

Tax Commission
IDAHO

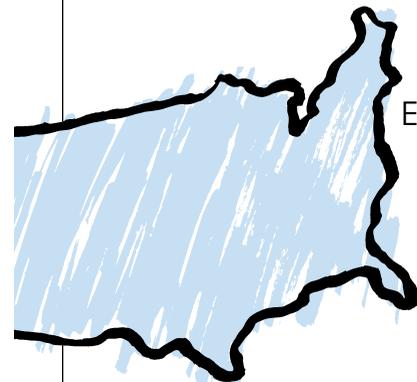
**OUT-OF-STATE
BUSINESSES**

This brochure was prepared by the Idaho State Tax Commission. It does not provide comprehensive explanations of Idaho tax laws or rules. Specific questions should be addressed to the Idaho State Tax Commission or a qualified tax practitioner.

Costs associated with this publication are available from the Idaho State Tax Commission in accordance with Section 60-202, Idaho Code.



Revised 6/03



An
Educational
Guide to
Sales Tax in
the State
of Idaho

6

This brochure is intended to help businesses in other states understand the Idaho sales tax laws that apply to them. This information is based on the sales tax laws and rules in effect on May 1, 2003.

SELLING IN IDAHO

Idaho law requires retailers who are “doing business” in Idaho to get a seller’s permit and collect sales tax on the goods they ship or deliver to customers in Idaho. They also must file regular Idaho sales tax returns to remit the tax they collect.

**WHAT TYPES OF ACTIVITIES
DETERMINE THAT I AM
“DOING BUSINESS” IN IDAHO?**

1. Having a physical presence in Idaho (whether permanent or temporary), such as:
 - An office, warehouse, sales or sample room, or storage place
 - Maintaining a stock of goods
 - Renting or leasing property (other than real property) to a customer who uses the property in Idaho
 - Servicing tangible personal property located in Idaho
 - Having a salesman, agent or representative who comes to Idaho to sell, deliver, install or take orders. (It does not matter whether the salesman, agent or representative is your employee, or whether he lives in Idaho or another state.)
2. Presence also may be established by the relationship of one business to another that is doing business in Idaho. If a parent, subsidiary or other commonly-owned company is engaged in business in Idaho, then all other members of the same group that are engaged in a similar line of business are subject to Idaho’s sales tax laws.

WHAT ABOUT MAIL-ORDER FIRMS?

If your firm is located outside of Idaho and you do not conduct any of the above activities in Idaho, you are not required to register with the Idaho State Tax Commission or collect and remit Idaho tax. Unless they are entitled to an exemption, your Idaho customers will be subject to Idaho use tax for items on which you do not charge tax. You may register voluntarily to collect and remit the tax which your customers must otherwise pay directly to the state.

**MUST I BE REGISTERED
TO DO BUSINESS IN IDAHO?**

Yes. If you are “doing business” in Idaho, you must contact the Idaho State Tax Commission to get registration forms. If you are not sure whether you are “doing business” in Idaho, contact any Tax Commission office for help.

BUYING IN IDAHO

Three general rules apply to out-of-state businesses that buy goods from Idaho vendors:

1. Idaho law does *not* provide a general exemption from sales tax for residents of other states.
2. With one exception, the exemptions provided to Idaho residents also apply to out-of-state buyers.
3. Items purchased in Idaho but delivered to another state by the seller or by common carrier are not taxed as Idaho sales.

The following information relates to items that are picked up in Idaho by the buyer.

**HOW CAN MY OUT-OF-STATE
BUSINESS BUY GOODS IN
IDAHO WITHOUT PAYING
IDAHO SALES TAX?**

The only items that can be purchased tax-free by an out-of-state business are those that are exempt when purchased by a similar Idaho business. If you take possession of the goods in Idaho, you must give the vendor a completed form ST-101, Sales Tax Resale or Exemption Certificate, in order to purchase tax-exempt.

DO THE SAME EXEMPTIONS THAT APPLY TO IDAHO BUSINESSES ALWAYS APPLY TO OUT-OF-STATE BUSINESSES?

Generally, yes. But there is one exception:

- Purchases by the state of Idaho or its political subdivisions are exempt from sales tax, but purchases by other states or their subdivisions are taxable.

HOW DO I FIND OUT WHAT TAX-EXEMPT BUSINESS PURCHASES I CAN MAKE IN IDAHO?

Contact any Idaho State Tax Commission office for answers to your questions and to get brochures related to your business. Following are a few examples of tax-exempt and taxable business purchases. **Examples:**

- The owner of a restaurant in Oregon drives to Idaho to buy some items for his business. He buys food, paper towels and soap. The food purchased for resale may be purchased tax-exempt, but the paper towels and soap are taxable. In order to buy the food tax-exempt, the restaurant owner must give the Idaho vendor a completed form ST-101. He does not need an Idaho seller's permit number to do this. The form ST-101 has a place for out-of-state retailers to claim their exemption. For more information on restaurants, see Brochure #16 – Food, Drink and Lodging.
- A Nevada accountant buys office supplies in Idaho and takes them back to Nevada with him. The supplies are taxable since no exemption applies to Idaho businesses in this case.
- On a visit to Idaho, a Washington farmer buys feed, seed and a shovel. The feed and seed can be purchased tax-exempt if the farmer completes form ST-101 for the seller. However, the shovel is taxable because hand tools with a unit value of less than \$100 do not qualify for the farm exemption. See Brochure #31 – Farming & Ranching.

BRINGING GOODS TO IDAHO

When an out-of-state business brings assets and supplies to Idaho, it owes use tax on the storage, use, or consumption of the goods, unless sales tax was paid to another state or an exemption applies. (The Idaho use tax rate is the same as the sales tax rate.)

Example: A Montana contractor comes to Idaho to build a road. He brings job materials he bought in Montana without paying tax. He owes Idaho use tax on the materials.

The amount of use tax is based on the fair market value of the item when it first becomes taxable. A recent purchase price of the item is usually its fair market value. In the example above, the Montana contractor would owe use tax on the purchase price of the job materials.

HOW DO I PAY THE USE TAX?

You should apply to the Idaho State Tax Commission for a use tax permit. Contact any Tax Commission office to get an application form.

WHAT IF AN OUT-OF-STATE BUSINESS BRINGS ASSETS TO IDAHO?

Normally, when a nonresident business brings assets to Idaho, it must pay use tax to Idaho on the full value of the assets (unless tax was paid to another state in an amount equal to, or greater than, the tax due Idaho).

But if the equipment is “transient equipment,” the owner can choose to pay tax based on a fair market rental value. This is the amount it would cost to rent or lease similar equipment from an equipment rental company.

WHAT IS TRANSIENT EQUIPMENT?

“Transient equipment” is equipment that:

- Is owned by a business based in another state;
- Is a depreciated asset for income tax purposes and treated as such on the owner's income tax returns;
- Is brought to Idaho and kept here for 90 days or less in any 12-month period; and
- Either was not taxed when purchased in another state or, if it was taxed, the amount paid was less than the amount of Idaho use tax due.

If a transient equipment owner chooses to pay tax on the fair market rental value, he does not need the Tax Commission's approval as long as the use tax due on the first month's rental value is paid on time. **For example,** the use tax due on equipment brought to Idaho in June must be paid by July 20. If the owner fails to pay the tax on time, he cannot choose to pay tax on the rental value unless he gets written approval from the Tax Commission.

WHAT IF EQUIPMENT IS KEPT IN IDAHO MORE THAN 90 DAYS?

When equipment is kept in Idaho **more** than 90 days in any 12-month period, it is no longer considered “transient.” At that time, the use of the equipment becomes subject to Idaho use tax on its full value. No credit is allowed for the tax paid on fair market rentals during the first 90 days.

WHAT ABOUT MOTOR VEHICLES?

The rules are different if the asset is a licensed motor vehicle. Nonresidents may use their licensed motor vehicle in Idaho for 90 days in any 12-month period with no tax due. When the vehicle is kept here **more** than the 90 days, use tax applies on its full fair market value unless tax was paid to another state.

FOR MORE INFORMATION, READ:

Brochure #4	Retailers
Brochure #5	Retailers & Wholesalers: Making Exempt Sales
Rule 073	Tangible Personal Property Brought or Shipped to Idaho
Rule 092	Out-of-State Sales

