

Date: July 8, 2019
Time: 10:00 AM
Location: 1CR5/CDA

Committee Members:	Bonnie Vogt, Cheryl Shane, Doug Harrie, Gordon Myers, Krystal Skinkle, Leah Parsons, Lee Ely, Lisa Denmark, Rebecca Ewing, Renee Marsh, Shannon Carter, Tim B. Clark, Timothy Hurst
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Welcomecommittee chair

Sales and Use Tax (35.01.02)				
RULE NUMBER	TITLE	DOCKET	STATUS	TODAY'S ACTION
Rule 018	RETAILER DEFINED	35-0102-1901	August Bulletin	None
Rule 028	HOTELS, MOTELS, AND CAMPGROUNDS	35-0102-1902	August Bulletin	None
Rule 043	SALES PRICE OR PURCHASE PRICE DEFINED	35-0102-1903	August Bulletin	None
Rule 046	COATINGS ON TANGIBLE PERSONAL PROPERTY	35-0102-1903	August Bulletin	None
Rule 105	TIME AND IMPOSITION OF TAX, RETURNS, PAYMENTS AND PARTIAL PAYMENTS	35-0102-1904	August Bulletin	None
Rule 107	VEHICLES AND VESSELS – GIFTS, MILITAR PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS	35-0102-1905	Draft changes not approved	Review Revised Draft
Rule 112	DIRECT PAY AUTHORITY	35-0102-1902	Notice of Intent - June	Will not proceed

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Sales and Use Tax (35.01.02)				
RULE NUMBER	TITLE	DOCKET	STATUS	TODAY'S ACTION
Rule 128	CERTIFICATES FOR RESALE AND OTHER EXEMPTION CLAIMS	35-0102-1907	Notice of Intent - July	Will not proceed

Hotel/Motel and Campground Sales Tax (35.01.06)				
RULE NUMBER	TITLE	DOCKET	STATUS	TODAY'S ACTION
Rule 001	TITLE AND SCOPE	35-0106-1901	August Bulletin	None
Rule 011	HOTEL/MOTEL ROOM SALES TAX	35-0106-1901	Notice of Intent - May	Review Draft
Rule 016	EXEMPTIONS	35-0106-1901	August Bulletin	None
Rule 017	RECORDS REQUIRED	35-0106-1901	Draft changes not approved	Review Revised Draft
Rule 020	DISTRIBUTION	35-0106-1901	August Bulletin	None

Prepaid Wireless E911 Fee (35.01.14)			
RULE NUMBER	TITLE	STATUS	TODAY'S ACTION
	IDAHO STATE TAX COMMISSION (TAX COMMISSION)		

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 (RULE 107).

Sections 49-117, 49-121, 49-122, 63-3606B, 63-3621, 63-3622K, 63-3622R, and 67-7101, Idaho Code

01. In General. This rule discusses specific topics relating to vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of vehicles. (4-11-19)

02. Gifts of Vehicles. When the following facts clearly establish that a vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (4-11-19)

a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)

b. The recipient assumes no indebtedness. (7-1-93)

c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)

d. The donor and recipient complete and sign a Form ST-133GT, Use Tax Exemption Certificate -- Gift Transfer Affidavit and submit it to the county assessor along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit, the recipient can submit either: (4-11-19)

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor and attached to the affidavit; or (4-11-19)

ii. The title may be marked as a gift and signed by the donor. (3-4-10)

03. Purchases Brought into Idaho by Nonresidents. (4-11-19)

a. A nonresident does not owe use tax on the use of a motor vehicle which is purchased outside of Idaho and titled or registered under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this Subsection (107.03.a.), a motor vehicle is considered to have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. This exemption applies only to nonresidents. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more vehicles or vessels is not a nonresident. The use of a vehicle owned by such an entity will be subject to use tax upon its first use in Idaho. (4-11-19)

b. For the purposes of this rule, a corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state. (3-29-12)

c. A nonresident college student does not owe use tax on any use of a motor vehicle while enrolled as a full-time student in a college or university located in Idaho. The motor vehicle must be registered under the laws of the student's state of residence. The motor vehicle must be owned by the student or a family member of the student. The college or university must be accredited by the Idaho State Board of Education. (3-29-12)

04. New Residents. A new resident of Idaho does not owe tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired while residing in another state and used

primarily outside Idaho. If an owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that it was purchased primarily for use outside Idaho. New residents entering Idaho with a vehicle titled or registered in a state that does not impose a general sales and use tax will be required to complete and sign Form ST-102, Use Tax Exemption Certificate - New Resident ~~or Nonresident Military~~, and submit it to the ~~or~~ county assessor when applying for a title transfer or registration certificate.

(4-11-19) ()

a. If the vehicle, vessel, or aircraft was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (4-11-19)

b. A personally owned vehicle, vessel, or aircraft is one that is owned by, and titled or registered to, an individual or individuals. (4-11-15)

05. Military Personnel. (4-11-15)

a. Active duty military personnel and their spouses do not owe use tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter. If a vehicle owner obtained a registration or title from another state or nation of residence prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter, this is proof that the vehicle was primarily for use outside Idaho. (4-11-15)

b. Military personnel receive no special exemption from the Idaho sales and use tax regarding vehicles or other tangible personal property purchased while temporarily assigned in this state. A military person whose home of record is Idaho is considered to be a resident of this state. (4-11-19)

06. Tax Paid to Another State. When a general retail sales tax has been properly imposed by another state or political subdivision of a state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. The credit for state and local taxes paid in another state will be applied first to the state sales tax due and the remainder, if any, will be applied to any local taxes due. (3-30-07)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner must provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A resident of another state buys a vehicle in that state for ten thousand dollars (\$10,000) two (2) months before moving to Idaho. He presents his title from the other state to the county assessor. Since he acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to the other state was three hundred dollars (\$300) when the vehicle was purchased. Credit for this amount is allowed against the six hundred dollars (\$600) tax due Idaho. The county assessor will collect three hundred dollars (\$300) tax. (4-11-19)

c. Example: A resident of another state purchased a vehicle two (2) months before moving to Idaho. The applicant paid four percent (4%) state sales tax, one and six tenths percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total general sales tax paid was seven and two tenths percent (7.2%). Since the Idaho tax rate is lower, no tax is due Idaho because the amount of tax paid to the other state exceeds the amount owed Idaho. (4-2-08)

d. Example: A resident of Alaska purchases a vehicle immediately prior to moving to Idaho. The purchaser paid a three percent (3%) city sales tax in Alaska. When the purchaser moves to Idaho, credit will be given for the local tax paid against the Idaho state use tax due. (3-30-07)

e. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the vehicle from tax. (4-11-19)

f. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax must be paid on the fair market value of the vehicle when it is titled in Idaho. (7-1-93)

g. Taxes paid to another country cannot be used to offset the taxes owed to Idaho. (4-11-19)

07. Sales to Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. Form ST-133, Sales Tax Exemption Certificate -- Family or American Indian Sales. A Form ST-133, is used to document this exemption. The seller and buyer must complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the motor vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor and attached to the affidavit. (4-11-19)

b. This exemption does not apply if the seller did not pay tax when he acquired the motor vehicle. (4-11-19)

c. Example: An Oregon resident buys a motor vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the motor vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay sales or use tax when he acquired the motor vehicle. The son is required to pay Idaho use tax on the ten thousand dollar (\$10,000) purchase price of the motor vehicle. (4-11-19)

08. Sales to American Indians. An enrolled American Indian tribal member may buy a vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian reservation. (4-11-19)

a. Form ST-133, Sales Tax Exemption Certificate -- Family or American Indian Sales. A Form ST-133, is used to document this exemption. The seller and the buyer must complete and sign Form ST-133 and provide the name of the tribe, the Tribal Identification Number, and the name of the reservation upon which the delivery occurred. The affidavit is then given to the county assessor along with the title to the vehicle being transferred. See Rule 091 of these rules. (4-11-19)

09. Bulk Sale Transfers. A transfer or sale of a vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer must complete and sign Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit to present to the county assessor when applying for transfer of title. The buyer must attach a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (4-11-19)

10. Sales to Nonresidents. (4-11-19)

a. Sales of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), utility type vehicles (UTVs), specialty off-highway vehicles (SOHVs), off-highway motorcycles, and snowmobiles to nonresidents for use out of this state, even though delivery is made within this state are exempt from tax when: (4-11-19)

i. The motor vehicles, vessels, ATVs, UTVs, SOHVs, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (4-11-19)

ii. The motor vehicles, vessels, ATVs, UTVs, SOHVs, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than ninety (90) days in any twelve-month period. (4-11-19)

b. To claim the exemption, each buyer must provide the seller with a completed and signed Form ST-104NR, Sales Tax Exemption Certificate -- Nonresident Vehicle/Vessel. The seller must keep a copy for their records and send a copy of the completed form to the Tax Commission. (4-11-19)

c. This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, paddleboards, inflatable boats, or similar watercraft regardless of length when sold without a motor. (3-29-17)

d. For purposes of Subsection 107.10 of this rule, ATV, UTV, and SOHV have the same meaning given to them in Section 67-7101, Idaho Code. (4-11-19)

e. For purposes of Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: (3-20-04)

i. Sold together with a motor; or (5-3-03)

ii. Eleven (11) feet in length or more, not including canoes, kayaks, paddleboards, inflatable boats, or similar watercraft unless such canoe, kayak, paddleboard, inflatable boat, or similar watercraft is sold together with attached motor. (3-29-17)

f. For the purposes of Subsection 107.10 of this rule a trailer must meet the definition of a park model recreational vehicle, a trailer or utility trailer found in Sections 49-117, 49-121, and 49-122 Idaho Code, which is a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term “trailer” includes the specific types of trailers or park model recreational vehicles defined in Sections 49-117, and 49-121(6), Idaho Code. (3-28-18)

g. To qualify for this exemption the purchaser must be a nonresident of Idaho. An Idaho resident may form an LLC or other legal entity under the laws of another state. If such an LLC or other entity is formed primarily for the purpose of owning one (1) or more vehicles or vessels it is not a nonresident. The purchase or use of a vehicle or vessel in Idaho by such an entity is taxable. (4-11-19)

11. Motor Vehicles and Trailers Used in Interstate Commerce. The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of motor vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The buyer must complete and sign the Form ST-104IC, Sales Tax Exemption Certificate -- Interstate Commerce Vehicles and provide it to the seller. See Rule 101 of these rules. (4-11-19)

12. Related Party Transfers and Sales. Certain transfers and sales of vehicles between businesses defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner must complete and sign the Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit Form and submit the completed form to the county assessor when applying for title transfer. (4-11-19)

011. ACCOMODATIONS HOTEL/MOTEL ROOM SALES TAX (RULE 011).

Sections 63-3612, 67-4711, 67-4718, 67-4902, 67-4917B & C, 63-1801 through 63-1804, Idaho Code

01. In General. These rules apply to: (7-1-93)

~~a. The Idaho Travel and Convention Tax imposed by Section 67-4718, Idaho Code; and~~
~~(7-1-93)~~

~~b. The tax levied pursuant to Section 67-4917B, Idaho Code, by the Greater Boise Auditorium District.~~
~~(7-1-93)~~

a. Room Sales Tax. The room sales tax includes Travel and Convention Tax and Auditorium or Community Center District Tax when those taxes are administered by the Tax Commission. In these rules, they are referred to collectively as the room sales tax: ()

~~e. However, they will also apply to any future Auditorium or Community Center District organized under Chapter 49, Title 67, Idaho Code, if such district contracts with the State Tax Commission for the collection and administration of hotel/motel room sales tax.~~
~~(7-1-93)~~

i.02. Travel and Convention Tax. The tax ~~authorized~~ **imposed** by Section 67-4718, Idaho Code, is a gross receipts type sales tax imposed on the receipts derived from providing a place to sleep to an individual by operators of hotels, motels, and campgrounds as defined in these rules.
(7-1-93) ()

ii.03. Auditorium or Community Center District Tax. The tax ~~authorized~~ **imposed** by Section 67-4917B, Idaho Code, is a retail sales tax levied upon the user or occupant of a hotel/motel room which must be collected by the hotel or motel from the occupant or user and remitted to the ~~Idaho~~ State Tax Commission.
(7-1-93) ()

~~04. Room Sales Tax.~~ These two (2) taxes are collectively referred to in these rules as the room sales tax. (7-1-93)

~~05. Resort Cities.~~ These rules do not apply to sales taxes imposed by resort cities unless such taxes are administered by the State Tax Commission. (7-1-93)

b.06. Sales Taxes for Accommodations Pertaining to Room Charges. These rules explain the application of the state sales tax **on** to hotel/motel room charges **accommodations**. ~~but do not undertake a comprehensive explanation of state sales and use taxes as they may apply to such businesses. See the Tax Commission's rules relating to the Idaho Sales Tax Act for detailed statutory and regulatory provisions. See specifically also~~ IDAPA 35.01.02.028, "Idaho Sales and

Use Tax Administrative Rules, ” ~~Rule 028.~~

~~(7-1-93)~~ ()

02. These rules do not apply to the following taxes when not administered by the Tax Commission:

a. Auditorium or Community Center District Tax. Sales tax imposed by Section 67-4917B, Idaho Code. ()

b. Resort Cities. Sales taxes imposed by resort cities ()

017. RECORDS REQUIRED (RULE 017).

Sections 63-3622, 63-3624, 67-4711, 67-4718 and 67-4917C, Idaho Code

Any person that provides accommodations subject to the accommodations tax must ~~Each hotel, motel, and campground subject to the room occupancy tax shall~~ maintain the records required in IDAPA 35.01.02.111 and ; ~~“Idaho Sales and Use Tax Administrative Rules,” Rule 111 and, in addition, shall maintain~~ the records and exemption certificates required in IDAPA 35.01.06.016 necessary to document exemptions from the room sales accommodations tax. ~~Such records shall include a copy of any written lease or other agreement pursuant to which a continuous occupancy is claimed and copies of any direct billings to governmental entities exempt from tax.~~ These records ~~shall~~ must be maintained ~~hotel or motel~~ for a period of four (4) years and ~~shall be~~ are subject to audit by the State Tax Commission or, ~~in the case of hotels or motels with the Greater Boise Auditorium District, the Greater Boise Auditorium~~ and Community Center Districts organized under chapter 49, title 67, Idaho Code.

~~(7-1-93)~~ (____)