

TITLE 63
REVENUE AND TAXATION

CHAPTER 35
COOPERATIVE ELECTRICAL ASSOCIATIONS -- TAXING GROSS EARNINGS

63-3501. DEFINITIONS. For the purposes of this chapter:

(a) The term "cooperative electrical association" means any nonprofit, cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering electric power to its members.

(b) The term "cooperative natural gas association" means any nonprofit cooperative association organized and maintained by its members, whether incorporated or unincorporated, for the purpose of transmitting, distributing or delivering natural gas to its members.

(c) The term "cost of power" means the cost of power purchases and generation included in reports to, and in accordance with applicable requirements of, the rural electrification administration, United States department of agriculture, by cooperative electrical associations which are borrowers from the rural electrification administration, and for cooperative electrical associations which are not borrowers from the rural electrification administration, such costs which could have been included by such cooperative electrical associations using equivalent reporting and accounting requirements. The state tax commission shall prescribe necessary rules for the purpose of providing a uniform method of reporting cost of power purchases and generation by cooperative electrical associations, consistent with the reporting and accounting requirements of the rural electrification administration.

(d) The term "cost of gas" means the cost of natural gas purchased by cooperative natural gas associations from wholesale or other suppliers of natural gas for delivery to members of the cooperative natural gas association.

(e) The term "gross electrical earnings" means the gross receipts of a cooperative electrical association from the distribution, delivery and sale of electric power within the state of Idaho, but shall not include any earnings or receipts from the distribution, delivery or sale of electric power consumed in pumping water for irrigation or drainage purposes within the state of Idaho, upon the land of such consumer and for the use and benefit of his own land, and where such consumer has received from the association a refund, rebate, or credit of three and one-half percent (3 1/2%) of the cost to him of the electric power so used and consumed.

(f) The term "gross natural gas earnings" means the gross receipts of a cooperative natural gas association from the distribution, delivery and sale of natural gas within the state of Idaho.

(g) The term "gross wind, solar or geothermal energy earnings" means the gross receipts of a wind energy generator, solar energy generator or a geothermal energy generator from the distribution, delivery and sale to a customer for the direct use or resale of electrical energy generated, manufactured or produced by means of wind energy, solar energy or geothermal energy within the state of Idaho.

(h) The term "taxing unit" shall include any of the following that had property taxes levied in the prior year: the separate taxing districts of the county as well as the county itself and any such taxing district's fund having a different geographical boundary than such taxing district itself.

(i) The term "tax levy" means the total tax levies fixed by each taxing district, as defined herein, in the prior calendar year.

(j) The term "WPPSS 4 and 5 costs" means, for a cooperative electrical association which is a participant under the Washington public power supply system nuclear projects numbers 4 and 5 participants' agreement, dated July 14, 1976, all of its costs in connection with Washington public power supply system nuclear projects numbers 4 and 5.

(k) The term "weighted wire mileage factor" means a figure which is arrived at by multiplying the tax levy of each taxing unit by the number of wire miles of transmission and distribution lines of such cooperative electrical association situated in such taxing unit.

(l) The term "gas line mileage factor" means a figure which is arrived at by multiplying the tax levy of each taxing unit by the number of miles of natural gas transmission and distribution lines of such cooperative natural gas association situated in such taxing unit.

[63-3501, added 1959, ch. 237, sec. 1, p. 507; am. 1961, ch. 301, sec. 1, p. 560; am. 1983, ch. 164, sec. 1, p. 470; am. 1998, ch. 132, sec. 1, p. 486; am. 2007, ch. 143, sec. 1, p. 415; am. 2008, ch. 227, sec. 1, p. 693; am. 2016, ch. 189, sec. 5, p. 517.]

63-3502. LEVY OF TAX ON ANNUAL GROSS ELECTRICAL EARNINGS. There shall be levied against every cooperative electrical association in this state a tax of three and one-half percent (3 1/2%) of its annual gross earnings, after first reducing such gross earnings by its cost of power and WPPSS 4 and 5 costs in such sum as the amount of its gross earnings bear to its gross receipts from the distribution, delivery and sale of electric power within the state of Idaho. This tax shall be in lieu of all other taxes on the property of such association exempted pursuant to section [63-602JJ](#), Idaho Code, for the tax year next preceding the filing of the statement hereinafter provided for, and which shall be paid in the manner and at the time prescribed herein.

[63-3502, added 1959, ch. 237, sec. 2, p. 507; am. 1983, ch. 164, sec. 2, p. 471; am. 1998, ch. 132, sec. 2, p. 488; am. 2016, ch. 189, sec. 6, p. 518.]

63-3502A. LEVY OF TAX ON ANNUAL GROSS NATURAL GAS EARNINGS. There shall be levied against every cooperative natural gas association in this state a tax of three and one-half percent (3 1/2%) of its annual gross earnings, after first reducing such gross earnings by its cost of natural gas. This tax shall be in lieu of all other taxes on the property of such association exempted pursuant to section [63-602JJ](#), Idaho Code, of the tax year next preceding the filing of the statement hereinafter provided for, and which shall be paid in the manner and at the time prescribed herein.

[63-3502A, added 1998, ch. 132, sec. 3, p. 488; am. 2016, ch. 189, sec. 7, p. 519.]

63-3502B. LEVY OF TAX ON WIND ENERGY, SOLAR ENERGY OR GEOTHERMAL ENERGY ELECTRICAL PRODUCTION. (1) A wind energy tax or a geothermal energy tax shall be levied against every producer of electricity by means of wind energy or geothermal energy in the amount of three percent (3%) of such producer's gross wind energy earnings or geothermal energy earnings.

(2) A solar energy tax shall be levied against every producer of electricity by means of solar energy in the amount of three and one-half percent (3.5%) of the producer's gross solar energy earnings.

(3) This wind energy tax, solar energy tax or geothermal energy tax shall be in lieu of all other taxes on the property of such wind energy producer, of such solar energy producer or of such geothermal energy producer exempted pursuant to section [63-602JJ](#), Idaho Code.

(4) For purposes of the certification required by section [63-803](#), Idaho Code, and the limitations provided by section [63-802](#), Idaho Code, the taxes levied pursuant to subsection (2) of this section shall reduce the property tax to be levied to finance an annual budget, and shall not be included in the amount of property tax revenues to finance an annual budget for purposes of limitations on increases in the annual budget as provided in section [63-802](#), Idaho Code.

[63-3502B, added 2007, ch. 143, sec. 2, p. 417; am. 2008, ch. 227, sec. 2, p. 695; am. 2016, ch. 189, sec. 8, p. 519.]

63-3503. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM ELECTRICAL ASSOCIATIONS BY STATE TAX COMMISSION. Every cooperative electrical association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section [63-404](#), Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon examining and verifying said statement, the state tax commission shall compute the amount of the tax measured by the gross earnings and shall allot to each county in which the property of such association is situated, and otherwise exempted from taxation by section [63-602JJ](#), Idaho Code, that proportion of the total tax of such association shown to be due as the number of wire miles of transmission and distribution lines of such association situated in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any property of such association is situated, and otherwise exempted from taxation by section [63-602JJ](#), Idaho Code, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the weighted wire mileage factor for each such taxing unit bears to the total of the weighted wire mileage factors of all such taxing units in the county. No later than the third Monday of May each year, the state tax commission shall notify the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

[63-3503, added 1959, ch. 237, sec. 3, p. 507; am. 1961, ch. 301, sec. 2, p. 560; am. 1994, ch. 316, sec. 4, p. 1014; am. 1996, ch. 322, sec. 66, p. 1093; am. 1998, ch. 132, sec. 4, p. 488; am. 2016, ch. 189, sec. 9, p. 519; am. 2018, ch. 31, sec. 1, p. 57.]

63-3503A. FILING OPERATORS' STATEMENT -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM NATURAL GAS ASSOCIATIONS BY STATE TAX COMMISSION. Every cooperative natural gas association in this state shall file with the state tax commission of the state of Idaho the operators' statement provided for in section [63-404](#), Idaho Code, and shall include thereon a statement of the amount of its gross earnings for the calendar year next preceding. Upon ex-

amining and verifying said statement, the state tax commission shall compute the amount of the tax measured by the gross earnings and shall allot to each county in which the property of such association is situated, and otherwise exempted from taxation by section [63-602JJ](#), Idaho Code, that proportion of the total tax of such association shown to be due as the number of gas line miles of transmission and distribution lines of such association situated in such county bears to the total wire miles of transmission and distribution lines of such association. The state tax commission shall then, for each county, apportion the tax so allotted to the county among the several taxing units thereof within which any property of such association is situated, and otherwise exempted from taxation by section [63-602JJ](#), Idaho Code, by apportioning to each such taxing unit that proportion of the tax so allotted to the county as the gas line mileage factor for each such taxing unit bears to the total of the gas line mileage factors of all such taxing units in the county. No later than the third Monday of May each year, the state tax commission shall notify the state superintendent of public instruction and the county treasurer of such allotment and apportionment and the amounts thereof.

[63-3503A, added 1998, ch. 132, sec. 5, p. 489; am. 2016, ch. 189, sec. 10, p. 520; am. 2018, ch. 31, sec. 2, p. 57.]

63-3503B. FILING OPERATORS' STATEMENTS -- ALLOTMENT AND APPORTIONMENT OF TAX DUE FROM PRODUCERS OF ELECTRICITY BY MEANS OF WIND ENERGY, SOLAR ENERGY OR GEOTHERMAL ENERGY BY STATE TAX COMMISSION. Every producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy in this state shall file with the state tax commission of the state of Idaho an operator's statement in the manner as provided for in section [63-404](#), Idaho Code, and shall include thereon a statement of the prior calendar year's gross wind energy earnings, gross solar energy earnings or gross geothermal energy earnings. Upon examining and verifying said statement, the state tax commission shall compute the amount of the wind energy tax, solar energy tax or the geothermal energy tax based on the gross wind energy earnings, gross solar energy earnings or the gross geothermal energy earnings and shall allot to each county in which the property of such producer is situated, and otherwise exempted from taxation by section [63-602JJ](#), Idaho Code, either: that proportion of the total wind energy tax, that proportion of the total solar energy tax or that proportion of the total geothermal energy tax of such producer shown to be due as the same proportion that the total original cost of property situated in such county, and otherwise exempted from taxation by section [63-602JJ](#), Idaho Code, bears to the total original cost of such property of such producer for the wind energy project, of such producer for the solar energy project or of such producer for the geothermal energy project. The state tax commission shall then, for each county, apportion the wind energy tax, solar energy tax or geothermal energy tax so allotted to such county among the several taxing units thereof within which any property of such producer is situated, and otherwise exempted from taxation by section [63-602JJ](#), Idaho Code, by apportioning to each such taxing unit that proportion of the wind energy tax, solar energy tax or geothermal energy tax so allotted to such county. For such apportionment, the state tax commission shall calculate the weighted original cost which shall be the product of the original cost of such property within such taxing unit times such taxing unit's property tax levy for the prior year and the weighted apportionment rate which shall be the ratio

of the wind energy tax, of the solar energy tax or of the geothermal energy tax, as the case may be, allotted to such county, to the aggregate weighted original cost for all such taxing units within which the property is located and then shall calculate the apportionment of the wind energy tax, solar energy tax or geothermal energy tax for each such taxing unit to be equal to the product of the weighted original cost times the weighted apportionment rate. The state tax commission shall, on or before the third Monday in May, notify the state superintendent of public instruction, the county auditor, and the county treasurer of such allotment and apportionment and the amounts thereof. On or before the first Monday in August, the county auditor shall notify the appropriate taxing units of the amount of wind energy tax, the amount of solar energy tax or the amount of the geothermal energy tax being apportioned and the amount of the solar energy tax distributed to each of these taxing units during the twelve (12) months immediately preceding July 1 of the current tax year.

[63-3503B, added 2007, ch. 143, sec. 3, p. 417; am. 2008, ch. 227, sec. 3, p. 695; am. 2016, ch. 189, sec. 11, p. 520; am. 2018, ch. 31, sec. 3, p. 58.]

63-3504. COLLECTION BY COUNTY TREASURER -- PENALTY AND INTEREST IMPOSED WHEN DELINQUENT. Upon receipt of the notification of the allotment and apportionment of such taxes by the state tax commission by the county treasurer, said county treasurer shall, not later than June 15 of each year, notify each cooperative electrical association, natural gas cooperative, and producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, of the amount of taxes owed, and the apportionment thereof to the county and to the several taxing districts in the county and such tax shall be due and payable not later than July 1, following and, upon the payment thereof, the county treasurer shall pay over to each taxing district its apportionment as herein determined. Any such taxes not paid by July 1, as aforesaid, shall become delinquent and a penalty of five percent (5%) thereof shall be imposed, together with interest at the rate of one percent (1%) per month from July 1 until paid.

[63-3504, added 1959, ch. 237, sec. 4, p. 507; am. 1998, ch. 132, sec. 6, p. 489; am. 2007, ch. 143, sec. 4, p. 418; am. 2008, ch. 227, sec. 4, p. 696; am. 2016, ch. 189, sec. 12, p. 521.]

63-3505. TAXES A LIEN ON PROPERTY OF ASSOCIATION OR PRODUCER UNTIL PAID. All taxes due and payable under this chapter shall be a lien on all property, real and personal, of the electrical, or natural gas association, or the producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, owing the same, as of June 15 of each year and shall be discharged only by the payment thereof. In any action to enforce payment of any delinquent taxes due under this chapter, the county prosecuting such action shall be entitled to a judgment for the reasonable costs of prosecuting such action, as well as for the delinquent taxes, penalty and interest.

[63-3505, added 1959, ch. 237, sec. 5, p. 507; am. 1998, ch. 132, sec. 7, p. 490; am. 2007, ch. 143, sec. 5, p. 418; am. 2008, ch. 227, sec. 5, p. 697; am. 2016, ch. 189, sec. 13, p. 521.]

63-3506. ASSESSMENT OF PROPERTY BY ASSESSOR. Any property not subject to the gross receipts tax levied in this chapter of any cooperative electrical or natural gas association, or producer of electricity by means of wind energy, by means of solar energy or by means of geothermal energy, shall be assessed by the county assessor of the county wherein such property is situate, and taxes levied against the same shall be a lien, and shall be due and payable, in the same manner as are any other taxes on property.

[63-3506, added 1959, ch. 237, sec. 6, p. 507; am. 1998, ch. 132, sec. 8, p. 490; am. 2007, ch. 143, sec. 6, p. 418; am. 2008, ch. 227, sec. 6, p. 697; am. 2016, ch. 189, sec. 14, p. 521.]