Handbook and mailed out environmental information request letters before submission of application. (4-11-06)

e. Agency Viability (thirty-five (35) points). A maximum of thirty-five (35) points will be awarded in this category if the applicant documents the following per project type: (7-1-16)

i. Sewer or water projects. Completion of ICDBG financial viability worksheet with the utility rate reviewed by at least one (1) of the following: The USDA Rural Development, Boise State University Environmental Finance Center, the Rural Community Assistance Corporation, or the Idaho Rural Water Association. (4-11-06)

ii. Health care, transportation, housing, fire/EMT, or other projects. The applicant's or sub-recipient's viability will be based on having the following components: A lawful governing body, completion of ICDBG financial viability profile, a stable funding source and positive cash flow, and capital improvement and facility management plans. (4-11-06)

iii. Youth center projects. Projects must assist youth ages six (6) to eighteen (18) in developing skills to overcome challenges and become responsible leaders. The applicant or sub-recipient must provide information on management and operation of the center, outreach activities, a cost analysis of rehabilitation versus new construction and document that local operating funds are committed. (3-30-07)

f. Property Acquisition (thirty (30) points). A maximum of thirty (30) points shall be awarded if the applicant or sub-recipient has achieved project site control. (7-1-16)

i. The applicant or sub-recipient has ownership of the property including easements or right of way permits. Identify if there are existing buildings on the property and whether or not businesses, individuals, or farms will be displaced and provide documentation of site control; or (4-11-06)

ii. If property (land, buildings, rights of way, easements) is not secured but is identified on a plat map five (5) points will be awarded. Identify if individuals or businesses, including farms will be displaced. (4-11-06)

g. Funding Commitments (forty-five (45) points). A maximum of forty-five (45) points will be awarded if one hundred percent (100%) of match funds are committed to the project. A commitment letter must be included with the application addendum. A support letter is not a commitment. If match is a bond, provide documentation the bond has passed and identify who will buy it. (7-1-16)

h. Schedule (five (5) points). A maximum of five (5) points will be awarded in this category if the dates to start and complete construction have taken into account weather conditions, other funding availability, environmental mitigation issues, real estate site control, and bidding time frame. (4-11-06)

i. Administrative Capacity (twenty-five (25) points). A maximum of twenty-five (25) points will be awarded in this category. (7-1-16)

i. ICDBG project track record and general stability of applicant and sub-recipient. Review may include financial audit reports, board make-up, staff turnover and recall elections (five (5) points). (4-11-06)

ii. Completion of Section 504 Self Evaluation and Transition plan. Submit the transition plan and the name of the ADA coordinator to certify which elements have been completed (five (5) points). (4-11-06)

iii. Document efforts to Affirmatively Further Fair Housing (fifteen (15) points). (7-1-16)

02. Cost Analysis (forty (40) points). Cost estimates for the project should be an accurate and realistic analysis of the administrative, legal, accounting, engineering or architectural services, property acquisition, construction and closeout costs. The various sources of funding should be assigned to the appropriate parts of the project. In order to receive points, construction costs will need to be: (4-11-06)

a. Identified by a licensed design professional's cost estimate within four (4) weeks of the application due date; (4-11-06)

b. Completed Project Cost Estimate. Estimate should reflect: (4-11-06) i. Acquisition costs including appraisals, land, relocation, and closing costs; (4-11-06)

ii. Construction costs including divisions 1 - 16 as described in the most recent MASTERFORMAT, Davis Bacon wage rate, overhead, profit, contingency, bonding, permits; (4-11-06)

iii. Design professional fees including design fees, construction administration, and reimbursable fees; (4-11-06)

iv. Grant administration fees including writing and administration; (4-11-06)

v. Soft costs including soil studies, market study, environmental; and (4-11-06)

vi. Financing expenses. (4-11-06)

091. ECONOMIC ADVISORY COUNCIL POINTS. (Two hundred (200) points). The Council, in assigning these points to the Applications and Addenda, shall consider the degree of impact from the project upon the community and shall compare similar type projects with each other. Consideration may include local ability to finance the project, local effort and commitment to the project, and local and regional economic impact of the project. These points shall be assigned to Applications based upon the Council's review of the information contained in the Application and the staff's review and recommendations. These points shall be assigned to Application and Addendum by the Economic Advisory Council after their review of the Applications and Addenda. The Council shall decide on the amount of points to be assigned to each Application in the Council's regular meeting for reviewing Applications. (4-11-06)

092. AWARD PROCESS. The Applications will be submitted, reviewed, ranked and recommended by the Department to the Economic Advisory Council. The Council will review the Applications, the staff review process, assign the Economic Advisory Council points, then rank and invite the top ranked applicants to submit an Addenda to their Applications. If the Department receives additional funding, to ensure the process remains competitive and that several projects may be selected for standby projects, the Council shall invite at least two (2) more projects than the amount of PFH set-aside amount. The Council may invite Addendums totaling up to one hundred fifty percent (150%) of the PFH set aside. Applicants may then prepare and submit their Addenda. The Addenda shall be reviewed, ranked and recommended to the Economic Advisory Council. The Council shall review the recommendations, assign the Economic Advisory Council points, rank the Applications and recommend to the Governor the top-ranked projects for which funds are available. Several standby projects may also be recommended. The Governor may review the recommendations and then announce the award of grants to the applicants. Once the Governor's announcement has been made, the Department will contact the grantees to begin the process to develop and execute a grant contract. (4-11-06)

093. ECONOMIC DEVELOPMENT GRANTS. Economic Development (ED) projects are combinations of eligible activities which are directed toward economic development through the stimulation of private investment, community revitalization, and expansion of economic opportunities principally for LMI persons. These projects meet the national objectives through job creation principally for LMI persons or are designed to prevent or eliminate slum and blight for business and commercial areas for the stimulation of economic development. This generally includes projects which provide public infrastructure for business and industrial park development, rehabilitate publicly-owned commercial and industrial buildings, and revitalize downtown areas. The two (2) categories of ED grants, Business Expansion and Downtown Revitalization, have separate review and ranking criteria. See Award Process, Section 098 for Application and award process details. Economic Development Grants will be funded to a maximum of five hundred thousand dollars ($500,000). (7-6-94)

01. Provision of Public Infrastructure. Cities and counties may apply for grant funds to extend publicly owned infrastructure to a commercial or industrial site. The intent is to help pay the public costs of business development. The infrastructure generally may not extend onto or become part of the private property.

The infrastructure may include, but not limited to: sewer, water, street, rail, storm drain, power, gas, phone, and similar systems. A business(es) shall commit to occupying the site(s) served by the infrastructure. The applicant must demonstrate a direct relationship between the infrastructure; the business decision to occupy the site and the job creation principally for Low and Moderate Income (LMI) persons. The infrastructure capacity, in excess of the business needs, is not an allowable grant expense. Such unallowable expense should be apportioned to the other property being served by the excess capacity. (3-20-97)

02. Rehabilitation of Publicly Owned Commercial or Industrial Real Estate. Application may be made for grant funds to acquire and/or rehabilitate commercial or industrial real estate upon meeting the following criteria. (3-20-97)

a. The business cannot secure financing for the proposed property due to local economic conditions and/or bank requirements or restrictions, but could secure financing for similar property in other locations. (3-20-97)

b. If the real estate is already publicly owned, a description of the acquisition of the property, its current and historical use, and written management policies and practices shall be included in the application. (3-20-97)

c. Rental or lease policies and rates must be described and copies of draft lease agreements must be included in the application. (3-20-97)

d. A fair market rent analysis must be prepared to demonstrate the cost of similar property. Rent payments must be at fair market value for the locality. (3-20-97)

e. A program income reuse plan shall be developed in accordance with Section 171 and included in the application. Rent subsidy to the business is not allowed. (3-20-97)

f. Grant assisted construction must be general in nature and not specific to the business' criteria. Leaseholder improvements are not an allowable expense. (3-20-97)

g. Sale of CDBG assisted or improved real estate cannot occur without Department approval. A deed restriction to this effect shall be executed. Sale of the property must be at the appraised value and monies received is considered program income and is subject to all CDBG regulations. (3-20-97)

094. APPLICATION. Preparation and filing of the Application and Addendum will be assisted by the Department Staff. (7-6-94)

01. Notice of Intent. Accepted continuously. To be submitted following an applicant's decision to prepare an Application (see Section 061). (7-6-94)

02. Information to Be Included. The Application shall contain the information required by Sections 072 through 074. The Application shall be reviewed and ranked according to the criteria contained in Section 096 or Section 097. The Application may be rejected at any time that, in the opinion of the Department, the evaluation process indicates the project is unable to meet the minimum requirements or that the project will receive a point ranking below the minimum required for approval. (7-6-94)

03. Deadline. ED Applications for job creation projects will be due in on the third Monday of the month prior to a quarterly Economic Advisory Council (EAC) meetings held in January, April, July and October. Applications received after this date will not be presented to the Council at that quarterly meeting. ED Applications for slum and blight downtown revitalization projects will be due in November and if invited to submit an Addendum, in March. (3-19-99)

04. Deadline Exception. The EAC may hold a special public meeting, which may be done through teleconferencing, to consider projects when, in the opinion of the Chairperson, a project's urgency will not permit a delay in processing an Application. (4-11-06)

05. Restrictions. If an applicant has a currently funded ED grant(s), they may apply for an additional ED grant(s) if additional administrative capacity is demonstrated, and, if all previous ED grant(s) are under contract. Only one (1) Ed application for job creation projects is allowed in any quarterly funding cycle with the conditions noted above. (3-19-99)

06. Presentation. If the project passes the threshold point total it will be recommended by the staff to the EAC where the applicant may make a presentation, according to Section 065. (7-6-94)

095. THRESHOLD.

01. Applications Shall Be Reviewed, Assigned Points and Ranked. An Application must receive, at (six hundred (600) points); and Business Expansion. (five hundred (500) points). (7-6-94)

02. Application Addendum. An Application must receive a minimum of seven hundred (700) points from both the staff assigned points and the Economic Advisory Council points to be invited to submit an Application Addendum. (7-6-94)

096. REVIEW AND RANKING NARRATIVE FOR BUSINESS EXPANSION PROJECTS.
The following are the review and ranking narrative requirements for those projects which assist business expansion through the provision of infrastructure and creation of jobs. The following minimum criteria must be included in the application by the application deadline in order for staff to review and rank the project and recommend it to the Economic Advisory Council for consideration. (3-30-01)

01. Minimum Criteria. (7-6-94)

a. The project must meet the national objective of benefiting LMI persons through job creation. Fiftyone percent (51%) of all the new jobs created or retained must be held by or made available to a member of a low and moderate income family. (LMI as defined in Section 016). Family income must be certified by the employee at time of hire and must be able to be verified or may be documented through a Department of Commerce screening referral agency. (3-19-99)

b. The applicant must certify compliance with applicable federal circulars A-87, A-110, and A-122 and meet the necessary assurances as listed in Subsection 074.08 as applicable. (4-11-06)

c. A public hearing shall be held on the Application in accordance with Subsection 074.05.d. (7-6-94)

d. The project may qualify as a Special Economic Development Project under Subsections 040.02.a. and 040.02.b. if the project meets the Public Benefit Standards described in 24 CFR Part 570.482 (e) and (f). (3-30-07)

e. Attach an eight and one-half inch (8-1/2”) by eleven inch (11”) map showing the location of the proposed project in the community. Attach a site plan of the proposed project showing existing and proposed improvements both business and infrastructure; existing and proposed land uses in the surrounding area and natural features and conditions on the site and nearby. (3-20-97)

f. Attach a brief analysis of the business to be assisted, including the market for the product/services to be produced, the business’ position in the market, and the financial and managerial capabilities of the business(es) to be assisted. This should also include financial statements and balance sheets for the business(es) to be assisted indicating sales, income, and net position for the prior three (3) years, and the names and experience of senior managers of the business. (4-11-06)

g. Attach a letter of commitment from the business(es) stating their agreement to be part of the grant project, their ability to accomplish their expansion, their understanding of and compliance with all applicable federal regulations, their understanding of and compliance with the payback liability if the jobs creation does not meet federal standards; and their willingness to make available all records and information necessary to

document all jobs created by completing and signing the Grant Assistance Agreement and Certification of Compliance with Grant Conditions. (4-11-06)

h. Attach a description of the type and number of all the jobs to be created, a calculation of fulltime equivalents (FTE), and a beginning payroll of the business(es) at the location of the proposed project, a detailed description of the hiring process and any training to be provided. The information should include both current job information and the job creation projected for two (2) years beyond the completion of the grant funded construction. If training is necessary, a training plan and schedule outlining the responsibilities must be included in the application. A description of the quality of new and retained jobs shall be included. A description of the median annual income and fringe benefits package for new or retained jobs shall be provided. (4-11-06)

02. Ranking Criteria (one thousand (1,000) points possible). (7-6-94)

a. Direct new or retained jobs, in fulltime equivalents (FTE's), created within two (2) years of grant construction completion. Net new jobs are those created as a result of the ICDBG, over and above employment at the business site prior to the grant, and which do not include relocated jobs from the assisted business in the same labor market area. Retained jobs are those that would be lost without the ICDBG assistance. A job creation cost of more than thirty thousand dollars ($30,000) ICDBG per job will not be considered. If jobs are not being created or retained, a project cannot be funded. (3-29-10)

b. Quality of New or Retained Jobs (one hundred (100) points). Points in this category are assigned based upon a comparison of the full time equivalent (FTE) wages or salaries created (excluding benefits, and the average county starting salary as determined by the Idaho Department of Commerce. To convert part time or seasonal positions, take the total number of hours of employment created for a given pay rate and divide by one thousand five hundred sixty (1,560). If the average county wage exceeds the state average wage; comparison with the state average will be used. The grantee will be awarded points based upon the percentage of FTE's exceeding the state or county average salary. The formula is: Percentage of jobs above state or county average salary x one hundred (100) = Wage Quality Points. (7-1-16)

c. Fringe Benefits (one hundred (100) points). The businesses creating or retaining jobs as a result of ICDBG assistance shall document their fringe benefit plans. Points will be given as follows: fifty (50) points for an employer funded health plan and fifty (50) points for an employer funded pension plan. The business must provide both to receive full points. (4-11-06)

d. Business Risk and Management (zero (0) to one hundred forty (140) points). The probability of achieving the projected jobs and payroll within one (1) and two (2) years, as determined by the Department. The determination may be made on the basis of: the business plan and schedule, the financial position and a credit analysis of the business; the performance record of senior management of the business project; and other criteria reasonably required by the Department. Projects receiving less than ninety (90) points in this category will be eliminated from further consideration. (7-1-16)

e. Planning, Schedule and Cost (one hundred and seventy (170) points possible). Describe planning efforts to enhance economic development. A detailed and reliable cost estimate and a project construction schedule is required of all Applications. Cost analysis and schedule will receive equal emphasis. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (4-11-06)

i. Planning (one hundred ten (110) points). Describe planning efforts to identify and detail all steps related to the implementation of the entire project. Identify all participants in the process. Describe all the partnerships and relationships involved in implementing the project. This will include local government actions, the business actions, other agency and utility actions, real estate, environmental, legal, financial and grant considerations. (7-1-16)

ii. Schedule (fifteen (15) points). A detailed and reliable schedule of all actions identified in the plan. Also a separate grant funded project construction schedule is required of all Applications. (7-1-16)

iii. Cost (twenty-five (25) points). Detailed cost estimates of all actions, permits, construction, real estate, etc. should be prepared by an engineer or architect. Because of the priority the Department and Economic Advisory Council places on project costs and schedule, applicants are advised to seek experienced construction management counsel for their Application. (7-1-16)

iv. Environmental Scoping (twenty (20) points). A maximum of twenty (20) points will be awarded if the applicant has completed a Field Notes Checklist as prescribed in the ICDBG Application Handbook. (4-11-06)

f. Local Match (maximum of one hundred (100) points). The total of all local match will be divided by the total of all local match plus the ICDBG amount requested to determine the percentage of local match in the project. This percentage will then be multiplied by one hundred (100) to determine the point value. Applicants shall state if there is a Revolving Loan Fund (RLF) available in their region and, if so, describe what attempts have been made to secure funds from the RLF for the project. Program Income from previous grants to be used in this project may be considered as local match. (7-1-16)

g. Distressed Areas (twenty (20) points). Maximum points will be given if the project is located in a historically underutilized business (HUB) zone or other similar qualifiers. (7-1-16)

h. Existing Idaho Business (twenty (20) points). To qualify for points, a business must have a significant Idaho presence. (4-11-06)

i. Private Leverage (one hundred (100) points). The points in this category will be calculated by dividing the total of all private investment provided by the business in the project by the ICDBG amount requested and multiply it by one hundred (100). The business' private investment is the capital facilities, real estate and site development costs. Applicants shall provide documentation on the status of private investment, i.e. financing approvals. Payroll and start-up costs are not included in this calculation. (4-11-06)

j. Activities (twenty-five (25) points). Points will only be awarded for the percentage of ICDBG dollars committed to the acquisition, construction, or reconstruction of public infrastructure (Section 024); and for publicly-owned commercial building acquisition and/or rehabilitation for the purpose of assisting a business or businesses. (4-11-06)

k. Grant Management (twenty-five (25) points). Previous track record of grantee and/or experience of grantee and grant administrator. (7-1-16)

l. Economic Advisory Council Evaluation (two hundred (200) points). The EAC will evaluate each Application on the basis of overall value, including its ability to make a significant impact on the Idaho economy and the commitment of the community to the project. The EAC evaluation process shall be prescribed in the ICDBG Application Handbook. (4-11-06)

097. REVIEW AND RANKING OF DOWNTOWN REVITALIZATION.

01. Introduction. Downtown Revitalization occurs only as merchants and landowners and other community representatives implement a series of actions which take advantage of community strengths and the economic and market forces operating in their community. An Idaho Community Development Block Grant program is only one (1) of the resources which can assist a downtown revitalization process. Therefore, the grant Application must be reviewed against the background of the total revitalization efforts. The following areas are reviewed by staff to evaluate the project. (3-19-99)

02. Organization (seventy-five (75) points). This is a measure of the strength and depth of the local commitment to downtown revitalization. Obvious problems and lack of cooperation will detract from the points. The Application should describe how the community is actively organized to plan and implement a downtown revitalization process. At the center of the process there should be a take-charge steering committee representing the major community actors, such as merchants, city officials, local economic development organizations, utilities, and banks. Active subcommittees shall undertake components of the process in

promotion, design, and economic restructuring. Other areas include infrastructure, finance, historic preservation, architecture, and various regulations. The process will be unsuccessful without the participation of, communication with, and cooperation from, various local, state and federal governmental agencies. (7-1-16)

03. Assessments (seventy-five (75) points). This is a measure of the accuracy, completeness and comprehensiveness of each of the assessments which underlie the implementation plan. Knowing and understanding the market forces which support a community's downtown is the foundation of any revitalization effort. Consequently, an analysis of the local economy's market or trade area is critical to determine the effort's direction. Only with this information can plans be made to select the mix of goods and services that can be supported and to decide the nature of the improvements to infrastructure, regulations, buildings, and promotional campaigns. The downtown area may no longer be a retail center and maybe some other use is appropriate. This should be identified and the plans accordingly developed around this activity. Therefore, the Application must contain the background studies that were conducted to assess the local economic forces, market conditions, demographics, and sales volumes; the present conditions of streets and sidewalks, sewers, water and storm drain systems, and traffic patterns; the mix of land uses, conditions of buildings and vacancy rates, physical design, including accessibility for persons with disabilities, and environmental conditions. To receive full points, a community assessment must include market analysis which includes a survey of the primary trade areas, customer market and business and property owner information. (4-11-06)

04. Implementation (two hundred (200) points). The Implementation Plan, by its very nature, needs to be action-oriented, with resources, time frames, and assigned responsibilities for each activity. The Plan should begin with an estimate of the economic potential of the downtown and the effect that revitalization will have upon the businesses and services. Next should be the goal statement(s) of the revitalization effort. Goals should be stated in general terms with implementation activities in specific, measurable terms. Suggested goal statements include marketing, promotion, regulatory, cleanup, and infrastructure. The Implementation Activities should be set out in detail with the responsible party(ies) identified, a completion time frame established, and the needed resources identified. Since revitalization will take a partnership of the public and private sectors to accomplish the goals, the activities may be divided into public and private categories. Points will be assigned to the Implementation Plan as follows: (7-6-94)

a. Preparedness (one hundred (100) points). This is a measure of completeness of downtown revitalization plan. The detail of a downtown revitalization plan should include goals, action items, timelines, costs, visioning, and assessment. (7-1-16)

b. Design Professional Activities (fifty (50) points). This will measure the extent of architectural design or engineering procurement undertaken and to determine the scope of the grant project and estimate costs. (7-1-16)

c. Previous Amount Accomplished (fifty (50) points). This is a measure of all other action items in the implementation plan, how many have been started, and the progress towards completion. (7-6-94)

05. Slum and Blight (two hundred (200) points). This is a threshold which shall be met for the Application to be eligible for review. An Application will be disqualified if, in the opinion of the Department, the project does not meet the definition of Slum and Blight, (Section 020) or does not receive more than one hundred twenty-five (125) points in this category. The geographic boundaries of the downtown area shall be reasonable and officially designated. The conditions within the area shall be described and shall include the condition of all the infrastructure, the conditions of buildings and structures, and the economic forces which are causing the conditions of slum and blight. The Application shall describe the need for the proposed ICDBG project and the impact the project will have on the conditions of slum and blight. This will include the overall impact on the downtown revitalization efforts and the long-term impact on the community. Some project activities may, more appropriately, meet another national objective. If so, it should be described in detail and documented according to the standards for that national objective. (7-6-94)

a. Need and impact (one hundred (100) points). This is a measure of the proposed area's need to prevent or eliminate conditions of slum and blight. It is also a determination of the project's impact on the conditions of slum and blight. A project must address the critical need of the slum and blighted area, have an

impact on the economics of the downtown area, and have a measurable impact. The criteria for measuring the impact of the project on the conditions of slum and blight must be described in measurable terms, such as increase in private investment, establishment of new businesses or business expansions, sales growth, improvement in the appearance and value of property, reduction in vacancy rates and increase in housing units. This includes the economic impact and community impact. (7-6-94)

b. Relationship to overall plan (one hundred (100) points). This is a measure of: how the proposed grant project is related to the other actions and needs of the Implementation Plan; whether it is foundational to the revitalization of the downtown economy or it is peripheral to the needs of the economy; and how logically sequenced the activities being proposed are in relation to the other activities. If another national objective is included in the justification for some of the activities, include the description here and it will be judged upon its need and impact as described in this section. (7-6-94)

06. The ICDBG Project (three hundred fifty (350) points). The Application shall generally describe the eligible activities being proposed for funding. Any combination of eligible activities may be considered in designing the project. The eligible activity(ies) should be located on a detailed map. The relationship of the block grant project to the other implementation activities must be clear. Any matching funds shall be committed with the sources and schedules identified. All the other collateral implementation activities should be discussed and the funds expended documented. The Application shall describe the following items: (4-11-06)

a. Project Local Match (one hundred (100) points). The amount and percentage of “local match” firmly committed to the grant project shall be described. Evidence of commitment shall be provided by letter or agreements. Applicants shall state if there is a Revolving Loan Fund (RLF) available in their region and, if so describe what attempts have been made to secure funds from the RLF for the project. Program income from previous grants to be used in this project may be considered as local match. This total local cash match will then be added to other local match i.e. revenue bonds, in-kind match, etc. The total of all local match will then be divided by the total of all local match plus the ICDBG amount requested to determine the percentage of local match in the project. This percentage will then be multiplied by one hundred (100) to determine the point value. (7-1-16)

b. Project Other Match (one hundred (100) points). The percentage of other funds committed to the proposed ICDBG project from private and other state and federal sources. The percentage shall be calculated by dividing the total of the other sources by the sum of total project costs which is all match plus the ICDBG request. The percentage times the points (one hundred (100)) will determine the amount of points assigned. (7-1-16)

c. Related Implementation Expenditures (sixty (60) points). The percentage of private investment or related expenditures spent on the other implementation plan action items compared to the ICDBG funds being requested. Amounts spent within one (1) year prior to the grant Application submittal and those committed to be spent during the year following the submittal of the Application may be counted for this section. The percentage shall be calculated by dividing the total of the other funds by the sum of other funds plus the ICDBG request. The percentage multiplied by the points (sixty (60)) will determine the amount of points assigned. (4-11-06)

d. Long-term Program Involved (ninety (90). The use of grant funds to leverage a payback mechanism so that funds will sustain the downtown redevelopment efforts over the long term. For example, this can be done through various types of loans, fees, bonds and tax increment financing, improvement districts, urban renewal, or resort city tax. The pool of funds is to be dedicated to the downtown area. (7-1-16)

07. Economic Advisory Council Points (one hundred (100) points). The EAC, after reviewing the staff’s ranking and recommendation, shall award its points based upon both the information presented and the Application. The EAC may award all or some of the points depending upon its opinion that the grant will promote the revitalization of the downtown economy. Projects which only fix a problem but do not leave the downtown in a better economic condition would receive fewer points. (4-11-06)

098. AWARD PROCESS.

01. Evaluation of Proposal. Upon receipt of an Application, Department staff shall conduct an evaluation of the proposal and verify the information contained therein. Such evaluation and investigation will ensure the availability of all information necessary for rating the Application. The review will also establish a high probability that the project is viable, the business is committed, and that a national objective can be met. The Applications will be submitted, reviewed, ranked, and recommended by the Department to the EAC to make a presentation according to Section 065. (4-11-06)

02. Ranking. The EAC will review the Applications, staff review process, assign the EAC points, and rank the Applications. The top-ranked applicants will be invited to submit their Addenda to the Department. The Addenda shall amend and expand upon the Application. Department staff shall inform the applicant as to additional information, documents and actions necessary to complete full application. The staff will review and rank the Addenda, checking that all requirements are met. Applications will be recommended to the Governor for funding if submitted before the next EAC quarterly meeting, and if the Application and Addenda contain sufficient assurances and commitment. (4-11-06)

099. COMMUNITY CENTER AND SENIOR CITIZEN CENTER GRANTS.

01. Community Center Grants. Community Center Grants are part of a competitive application process which is separate from the PFH project grants in the annual grant selection process. They are only for Community Centers, not for other facilities such as shelter homes, nursing homes, and housing. Only cities or counties may apply. CC grants will be funded to a maximum of one hundred fifty thousand dollar ($150,000). See Section 107 entitled Award Process, for details on the award process. (7-1-16)

02. Senior Citizen Center Grants. Senior Citizen Center Grants, which address the need for community centers for senior citizen groups, are part of a competitive application process which is separate from the PFH project grants in the annual grant selection process. They are only for Senior Citizen Centers, not for other facilities such as shelter homes, nursing homes, senior housing and other geriatric facilities. Only cities or counties may apply. SR grants will be funded to a maximum of one hundred fifty thousand dollar ($150,000). See Section 107 entitled Award Process, for details on the award process. (7-1-16)

03. Public Parks Grants. Public Parks Grants are part of competitive application process which is separate from the PFH project grant in the annual grant selection process. They are only for public parks, not for recreation facilities. Only cities and counties may apply. PK grant will be funded to a maximum of one hundred fifty thousand dollars ($150,000). (7-1-16)

04. Eligible Uses. The following are eligible uses of Community Center, Senior Citizen Center, and Public Park Grants: construction of facilities; purchase of facilities; rehabilitation of facilities; purchase of essential fixtures (a fixture is defined as equipment that is permanently attached to the building); and removal of architectural barriers for the handicapped. (7-1-16)

05. Local Match Committed to the Project. Match can be in the form of dollars, land, building materials and fixtures, volunteer labor, and waived fees. In the case of new construction or purchase and rehabilitation, the appraised or assessed value of donated real estate can be part of the match. Value of an existing facility cannot be used as match when the grant is for rehabilitation and/or expansion of the facility. Firm commitments of donated money, material and/or real estate must accompany the Application. (7-1-98)

06. Priorities in Funding. (7-6-94)

a. For Community Centers, the first priority for funding will be remodeling existing facilities to meet Title III Standards, to meet building codes, to provide adequate handicapped access and facilities and to provide adequate kitchen facilities for serving community or neighborhood residents. The second priority for funding will be construction of a new facility to replace an existing center. This will be considered only when the applicant demonstrates that the existing facility cannot be restored to adequate facility standards or that the cost of rehabilitation exceeds the cost of new construction, or that the facility is too small for the number of persons who

presently use the facility and expansion costs of the existing structure exceed new construction costs; or the construction of a community center facility is in a community where no facility now exists; but only where other Community Center facilities are not available, and if adequate local operating funds are committed. (7-1-98)

b. For Senior Citizen Centers, the first priority for funding will be remodeling existing facilities to meet Title III Standards, to meet building codes, to provide adequate handicapped access and facilities and to provide adequate kitchen facilities for serving the current senior citizen membership. The second priority for funding will be: construction of a new facility to replace an existing center. This will be considered only when the applicant demonstrates that the existing facility cannot be restored to adequate facility standards or that the cost of rehabilitation exceeds the cost of new construction, or that the facility is too small for the number of Seniors who presently use the facility and expansion costs of the existing structure exceed new construction costs; or the construction of a Senior Center facility in a community where no facility now exists; but only where: other Senior Center facilities are not available; and if adequate local operating funds are committed. (7-1-98)

c. For Public Parks, the first priority for funding will be for cities or counties who are area-wide low-to-moderate income. The second priority for funding will be improving existing park facilities to meet playground equipment standards, ADA compliance, and to provide adequate facilities and fixtures for serving community and neighborhood residents. The last priority for funding will be construction of a new park. New park construction will only be considered when the applicant can demonstrate there is sufficient need and demand for the park. Existing or new, priority will be given to parks whose service area (typically one-half (½) mile radius) is lower income when compared to other neighborhoods or areas of the community. (7-1-16)

100. APPLICATION. The Application shall identify the eligible components of the center or park and define which items are critical, necessary, or potential concerns for the health and safety of persons using the facility. The projects with the highest needs and the greatest preparedness to proceed would be recommended for funding. (7-1-16)

01. Notice of Intent. (See Section 061) (7-6-94)

02. Deadline. CC, SR, and PK Applications will be due on the first Friday of March, June, or September each year, as specified in the Application Handbook. The Application shall be submitted according to Section 062. The EAC will review the Applications and make funding recommendations at the April, July, or October Council meeting. (7-1-16)

03. Information to Be Included. The Application shall contain the information required by Section 074. The general project description (Subsection 074.06) shall contain the additional information described below. The Application shall be on the forms provided by the Department and according to the format described in Sections 072 and 073. The Application shall also address the center's geographic service area, the number of beneficiaries in the service area, other demographic data including minority and handicapped status, and the needs and impact of the project upon the lives of the residents, neighborhood, or senior citizens. (7-1-98)

04. Restrictions. An applicant is not qualified to apply for a CC, SR, or PK grant if it has a currently funded community center, senior citizen facility grant, or public parks grant, the funds of which are not eighty percent (80%) drawn down as shown on the Department's records as of the last date for accepting Applications. (7-1-16) 05. The General Project Description Shall Address the Following Information. (7-6-94)

a. Health Services. If the center is a designated meal site, provide information of the number of meal days weekly and the number of meals served weekly, monthly, and annually. This information should include any outreach services. Other health services provided at the center should be described. Also, the average number of education activities scheduled per month should be included. Any provision or plans to provide adult day care should be described. (7-1-98)

b. Building Information. The Application shall describe the building's physical condition including the square footage of the building, roof condition, exterior conditions, foundation conditions, parking and floor and other structural conditions. (7-6-94)

c. Interior Building. The conditions of the interior of the center should be described, including electrical and plumbing conditions, handicapped access to building and interior spaces, handicapped bathrooms, heating and air conditioning equipment conditions, energy efficiency and weatherization of building, kitchen and food storage conditions and fire safety conditions. (7-6-94)

d. Match Committed. The amount of local funds and in-kind match that the center can commit to the project should be described and documented. (7-6-94)

e. Planning of the Project. The planning efforts for the center or park should be described. This may include the efforts to determine the needs of the center or park, and the solicitation of community and local government support. Items such as Health and Safety inspections, architectural or engineering designs, Area Agency inspections and recommendations, schedules of project construction and cost estimates may be included. (7-1-16)

f. Park Information. The Application should describe the park's physical condition including size, apparatus or playground fixtures for older children, playground equipment, section for pre-school children, open space for informal play, surface area for court games, field for group games, splash pad, porticos, restrooms, picnic areas, sidewalks, parking, and ADA accessibility. (7-1-16)

06. Presentation. Following selection of the Application by the Department staff. According to Section 065. (7-6-94)

101. REVIEW AND RANKING PROCESS.
The Application shall be reviewed according to the following point categories and shall be based upon the information submitted and any additional information requested by the Department. (one thousand (1,000) points possible). (7-6-94)

01. Physical Conditions (three hundred fifty (350) points). Points will be assigned to the needs of the center or park based upon the number of needs and the urgency of the needs. Department staff shall, upon review of the documentation and descriptions in the application, determine a rating from one (1) to nine (9) based upon the criticalness and urgency of each of the following problems. The ratings will be totaled and ranked. Those Applications ranking the highest will receive the most points. The Application should also include a facility plan or building assessment.

TABLE 5 -- "CRITICALNESS AND URGENCY OF PROBLEMS"				
		Problem or Need Rating		
		Violation of Laws/ Bldg. Codes/ Health and Safety Concerns	**Health and Safety Problems**	**No Violations or Health and Safety Concerns**
Identified in Project Description Narrative	**Identification of Problem**	Critical 9	Urgent 5	Potential Concern 1
	Physical Conditions: Structural Problems			
	Roof			
	Walls			
	Foundation			
	Floors			
	Weatherization			
	Expansion for adult day care			

TABLE 5 -- "CRITICALNESS AND URGENCY OF PROBLEMS"				
		Problem or Need Rating		
		Violation of Laws/ Bldg. Codes/ Health and Safety Concerns	Health and Safety Problems	No Violations or Health and Safety Concerns
Identified in Project Description Narrative	**Identification of Problem**	Critical 9	Urgent 5	Potential Concern 1
	New Center			
	Other			
	Interior Problems:			
	Asbestos/leadbased paint			
	Bathrooms			
	Access for persons with Disabilities			
	Electrical/plumbing/ lighting			
	Heating/air conditioning			
	Fire safety			
	Unusable space			
	New Center			
	Unusable space			
	Other			
	Kitchen and Food Storage:			
	Health inspection			
	Capacity of dry storage			
	Capacity of cold storage			
	Equipment			
	New Center			
	Other			
	Access for Persons with Disabilities			
	Parking			
	Entry			
	Bathrooms			
	New Center			
	Parks			
	Playground fixtures for older children			
	Playground fixtures for preschool children			
	Open space for informal play			
	Surface area for court games			
	Fields for group games			
	Splash pads			
	Porticos			
	Restrooms			
	TOTALS:	ASSIGNED RANKING		

(7-1-16)

02. Project Implementation (two hundred (200) points). Points will be assigned according to the apparent effort made to determine the needs of the center, the nature of the problems, the solutions, and the costs of the project and a realistic schedule for implementing the project. (7-1-16)

a. Planning (forty (40) points). This is a measure of the effort to structure, develop, design, and complete preliminary construction approval steps. (7-1-16)

b. Design Professional (twenty (20) points). This is a measure of the effort made to issue an RFP and complete a design professional selection process. This process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, proof of published notice if applicable, and completed evaluation rating sheets must be submitted. This would include vendors or suppliers. (7-1-16)

c. Schedule Grant Administration (twenty (20) points). This is a measure of the effort made to issue an RFP and complete the administrator selection process. The process must have met state and federal procurement requirements as described in the most recent ICDBG Administration manual. A copy of the RFP, solicitation process, and completed evaluation rating sheets must be submitted. (7-1-16)

d. Schedule (five (5) points). This is a measure of the effort to schedule all the project activities including the different grant requirements and contractors that may be involved. This would also include vendors for suppliers. (7-1-16)

e. Costs (twenty (20) points). This is a measure of the effort to determine reasonable cost estimates for various elements of the project. (7-1-16)

f. Environmental Scoping (ten (10) points). This is a measure of the effort made to complete a Field Notes Checklist as prescribed in the ICDBG Application Handbook and mailed out environmental information request letters before submission of Application. (7-1-16)

g. Property Acquisition (twenty (20) points). A measure of the effort of the applicant or sub-recipient to achieve project site control. (7-1-16)

h. Administrative Capacity (sixty five (65) points). A measure of ICDBG project track record and general stability of applicant and sub-recipient. Review may include financial audit reports, board make-up, staff turnover and recall elections, completion of Section 504 Self Evaluation and Transition plan, and documented efforts to Affirmatively Further Fair Housing. (7-1-16)

03. Benefits (one hundred fifty (150) points). (7-6-94)

a. Activities Provided (one hundred (100) points). This is a measure of how well the center or park is meeting the needs of its members, neighborhood, or community. It is based upon the number and quality of activities and services the center or park is providing on an annual basis. Service days will be calculated by taking the number of days an activity or service is offered during the course of the month multiplied by twelve (12). Activities can include health, recreational, social, educational, and transportation services. Quartile points may be assigned to this area.

TABLE 6 - "Ranking By Quartiles"	
Highest Quartile	One hundred (100) points
Second Quartile	Sixty (60) points
Third Quartile	Thirty (30) points
Fourth Quartile	zero (0) points

(7-1-16)

b. Low and Moderate Income and Minority Outreach Activities (fifty (50) points). This is a measure of existing or proposed efforts made to include low and moderate income and minority participation in the center's or park's activities. (7-1-16)

04. Match (one hundred (100) points). Cash and in-kind donations which are committed to the project shall receive points according to the percentage committed up to the total points in the category of match. (4-11-06)

a. The sixty (60) points for cash match shall be assigned on a quartile basis by taking the percentage resulting from the division of cash match by the total project. Quartile points will be assigned to this area in a descending order based upon the percentage of cash match in the project. (3-30-01)

i. First Quartile -- sixty (60) points. (3-30-01)

ii. Second Quartile -- thirty (30) points. (3-30-01)

iii. Third Quartile -- fifteen (15) points. (3-30-01)

iv. Fourth Quartile -- zero (0) points. (3-30-01)

b. The forty (40) points for in-kind match shall be assigned on a quartile basis by taking the percentage in-kind match divided by the total project. Quartile points will be assigned to this area in a descending order based upon the percentage of in-kind match in the project. (3-30-01)

i. First Quartile -- forty (40 points. (3-30-01)

ii. Second Quartile -- twenty (20) points. (3-30-01)

iii. Third Quartile -- ten (10) points. (3-30-01)

iv. Fourth Quartile -- zero (0) points. (3-30-01)

102. -- 105. (RESERVED)

106. ECONOMIC ADVISORY COUNCIL POINTS. (Two hundred (200) points).
The EAC, in assigning these points to the Applications, shall consider the degree of impact from the project upon the community and shall compare similar type projects with each other. Consideration may include local ability to finance the project, local effort and commitment to the project, and local impact of the project. These points shall be assigned to Applications by the EAC after their review of the Applications. The EAC shall decide on the amount of points to be assigned to each Application in the EAC's regular meeting for reviewing Applications. (4-11-06)

107. AWARD PROCESS. The Department shall review the Applications submitted with the EAC during its April, July, or October meeting. The EAC, after reviewing the Applications, and staff recommendations, will assign the points and recommend Applications to the Governor for funding and standby status. (7-1-16)

108. IMMINENT THREAT GRANTS. Five percent (5%) of the annual CDBG allocation or three hundred thousand dollars ($300,000), whichever is less, shall be reserved to fund activities which will alleviate an imminent threat to public health or safety which requires immediate resolution. Each grant amount will not exceed one hundred thousand dollars ($100,000). Only imminent threat grant Applications which meet the criteria in Section 109 will be presented to Economic Advisory Council for funding consideration. (7-1-16)

109. APPLICATION.

01. Notice of Intent. Not necessary. (7-6-94)

02. Information to Be Included. An Imminent Threat Grant Application shall contain all the information required in Sections 072 through 074 with the exception of Subsection 074.09. Section 110 entitled Imminent Threat Determination, shall replace Subsection 074.09. (7-6-94)

03. Deadline. Imminent Threat Grant requests may be submitted at any time by any eligible applicant even though they have a current grant. The funding for Imminent Threat Grants not applied for will be carried over into the next fiscal year and added to the allocation as carry over funds. (7-6-94) 04. Presentation. According to Section 065. (7-6-94)

110. IMMINENT THREAT DETERMINATION.

01. An Imminent Threat, as Defined in Section 021. (7-6-94)

02. Documentation. Communities requesting an imminent threat grant shall document the following: (7-6-94)

a. The existence of a threat to public health or safety. Describe the nature of the threat; describe the immediacy of the threat; describe what caused the threat to arise; describe what harm will occur to people if the threat becomes an event; identify how the funding will eliminate the threat and protect human health or safety; and provide an official declaration of emergency by the governing body. (7-6-94)

b. Appropriate agency verification of: the existence of the threat (verified by letter of an appropriate agency); the potential for immediate harm; in their judgment, the need for immediate resolution of the threat to avoid physical harm to people. (7-6-94)

c. Unusual circumstances. Describe how the threat is an unusual circumstance and not a common problem of cities and counties. If the problem is one of long standing (longer than six (6) months), what changes made it become an imminent threat? (7-6-94)

d. No other funding sources are available. List the agencies worked with, including persons contacted and phone numbers or letters of response from agencies; list the reason each agency cannot assist; document why local funds cannot be used to relieve the situation; if the problem is of long standing, what local efforts have been made to solve the problem before it became a threat? (7-6-94)

03. Review and Recommendation. The Department shall review the Application and make a recommendation to the Economic Advisory Council which shall review the recommendation and recommend either funding or no funding to the Governor. (7-6-94)

04. Eligible Costs. In cases where a local government has incurred costs to deal with the imminent threat while the Application is being prepared and reviewed, the Department may authorize those block grant eligible costs to be included in the grant and paid for with grant funds. Those costs must be included in the Application and they must be directly related to the relief of the emergency. By no means shall any such costs create an obligation on, or liability for, the Department to recommend approval of a grant. All costs incurred before grant approval are the responsibility of the local government until approved by the grant award. (7-6-94)

111. SPECIAL ALLOCATIONS -- IMMINENT THREAT URGENT NEED.
Special Urgent Need Allocations shall be administered by the department when: (3-20-97)

01. Presidentially Declared Disaster. The threat is determined to be a Presidentially Declared Disaster; and (3-20-97)

02. Appropriation Allocated. A special Idaho Community Development Block Grant appropriation has been allocated to the Department through the HUD Community Development Block Grant Program. (7-1-16)

112. SPECIAL ALLOCATIONS - APPLICATION.

01. Information to Be Included. Information to be included shall be consistent with Subsection 109.02. (3-20-97)

02. Special Urgent Need Grants. Special urgent need grants under this program can be submitted by eligible applicants when conditions in Section 111 exist. (3-20-97)

113. SPECIAL ALLOCATIONS - IMMINENT THREAT DETERMINATION. 01. An Imminent Threat/Urgent Need. An Imminent Threat/Urgent Need is defined by HUD. (7-1-16)

02. Documentation. Communities requesting an imminent threat grant shall contain all information shown in Subsections 110.02.a., 110.02.b., and 110.02.d., 110.03 to 110.04. (3-20-97)

114. -- 115. (RESERVED)

116. SPECIAL ALLOCATIONS - REVIEW PROCESS. If staff, through reviewing the project, find that the applicant meets the criteria in Section 110, the Application may be recommended to the EAC for review. (7-1-16)

117. AWARD PROCESS. The staff shall review the project, the Application, and any additional information requested. The staff shall assist the applicant in the development of the project. If, after the Economic Advisory Council reviews the project and receives the staff's recommendation for funding, it finds that an imminent threat exists, the Council may recommend the project to the Governor for funding. (7-6-94)

118. TECHNICAL ASSISTANCE. To assist communities and applicants in their planning efforts and discourage uncoordinated piecemeal approaches to solving community problems, one percent (1%) of the annual CDBG allocation shall be set aside for technical assistance. (7-1-16)

119. -- 134. (RESERVED)

135. ACCESSIBILITY TAG-ON FOR PERSONS WITH DISABILITIES FUNDING.

01. Additional Activity. An applicant may include in their PFH or ED application as additional activity to improve the accessibility of public buildings for persons with disabilities, if the applicant meets all of the following conditions: (3-19-99)

a. The applicant has adopted a Section 504 Transition Plan; (3-19-99)

b. The applicant's total grant request does not exceed the maximum grant amount allowed for PFH or ED grants; (3-19-99)

c. The applicant matches the ICDBG access funds requested with local matching funds; (7-1-16)

d. The grant funds requested for this activity does not exceed ten thousand dollars ($10,000); (3-19-99)

e. And the applicant can show previous progress in implementing the Transition Plan. (3-19-99)

02. Separate Description and Cost Estimate. The applicant shall provide a separate description of the handicapped accessibility items to be improved and a separate cost estimate. The activities shall be included in the general project budget and schedule. (7-6-94)

136. -- 151. (RESERVED)

152. GRANT AWARD.

01. Funding Allocations. Each year the Department will receive an allocation from the Department of Housing and Urban Development. This allocation is derived from the formula contained in 42 USC, Sec. 5301, the Housing and Community Development Act of 1974, as amended. The allocation shall be generally divided in the following manner to establish target amounts for decision making by the Economic Advisory Council (EAC): first, the amount specified in 24 CFR 570.489 (see Subsection 004.01) shall be reserved for the Department's administrative costs; second, one percent (1%) of the total shall be reserved for Technical Assistance; third, five percent (5%) or three hundred thousand dollars ($300,000), whichever is less, of the total allocation shall be set aside for Imminent Threat (IT) grants; fourth, ten percent (10%) or nine hundred thousand dollars ($900,000) whichever is less, of the total allocation, shall be set aside for Community Center (CC), Senior Citizen Center (SR), or Public Parks (PK) grants; fifth, any program income, recaptured funds, or carryover funds from the previous fiscal years shall be added to the remainder; and finally, of the remainder, fifty percent (50%) shall be reserved for Public Facilities or Housing (PFH) grants and fifty percent (50%) for Economic Development (ED) grants. These targeted amounts may be more or less than the actual amount funded in each category depending on the needs and requests identified in the applications submitted and may shift according to Subsection 152.02. (7-1-16)

02. Shifting of Funds. The above allocation divisions are to establish target amounts for decision making by the Economic Advisory Council (EAC). This division shall be made for the January EAC meeting. These targets may be modified at any time by the Department Director with the advice of the EAC depending on the needs and requests identified in the applications submitted. If in any quarter there are surplus funds in the ED category, the Department Director, with the advice of the EAC, may shift funds back to the PFH, CC, SR, or PK category to fund standby projects. Otherwise, surplus funds not awarded to ED projects in a quarter shall be carried into the succeeding quarter ED set-aside. (7-1-16)

03. Standby Applications. At its quarterly meeting in April of each year, the Economic Advisory Council (EAC) may recommend PFH, CC, SR, or PK Applications for funding even though not enough funds are available to fund the project(s). These Applications become "standby projects." Standby projects shall be eligible for funding should additional funds become available or surplus funds exist in the ED category. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the Governor for funding. Standby status shall continue through the fourth quarterly meeting. Any standby projects not funded may be invited to submit an Addendum for the next Fiscal Year, thus bypassing the Application stage of the application process. However, the Application must remain eligible and must continue to meet all requirements of the program rules. The standby applicant shall update its Application during the Addendum process. (7-1-16)

04. Termination of Project Selection for Funding. (7-6-94)

a. If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, its status of being selected for funding may be terminated by the Department. The Department shall, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable and that the applicant has a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the award of the grant status shall be considered terminated and the funds be made available for the next standby project. (7-6-94)

b. After a grant contract has been executed, the Department shall periodically evaluate the progress of the project. If, at any time, the project loses viability and/or cannot be completed as described in the Application, the Department shall, by letter, notify the grantee that the grant contract shall be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period of time, demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant shall be considered terminated. (7-6-94)

c. Loss of viability will be defined to include: the inability to secure the other project financing; the lack of due diligence to pursue the implementation of project requirements; the lack of local coordination with all funding and regulatory agencies; the inability to develop agreements necessary to manage the cash flow and

ownership of the project where several different entities are involved in the project; and the inability to complete a project of the same general size and benefits as presented in the application. (7-6-94)

05. Excessive Funds. In the event a project can be completed for less than the grant amount, the difference between actual project costs and the grant amount shall be reserved by the Department for standby projects, or added to the total of the next fiscal year allocation for distribution. The Department shall amend the grant contract to reflect the reduced costs. In extraordinary circumstances the excess funds may be used for an eligible activity which further enhances the project as described in the Application. Before the Department decides to allow the additional activity, the grantee must demonstrate the activity will provide an equal or greater benefit than the original project; it will increase the benefits to low and moderate income persons, it will be completed within the original time frame, and the additional activity will be completed with the excess funds. The grantee must also show completion of the original project, its objectives and benefits. (7-6-94)

06. Amendment of Project. A funded project as described in the Application shall not be changed without prior approval from the Department Director. Any amendment of the project shall be reviewed to determine if the project will retain its competitive ranking in the Application review and ranking system. Any amendment shall provide equal or greater benefits than the original project. In unusual circumstances, the Department Director may approve a grant amendment increasing the grant amount, provided unobligated funds are available. In unusual circumstances the Department Director may waive the ten percent (10%) limitation on administrative costs when, in the opinion of the Department, the complexity of the project warrants an increase. (7-6-94)

07. Allowable Costs. Once an applicant has been invited to submit an Addendum and prior to the effective date of a grant contract an applicant submitting an Addendum may obligate and spend out of local funds for the purpose below. If awarded a grant and after the effective date of the grant contract, the grantee may be reimbursed for these costs provided such locally funded activities are undertaken in compliance with the program requirements (including but not limited to procurement, financial, acquisition, environmental and the ten percent (10%) limitation on administrative costs). Other project costs shall not be incurred until the Special Terms and Conditions of the contract are completed by the grantee and the funds released by the Department (See Section 080). (7-6-94)

a. Planning, Design and Administration. Procure and proceed with administrative and architectural or engineering services, adopting the Fair Housing Resolution and the Anti-Displacement Plan, and having public hearings. (7-6-94)

b. Project Costs, such as: preliminary and final Engineering Design, preliminary and final Architectural Design, conducting the Environmental Assessment, and completing procedural requirements for acquisition, but not the cost of the property. (7-6-94)

08. Audit Requirements. All ICDBG projects shall be audited annually or biannually in accordance with Sections 50-1010 and 31-1701, Idaho Code, the Single Audit Act of 1984, the implementing regulations in OMB Circular A-133, and all applicable federal audit standards, and other applicable state laws. Audits shall include any management letters associated with the audit. The audit shall be submitted to the Legislative Auditors Office within thirty (30) days of completion. Grantees shall require sub-grantees to provide audits conducted according to applicable federal and state laws, regulations and standards. The grantee shall have these audits reviewed as part of the grantee's audit. This review shall be commented and noted in the audit report. This review shall opine that subgrantees are in compliance with the applicable program laws, regulations, contracts, and standards. (3-19-99)

153. PROCUREMENT. Grantees and sub-recipients will follow state and federal procurement law as outlined in the most recent ICDBG Grant Administrator's Manual. (4-11-06)

154. -- 163. (RESERVED)

164. CHANGE OF USE OF REAL PROPERTY.

01. Time Frame. These standards apply to real property which was acquired or improved (in whole or in part) with more than twenty-five thousand dollars ($25,000) of ICDBG funds. These standards shall apply from the date of closing on the real property (when title and funds are transferred) until five (5) years after grant closeout. (7-6-94)

02. Standards. A grantee shall not change the use, planned use or beneficiaries of real property acquired or improved with ICDBG funds without consulting with affected citizens and the Department. A grantee may change the use, planned use or beneficiaries of real property acquired or improved with ICDBG funds after consultation with affected citizens and the new proposed use is determined by the Department to meet one of the National Objectives (See Section 015) and is not an Ineligible Activity (See Section 052). The grantee shall follow its Citizen Participation Plan to provide affected citizens reasonable notice and opportunity to comment on any proposed changes. If, after consultation with affected citizens, the grantee determines to change the use of the real property to a use which does not meet a National Objective or is an Ineligible Use; the grantee shall reimburse the Department's ICDBG program the fair market value of the property. The reimbursement shall be the prorated share of the ICDBG funds initially paid for the property plus any ICDBG funding improvements. The fair market value shall be established by an appraisal. After receipt of the reimbursement to the ICDBG program, the real property is no longer subject to ICDBG and any federal requirements. (7-6-94)

165. -- 170. (RESERVED)

171. PROGRAM INCOME. Program income will be administered in accordance with 24 CFR 570.489 (see Subsection 004.01). (3-29-10)

172. -- 190. (RESERVED) 191. CONFLICT OF INTEREST.
It is the policy of the ICDBG Program that the grant management shall be conducted in an equitable manner and that public funds shall be expended in a fair, efficient and effective manner. Therefore every effort should be made to assure the public that no conflicts of interest exist in the management of the program funds and that those cases that do occur from time to time shall be disclosed and that appropriate actions have been taken to avoid and abstain from conflict of interest situations. The Conflict of Interest Policy shall be administered in accordance with Sections 59- 701 through 59-705, Idaho Code, "Ethics in Government Act of 1990," and 24 CFR 570.611 (see Subsection 004.02). (3-29-10)

192. -- 204. (RESERVED)

205. GRANT CLOSEOUT.
Grant closeout will be in accordance with the federal requirements stated in OMB Circular A-102 or as authorized by the U.S. Department of Housing and Urban Development. (7-6-94)

206. -- 210. (RESERVED)

211. SANCTIONS INVOLVING GRANTEES.

01. Compliance. The Department is responsible for determining when an ICDBG grantee has or has not complied with all appropriate requirements of Title I of the Housing and Community Development Act of 1974, as amended, and the ICDBG rules. If, after notice and consultation, the Department determines that the grantee has failed to take proper action to insure compliance or that the grantee's ICDBG project has not met appropriate requirements of Title I of the Housing and Community Development Act of 1974, as amended, the Department may then take appropriate sanctions against the grantee. (7-6-94)

02. Sanctions. The Department will evaluate the appropriateness of sanctions on a case by case basis. However, the Department will endeavor to allow the grantee the opportunity to propose a workable and timely resolution of matters found to be in non-compliance. In determining the level of sanctions, if necessary, appropriate to a particular grantee or a situation, the Department may decide to use any one (1) or a combination of the following sanctions: letter of warning to the grantee requiring immediate corrective actions; withholding of unexpended grant funds until compliance is achieved; cancellation of unexpended grant funds and termination of the grant contract; requiring all accumulated and/or future program income to be reimbursed to the

Department; requiring the grantee to pursue appropriate legal remedies; requiring the grantee to reimburse the state an appropriate amount with funds recovered from appropriate legal remedies; requiring all accumulated and/or future program income to be transferred to another approved Title I activity or project; prohibiting a grantee from participating in the ICDBG program for a period of time determined by the Department; prohibiting a grantee from participating in certain activities with ICDBG funds or program income; and requiring a grantee to reimburse the Department the full amount of the ICDBG funds that are not in compliance with Title I of the Housing and Community Development Act of 1974 as amended, ICDBG rules and/or the grant contract and the assurances. (7-6-94)

212. APPROVED GRANT ADMINISTRATORS.

01. List of Approved Administrators. The Department requires all grantees to use approved grant administrators in all ICDBG projects. The Department will maintain a list of individuals which are approved by the Department to manage block grant projects. (3-30-07)

02. Criteria. The Department will use the following five (5) criteria to evaluate the qualifications of individuals desiring to become approved grant administrators: past record of experience with all types of grants; local government experience and background; record of past performance (if any) in administering ICDBG projects, including: monitoring findings, complaints, and commendations; timeliness of decision making, and successful coordination of projects; successful completion of a technical examination developed and administered by the Department, which may modify the examination to reflect program changes; and division staff review of a person's ability to successfully administer a grant, communicate, solve problems, apply regulations and requirements, and complete project and program requirements in a timely manner. (3-30-07)

213. GRANT ADMINISTRATOR APPLICATION PROCESS AND ANNUAL REVIEW.
To apply for grant administrator certification status individuals shall submit an application to the Department. Applicants shall submit a letter requesting approval and a resume describing their experience and performance. The Department will review the application, the examination results and the Department's experience with the individual (Subsection 212.02). This application and review will occur on an as needed basis beginning with the annual grant awards. The Department will determine when an individual has sufficient qualification and experience to be placed on the approved grant administrator list. (3-29-10)

214. SANCTIONS INVOLVING APPROVED GRANT ADMINISTRATORS.
The Department, in order to ensure the highest level of performance by approved grant administrators, may require remedial actions be undertaken upon receipt of a valid complaint or finding. Such recommendation will be made only after a timely and impartial investigation process in which the rights of all parties are protected. (3-30-07)

215. BASIS OF IMPOSING SANCTIONS. The Department may take sanctions against an approved grant administrator as a result of any of the following actions: inability to complete project administration; findings of non-compliance or violation of federal or state rules and regulations; termination by a grantee of an administrative contract for cause; lack of cooperation in completing or complying with program requirements; or gross negligence. (3-30-07)

216. PROCESS TO IMPOSE SANCTIONS.

01. Written Complaint. Upon receipt of a written complaint alleging conduct in the immediate preceding paragraph, or upon discovery of a problem through project monitoring, the Department shall immediately investigate the circumstances giving rise to such complaint, document the findings, and endeavor to make a determination of action within fifteen (15) days of the receipt of the complaint. The actions in Section 215 will serve as a conduct guide. (7-6-94)

02. Response. The approved grant administrator shall be given a copy of the complaint and the investigation report and have fifteen (15) days to respond to the complaint in writing. The Department shall then review the complaint and the response, and determine the appropriate sanction, if any, to be imposed. All parties to the complaint shall be notified in writing of the determination. (3-30-07)

03. Administrative Appeal. Any person who is aggrieved by a decision regarding the imposition of sanctions shall be entitled to an administrative appeal pursuant to Title 67, Chapter 52, Idaho Code, Idaho Administrative Procedures Act. (7-6-94)

217. REMEDIAL ACTIONS. The Department may decide to use any one (1) or all of the following remedial actions appropriate to approved grant administrators: issue a letter of warning to correct deficient actions; require mandatory ICDBG administrative training to maintain approved grant administrator status; remove an individual from the approved grant administrators list for a time period determined by the Department; require that corrective action be taken by the approved grant administrator to resolve the problem or conflict; or recommend initiation of appropriate legal proceedings in egregious situations. (3-30-07)

218. -- 224. (RESERVED)

225. LEAD BASED PAINT.

01. Abatement of Lead Based Paint. Any applicant or grantee proposing to rehabilitate housing or structures constructed or substantially reconstructed prior to 1978 shall take measures to abate - as far as practicable - lead-based paint hazards. Such measures shall be in accordance with the Lead-Based Paint Poisoning and Prevention Act as amended and Title I of the Community Development Act of 1974 as amended. (7-6-94)

02. Housing. Housing shall be defined as any structure designed for occupation by or occupied by children of six (6) years old or less. This includes such uses as day care centers, nurseries, playgrounds, pre-schools and residential uses etc. (7-6-94)

03. Methodology. Any lead-based paint abatement and disposal shall be by current state-of-the-art methods approved by the Environmental Protection Agency. (7-1-16)

04. Environmental Review. The lead-based paint hazard shall be determined as part of the environmental review. Abatement shall be considered as part of the project and is an eligible grant expense. (7-6-94)

226. -- 999. (RESERVED)

This Page Intentionally Left Blank

RURAL COMMUNITY BLOCK GRANT

The mission of the Rural Community Block Grant program is to provide funds to distressed rural areas for building public infrastructure 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 or for projects that have a measurable rural benefit—the sole beneficiary of the project cannot be a large city.
- 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 applicants categories may sub-grant Rural Community Block Grant 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 or purchase 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 distressed 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.

Administrative Rules: 28.02.05 - Rural Community Block Grant (RCBG)

IDAPA 28
TITLE 02
CHAPTER 05

28.02.05 – RURAL COMMUNITY BLOCK GRANT PROGRAM (RCBG) 000. LEGAL AUTHORITY.

000. LEGAL AUTHORITY
The Department of Commerce, through these rules, is implementing the state's Rural Community Block Grant Program as authorized by Section 67-4703, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.
01. Title. These Rules shall be cited as IDAPA 28.02.05, "Rural Community Block Grant Program (RCBG)." (3-15-02)
02. Scope. These rules establish the process and procedures for Application for and the awarding of Rural Community Block Grants. (3-15-02)

002. WRITTEN INTERPRETATIONS.
The Idaho Department of Commerce may have written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements can be inspected and copied at the Idaho Department of Commerce, 700 W. State Street, Boise, Idaho 83702. (3-15-02)

003. ADMINISTRATIVE APPEALS.
Any person who is aggrieved by a decision regarding the imposition of sanctions shall be entitled to an administrative appeal pursuant to Title 67, Chapter 52, Idaho Code, Idaho Administrative Procedures Act. (3-15-02)

004. INCORPORATION BY REFERENCE.
All state and federal requirements of the RCBG Program are included in the RCBG Application Handbook. The Grant Agreement between the Department and RCBG recipients shall contain the appropriate certifications pertaining to these state and federal regulations. These certifications shall be the basis of project compliance in the administration and management of the RCBG project. (3-15-02)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The mailing address of the Idaho Department of Commerce is Division of Rural and Community Development, 700 West State Street, P.O. Box 83720, Boise, Idaho 83720-0093; the telephone number is (208) 334-2470; and the facsimile machine number is (208) 334-2631. Documents may be filed at the state office during regular business hours of 8 a.m. to 5 p.m. Monday through Friday. (3-15-02)

006. PUBLIC RECORDS ACT COMPLIANCE.
All rules adopted by this chapter are public records. (3-15-02)

007. -- 009. (RESERVED)

010. DEFINITIONS.
All definitions pertaining to the RCBG Program shall be incorporated in the RCBG Application Handbook. (3-15-02)

011. ELIGIBLE APPLICANTS.
Applicants for the Idaho Rural Community Block Grants are as follows:
(3-15-02)

01. City Applicants. Rural cities are those generally less than twenty-five thousand (25,000) in population. Cities contiguous to large cities are not eligible to apply. (4-4-13)

02. County Applicants. Counties may apply for county wide projects or on behalf of unincorporated communities. Counties cannot apply for projects that benefit larger cities. (3-15-02)

03. Special Purpose Districts. Special purpose districts are not eligible, although they may be involved in the execution of a project by mutual agreement. (3-15-02)

04. Indian Tribes. Indian tribes may be considered as an applicant or may be a partner in a project by mutual agreement. (3-15-02)

012. GRANT PROGRAM.

01. Eligible Activities. (3-15-02)

a. Projects to provide or expand the capacity of infrastructure, usually water, sewer or streets, or other infrastructure utilities to a specific business expansion or new location, that will result in job creation; (3-15-02)

b. Acquisition and/or rehabilitation of real property to lease/purchase to a company for construction of a new plant building; (3-15-02)

c. Construction of a commercial building for a company to lease/purchase; (3-15-02)

d. Provision of publicly regulated utilities such as telecommunications, power, gas and rail upgrades needed for business expansions; (3-15-02)

e. Match for other state and federal funding programs, including, but not limited to the Community Development Block Grant Program and Economic Development Administration grants; (3-15-02)

f. Consulting, engineering and planning studies needed for a potential grant project; (3-15-02)

g. Elimination of substandard physical conditions which impairs sound growth or presents an economic liability on an area or spot basis. (3-15-02)

h. Funds may be used to finance the substantial rehabilitation of privately owned existing buildings or structures used for business, commercial, or industrial purposes. (3-15-02)

02. Other Eligible Activities. (3-15-02)

a. Code Enforcement. Code enforcement involves the payment of salaries and overhead cost directly related to the enforcement of local codes. RCBG funds may be used only in deteriorated or deteriorating areas where enforcement, together with public or private improvements or services, may be expected to arrest the decline of the area. (3-15-02)

b. Environmental Review. Environmental review of the environmental conditions or impact of a project. (3-15-02)

c. Mixing Eligible and Ineligible Activities. A public facility eligible for RCBG assistance may be funded even if it is part of a multiple-use building containing ineligible uses if: (3-15-02)

i. The eligible portion of the building is a designated and discreet area of the building; (3-15-02)

ii. The applicant can determine the costs attributable to the eligible use or eligible portion of the facility as distinct from the overall costs of the facility. (3-15-02)

d. Clearance of Buildings. Clearance, demolition, removal of buildings and facilities, and movement of structures to other sites. (3-15-02)

e. Disposition of Property. Costs associated with the disposition (through sale, lease, donation, or otherwise) of any real property acquired with RCBG funds, or with the retention of real property for public purposes. Reasonable costs of temporarily managing such property (or property acquired under urban renewal) until final disposition of the property is made. Disposition costs include fees paid for: appraisals, surveys, marketing, legal services, financial services, transfer taxes and other costs involved in the transfer of ownership of property. Any proceeds from the disposition of such property shall be considered program income. (3-15-02)

f. Relocation Payment. Relocation payments and assistance for displaced individuals, families, business organizations, and farm operations when determined by the grantee to be appropriate. (3-15-02)

g. Administrative Activities. Payment of reasonable administrative costs and carrying charges related to the planning and implementation, including the management, coordination and monitoring of activities necessary for the completion of successful grant projects. These cost shall not exceed five percent (5%) of the RCBG. (3-15-02)

h. Technical Assistance. RCBG funds may be used by the grantee (or provided by a grantee to a subgrantee) to increase their capacity to carry out eligible economic development activities. Such costs are not included in the five percent (5%) limitation on administrative and planning costs. (3-15-02)

i. Allowable Costs in Application. An applicant may be reimbursed for some of the administrative or engineering costs incurred during the preparation of the Application. No such expenses incurred will be reimbursed unless a grant is awarded. Such expenses are the responsibility of the applicant if a grant is not awarded. Any such administrative costs become part of and cannot exceed the five percent (5%) limitation on administrative costs of the grant. (3-15-02)

013. INELIGIBLE ACTIVITIES.

As a general rule, any activity not authorized in these rules is ineligible to receive RCBG funds. This section identifies two (2) areas that are ineligible and provides guidance in determining eligibility of other activities frequently associated with economic development. The following activities may not be carried out using RCBG funds: (3-15-02)

01. General Conduct of Government. Assistance to buildings, or portions thereof, used predominantly for the general conduct of government. However, the removal of architectural barriers and historic preservation of such building is eligible. Such buildings include, but are not limited to, city halls and other headquarters of government where the governing body or the recipient meets regularly, courthouses, jails, police stations, and other state or local government office buildings. Also ineligible are school buildings, school offices, and university and college vocational-technology facilities. Where acquisition of real property includes an existing building and improvements, part of which is to be utilized for the general conduct of government, the acquisition cost attributable to the land is eligible, provided a national objective is met with the other eligible use of the property and building. Only the portion of the building required for the eligible activity is an eligible grant expense. (3-15-02)

02. Local Government Expenses. Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with RCBG funds. (3-15-02)

03. Political Purposes. (3-15-02)

04. Churches. (3-15-02)

05. Equipment. The purchase of equipment, fixtures, motor vehicles, furnishings or other personal property, which is not an integral structural fixture, is generally ineligible. RCBG funds may be used; however, to purchase such items when necessary for use by a recipient or its sub-recipients in the administration of activities assisted with RCBG funds. (3-15-02)

06. Operating and Maintenance Expenses. (3-15-02)

014. -- 018. (RESERVED)

019. GRANT APPLICATION PROCESS.
The required RCBG Application process is described in the RCBG Application Handbook. (3-15-02)

020. SUBMITTAL OF APPLICATIONS.
Applications must be mailed or hand-delivered to the Department's mailing address. (3-15-02)

021. APPLICATION REVIEW.
Any applicant or project not meeting the threshold criteria shall be disqualified and the Application shall not be reviewed further. (3-15-02)

022. PRESENTATION TO ECONOMIC ADVISORY COUNCIL.

01. Presentations. Presentations shall be made by key elected officials of the applicant. These elected officials include mayors, council members or county commissioners or other project partners. The presentation should include: (3-15-02)

a. The need for the project; (3-15-02)

b. The local commitment to the project; (3-15-02)

c. The economic impact of the project on the community; and (3-15-02)

d. Any additional information that should be given special consideration. (3-15-02)

023. REVIEW AND RANKING CRITERIA FOR RURAL COMMUNITY APPLICATIONS.
(One Thousand (1,000) Points Possible. (3-15-02)

01. Community Distress Factors -- Two Hundred (200) Points. (3-15-02)

a. High unemployment. (3-15-02)

b. Low per capita income. (3-15-02)

c. Sudden distress. (3-15-02)

d. Other long term distress factors. (3-15-02)

e. Lack of developed business sites/infrastructure. (3-15-02)

f. Lack of resources to impact distress factors. (3-15-02)

02. Project Benefits -- Two Hundred (200) Points. (3-15-02)

a. Impact on distress factors. (3-15-02)

b. Direct job creation or retention. (3-15-02)

c. Job quality and fringe benefits. (3-15-02)

d. Indirect secondary jobs. (3-15-02)

e. Project and business management capacity. (3-15-02)

f. Long-term program. (3-15-02)

g. Indirect investment potential. (3-15-02)

h. Direct investment in community asset. (3-15-02)

i. Minority benefit. (3-15-02)

03. Community Project Support -- Two Hundred (200) Points. (3-15-02)

a. Project support and involvement. (3-15-02)

b. Local investment. (3-15-02)

c. Other match. (3-15-02)

04. Project Feasibility -- Two Hundred (200) Points. (3-15-02)

a. Planning, costs and schedule. (3-15-02)

b. Cost estimates. (3-15-02)

c. Business Commitment. (3-15-02)

d. Creation of marketable asset. (3-15-02)

05. Economic Advisory Council -- Two Hundred (200) Points. (3-15-02)

024. -- 030. (RESERVED)

031. STANDBY APPLICATIONS.
At its quarterly meeting, the Economic Advisory Council may recommend Applications for funding even though not enough funds are available to fund the project(s). These Applications become standby projects. Standby projects shall be eligible for funding should additional funds become available or surplus funds exist. At any subsequent quarterly meeting, the Advisory Council may review and recommend a standby project to the Governor for funding. Standby status shall continue through the fourth quarterly meeting. The Application must remain eligible and must continue to meet all requirements of the program rules. (3-15-02)

032. LOSS OF VIABILITY.

01. Loss of Viability Criteria. (3-15-02)

a. The inability to secure the other project financing; (3-15-02)

b. The lack of due diligence to pursue the implementation of project requirements; (3-15-02)

c. The lack of local coordination with all funding and regulatory agencies; (3-15-02)

d. The inability to develop agreements necessary to manage the cash flow and ownership of the project where several different entities are involved in the project; or (3-15-02)

e. The inability to complete a project of the same general size and benefits as presented in the Application. (3-15-02)

02. Process. (3-15-02)

a. If, during the period between the award of a grant and signing of a grant contract, a project loses its viability, the Department may terminate its award status. The Department shall, by letter, notify the applicant that in the judgment of the Department, the applicant's project is no longer viable. The applicant shall have a clearly stated period of time no less than fourteen (14) days to demonstrate the project's viability. If viability cannot be demonstrated within the stated period of time the applicant's award status shall be terminated and the funds may be available for the next standby project. (3-15-02)

b. After a grant contract has been executed, the Department shall periodically evaluate the progress of the project. If, at any time, the project loses viability or cannot be completed as described in the Application and contract, the Department shall, by letter, notify the grantee that the grant contract shall be terminated within a clearly stated period of time of no less than fourteen (14) days from the date of the letter. The grantee may, within the stated period, demonstrate substantial progress on the project and request the Department revoke the termination. If viability cannot be demonstrated within the specified amount of time, the grant shall be terminated. (3-15-02)

033. -- 999. (RESERVED)

Page intentionally left blank

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 new a business, remediation of slum and blight conditions blocking business development, 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 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 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.

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)

This Page Intentionally Left Blank

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

This Page Intentionally Left Blank

OPPORTUNITY ZONES

The Tax Cuts and Jobs Act of 2017 contains a new tax incentive for investments in low-income census tracts designated as Opportunity Zones.

Opportunity Zones are a new community development program established by Congress in the Tax Cuts and Jobs Act to encourage long-term investments in low-income urban and rural communities. Private investment vehicles that place 90 percent or more of their funds into an Opportunity Zone can earn tax relief on the capital gains generated through those investments. Tax benefits increase the longer investments are in place.

The Treasury Department and the Internal Revenue Service recently issued proposed regulations and other published guidance for the new Opportunity Zone tax incentive.

Opportunity Zone Rule: https://commerce.idaho.gov/content/uploads/2018/10/Opportunity-Zones-reg-115420-18.pdf

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

This Page Intentionally Left Blank

City of Boise:

BOISE
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

Centrally located within the City of Boise, this opportunity zone has transportation infrastructure, including rail and interstate, and benefits from significant nearby residential areas.

The area includes a diversity of land uses and employment opportunities such as the St. Alphonsus Regional Medical Center, which has realized continued investment and employment growth.

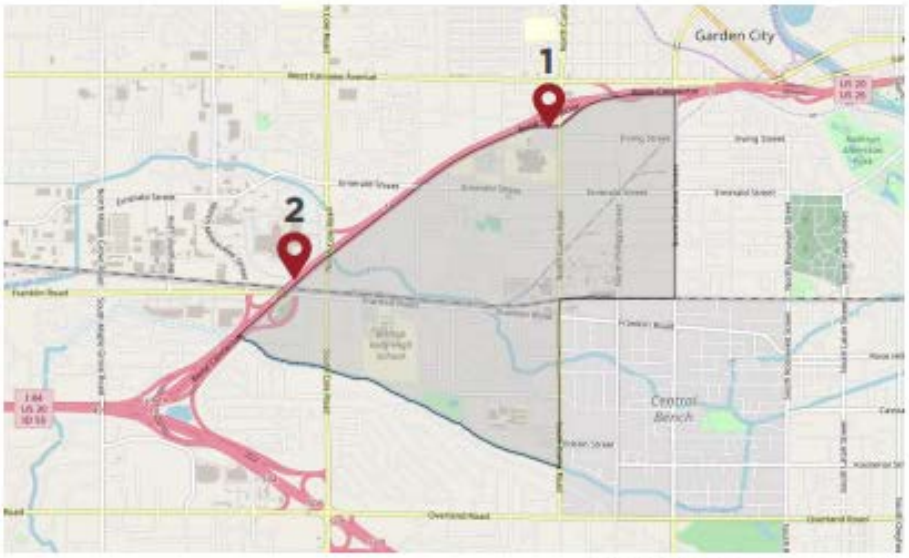
This Boise opportunity zone is approximately 3 miles from the city's downtown, the civic and employment center of Idaho.

WHAT'S IN THE ZONE?

- Access to Interstate 84 and Interstate 184
- Close proximity to downtown
- Quick acces to Boise Airport

INVESTMENT SITES

1. **1200 N. Curtis Road**
   Previous industrial use, 6.03 acres/263,000 sq. feet, leaseable on 5 acres with 1 acre accessory parking lot
2. **34 South Cole Road**
   Formerly a school, now a vacant lot of 8.56 acres/ 373,000 sq. feet



CENSUS TRACT 16001002000

IDAHO COMMERCE

Meridian:

MERIDIAN
Idaho Opportunity Zone

Photo Credit: Idaho Business Review

OPPORTUNITY ZONE OVERVIEW

This census tract contains strong and emerging central markets for industrial companies, health science and higher education organizations, regional transit groups, small businesses, and housing.

It is seen by the city as the key to connecting consumers, commuters and workers living across the Treasure Valley.

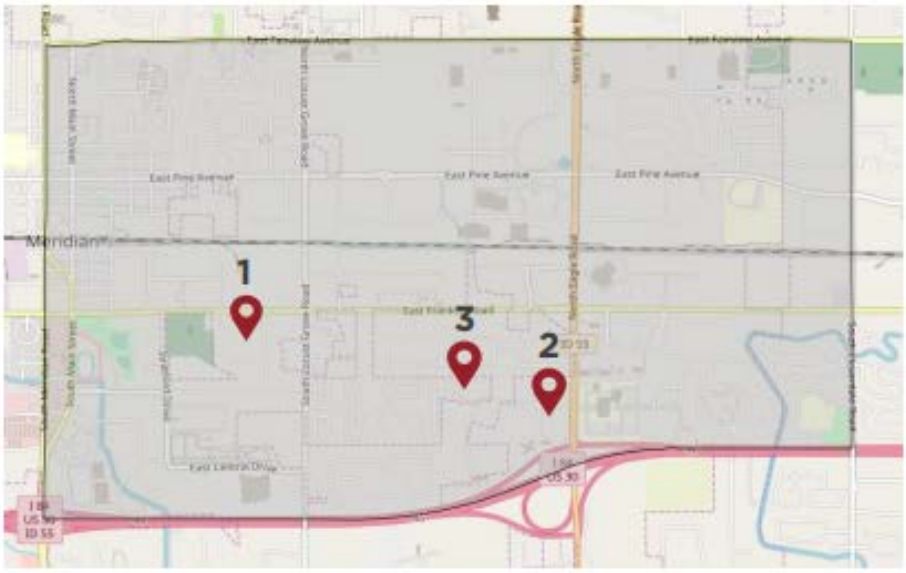
The tract has convenient freeway access, well-built local roads and an active rail corridor boasting a strong infrastructural advantage in creating long-term opportunities for profitable investment, innovation and growth.

WHAT'S IN THE ZONE?

- 84 — Access to Interstate 84
- Near Blue Cross of Idaho and St. Luke's Medical Center
- Industrial rail access
- Idaho College of Osteopathic Medicine

INVESTMENT SITES

1. **1250 E. Kalispell**
   1.7 acres of zoned, light industrial property with utility service.
2. **3015 E. Magic View Drive**
   1.6 acres of zoned, general commercial property, access to ID-55/Eagle Road, near St. Luke's Medical Center.
3. **715 S. Wells Street**
   6.86 acres suitable for medical, office or flex (RUT zoning), with access to I-84.



IDAHO COMMERCE

CENSUS TRACT 16001010321

New Meadows:

NEW MEADOWS

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

The mission of New Meadows is to provide citizens with a safe and clean community while developing a vibrant, diverse economy.

This opportunity zone covers New Meadows and the northern part of Adams County, including both the Tamarack Mill and Brundage Mountain ski resorts.

In recent years, the city has passed bonds for water and sewer improvement, making the area shovel-ready for commercial, residential and light industrial development.

The zone also contains a number of geothermal wells to be developed for recreational and agricultural use.

INVESTMENT SITES

1. **310 Virginia Street**
   Prime-location store front on US Highway 95, formerly a sporting goods store.
2. **3100 Idaho Highway 55**
   0.45 acre lot ideal for commercial development. City water runs to the lot with access to nearby sewer.

WHAT'S IN THE ZONE?

Access to ski hills including Tamarack Mill, Brundage Mountain and Little Ski Hill

Sits at the junction of US Highway 95 and Idaho State Highway 55

Near regional airports including Meadows Valley Airport and McCall Airport

CENSUS TRACT 16003950100

IDAHO COMMERCE

Pocatello:

POCATELLO

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

Centrally located within the City of Pocatello, this opportunity zone extends from its historic downtown northward. Transportation infrastructure, including nearby rail and interstate access, is readily available.

The area includes a diversity of land uses and employment opportunities including residential, commercial and industrial.

The Pocatello opportunity zone covers the north portion of historic Old Town Pocatello and some of the NeighborWorks Pocatello "Neighborhoods of Historic Old Town." Industrial and potential mixed use areas are north of downtown.

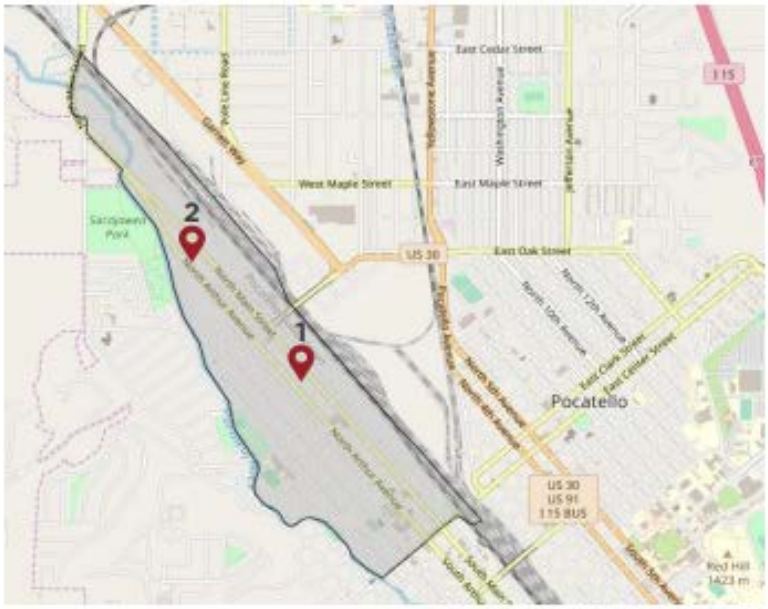
WHAT'S IN THE ZONE?

- Access to Highway 30 and Interstates 15 and 86
- Raymond Park and the Portneuf River
- Industrial rail access readily available
- Easy access to Pocatello Regional Airport

INVESTMENT SITES

1. **Old Town Pocatello**
   A locally and nationally-designated historic district, Old Town Pocatello boasts a mix of uses. The Old Town Pocatello organization oversees revitilization efforts. For more info, visit www.oldtownpocatello.com.

2. **North Main Extension**
   This area is home to a variety of commercial and industrial uses and redevelopment potential.



CENSUS TRACT 16005001601

IDAHO COMMERCE

Benewah County:

ST. MARIES
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone includes the eastside of St. Maries, Idaho, that sits east of Coeur d'Alene Avenue.

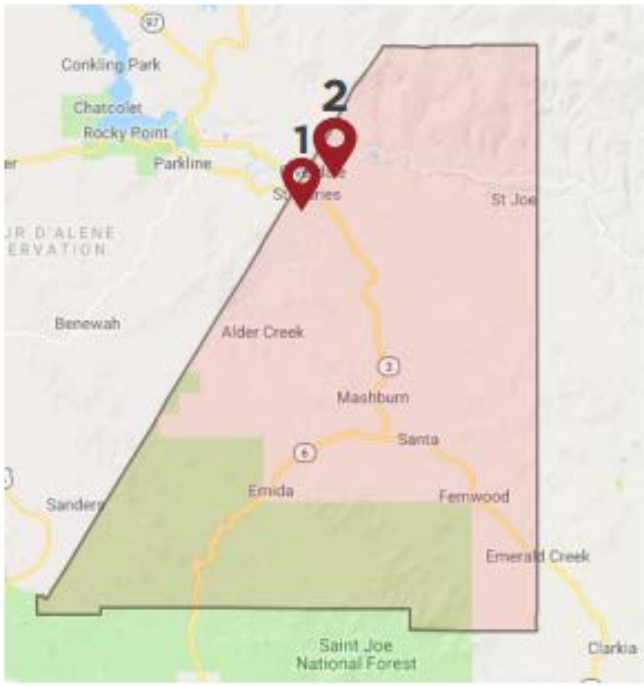
Timber is the dominate industry in this zone. Investment potentials identified by the community include residential housing, lodging facilities and value-added timber product facilities or businesses.

WHAT'S IN THE ZONE?

- Scenic views of the Saint Joe National Forest and Saint Joe River
- Access to Idaho State Highway 3 and Idaho State Highway 6
- Near Saint Maries Municipal Airport

INVESTMENT SITES

1. **414 S. 1st Street**
   0.5 acres of county-owned land, zoned for apartment complex/residential housing use.
2. **1827 St. Joe River Road**
   4 acres including 1,400 feet of St. Joe River front property, ideally suited for a marina or RV park.



CENSUS TRACT 16009950100

IDAHO COMMERCE

SANDPOINT
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone encompasses downtown Sandpoint and shoreline along Lake Pend Oreille and Sand Creek, and is part of Idaho's growing aerospace and technology industry.

With the completion of the US 95 bypass, the City is employing several strategies to revitalize its downtown and encourage mixed use residential development and historic preservation within the zone.

Industries that will likely thrive in this opportunity zone are the hotel, retail, restaurant and entertainment industries, as well as technology and software.

INVESTMENT SITES

1. **624 Larch Street**
   10 acres available with infrastructure in place, including fiber. The propery is zoned for commercial or mixed use.
2. **330 N. First Avenue**
   0.33 acres with waterfront access and high speed fiber in a prime downtown location with significant development potential.

Additional opportunity sites can be found at sandpointidaho.gov/opportunityzone.

WHAT'S IN THE ZONE?

Access to US Highway 95 and Idaho State Highway 2

Seven parks, three grocery stores and a hospital

Direct access to Lake Pend Oreille

CENSUS TRACT 16017950300

IDAHO COMMERCE

BONNERS FERRY

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone is bordered by the south and west banks of the Kootenai River. The area is traditionally sustained by timber and may be ideal for value-added wood products manufacturing.

The opportunity zone includes the Kaniksu National Forest, downtown and southern Bonners Ferry, the Kootenai River Inn Resort and a number of parcels with rail access.

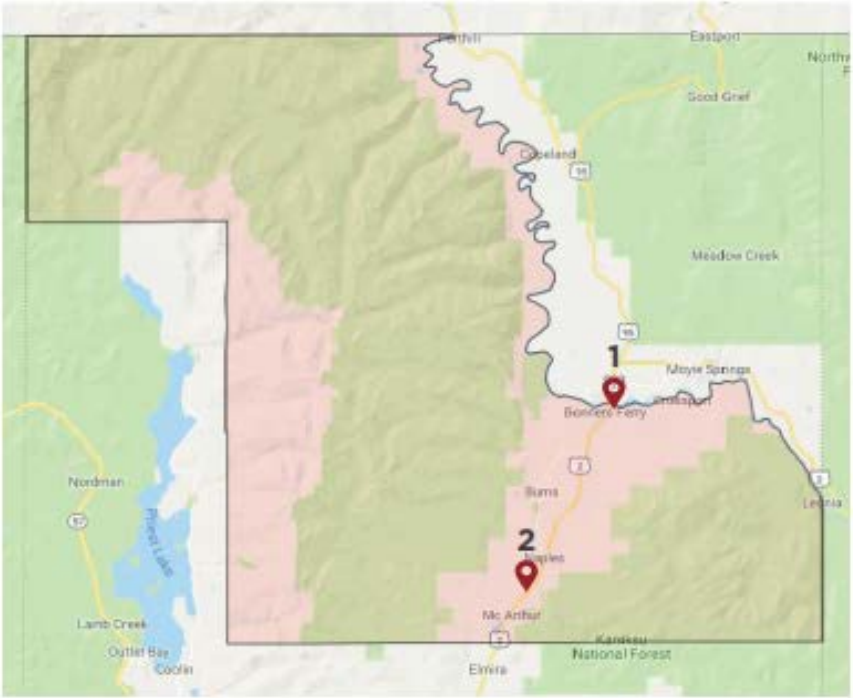
WHAT'S IN THE ZONE?

- Near US Highway 95 with direct access to State Highway 2
- Shares its northern border with Canada
- Rail access

INVESTMENT SITES

1. **7168 1st St., Bonners Ferry, ID**
   Former Safeway building of 14,206 square feet on 0.795 acre lot. Recommended use as a retail grocery store, small manufactur ing, office space or community center. Includes loading areas, parking and is retail adjacent.

2. **138 Latigo Ln., Naples, ID**
   7.92 acre commercial property off Highway 95, including out buildings, greenhouses and living quarters. Recommended use as a manufacturing plant, nursery or retail store.



CENSUS TRACT 16021970200

IDAHO COMMERCE

Canyon County:

OPPORTUNITY ZONE OVERVIEW

This opportunity zone is home to US-95, a major north/south highway corridor connecting Canada to Mexico, rail acces, and easy access to Interstate 84.

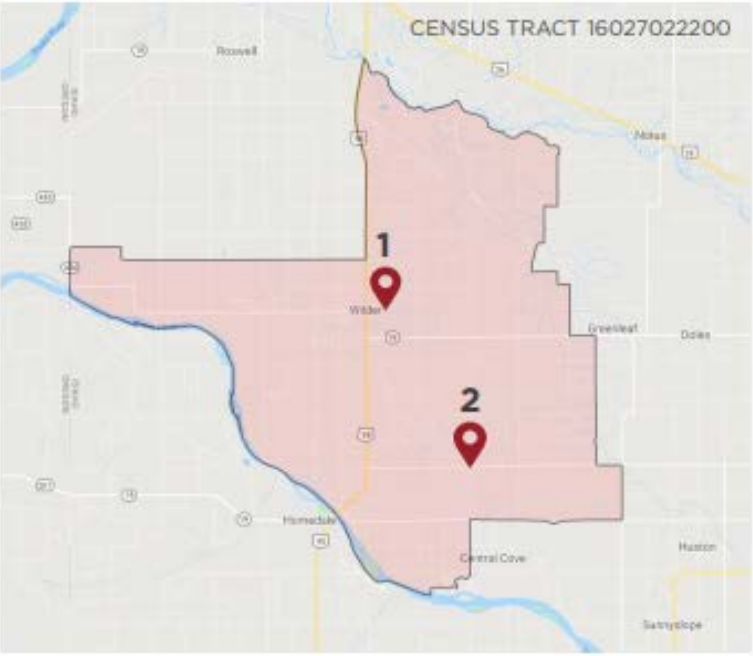
Dominate industries in this zone include crop production, food processing and agri-science. This area is the heart of Idaho wine country, housing most of the state's vineyards and wineries. and is known for its hops; an ingredient crucial to the craft beer brewing industry.

WHAT'S IN THE ZONE?

- Access to US Highway 95 and Interstate 84
- Idaho's wine country and hop growers
- Union Pacific Railroad

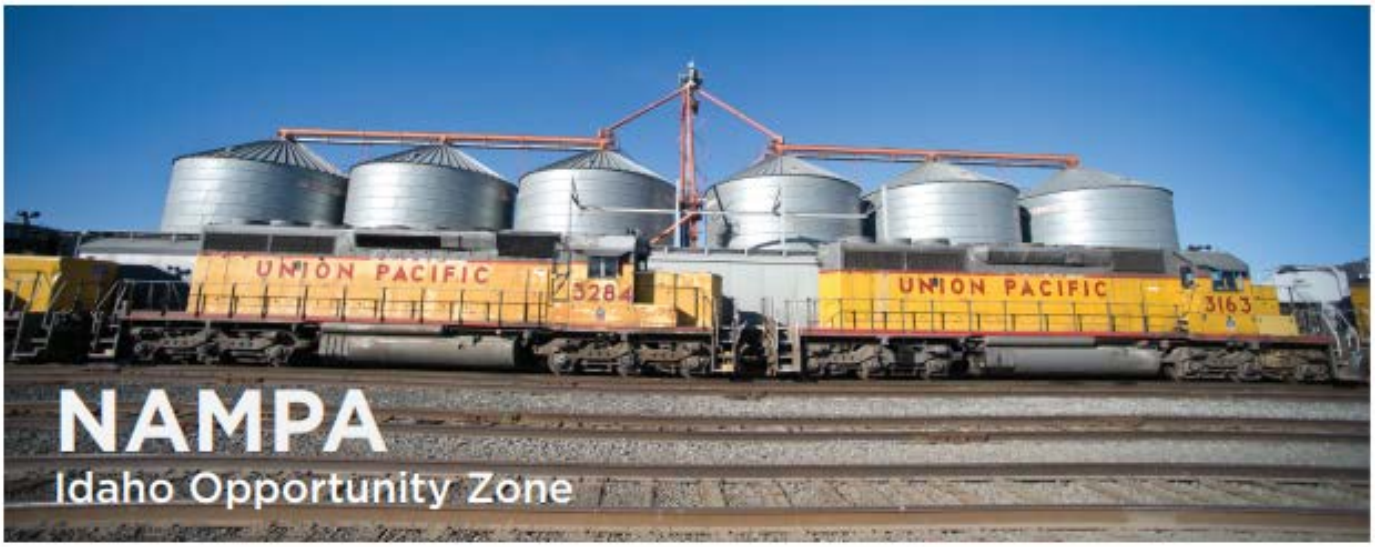
INVESTMENT SITES

1. **156 S. 5th Street**
   4,470 square foot industrial building with office space, 3-phase power and frontage along US Highway 95.
2. **Ustick and Allendale Road**
   75 acres of zoned industrial land at a junction with 3-phase power nearby.



FOR INFORMATION USE ONLY. The information and statistics stated herein are based upon publicly available resources developed by other local, state, or federal entities. The Idaho Department of Commerce is not responsible for incorrect information stated herein.

Nampa:



NAMPA

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

Located just north of downtown Nampa, this opportunity zone contains the iconic Lakeview Park and several historic homes.

This census tract is one of the most impoverished tracts in the Treasure Valley. The area lacks a grocery store and contains several vacant commercial properties that are currently ripe for redevelopment.

Community improvements, including a pathway along Indian Creek, are planned to help spur residential redevelopment.

WHAT'S IN THE ZONE?

- Access to Interstate 84
- More parks than any other area in the city of Nampa
- Industrial rail access for efficient movement of goods
- Adjacent to the Hispanic cultural Center and Boys and Girls Club

INVESTMENT SITES

1. **301 11th Avenue North**
   3,200 square foot retail building on a main arterial road.
2. **402 11th Avenue North**
   Two retail buildings on one parcel including former grocery store and multi-tenant strip center located on a major thoroughfare.
3. **512 16th Avenue North**
   0.3 acres, three separate lots.

CENSUS TRACT 16027020200

IDAHO COMMERCE

Canyon County:

OPPORTUNITY ZONE OVERVIEW

This opportunity zone's distinctive placement at the junction of two rivers, the Union Pacific main line, US Highway 95 and 15 minutes from Interstate 84 render it ideal for growers, shippers, manufacturers, commuters and travelers.

Crop production, food processing and agri-science are the dominate industries in this opportunity zone, in addition to it being a home to fertile land for wineries and hops that are crucial for craft beer brewing.

WHAT'S IN THE ZONE?

- Access to US Highway 95 and Interstate 84
- Idaho's wine country and hop growers
- Union Pacific Railroad and Parma Airport

INVESTMENT OPPORTUNITY

CENSUS TRACT 16027022100

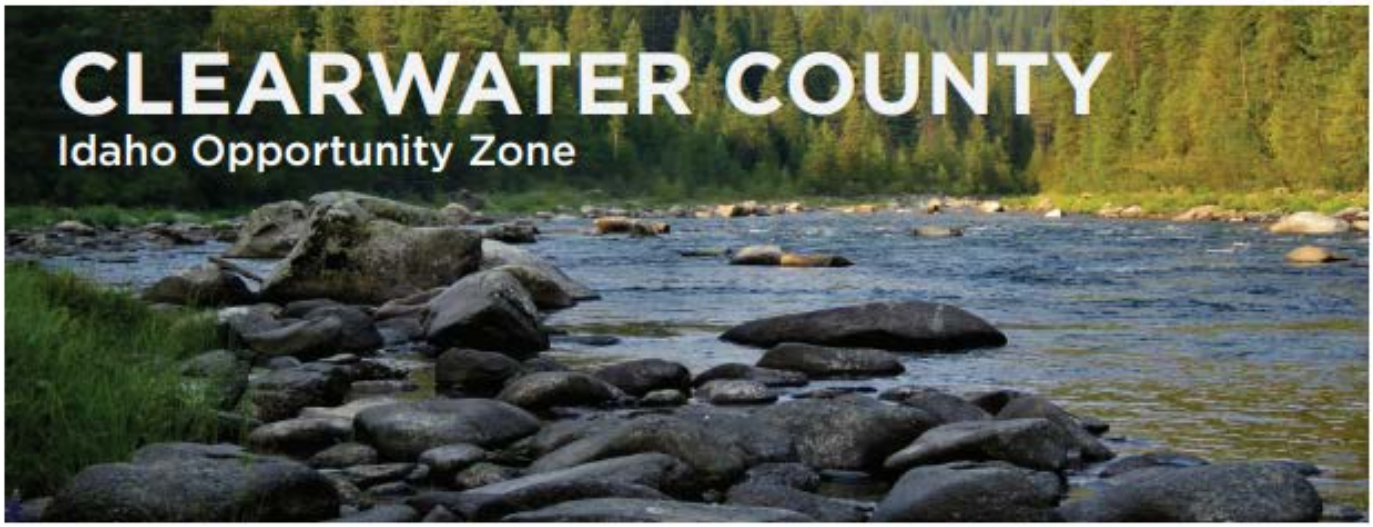
202 East Grove Avenue

This investment site includes 4,560 square feet of freestanding building with a drive-thru. The space is ideal for retail or office use.

FOR INFORMATION USE ONLY. The information and statistics stated herein are based upon publicly available resources developed by other local, state, or federal entities. The Idaho Department of Commerce is not responsible for incorrect information stated herein.

IDAHO COMMERCE

Clearwater County:



CLEARWATER COUNTY

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone represents all of Clearwater County, including four incorporated municipalities: Elk River, Orofino, Pierce and Weippe.

Ready access to natural resources make it suitable for recreational technology firms looking to build and test their products right in their backyard.

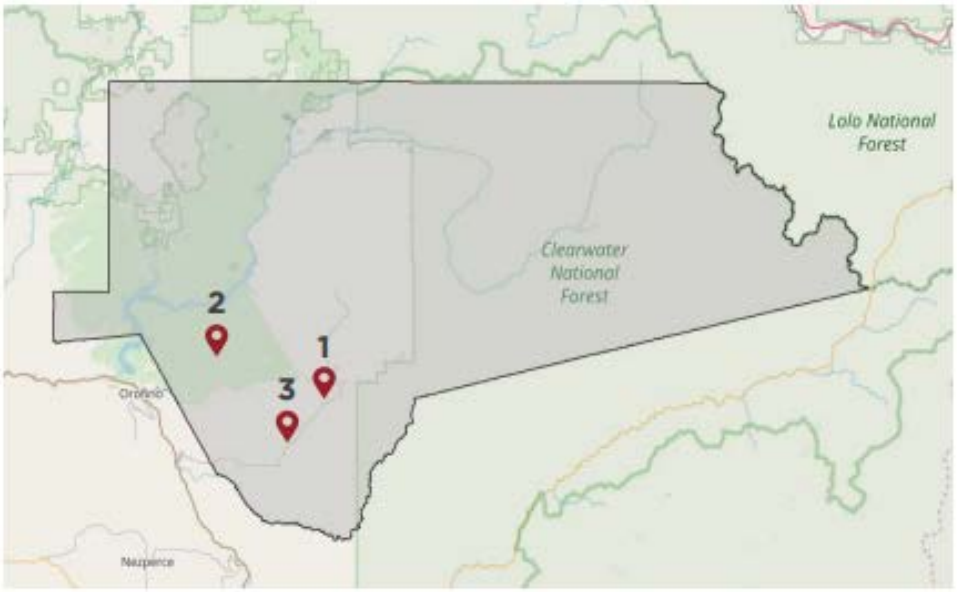
The county's economic development team is focused on housing and is also currently working on a marketing campaign to attract a cross-laminated timber manufacturer to the area.

WHAT'S IN THE ZONE?

- Access to US Highway 12 and State Highway 11
- Clearwater River, Kelly Creek, Dworshak and four inland reservoirs, and two fish hatcheries
- Railroad access
- More than five backcountry airstrips

INVESTMENT SITES

1. **SH 11, Weippe, 83553**
   Vacant, industrial, manufacturing, mixed use; 80-787 acres.
2. **84 Grangemont Rd., Orofino, 83544**
   Manufacturing, industrial, business | park, mixed use for wholesale; 25 acres.
3. Multiple residential and mixed use development sites.



IDAHO COMMERCE

CENSUS TRACT 16035970100

Nez Perce Tribe:

NEZ PERCE TRIBE

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This Nez Perce Tribe Opportunity Zone includes direct access to US 12 highway and serves as a hub and gateway to several outdoor recreational amenities. As such, the zone is transitioning from timber to tourism and recreational technology industries.

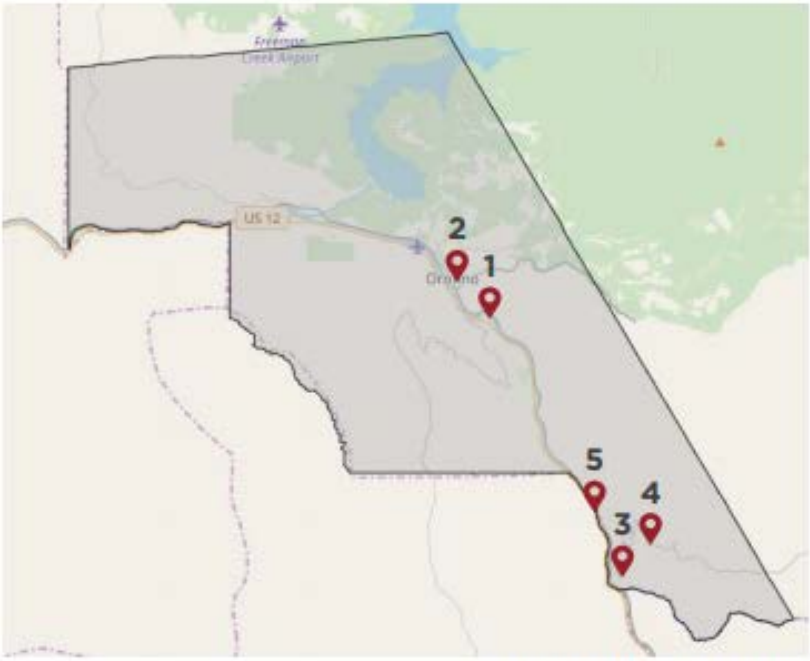
The zone is home to the former Richardson Mill site, a location ripe for redevelopment.

WHAT'S IN THE ZONE?

- Access to US Highway 12
- Clearwater River and the Dworshak National Fish Hatchery
- Near more than three regional airports

INVESTMENT SITES

1. **Mile point 45.4, US Highway 12**
   Greenfield peninsula, potential tourism site.
2. **11320 US Highway 12**
   Retail shop space formerly used to sell sporting goods.
3. **Star Cedar Mill**
   70 acre mill site on Hwy 12.
4. **Blue North Mill**
   112 acres of vacant flat land, adjacent to the Clearwater river.
5. **Allotment 1359A**
   20 acres of flat land near gas station and grocery story.



CENSUS TRACT 16035940000

IDAHO COMMERCE

MOUNTAIN HOME

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone contains most of the city's commercial and retail business, including a 400 acre industrial campus.

It is a few short miles from Mountain Home Air Force Base, a military installation estimated to have an annual economic impact of $965 million.

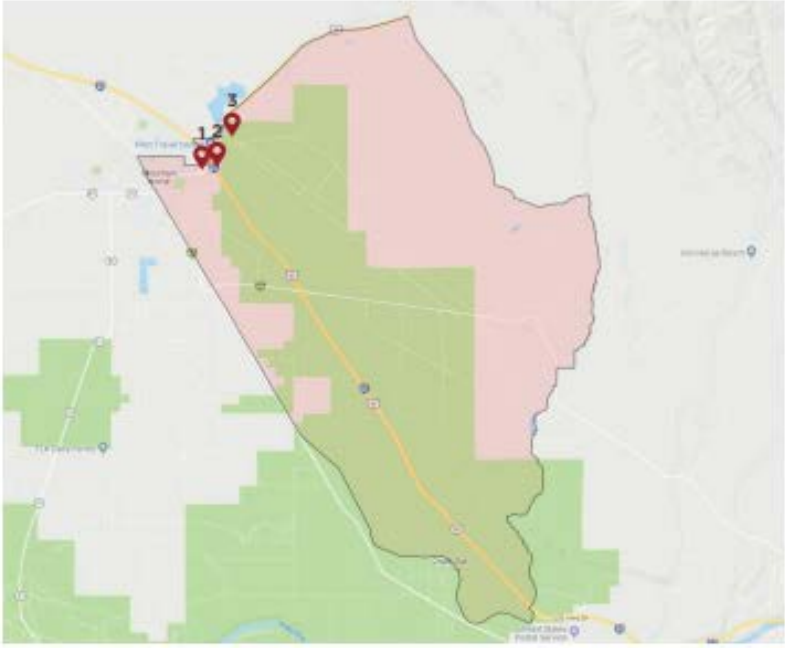
The zone consists of approximately one third of the city of Mountain Home as well as the entire downtown corridor.

WHAT'S IN THE ZONE?

- Access to Interstate 84 and Idaho State Highways 20 and 30
- Mountain Home Air Force Base
- Access to railways
- Old Oregon Trail and Bruneau Sand Dunes

INVESTMENT SITES

1. **E. 8th N., American Legion Blvd.**
   5.7 - 157 acre lots suitable for commercial or general business.
2. **US 20 and Hot Creek Road**
   10 acres zoned for light industrial and wholes distribution with access to fiber, power and gas.
3. **3100 Foothills Avenue**
   46.64 acres of development land off Highway 20 with 2,500 feet of I-84 frontage, surrounded by travel-related services.



CENSUS TRACT 16039960300

IDAHO COMMERCE

GOODING
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone covers northern Gooding County and includes the city of Gooding, the county seat and home to the Idaho School for the Deaf and Blind.

Gooding's Urban Renewal Agency holds title to a 22-acre shovel-ready industrial park, complete with water and sewer services.

The College of Southern Idaho maintains a satellite campus in the community that is equipped to offer remote degree and vocational educational programs.

INVESTMENT OPPORTUNITY

430 Main Street

This investment site is a commercial building located in the downtown business district. The main floor is approximately 4,400 square feet. The upper mezzanine floor space is 2,000 square feet. Basement storage includes 2,300 square feet. The building provides unlimited opportunity for commercial business applications.

WHAT'S IN THE ZONE?

- Access to Interstate 84 and Idaho State Highway 26
- Nearby recreation access including a golf course, hiking, hunting, fishing, swimming and snow shoeing
- Near rail access and a municipal airport

IDAHO COMMERCE

CENSUS TRACT 16047960100

KOOSKIA

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone includes the city of Kooskia, which sits at the confluence of the main and south forks of the Clearwater River, affording opportunities for tourism and recreation industries.

The zone is a mix of timber and prairie lands, popular for both fishing and hunting.

The zone has a few former mill sites ideal for value-added timber or industrial development.

WHAT'S IN THE ZONE?

- Access to US Highways 12 and 13
- Access to the Clearwater River
- Sonnen's Meat Processing

INVESTMENT OPPORTUNITY

601 Ping Street

This investment property includes approdimately 5 acres of land bordering the main fork of the Clearwater River and a public boat ramp. Recommended use includes RV park, seasoning condos or housing.

CENSUS TRACT 16049940000

IDAHO COMMERCE

RIGGINS
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This mountainous opportunity zone, with the Main Salmon River running from one end to the other, contains a large portion of public land, including the Nez Perce National Forest. The city of Riggins is nestled deep within a canyon at the confluence of the Main Salmon River and the Little Salmon River, approximately 150 miles north of Boise, Idaho.

The geographic setting of this zone makes it a prime location for recreation and tourism opportunities, particularly related to fishing or whitewater activites.

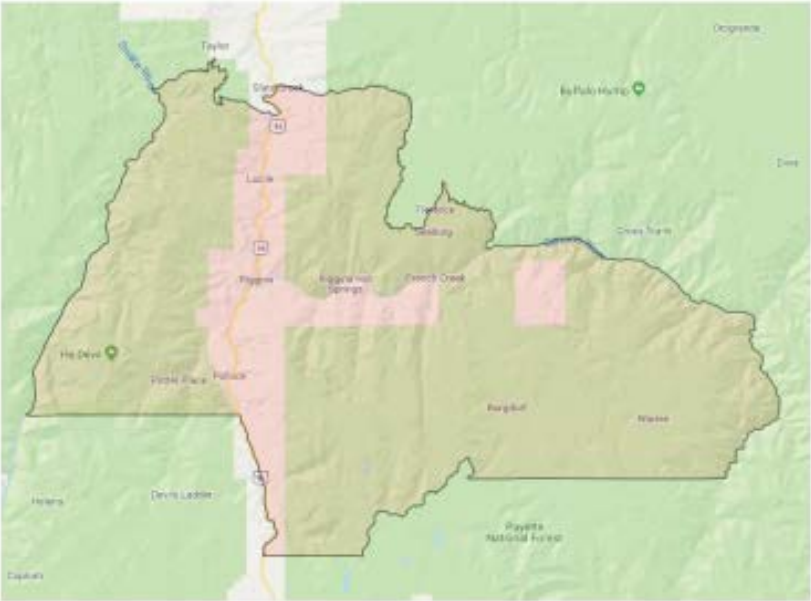
WHAT'S IN THE ZONE?

- US Highway 95 runs through Riggins as Main Street
- Access to the Salmon River and local hot springs
- Payette and Nez Perce National Forests

INVESTMENT OPPORTUNITIES

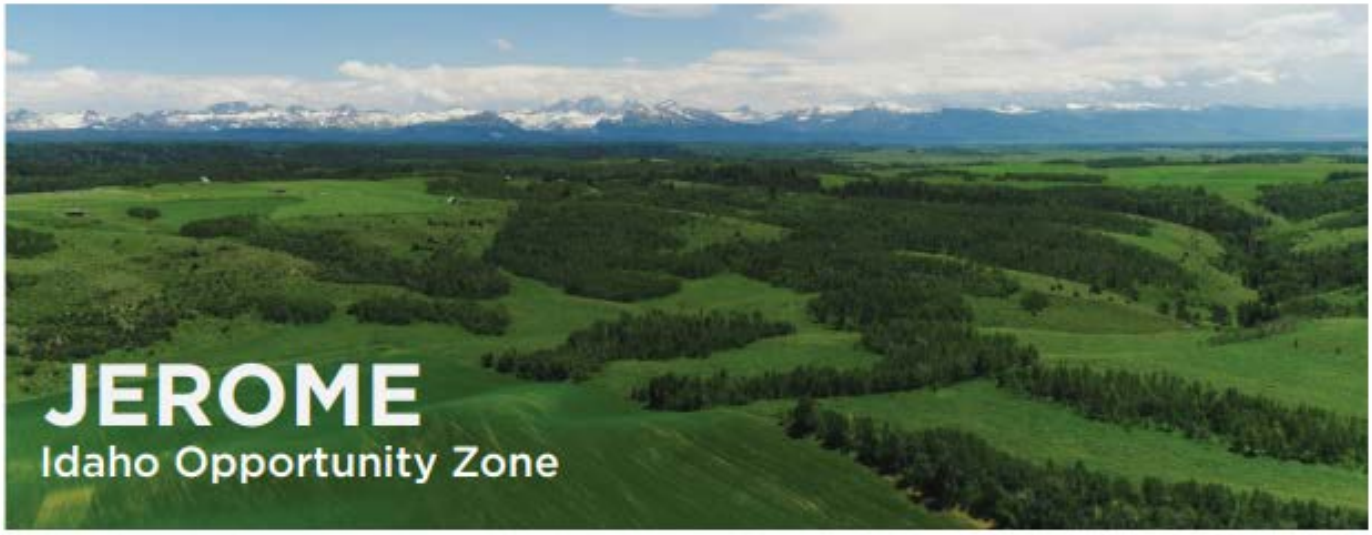
For details on available investment sites within this opportunity zone, contact Gavin Lewis, Director of the Ida-Lew Economic Development Council

gavin@ida-lew.org
208.983.8302



CENSUS TRACT 16049960400

IDAHO COMMERCE



JEROME
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone encompasses part of the city of Jerome's Urban Renewal area. The zone is served by an active rail line with easy access to the Interstate.

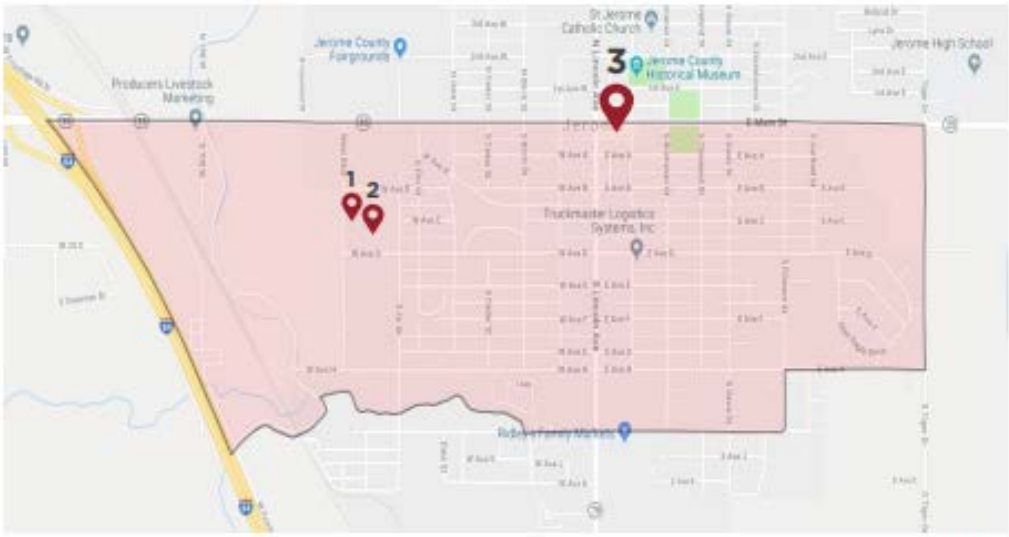
A recent water and sewer line extension along Main Street opened several parcels for commercial and industrial development. The area also hosts several historic buildings ripe for redevelopment.

WHAT'S IN THE ZONE?

- Access to Interstate 84
- Hub of Idaho's dairy industry, including processing
- Rail access

INVESTMENT SITES

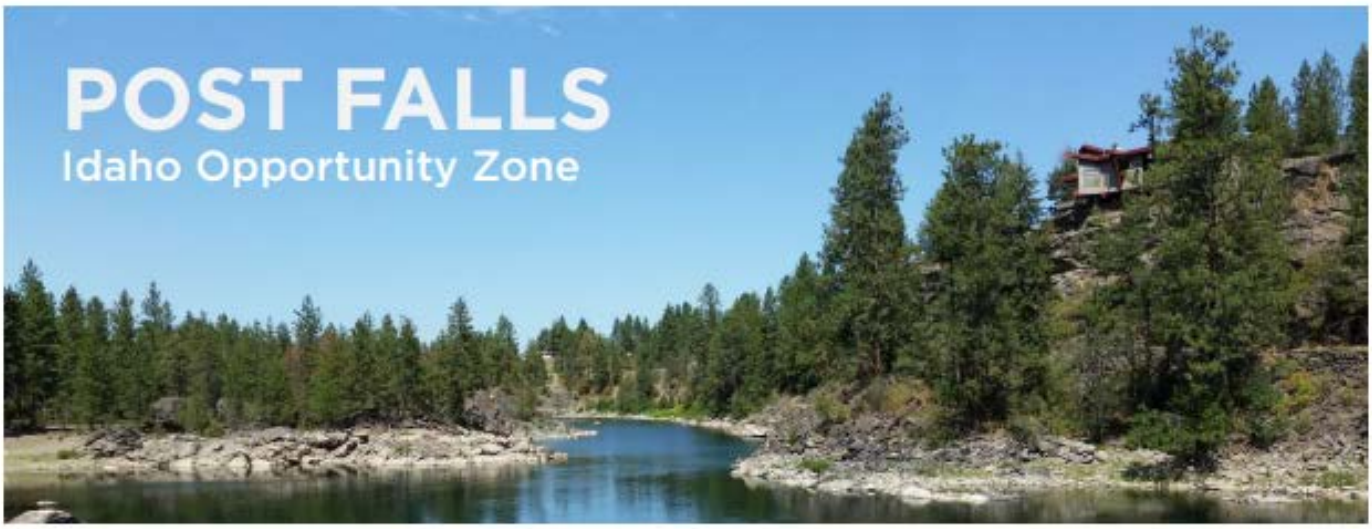
1. **Shotwell Property: 961 W. Main Street**
   47.05 acres of greenfield property within city limits and Urban Renewal area.
2. **Cinema Property: 961 W. Main Street**
   1.5 acres of cinema property and a 4.5 acre pad site, suitable for mixed use.
3. **Crystal Mall**
   11,500 sq. ft. building commercially zoned with parking.



CENSUS TRACT 16053970400

IDAHO COMMERCE

FOR INFORMATION USE ONLY. The information and statistics stated herein are based upon publicly available resources developed by other local, state, or federal entities. The Idaho Department of Commerce is not responsible for incorrect information stated herein.



POST FALLS
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

The City of Post Falls has long seen this Opportunity Zone as a critical piece to the city's identity, economic development and downtown core. It is regarded as a recreational gem.

The Post Falls Opportunity Zone provides the city with an important tool to assist with developing the area into a vibrant gathering place for its citizens to enjoy, resulting in tourism growth and an increased housing for the workforce labor market.

In order to assist with increased growth, the city believes the addition of more medical and commercial facilities, along with housing, is needed in this area.

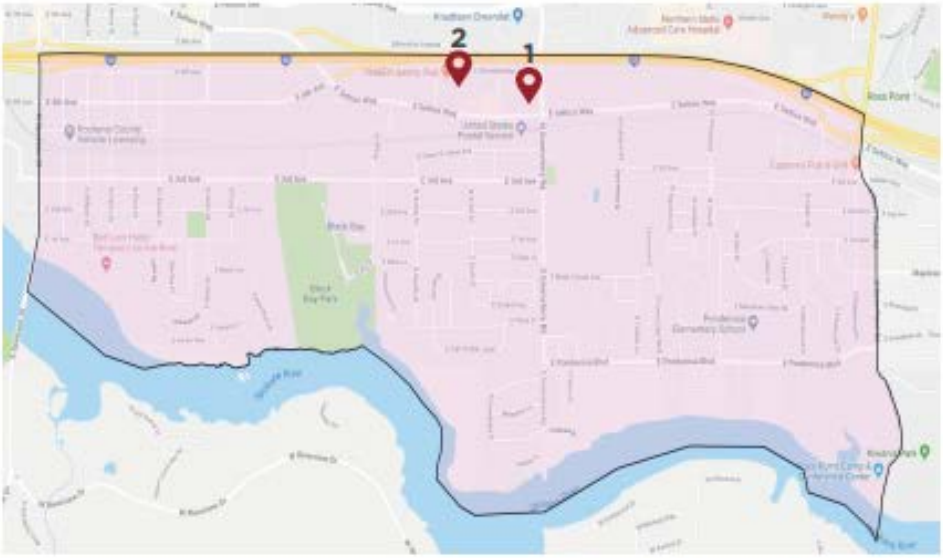
WHAT'S IN THE ZONE?

- U.S. Post Office, City Hall and the Chamber of Commerce
- Two former mill sites
- Three city parks, two churches, a cultural center and access to nature paths
- Access to a main artery for interstate 90

INVESTMENT SITES

1. **1908 E. Seltice Way**
   8,600 square foot commercial/retail/office facility, ample parking.

2. **1700 E. Schneidmiller**
   5,800 square feet of class-A office space near the recently completed Greensferry overpass with 50,000+ daily traffic counts.



IDAHO COMMERCE

CENSUS TRACT 16055000602

MOSCOW

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone covers northwest Moscow and a significant portion of its historic downtown. The downtown area has undergone a recent renaissance of new restaurants, breweries and wineries, and includes a number of historic buildings.

Downtown is surrounded by a mix of mature rental- and owner-occupied housing in need of revitalization. This zone also includes the Palouse Mall, a regional shopping center ripe for reinvestment.

The city has three primary economic development focuses including: redevelopment of the prior agricultural and industrial area, expansion of light industrial and advanced manufacturing sectors, and the continued reinvestment and revitalization of downtown Moscow.

WHAT'S IN THE ZONE?

US Highway 95 and Idaho State Highway 8

Shares a border with Washington State

Local airport and nearby access to Pullman-Moscow Regional Airport

INVESTMENT SITES

1. **North Main Street and Rodeo Drive**
   2.6 acres commercially zoned with frontage along Main Street (US Highway 95) carrying in excess of 15,000 cars daily.

2. **212 East Rodeo Drive**
   12,000 square foot professional office building, ideal for commerical, retail, medical or research and development use.

IDAHO COMMERCE

CENSUS TRACT 16057005100

MOSCOW

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone covers northwest Moscow and a significant portion of its historic downtown. The downtown area has undergone a recent renaissance of new restaurants, breweries and wineries, and includes a number of historic buildings.

Downtown is surrounded by a mix of mature rental- and owner-occupied housing in need of revitalization. This zone also includes the Palouse Mall, a regional shopping center ripe for reinvestment.

The city has three primary economic development focuses including: redevelopment of the prior agricultural and industrial area, expansion of light industrial and advanced manufacturing sectors, and the continued reinvestment and revitalization of downtown Moscow.

WHAT'S IN THE ZONE?

- US Highway 95 and Idaho State Highway 8
- Shares a border with Washington State
- Local airport and nearby access to Pullman-Moscow Regional Airport

INVESTMENT SITES

1. **North Main Street and Rodeo Drive**
   2.6 acres commercially zoned with frontage along Main Street (US Highway 95) carrying in excess of 15,000 cars daily.

2. **212 East Rodeo Drive**
   12,000 square foot professional office building, ideal for commerical, retail, medical or research and development use.

IDAHO COMMERCE

CENSUS TRACT 16057005100

Kamiah:

KAMIAH

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone includes the city of Kamiah, home to former lumber mills, tribal enterprises including a casino, and a number of historic commercial facilities.

Upstream from the cities of Orofino and Lewiston, Kamiah sits on the banks of the Clearwater River and the Lewis and Clark Trail. The community sees potential in both heritage and recreational tourism.

WHAT'S IN THE ZONE?

- Access to US Highway 12 and Idaho State Highway 64
- Access to the Clearwater River
- Itse Ye Ye Casino

INVESTMENT SITES

411 Main Street, Kamiah, 83536
This 5,000 square foot building is in the middle of downtown on Kamiah's main street. It is currently a small mini mall and leases space to four businesses.

INFRASTRUCTURE

A new internet provider now offers up to 100+ MBPS broadband service, creating additional opportunities for businesses and investors to relocate or expand.

CENSUS TRACT 16061940001

IDAHO COMMERCE

Rupert:

RUPERT
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone contains a section of the city of Rupert east of Idaho Highway 24.

The zone includes a sizeable amount of riverfront property along the west bank of the Snake River, as well as industrial, commercial and residential development property along the south side of Rupert.

Rupert prides itself on access to the outdoors, a progressive business climate and a friendly, tight-knit community.

WHAT'S IN THE ZONE?

- Interstate 84 and Idaho Highway 24
- Rail access
- Borders the Snake River
- Four airports within 2.5 hours including Salt Lake International and the Boise Airport

INVESTMENT SITES

1. **116-134 S. 100 W.**
   12.44 acres of zoned industrial property with easy access to the highway and interstate.
2. **882-910 S. 9th St.**
   39.33 acres zoned for light industrial use and eligible for annexation into the City of Rupert.
3. **600-798 S. 9th St.**
   39.99 acres zoned for light industrial use.
4. **99-70 S. 100 W.**
   36.54 acres zoned for commercial or light industrial property.

CENSUS TRACT 16067970500

IDAHO COMMERCE

Lewiston:

LEWISTON
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone includes a historic downtown, a residential area, and a freight corridor linking the city's largest employers to the port used for barge and rail transport. This port is the top export gateway of wheat in the United States.

The zone is a mix of rehabilitated and deteriorated buildings with multiple large institutions. It is a cultural corridor linking the river, library, downtown, Pioneer Park, hospital and Lewis and Clark State college.

The port contains many shovel-ready industrial properties, including a vacant riverfront parcel suitable for a cruise ship dock and RV park.

WHAT'S IN THE ZONE?

- Access to US Highway 95 and US Highway 12
- Access to the farthest inland seaport in the western US
- Near more than three regional airports
- Lewis and Clark State College

INVESTMENT SITES

Contact the city staff for full details on additional investment sites.

1. **1440 Main Street**
   5,100 square foot commercial/ retail facility in downtown Lewiston.
2. **3041 North and South Highway**
   3,200 square foot commercial building ideal for retail or restaurant use, near a boat launch and prime steelhead fishery. The building can be easily split in half to accomodate multiple tenants.

CENSUS TRACT 16069960300

IDAHO COMMERCE

Payette:

PAYETTE
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone is ripe for industrial development. The area has direct access to US Highway 95, State Highway 52 and is only three miles from Interstate 84.

The Union Pacific main line runs directly through this opportunity zone with numerous existing rail spur access sites. Power, gas and fiber cable are readily available. City water and sewer services are accessible with plenty of capacity to serve the needs of new developments, including housing.

WHAT'S IN THE ZONE?

- Access to Interstate 84, State Highway 52 and US Highway 95
- Nine developed parks, public pool, golf course and a greenway trail
- Union Pacific main line runs through zone
- Payette Municipal Airport

INVESTMENT OPPORTUNITY

915 South Main Street

This investment site was previously a car dealership and includes a 16,000 square foot facility with shop area overhead doors. The site is ideal for commercial use or light manufacturing.

IDAHO COMMERCE

CENSUS TRACT 16075960200

Shoshone County:

SHOSHONE COUNTY

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This zone includes the communities of Kellogg, Wardner, Smelterville and Shoshone County. Once home to the largest silver processing facility in the world, it contains a destination resort, Silver Mountain, with skiing and mountain biking. The trail of the Coeur d'Alenes which ranks as one of the top trails in the country runs through the area.

The zone contains several historic buildings and a number of parcels have been cleared or are in the process of being approved by the Idaho Department of Environmental Quality for redevelopment.

WHAT'S IN THE ZONE?

- Access to Interstate 90
- Recreation including Silver Mountain Ski Resort, Silver Rapids indoor water park, Silver Mountain Bike Park and a golf course
- Shoshone County Airport
- North Idaho College campus in Kellogg

INVESTMENT SITES

1. **163 E. Commerce Drive, Smelterville**
   13.9 acre mill site with office building, storage facility and 14,900 sq. ft. planner building.
2. **8 McKinley Avenue, Kellogg**
   10,000 sq.ft. mixed-use retail office with loading dock, basement and apartment.
3. **210 McKinley Avenue, Kellogg**
   Two story building with retail/restaurant space and eight lodging rooms.

CENSUS TRACT 16079960300

IDAHO COMMERCE

Buhl:

OPPORTUNITY ZONE OVERVIEW

Buhl is a walkable downtown community with a diverse population and business environment.

The Buhl area has available workforce and can accommodate larger manufacturing and food processing with available utilities.

Buhl is surrounded by agriculture and commercial and industrial zoned areas. The city is also home to one of the premier golf courses in southern Idaho.

This zone contains an active rail line and encompasses most of the community's commercial and residential zones.

WHAT'S IN THE ZONE?

84

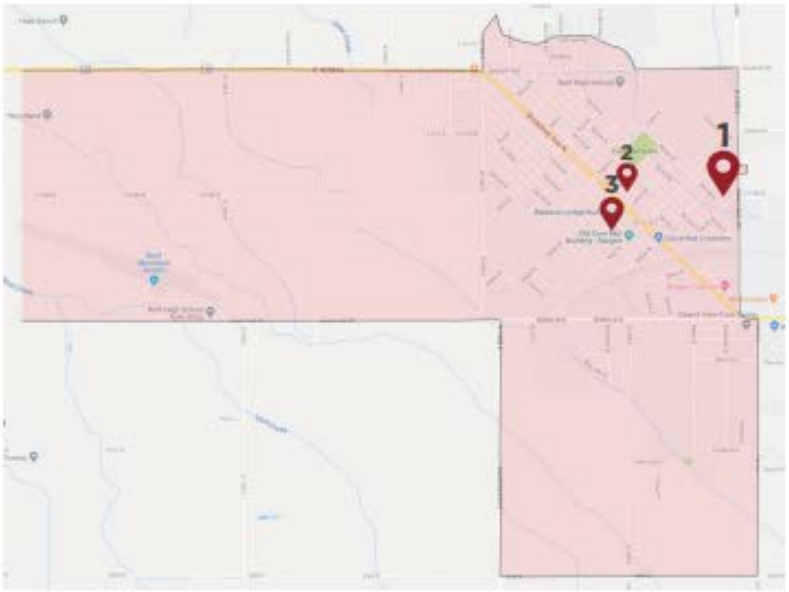
Near Interstate 84 and US Highway 30

Large food and agricultural companies including Cloverleaf Creamery

Buhl Municipal Airport

INVESTMENT SITES

1. **289 Clear Lakes Road**
   3,000 sq. ft. commercial/retail space with 1.2 acres of land.
2. **200 Broadway Avenue N.**
   6,500 sq. ft. former bank building ideal for commercial, office or retail.
3. **1118 Main Street**
   12,000 sq. ft. retail/commercial space.



IDAHO COMMERCE

CENSUS TRACT 16083000400

TWIN FALLS
Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone contains the original Twin Falls townsite and is home to the majority of the community's historic structures.

The area has good infrastructure with excellent growth potential for housing, hotels and restaurants. This zone is also the primary gateway to Twin Falls from the local airport.

WHAT'S IN THE ZONE?

84 — Near Interstate 84 and US Highway 30

Courthouse, library and police department

Gateway to Magic Valley Regional Airport

INVESTMENT SITES

1. **211 3rd Avenue South**
   Vacant property ideal for new development near downtown Twin Falls. Permitted for residential along with light industrial/mixed-use.
2. **702 Fairfield Street West**
   42,000 sq. ft. warehouse with rail siding.
3. **365 Main Ave. East**
   0.28 acre corner lot in Downtown Twin Falls currently used for parking. Ideal for office, retail or mixed use.

IDAHO COMMERCE

CENSUS TRACT 16083001100

VALLEY COUNTY

Idaho Opportunity Zone

OPPORTUNITY ZONE OVERVIEW

This opportunity zone includes the mountain communities of Donnelly, Lake Fork and the southwest quadrant of McCall, Idaho, west and south of Idaho State Highway 55.

This area is strategically positioned to serve as the hub for the proposed Midas Gold project, and is ideally suited to host the sub-contracting firms and workers that may be drawn to the area to serve the mine.

WHAT'S IN THE ZONE?

Access to Idaho State Highway 55

Recreation including Tamarack Resort, Payette National Forest, Lake Cascade and Gold Fork Hot Springs

Access to McCall Municipal Airport and multiple airstrips

INVESTMENT OPPORTUNITIES

1. **150 W. Roseberry Rd., Donnelly**
   Includes a lot adjacent to an office/retail space, capable of hosting a 2nd 8,000 sq. ft. office or retail building.

2. **13185 Highway 55, Donnelly**
   Apx. 150 acres with frontage along Highway 55, close proximity to utilities and annexation available.

3. **Highway 55, Donnelly**
   Apx. 74 acres of with frontage along Highway 55, ideal for mixed use or multi-family development. Utilities available.

CENSUS TRACT 16085970300

IDAHO COMMERCE

Form 8996: Qualified Opportunity Fund

From: https://www.irs.gov/pub/irs-pdf/f8996.pdf

Form **8996**
(December 2018)
Department of the Treasury
Internal Revenue Service

Qualified Opportunity Fund

▶ Go to *www.irs.gov/Form8996* for 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 property (other than another qualified opportunity fund)?

☐ **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 Qualified Opportunity Fund?

☐ **Yes.** By checking this box, you certify that by the end of the taxpayer's first qualified opportunity fund year, the taxpayer's organizing documents include a statement of the entity's purpose of investing in qualified opportunity zone property and the description of the qualified opportunity zone business. See instructions.

☐ **No.** Go to Part II.

4 If "Yes" on line 3, list the first month in which the fund chooses to be a Qualified Opportunity Fund. ▶

Part II **Investment Standard Calculation**

5	Total qualified opportunity zone 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"	5	
6	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"	6	
7	Divide line 5 by line 6	7	.
8	Total qualified opportunity zone property held by the taxpayer on the last day of the taxpayer's tax year	8	
9	Total assets held by the taxpayer on the last day of the taxpayer's tax year	9	
10	Divide line 8 by line 9	10	.

Part III **Qualified Opportunity Fund Average and Penalty**

11	Add lines 7 and 10	11	.
12	Divide line 11 by 2.0. See instructions if Part I, line 3 is "Yes"	12	.
13	Is line 12 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, and file this form with your tax return	13	

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 37820G Form **8996** (12-2018)

Instructions for Form 8996

(Rev. December 2018)

Qualified Opportunity Fund

Department of the Treasury
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Future Developments

For the latest information about developments related to Form 8996 and its instructions, such as legislation enacted after this form and instructions were published, go to *IRS.gov/Form8996*.

Purpose of Form

The Tax Cuts and Jobs Act (TCJA), section 13823, added section 1400Z-1 to provide for the designation of certain low-income communities as qualified opportunity zones and added section 1400Z-2 to provide certain benefits for investments in these qualified opportunity zones through investment in qualified opportunity funds (QOFs). Taxpayers that invest in qualified opportunity zone property through a QOF can defer the recognition of certain gains. See *Definitions* below.

A corporation or partnership uses Form 8996 to certify that it is organized to invest in qualified opportunity zone property. In addition, a corporation or partnership files Form 8996 annually to report that the QOF meets the investment standard of section 1400Z-2 or to figure the penalty if it fails to meet the investment standard. See *Definitions* next. See also the *Opportunity Zones Frequently Asked Questions* page on IRS.gov for more information and guidance.

Definitions

Qualified opportunity zone. For a complete list of qualified opportunity zones, see Notice 2018-48, available at *IRS.gov/IRB/2018-28_IRB#NOT-2018-48*.

Qualified opportunity fund (QOF). A QOF is an investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (other than another QOF). Only a corporation or a partnership organized in one of the 50 states, the District of Columbia, or a U.S. possession is eligible to be a QOF. A QOF must hold at least 90% of its assets in qualified opportunity zone property.

The 90% investment standard is determined by the average of the percentage of qualified opportunity zone property held in the QOF as measured on:

1. The last day of the first 6-month period of the tax year of the QOF, and
2. The last day of the tax year of the QOF.

See the instructions for *Part I* if this is the first year the corporation or partnership self-certifies as a QOF and the corporation or partnership selects a month other than the first month of the tax year as the first month in which it chooses to be a QOF.

If you fail to satisfy this 90% investment standard, you may have to pay a penalty for each month the QOF does not satisfy the investment standard. See *Part II* and *Part III* of these instructions for more details.

CAUTION *If a corporation or partnership is organized in a U.S. possession, it may be a QOF only if it is organized for the purpose of investing in qualified opportunity zone property that relates to a trade or business operated in the U.S. possession in which the corporation or partnership is organized.*

Qualified opportunity zone property. Qualified opportunity zone property includes qualified opportunity zone stock, a qualified opportunity zone partnership interest, and qualified opportunity zone business property.

Qualified opportunity zone stock is any stock of a domestic corporation that a QOF acquires after 2017 from the corporation, either directly or through an underwriter, solely in exchange for cash. The corporation must be a qualified opportunity zone business, defined later, when the stock is purchased. The corporation must be organized for the purpose of being a qualified opportunity zone business. The corporation must qualify as a qualified opportunity zone business for substantially all of the time the QOF holds the stock.

A corporation organized in a U.S. possession is a domestic corporation for this purpose only if the corporation conducts a qualified opportunity zone business in the U.S. possession in which the corporation is organized.

Qualified opportunity zone partnership interest is any capital or profits interest in a domestic partnership that a QOF acquires after 2017 in exchange for cash. The partnership must be a qualified opportunity zone business when the QOF acquires the interest. The partnership must be organized for the purpose of being a qualified opportunity zone business. The partnership must qualify as a qualified opportunity zone business for substantially all of the time the QOF holds the interest.

A partnership organized in a U.S. possession is a domestic partnership for this purpose only if the partnership conducts a qualified opportunity zone business in the U.S. possession in which the partnership is organized.

Qualified opportunity zone business property is tangible property that a QOF acquires after 2017 and uses in a trade or business and that satisfies both of the following tests.

1. The use of the property in the qualified opportunity zone originates with the QOF, or the QOF substantially improves the property.
2. During substantially all of the QOF's holding period for such property, substantially all of the use of such property was in a qualified opportunity zone.

To satisfy the test in (1) above, the QOF substantially improves property if, during any 30-month period beginning after the date of the acquisition of such property, additions to basis with respect to such property in the hands of the QOF are more than an amount equal to the adjusted basis of such property at the beginning of such 30-month period in the hands of the QOF.

Qualified opportunity zone business is a trade or business if substantially all of its owned or leased tangible property is qualified opportunity zone business property, defined earlier, and if the trade or business satisfies all of the following tests.

1. The business generates at least 50% of its total gross income from the

active conduct of a qualifying trade or business.

2. The business uses a substantial part of its intangible property in the active conduct of any such business.

3. Less than 5% of the average of the total unadjusted basis of the property of the business is from nonqualified financial property.

4. The business is not a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

U.S. possession. A U.S. possession is any jurisdiction other than the 50 states and the District of Columbia where there is a designated qualified opportunity zone, which includes the following U.S. territories: American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.

Nonqualified financial property. Debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities, and other similar property. The definition does not include reasonable amounts of working capital held as cash, cash equivalents, or debt instruments with a term of 18 months or less.

Who Must File

Corporations or partnerships that are organized and operated as a QOF must file Form 8996 annually with one of the following tax returns.

- Form 1120, U.S. Corporation Income Tax Return.
- Form 1120-F, U.S. Income Tax Return of a Foreign Corporation. See note below.
- Form 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts.
- Form 1120S, U.S. Income Tax Return for an S Corporation.
- Form 1065, U.S. Return of Partnership Income.

File Form 8996 by the due date of the tax return (including extensions).

Note. Only QOFs organized in a U.S. possession should attach this form with their Form 1120-F.

Specific Instructions

Name and Employer Identification Number

Enter the same information as shown on the QOF's applicable tax return under *Who Must File*, earlier.

Part I

Complete Part I to certify that the corporation or partnership was organized to operate as a QOF. See *Definitions*, earlier.

Line 3

Check "Yes" if you are certifying that this is the first period in which you are a QOF, and fill out line 4.

CAUTION *If you answer "Yes" on line 3, your organizing documents must include a statement of your purpose of investing in qualified opportunity zone property by the end of your first QOF year. The documents should include a description of the qualified opportunity zone business(es) that the QOF expects to engage in, either directly or indirectly through a first-tier operating entity.*

If you check "No," you are indicating that you have certified in a prior year that you are a QOF. Continue to Part II and Part III to determine if the QOF met the investment standard for this tax year.

Line 4

Provide the first month in which you chose to be a QOF.

Example 1. A new corporation is formed on January 5, 2018, for the purpose of operating a QOF, but it does not receive until April 2018 any investment under a deferral election under section 1400Z-2(a). The corporation may choose any month from January through April 2018 to use as a certification date. This example also applies to pre-existing corporations or partnerships that become a QOF.

Part II

Complete Part II annually and attach it to your applicable tax return listed under *Who Must File*, earlier. Part II determines whether you meet the 90% investment standard for a QOF. See *Definitions*, earlier.

Value determination. If you prepare a financial statement that you file with the SEC or with a federal agency other than the IRS or if you have a certified audited financial statement that is prepared in accordance with U.S. GAAP, then use the value of the assets reported on this financial statement. In other cases, use the QOF's cost basis of the asset on the date of acquisition by the QOF.

Cash as qualified opportunity zone property of a qualified opportunity zone business. You can exclude reasonable amounts of working capital from the value of property that is treated as nonqualified financial property. See *Definitions*, earlier. A reasonable amount of working capital satisfies all of the following tests.

1. The working capital is designated in writing for the acquisition, construction, and/or substantial improvement of tangible property in a qualified opportunity zone.

2. There is a reasonable written schedule for the expeditious consumption of the working capital to achieve the goal set out in (1) above.

3. The working capital will be completely consumed no later than 31 months after the amounts are first invested in eligible interests in the relevant QOF.

4. The working capital is consumed in a manner that is substantially consistent with the requirements in items (1) through (3).

Line 5

Enter the value of qualified opportunity zone property (see *Definitions*, earlier) held by the QOF on the last day of the first 6-month period of the tax year.

Special rule for first year of QOF. If you answered "Yes" on line 3, the 6-month period starts from the month you indicated on line 4. Line 5 may be blank depending on the tax year and the month indicated on line 4.

CAUTION *If you check "Yes" on line 3, but do not list the first month in which you choose to be a QOF on line 4, the 6-month period of the QOF starts on the first day of your tax year, even if the QOF bought no qualified opportunity zone property until later in the year.*

Example 2. Virginia, Joe, Laura, and Ishmael formed a new partnership in January 2018 for the purposes of operating as a QOF, but it does not receive until July 2018 any investments under a deferral election under section 1400Z-2(a). The partnership has a calendar year tax year. The QOF may choose any month from January through July 2018 to use as its first month for certification. It chooses April

2018. The first 6-month period for the QOF asset test ends on September 30. January to March are not considered for purposes of the 6-month period.

Example 3. The facts are the same as in *Example 2*, except the partnership chooses July 2018 as the certification date. The first 6-month period for the QOF assets ends on December 31. The 6 months from January through June are not considered, and lines 5 through 7 will be blank.

Line 6

Enter the value of total assets held by the QOF on the last day of the first 6-month period of the tax year.

If you checked "Yes" on line 3, the 6-month period starts from the month you indicated on line 4. Line 6 may be blank depending on the tax year and the month indicated on line 4. See the discussion for line 5 and see *Example 3* under *Line 5*, earlier.

Line 7

Divide the number on line 5 by the number on line 6. Enter the result on line 7 as a decimal to two places. Round the number up or down to two places if necessary. For third place numbers of 5 or more, round up to the next higher second place number. For third place numbers of less than 5, round down to the lower second place number. Enter the decimal using the following format: one digit, a decimal point, and two digits (for example, enter 92% as 0.92 and 100% as 1.00).

Example 4. The facts are the same as in *Example 2*. The value of the assets held by the partnership on September 30 is $89,500. The value of the assets held by the partnership on December 31, is $100,000. The partnership enters "89,500" on line 5 and "100,000" on line 6. The result when the partnership divides 89,500 by 100,000 is 0.895. The partnership rounds up to 0.90. On line 7, the partnership enters "0.90."

If the figure entered on line 7 is less than 90% (0.90), a penalty may apply. See *Part III* of the instructions for more details. Enter -0- if lines 5 and 6 are blank.

Line 8

Enter the value of qualified opportunity zone property (see *Definitions*, earlier) held by the QOF on the last day of the tax year.

Note. If you answered "Yes" on line 3, the tax year may be less than 12 months.

Line 9

Enter the value of total assets held by the QOF on the last day of the tax year.

Note. If you checked "Yes" on line 3, the tax year may be less than 12 months.

Line 10

Divide the number on line 8 by the number on line 9. Enter the result on line 10 as a decimal to two places. Round the number up or down to two places if necessary. For third place numbers of 5 or more, round up to the next higher second place number. For third place numbers of less than 5, round down to the lower second place number. See *Example 4*. Enter the decimal using the following format: one digit, a decimal point, and two digits (for example, enter 92% as 0.92 and 100% as 1.00).

Part III

Complete Part III annually and attach it to your applicable tax return listed under *Who Must File*, earlier. Part III determines whether you are subject to a penalty. See *Qualified opportunity fund* in *Definitions*, earlier.

Line 11

Add the numbers on lines 7 and 10. Enter the result on line 11 as a decimal to two places. Round the number up or down to two places if necessary. For third place numbers of 5 or more, round up to the next higher second place number. For third place numbers of less than 5, round down to the lower second place number. See *Example 4*. Enter the decimal using the following format: one digit, a decimal point, and two digits (for example, enter 92% as 0.92 and 100% as 1.00).

Line 12

If lines 5 and 6 are blank, then divide line 11 by 1.0 instead of 2.0, and enter the result. Enter the result on line 12 as a decimal to two places. Round the number up or down to two places if necessary. For third place numbers of 5 or more, round up to the next higher second place number. For third place numbers of less than 5, round down to the lower second place number. See *Example 4*. Enter the decimal using the following format: one digit, a decimal point, and two digits (for example, enter 92% as 0.92 and 100% as 1.00).

Line 13

If you checked "Yes," the QOF met the 90% investment standard. Attach the form to your tax return to report you met the investment standard for the current tax year.

If you checked "No," the QOF failed to meet the 90% investment standard. Go to Part IV to figure the penalty for each month the QOF did not satisfy that investment standard. The IRS will issue a notice regarding the penalty reported on line 13. This notice will include instructions on the penalty, the reasonable cause relief process, and payment instructions.

Part IV

Complete Part IV if you checked "No" on Part III, line 13. Use Part IV to figure the penalty for each month that the QOF did not hold at least 90% of its assets in qualified opportunity zone property. See *Definitions*, earlier.

Accounting period. Columns (a) through (l) in Part IV assume that the QOF was in existence for the full tax year (January to December for calendar year or 12 consecutive months for fiscal year). See *Pub. 538, Accounting Periods and Methods*, for more information on accounting periods.

CAUTION *If you answered "Yes" on Part I, line 3, and the QOF did not exist for the full tax year, you will not use all of the columns in Part IV. Instead, use the month listed on Part I, line 4, as your Month 1 (see column (a) of Part IV of the form), and continue using the other columns as needed to complete the tax year.*

Example 5. The facts are the same as in *Example 2* under the Part I, line 5, instructions, earlier. In that situation, the partnership entered April on Part I, line 4. The answer to Part III, line 13, was "No." When filling out Part IV, the partnership will enter months only in columns (a) through (i), because April would be Month 1 and December would be Month 9.

Lines 1 and 3

See *Value determination*, earlier, for information on what figure to enter on these lines.

Line 5

The figure to enter here is the interest rate for each calendar quarter, which the IRS will determine during the first month in the preceding quarter. These rates are published quarterly in an IRS news release and in a revenue ruling in the Internal Revenue Bulletin (IRB). Go to *IRS.gov/IRB* for the IRBs. You can subscribe to IRS Newswire to receive

news releases of the quarterly interest rates, and IRS GuideWire to receive emails with a link to the revenue rulings in which the quarterly interest rates are published by going to *IRS.gov/uac/E-News-Subscriptions-2*.

Line 7

Divide line 6 by 12 even if you answered "Yes" in Part I, line 3, and the QOF did not exist for a full tax year. This is because the underpayment rate used on line 5 is annualized.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expense required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

Opportunity Zones FAQ's: https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions

This Page Intentionally Left Blank

INDUSTRIAL REVENUE BONDS

An Industrial Revenue Bond (IRB) differs from traditional government revenue bonds as the bonds are issued on behalf of a private sector business. IRBs are typically used to support a specific project, such as a new manufacturing facility.

The bond issue is created and organized by a sponsoring government, with the proceeds used by the private business. The business is responsible for bond repayment. The sponsoring government holds title to the underlying collateral until the bonds are paid in full. This arrangement provides tax exempt status to the bonds, and many times a property tax exemption on the collateral. The sponsoring government is not responsible for bond repayment and the bonds do not affect the government's credit rating. IRBs are desired as the private business receives a lower interest rate (due to the bonds tax-exempt status), a property tax exemption, and a long-term, fixed rate financing package.

Bond proceeds may be used for a variety of purposes, including land acquisition, building construction, machinery and equipment, real estate development fees, and the cost of bond issuance.

In the United States IRBs are governed by IRS statute and include the following provisions:

- The maximum amount of bonds that may be issued or outstanding is $10 million.
- Total capital expenditures at the project site may not exceed $20 million total
- Total IRBs outstanding at the company in the U.S. may not exceed $40 million total

Statute: 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/

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 28
IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

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/

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 28
IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

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/

TITLE 50
MUNICIPAL CORPORATIONS
CHAPTER 28
IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

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/

TITLE 50
MUNICIPAL CORPORATIONS

CHAPTER 28
IDAHO PRIVATE ACTIVITY BOND CEILING ALLOCATION ACT

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.]