

IDAPA 35 – IDAHO STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1702

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), 63-3624(a), 63-3635, and 63-3039, Idaho Code.

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

Tuesday, July 18, 2017 – 2:00 p.m. MDT

**Idaho State Tax Commission
Room 1CR5 – 1st Floor
800 Park Boulevard, Plaza IV
Boise, ID 8372-7742**

It is likely that this rule 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=> 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. There is no guarantee that a particular rule will be discussed beyond the meeting noted above, so please plan accordingly.

The meeting site will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do 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. All written comments must be received by July 31, 2017, or they may not receive consideration in the negotiated rulemaking process.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

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

Rule 013 – ROAD AND PAVING CONTRACTORS: We will be discussing adding some examples to Rule 013, paragraph 2, Road and Paving Contractors, to clarify when taxes are owed.

Rule 044 – TRADE-INS, TRADE-DOWNS AND BARTER: We are proposing a change to conform to the HB 156 (2017). Generally, the changes will be to replace park trailer with park model recreational vehicle. Rule 35.01.02.044 Trade-Ins, Trade-Downs and Barter. This rule will be amended to include a reference to Rule 35.01.02.048 regarding how to treat trade-ins of Park Model Recreational Vehicles.

Rule 048 – MANUFACTURED HOMES (MOBILE HOMES) AND MODULAR BUILDINGS: We are proposing a rule change to conform to HB 156 (2017). Generally, the changes will be to replace park trailer with park model recreational vehicle. Rule 35.01.02.048 Manufactured Homes (Mobile Homes) and Modular Buildings. This change will add a new paragraph to define New Park Model Recreational Vehicles and clearly state that these are

taxed at 100% of the sales price. How Used Park Model Recreational Vehicles are taxed will also be addressed. This rule will also be amended to reflect how trade-ins are to be treated.

Rule 061 – TRANSPORTATION, FREIGHT, AND HANDLING CHARGES: We are proposing a rule change to conform to the HB 156 (2017). Generally, the changes will be to replace park trailer with park model recreational vehicle. Rule 35.01.02.061 Transportation, Freight, and Handling Charges. HB 156 modified code section 63-3613 to specifically include those costs in a Park Model Recreational Vehicle. This rule needs to define how those costs are treated on a Park Model Recreational Vehicle.

Rule 079 – PRODUCTION EXEMPTION: We are proposing a rule change to conform to the HB 156 (2017). HB 156 added Park Model Recreational Vehicles to 63-3622HH(4) as a type of vehicle that is not eligible for the production exemption. Rule 35.01.02.079.05.m. and n. will be modified to reflect this treatment for Park Model Recreational Vehicles.

Rule 099 – OCCASIONAL SALES: We are proposing a rule change to conform to HB 156 (2017). Rule 35.01.02.099.09 lists items that do not qualify for the occasional sales exemption and are therefore always taxable. Park Model Recreational Vehicles will be added to that list.

Rule 107 – VEHICLES AND VESSELS – GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS: We are proposing adding or changing definitions as needed due to the passing of HB156 regarding the Park Model RV statute. This rule is also being changed to reflect the law change allowing the nonresident use of a vehicle in Idaho from 60 to 90 days.

Rule 128 – CERTIFICATES FOR RESALE AND OTHER EXEMPTION CLAIMS: We are proposing a change to conform to the HB 156 (2017). Park Model Recreational Vehicles will be added to the list of non-exempt items under the production exemption in Rule 35.01.02.128.07.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking contact Tom Shaner at (208) 334-7518. 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>.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 31, 2017. Comments may be submitted via e-mail to sherry.briscoe@tax.idaho.gov.

DATED this 12th Day of May, 2017

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