

## **Excise & Sales Tax Unit**

# **Excise & Sales Tax Unit Procedures Manual**

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## Unit Overview

This Excise & Sales Tax Unit specializes in identifying companies or individuals primarily located in Idaho that have a tax filing and/or permitting requirement with the state of Idaho and who are not in compliance with state tax law. Auditors in this unit are responsible for establishing the filing obligation by determining and documenting business activities, conducting interviews of business owners and employees, auditing and reviewing books and records of the business whether in the office or the business setting, and to educate the taxpayer or their representative of the need to file. Auditors communicate with other Excise & Sales Tax Units within the agency and with representatives outside the agency, including, but not limited to Idaho Department of Transportation, Department of Motor Vehicles offices in 44 counties, the Division of Aeronautics, and Alcohol Beverage Control. The Excise & Sales Tax Unit reviews tax types which include cigarette, tobacco, beer, wine, and sales/use taxes. Auditors identify and follow up on individual and business income tax non-filer issues as needed. Audits may require field work and as necessary, to include travel throughout Idaho and locations within the United States.

All references to Idaho rules in this manual refer to IDAPA 35.01.02, Idaho Sales & Use Tax Administrative Rules unless otherwise noted.

# Motor Vehicles

## VEHICLE TRANSACTIONS

Vehicles operated in the state of Idaho by Idaho residents are required to be registered in the county where they primarily reside. Vehicle registrations are administered by the Idaho Transportation Department's Division of Motor Vehicles and facilitated locally through each county Assessors' Department of Motor Vehicle (DMV) office.

Tax Commission staff must understand the codes and rules to properly apply sales and use tax to vehicle transactions. Most tax code references are found within the Idaho Sales Tax Act [[Title 63, Chapter 36](#)]. However, these code and rules may refer to Motor Vehicles [[Title 49](#)] and Recreational Activities [[Title 67, Chapter 71](#)] statutes for purposes of definition and registration.

Idaho Code restricts issuance of title and registration until the new owner presents evidence that sales or use tax was paid or that a valid tax exemption applies. [IC 63-3623(l) & (m)]

Sales tax is imposed on all retail sales of tangible personal property and collected by dealers and retailers at the time of sale [IC 63-3619]. Use tax is imposed on all tangible personal property stored, used, or consumed in Idaho if purchased without paying sales tax [IC 63-3621]. The current sales and use tax rate is 6%.

Use tax is collected by a county Assessor's office (DMV) when a nontaxed transaction occurs, such as private party sale. The Tax Commission collects use tax from an owner when exemptions are improperly claimed, the selling price is far below the fair market value, or vehicles operating in Idaho are registered in non-taxing states to avoid tax.

The statutes of limitation on the assessment of sales or use tax are as follows:

- The dealer collected but didn't remit tax to the state – no statute [[IC 63-3633\(b\) & \(d\)](#)]
- The dealer collected tax and remitted it to the state – three (3) years [[63-3633\(a\)](#)]
- The purchaser didn't pay tax (no evidence of fraud) – seven (7) years [[63-3633\(c\)](#)]

- The purchaser didn't pay tax (evidence of fraud) – no statute [[63-3633\(b\)](#)]

## TAX DISCOVERY ACTIONS

*Information redacted pursuant to Idaho Code Section 74-109(4)*

## ITD DATASTORE IN GENTAX WAREHOUSE

An electronic file of all title transactions is submitted to the Idaho State Tax Commission on a monthly basis. This information is uploaded into the ITDvehicle Data Store in the Data Warehouse in GenTax.

*Information redacted pursuant to Idaho Code Section 74-109(4)*

## OTHER LEAD SOURCES

*Information redacted pursuant to Idaho Code Section 74-109(4)*

## VEHICLE DEFINITIONS

**ATV (All-terrain vehicle):** Any recreational motor vehicle designed for or capable of traveling off developed roadways and highways with three (3) or more tires and fifty-five (55) inches or less in width, with a wheelbase of sixty-one (61) inches or less, and with handlebar steering and a seat designed to be straddled by the operator.

[[IC 63-3622R \(a\)\(3\)](#)] & [[IC 67-7101\(1\)](#)]

**Glider kit vehicle:** Every large truck manufactured from a kit manufactured by a manufacturer of large trucks which consists of a frame, cab complete with wiring, instruments, fenders and hood and front axles and wheels. The "glider kit" is made into a complete assembly by the addition of the engine, transmission, rear axles, wheels and tires.

[[IC 49-123\(g\)](#)]

**Modular Building:** The term "modular building," as defined in section 39-4103(10), is a substantially complete building designed to be affixed to real property. The term "modular building" includes all components incorporated in the modular building at the time of manufacture that remain unchanged at the time of the original retail sale. Furniture, fixtures, furnishings, appliances, and attachments not incorporated as component parts of the

modular building at the time of manufacture shall be subject to the sales and use tax separately and distinctly from the sales price of a modular building. Refrigerators, ranges, draperies, and wood burning stoves placed in the modular home by the manufacturer are components incorporated into the modular building. [IC 63-3605]]

**Motor vehicle:** For taxation purposes, [IC 63-3605L](#) defines a motor vehicle as a vehicle registered or required to be registered for use on public roads. The term "motor vehicle" does not include vehicles not required to be registered pursuant to section [49-426](#), Idaho Code, or intended for off-road use only, including snowmobiles, boats and aircraft, and all-terrain vehicles and off-road motorcycles when not used on public roads.

For titling and registration purposes, [IC 49-123\(2\)\(h\)](#) defines a motor vehicle as every vehicle that is self-propelled, and for the purpose of titling and registration meets federal motor vehicle safety standards as defined in section [49-107](#), Idaho Code. Motor vehicle does not include vehicles moved solely by human power, electric personal assistive mobility devices, personal delivery devices, electric-assisted bicycles, and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under [title 49](#), Idaho Code.

**New Manufactured Home:** The term "new manufactured home" means a manufactured home, as defined in section [39-4105](#), Idaho Code, which is sold for the first time at retail. The term "new manufactured home" includes all components incorporated in such manufactured home at the time of manufacture and remaining unchanged at the time of the original retail sale thereof.

Furniture, fixtures, furnishings, appliances and attachments not incorporated as component parts of the manufactured home at the time of manufacture shall be subject to the sales and use tax separately and distinctly from the sales price of a new manufactured home. Refrigerators, ranges, draperies, and wood burning stoves placed in the manufactured home by the manufacturer shall be deemed to be components incorporated into such manufactured home. [IC 63-3606] [IC 39-4105(8)]

\*Manufactured homes are required to be titled in Idaho. [IC 49-501(2)(b)]

**New Park Model Recreational Vehicle:** (1) The term "new park model recreational vehicle" means a park model recreational vehicle as defined in section [49-117](#), Idaho Code, that is sold for the first time at retail. The term "new park model recreational vehicle" includes all components incorporated in such park model recreational vehicle at the time of manufacture and remaining unchanged at the time of the original retail sale thereof.

(2) Furniture, fixtures, furnishings, appliances and attachments not incorporated as component parts of the park model recreational vehicle at the time of manufacture shall be

subject to the sales and use tax separately and distinctly from the sales price of the new park model recreational vehicle. Refrigerators, ranges, draperies and wood-burning stoves placed in a new park model recreational vehicle by the manufacturer shall be deemed to be components incorporated into such park model recreational vehicle. [\[IC 63-3606C\]](#)

**Primary or Primarily:** (1) With respect to the use of tangible personal property, "primary" or "primarily" means the predominant or greatest use of the property.

(2) In determining the primary use of tangible personal property, all uses of the property shall be aggregated into total taxable uses and total nontaxable uses pursuant to the provisions of this chapter. The primary use shall be the greater of the total taxable use or total nontaxable use.

(3) The use of tangible personal property shall be measured in terms of hours, miles, gallons or other measure commonly or customarily used to measure or determine use of the property. [\[IC 63-3607A\]](#)

**Resident:** For the purpose of vehicle registration and titling, a person whose domicile has been within Idaho continuously for a period of at least 90 days, excluding a full-time student who is a resident of another state. A person, including a full-time student who has established a domicile in Idaho, may declare residency earlier than 90 days for vehicle registration, titling, driver's license and identification card purposes. Establishment of residency shall include a spouse and dependent children who reside with that person in the domicile. A domicile shall not be a person's workplace, vacation or part-time residence.

[\[IC 49-119\(12\)\]](#)

**Snowmobile:** Any self-propelled vehicle under two thousand (2,000) pounds unladen gross weight, designed primarily for travel on snow or ice or over natural terrain, which may be steered by tracks, skis, or runners. [\[IC 67-7101\(15\)\]](#)

**Specialty off-highway vehicle (SOHV):** Any vehicle manufactured, designed, or constructed exclusively for off-highway operation that does not fit the definition of an all-terrain vehicle, utility type vehicle, or motorbike as defined in Idaho Code. [\[IC 67-7101\(16\)\]](#)

**Transient Equipment:** The term "transient equipment" means tangible personal property which is:

- (1) Subject to use tax in this state; and
- (2) Eligible for depreciation under the federal internal revenue code and actually depreciated on the owner's federal income tax return; and
- (3) Present in this state for a cumulative period of time totaling not more than ninety (90) days in any consecutive twelve (12) months. For purposes of this subsection,



any part of a day is one (1) day.

(b) In the case of transient equipment owned and operated by a nonresident of this state, the use tax imposed by section [63-3621](#), Idaho Code, may be the lesser of the amount of tax computed upon:

(1) The value of the property. A recent sales price shall be presumptive evidence of the value of the property. If there is no recent sales price, the value shall be the fair market value of the property on the date the property is first brought into Idaho; or

(2) The fair rental value of the property during the time the property is located in Idaho. Fair rental value is the amount for which the same or similar property could be leased or rented by the taxpayer from another, unrelated person in the business of leasing or renting such equipment for profit. A taxpayer electing to pay use tax on the fair rental value must establish the value by clear and convincing evidence. Any allowable credit for sales or use taxes paid to another state shall be first exhausted before any tax becomes due under this section.

(c) If transient equipment taxed upon its fair rental value ceases to qualify as transient equipment, it shall be taxed as provided in section [63-3621](#), Idaho Code, based upon the value at the time the equipment ceased to qualify.

(d) A taxpayer may elect to pay tax on the fair rental value on or before the due date of the first tax return on which the use tax is due. The election need not be filed with the state tax commission but must be reflected in the records supporting the computation of the tax shown to be due on the return. After the due date of the first tax return on which the use tax is due, an election may only be made with the written approval of the state tax commission. The commission shall grant approval only upon evidence establishing that at the time the equipment first became subject to use tax in this state, the taxpayer intended a use for the equipment which would have qualified the property as transient equipment.

(e) Upon discovery of property subject to use tax in this state in regard to which no use tax has been reported, the state tax commission may assert use tax in the manner provided in section [63-3629](#), Idaho Code, based upon the fair rental value if the commission finds that at the time the equipment first became subject to use tax in this state, the taxpayer intended a use for the equipment which would have qualified the property as transient equipment.

**Utility-Type Vehicle (UTV):** Any recreational motor vehicle other than an ATV, motorbike or snowmobile as defined in Idaho Code, designed for and capable of travel over designated roads, traveling on four or more tires, maximum width less than 74 inches, maximum weight less than 2,000 pounds, and having a wheelbase of 110 inches or less. A utility type vehicle must have a minimum width of 50 inches, a minimum weight of at least 900 pounds or a wheelbase of over 61 inches. Utility type vehicle does not include golf carts, vehicles specially designed to carry a disabled person, implements of husbandry as defined in Idaho Code

section 49-110(2) or vehicles otherwise registered under Title 49 of the Idaho Code. A utility type vehicle or UTV also means a recreational off-highway vehicle or ROV. [IC [67-7101\(17\)](#)]

**Vehicle:** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. [IC [49-123\(2\)\(a\)](#)]

**Vessel:** Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include float houses, diver's aids operated and designed primarily to propel a diver below the surface of the water, and nonmotorized devices not designed or modified to be used as a means of transportation on the water, such as inflatable air mattresses, single inner tubes, and beach and water toys.

[IC [67-7003\(22\)](#)]

## EXEMPTIONS

Idaho code provides for several exemptions from sales or use tax. To claim the exemptions, the customer, and sometimes the seller, must properly complete the applicable exemption form and submit it with the title paperwork.

The forms can be viewed in Appendix A – Sales/Use Tax Exemption Forms

### ST-101 SALES TAX RESALE OR EXEMPTION CERTIFICATE

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#### ST-101 SECTION 1- BUYING FOR RESALE

The buyer affirms that the purchase will be sold, leased, or rented within the normal course of business. The buyer must list the nature of the business, the products sold, leased or rented, and select whether he or she is:

- an Idaho registered seller with a valid seller's permit
- a wholesaler with no retail sales,
- an out-of-state retailer with no Idaho business presence, or an
- Idaho registered pre-paid wireless seller with an E911 fee permit number.

No tax applies when a dealer titles a vehicle held for resale into its dealer name to ensure clear title. However, the vehicle can't be registered in the dealer name unless it's part of a

rental fleet. If the dealer applies for registration and the vehicle isn't part of a rental fleet, tax must be collected.

A vehicle upon which a dealer's plate can be lawfully displayed is considered inventory held for resale and isn't subject to sales or use tax. Vehicles such as work or service vehicles that aren't held in stock for resale by the dealer are subject to tax at the time of their purchase.

When a dealer or manufacturer withdraws a vehicle from inventory and puts it to a use for which a dealer's plate isn't authorized, the dealer/manufacturer must title and license the vehicle and pay the tax. The dealer/manufacturer has the option of either:

- Paying tax at the prevailing rate on the date of withdrawal based on the acquisition cost of the vehicle, or
- Paying tax on a reasonable rental value for the month or part of a month during which the vehicle is put to a taxable use. A reasonable rental value is an amount equal to rentals charged for vehicles of like make and model when those vehicles are rented by other persons in the business of renting vehicles.

**Audit Actions:** *Information redacted pursuant to Idaho Code Section 74-109(4)*

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## ST-101 SECTION 2 – PRODUCER EXEMPTIONS

Motor vehicles, UTV's, SOHV's and trailers for use off-road in farming, logging, mining, or manufacturing may be eligible for an exemption. To qualify, the vehicle must be used directly and primarily in the production process and there is no requirement for the vehicle to be licensed or registered. For example, a feedlot may purchase and title a motor vehicle without owing Idaho sales or use tax if the vehicle is used exclusively off-road to distribute feed to its cattle.

If the vehicle is required to be licensed or the purchaser elects to license or otherwise register the vehicle, tax is due on the recent purchase price or fair market value at the time the vehicle is plated or decaled.

Reminder: Loggers, farmers, ranchers, and other producers may not purchase an ATV, camper unit, off-road motorbike, dual-purpose motorcycle, snowmobile, or recreation-type trailer used for temporary living quarters for use primarily in their business without paying the tax. These vehicles do not qualify for the production exemption or logging exemption, and tax must be paid when the vehicles are acquired.

**Audit Actions:** These transactions are reviewed to determine if the exemption applies. A monthly report is received from ITD showing vehicles that were claimed as exempt and are

now showing plated. A standard letter is sent if the situation indicates potential noncompliance.

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### ST-101 SECTION 3- EXEMPT BUYERS

Entities exempted from sales and use tax per Idaho Code section 63-36220 can buy a vehicle without paying tax (except for food banks, soup kitchens and nonsale clothiers). The vehicle must be titled and registered in the entity's name. Only those entities named in the code qualify for the exemption and are listed in the instructions for the form. Some entities may appear to qualify, but do not meet the criteria. For instance, non-profit schools are not listed by name, so question an exemption claimed by a for-profit school.

American Indian tribes and their tribally-owned entities don't have to take delivery of goods (vehicles/vessels included) on an Indian reservation for the exemption to apply.

**Audit Actions:** These transactions do not often fall under review due to the limited nature of the exemption (qualified entities are specifically named in code) and the titling requirements (must be titled in the entity's name.)

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### ST-101 SECTION 5- OTHER EXEMPT GOODS AND BUYERS

This section is used by tribal members when claiming the exemption for buying goods delivered to an Indian reservation.

*However, it's not used to document an exemption claim for purchasing vehicles and vessels. While the claim may be valid, the tribal member must complete Form ST-133 Section 2 to document a vehicle/vessel purchase.*

**Audit Actions:** If all the elements of the ST-133 are present, the Tax Commission considers it a valid exemption, albeit on the wrong form. However, if multiple transactions were seen from the same dealer, contact would be made to inform the seller of the correct form to use.

### ST-102 NEW RESIDENT OR NONRESIDENT MILITARY

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#### NEW RESIDENT

If tangible personal property is purchased by a bona-fide resident of another state three months prior to moving to Idaho, as a new resident they may title and register any vehicle, vessel, trailer, camper, RV or aircraft without owing use tax. The following requirements must be met to claim the exemption:

- The owner acquired the property while residing in another state or country, and
- The owner acquired the property more than three months before moving to Idaho, and

- The property is not an asset of a corporation, partnership, LLC, or any other separate entity

A “personal vehicle” is one that is owned by an individual or sole proprietor.

All individuals on the purchase, registration or title documents must qualify for the exemption. The exemption will not apply if one or more of the owners is an Idaho resident.

The exemption does not apply to people who lived outside the state temporarily due to job assignment, to attend school, or for a similar reason and are now moving “home.” If a vehicle is purchased out of state while a resident of Idaho, tax is due on the recent sale price or the NADA trade-in value at the time the vehicle enters Idaho, unless purchase documents show tax paid to another state.

If the property owner obtains 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 property was primarily for use outside Idaho.

***NOTE:** Although the test is often referred to as the “90-day exemption”, the test provided by code is three months. Three months can be anywhere from 90 to 92 days.*

For property previously titled or registered in any of the five states (Oregon, Montana, Alaska, New Hampshire, or Delaware) without a sales tax, the exemption is claimed by completing form ST-102. If a state doesn’t require the titling and/or registration (such as Alaska’s treatment of ATVs), the taxpayer must provide evidence to support when they purchased the property and that they owned it three months prior to moving to Idaho as a new resident.

*Information redacted pursuant to Idaho Code Section 74-109(4)*

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## NON-RESIDENT MILITARY

Nonresident military personnel who purchase a vehicle in Idaho must pay Idaho tax unless they are immediately removing the vehicle from this state for use outside this state.

Active duty military personnel temporarily assigned to Idaho and their spouses won’t be required to pay use tax on vehicles, personal campers, boats, RVs, or aircraft brought into Idaho if:

- The vehicle was acquired by the person while he resided in another state or country, and
- The vehicle was acquired prior to receipt of orders to transfer to Idaho or more than three months before moving to Idaho, whichever time period is shorter.

*Note - On rare occasion a non-resident military personnel may present orders received more than three months prior to moving to Idaho. If documentation shows a vehicle purchase dated after the receipt of orders but more than three months prior to moving, the three-month test is met and applies. Three months prior to moving is shorter than the time period between the receipt of orders and the move to Idaho.*

#### ST-104IC SALES TAX EXEMPTION CERTIFICATE – INTERSTATE COMMERCE VEHICLES

An exemption is provided for motor vehicles and trailers that will be:

- Immediately registered under the International Registration Plan (IRP)
- With a gross registered weight of more than 26,000 pounds
- And operate in a fleet of vehicles with at least 10% of the fleet miles outside Idaho in any IRP registration period.

The exemption applies even if the vehicle is titled or base-plated in Idaho. If the vehicle fails to meet the above test at the end of any registration period, the vehicle becomes taxable at the fair market value.

Sales Tax Audit/Fuels provides the primary audit function of vehicles registered under the IRP.

#### ST-104NR SALES TAX EXEMPTION CERTIFICATE – NONRESIDENT VEHICLE/VESSEL

The sale of a motor vehicle, trailer, ATV, UTV, SOHV, snowmobile, off-highway motorcycle, off-highway vehicle, or vessel with attached motor, may be exempt from the tax if the purchaser certifies that:

- They're not an Idaho resident and they'll limit the storage or use of the vehicle or vessel in Idaho to 90 days or less in any 12-month period.
- The vehicle or vessel will be taken to another state or country and immediately registered and titled, if required.
- None of the buyers listed on the purchase, registration, or title documents are Idaho residents. to do so and won't be used in Idaho more than 60 days in any 12-month period.

A nonresident individual is one whose domicile is in another country or in a state other than Idaho.

A nonresident can also be a corporation, partnership, LLC or other organization. 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.

To make a nonresident exemption claim, the buyer must complete Form ST-104NR and provide it to the dealer. The exemption doesn't apply to truck campers (or canopies), canoes, kayaks, or inflatable boats regardless of length when sold without a motor.

#### ST-108 SALES TAX AFFIDAVIT – UNTITLED TRANSPORT TRAILER, OFFICE TRAILER, AND BOAT

A buyer can use this form when registering an untitled transport or office trailer, or boat to document that tax was paid at the time of purchase or to facilitate an exemption claim.

To avoid paying tax when registering their homebuilt trailer, a taxpayer may complete Form ST-108 to certify that they've paid tax on all parts used to construct the trailer.

The form may also be used by a financial institution to certify that they've collected tax from the buyer as part of a financing arrangement.

Otherwise, use tax will be due on the purchase unless they claim a valid exemption.

#### ST-108PM-PARK MODEL RECREATIONAL VEHICLE MODIFICATION AFFIDAVIT

A buyer must pay sales or use tax when purchasing a new or used park model recreational vehicle (PMRV) that meets the following definition: [\[IC 63-3613\(g\)\]](#)

A "PMRV" is a vehicle that meets all these requirements: [\[IC 49-117\(2\)\]](#)

- It's a recreational vehicle designed to provide temporary accommodations for recreational, camping or seasonal use.
- It's built on a single chassis, was originally mounted on wheels, and has a gross trailer area that doesn't exceed 400 square feet in the set-up mode.
- It's certified by its manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Standard for Recreational Park Trailers.

If a PMRV has been modified in such a way that it no longer meets this definition, sales or use

tax may not be due on its purchase. The buyer must describe/document what changes that have been made to the PMRV on a Form ST-108PM.

The buyer gives the completed form to the county assessor to document the claim. The form is then forwarded by the assessor to the Tax Commission's Tax Discovery Bureau to determine whether tax is due.

#### ST-108TR-OCCASIONAL SALE EXEMPTION CERTIFICATE – OFFICE TRAILER AND TRANSPORT TRAILER

A buyer can claim an occasional sale exemption on a used office trailer or transport trailer (utility, horse, semi-trailer, etc.) if bought from an individual or non-retailer. A Form ST-108TR must be completed by the buyer and seller to establish and certify the occasional sale claim. If a third party arranges the sale, this exemption doesn't apply.

#### ST-109 BOAT REGISTRATION SALES TAX AFFIDAVIT

Currently under review. Primarily facilitated the determination of tax due on boat transactions processed through Idaho Parks and Recreation and their vendors. Due to US Coast Guard required changes, the use of this form may no longer serve its intended purpose.

#### ST-133 SALES TAX EXEMPTION CERTIFICATE – FAMILY OR AMERICAN INDIAN SALES

##### ST-133 SECTION 1 - FAMILY SALE EXEMPTION FOR MOTOR VEHICLES

A motor vehicle sold to a member of the family within two degrees of consanguinity by either blood (Parent/child, grandparent/grandchild, siblings; no nieces, nephews, or cousins) or formal adoption, is exempt from sales/use tax. Foster children do not qualify. This exemption is valid only if the seller paid sales tax on his/her acquisition and the property is a motor vehicle. Transfers are investigated when they involve titles from the five states which do not have a sales tax or the property is something other than a motor vehicle as defined by Idaho code.

A title issued by a taxing state may be sufficient evidence that the seller has paid tax. If the seller holds a title issued by a non-taxing state such as Oregon, Montana, Alaska, New Hampshire, or Delaware, the family sale exemption claim can't be accepted unless evidence is provided to clearly establish that the seller paid tax on their original purchase of the motor



vehicle.

The exemption is claimed by completing Form ST-133, Sales Tax Exemption Certificate-Transfer Affidavit, Part I. Both the buyer and seller need to complete and sign the form. The buyer can provide a signed statement from the seller attesting to the family sale and providing the relationship between the parties.

*Information redacted pursuant to Idaho Code Section 74-109(4)*

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#### ST-133 SECTION 2 - AMERICAN INDIAN EXEMPTION

An enrolled member of an American Indian tribe may purchase a vehicle or vessel without paying tax if:

- The delivery of the vehicle or vessel occurs within the boundaries of a Native American Indian reservation, and
- The buyer is an enrolled member of an American Indian tribe.
- The buyer possesses a Tribal Identification Number.

The exemption is documented by completion section 2 of Form ST-133, which requires the buyer to provide the reservation name where delivery took place, their tribal affiliation, and their tribal identification number. The buyer and seller must complete and sign their respective certifying statements at the bottom of the form.

If a tribal member buys a vehicle or vessel from a dealer or private party located off the Indian reservation and delivery of the vehicle also occurs off the Indian reservation, tax is due on the purchase price of the vehicle or vessel.

If the transaction is in question, a follow-up inquiry letter is sent to the seller to verify that delivery occurred on a reservation.

#### ST-133GT USE TAX EXEMPTION CERTIFICATE - GIFT TRANSFER AFFIDAVIT

A gift of a vehicle isn't subject to tax. There can be no consideration either in money, goods, or services. The relationship of the donor and recipient must be such that it would denote a basis for a gift. There can be no assumed indebtedness.

If the recipient assumes an indebtedness owed by the donor, collect tax on the amount of the debt. If the title indicates a lien holder, the gift exemption doesn't apply unless the customer can establish that the vehicle was put up as collateral for a new loan.

To document the gift exemption, the donor and the recipient should complete Form ST-133GT. When the donor is unable to sign an affidavit, other options are acceptable:

- A signed letter by the donor stating the vehicle is a gift and attached to the ST-133GT, or
- The selling price field on the title marked as a “gift” and signed off by the donor, or
- If an ST-133GT isn’t furnished, a written and signed statement from the donor specifying the nature of the donation is acceptable.

Both individuals and businesses can gift vehicles. However, in the case of businesses, there can’t be a relationship between the donor and recipient that suggests the vehicle is given in lieu of bonuses, services, wages, or other consideration.

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#### ST-133GT: OTHER GIFT CONSIDERATIONS

##### **Raffle or Drawing**

When non-retailers or individuals donate a vehicle to an organization as a raffle or drawing prize, they’re responsible for tax on their acquisition cost of the vehicle. When an organization buys a vehicle as a raffle or drawing prize, the organization is responsible for the payment of tax on the vehicle, unless that organization is exempt from sales/use tax. The organization should provide the raffle winner Form ST-133GT, with the gift portion properly completed.

##### **Promotional Giveaway**

When an Idaho vehicle dealer removes a vehicle from its resale inventory to give away as a promotional item or for any other reason, it must pay the tax on its acquisition cost of the vehicle. The dealer must accrue and pay use tax due on its next sales tax return. The vehicle dealer should complete the Form ST-133GT and provide it to the recipient.

##### **Inheritance**

If a title in a decedent’s name is being transferred by a representative of the estate appointed by the probate court, such as personal representative, executor, or administrator, tax requirements depend on who is receiving the vehicle and in what manner.

If a vehicle is awarded as an inheritance to a survivor of the deceased, no tax is due as long as a court order, will, or other document is presented as evidence of the inheritance.

If a qualifying family member is purchasing the vehicle from the estate, the court-appointed representative (seller) and the buying family member should complete section 1 of Form ST-133 - Family and American Indian Sale.

If the vehicle is being sold to anyone but a qualifying family member, tax is due.

## **Barter/Trade Transactions**

Barter is an exchange of items of tangible personal property of equal value. Barter between individuals creates a tax liability for both parties. Since neither party is in the business of buying and selling vehicles (vehicles don't become part of an inventory held for resale), tax is due on the fair market value of the vehicle received in the barter. A standard letter is sent to both parties of the transaction. The value of the item may also be subject to income tax and should be reviewed in the following tax year.

These transactions may be claimed incorrectly as gifts on the ST-133GT.

**Audit actions:** Gift transfers are checked to insure that no debt was assumed by the new owner of the vehicle. Any debt assumed as part of the gift transfer is subject to the sales/use tax.

A standard letter may be sent if we receive information that indicates the transaction was not a gift.

### ST-133CATS CAPITAL ASSET TRANSFER AFFIDAVIT

Exemptions available for capital asset transactions are claimed by completing the appropriate section of Form ST-133 and providing it to DMV or Tax Commission staff.

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#### SECTION 1 BULK SALE

A vehicle, vessel, RV, snowmobile, or aircraft sold as a part of a bulk sale of assets or property isn't subject to tax. A bulk sale occurs when all or substantially all of the assets of a business are sold to another entity that continues operation of the business in a like-kind or similar manner. [\[63-3622K\(5\)\]](#)

A copy of the bill of sale should accompany the form indicating the purchase of the business and the assets included in the transaction.

There's no requirement to show evidence that sales tax was paid by the seller at time of purchase.

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#### SECTION 2 CAPITAL ASSET SALE, LEASE, OR RENTALS

This section is used only for a capital (business) asset sale, lease or rental of a *motor vehicle or transport trailer*.

**The exemption doesn't apply to aircraft, ATV, snowmobiles, travel trailers, or vessels.**

[\[63-3622K\(c\)\(2\)\(d\)\]](#) & [\[IC-63-3622HH\]](#)

The exemption requires that the initial transferor paid tax on the item and the owner(s) of

the of the transferor are the same as the transferee or members of the same family within the second degree of consanguinity.

Refer to Idaho Code section 63-3622K(4) and Sales Tax Rule 099 for guidance on this complicated exemption. Reviewing the claim may require additional documentation from the transferor.

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### SECTION 3 CAPITAL ASSET TRANSFER

This section is used for the transfer of a vehicle, vessel, RV, snowmobile or aircraft on which tax was paid by the current "seller" and is being transferred in exchange for an increase or decrease in equity in the business by an owner of a business.

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Refer to Idaho Code section [63-3622K\(3\)](#) and Sale Tax Rule 099.05 for this complicated exemption.

### OTHER CONSIDERATIONS

#### NONRESIDENT STUDENTS

Regardless of the time spent in Idaho, use tax doesn't apply to any use of a motor vehicle which is registered or licensed under the laws of the state of residence of a nonresident student while such nonresident student is enrolled as a full-time student in an institution of postsecondary education that is both physically located in Idaho and recognized as accredited by the state board of education. [\[63-3621\(k\)\]](#)

#### CREDIT FOR TAXES PAID ON OUT-OF-STATE PURCHASES

When a general sales tax has been *properly* imposed on a vehicle by another state of the United States in an amount equal to or greater than the tax due Idaho, no Idaho tax is due.

If the rate paid to the other state is less than the Idaho tax, the extent of the difference will be due unless some other exemption applies. If the owner provides a registration certificate or title issued by another taxing state, those documents will be enough evidence to show that tax was imposed by the other state. The exemption doesn't apply if the registration or title is issued by the states of Oregon, Montana, Alaska, New Hampshire, or Delaware, as these states don't have a general sales tax.

Some states do not have an exemption for non-residents of their states to purchase a vehicle ex-tax. Credit for taxes paid to these states is given as the tax was properly imposed. If a state offers a non-resident exemption and a taxpayer pays tax to that state, the taxpayer is directed

to apply for a refund for those taxes. As the tax was improperly assessed and imposed, Idaho tax applies.

States that do not offer an exemption, or exemptions are extremely restrictive, are Washington, Arizona, California, Colorado, Florida, Indiana (automobiles only-customer pays tax equal to resident state), Michigan (Michigan allows the exemption only to exempt states (non-taxing) or non-reciprocal states. Non-reciprocal states impose a use tax even though the sales tax was paid in another state. The exemption is to prevent double taxation), Minnesota (Minnesota has no non-resident exemption. If possession is taken in MN, then MN sales tax applies.) Washington has a non-resident exemption; however, it is much stricter in its requirements and dealers are not required to offer exemptions. If a taxpayer qualifies and the dealer refuses to refund the tax, the consumer cannot apply for a refund from the state. We offer a credit for taxes paid; however, the MVM-5 guidelines may still apply and subject the transaction to Tax Commission review. Credit is given for taxes to these states regardless of the taxpayer's situation.

## **INFORMATIONAL NOTICES**

### **MVM-4 PRIVATE PARTY VEHICLE SALES**

The MVM-4 form is used by both audit and DMV staff. It's given to taxpayers to inform them of Idaho use tax obligation on private party sales when they present a bill of sale showing a value far below the expected fair market value. The MVM-4 informs the taxpayer that the Tax Commission may contact them for additional documentation that supports the value shown. Requested documentation may include mechanical repair estimate or receipts, auto body shop estimates or receipts, or appraisals.

### **MVM-5 FORM - OUT-OF-STATE DEALER TRANSACTIONS**

The MVM-5 form may be provided to customers by DMV staff when handling transactions from out-of-state dealers that don't have an Idaho sales/use tax account. On occasion we've found that an out-of-state dealer collected Idaho tax as part of the financing agreement for their customer, but didn't forward the check with the title paperwork upon completion of the sale. Sales tax may be listed on the sales agreement so that it's included in the customer's loan, but may not have been remitted to anyone. In some instances, the out-of-state dealer simply cuts a check to the customer and tells them to pay when they title and register.

This form allows the DMV staff to continue to process the paperwork when they don't have all the documentation showing the sales tax was paid to Idaho. It also informs the customer that the Tax Commission will be contacting them for additional documentation. See form

MVM-5 for additional details.

### **PRIVATE PARTY VEHICLE SALES**

Vehicle transactions where the purchase price seems extremely low compared to the fair market value are reviewed further to verify the true value of the vehicle.

Research is conducted to determine the fair market value by using the NADA average trade-in value, with adjustments for mileage and options. Requesting the actual sales price from the seller or third party may provide the necessary information to determine the correct tax due.

Contact with the taxpayer is initiated with an initial inquiry letter. This is to be used as an opportunity to discuss the difference between use tax and sales tax. Receipts for repairs or an appraisal may be requested.

### **OUT-OF-STATE LICENSE PLATES**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

### **TAX CLEARANCES (MVM-3)**

Situations arise that require the Tax Commission to make a determination on the taxable value of a vehicle. These determinations often require additional documentation from the taxpayer and research on the Commission's part. Tax clearance requests are handled by designated auditors, supervisors, or other authorized Tax Commission staff. This form is completed and provided to the taxpayer, who in turn gives it to DMV staff to aid in the titling and registering of vehicles, vessels, etc.

### **TCR SALES TAX REFUND CLAIM**

The Excise & Sales Tax Unit processes refund claims on vehicles, with the exception of IRP claims, which are handled by Sales Tax Audit (STA). Refund claims are typically submitted on a Form TCR; however, the taxpayer only needs to make a written request for their claim. Refer to Sales Tax Rule 117 for guidance. Taxpayers may learn they qualified for an exemption from sales or use tax, or the sale was rescinded. A taxpayer has three years from the date the tax was paid to apply for a refund. Refund claims are reviewed on a case by case basis. If a refund claim is denied, a NODD must be issued. [[IC 63-3626](#)]

### **LEADS**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

## **INITIATING CONTACT**

After initial review of the lead/referral information and the decision has been made to open a case, the type of lead will dictate what type of contact to begin with. It may be necessary to contact the seller or the vehicle dealer to obtain additional information.

When contacting vehicle dealers, many times the information can be obtained by making a quick phone call to the dealership. Other times it is necessary to send a letter to seller and/or taxpayer to either ask for additional information and/or use tax based on available information.

All the vehicle related letters can be found in the Vehicle Letters Templates folder.

# Customs Transactions

Sales tax is imposed on all retail sales of tangible personal property and is collected at the point of sale (63-3619). Items ordered through the mail, phone, or Internet often do not have sales tax collected by the seller. In these situations, use tax is due unless a valid exemption applies. Idaho code imposes use tax on all tangible personal property stored, used, or consumed in Idaho if purchased without paying sales tax (63-3621).

Information redacted pursuant to Idaho Code Section **74-109(4)**



## Aircraft Transactions

Aircraft based in the state of Idaho are required to be registered with the Idaho Transportation Department, Division of Aeronautics to be exempt from the personal property tax.

*Information redacted pursuant to Idaho Code Section 74-109(4)*

The N-Number is a number which is affixed to the tail portion of the aircraft either on the fuselage or the vertical stabilizer. This number acts as an identifying number for the aircraft similar to the license number for a motor vehicle. This number stays with the aircraft, but can be changed by the owner. To better identify an aircraft, use the N-Number and serial number.

### TAX DISCOVERY ACTIONS

*Information redacted pursuant to Idaho Code Section 74-109(4)*

### DEFINITIONS

**FBO.** A fixed-base operator is a commercial business granted the right by an airport to operate on the airport and provide aeronautical services such as fueling, hangaring, tie-down and parking, aircraft rental, aircraft maintenance, flight instruction, etc.

**Freight.** Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping.

**Nonresident Businesses and Other Organizations.** 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. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily

# AIRCRAFT

for the purpose of purchasing and owning one (1) or more aircraft is not a nonresident. (Rule 037.e)

**Primary or Primarily.** Primary or primarily means with respect to the use of tangible personal property, "primary" or "primarily" means the predominant or greatest use of the property. (63-3607A)

**Recreational Flight.** The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, wildlife viewing, hot air balloon rides, or other similar activities. (63-3622GG)

**Sale.** The term "sale" means any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter. (63-3612)

**Lease.** The lease or rental of tangible personal property (63-3612).

**Transportation of freight or passengers for hire.** The business of transporting persons or property for compensation from one (1) location on the ground or water to another. (63-3622GG.1.c) The transportation of passengers means the service of transporting passengers from one (1) point to another. It does not include survey flights, recreational or sightseeing flights, nor does it include any flight that begins and ends at the same point. (Rule 037.c)

## PRIMARY USE

With respect to the use of tangible personal property, "primary" or "primarily" means the predominant or greatest use of the property. (63-3607A)

In determining the primary use of tangible personal property, all uses of the property shall be aggregated into total taxable uses and total nontaxable uses pursuant to 63-3607A. The primary use shall be the greater of the total taxable use or total nontaxable use.

The use of tangible personal property shall be measured in terms of hours, miles, gallons or other measure commonly or customarily used to measure or determine use of the property.

## PASSENGERS OR FREIGHT FOR HIRE

According to rule 037, freight is defined as goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial

# AIRCRAFT

spraying or dumping. Transportation of passengers means the service of transporting passengers from one (1) point to another. It does not include survey flights, recreational or sightseeing flights, nor does it include any flight that begins and ends at the same point.

## PURCHASE FOR RESALE / LEASES

Purchases of aircraft that become part of a dealer's inventory for resale are not subject to tax. Aircraft that are purchased as part of inventory available for lease are also not subject to tax.

## TRADE IN ALLOWANCE/TRADE DOWNS

A trade-in is the amount allowed by a retailer on merchandise accepted as payment for other merchandise. Merchandise is tangible personal property which is, or becomes, part of the seller's inventory held for resale. The trade-in amount reduces the taxable sales price of the merchandise purchased.

According to Idaho Sales and Use Tax Administrative rule 044, a discount to the taxable sales price is allowed when, a retailer sells merchandise from his resale inventory and lets the customer trade-in other goods which the retailer places in his inventory. Trade-in allowance is not permitted on private party sales, 1031-exchanges, or brokered transactions.

To qualify:

1. The property traded in must be delivered by the buyer to the selling retailer. And,
2. Sales documents, executed not later than the time of sale, must identify the tangible personal property being purchased, And
3. The delivery of the trade-in and the purchase must be components of a single transaction.

Example 1:

Jack Smith owns a 1995 Cessna Citation and wants to trade it in on an aircraft owned by an Idaho aircraft dealer located at the Boise airport. The dealer offers \$1,000,000 trade-in allowance towards the purchase of the dealer's aircraft worth \$1,500,000. The dealer has the new aircraft clean and ready for Jack. Jack Smith delivers the aircraft to the Idaho dealer in Boise and the dealer sells the newer aircraft to Jack. The invoice the retailer gives to Jack shows the \$1,500,000 purchase price as well as a \$1,000,000 trade-in allowance. The retailer charges \$30,000 sales tax on the resulting \$500,000 taxable sales price.

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As outlined in rule 044.03, if the value of the trade-in exceeds the value of the purchased item, a trade-down occurs. This reduces the taxable sales price to zero, resulting in no sales tax due.

## Example 2:

Looking at the scenario in Example 1, Jack decides instead to purchase a new plane costing \$750,000. The resulting transaction has Jack trading-in his Cessna for \$1,000,000 and leaving with the dealer's airplane and \$250,000 check. The dealer does not charge sales tax on this transaction since the airplane traded-in by Jack was more than the airplane Jack purchased.

## FLYING CLUBS

A flying club is an association of persons who have purchased or leased aircraft for the purpose of renting the aircraft to club members. The aircraft rentals to the club members are considered bare equipment rentals and are subject to the tax at a reasonable rental value. The flying club is considered a retailer and required to obtain a seller's permit and remit sales tax to the Tax Commission just as any other retailer.

The tax is applicable whether the aircraft is sold or is rented on an hourly, daily, weekly, monthly, or any other basis. The flying club primarily engaged in the business of making bare equipment rentals to club members may purchase or lease the aircraft without paying sales tax by giving to its vendor a valid resale certificate as required by Sales tax Administrative Rule 128. Charges for membership fees are generally subject to sales tax. If the membership fee is in no way related to the rental of the aircraft, the fee is not subject to sales tax. Charges for flight instruction, if such charges are separately stated, are not subject to sales tax. However, charges for logbooks and flight instruction manuals are subject to tax. If the flying club is responsible for the maintenance of the aircraft, the club may purchase the necessary repair and replacement parts without paying tax by providing a valid resale certificate. (Rules 037 and 128)

## FLIGHT SCHOOLS, RECREATIONAL FLIGHTS

Flying instructions or lessons, which may include solo flights, are considered a service and the fees are not subject to tax. Aircraft purchased, rented or leased to be used primarily for flying instruction are subject to sales tax. When aircraft held for resale are used by the dealer for flying instructions or lessons, a taxable use occurs. Use tax is due on a reasonable

# AIRCRAFT

rental value for the time the aircraft is used to provide the service.

## AGRICULTURAL SPRAYING

Beginning 7/1/20, Idaho Code Section 63-3622G(6) exempts the sales, lease, purchase, or use of aircraft primarily used for agricultural spraying, dusting, seeding, livestock and predatory animal control, or forest and wildlife conversation.

## EXEMPTIONS

Occasional Sale Exemption: Effective July 1, 1990, aircraft transferred as a capital asset by a business through an adjustment of a beneficial interest and upon which the transferor has paid sales/use tax may qualify for occasional exemption under Idaho Code 63-3622K.

Aircraft purchased after March 31, 1988 which are used primarily for the transportation of passengers or freight for hire are exempt from the sales tax under Idaho Code, Section 63-3622GG.

Resale Exemption: Aircraft purchased for resale, rent, or lease is exempt from sales tax. The purchaser must provide a properly filled out ST-101 to qualify for the exemption.

Otherwise tax is due, unless the tax was previously paid or an exemption is documented. The various scenarios that can occur are too numerous to provide a comprehensive explanation. Each case is reviewed on an individual basis and action is taken depending upon the particular circumstances. The assessment of tax, penalty, and interest to the extent provided by law is required.

## INFORMATION SOURCES

### AEROFAX ELECTRONIC FILE

*Information redacted pursuant to Idaho Code Section 74-109(4)*

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### HOW TO READ THE REPORT AND PREPARE THE MAILING LIST

*Information redacted pursuant to Idaho Code Section 74-109(4)*

# AIRCRAFT

## How to Read the Aircraft Data

The following fields ending with a '1' are data for the previous month. The fields ending with a '2' are data for the present month (blank fields indicate no change). This is how the data is displayed in the database tables.

In the Access report, the '1' and '2' are not displayed. This information is displayed in the report in two lines for each aircraft, with the previous month on top and the present month on the bottom.

- NN1 N-Number
- SN1 Serial Number
- NA1 Name of Registrant
- AD1 Address
- CI1 City
- ST1 State
- ZI1 Zip Code
- YR1 Year of manufacture
- EN1 Engine
- CD1 Certificate Date (last registration)
- TY1 Type of Ownership:
  - 1 Individual
  - 2 Partnership
  - 3 Corporation
  - 4 Co-Ownership
  - 5 Government
  - 8 Non Citizen Corporation
  - 9 Non Citizen Co-Owned

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## Changes, Additions, and Deletions

There are three kinds of changes, identified by the symbol just before the Registrant's name:

- > Means an aircraft whose data has CHANGED since last month.
- + Means an aircraft that has been ADDED since last month.
- Means an aircraft that has been DELETED since last month.

Changes for the aircraft could mean a change in any one of the fields. Items that are highlighted for review include:

- Any aircraft with a +. These represent aircraft added with an Idaho address.
- Change in location from another state, taxing or not. Many other states have exemptions for aircraft, so they still may owe Idaho tax when they bring the aircraft into Idaho.
- Aircraft showing a change in ownership with an Idaho address.
- Registration pending listings with an Idaho address if owner name is listed.

Items that are not highlighted for review include:

- Change in address from one Idaho location to another.
- Sale reported transactions. These should show a registration in the following month.
- Aircraft marked with a – symbol.
- Aircraft with a change of address to a location outside of Idaho.

FAA Aircraft Report April 2014										
Yea	MFR	Model	N#	Serial #	Name	Address	City	State	Zip	Date
1971	BC	17-30A	1971V	30395	>HA [REDACTED] REGISTRATION PENDING	[REDACTED] DDHILL WAY [REDACTED] WHISPERING PINE DR	POCATELLO TWIN FALLS	ID	83201 83301	2007050
1999	ZZ	SR7 XL	119WM	0007	> [REDACTED] WEST LLC REGISTRATION PENDING	[REDACTED] END AVE APT 7 [REDACTED] NELSON LN	VANCOUVER POCATELLO	WA ID	98662 83202	2012062
1981	CE	P210N	732ZH	P21000599	[REDACTED] N HANS L III [REDACTED] HERB	[REDACTED] 46 [REDACTED] LAND ST	POCATELLO ELYRIA	ID OH	83205 44035	1987031 2014042
1957	CE	172	6441B	29641	>REGISTRATION PENDING [REDACTED] L G	[REDACTED] GE ST [REDACTED] GE	BLACKFOOT	ID	83221	2014040

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## OTHER SOURCES

*Information redacted pursuant to Idaho Code Section 74-109(4)*

## GENERAL CASEWORK GUIDELINES

The Aircraft letter/questionnaire is our initial contact with the taxpayer. Space is provided on the questionnaire for the owner to provide information to indicate when the transaction occurred, purchase price, and whether the aircraft is held for resale, used to transport passengers or freight for hire, or leased. The taxpayer is instructed to include a copy of the purchase agreement and use tax if they don't qualify for an exemption. This letter is in GenTax and is sent through the letters manager. A copy of the letter is included in [Appendix A5](#).

## INITIATING CONTACT

After initial review of the lead/referral information and the decision has been made to open a case, the type of lead will dictate what type of contact to begin with. It may be necessary to contact the seller or the aircraft dealer to obtain additional information.

When contacting aircraft dealers, many times the information can be obtained by making a quick phone call to the business. Other times it is necessary to send a letter to seller and/or taxpayer to either ask for additional information and/or use tax based on available information.

All the aircraft related letters can be found in the [TDPUB Aircraft folder](#). The initial inquiry letter is in GenTax. If the taxpayers don't respond to the initial letter, it is necessary to resend the inquiry letter. If the original letter was sent out of the letters manager in GenTax, you can resend the letter using the proper procedures.

## FAA INFORMATION

**Tips:** You will need both the N-Number and the Serial number. This will return all data with the FAA on the aircraft with that serial number, since owners can frequently change the N-Number an aircraft is registered under. Your request can take up to two-three weeks to receive. It is important to put your name on the request, because the CDs come through the mail with only the N# (tail number), which is not cross referenced in GenTax. The files on the CDs are in PDF, which can be easily saved in the case attachments. There are size restrictions that may prevent the entire contents from being attached.



# AIRCRAFT

Web Address: [FAA Record Request](#)

1. Request Screen
  - a. Defaults to “CD” (ok)
  - b. Defaults to certified “No” (ok)
  - c. Defaults to govt entity? “No” (change to Yes—or else we will be charged)
  - d. Enter the N-Number (do no type the “N”—just the characters following the N)
  - e. Enter the Serial Number found on the FAA screen from your research
  
2. Add Aircraft to Cart button/screen
  - a. Verify it shows “No Charge” at the bottom of the screen
  - b. You may add more aircraft if you have multiples you need to order
  
3. Go to Check Out button/screen
  - a. Line 1 address: Idaho State Tax Commission
  - b. Attn: Your Name
  - c. PO Box 36
  - d. Boise ID 83722-0410
  - e. For Mailing address: push button, “Same as Billing Address”
  - f. Continue

Print out the final order screen for your records

## **Cigarette, Tobacco, Beer, Wine Transactions**

The Excise & Sales Tax Unit is charged with performing, in addition to other duties, researching noncompliance issues as well as audits on Cigarette, Tobacco, Beer, and Wine tax returns. Duties assigned include responding to questions from individuals wanting to start or purchase a business wholesaling beer, wine, cigarettes or tobacco. It is important to be familiar with the law regarding these four tax types as well as the application process and other internal procedures of the Commission regarding these taxpayers.

Code Sections comprising the law in these tax types are as follows:

- Beer - Title 23, Chapter 10, Idaho Code
- Wine - Title 23, Chapter 13, Idaho Code
- Cigarette/Tobacco - Title 63, Chapter 25 Idaho Code
  - Cigarette Sections 63-2501 - 63-2550
  - Tobacco Sections 63-2551 - 63-2565

### **DEFINITIONS**

#### **Cigarette**

Taken in the ordinary context of that word and shall be any roll for smoking, made wholly or in part of tobacco, where such roll has a wrapper or cover made of paper or any other material, except where such wrapper is wholly or in the greater part made of tobacco. ([Idaho Code 63- 2502\(d\)](#)).

# CTBW

## CIGARETTE • TOBACCO • BEER • WINE

### Tobacco

Tobacco Products are cigars, cheroots, stogies, smoking tobacco (including granulated, plug, cut, crimp cut, ready rubbed and any other kinds and forms of tobacco suitable for smoking in a pipe or cigarette), chewing tobacco (including cavendish, twist, plug, scrap and any other kinds and forms of tobacco suitable for chewing) and snuff, however prepared; and shall include other articles or products made of tobacco, except cigarettes. [\(Idaho Code, 63-2551\(1\)\)](#)

**Jenkins Act** - The Jenkins Act, enacted in 1949 established reporting requirements for cigarettes. It requires that any person who sells and ships cigarettes across a state line to a buyer, other than a licensed distributor, to report the sale to the buyer's state tobacco tax administrator. The Jenkins Act helps states enforce their cigarette tax laws. (15 U.S.C. §§ 375-378)

**PACT Act** - The Prevent All Cigarette Trafficking ([PACT](#)) Act is a federal law that went into effect July 1, 2010. The PACT Act amends provisions of the Jenkins Act (15 U.S.C. §§ 375 - 378) and imposes two reporting requirements on all persons, including manufacturers, who sell, transfer, ship, advertise, or offer to sell cigarettes or smokeless tobacco in interstate commerce.

- The first requirement concerns initial registration.
- The second is a monthly reporting requirement.

In addition, those selling cigarettes and smokeless tobacco products are required to:

- Pay all applicable federal, state, local or tribal tobacco taxes and affix cigarette tax stamps before delivering any products to any customer.
- Check the age and ID of customers at the time of purchase and when the tobacco products are delivered.

**Master Settlement Agreement (MSA)**- [The Master Settlement Agreement \(MSA\)](#) is an accord reached in November 1998 between the state Attorneys General of forty-six states, five U.S. territories, the District of Columbia and the five largest tobacco companies in America concerning the advertising, marketing and promotion of tobacco products. In addition to requiring the tobacco industry to pay the settling states approximately \$10 billion annually for the indefinite future, the MSA also set standards for, and imposed restrictions on, the sale and marketing of cigarettes by participating cigarette manufacturers.

# **CTBW**

## **CIGARETTE • TOBACCO • BEER • WINE**

### **Wine**

Any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added. ([Idaho Code 23-1303](#))

### **Beer**

Any beverage obtained by the alcoholic fermentation in an infusion or decoction of barley, malt, and/or other ingredients in drinkable water. ([Idaho Code 23-1001\(a\)](#))

### **Strong Beer**

Beer containing more than four percent (4%) of alcohol by weight shall be considered and taxed as wine. ([Idaho Code 23-1002\(2\)](#)).

### **Near Beer**

Low-alcoholic or non-alcoholic beer. Beers that are labeled as non-alcoholic still contain a small amount of alcohol and are taxed like beer.

### **Hard Cider**

A fermented alcoholic beverage made from fruit juice. Hard cider varies in alcohol content, but for tax purposes, meets the definition of wine and is taxed as wine.

## **TAX RATES**

**Cigarette** - pre 1987 - 9.1 cents per 20 pack

7/1/87 - 6/30/94 - 18 cents per 20 pack (\$.009 per cigarette)

7/1/94 - present - 28 cents per 20 pack (\$.014 per cigarette)

**Tobacco** - 35% of wholesale price + additional 5% tax effective 7/1/94

**Beer** - \$0.15 (fifteen cents) per gallon (includes near beer)

**Wine** - \$0.45 (forty-five cents) per gallon (Strong beer and hard cider are taxed at the rate of wine)

# **CTBW**

## **CIGARETTE • TOBACCO • BEER • WINE**

### TAX DISCOVERY ACTIONS

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#### **PACT ACT COMPLIANCE**

##### **PACT Act Reports**

Every month the Commission receives PACT Act reports separated from their respective cigarette and/or tobacco tax return(s) that were never attached to the appropriate tax return or as duplicate information.

As these reports come in, TDB staff contacts the registrant and requests they file their PACT Act report with their monthly return by the 10<sup>th</sup> day of the month. Any tax due would not be due until the 20<sup>th</sup> of the month. We cannot compel filing of the return by the 10<sup>th</sup>, so this is only a courtesy request. If the taxpayer is unable to file the return by the 10<sup>th</sup>, we request that a copy of the PACT Act report be attached to the return.

After each contact, an entry is made into an Excel spreadsheet (PACT Act Contact List) for tracking all contacts related to the PACT Act.

If the report is not attached to the original return, it needs to be imaged and attached to its respective return as "Return information". This action is usually performed by clerical.

##### **PACT Act Compliance Report (ID\_qr022)**

Compare list of cigarette distributors to the PACT Act Compliance Report (qr022) to verify all are compliant with the PACT Act.

##### **PACT Act Reports (Jenkins reports)**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

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#### **CIGARETTE & TOBACCO AUDIT ACTIVITIES**

##### **Auditing permitted accounts**

Verifying tax return information and physical product inspections by visiting permitted account holders.

##### **Cigarette Distributor Audits**

Inspection of compliant product

Visual inspection of the businesses security features for their unapplied stamps

Stamp inventory audits

# **CTBW**

## **CIGARETTE • TOBACCO • BEER • WINE**

Requests for credits and refunds

Destroyed stamps/product

### **Cigarette Wholesaler Distribution Variance Report (qr026)**

In February, this report is run and provides the number of cigarettes distributed vs. stamped. Generates on average 10 cases.

### **Master Settlement Agreement (MSA)**

*Information redacted pursuant to Idaho Code Section 74-107(1)(b)*

### **FORMS 1501 NP & 1301 NP**

Cigarette & Tobacco filers must mark a box on the front on the Form 1550 (cigarette) or 1350 (tobacco) stating whether they distributed product from non-participating manufacturers. If the “yes” box is checked, the taxpayer must submit a completed and signed Form 1501 NP or 1301 NP with the return. If any of these components is missing, the taxpayer is contacted to submit 1. The NP form or 2. Amend the 1550 or 1350 return.

### **Cigarette & Tobacco Destructions**

The taxpayer submits a TOB-403 or CIG-403 at least ten days prior to the desired destruction date. They must include a spreadsheet of type, brand, and quantity being destroyed with the form. Information on the spreadsheet must show type, amount, pack size and units in WSSP. Refund request amount must match the spreadsheet total. TP must be able to produce invoices upon request to verify the refund request. Product must be organized according to brand, type and tagged with correlating information. The Tax Commission will approve the request if all necessary components are in place and, if needed, suggesting an alternate date & time. The auditors will physically count the product and verify it matched the submitted list. It will then be brought back to ISTC for destruction.

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### **CIGARETTE & TOBACCO AUDITS**

#### **MSA Invoice Audits**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

#### **Wholesale Sales Price Audits**

# **CTBW**

## **CIGARETTE • TOBACCO • BEER • WINE**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

### **Supplier Requests**

*Information redacted pursuant to Idaho Code Section 74-107(1)(b)*

### **Tobacco Inspections**

Staff conducts physical product inspections to verify the supplier and whether or not Idaho tobacco

tax was paid and that all RYO is listed on the AG Directory of Compliant Product.

### **TB-1350A Audits**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

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## **BEER & WINE AUDIT ACTIVITIES**

### **Wine Direct Shippers Annual Reconciliations**

Wine direct shippers are required to send the Alcohol Beverage Control Division of the Idaho State Police (ABC) an annual reconciliation of all wine shipped into Idaho in each calendar year. These reports are due on January 31. (IC 23-1309(A))

Taxpayers are accustomed to sending tax returns to the Tax Commission and assume ABC's report should be mailed here also. They start sending the reports beginning in January and are usually complete by the end of February. Many of these reports are prepared by a company called ShipCompliant.

*Information redacted pursuant to Idaho Code Section 74-109(4)*

When the wine tax returns are filed, the taxpayer rounds up to the nearest gallon. The annual reports filed by the taxpayer show the number of bottles in milliliters and needs to be converted to gallons for comparison. Online converters are available to make the calculations, such as at [calculateme.com](http://calculateme.com).

For example if the annual report shows a total of 42- 750ML bottles, you would take 42 x 750 for a total of 31,500ML. Using the conversion table at the link above would result in a

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## **CIGARETTE • TOBACCO • BEER • WINE**

total of 8.32 gallons. In reviewing the wine tax summary report, we should see a total of 8 gallons reported on their wine tax return.

*Note* –Even if the taxpayer is not an annual filer in GenTax, it is often easiest to calculate total wine tax due for the year, versus monthly or quarterly, and then verify the total tax remitted for the year is accurate. Often there are timing issues that make the tax reporting period different than the ship date. Also, the wine and sales tax returns may have different reporting periods in GenTax.

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### RETURN SUMMARIES

*Information redacted pursuant to Idaho Code Section 74-107(15)*

#### **Product destructions**

- Review if destructions claimed are always at the maximum allowed
- Approve and/or witness other destructions as requested

#### **Audit Beer/Wine accounts**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

#### **Misclassification audits**

Strong beer or cider reported as beer not wine. Beer containing more than 4% of alcohol by weight and hard cider are taxed as wine.

*Information redacted pursuant to Idaho Code Section 74-109(4)*

#### **RO/PAS Referrals**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

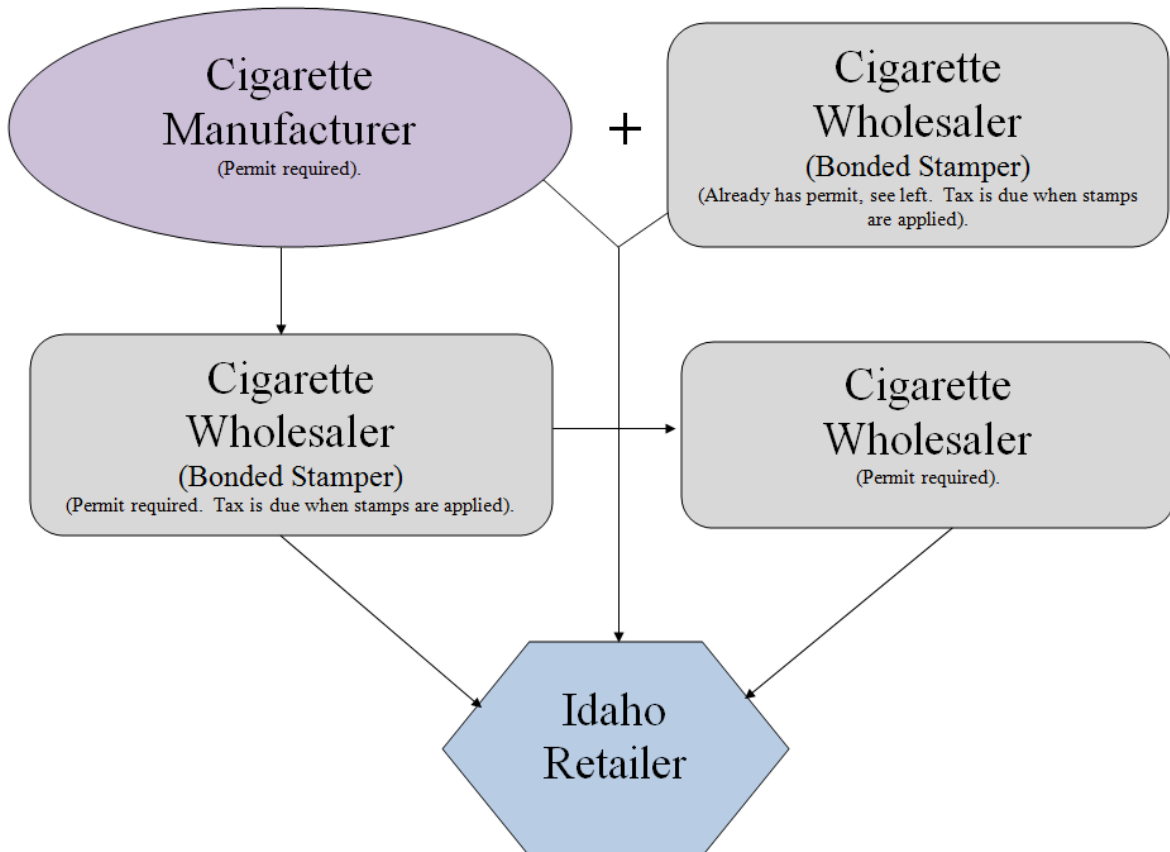
#### **Outside Research**

*Information redacted pursuant to Idaho Code Section 74-109(4)*

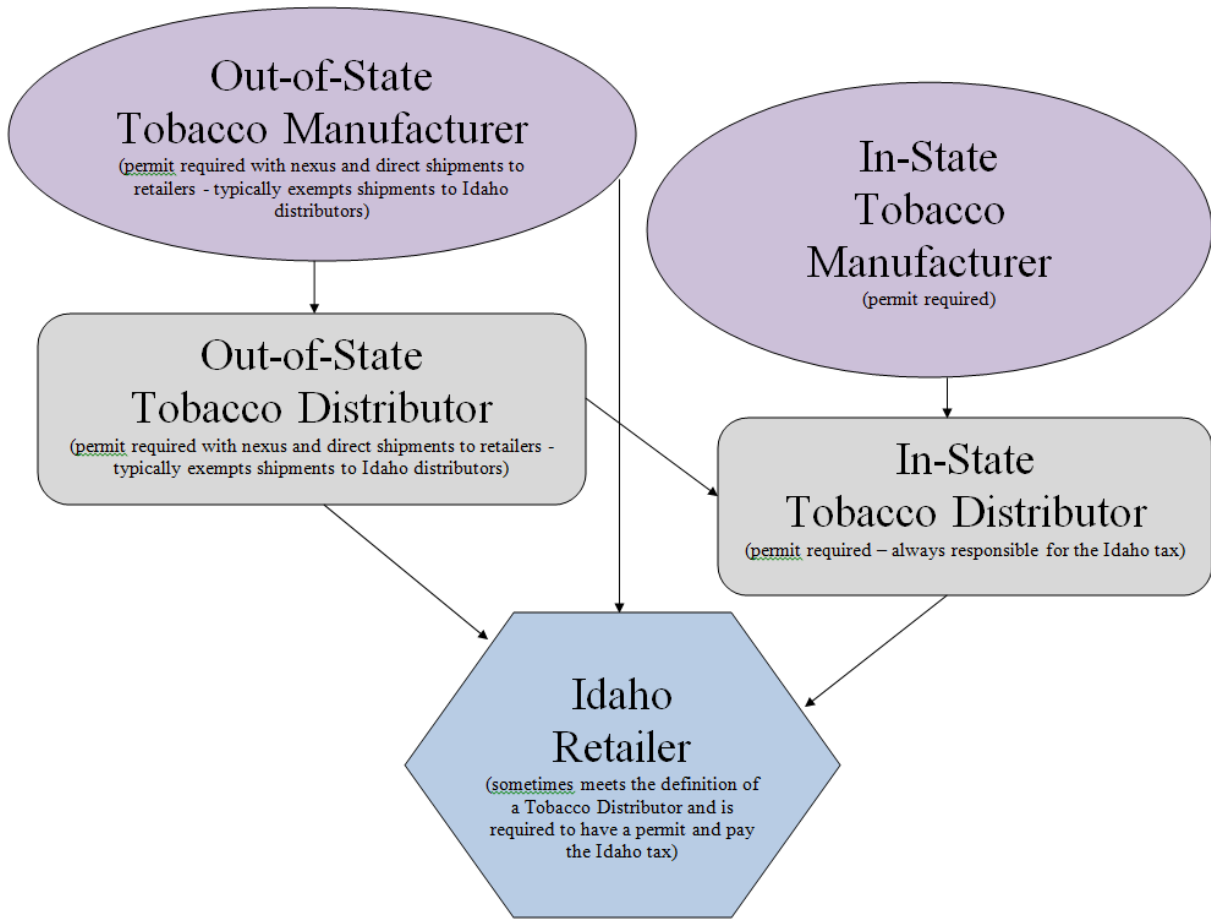


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## A1 - Cigarette / Tobacco Manufacturers



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## A2 – Penalty Guidelines

**63-3634. ADDITIONS AND PENALTIES.** The additions, penalties and requirements provided by the Idaho Income Tax Act, sections [63-3046](#), [63-3075](#), [63-3076](#) and [63-3077](#), Idaho Code, shall apply in the same manner and to the same extent to this act as to the Idaho Income Tax Act and shall cover acts, omissions, and delinquencies under this act similar to acts, omissions and delinquencies under the Idaho Income Tax Act and such additions, penalties and requirements shall, for this purpose, be described as and be for acts, omissions, delinquencies and requirements under the Idaho Sales Tax Act.

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### STANDARD PENALTIES

**63-3046(a)** If any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

- Low bills of sale
- Exemption claimed, but taxpayer doesn't qualify. (All vehicles & Aircraft)
- Taxpayer did not comply with a self-audit request (these requests state the taxpayer will not be assess a penalty if they complete it as requested) and deficiencies were found.

**63-3046(c) (1)** In the event the return required by this chapter is not filed on or before the due date (including extensions) of the return, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date (including extensions) of such returns until the return is filed. (Not to exceed 25%.)

- In-between owners (Sold vehicle prior to titling in their name)
- Aircraft – No response to inquiry letters
- Unpermitted accounts

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### NON-STANDARD PENALTIES

The penalties listed below are used when the circumstances of the case warrant them; however, supervisor approval is needed before asserting them in your case.

**63-3046(d)(1)** If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.

- 63-3046(d)(2) provides the proper application of the substantial understatement penalty

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**63-3046(b)** If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected and paid.

- Any case where fraud exists.

## A3- Working Cases in Audit Manager

### When to use Audit Case Manager:

1. Audit Case Manager must be used for all cases involving non-filed unpermitted taxpayers.
2. If the case is addressing a specific period(s), add only that period(s) when creating the unpermitted account.
3. If the case involves a range of periods, for example January 2011 through December 2012, add the beginning and ending period of the case (01/2011 and 12/2012), when creating the unpermitted account and opening the case.

As the case develops and additional information is obtained, these periods may need to be changed.

### Payment received after issuing a billing letter:

1. If payment is received in full after a billing letter is sent to the taxpayer, then the case should be closed and a return posted to the correct period.
2. If the case involves multiple years, a return needs to be posted to the ending period of the case.

The Idaho State Tax Commission has determined that you owe Idaho Sales/Use Tax, plus interest and penalty, according to Idaho Code sections 63-3629, 63-3632, 63-3633 and 63-3634 as follows:							
PERIOD From	PERIOD To	TAXABLE AMOUNT	TAX RATE	TAX	PENALTY	INTEREST	TOTAL
01/01/13	12/31/13	6,000	6%	360	18	16	394

## APPENDICES

3. Check to make sure that the payment type is listed in GenTax as “return payment”.

If the payment is listed as an “audit payment” or was not posted to the correct period, send an email to your supervisor to change the payment type or move the payment to the correct period.

### **No payment received or no response to billing letter:**

1. Issue a Notice of Deficiency Determination (NODD).
2. On the NODD page list the specific periods of the case. Example:

The Idaho State Tax Commission has determined that you owe Tobacco Tax, plus interest and penalty, according to Idaho Code sections 63-2552,63-2552A, 63-2562, and 63-2563 as follows:

PERIOD From	PERIOD To	TAXABLE AMOUNT	TAX RATE	TAX	PENALTY	INTEREST	TOTAL
01/01/12	01/31/12	512	40%	205	103	27	335
03/01/12	03/31/12	1,644	40%	658	329	82	1,069
06/01/12	06/30/12	573	40%	229	115	26	370
08/01/12	08/31/12	343	40%	137	69	15	221
10/01/12	10/31/12	9	40%	4	10	0	14

Total Due \$2,009

REASON FOR DEFICIENCY: This determination is being issued as a result of the failure to report tobacco tax for the period(s) listed above. The computation and reasons supporting this determination are attached.

### **Posting NODDs through Audit Manager:**

*Information redacted pursuant to Idaho Code Section 74-107(15)*

### **Posting the Multiple Years NODD through Audit Case Manager:**

*Information redacted pursuant to Idaho Code Section 74-107(15)*

# APPENDICES

## A4 – How to Convert Database File to Access Report

*Information redacted pursuant to Idaho Code Section 74-107(15)*

## A5- GenTax Tax Types

TYPE	Explanation
ADT	Amusement Device
BIT	Business Income Tax
BIT 75	Business Income Tax Form 75
BET	Beer Tax
CIG	Cigarette Tax
E911	E911 Fee
ESTATE	Estate Tax
FDT	Fuel Distributor Tax
FFR	Full-fee Registration
GBA	Greater Boise Auditorium Tax
IFTA	International Fuels Tax Agreement
IIT	Individual Income Tax
IIT 75	Individual Income Tax Form 75
IRP	International Registration Plan
KILO	Kilowatt Hour Tax
MINE	Mine License Tax
NGST	Natural Gas Severance Tax
SUT	Sales and Use Tax
TOB	Tobacco Tax
TAC	Travel and Convention Tax
WINE	Wine Tax
WHT	Withholding Tax

# APPENDICES

## A6- GenTax Audit Stages and Descriptions

New Stage Name	Definition
Admin Billing Letter	Billing letter is being prepared by support staff (ITA) or support staff are in the process of closing the audit after a billing letter (STA).
Admin No Change	No change letter is being prepared by support staff.
Admin NOD	NOD is being prepared by support staff.
Assigned	Part of auditor inventory but no actions have been taken.
Audit in Progress	Active working stage to be used for field and desk audits.
Billing Letter	Billing letter has been sent.
Canceled	The audit was determined to not be necessary.
Closed	All outstanding issues have been resolved and audit is no longer active.
Closed Not Pursued	A no change audit in TDB that was closed after receipt of information.
Correspondence Sent	Written initial contact with the taxpayer has been sent and auditor is awaiting a reply.
FTI Ordered	Federal tax information has been ordered and awaiting results of request.
In Review	Quality check completed by supervisor or Auditor 4 before issuing results to taxpayer.
Investigation	Work completed after assignment of audit but before correspondence, taxpayer contact, or active desk or field work.
MTC Candidate	MTC audit inventory but not started.
MTC In Progress	MTC audit that has began.
NOD Issued	Notice of Deficiency has been issued. Awaiting response from taxpayer.
NOD Cancelled	Notice of Deficiency has been cancelled.
NOR Issued	Notice of Refund has been issued. Awaiting response from taxpayer.
Payment Pending	Taxpayer has agreed to the audit findings and has asked to pay balance due within 90 days.
Pending Determination	Preliminary audit report sent or completion of NOD in progress.
Protest	NOD or NOR has been protested and factual issues are being addressed in audit.
Review in One Year	Review situation at a later date to determine if a need for an audit exists at that time.

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To Legal

Protested case in which no further action can be completed by audit and taxpayer wishes to continue protest.

## A7- GenTax Audit Programs

PROGRAM	Explanation
STA Comp	Comprehensive Sales Tax Audit.
STA MAP	Sales Tax Managed Audit Program
STA Contract Desk	Sales Tax Contract Desk
STA Refund Desk	Sales Tax Refund Desk
FTRF Cross Checkers	Fuels Tax Cross Checkers
FTRF Audit	Fuels Tax Fuels Distributor, IFTA, IRP, Full fee or Form 75 review when completed in conjunction with another fuels tax audit.
FTRF Form 75	Fuels Tax stand alone form 75 review.
ITA Multistate	Income Tax Multistate
ITA Intrastate	Income Tax Intrastate
ITA Federal Audit	Income Tax federal audit adjustments
ITA Fin Techs	Income Tax reviews completed by part-time or full-time financial technicians.
TDB Ind Non-filer	Tax Discovery Individual Non-filer.
TDB Business	Tax Discovery Business
TDB CP 2000	Tax Discovery CP 2000
TDB Fraud Unit	Tax Discovery Fraud and Criminal Unit
TDB Discovery	Tax Discovery Discovery Unit
MTC Audit	Multistate Tax Commission Audit
Audit Reversal	Reversal of previously closed audit for which new information has been obtained.

## A8- GenTax Audit Sources

*Information redacted pursuant to Idaho Code Section 74-109(4)*