

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-1802

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

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

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:

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 meetings 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. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website summary will be made available to interested persons who contact the agency and posted 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 003 – This rule provides guidance on where a taxpayer can find information about the administrative appeals process available to them. Currently the rule contains only one statutory reference. The proposed rulemaking will add references to additional areas within Idaho Code and Administrative Rules. Specifically, Sections 63-3626, 63-3631, 63-3633, and 63-3634, Idaho Code, a reference to Section 121 of these rules, and IDAPA 35.02.01, “The Tax Commission Administration and Enforcement Rules.”

Rule 011 – Idaho law treats the fees a retailer charges for assembling, producing or fabricating property to the special order of a customer as part of the sales price subject to sales tax. Assembly is not referenced in Subsection 01.b, of this rule, but is part of the sales price subject to sales tax. The proposed rulemaking will clarify in rule that the assembly of tangible personal property is subject to sales tax by adding the word assembly to Subsection 01.b, of this rule, a statutory references to Sections 63-3612, 63-3613(a)(2), Idaho Code, and a cross reference to Sales Tax rule Subsection 043.02.a. This change is designed to help retailers and aligns with current practice.

Rule 043 – Idaho law provides that the fee a retailer charges for assembling, producing, or fabricating their products to the special order of a customer is part of the sales price subject to sales tax. Assembly is not currently referenced in Subsection 01.d, of this rule, but is part of the sales price subject to sales tax. The proposed rulemaking will clarify in rule that the assembly of tangible personal property is subject to sales tax by adding the statutory reference to Section 63-3613, Idaho Code, and the word assemble in Subsection 01.d, of this rule. This change is designed to help retailers and aligns with current practice.

Rule 107 – This rule discusses specific topics relating to motor vehicles including gifts, military personnel, and exemptions. The proposed rulemaking is to update the rule to reflect changes in tax exemption claim form ST-133. Gift transfers were removed from the form ST-133 and a new form was created for gift transfers, (form ST-133GT). The form name will be updated in Subsection 02.d, of this rule. Under Subsections 07 and 08, of this rule, the name of the form to be used for sales to family members and sales to American Indians will be updated and statutory references to Sections 63-3621, 63-3622K, & 63-3622Z, Idaho Code will be added.

Rule 110 – This rule provides guidance for financial institutions about their responsibility to pay over the tax when they are collecting sales tax for the sale of tangible personal property that they are financing, and when that sales tax should be reported. Section 110 does not provide guidance about how the financial institutions should report the tax. The proposed rulemaking adds guidance that directs financial institutions to obtain a permit if they are collecting sales tax so they can properly report the tax they collected.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES: For assistance on technical questions concerning this negotiated rulemaking, contact Leah Parsons, (208) 334-7531. For general questions, contact Kimberlee Stratton, (208) 334-7544. 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.

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 June 27, 2018.

DATED this 3rd day of May, 2018.

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