



house in Idaho where I was traveling to at that time. I left the state a few days later for work in California, then headed to a conference in Tennessee, and returned to my home in Texas.

The Bureau acknowledged Petitioner's protest and forwarded the file to the Tax Commission's Appeals Unit (Appeals) for administrative review. Appeals sent Petitioner a letter informing her of the options available for redetermining the Notice. Petitioner responded and scheduled an informal hearing. In the hearing, Petitioner again explained that she had the clothing shipped to Idaho only because she was going to be there visiting and when she left Idaho, she took the clothes with her to her home in Texas.

### **LAW AND ANALYSIS**

Idaho Code section 63-3621 imposes a use tax on all tangible personal property brought into Idaho unless an exemption applies. Idaho Code section 63-3621(1)(2) states:

(1) An excise tax is hereby imposed on the storage, use, or other consumption in this state of tangible personal property acquired on or after October 1, 2006, for storage, use, or other consumption in this state at the rate of six percent (6%) of the value of the property, and a recent sales price shall be presumptive evidence of the value of the property unless the property is wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of the value of the property.

(2) Every person storing, using, or otherwise consuming, in this state, tangible personal property is liable for the tax. His liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers. A retailer shall not be considered to have stored, used, or consumed wireless telecommunications equipment by virtue of giving, selling, or otherwise transferring such equipment at a discount as an inducement to a consumer to commence or continue a contract for telecommunications service...

Storage and use are defined in Idaho Code section 63-3615 which states:

**63-3615. STORAGE -- USE.** -- (a) The term "storage" includes any keeping or retention in this state for any purpose except sale in the regular course of business or subsequent use solely outside this state of tangible personal property purchased from a retailer.

(b) The term "use" includes the exercise of any right or power over tangible personal property incident to the ownership or the leasing of that property or the exercise of any right or power over tangible personal property by any person in the performance of a contract, or to fulfill contract or subcontract obligations, whether the title of such property be in the subcontractor, contractor, contractee, subcontractee, or any other person, or whether the titleholder of such property would be subject to the sales or use tax, unless such property would be exempt to the titleholder under section 63-3622D, Idaho Code, except that the term "use" does not include the sale of that property in the regular course of business.

*(c) "Storage" and "use" do not include the keeping, retaining, or exercising of any right or power over tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside the state, and thereafter used solely outside the state. (Emphasis added.)*

Items brought into Idaho from out-of-state and stored temporarily, for subsequent transport outside this state, is not considered to be "used" in Idaho. As a result, such property is not subject to use tax. It is important to clarify that this statute is a definition statute, not a tax exemption, although it effectively results in an exemption from use tax. Additionally, this statute applies only to use tax and does not affect sales tax obligations. If the property is used in Idaho before being transported out of the state, use tax will be due.

If an individual or business purchases goods from an out-of-state retailer that holds a valid seller's permit and those goods are delivered to Idaho, the transaction is subject to Idaho sales tax, regardless of where the goods will ultimately be used.

For further emphasis Idaho Administrative Rule 072 states in part:

**03. Storage.** Storage is any keeping or retention of tangible personal property in this state, except as inventory for the purpose of sale in the regular course of business or for subsequent use solely outside Idaho.

**04. Specifically Excluded from the Definition of Both Use and Storage Are:**

**a.** Retention or use of property for subsequent transportation outside the state...

In the present matter, Petitioner received the clothing while temporarily in Idaho, put them in her suitcase and transported them to Texas. Petitioner did not use the clothing in Idaho; therefore, she is not subject to use tax.

Petitioner provided adequate evidence to establish that the amount of use tax shown in the Notice is incorrect.

THEREFORE, the Tax Commission cancels the Notice of Deficiency Determination dated October 3, 2024 directed to [REDACTED] [REDACTED]. An explanation of Petitioner's right to appeal this decision is enclosed.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2025.

IDAHO STATE TAX COMMISSION

## CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2025,  
a copy of the within and foregoing DECISION was served by sending the same by United States  
mail, postage prepaid, in an envelope addressed to:

Receipt No.



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