

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1801

NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Section 67-5220, 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 67—5220(1)&(2), 63-105(2), and Section 63-3624(a), Idaho Code.

METHOD OF PARTICIPATION: Interested persons wishing to participate in the negotiated rulemaking may do any of the following:

Negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

1. Attend the negotiated rulemaking meeting(s) and participate in the negotiation process,
2. Attend through a teleconference,
3. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting, and/or
4. Submit written recommendations and comments to the address below.

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

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

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 037 – Aircraft and Flying Services

In general, when a third-party dealer or repair facility performs a repair and bills the seller of a warranty or service agreement, the third-party dealer or repair facility will separately state and charge sales tax on the parts to the seller of the warranty or service agreement. Section 63-3622GG, Idaho Code, exempts parts installed in non-resident aircraft if those parts are installed by a FAA approved repair station. This includes parts that are being installed as a result of a warranty or a service agreement. Currently this scenario has not been addressed in rule. The proposed rulemaking would add language that clarifies that these parts are exempt, even if the repair is paid for under a warranty agreement. Addressing this issue provides clarity that the exemption for parts installed on non-resident aircraft applies, even if the parts were paid for under a warranty agreement.

Rule 049 – Warranties and Service Agreements

The proposed rulemaking would add a cross reference to Rule 037 regarding the exemption for parts installed in non-resident aircraft if those parts are installed by a FAA approved repair station. Also would add a statutory reference to 63-3613, Idaho Code.

Rule 068 – Collection of Tax

Section 63-3619, Idaho Code, requires the Tax Commission to provide retailers with schedules for collection of the tax on sales which involve a fraction of a dollar. Currently, Rule 068 has two of these schedules, one for 5% sales tax and another for 6%. The 5% schedule is no longer necessary because the rate has been stable at 6% since 2006. The proposed rulemaking would strike subsection 04 & then renumber the subsequent sections. Also would add a statutory reference to 63-3619, Idaho Code.

CONTACT INFORMATION, WEB ADDRESS, ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning this negotiated rulemaking, contact Leah Parsons, (208) 334-7531. Materials pertaining to the negotiated rulemaking, including any available preliminary rule drafts, can be found on the commission website at the following web address: www.tax.idaho.gov.

All written comments must be directed to the address below.

Dated this 6th day of April, 2018.

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