

**Income Tax Meeting AGENDA**

Date: June 12, 2019  
 Time: 1:30 PM  
 Location: 1CR5

Welcome .....Cynthia Adrian

Review rule drafts:

Income Tax (35.01.01)		
RULE NUMBER	TITLE	TODAY'S ACTION
645	Water's Edge: Treatment of Dividends	Draft 2

**645.WATER'S EDGE: TREATMENT OF DIVIDENDS (RULE 645).**

Section 63-3027C, Idaho Code

**01. Dividends Received from Payors Incorporated Outside the United States.**

a. Dividends received from payors who are incorporated outside the fifty (50) states and District of Columbia but are not included in the combined report are treated as business income. (1-4-19)

b. As provided in Section 63-3027C(e)(1), Idaho Code, amounts included in income under sections 951 and 951A of the Internal Revenue Code are treated as dividends from payors outside the fifty (50) states and District of Columbia. (1-4-19)

c. In order to avoid taxing income that had previously been included in Idaho apportionable income in a prior tax year, the remaining portion of the dividend that was not excluded from Idaho apportionable income under Section 63-3027C(c)(3), Idaho Code, is excluded from Idaho apportionable income if the taxpayer can prove that the income was previously included in Idaho apportionable income in a prior tax year. (1-4-19)

**02. Dividends Received from Payors Incorporated in the United States.** Dividends received from payors who are incorporated within the fifty (50) states and District of Columbia but not included in the combined return are presumed to be business income of the water's edge combined group. (3-20-97)

**03. Deemed Dividends from Possession Corporations.** The income of a possession corporation, excluded in Section 63-3027B(ea), Idaho Code, shall be included in business income as a deemed dividend received from a payor incorporated outside the fifty (50) states and District of Columbia. The income of a possession corporation means taxable income greater than zero (0). Losses from possession corporations may not offset income of other possession corporations in determining the amount of deemed dividends. (4-5-00)

**04. Dividends from Foreign Sales Corporations.** (4-5-00)

a. As provided in Section 63-3027C(d)(1), Idaho Code, dividends received from a Foreign Sales Corporation (FSC) shall be eliminated in the proportion that FSC federal taxable income for the year during which the dividend was paid bears to the total FSC income before taxes for that year. For purposes of computing the dividend elimination, total FSC income before taxes means book income before the deduction of federal income taxes. (4-5-00)

b. For example, a FSC paid one million dollars (\$1,000,000) in dividends during the taxable year. For that same taxable year, the FSC had federal taxable income totaling ten million dollars (\$10,000,000) and total FSC income before taxes of twenty million dollars

(\$20,000,000). The dividends eliminated would be five hundred thousand dollars (\$500,000) computed as follows:  $(\$10,000,000 \text{ federal taxable income} / \$20,000,000 \text{ total FSC income before taxes}) \times \$1,000,000 \text{ FSC dividend paid} = \$500,000 \text{ dividend elimination.}$  (4-5-00)

**05. Interest Expense Offset.** The interest expense offset provided in Section 63-3022M, Idaho Code, does not apply to any dividends subject to the eighty-five percent (85%) or eighty percent (80%) exclusion provided in Section 63-3027C or 63-3027E, Idaho Code. (4-5-00)