

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 133

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

1 RELATING TO MOTOR VEHICLE LEASE AND RENTAL TAX; AMENDING SECTION
2 63-3613, IDAHO CODE, TO REVISE THE DEFINITION OF "SALES PRICE";
3 AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER
4 46, TITLE 63, IDAHO CODE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR
5 A MOTOR VEHICLE LEASE AND RENTAL TAX, TO PROVIDE FOR CERTAIN
6 EXEMPTIONS, TO PROVIDE FOR DEPOSIT OF MONEYS, TO PROVIDE FOR
7 REGISTRATION, RETURNS AND PAYMENTS, TO PROVIDE FOR CERTAIN
8 TAXES AS STATE MONEYS, TO PROVIDE THAT THE TAX COMMISSION SHALL
9 ENFORCE PROVISIONS OF THE MOTOR VEHICLE LEASE AND RENTAL TAX
10 AND TO PROVIDE FOR RULES, TO PROVIDE FOR REFUNDS, LIMITATIONS
11 AND INTEREST, TO PROVIDE FOR DEFICIENCY DETERMINATIONS, TO
12 PROVIDE FOR CERTAIN INTEREST, TO PROVIDE FOR A PERIOD OF
13 LIMITATION, TO PROVIDE FOR ADDITIONS AND PENALTIES, TO PROVIDE
14 FOR AUTHORITY OF THE TAX COMMISSION TO ENTER INTO CERTAIN
15 AGREEMENTS AND TO PROVIDE FOR COLLECTION AND ENFORCEMENT.
16

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

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

20 63-3613. SALES PRICE. (a) The term "sales price" means the total amount for which
21 tangible personal property, including services agreed to be rendered as a part of the sale, is sold,
22 rented or leased, valued in money, whether paid in money or otherwise, without any deduction
23 on account of any of the following:

- 24 1. The cost of the property sold. However, in accordance with such rules as the state
25 tax commission may prescribe, a deduction may be taken if the retailer has purchased
26 property for some purpose other than resale or rental, has reimbursed his vendor for tax
27 which the vendor is required to pay to the state or has paid the use tax with respect
28 to the property, and has resold or rented the property prior to making any use of the
29 property other than retention, demonstration or display while holding it for sale in the
30 regular course of business. If such a deduction is taken by the retailer, no refund or credit
31 will be allowed to his vendor with respect to the sale of the property.
- 32 2. The cost of materials used, labor or service cost, losses, or any other expense.
- 33 3. The cost of transportation of the property prior to its sale.
- 34 4. The face value of manufacturer's discount coupons. A manufacturer's discount
35 coupon is a price reduction coupon presented by a consumer to a retailer upon purchase
36 of a manufacturer's product, the face value of which may only be reimbursed by the
37 manufacturer to the retailer.

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

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

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

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

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

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

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

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

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

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

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

44 11. The amount of any motor vehicle lease and rental tax imposed under chapter 46, title
45 63, Idaho Code.

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

4 (d) Taxes previously paid on amounts represented by accounts found to be worthless may
 5 be credited upon a subsequent payment of the tax provided in this chapter or, if no such tax is
 6 due, refunded. If such accounts are thereafter collected, a tax shall be paid upon the amount so
 7 collected.

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

13 SECTION 2. That Title 63, Idaho Code, be, and the same is hereby amended by the
 14 addition thereto of a NEW CHAPTER, to be known and designated as Chapter 46, Title 63,
 15 Idaho Code, and to read as follows:

16 CHAPTER 46
 17 MOTOR VEHICLE LEASE AND RENTAL TAX

18 63-4601. DEFINITIONS.

19 (1) (a) "Daily lease or rental rate" means the following:

- 20 (i) Charges for time of use of the rental vehicle and mileage if applicable;
- 21 (ii) Charges accepted by the renter for personal accident insurance;
- 22 (iii) Charges for additional drivers or underage drivers;
- 23 (iv) Charges for child safety restraints, luggage racks, ski racks or other accessory
 24 equipment for the rental vehicle;

25 (b) The term does not include:

- 26 (i) Rental vehicle price discounts allowed and taken;
- 27 (ii) Rental charges or other charges or fees imposed on the rental vehicle owner
 28 or operator for the privilege of operating as a concessionaire at an airport terminal
 29 building;
- 30 (iii) Motor fuel;
- 31 (iv) Intercity rental vehicle drop charges;
- 32 (v) Taxes imposed by federal, state or local governments.

33 (2) "Lease," "leasing" or "rental" means any transfer of possession or control of tangible
 34 personal property for a fixed or indeterminate term for consideration, including future options to
 35 extend the lease or rental.

36 (3) "Lessee" means any person who leases or rents a motor vehicle from a motor vehicle
 37 rental business for the person's own use and not for rental to others.

38 (4) "Motor vehicle rental business" means any business entity that is engaged in the
 39 business of leasing or renting motor vehicles within the state of Idaho without a driver to
 40 lessees.

41 (5) "Rental vehicle" means a motor vehicle that is used by a motor vehicle rental
 42 business for rental through an arrangement and for consideration for rental to others, without a
 43 driver provided by the motor vehicle rental business, for periods of not more than thirty (30)
 44 consecutive days.

1 63-4602. MOTOR VEHICLE LEASE AND RENTAL TAX. (1) There is hereby
2 imposed a tax of six percent (6%) of the daily lease or rental rate on all short-term leases and
3 rentals of motor vehicles not exceeding thirty (30) days. The rental tax shall be charged on
4 the total amount the motor vehicle rental business charges the lessee for the rental of a motor
5 vehicle. This tax shall be collected on each motor vehicle rental regardless of whether the
6 vehicle is licensed or registered in this state. Incidence of the tax shall occur upon taking
7 delivery of the rented motor vehicle in the state of Idaho.

8 (2) The rental of a motor vehicle is exempt from the tax imposed in subsection (1) of this
9 section if:

10 (a) The motor vehicle is registered for a gross weight of eight thousand one (8,001)
11 pounds or more;

12 (b) The motor vehicle is rented as a personal household goods moving van;

13 (c) The lease or rental of the motor vehicle is made for the purpose of temporarily
14 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or
15 an insurance agreement; or

16 (d) The motor vehicle is licensed and operated as a taxicab.

17 (3) The agencies and organizations that are exempted from paying sales and use tax
18 under section 63-3622, Idaho Code, are exempt from the motor vehicle rental tax imposed
19 under this chapter.

20 (4) The tax imposed by this section shall be collected by the motor vehicle rental
21 business from the lessee as a part of the vehicle rental agreement. The motor vehicle rental
22 agreement shall separately indicate the amount of the motor vehicle rental tax imposed on each
23 motor vehicle rental.

24 63-4603. REGISTRATION – RETURNS – PAYMENTS. (1) Any business entity
25 engaged in business as a motor vehicle rental business within the state of Idaho shall register
26 with the state tax commission, in such manner as the state tax commission may prescribe, as
27 a business required to collect the motor vehicle rental tax. Registration will be in the same
28 manner and form as is required for obtaining a seller's permit for state sales tax.

29 (2) The motor vehicle rental taxes imposed under section 63-4602, Idaho Code, are due
30 and payable by the motor vehicle rental business to the state tax commission monthly on or
31 before the twentieth day of the succeeding month.

32 (3) All moneys collected or received by the state tax commission from the taxes,
33 penalties, interest and fees imposed by this chapter shall be deposited with the state treasurer
34 to be credited by him to the highway, maintenance, preservation and restoration fund under
35 section 40-701A, Idaho Code, after making deductions for:

36 (a) An amount of money equal to the actual cost of collecting, administering and
37 enforcing the motor vehicle rental tax requirements by the state tax commission, as
38 determined by it shall be retained by the state tax commission. The amount retained
39 by the state tax commission shall not exceed the amount authorized to be expended by
40 appropriation by the legislature; and

41 (b) An amount of money to be distributed to the state refund account sufficient to pay
42 current refund claims. All refunds authorized by the state tax commission to be paid
43 shall be paid from the state refund account and those moneys are hereby continuously
44 appropriated for that purpose.

1 (4) On or before the twentieth of each month, the motor vehicle rental business shall file
2 a return with the state tax commission in such form as the state tax commission may prescribe.

3 (5) For the purposes of the motor vehicle rental tax, a return shall be filed by every
4 motor vehicle rental business. Returns shall be signed by the person required to file the return
5 or by his duly authorized agent.

6 (6) For the purposes of the motor vehicle rental tax, the return shall show the total daily
7 lease or rental fees charged for motor vehicle rentals subject to tax under this chapter during the
8 reporting period.

9 (7) For the purposes of the motor vehicle rental tax, the return shall show the total
10 amount of the taxes for the period covered by the return and such other information as the state
11 tax commission deems necessary for the proper administration of this chapter.

12 (8) The person required to file the return shall mail or deliver the return together with a
13 remittance of any tax due to the state tax commission for the reporting period.

14 (9) The state tax commission, if it deems it necessary in order to ensure payment to or
15 facilitate the collection by the state of taxes, may require returns for periods other than monthly
16 periods.

17 (10) For the purposes of the motor vehicle rental tax, gross amounts from motor vehicle
18 rentals that may be subject to tax under this chapter shall be reported and the tax paid in
19 accordance with such rules as the state tax commission may prescribe.

20 (11) The state tax commission, for good cause may extend, for not to exceed one (1)
21 month, the time for making any return or paying any amount required to be paid under this
22 chapter.

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

27 63-4604. TAXES AS STATE MONEY. All moneys collected by motor vehicle rental
28 businesses in compliance with this chapter shall, immediately upon collection, be state money
29 and every such business shall hold such money for the state of Idaho and for payment to the
30 state tax commission in the manner and at the times required in this chapter. Such money
31 shall not, for any purpose, be considered to be a part of the proceeds of the lease or rental to
32 which the tax relates and shall not be subject to an encumbrance, security interest, execution
33 or seizure on account of any debt owed by the retailer to any creditor other than the state tax
34 commission.

35 63-4605. ADMINISTRATION. (1) The state tax commission shall enforce the
36 provisions of this chapter and may prescribe, adopt and enforce rules relating to the
37 administration and enforcement of this chapter. The state tax commission may prescribe the
38 extent to which any rule shall be applied without retroactive effect.

39 (2) The state tax commission shall employ qualified auditors for examination of
40 taxpayers' records and books. The state tax commission shall also employ such accountants,
41 investigators, regional supervisors, assistants clerks and other personnel as are necessary for
42 the efficient administration of this chapter, and may delegate authority to its representatives to
43 conduct hearings or perform any other duties imposed by this chapter.

1 (3) Every motor vehicle rental business shall keep such records, receipts, invoices and
 2 other pertinent papers as the state tax commission may require. Every such motor vehicle
 3 rental business or person who files the returns required under this chapter shall keep such
 4 records for not less than four (4) years from the making of such records unless the state tax
 5 commission in writing sooner authorizes their destruction.

6 (4) The state tax commission, or any person authorized in writing by it, may examine
 7 the books, papers, records and equipment of any motor vehicle rental business and any person
 8 liable for the motor vehicle rental tax and may investigate the character of the business of the
 9 person in order to verify the accuracy of any return made, or, if no return is made by the
 10 person, to ascertain and determine the amount required to be paid.

11 (5) Motor vehicle rental businesses whose pertinent records are kept outside of the state
 12 must bring the records to Idaho for examination by the state tax commission upon request of
 13 the latter, or, by agreement with the state tax commission, permit an auditor designated by the
 14 state tax commission to visit the place where the records are kept, and there audit such records.

15 63-4606. REFUNDS – LIMITATIONS – INTEREST. (1) Subject to the provisions of
 16 subsection (2) of this section, if any amount due under this chapter has been overpaid, the
 17 excess amount may be credited on any amount then due to the state tax commission from the
 18 person by whom the excess was paid and any balance refunded to that person.

19 (2) (a) No such credit or refund shall be allowed after three (3) years from the time
 20 the payment was made to the state tax commission, unless, before the expiration of such
 21 period, a written claim therefor is filed with the state tax commission by the claimant
 22 or the claimant's representative, but only if the claimant has authorized in writing the
 23 representative to file a claim.

24 (b) For periods in regard to which the state tax commission asserts a deficiency under
 25 section 63-4607, Idaho Code, a claim for any refund, relating to the period to which the
 26 deficiency relates, must be made on or before the later of:

27 (i) The date provided in subsection (2)(a) of this section; or

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

30 (iii) The date specified in any agreement under section 63-4609(7), Idaho Code.

31 (c) A taxpayer claiming a refund of amounts paid in obedience to such deficiencies must
 32 do so by appealing within the time limits prescribed in section 63-3049, Idaho Code.

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

35 (4) If the state tax commission denies a claim for refund in whole or in part, it shall
 36 provide notice of the denial in the manner provided in section 63-4607(3), Idaho Code. The
 37 state tax commission shall issue a final decision pursuant to the requirements of section
 38 63-3045B, Idaho Code. Appeal of a state tax commission decision denying in whole or in part
 39 a claim for refund shall be made in accordance with and within the time limits prescribed in
 40 section 63-3049, Idaho Code.

41 63-4607. DEFICIENCY DETERMINATIONS. (1) If the state tax commission is not
 42 satisfied with the return or returns of the tax, because of errors or omissions discovered in
 43 audits or in any other way, it may compute and determine the amount which is due upon the
 44 basis of facts contained in the return or returns or upon the basis of any information within

1 its possession or that may come into its possession and assert a deficiency. One (1) or more
2 deficiency determinations may be made of the amount due for one (1) or for more than one
3 (1) period. In making such determination, the state tax commission may offset overpayments
4 against amounts due.

5 (2) If any person fails to make a return, the state tax commission shall make an estimate
6 of the amount of sales or use subject to tax by this chapter, and shall in this manner determine
7 the amount of tax due from such person. The estimate shall be made for the period or periods
8 in respect to which the person failed to make a return and shall be based upon any information
9 that is in the state tax commission's possession or that may come into its possession.

10 (3) The state tax commission shall give written notice of its determination and the
11 amount of the deficiency, including any interest and penalties, to the person from whom such
12 deficiency amount is due, in the manner prescribed by section 63-3045, Idaho Code.

13 63-4608. INTEREST ON DEFICIENCIES. Interest upon any deficiency shall be
14 assessed at the same time as the deficiency and shall be due and payable upon notice and
15 demand from the state tax commission and shall be collected as a part of the tax at the rate
16 provided in section 63-3045, Idaho Code, from the date prescribed for the payment of the tax.

17 63-4609. PERIOD OF LIMITATION UPON ASSESSMENT AND
18 COLLECTION. Except as otherwise provided in this section:

19 (1) The amount of taxes imposed by this chapter shall be assessed within three (3) years
20 after the due date of the return or the date the return was filed, whichever is later, and no
21 proceeding in court without assessment for the collection of such taxes shall be begun after
22 the expiration of such period; provided however, if an assessment has been made within the
23 prescribed time, such tax may be collected by levy or by a proceeding in court within a period
24 of six (6) years after assessment of the tax and, provided further, that this shall not be in
25 derogation of any of the remedies elsewhere herein provided. The running of the period of
26 limitations provided by this section shall be suspended for the period during which the state
27 tax commission is prohibited from making the assessment or from collecting by levy or a
28 proceeding in court, and for thirty (30) days thereafter.

29 (2) In the case of a false or fraudulent return with the intent to evade tax, or a willful
30 attempt in any manner to defeat or evade tax, the tax may be assessed, or a proceeding in court
31 for collection of such tax may be begun, without assessment, at any time.

32 (3) In the case of taxes owed by a person who has failed to file a return as provided
33 in section 63-4603, Idaho Code, the amount of taxes imposed in this chapter shall be assessed
34 within seven (7) years of the time the return upon which the tax asserted to be due should have
35 been filed.

36 (4) The periods of limitation upon assessment and collection provided in this section
37 shall not apply:

38 (a) In cases where the facts disclose a false or fraudulent act with the intent to evade tax,
39 or

40 (b) To taxes collected by a retailer, seller or any other person who has failed to pay over
41 such taxes to the state tax commission.

42 (5) In the case of taxes due during the lifetime of a decedent, or by his estate during the
43 period of administration, a notice of deficiency shall be issued, a claim shall be made, the tax
44 shall be assessed, or any proceeding in court without assessment for the collection of such tax

1 shall be begun, within twelve (12) months after written request for prompt action is filed with
2 the state tax commission by the executor, administrator or other fiduciary representing the estate
3 of such decedent. This subsection (5) shall not apply if the return for which the request for
4 prompt action relates has not been filed with the state tax commission.

5 (6) No assessment of a deficiency with respect to the tax imposed by this chapter, and
6 no distraint or proceedings in court for its collection shall be made, begun or prosecuted until a
7 notice under section 63-3629, Idaho Code, has been mailed to the taxpayer, nor until all appeal
8 rights relating to the deficiency have become final.

9 (7) Where, before the expiration of the time prescribed in this section for the assessment
10 of any tax imposed by this chapter, both the state tax commission or its delegate or deputy
11 and the taxpayer have consented in writing to its assessment after such time, the tax may be
12 assessed at any time prior to the expiration of the period agreed upon. The period so agreed
13 upon may be extended by subsequent agreements in writing made before the expiration of the
14 period previously agreed upon.

15 63-4610. ADDITIONS AND PENALTIES. The additions, penalties and requirements
16 provided by the Idaho income tax act, sections 63-3046, 63-3075, 63-3076 and 63-3077, Idaho
17 Code, shall apply in the same manner and to the same extent to this chapter as to the Idaho
18 income tax act and shall cover acts, omissions and delinquencies under this chapter similar to
19 acts, omissions and delinquencies under the Idaho income tax act and such additions, penalties
20 and requirements shall, for this purpose, be described as and be for such acts, omissions,
21 delinquencies and requirements under the Idaho sales tax act; provided however, that the
22 provisions of section 63-3076, Idaho Code, shall not prevent the release of information about a
23 specific transaction to any party to such transaction and any individual signing an exemption
24 claim relating to the transaction. The state tax commission may release such information
25 only when it determines that the release will benefit the enforcement of this chapter, and not
26 otherwise.

27 63-4610A. AUTHORITY TO ENTER AGREEMENTS. Notwithstanding the provisions
28 of section 63-4610 or 63-3076, Idaho Code, relating to confidentiality, the state tax commission
29 may enter into a written agreement with the Idaho transportation department providing for
30 exchange of information as both the state tax commission and the department may find
31 necessary to implement the letter and intent of this chapter or the laws relating to the
32 registration of motor vehicles in this state. The state tax commission is not authorized by
33 this section to disclose any financial information from any tax return filed with the state tax
34 commission other than whether or not an individual filed a resident or nonresident return.

35 63-4611. COLLECTION AND ENFORCEMENT. The collection and enforcement
36 procedures provided by the Idaho income tax act, sections 63-3030A, 63-3038, 63-3039,
37 63-3040, 63-3042, 63-3043, 63-3044, 63-3045B, 63-3047, 63-3048, 63-3049, 63-3050 through
38 63-3064, 63-3065A, 63-3071 and 63-3074, Idaho Code, shall apply and be available to the
39 state tax commission for enforcement of the provisions of this chapter and collection of any
40 amounts due under this chapter, and said sections shall, for this purpose, be considered part
41 of this chapter and wherever liens or any other proceedings are defined as income tax liens
42 or proceedings, they shall, when applied in enforcement or collection under this chapter, be
43 described as motor vehicle rental liens and proceedings.