

IDAPA 35 - IDAHO STATE TAX COMMISSION

35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1502

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 Section(s) 63-105(2), 63-3624(a), 63-3635, and 63-3039, Idaho Code.

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

Wednesday, June 24, 2015 - 1:30 p.m. MDT

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

It is likely that some or all of these 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-1141.cfm?com=s> 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.

Of course, 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 must do 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, 2015, 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 041. Food, Meals, or Drinks

Rule 072. Application and Payment of Use Tax

Passed during the 2015 legislative session, House Bill 237 exempted free meals given to employees. The rules related to food and giveaways in the above two rules will be reviewed for possible revisions to address this change in the law. In addition, House Bill 530 passed during the 2014 session exempting donations of food. While rule changes were not made last year in response to this new exemption, questions of what falls under the exemption continue to arise. Rule changes will be discussed to address these questions.

Rule 067. Real Property

The rule currently states that "the National Electrical Code requires the removal of certain abandoned fiber optic and communication cable." Given that fact, the rule treats such cabling as tangible personal property even after

installation. Consequently, the contractor must charge sales tax on the sale of the materials when installing the cable. The National Electrical Code needs to be reviewed again to ensure that this is still the standard. If the standards have changed, the rule will need to be amended particularly if it results in a different tax treatment.

Rule 050. Veterinarians and Veterinary Supplies
Rule 079. Production Exemption
Rule 083. Farming and Ranching
Rule 103. Hand Tool, Component, and Unit Price
Rule 128. Certificates for Resale and Other Exemption Claims

House Bill 39 passed during the 2015 legislative session removing the hand tool exclusion from the production exemption. All of the above rules need to be amended to address this change.

Rule 079. Production Exemption
Rule 083. Farming and Ranching

The passage of House Bill 221 during the 2015 legislative session added hunting and fishing operations to the types of businesses that can qualify for the production exemption. Rule changes will be discussed to address the new law.

**Important Note -- In addition to the specific changes noted above,
all rules will be reviewed in their entirety for possible changes to improve clarity.**

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact McLean Russell 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-1141.cfm?com=s>.

All written comments must be directed to the undersigned and must be delivered on or before July 31, 2015. Comments may be submitted via e-mail to sherry.briscoe@tax.idaho.gov.

DATED this 20th Day of May, 2015.

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