

# IDAPA 35 - IDAHO STATE TAX COMMISSION

## 35.01.02 - IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1302

### 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, 63-3635, and 63-3039, Idaho Code.

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

**Wednesday, July 31, 2013, 1:00 to 4:00 pm**

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

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

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.

Submit a written comment addressing one or more of the rules to be negotiated. If you wish the comment to be considered at the scheduled meeting, the Commission must receive it by July 22, 2013. Copies of all comments received by that date will be distributed and discussed during the meeting. Comments received after that date must still be received by July 31, 2013, or they may not receive consideration in the negotiated rulemaking process.

It is possible that one or more of the rules will require further discussion in a follow up meeting 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 up for discussion at a particular meeting. Keep in mind there is no guarantee that a particular rule will be discussed again after the scheduled meeting, so please plan accordingly.

**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 036. Signs and Billboards - Clarify that certain signs, such as traffic, highway, and street signs, become real property after installation while others, such as business signs, do not. For those signs that become real property, the rule will make it clear that the installer of the sign operates as a contractor improving real property and, therefore, owes sale or use tax on its purchase or use of the sign materials.

Rule 037. Aircraft and Flying Services - House Bill 15 (2013) created a definition for primary and primarily as it relates to the use of tangible personal property. Several simple examples will be added to address the new definition in regards to the use of aircraft.

Rule 041. Food, Meals, or Drinks - House Bill 187 (2013) exempted the use of beverages when given away as part of a tasting. To prevent confusion, the rule will be amended to clarify that charges to participate in a tasting are still taxable.

Rule 046. Plating and Replating (Will be renamed to address the new broader scope of the rule) - Clarify that sales of protective coatings of all kinds (paint, powder coating, spray on bedliner, chrome plating, etc.) will be treated

consistently. In addition, the rule will address when a materials charge must be broken out and when it is subject to tax.

Rule 079. Production Exemption - Clarify that sales and use of equipment to improve and install real property are taxable even if the real property is used in production.

Rule 100. Prescriptions - Remove language referring to eyeglass and contact dispensing charges.

Rule 114. Records Required, Food Stamps, Electronic Benefits Transfers, and WIC Checks - House Bill 12 (2013) updated the obsolete language of the food stamp exemption to bring it in line with the current federal program, SNAP. Update the rule to reflect the statutory changes and to remove obsolete references to aspects of the assistance programs that no longer exist (i.e. state provided sales machines).

Rule 130. Promoter Sponsored Events - Clarify promoter's responsibility in regards to documentation that must be obtained from participants at the event. Update the procedure regarding Form ST-124 that all participants at the event are required to complete.

**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 Commission'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, 2013.

Dated this 5th day of June, 2013.

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