

**SALES TAX RULES COMMITTEE  
AGENDA**

The Committee convenes on Thursday, August 10, 2017 at: 9:00 a.m.

Room 1CR5 / Plaza IV / 800 Park Ave / Boise, Idaho

Welcome & Introductions

*Committee Chair Tom Shaner*

**SALES TAX RULES**

1. **Rule 013 – Road and Paving Contractors.** One example was removed based on feedback from the Contractors Association.

**HOTEL/MOTEL TAX RULES**

2. **Rule 001 - Title And Scope.** A question was raised at the last meeting about adding a definition of 30 days or less.
3. **Rule 006 - Lodging Operators And Short-term Rental Marketplaces.**  
The Notice of Intent for this was published in the August bulletin.
  1. Any old business?
  2. Any Additional Items for Discussion
  3. Next meeting date: There are no more public meetings scheduled at this time.
  4. Meeting adjourned

*For more information, please contact the Committee Chair, or the Rules Coordinator at [sherry.briscoe@tax.idaho.gov](mailto:sherry.briscoe@tax.idaho.gov) or at 208.334.7544. All agendas and rules related documents are posted on our website under the appropriate committee. If you are unable to attend, but would like to participate via calling in, please contact Sherry Briscoe to receive a conference call dial-in number.*

**013. ROAD AND PAVING CONTRACTORS (RULE 013).**

Sections 63-3609, 63-3615, Idaho Code

**01. In General.** This rule illustrates the application of Idaho sales and use tax to specific activities of road and paving contractors. The general principles stated in Rule 12 of these rules apply equally to road and paving contractors. (7-1-96)

**02. Road or Paving Contractor.** A road or paving contractor is a contractor improving real property. The use of materials over which he exercises right or power in the course of performing the contract is subject to tax. This is true even if an exempt entity, such as a government agency, owns the material. It is also true if the contractor does the work under the full or partial supervision of the person for whom the contractor is performing the contract. ( )

Here are some examples of taxable materials contractors use in paving and road contracts:

- a. Example 1: A contractor is hired to pave a road for a city. The materials the contractor will use are taxable, regardless of ownership, and include rock, sand, asphalt oil, chemicals, bonding agents, or any other like materials which become the aggregate pavement. ( )
- b. Example 2: A contractor is hired to chip seal a local road. The chip seal includes a layer of liquid asphalt or similar material applied to the road with an immediate layer of rock chips applied on top of the wet asphalt. A roller sets the rock chips in place. Once this dries, the surface is cleaned and another oil seal or like product is applied. These three items and any other materials used to form the aggregate chip seal are subject to tax. ( )
- c. Example 3: A contractor is hired to perform landscaping for the barrow pits and shoulders of a new highway. The highway district provides the grass seed and some bushes for the project. The contractor provides labor to sow the seed, plant the bushes, and labor and materials to provide erosion control, land leveling, contouring, etc. The contractor owes sales or use tax on all materials consumed, including those provided by the highway district. ( )
- d. Example 4: A contractor is hired to install a new bridge and provide drainage for a new freeway interchange. The highway district provides the bridge components and culverts needed for the project, and the contractor provided all of the remaining materials and the labor for the project. The contractor will owe sales or use tax on all materials he consumes including the bridge components and culverts provided by the highway district, as well as on the materials the contractor purchased for use on the project. ( )
- e. Example 5: A contractor is hired to install traffic control lights, signage, and roadway illumination for a rebuilt section of roadway. The highway district provides the traffic control signals and the permanent signage for the highway so that all signage will be consistent throughout the highway district. The contractor owes use tax on the value of the traffic signals and signage provided by the highway district as well as on the cost of electrical wiring, signal wiring, and the lights and light poles, etc. purchased and consumed by the contractor. ( )

**03. Materials.** The sale or use of materials which are extracted and crushed is taxable. Use tax does not apply to the use of natural materials that are secured on site and used without significant change. (7-1-96)

**04. Rock Crushing.** The application of the sales or use tax to rock crushing operations depends upon the circumstances of the case. (7-1-96)

**a.** A sale of crushing only is a sale of a taxable processing service. In this circumstance the crusher obtains raw material owned by another, crushes the rock, and stockpiles it for subsequent use either by the owner or a third party. Unless an exemption applies, the crusher must charge tax on all such sales. (7-1-96)

**b.** A contractor who applies crushed rock to the highway pursuant to a contract is a person engaged in improving real property. If the contractor applying the crushed rock purchases the rock, the purchase price will be subject to a sales or use tax. If the contractor applies rock owned by another party, the contractor will be responsible for a use tax on the value of the rock, unless the other party paid a sales tax upon its acquisition. This is true even if a government agency supplied the rock. If a recent retail acquisition of the crushed rock exists, the retail price shall be presumed to be the value of the material. If a recent retail sales price does not exist, then value shall be determined by the current acquisition cost of like material from the same or a similar source. For purposes of this section, a retail acquisition within one (1) year of the time of the performance of the contract shall be presumed to be a recent sales price. (7-1-96)

**c.** A contractor whose contract calls for him to both crush and apply rock to a road is also subject to sales or use tax on the value of the rock whether the contract is performed for a governmental or private contractee. The value shall be determined by the royalty or similar charge for raw materials. If a royalty or similar charge does not exist, then the value will be determined as the royalty fee or value of like material from a similar source. If the contractor chooses to have the rock crushed by a subcontractor, the measure of the use tax is on the crushed value. (7-1-96)

**d.** A sale of rock crushing services to a retailer who will sell the rock is an exempt sale. The sale of crushed rock to a consumer is a taxable sale unless an exemption applies. (7-1-96)

**05. Production Exemption.** (7-1-96)

**a.** Since a contractor improving real property is defined as the consumer of materials incorporated into realty, he is not producing an article for resale. Therefore, the production exemption does not apply to the use of equipment used by contractors to produce asphalt or concrete which are used to complete paving contracts. (7-1-96)

**b.** A business which is primarily devoted to producing crushed rock, asphalt, or concrete which is ultimately sold at retail will qualify for the production exemption. See Idaho Administrative Sales Tax Rules 079 and 082. (7-1-96)

The Notice of Intent to Promulgate Rules for 35.01.06.006 is to be filed in the August Administrative Bulletin

**006. Lodging Operators And Short-term Rental Marketplaces (Rule 006).**

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

**01. In General.** These rules apply to the Short-term Rental and Vacation Rental Act, Section 63-1801 through 63-1804, Idaho Code. ( )

**02. Applicable Taxes.** Any state or local government taxes imposed according to 63-1804 will be collected, reported, paid, and administered according to these rules or as further explained by the Tax Commission's rules in IDAPA 35.01.02 ( )

**03. Registration.** Registration will be in the same manner and in the same form as is required for obtaining a seller's permit for state sales tax. However, a short-term rental marketplace that has not facilitated a lodging transaction in Idaho shall have forty-five (45) days from the completion of their first lodging transaction in Idaho to register to collect room sales tax. ( )

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