

IDAPA 35 – STATE TAX COMMISSION

35.01.02 – IDAHO SALES AND USE TAX ADMINISTRATIVE RULES

DOCKET NO. 35-0102-

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), 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 67-5221(1) and 63-105A, Idaho Code.

MEETING SCHEDULE: A public meeting on the negotiated rulemaking will be held as follows: TBD

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting(s) 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.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

Sales Tax Rule 012 is being amended to clarify the nature of certain property typically installed by contractors.

Sales Tax Rule 024 is being amended to address tangible personal property purchased for resale by a business when the property is primarily rented to an entity with substantially similar ownership as the owner of the property.

Sales Tax Rule 027 is being amended to address digital goods and the use of software accessed over the internet.

Sales Tax Rule 030 is being amended to address the purchase of tickets and vouchers for admission when the ticket or voucher is acquired with the intent to resell it.

Sales Tax Rule 037 is being amended to clarify the exemption for the purchase and use of aircraft primarily utilized in transporting freight or passengers, to define several terms in relation to that exemption, and to reflect statutory changes enacted in the last legislative session that exempted the sales of repair parts installed into aircraft owned by a nonresident.

Sales Tax Rule 041 is being amended to reflect statutory changes enacted in the last legislative session that exempted the purchase and consumption of beverages given away as part of a free tasting.

Sales Tax Rule 043 is being amended to clarify whether certain fees or charges added onto the sale of tangible personal property, such as fuel surcharges or environmental fees, should be included in the taxable sales price.

Sales Tax Rule 044 is being amended to address the trade in of merchandise in which cash is received for all or part of the value of that merchandise and to define the term “trade down.”

Sales Tax Rule 047 is being amended to address the purchase of tickets and vouchers for admission and for the right to use a recreational facility when the ticket or voucher is acquired with the intent to resell it.

Sales Tax Rule 051 is being amended to address discount coupons and vouchers sold by third parties and to reflect statutory changes enacted in the last legislative session that exempted the purchase and consumption of beverages given away as part of a free tasting.

Sales Tax Rule 067 is being amended to address the nature of property installed in buildings constructed for a specific purpose, such as a movie theater or stadium, which would require significant structural modification to serve any other purpose.

Sales Tax Rule 072 is being amended to define the term “recent sales price” and to clarify tangible personal property removed from a resale inventory.

Sales Tax Rule 079 is being amended to address the purchase and use of maintenance supplies for an inactive production facility with no current plans to start production.

Sales Tax Rule 095 is being amended to define “money operated dispensing equipment” to include machines operated by credit or debit cards.

Sales Tax Rule 101 is being amended to reflect statutory changes enacted in the last legislative session that changed the period for reviewing the ongoing IRP use tax exemption.

Sales Tax Rule 105 is being amended to clarify tangible personal property removed from a resale inventory and to reflect statutory changes enacted in the last legislative session that exempted the purchase and consumption of beverages given away as part of a free tasting.

Sales Tax Rule 109 is being amended to define “amusement device” to include machines operated by debit or credit card and prepaid cards.

Sales Tax Rule 128 is being amended to address current policy and procedure regarding temporary seller’s permits and to make minor technical corrections to bring rule in line with current policy and procedure for various other permits.

Sales Tax Rule 129 is being amended to address the purchase of tickets and vouchers for the right to use a recreational facility when the ticket or voucher is acquired with the intent to resell it.

Sales Tax Rule 130 is being amended to clarify current policy and procedure regarding temporary seller’s permits.

Sales Tax Rule 136 is being amended to clarify procedures and requirements to claim and receive a rebate under Idaho Code section 63-3641.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, if available, contact McLean Russell at (208) 334-7531.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned.

DATED this 4th day of May 2012.

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