

Date: June 20, 2018
Time: 1:30 PM
Location: 1CR5

Welcome &

Introductions.....committee chair

Approval of May 23, 2018 Minutes.....committee chair

Rules Status Report..... committee chair

| Sales and Use Tax (35.01.02) | | |
|------------------------------|------------------------------|---------------------------|
| RULE NUMBER | TITLE | TODAY'S ACTION |
| Rule 003 | ADMINISTRATIVE APPEALS | No comments or questions. |
| Rule 011 | RETAIL SALES: SALE AT RETAIL | No comments or questions. |

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| Rule 043 | SALES PRICE OR PURCHASE PRICE DEFINED | <p>The question was raised as to what is different in this rule change than what is currently being done. The chair explained that nothing was different and the rule change was to promote awareness and to put the section in place with other like items in the rules. John Watt asked if this would apply to manufacturers with this change. Doug Harrie (STC) stated he doesn't see that happening and there is a distinction between assembly and installation already. He said both components need to be separately stated and the installation portion is not subject to sales tax. John Watt questioned if assembly was subject to sales tax already. Doug Harrie (STC) explained that assembly is subject to sales tax already as long as it is not tangible real property. The chair stated that it depends on the facts of the particular sale, but the word "assembly" is in section 2a currently. The chair explained that the word is referenced in other parts of the rule and the change is for consistency throughout the rule. John Watt said he understood the consistency. John Watt asked specifically about the installation of refrigerator equipment in a restaurant. The chair stated it was tangible personal property. Doug Harrie explained that the customer was after a fully assembled piece of equipment. He said if it had to be installed on site then that should be separately stated from assembly. Doug explained that the customer was after the final product which included all the assembly. Pam Watt asked, if a customer bought a bicycle or a BBQ, would the assembly of the bicycle or BBQ be taxed and was this staying the same or changing. Doug Harrie said the full price of the product plus the assembly is taxable. The chair confirmed that this has been held in audit as well that the assembly has been taxed the past and this rule change doesn't change current practice. John Watt asked about specific scenarios. The chair will meet with John Watt and Pam Eaton before the next meeting. John Watt requested they meet before the chair works on the rule draft.</p> |
| Rule 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 | <p>The chair explained the changes to this rule came out of changes to the forms. The chair stated the intent was to reference the terms motor vehicles and vehicles specifically rather than interchangeably. The chair went through the changes one by one. Commissioner Moyle asked what word was referenced in the code in section 9. There were no other comments or questions. The chair said the forms committee is deciding if Form ST104 should be split into two forms. The chair again clarified the word "motor" would be removed from the rule except in the one subsection where it mattered. The chair stated this rule would be presented to the Idaho Transportation Department and the redraft would be brought to the next meeting. She also stated the Form ST104 edits would be done. Lee Ely (STC) pointed out another incident where the word "motor" should be removed. The question was asked why it was being broadened in subsection g but not in a.</p> |

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| Rule 110 | RETURNS FILED BY COUNTY ASSESSORS AND FINANCIAL INSTITUTIONS | The chair went through the changes one by one. She stated the purpose of this change is to clarify that financial institutions should get a permit and remit the tax. The chair asked for suggestions and questions. Dave Weidemann stated the change was not specific enough because some institutions could argue that the rule doesn't say they have to actually use the permit to remit the tax, only that they must have a permit. Commissioner Moyle asked about changing the order and moving section 03 since obtaining a permit comes before remitting the tax. The chair will look at this and bring a new draft to the next meeting. Dave Wiedemann stated that some financial institutions don't want to run all their tax under their permit and when the tax is remitted it isn't tracked and not specified what it is for. The chair said Rule 70 needs redone in the future but there isn't time right now, but that she would look at it when redrafting this rule. |
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| Hotel (35.01.06) | | |
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| RULE NUMBER | TITLE | TODAY'S ACTION |
| Rule 003 | ADMINISTRATIVE APPEALS | The chair stated the reason for this rule change was to make sure all the appeals information was available in one place and held value for anyone interested in that process. Tom Shaner noted the Department of Administration had asked the Tax Commission to put appeal information in several other tax types too. |

Next open sales tax meeting will be in **1CR5** on **July 18, 2018 @ 1:30 PM**

003. ADMINISTRATIVE APPEALS (RULE 003).

01. This chapter ~~does~~ allows administrative relief as provided in ~~of the provisions~~
~~outlined herein under~~ Sections 63-3626, 63-3631, 63-3633, 63-3634, and -63-3049, Idaho Code.
~~(7-1-93)~~ ()

02. Cross Reference.

a. See Rule 121 of these rules, Notice of Deficiency Administrative Review Appeals
and Judicial Review. ()

b. See IDAPA 35.02.01. “Tax Commission Administration and Enforcement Rules.”
()

11. RETAIL SALES: SALE AT RETAIL (RULE 011).

Sections 63-3612 and 63-3613, Idaho Code

The Idaho Sales Tax is a tax on retail sales. Retail sales include all sales of tangible personal property except for property that will be resold, leased, or rented in the regular course of the buyer's business. (7-1-93)

1. Retail Sales. Retail sales also include: (7-1-93)

a. Sales to any person who constructs, alters, repairs or improves real property regardless of whether the person improving the property intends to resell it. See Rule 012 of these rules. (3-30-07)

b. Charges for assembling, producing or fabricating property to the special order of the customer. See Rule 029 and 043 of these rules. ~~(3-30-07)~~ ()

c. Furnishing, preparing or serving food, meals or drinks for compensation. See Rule 041 of these rules. (3-30-07)

d. Admission charges. See Rule 030 of these rules. (3-30-07)

e. Charges for the use or privilege of using tangible personal property or facilities for recreation. See Rules 030 and 047 of these rules. (3-30-07)

f. Providing hotel, motel, tourist home and trailer court accommodations. See Rule 028 of these rules. (3-30-07)

g. Leasing or renting tangible personal property. See Rule 024 of these rules. (3-30-07)

h. For sales of air transportation services see Rule 037 of these rules. (3-30-07)

2. Retail Sales of Tangible Personal Property Together with Services. The sales tax applies to retail sales of tangible personal property. It does not apply to the sale of services except as stated above. However, when a sale of tangible personal property includes incidental services, the tax applies to the total amount charged, including fees for any incidental services except separately stated transportation and installation fees. The fact that the charge for the tangible personal property results mainly from the labor or creativity of its maker does not turn a sale of tangible personal property into a sale of services. The cost of any product includes labor and manufacturing skill. To determine whether a transaction is a retail sale of tangible personal property or a sale of services, the following tests must be applied. (7-1-93)

a. To determine whether a transfer of tangible personal property is a taxable retail sale or is merely incidental to a service transaction, the proper test is to determine whether the transaction involves a consequential or inconsequential professional or personal service. If the service rendered is inconsequential, then the entire transaction is taxable. If a consequential service is rendered, then it must be determined whether the transfer of the tangible personal property is an

inconsequential part of the transaction. If so, then none of the consideration paid is taxable.
(7-1-93)

b. To determine whether a mixed transaction qualifies as a sale of services, the object of the transaction must be determined; that is, is the buyer seeking the service itself, or the property produced by the service. (7-1-93)

c. When a mixed transaction involves the transfer of tangible personal property and the performance of a service, both of which are consequential elements whose costs may be separately stated, then two (2) separate transactions exist. The one attributable to the sale of tangible personal property is subject to sales tax while the other is not. (7-1-93)

3. Determining the Type of Sale. To determine whether a specific sale is a sale of tangible personal property, a sale of services or a mixed transaction, all the facts surrounding the case must be studied and the tests described above must be applied. Here are some examples. (7-1-93)

a. Example 1: An attorney is retained by a client to prepare his will. The attorney prepares the will, sees that it is properly executed and bills the client. The physical document, the will, is then transferred from the attorney to the client. This is a sale of services because the client's object is not to obtain the will itself, but to ensure that his estate is disposed of in a certain way when he dies. Since, the transaction between the attorney and the client is not a retail sale of tangible personal property, no sales or use tax applies. However, the attorney must pay sales or use tax when he buys stationery and other equipment to prepare the will. Compare Example 5. (7-1-93)

b. Example 2: The attorney in Example 1 prepares a form book of wills which he intends to sell to other attorneys. The will he prepared in Example 1 is included in the form book. The sale of the form book to other attorneys is a taxable retail sale of tangible personal property. From the buyer's point of view, the object of the sale is to obtain the book, which is tangible personal property. The fact that special skill or knowledge went into the preparation of the book and is reflected in the purchase price does not make the sale of the form book a service transaction. (7-1-93)

c. Example 3: An architect is hired to prepare construction plans for a house. He prepares the plans and delivers them to his client. As in the example of the attorney preparing the will, this is a sale of services and the transfer of the tangible personal property, the plans, is inconsequential the transaction. No sales or use tax is due on the sale of the plans. (7-1-93)

d. Example 4: The architect in Example 3 is asked to provide additional copies of the same plans to his original client or to a third party. The architect copies the plans on a duplicating machine and sells them to the requesting party. This is a taxable retail sale of tangible personal property, since the buyer's object is to obtain the property, the plans. (7-1-93)

e. Example 5: An artist is commissioned to paint an oil portrait. When the portrait is completed, ownership is transferred to the client who pays the artist a lump-sum amount for the portrait. This is a taxable retail sale of tangible personal property because the buyer's object is to obtain the portrait. If the artist otherwise qualifies as a retailer, he is required to collect and remit sales tax on the sale of the portrait. (7-1-93)

f. Example 6: An automobile repair shop does repair work for a customer. To do the work, the shop must replace certain parts on the automobile. The repair shop bills its customer an amount for the repair parts and a separate amount for labor. This is a mixed transaction. As long as the sale of the tangible personal property, the parts, and the sale of services, the labor, are separately stated, sales tax is due only on the sale of the parts and not on the charge for labor. However, allocation of the total charge between parts and labor must be reasonable. If part of the charge for parts is unreasonably attributed to the cost of labor, the allocation may be adjusted by the Tax Commission. (7-1-93)

g. Example 7: A retail clothing store provides needed alterations to items purchased by customers. Even though the sale depends on the alterations being done, the service is incidental to the sale of the property. The entire transaction is a retail sale subject to tax on the total price paid by the buyer, even if the charge for the alteration labor is separately stated. (7-1-93)

4. Kinds of Services Incidental to the Sale. Two (2) kinds of services rendered incidental to a retail sale are specifically exempt from tax if the charge for the service is separately stated. They are: (7-1-93)

a. Charges for transportation after the sale. See Section 63-3613, Idaho Code, and Rule 061 of these rules; and (3-30-07)

b. Installation charges. See Section 63-3613, Idaho Code, and Rule 012 of these rules. (3-30-07)

5. Separately Stated Nontaxable Charges. Separately stated nontaxable charges for transportation or installation may not be used to avoid tax on the actual sales price of tangible personal property. If the allocation of the total price is unreasonable, the State Tax Commission may adjust it. (7-1-93)

6. Tangible Personal Property Used or Consumed by a Business. Tangible personal property used or consumed by a business in performing a nontaxable service is subject to sales or use tax. See Rule 072 of these rules. (3-30-07)

43. SALES PRICE OR PURCHASE PRICE DEFINED (RULE 043).

Section 63-3613, Idaho Code

1. Sales Price and Purchase Price. The term sales price and purchase price may be used interchangeably. Both mean the price paid by the customer or user to the seller including:
(7-1-93)

- a.** The cost of transporting goods to the seller. See Rule 061 of these rules. (3-20-04)
- b.** Manufacturer's or importer's excise tax. See Rule 060 of these rules. (3-20-04)
- c.** Services agreed to be rendered as part of the sale. (7-1-97)
- d.** Separately stated labor charges to assemble, produce, or fabricate made to order goods. See Rule 029 of these rules. (3-20-04)

2. Services Agreed to Be Rendered as a Part of the Sale. The sales and use tax is computed on the sales price of a transaction. The term "sales price" is defined by Section 63-3613, Idaho Code, to include "services agreed to be rendered as a part of the sale." The following items are among those that are part of the sales price and, therefore, may not be deducted before computation of the sales price. This is not intended to be an exclusive list of such items:
(4-4-13)

- a.** Any charges for any services to bring the subject of a sale to its finished state ready for delivery and in the condition specified by the buyer, including charges for assembly, fabrication, alteration, lubrication, engraving, monogramming, cleaning, or any other servicing, customizing or dealer preparation. (3-20-04)
- b.** Any charge based on the amount or frequency of a purchase, such as a small order charge or the nature of the item sold, such as a slow-moving charge for an item not frequently sold. (3-20-04)
- c.** Any commission or other form of compensation for the services of an agent, consultant, broker, or similar person. (3-20-04)
- d.** Any charges for warranties, service agreements, insurance coverage, or other services required by the vendor to be taken as a condition of the sale. If the sale could be consummated without the payment of these charges, the charges are not part of the sales price if separately stated. Also, see Rule 049 of these rules. (3-20-04)
- e.** Any fuel surcharges except those charges which the vendor can document are related only to delivery of the property to the end customer. (4-4-13)

f. Any environmental or disposal fee except those fees directly imposed by a governmental agency. (4-4-13)

3. Charges Not Included. Sales price does not include charges for interest, carrying charges, amounts charged for optional insurance on the property sold, or any financing charge. These various charges may be deducted from the total sales price if they are separately stated in the contract. In the absence of a separate statement, it will be presumed that the amount charged is part of the total sales price. (3-20-04)

4. Gratuities. When a gratuity is paid in addition to the price of a meal, no sales tax applies to the gratuity. A gratuity can be paid voluntarily by the customer or be required by the seller. A gratuity is also commonly known as a tip. (3-29-12)

a. If a gratuity does not meet all of the following requirements, the gratuity will be subject to sales tax: (3-29-12)

i. A gratuity must be paid to the service provider of the meal as additional income to the base wages of the service provider; (3-29-12)

ii. A gratuity must be separately stated on the receipt or be voluntarily paid by the customer; and (3-29-12)

iii. A gratuity must not be used to avoid sales tax on the actual price of the meal. (3-29-12)

b. For the purposes of Subsection 043.04 of this rule, the following definitions apply: (3-29-12)

i. Meal. Food or drink prepared for or provided to a customer. (3-29-12)

ii. Service provider. An individual directly involved in preparing or providing a meal to a customer. This includes, but is not limited to, the server, the busser, the cook and the bartender. This does not include individuals who manage or own the company if they are not directly involved in preparing and providing a meal. (3-29-12)

5. Service Charges. Amounts designated as service charges, added to the price of meals or drinks, are a part of the selling price of the meals or drinks and accordingly, must be included in the purchase price subject to tax, even though such service charges are made in lieu of tips and paid over by the retailer to his employees. (7-1-93)

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, 63-3622Z &and 67-7101, Idaho Code

1. In General. This rule discusses specific topics relating to ~~motor~~-vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of ~~motor~~-vehicles. (3-6-00)

2. Gifts of ~~Motor~~-Vehicles. When the following facts clearly establish that a ~~motor~~-vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (7-1-93)

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 ~~Sales-Use~~ Tax Exemption Certificate ~~-Gift~~ Transfer Affidavit, Form ST-133GT, and submit it to the county assessor or the Idaho Transportation Department along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit, the recipient can submit either:
(2-18-02)()

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor or his representative and attached to the affidavit; or (2-18-02)

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

3. ~~Purchases brought into Idaho by Nonresidents.~~ (3-30-07)

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 motor vehicles 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. (4-2-08)

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)

4. 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 a vehicle 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 the vehicle was 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 ~~Idaho Transportation Department~~ or county assessor when applying for a title transfer or registration certificate. (4-11-15)

a. If the vehicle 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. (7-1-93)

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)

5. 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 ~~motor~~ 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. (4-11-15)

6. 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 an Idaho 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 assessor will collect three hundred dollars (\$300) tax. (4-11-15)

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 ~~motor~~ vehicle from tax. (7-1-93)

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 nation cannot be offset against the taxes owed to Idaho. (7-1-93)

7. **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. The Sales Tax Exemption Certificate ~~-Transfer Affidavit~~ Family or American Indian Sales, 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 county assessor along with the title to the 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 or his representative and attached to the affidavit. (2-18-02)()

b. This exemption does not apply if the seller did not pay tax when he acquired the vehicle. (7-1-93)

c. Example: An Oregon resident buys a vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the vehicle for ten thousand dollars (\$10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay a sales or use tax when he acquired the vehicle. The son is required to pay Idaho use tax on the ten thousand dollar (\$10,000) purchase price of the vehicle. (4-11-06)

8. **Sales to American Indians.** An enrolled American Indian tribal member may buy a ~~motor~~-vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian ~~Reservation~~reservation. The Sales Tax Exemption Certificate ~~- Family or American Indian Sales~~Transfer Affidavit, Form ST-133, is used to document this exemption. The seller and the buyer must complete and sign ~~Sales Tax Exemption Certificate~~ ~~-Transfer Affidavit~~ Form ST-133 including and provide the name of the tribe, the Tribal Identification Number and the name of the ~~Reservation~~reservation upon which the sale and delivery occurred. The affidavit is then given to the ~~Idaho Transportation Department~~ or county assessor along with the title to the vehicle being transferred. (2-18-02)()

9. **Bulk Sale Transfers.** A transfer or sale of a ~~motor~~-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 Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit Form ST-133CATS to present to the Idaho Transportation Department or 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. (2-18-02)

10. Sales to Nonresidents ~~Vehicles and Vessels Purchased in Idaho by Nonresidents for Use Outside Idaho.~~ (5-3-03)

a. Sales of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), utility type vehicles (UTVs), specialty off-highway vehicles, 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: (3-25-16)

i. The motor vehicles, vessels, ATVs, UTVs, specialty off-highway vehicles, 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 (3-25-16)

ii. The motor vehicles, vessels, ATVs, UTVs, specialty off-highway vehicles, 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. (3-28-18)

b. To claim the exemption, the buyer must provide the seller with a completed and signed Sales Tax Exemption Certificate - Vehicle/Vessel Form ST-104-MV. The seller should keep a copy for its record and send a copy of the completed form to the Tax Commission. ()

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 specialty off-highway vehicle have the same meaning given to them in Section 67-7101, Idaho Code. (3-25-16)

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 vessels or motor vehicles it is not a nonresident. The purchase or use of a motor vehicle in Idaho by such an entity is taxable. (3-30-07)()

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 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 owner must complete and sign the Sales Tax Exemption Certificate - Vehicle/Vessel Form ST-104MV, and provide it to the seller, the Idaho Transportation Department or the county assessor when applying for title transfer. See Rule 101 of these rules. (5-3-03)

12. ~~Related Party Transfers and Sales.~~ Certain transfers and sales of ~~motor~~-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 Sales Tax Exemption Certificate - Capital Asset Transfer Affidavit Form ST-133CATS to submit to the Idaho Transportation Department or county assessor when applying for title transfer. (2-18-02)

110. RETURNS FILED BY COUNTY ASSESSORS AND FINANCIAL INSTITUTIONS (RULE 110).

Sections 63-3623 ~~&and~~ 63-3638(9), Idaho Code

1. Filing Returns. Upon collection of sales tax on applications for certificate of title to a motor vehicle, trailer, or other titled property, or initial application for registration processed by the county assessor, the assessor shall, no less than monthly, complete and submit to the Commission, Form ST-852, Idaho Sales Tax Return-County Assessors. The assessor may, at his discretion, submit the form more frequently. But at no time shall the amount of tax collected during any month be submitted later than the twentieth day of the month following the month in which the tax was collected. (4-6-05)

2. Reimbursement. The assessor and the Idaho Transportation Department will be reimbursed at the rate of one dollar (\$1) for each application for certificate of title or initial registration of a motor vehicle, trailer, or other titled property; each Form ST-108, Transport Trailer, Office Trailer, and Untitled Boat Certificate; and each Form ST-108TR, Occasional Sale Exemption Claim -- Office Trailer and Transport Trailer, processed by the assessor except those upon which any sales or use tax due has been previously collected by a retailer or paid by the purchaser. (3-25-16)

3. Financial Institutions. Financial institutions collecting tax on sales of tangible personal property that they are financing, whether sold by the financial institution or another, must remit the tax to the Commission no later than the twentieth day of the month following the ~~month last day of the reporting period in which the tax was collected from the purchaser of the tangible personal property.~~ Financial institutions must obtain a permit and report the tax collected. Failure to remit the tax on a timely basis will result in the addition of penalties and interest as provided by Sections 63-3632 and 63-3634, Idaho Code. (4-6-05) ()

04. Cross Reference

a. Permits. See Rule 070 of these rules ()

b. Time and Imposition of Tax, Returns, Payments and Partial Payments. See Rule 105 of these rules. ()

003. ADMINISTRATIVE APPEALS (RULE 003).

01. This chapter ~~does~~ allows administrative relief ~~of the provisions outlined herein~~
~~underas provided in~~ Sections 63-3626, 63-3631, 63-3633, 63-3634, and 63-3049, Idaho Code. (~~7-~~
~~1-93~~) ()

02. Cross Reference.

a. See IDAPA 35.01.02.121 “Idaho Sales and Use Tax Administrative Rules.” ()

b. See IDAPA 35.02.01. “Tax Commission Administration and Enforcement Rules.”
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