

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 186

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-3616, IDAHO CODE, TO DEFINE A TERM  
AND TO REVISE A DEFINITION TO CLARIFY THAT REMOTELY ACCESSED APPLICATION SOFTWARE IS NOT TAXABLE; AND DECLARING AN EMERGENCY.

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

SECTION 1. That Section 63-3616, Idaho Code, be, and the same is hereby amended to read as follows:

63-3616. TANGIBLE PERSONAL PROPERTY. (a) The term "tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

(b) The term "tangible personal property" includes any computer software which is not a custom computer program and that is not application software accessed over the internet or through wireless media. As used in this subsection, the term "application software" means software developed by a software service provider to meet application needs of users of that software, and that is owned or controlled by that or another service provider, where the user has only the right to use the software by means of a license, lease, subscription or other agreement providing a right of access, and has no ability to modify the software to suit its particular needs or to transfer the software to any other person.

(i) As used in this subsection, the term "computer software" means any computer program, part of a program or any sequence of instructions for automatic data processing equipment or information stored in an electronic medium. Computer software is deemed to be tangible personal property for purposes of this chapter regardless of the method by which the title, possession or right to use the software is transferred to the user.

(ii) As used in this subsection, the term "custom computer program" means any computer software (as defined in this subsection) which is written or prepared exclusively for a customer and includes those services represented by separately stated charges for the modification of existing prewritten programs when the modifications are written or prepared exclusively for a customer. The term does not include a "canned" or prewritten program which is held or existing for general or repeated sale, lease or license, even if the program was initially developed on a custom basis or for in-house use. Modification to an existing prewritten program to meet the customer's needs is custom computer programming only to the extent of the modification, and only to the extent that the actual amount charged for the modification is separately stated on invoices, statements, and other billing documents supplied to the purchaser.

1           (c) The term "tangible personal property" does not include advertising  
2 space when sold to an advertiser or its agent by the publisher of the newspa-  
3 per or the magazine in which the advertisement is displayed or circulated.

4           SECTION 2. An emergency existing therefor, which emergency is hereby  
5 declared to exist, this act shall be in full force and effect on and after its  
6 passage and approval.