



STATE OF IDAHO

OFFICE OF THE ATTORNEY GENERAL

BOISE 83720

JIM JONES  
ATTORNEY GENERAL

TELEPHONE  
(208) 334-2400

September 10, 1987

The Honorable Lydia Justice Edwards  
State Treasurer  
Statehouse  
Boise, Idaho 83720

THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE  
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE

Re: S.B. 1223 -- Legal Rate of Interest

Dear Ms. Edwards:

This is in response to your request for my interpretation of S.B. 1223, ch. 278, 1987 S.L., which amends the legal rate of interest upon judgments set forth in Idaho Code § 28-22-104. That section was amended to provide that the legal rate of interest upon judgments shall be five percent plus a base rate which is calculated annually by your office.

You have asked to which judgments that new legal interest rate applies. More specifically, you have asked whether the new interest rate applies to:

- a. judgments on cases that began prior to the effective date of July 1, 1987.
- b. judgments on cases that began on or after the effective date of July 1, 1987.

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Section 18 of S.B. 1223 provides:

The provisions of this act shall take effect on July 1, 1987, provided however, that Section 1 through 11 shall apply only to causes of action which accrue on and after July 1, 1987. Provided further, that Section 6-1603, Idaho Code, as enacted herein, is hereby repealed and does sunset for causes of action which accrue after June 30, 1992. (Emphasis added.)

The amendments to Idaho Code § 28-22-104 regarding the legal rate of interest are found in section 7 of the act. Thus, by the terms of the act, those amendments to Idaho Code § 28-22-104 apply only to "causes of action which accrue on and after July 1, 1987." Accordingly, any judgment entered which applies to a cause of action which accrued after July 1, 1987, is subject to the new interest rate. However, any judgment entered which applies to a cause of action which accrued prior to July 1, 1987, is governed by the provisions of prior law.

"Cause of action" has been generally described as "a single core of operative facts which give rise to a remedy." Alexander v. Chicago Park District, 773 F.2d 850, 854 (C.A. 7, 1985). Similarly, it was said in Woodfork v. Marine Cooks & Stewards Union, 642 F.2d 966, 971 (C.A. 5, 1981), "A cause of action, in common legal parlance, is a state of facts which would entitle a person to sustain an action and to seek a judicial remedy on his behalf."

A number of Idaho cases have considered when a cause of action accrues. Normally, such cases have dealt with questions involving statutes of limitation. Statutes of limitation begin to run when "the cause of action shall have accrued." Idaho Code § 5-201. For example, an action for breach of a written contract must be brought within five years from the time the cause of action accrues. Idaho Code § 5-216.

In Thomas v. Goff, 100 Idaho 282, 596 P.2d 794 (1974), the Idaho Supreme Court considered this section as applied to an action for failure to make installment payments on a note. The note authorized the lender to accelerate all payments in the event of default. The Court held that if the lender had elected to accelerate payments, the cause of action upon future installments would have accrued at the time of the election to

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accelerate the future payments. However, if there was no election to accelerate payments, the statute of limitation applied to each installment separately and did not begin to run on any installment until it was due.

As another example, Idaho Code § 5-218 provides a three year statute of limitation for causes of action based upon fraud. Such a cause of action does not accrue until the time the fraud is discovered or should have been discovered in the exercise of reasonable diligence. Nancy Lee Mines, Inc. v. Harrison, 95 Idaho 546, 511 P.2d 828 (1973); Full Circle Inc. v. Schelling, 108 Idaho 634, 638, 701 P.2d 254 (Ct. App., 1985).

The foregoing examples point out that the question of when a cause of action accrues depends upon both the legal theory for the claim and upon the facts of the particular case.

As noted earlier, the amendments to Idaho Code § 28-22-104 which change the legal rate of interest upon judgments apply only to "causes of action which accrue on and after July 1, 1987." Thus, the question of whether the prior 18% rate, or the new statutory rate will apply to a particular judgment does not depend upon the date the judgment is entered. Rather, it will depend upon the date the underlying cause of action accrued. If the cause of action accrued prior to July 1, 1987, the prior interest rate will apply. If the cause of action accrued on or after July 1, 1987, the new rate will apply.

Sincerely,



David G. High  
Deputy Attorney General  
Chief, Business Regulation  
and State Finance Division

DGH/scw