

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 387

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO SALES TAX; AMENDING SECTION 63-3613, IDAHO CODE, TO REMOVE  
2 LANGUAGE REGARDING TAXES PREVIOUSLY PAID ON AMOUNTS REPRESENTED BY  
3 ACCOUNTS FOUND TO BE WORTHLESS MAY BE CREDITED UPON A SUBSEQUENT PAYMENT  
4 OF THE SALES AND USE TAX AND TO MAKE A TECHNICAL CORRECTION; AMENDING  
5 SECTION 63-3623, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AND  
6 AMENDING SECTION 63-3626, IDAHO CODE, TO PROVIDE THAT TAXES PREVIOUSLY  
7 PAID ON AMOUNTS REPRESENTED BY ACCOUNTS FOUND TO BE WORTHLESS MAY BE  
8 CREDITED UPON A SUBSEQUENT PAYMENT OF THE TAX PROVIDED IN THIS CHAPTER  
9 OR, IF NO SUCH TAX IS DUE, REFUNDED.  
10

11 Be It Enacted by the Legislature of the State of Idaho:

12 SECTION 1. That Section 63-3613, Idaho Code, be, and the same is hereby  
13 amended to read as follows:

14 63-3613. SALES PRICE. (a) The term "sales price" means the total  
15 amount for which tangible personal property, including services agreed to be  
16 rendered as a part of the sale, is sold, rented or leased, valued in money,  
17 whether paid in money or otherwise, without any deduction on account of any  
18 of the following:

19 1. The cost of the property sold. However, in accordance with such  
20 rules as the state tax commission may prescribe, a deduction may be  
21 taken if the retailer has purchased property for some purpose other than  
22 resale or rental, has reimbursed his vendor for tax which the vendor  
23 is required to pay to the state or has paid the use tax with respect  
24 to the property, and has resold or rented the property prior to making  
25 any use of the property other than retention, demonstration or display  
26 while holding it for sale in the regular course of business. If such a  
27 deduction is taken by the retailer, no refund or credit will be allowed  
28 to his vendor with respect to the sale of the property.

29 2. The cost of materials used, labor or service cost, losses, or any  
30 other expense.

31 3. The cost of transportation of the property prior to its sale.

32 4. The face value of manufacturer's discount coupons. A manufacturer's  
33 discount coupon is a price reduction coupon presented by a consumer to  
34 a retailer upon purchase of a manufacturer's product, the face value of  
35 which may only be reimbursed by the manufacturer to the retailer.

36 (b) The term "sales price" does not include any of the following:

37 1. Retailer discounts allowed and taken on sales, but only to the extent  
38 that such retailer discounts represent price adjustments as opposed to  
39 cash discounts offered only as an inducement for prompt payment.

40 2. Any sums allowed on merchandise accepted in payment of other  
41 merchandise, provided that this allowance shall not apply to the sale of  
42 a "new manufactured home" or a "modular building" as defined herein.

1 3. The amount charged for property returned by customers when the  
2 amount charged therefor is refunded either in cash or credit; but this  
3 exclusion shall not apply in any instance when the customer, in order  
4 to obtain the refund, is required to purchase other property at a price  
5 greater than the amount charged for the property that is returned.

6 4. The amount charged for labor or services rendered in installing  
7 or applying the property sold, provided that said amount is stated  
8 separately and such separate statement is not used as a means of  
9 avoiding imposition of this tax upon the actual sales price of the  
10 tangible personal property; except that charges by a manufactured homes  
11 dealer for set up of a manufactured home shall be included in the "sales  
12 price" of such manufactured home.

13 5. The amount of any tax (not including, however, any manufacturers' or  
14 importers' excise tax) imposed by the United States upon or with respect  
15 to retail sales whether imposed upon the retailer or the consumer.

16 6. The amount charged for finance charges, carrying charges, service  
17 charges, time-price differential, or interest on deferred payment  
18 sales, provided such charges are not used as a means of avoiding  
19 imposition of this tax upon the actual sales price of the tangible  
20 personal property.

21 7. Delivery and handling charges for transportation of tangible  
22 personal property to the consumer, provided that the transportation  
23 is stated separately and the separate statement is not used as a means  
24 of avoiding imposition of the tax upon the actual sales price of the  
25 tangible personal property; except that charges by a manufactured homes  
26 dealer for transportation of a manufactured home shall be included in  
27 the "sales price" of such manufactured home.

28 8. Manufacturers' rebates when used at the time of a retail sale as a  
29 down payment on or reduction to the retail sales price of a motor vehicle  
30 to which the rebate applies. A manufacturer's rebate is a cash payment  
31 made by a manufacturer to a consumer who has purchased or is purchasing  
32 the manufacturer's product from the retailer.

33 9. The amount of any fee imposed upon an outfitter as defined in section  
34 36-2102, Idaho Code, by a governmental entity pursuant to statute  
35 for the purpose of conducting outfitting activities on land or water  
36 subject to the jurisdiction of the governmental entity, provided that  
37 the fee is stated separately and is presented as a use fee paid by the  
38 outfitted public to be passed through to the governmental entity.

39 10. The amount of any discount or other price reduction on  
40 telecommunications equipment when offered as an inducement to the  
41 consumer to commence or continue telecommunications service, or the  
42 amount of any commission or other indirect compensation received by a  
43 retailer or seller as a result of the consumer commencing or continuing  
44 telecommunications service.

45 (c) The sales price of a "new manufactured home" or a "modular building"  
46 as defined in this act shall be limited to and include only fifty-five  
47 percent (55%) of the sales price as otherwise defined herein.

48 (d) ~~Taxes previously paid on amounts represented by accounts found to~~  
49 ~~be worthless may be credited upon a subsequent payment of the tax provided~~

1 ~~in this chapter or, if no such tax is due, refunded. If such accounts are~~  
2 ~~thereafter collected, a tax shall be paid upon the amount so collected.~~

3 (e) Tangible personal property when sold at retail for more than  
4 eleven cents (~~\$.11¢~~) but less than one dollar and one cent (\$1.01) through  
5 a vending machine shall be deemed to have sold at a sales price equal to one  
6 hundred seventeen percent (117%) of the price which is paid for such tangible  
7 personal property and/or its component parts including packaging by the  
8 owner or operator of the vending machines.

9 SECTION 2. That Section 63-3623, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 63-3623. RETURNS AND PAYMENTS. (a) The taxes imposed by this act  
12 are due and payable to the state tax commission monthly on or before the  
13 twentieth day of the succeeding month.

14 (b) All moneys collected or received by the state tax commission  
15 from the taxes, penalties, interest and fees imposed by this act shall be  
16 deposited with the state treasurer to be credited by him to the sales tax  
17 account created by this act.

18 (c) On or before the twentieth day of the month a return shall be filed  
19 with the state tax commission in such form as the state tax commission may  
20 prescribe.

21 (d) For the purpose of the sales tax, a return shall be filed by every  
22 seller. For the purposes of the use tax, a return shall be filed by every  
23 retailer engaged in business in this state and by every person purchasing  
24 tangible personal property, the storage, use, or other consumption of which  
25 is subject to the use tax, who has not paid the use tax due to a retailer  
26 required to collect the tax. Returns shall be signed by the person required  
27 to file the return or by his duly authorized agent.

28 (e) For the purposes of the sales tax, the return shall show the total  
29 sales at retail subject to tax under this act during the reporting period.  
30 For the purposes of the use tax, in case of a return filed by a retailer,  
31 the return shall show the total sales price of the property sold by him, the  
32 storage, use, or consumption of which property became subject to the use tax  
33 during the reporting period; in the case of a return filed by a purchaser, the  
34 return shall show the total sales price of the property purchased by him, the  
35 storage, use, or consumption of which became subject to the use tax during  
36 the reporting period.

37 (f) The return shall show the amount of the taxes for the period covered  
38 by the return and such other information as the state tax commission deems  
39 necessary for the proper administration of this act.

40 (g) The person required to file the return shall mail or deliver the  
41 return together with a remittance of any tax due to the state tax commission  
42 for the reporting period.

43 (h) The state tax commission, if it deems it necessary in order to  
44 insure payment to or facilitate the collection by the state of taxes, may  
45 require returns for periods other than monthly periods.

46 (i) For the purposes of the sales tax, gross amounts from rentals or  
47 leases of tangible personal property which may be subject to tax under this  
48 act shall be reported and the tax paid in accordance with such rules as the  
49 state tax commission may prescribe.

1 (j) The state tax commission for good cause may extend, for not to  
 2 exceed one (1) month, the time for making any return or paying any amount  
 3 required to be paid under this act.

4 (k) Any person to whom an extension is granted and who pays the tax  
 5 within the period for which the extension is granted shall pay, in addition  
 6 to the tax, interest at the rate provided in section 63-3045, Idaho Code,  
 7 from the date on which the tax would have been due without the extension until  
 8 the day of payment.

9 (l) Upon the transfer of ownership of a motor vehicle subject to sales  
 10 or use tax, a certificate of title will be issued to the new owner only upon  
 11 presentation of evidence of payment of sales or use tax on the transaction.

12 (m) The owner of a motor vehicle or trailer required to be registered  
 13 by the laws of this state shall, upon demand, furnish to the officer issuing  
 14 such registration, satisfactory evidence that any sales or use tax to which  
 15 such motor vehicle or trailer is subject has been paid to this state before  
 16 any such registration shall be issued.

17 (n) Retail sales of tangible personal property through a vending  
 18 machine which are taxable upon the purchase price paid by the owner or  
 19 operator of the vending machine pursuant to subsection (~~ed~~) of section  
 20 63-3613, Idaho Code, shall be reported upon the sales tax return of the owner  
 21 or operator of the vending machine in the manner by which the tax commission  
 22 may by rule prescribe.

23 SECTION 3. That Section 63-3626, Idaho Code, be, and the same is hereby  
 24 amended to read as follows:

25 63-3626. REFUNDS AND CREDITS, LIMITATIONS, INTEREST. (a) Subject to  
 26 the provisions of subsection (b) of this section, if any amount due under  
 27 this chapter has been overpaid, the excess amount may be credited on any  
 28 amount then due to the state tax commission from the person by whom the excess  
 29 was paid and any balance refunded to that person.

30 (b) (1) No such credit or refund shall be allowed after three (3)  
 31 years from the time the payment was made to the state tax commission,  
 32 unless before the expiration of such period a written claim therefor is  
 33 filed with the state tax commission by the claimant or the claimant's  
 34 representative, but only if the claimant has authorized in writing the  
 35 representative to file a claim.

36 (2) For periods in regard to which the state tax commission asserts a  
 37 deficiency under section 63-3629 or 63-3630, Idaho Code, a claim for  
 38 refund, relating to the period to which the deficiency relates, must be  
 39 made on or before the later of:

40 (i) The date provided in subsection (b) (1) of this section; or

41 (ii) The date upon which any administrative or judicial  
 42 proceeding relating to such deficiency is finally resolved;  
 43 or

44 (iii) The date specified in any agreement under section  
 45 63-3633(g), Idaho Code.

46 (3) A taxpayer claiming a refund of amounts paid in obedience to such  
 47 deficiencies must do so by appealing within the time limits prescribed  
 48 in sections 63-3631 and 63-3049, Idaho Code.

1 (c) Interest shall be allowed on the amount of such credits or refunds  
2 at the rate provided in section 63-3045, Idaho Code, from the date such tax  
3 was paid to the state tax commission.

4 (d) If the state tax commission denies a claim for refund in whole or in  
5 part, it shall provide notice of the denial in the manner provided in section  
6 63-3629(c), Idaho Code. The claimant may petition the state tax commission  
7 for a redetermination of the denial as provided in section 63-3631, Idaho  
8 Code. The state tax commission shall issue a final decision pursuant to the  
9 requirements of section 63-3045B, Idaho Code. Appeal of a tax commission  
10 decision denying in whole or in part a claim for refund shall be made in  
11 accordance with and within the time limits prescribed in section 63-3049,  
12 Idaho Code.

13 (e) Taxes previously paid on amounts represented by accounts found to  
14 be worthless may be credited upon a subsequent payment of the tax provided  
15 in this chapter or, if no such tax is due, refunded. If such accounts are  
16 thereafter collected, a tax shall be paid upon the amount so collected. For  
17 the purpose of computing the amount of sales tax to be credited or refunded  
18 when part of the debt found to be worthless has been paid, partial payments  
19 shall be credited first to tax.