

MINUTES  
**HOUSE REVENUE & TAXATION COMMITTEE**

**DATE:** Monday, January 19, 2015

**TIME:** 9:30 A.M.

**PLACE:** Room EW42

**MEMBERS:** Chairman Collins, Vice Chairman Trujillo, Representatives, Raybould, Anderson, Anderst, Dayley, Hartgen, Kauffman, Chaney, Nate, Scott, Thompson, Erpelding, Nye, Rudolph

**ABSENT/  
EXCUSED:** Rep. Moyle

**GUESTS:** Ben Davenport, Associated Taxpayers of Idaho; McLean Russell, Idaho State Tax Commission; Jakub Bollant, self; Ron Williams, ICTA (Cable TV); John Eaton, Realtors; Matt Warnick, DFM

**Chairman Collins** called the meeting to order at 9:33 A.M.

**DOCKET NO. 35-0102-1401:** **McLean Russell**, Tax Policy Specialist, Idaho State Tax Commission, presented **Docket No. 35-0102-1401**, Idaho Sales & Use Tax Administrative Rules. Rule 27 is amended in response to **H 598** to clarify that software accessed remotely (i.e., cloud based software) is not tangible personal property. In addition, software delivered electronically or by the load and leave method will no longer be tangible personal property. This rule also makes clear that digital books, games, music and movies are tangible personal property regardless of how they are transferred to the user.

As part of the negotiated rule process several public meetings were held with a wide spectrum of participants resulting in two major areas of unresolved concern. First, digital videos remain taxable with the exception of live broadcast cable. Participants disagreed with the determination that live broadcast cable was not considered digital recordings and therefore not taxed. The Commission chose to remain silent on that issue in the rule. Satellite and cable companies have submitted public comments on this issue and there will be some clarifying language coming forward. Secondly, almost all online libraries and digital music are not taxable. The Commission supported the rule but moved forward knowing there was disagreement.

Responding to questions, **Mr. Russell** explained the difference between how online video subscriptions and other video products are taxed. He also indicated that participants in this rulemaking process were generally pleased with the final rule except for the two concerns mentioned earlier.

**MOTION:** **Rep. Erpelding** made a motion to approve **Docket No. 35-0102-1401** as presented. **Motion carried by voice vote.** **Rep. Scott** and **Rep. Chaney** requested to be recorded as voting **NAY**.

**UNANIMOUS  
CONSENT  
REQUEST:** **Chairman Collins** made a unanimous consent request to **HOLD Docket No. 35-0102-1403** in Committee at the call of the Chair. There being no objection, the request was granted.

**DOCKET NO. 35-0102-1404:** **McLean Russell**, Idaho State Tax Commission, presented **Docket No. 35-0102-1404**, Idaho Sales & Use Tax Administrative Rules. The three rules contained in this Docket were not part of the negotiated rulemaking process as they are simple in nature and no public comments were received. Rule 010 replaces the obsolete terms of "speculative contractor" and "spec contractor" with "speculative builder". Rule 105 is updated to clarify that a single payment may be made to cover liabilities from multiple tax types and reflects the current practice. Rule 107 is amended due to legislative changes related to the use tax exemption for new residents and military personnel so that it aligns more closely with the statutory exemption. It clarifies the timing under which goods are purchased to be eligible for the sales tax exemption.

**MOTION:** **Rep. Chaney** made a motion to approve **Docket No. 35-0102-1404** as presented. **Motion carried by voice vote.**

**ADJOURN:** There being no further business to come before the committee, the meeting was adjourned at 9:53 A.M.

---

Representative Collins  
Chair

---

Bev Bean  
Secretary