

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1402

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 63-105(2), 63-3039, 63-3624(a), & 63-3635, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows:

Thursday, June 19, 2014, 1:30 p.m. (MDT)

**Idaho State Tax Commission
Room 1CR5 - 1st Floor
800 Park Boulevard, Plaza IV
Boise, ID 83712-7742**

It is possible that the rules will require further discussion in follow up meetings that will also be open to the public. Notification of any additional meetings will be posted on the Tax Commission's website at <http://tax.idaho.gov/i-1090.cfm> at least one week prior to the date of the meeting. All meeting agendas are also posted on the website which will contain specific information on the rules that will be discussed at a particular meeting. Keep in mind there is no guarantee that a particular rule will be discussed beyond the meeting noted above, so please plan accordingly.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do either of the following:

1. Attend the scheduled meeting and participate in the discussion for any of the rules on the agenda. You may join the meeting by phone if you wish; however, notice must be given in advance so accommodations can be arranged;
2. Submit a written comment addressing one or more of the rules to be negotiated. All written comments must be received by July 31, 2014, or they may not receive consideration in the negotiated rulemaking process.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Rule 022. Drop Shipments - A drop shipment is a transaction in which a purchaser buys a product from a retailer but the product is shipped directly to the purchaser from the manufacturer or wholesaler. There has been feedback from the public over time that the rule as written can be confusing. The purpose of amending the rule would be to clarify the responsibilities of both in-state and out-of-state retailers, wholesalers, and manufacturers in a drop shipment situation.

Rule 049. Warranties and Service Agreements - There has been confusion expressed by taxpayers on how to tax certain aspects of extended service agreements. Of particular concern are agreements in which consumables are provided on a routine basis (i.e. toner cartridge for a leased copier) and overage charges when the customer exceeds a certain amount of usage of the property in question.

Rule 063. Bad Debts and Repossessions - When a retailer makes a sale, the sales tax is computed at that time, collected from the customer, and paid to the Tax Commission. If the sale is made on account, the retailer must still remit the entire amount of tax at the time of the sale. If the purchaser later defaults on some or all of its account, the

retailer may claim a refund of the portion of sales tax that has not yet been paid by the purchaser. In claiming a refund, the calculation of the amount of remaining tax can be rather complicated factoring in the down payment, payments made, interest, additional finance charges, sales price of the property if repossessed and sold again, etc. The complicated calculations can be quite difficult for taxpayers to navigate and for the Tax Commission to review. Consequently, there will be a review of this rule with the goal of simplifying the calculation where possible. Of particular note, an alternative method of calculating the refund claim has been proposed and submitted by the owner of Fairly Reliable Bob's, a local motor vehicle dealership. This proposal will be one of the focal points of the discussion.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact McLean Russell, Tax Policy Specialist at (208) 334-7531. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the agency's web site at the following web address: <http://tax.idaho.gov/i-1090.cfm>.

All written comments must be directed to the undersigned and must be delivered on or before July 31, 2014. Comments may be submitted via e-mail to sherry.briscoe@tax.idaho.gov.

Dated this 27th day of May, 2014.

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