



February 25, 2010

Dennis Brown
Equipment Leasing and Finance Association
1825 K Street NW
Suite 900
Washington, DC 20006

RE: Personal Property Tax and Leased Equipment

Dear Mr. Brown:

I am writing in response to your letter inquiring about the Idaho sales and use tax laws. You have asked two questions about Idaho Code § 63-3622UU, which states:

63-3622UU. Personal property tax on rentals. The taxes imposed by this chapter do not apply to charges for personal property tax added to the rent paid for leases of tangible personal property. This exemption applies if:

- (1) The lessor separately states the charge for property tax to the lessee; and
- (2) The amount charged to the lessee is not more than the property tax actually paid by the lessor; and
- (3) The lease agreement is for an initial period of one (1) year or longer.

Your first question was whether a separately stated property tax administration fee that a lessor may charge in addition to a separately stated actual amount of property tax paid by the lessor affects the exemption allowed by I.C. § 63-3622UU.

Such a charge would not affect the taxability of separately stated charges for the personal property tax, itself. The administrative fee would be part of the price subject to tax, however. Mandatory fees associated with the sale or rental of tangible personal property are taxable under Idaho Sales Tax Rule 043 (IDAPA 35.01.02.043). The statute explicitly states that, for the exemption to apply, the charge cannot be greater than the property tax actually paid by the lessor. Since the administrative fee is in addition to the amount of the property tax, it is subject to Idaho sales tax. If the administrative was not separately stated, but merely included in the charge for property tax, then the entire charge would be taxable.

Second, you asked whether a lessor's estimate and advance billing of personal property tax at the termination of a lease affects the exemption provided by I.C. § 63-3622UU. No one has raised this issue before with the Tax Commission. In my opinion, though, if all the requirements were otherwise met, then the exemption would apply to the proportional charge for property tax. That would mean that the estimated amount could not be larger than the actual proportional amount of tax.

Sincerely

A handwritten signature in cursive script that reads "Jim Husted". The signature is written in black ink and is positioned above the printed name.

Jim Husted
Tax Policy Specialist
Idaho State Tax Commission