

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 21

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO BUSINESSES OWNED BY MINORS; AMENDING SECTION 50-307, IDAHO
2 CODE, TO PROVIDE AN EXEMPTION FOR CERTAIN BUSINESSES FROM CERTAIN CITY
3 REQUIREMENTS; AND AMENDING SECTION 63-3622K, IDAHO CODE, TO PROVIDE
4 AN EXEMPTION FOR CERTAIN BUSINESSES FROM THE DUTY TO COLLECT AND REMIT
5 SALES AND USE TAXES AND TO MAKE TECHNICAL CORRECTIONS.
6

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

8 SECTION 1. That Section 50-307, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 50-307. LICENSE OCCUPATIONS AND BUSINESSES. (1) Cities shall have
11 authority to levy and collect a license fee on any occupation or business
12 within the limits of the city and to regulate the same by ordinance. All such
13 fees shall be uniform in respect to the classes upon which they are imposed.

14 (2) A business owned and operated exclusively by a person or persons un-
15 der eighteen (18) years of age is exempt from any licensing, permitting, or
16 fee requirements imposed by a city.

17 SECTION 2. That Section 63-3622K, Idaho Code, be, and the same is hereby
18 amended to read as follows:

19 63-3622K. OCCASIONAL SALES. (a) There are exempted from the taxes im-
20 posed by this chapter occasional sales of tangible personal property.

21 (b) As used in this section, the term "occasional sales" means:

22 (1) A sale of property not held or used by a person in the course of an
23 activity for which he is required to hold a seller's permit, provided
24 such sale is not one (1) of a series of sales sufficient in number or
25 of such a nature as to constitute the seller a "retailer" under section
26 63-3610(c), Idaho Code. The definition of "occasional sales" provided
27 in this subsection does not apply to use tax in regard to tangible per-
28 sonal property used to improve real property when such property is ob-
29 tained, directly or indirectly, from a person in the business of making
30 like or similar improvements to real property.

31 (2) Any transfer of all or substantially all of the property held or
32 used by a person in a business requiring a seller's permit when, after
33 such transfer, the real or ultimate ownership of such property is sub-
34 stantially similar to that which existed before such transfer. For the
35 purpose of this section, stockholders, bondholders, partners, or other
36 persons holding an interest in a corporation or other entity are re-
37 garded as having a "real or ultimate ownership" of the property of such
38 corporation or other entity.

39 (3) A transfer of capital assets to or by a business when the transfer
40 is accomplished through an adjustment of the beneficial interest of the

1 business and the transferor has paid sales or use taxes pursuant to sec-
2 tion 63-3619 or 63-3621, Idaho Code, on the capital assets, incidental
3 to:

4 (i) A division of joint venture, partnership, or limited liabil-
5 ity company assets among the members or partners in exchange for a
6 proportional reduction of the transferee's interest in the joint
7 venture, partnership, or limited liability company. For the pur-
8 poses of this section, the term "limited liability company" means
9 a business organization as defined in chapter 6, title 53, Idaho
10 Code, or as defined in section 30-6-102, Idaho Code, as appropri-
11 ate pursuant to section 30-6-1104, Idaho Code;

12 (ii) The formation of a partnership, joint venture, or limited
13 liability company by the transfer of assets to the partnership,
14 joint venture, or limited liability company or transfers to a
15 partnership, joint venture, or limited liability company in ex-
16 change for proportionate interests in the partnership, joint
17 venture, or limited liability company;

18 (iii) The formation of a corporation by the owners of a business
19 and the transfer of their business assets to the corporation in ex-
20 change for stock in proportion to assets contributed;

21 (iv) The transfer of assets of shareholders in the formation or
22 dissolution of a corporation;

23 (v) The transfer of capital assets by a corporation to its stock-
24 holders in exchange for surrender of capital stock;

25 (vi) The transfer of assets from a parent corporation to a sub-
26 subsidiary corporation ~~which~~ that is owned at least eighty percent
27 (80%) by the parent corporation, which transfer is solely in ex-
28 change for stock or securities of the subsidiary corporation;

29 (vii) The transfer of assets from a subsidiary corporation ~~which~~
30 that is owned at least eighty percent (80%) by the parent corpo-
31 ration to a parent corporation or another subsidiary ~~which~~ that
32 is owned at least eighty percent (80%) by the parent corporation,
33 which transfer is solely in exchange for stock or securities of the
34 parent corporation or the subsidiary ~~which~~ that received the as-
35 sets.

36 (4) The sale, lease or rental of a capital asset in substantially
37 the same form as acquired by the transferor and on which the initial
38 transferor has paid sales or use taxes pursuant to section 63-3619 or
39 63-3621, Idaho Code, when the owners of all of the outstanding stock,
40 equity or interest of the transferor are the same as the transferee or
41 are members of the same family within the second degree of consanguinity
42 or affinity.

43 (5) The sale of substantially all of the operating assets of a business
44 or of a separate division, branch, or identifiable segment to a buyer
45 who continues operation of the business. For the purpose of this sub-
46 section, a "separate division, branch, or identifiable segment" shall
47 be deemed to exist if, prior to its sale, the income and expense attrib-
48 utable to such "separate division, branch, or identifiable segment"
49 could be separately ascertained from the books of accounts and records.

1 (6) Sales by persons who are not defined as "retailers" in section
2 63-3610, Idaho Code.

3 (7) Sales of animals by any 4-H club or FFA club held in conjunction with
4 a fair or the western Idaho spring lamb sale.

5 (8) The sale or purchase of tangible personal property at home yard
6 sales; provided however, that no more than two (2) such home yard sales
7 per individual calendar year shall be exempt.

8 (9) Sales by a business owned and operated exclusively by a person or
9 persons under eighteen (18) years of age, as long as the gross receipts
10 of the business do not exceed ten thousand dollars (\$10,000) per year.

11 (c) As used in this section, the term "occasional sales," when applied
12 to the sale of a motor vehicle, means only:

13 (1) Sales of motor vehicles between members of a family related within
14 the second degree of consanguinity, unless a sales or use tax was not im-
15 posed on the sale of that motor vehicle at the time of purchase, in which
16 situation the sale is taxable.

17 (2) Sales of motor vehicles that fall within the scope of the transac-
18 tions detailed in subsection (b) (2) through ~~(b)~~(5) of this section.

19 (d) The exemption provided by subsection (b) (1), ~~(b)~~(4), ~~(b)~~(6) or
20 ~~(b)~~(8) of this section shall not apply to the sale, purchase or use of air-
21 craft, as defined in section 21-201, Idaho Code, nor shall it apply to the
22 sale, purchase or use of boats or vessels, as defined in section 67-7003,
23 Idaho Code, nor shall it apply to the sale, purchase or use of snowmobiles,
24 recreational vehicles or off-highway motorbikes, as defined in section
25 63-3622HH, Idaho Code.