

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 435

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO SALES AND USE TAX; AMENDING SECTION 63-36220, IDAHO CODE, TO PROVIDE FROM JULY 1, 2010, TO JUNE 30, 2012, DONATIONS TO, SALES TO AND PURCHASES BY HOMELESS SHELTERS THAT ARE PRIVATE NONPROFIT ORGANIZATIONS THAT ARE TAX EXEMPT PURSUANT TO SECTION 501(c)(3) OF THE INTERNAL REVENUE CODE AND THAT PROVIDE TEMPORARY SHELTER OR FOOD TO THE ECONOMICALLY DISADVANTAGED ARE EXEMPTED FROM THE SALES AND USE TAX AND TO MAKE TECHNICAL CORRECTIONS.

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

SECTION 1. That Section 63-36220, Idaho Code, be, and the same is hereby amended to read as follows:

63-36220. EXEMPT PRIVATE AND PUBLIC ORGANIZATIONS. (1) There are exempted from the taxes imposed by this chapter:

(a) Sales to or purchases by hospitals, health-related entities, educational institutions, forest protective associations and canal companies which are nonprofit organizations; and

(b) Donations to, sales to~~r~~ and purchases by the Idaho Foodbank Warehouse, Inc.; and

(c) Donations to, sales to~~r~~ and purchases by food banks or soup kitchens of food or other tangible personal property used by food banks or soup kitchens in the growing, storage, preparation or service of food, but not including motor vehicles or trailers; and

(d) Sales of clothes to, donations of clothes to~~r~~ and purchases of clothes by nonsale clothiers; and

(e) Sales to or purchases by centers for independent living; and

(f) Sales to or purchases by the state of Idaho and its agencies and its political subdivisions; and

(g) Sales to or purchases by volunteer fire departments or licensed emergency medical service agencies; and

(h) Sales to or purchases by a qualifying senior citizen center; and

(i) Sales to or purchases by the Blind Services Foundation, Inc.; and

(j) Donations to, sales to or purchases by the Advocates for Survivors of Domestic Violence and Sexual Assault, Inc., a nonprofit corporation; and

(k) Sales to or purchases by nonprofit organizations offering free dental clinic services to children; and

(l) Admissions to and purchases by museums, as defined in subsection (2) of this section; and

(m) From July 1, 2010, to June 30, 2012, donations to, sales to and purchases by homeless shelters that are private nonprofit organizations that are tax exempt pursuant to section 501(c)(3) of

1 the Internal Revenue Code and that provide temporary shelter or food to
2 the economically disadvantaged.

3 (2) As used in this section, these words shall have the following
4 meanings:

5 (a) "Educational institution" shall mean nonprofit colleges,
6 universities, public charter schools organized pursuant to chapter 52,
7 title 33, Idaho Code, the Idaho digital learning academy established
8 pursuant to chapter 55, title 33, Idaho Code, and other primary
9 and secondary schools, the income of which is devoted solely to
10 education and in which systematic instruction in the usual branches
11 of learning is given. This definition does not include schools
12 primarily teaching business, dancing, dramatics, music, cosmetology,
13 writing, gymnastics, exercise and other special accomplishments nor
14 parent-teacher associations, parent groups, alumni or other auxiliary
15 organizations with purposes related to the educational function of an
16 institution or collective group of institutions.

17 (b) "Hospital" shall include nonprofit institutions licensed by the
18 state for the care of ill persons. It shall not extend to nursing homes
19 or similar institutions.

20 (c) "Health-related entities" shall mean the Idaho Cystic Fibrosis
21 Foundation, Idaho Epilepsy League, Idaho Lung Association, March of
22 Dimes, American Cancer Society, Mental Health Association, The Arc, The
23 Children's Home Society of Idaho, American Heart Association, Idaho
24 Ronald McDonald House, United Cerebral Palsy, Arthritis Foundation,
25 Muscular Dystrophy Foundation, National Multiple Sclerosis Society,
26 Rocky Mountain Kidney Association, American Diabetes Association,
27 Easter Seals, Idaho Community Action Agencies, Idaho Primary Care
28 Association and community health centers who are members of the Idaho
29 Primary Care Association, the Idaho Diabetes Youth Programs, Special
30 Olympics Idaho, the Idaho Women's and Children's Alliance, and the
31 Family Services Alliance of Southeast Idaho, together with said
32 entities' local or regional chapters or divisions.

33 (d) "Canal companies" shall include nonprofit corporations which are
34 incorporated solely for the purpose of operating and maintaining and
35 are engaged solely in operation and maintenance of dams, reservoirs,
36 canals, lateral and drainage ditches, pumps or pumping plants.

37 (e) "Forest protective associations" shall mean associations whose
38 purpose is the furnishing, operating and maintaining of a protective
39 system for the detection, prevention and suppression of forest or
40 range fires. Forest protective associations shall include only those
41 associations with which the state of Idaho has contracted or become a
42 member of pursuant to chapter 1, title 38, Idaho Code.

43 (f) "Food banks or soup kitchens" shall mean any nonprofit corporation
44 or association, other than the Idaho Foodbank Warehouse, Inc., one of
45 whose regular activities is the furnishing or providing of food or food
46 products to others without charge.

47 (g) "Nonsale clothier" shall mean any nonprofit corporation or
48 association, one of whose primary purposes is the furnishing or
49 providing of clothes to others without charge.

- 1 (h) "Clothes" shall mean garments in general, designed or intended
2 to be worn by humans and shall include footwear in addition to wearing
3 apparel.
- 4 (i) "Center for independent living" shall mean a private, nonprofit,
5 nonresidential organization in which at least fifty-one percent (51%)
6 of the principal governing board, management and staff are individuals
7 with disabilities and that:
- 8 (i) Is designed and operated within a local community by
9 individuals with disabilities;
- 10 (ii) Provides an array of independent living services and
11 programs; and
- 12 (iii) Is cross-disability.
- 13 (j) "Political subdivision" means:
- 14 (i) A governmental organization which:
- 15 1. Embraces a certain territory,
16 2. Is organized for public advantage and not in the interest
17 of private individuals or classes,
18 3. Has been delegated functions of government, and
19 4. Has the statutory power to levy taxes; or
- 20 (ii) A public health district created by section 39-408, Idaho
21 Code; or
- 22 (iii) A soil conservation district as defined in section 22-2717,
23 Idaho Code; or
- 24 (iv) A drainage district created pursuant to chapter 29, title
25 42, Idaho Code; or
- 26 (v) An irrigation district created pursuant to title 43, Idaho
27 Code; or
- 28 (vi) A state grazing board created by section 57-1204, Idaho
29 Code; or
- 30 (vii) A water measurement district created pursuant to section
31 42-705 or 42-706, Idaho Code; or
- 32 (viii) A ground water management district created pursuant to
33 chapter 51, title 42, Idaho Code.
- 34 (k) "Agency of the state of Idaho" shall mean an office or organization
35 created by the constitution or statutes of this state and constituting a
36 component part of the executive, judicial or legislative branch of the
37 government of this state.
- 38 (l) "Volunteer fire department" means an entity exempt from federal
39 income taxation pursuant to section 501(c)(3) of the Internal Revenue
40 Code and which primarily provides fire protection, or fire prevention
41 on a not-for-profit basis to surrounding residents.
- 42 (m) "Licensed emergency medical service agency (EMS)" means an
43 emergency medical service licensed by the EMS bureau of the department
44 of health and welfare and which is exempt from federal income taxation
45 pursuant to section 501(c)(3) of the Internal Revenue Code and which
46 provides emergency medical services on a not-for-profit basis to
47 surrounding residents.
- 48 (n) "Qualifying senior citizen center" means an entity exempt from
49 income tax pursuant to section 501(c)(3) of the Internal Revenue Code
50 and which is a community facility for the organization and provision of

1 a broad spectrum of services, which shall include provision of health,
2 including mental health, social, nutritional, and educational services
3 and the provision of facilities for recreational activities for older
4 individuals.

5 (o) "Museum" means a public institution or an entity exempt from
6 income tax pursuant to section 501(c) (3) of the Internal Revenue Code,
7 which stores, preserves and exhibits objects of art, history, science
8 or other objects of historical, educational or cultural value on a
9 permanent basis in a building, portion of a building or outdoor location
10 and which provides museum services to the public on a regular basis.

11 (3) The exemption granted by subsection (1) (f) of this section does not
12 include any association or other organization whose members are political
13 subdivisions or state agencies unless the organization is expressly created
14 under the joint powers provision of sections 67-2328 through 67-2333, Idaho
15 Code.

16 (4) The exemptions granted by subsection (1) of this section do not
17 include the use of tangible personal property by a contractor used to improve
18 real property of an exempt entity when such use is within the definition
19 provided by section 63-3615 (b), Idaho Code, whether the use tax liability is
20 included in a contract total or stated separately in a contract.

21 (5) There is exempted from the taxes imposed in this chapter, the
22 renting of a place to sleep to an individual by the Idaho Ronald McDonald
23 House.