

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 654

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE STREAMLINED SALES TAX SIMPLIFICATION ACT; PROVIDING A SHORT
2 TITLE; AMENDING SECTION 50-1046, IDAHO CODE, TO REVISE PROVISIONS ON
3 CERTAIN CITY LOCAL OPTION NONPROPERTY TAXES AND TO MAKE TECHNICAL COR-
4 RECTIONS; AMENDING SECTION 63-105, IDAHO CODE, TO PROVIDE ADDITIONAL
5 POWERS AND AUTHORITY TO THE STATE TAX COMMISSION AND TO MAKE TECHNICAL
6 CORRECTIONS; AMENDING SECTION 63-3607, IDAHO CODE, TO REVISE THE DEF-
7 INITION OF "PERSON"; AMENDING SECTION 63-3608, IDAHO CODE, TO REVISE
8 THE DEFINITION OF "PURCHASE"; AMENDING CHAPTER 36, TITLE 63, IDAHO
9 CODE, BY THE ADDITION OF A NEW SECTION 63-3608A, IDAHO CODE, TO PROVIDE
10 A DEFINITION OF "PURCHASER"; AMENDING SECTION 63-3609, IDAHO CODE,
11 TO REVISE THE DEFINITION OF "RETAIL SALE" OR "SALE AT RETAIL" AND TO
12 MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3610, IDAHO CODE, TO
13 REVISE THE DEFINITION OF "RETAILER"; AMENDING SECTION 63-3611, IDAHO
14 CODE, TO REVISE THE DEFINITION OF "RETAILER ENGAGED IN BUSINESS IN THIS
15 STATE"; AMENDING SECTION 63-3612, IDAHO CODE, TO REVISE THE DEFINITION
16 OF "SALE" AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3613,
17 IDAHO CODE, TO REVISE THE DEFINITION OF "SALES PRICE" AND TO MAKE TECH-
18 NICAL CORRECTIONS; AMENDING SECTION 63-3614, IDAHO CODE, TO REVISE THE
19 DEFINITION OF "SELLER"; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY
20 THE ADDITION OF A NEW SECTION 63-3615B, IDAHO CODE, TO PROVIDE DEFINI-
21 TIONS; AMENDING SECTION 63-3616, IDAHO CODE, TO REVISE THE DEFINITION
22 OF "TANGIBLE PERSONAL PROPERTY"; AMENDING SECTION 63-3621, IDAHO CODE,
23 TO ALLOW THE USE TAX TO APPLY TO CERTAIN TRANSACTIONS; AMENDING SECTION
24 63-3622F, IDAHO CODE, TO REVISE THE SALES TAX EXEMPTION FOR NATURAL
25 GAS, ELECTRICITY, STEAM AND WATER; REPEALING SECTION 63-3622UU, IDAHO
26 CODE, RELATING TO PERSONAL PROPERTY TAX ON RENTALS; AMENDING TITLE 63,
27 IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 46, TITLE 63, IDAHO CODE,
28 TO PROVIDE THAT THE STREAMLINED SALES TAX AGREEMENT IS NOT TO PREEMPT
29 STATE LAW, TO PROVIDE INTENT, TO PROVIDE DUTIES OF THE STATE TAX COMMIS-
30 SION, TO PROVIDE STATE AND LOCAL TAX BASES, TO DEFINE TERMS, TO PROVIDE
31 FOR SELLER REGISTRATION, TO PROVIDE NOTICE FOR STATE TAX CHANGES, TO
32 PROVIDE APPLICATION OF GENERAL SOURCING RULES AND EXCLUSIONS FROM THE
33 RULES, TO PROVIDE FOR GENERAL SOURCING RULES, TO PROVIDE FOR GENERAL
34 SOURCING DEFINITIONS, TO PROVIDE FOR DIRECT MAIL SOURCING, TO PROVIDE
35 FOR ADMINISTRATION OF EXEMPTIONS, TO PROVIDE FOR UNIFORM TAX RETURNS,
36 TO PROVIDE UNIFORM RULES FOR REMITTANCES OF FUNDS, TO PROVIDE UNIFORM
37 RULES FOR RECOVERY OF BAD DEBTS, TO PROVIDE FOR CONFIDENTIALITY AND
38 PRIVACY PROTECTIONS UNDER MODEL 1 AND TO DEFINE A TERM, TO PROVIDE THE
39 EFFECTIVE DATE FOR RATE CHANGES, TO PROVIDE CAPS AND THRESHOLDS, TO
40 PROVIDE FOR A ROUNDING RULE, TO PROVIDE CUSTOMER REFUND PROCEDURES, TO
41 PROVIDE FOR DIRECT PAY PERMITS, TO PROVIDE FOR A TAXABILITY MATRIX, TO
42 PROVIDE RELIEF FROM CERTAIN LIABILITY FOR PURCHASERS, TO PROVIDE FOR
43 PROHIBITED REPLACEMENT TAXES, TO PROVIDE FOR SELLER PARTICIPATION, TO
44 PROVIDE AMNESTY FOR REGISTRATION, TO PROVIDE A METHOD OF REMITTANCE,
45

1 TO PROVIDE FOR REGISTRATION BY AN AGENT, TO PROVIDE FOR CERTIFICATION
 2 OF SERVICE PROVIDERS AND AUTOMATED SYSTEMS, TO PROVIDE FOR REVIEW AND
 3 APPROVAL OF CERTIFIED AUTOMATED SYSTEM SOFTWARE AND CERTAIN LIABILITY
 4 RELIEF, TO PROVIDE FOR A MONETARY ALLOWANCE UNDER MODEL 1 AND TO PRO-
 5 VIDE A MONETARY ALLOWANCE FOR MODEL 2 SELLERS; PROVIDING SEVERABILITY;
 6 PROVIDING AN EFFECTIVE DATE AND PROVIDING DUTIES OF THE STATE TAX COM-
 7 MISSION.

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

9 SECTION 1. SHORT TITLE. This act shall be known and may be cited as the
 10 "Streamlined Sales Tax Simplification Act."

11 SECTION 2. That Section 50-1046, Idaho Code, be, and the same is hereby
 12 amended to read as follows:

13 50-1046. CITY LOCAL-OPTION NONPROPERTY TAXES PERMITTED BY SIXTY ~~PER~~
 14 ~~CENT PERCENT~~ MAJORITY VOTE. A sixty ~~per-cent~~ percent (60%) majority of the
 15 voters of any resort city voting on the question may approve and, upon such
 16 approval, any city may adopt, implement and collect, subject to the provi-
 17 sions of this act, the following city local-option nonproperty taxes: (a) an
 18 occupancy tax upon hotel, motel, and other sleeping accommodations rented
 19 or leased for a period of thirty (30) days or less; (b) a tax upon liquor
 20 ~~by-the-drink~~ by the drink, wine and beer sold at retail for consumption on
 21 the licensed premises; and (c) a ~~sales~~ resort tax upon part or all of sales
 22 subject to taxation under chapter 36, title 63, Idaho Code.

23 SECTION 3. That Section 63-105, Idaho Code, be, and the same is hereby
 24 amended to read as follows:

25 63-105. POWERS AND DUTIES -- GENERAL. In addition to all other powers
 26 and duties vested in it, the state tax commission shall have the power and
 27 duty:

28 (1) To assess and collect all taxes and administer all programs relat-
 29 ing to taxes which are the responsibility of the state tax commission.

30 (2) To make, adopt and publish such rules as it may deem necessary and
 31 desirable to carry out the powers and duties imposed upon it by law, provided
 32 however, that all rules adopted by the state tax commission prior to the ef-
 33 fective date of this 1996 amendatory act shall remain in full force and ef-
 34 fect until such time as they may be rescinded or revised by the commission.

35 (3) To maintain a tax research section to observe and investigate the
 36 effectiveness and adequacy of the revenue laws of this state and to assist
 37 the executive and legislative departments in estimation of revenue, analy-
 38 sis of tax measures and determination of the administrative feasibility of
 39 proposed tax legislation.

40 (4) To prescribe forms and to specify and require information with re-
 41 lation to any duty or power of the state tax commission except as provided in
 42 section 63-219, Idaho Code.

43 (5) To ensure that statutory penalties are enforced, and proper com-
 44 plaint is made against persons derelict in duty under any law relating to as-
 45 sessment or equalization of taxes.

1 (6) To sue and be sued in the name of the state tax commission.

2 (7) To summon witnesses to appear before it or its agents to testify
3 and/or produce for examination such books, papers, records or other data re-
4 lating to any matter within its jurisdiction. However, no person shall be
5 required to testify outside the county wherein he resides or the principal
6 place of his business is located. Such summons to testify shall be issued
7 and served in like manner as a subpoena to witnesses issued from the district
8 court and shall be served without fee or mileage charge by the sheriff of the
9 county, and return of service shall be made by the sheriff to the commis-
10 sion. Persons appearing before the commission or its agents in obedience to
11 such a summons, shall, in the discretion of the commission, receive the same
12 compensation as witnesses in the district court, to be paid upon claims pre-
13 sented against the state from any appropriation made for the administration
14 of the provisions of this title, in the same manner as other claims against
15 the state are presented and paid.

16 (8) To administer oaths and take affirmations of witnesses appearing
17 before it. The power to administer oaths and take affirmations is vested in
18 each member of the state tax commission, and its duly constituted agents. In
19 case any witness shall fail or refuse to appear and testify before the state
20 tax commission or its agents upon being summoned to appear as herein pro-
21 vided, the clerk of the district court of the county shall, upon demand of the
22 state tax commission, any member thereof, or agent, issue a subpoena recit-
23 ing the demand therefor and summoning the witness to appear and testify at a
24 time and place fixed; and violation of such subpoena or disobedience thereto
25 shall be deemed and punished as a violation of any other subpoena issued from
26 the district court.

27 (9) To report to the governor from time to time, and to furnish to the
28 governor such assistance and information as may be required.

29 (10) To recommend to the governor in a report at least sixty (60) days
30 before and to the legislature ten (10) days prior to the meeting of any reg-
31 ular session of the legislature such amendments, changes and modifications
32 of the various tax laws necessary to remedy injustice and irregularities in
33 taxation and to facilitate assessment and collection of taxes in the most
34 economical and efficient manner.

35 (11) To implement the provisions of chapters 36 and 46, title 63, Idaho
36 Code:

37 (a) To accept the data from the streamlined sales tax registration sys-
38 tem.

39 (b) To accept a simplified electronic return from the streamlined sales
40 tax.

41 (c) To accept electronic payments via automated clearing house (ACH)
42 debit, ACH credit and bulk payments.

43 (d) To certify the accuracy of the certified service providers.

44 SECTION 4. That Section 63-3607, Idaho Code, be, and the same is hereby
45 amended to read as follows:

46 63-3607. PERSON. For the purposes of this chapter and chapter 46,
47 title 63, Idaho Code, the term "person" includes any individual, firm,
48 partnership, copartnership, joint venture, fiduciary, limited liability
49 company, limited partnership, association, social club, fraternal organ-

1 ization, corporation, estate, trust, business trust, receiver, trustee,
 2 syndicate, cooperative, assignee, and any other legal entity or any other
 3 group or combination acting as a unit.

4 SECTION 5. That Section 63-3608, Idaho Code, be, and the same is hereby
 5 amended to read as follows:

6 63-3608. PURCHASE. The term "purchase" means any transfer, rental,
 7 exchange, or barter, conditional or otherwise, in any manner or by any means
 8 whatsoever, of tangible personal property or transactions described in sec-
 9 tion 63-3612(2), Idaho Code, for a consideration. A transaction whereby the
 10 possession of property is transferred but the seller retains the title as
 11 security for the payment of the price is a purchase. A transfer for a consid-
 12 eration of any publication or of tangible personal property which has been
 13 produced, fabricated, or printed to the special order of the customer is also
 14 a purchase.

15 SECTION 6. That Chapter 36, Title 63, Idaho Code, be, and the same is
 16 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 17 ignated as Section 63-3608A, Idaho Code, and to read as follows:

18 63-3608A. PURCHASER. The term "purchaser" means a person to whom a
 19 sale of tangible personal property is made or a transaction as described in
 20 section 63-3612(2), Idaho Code, is furnished.

21 SECTION 7. That Section 63-3609, Idaho Code, be, and the same is hereby
 22 amended to read as follows:

23 63-3609. RETAIL SALE -- SALE AT RETAIL. The terms "retail sale" or
 24 "sale at retail" means a sale for any purpose other than resale in the
 25 regular course of business or lease or rental of property in the regular
 26 course of business where such rental or lease is taxable under section
 27 63-3612(h), Idaho Code. A retail sale also means any sale described in sec-
 28 tion 63-3612(2), Idaho Code.

29 (a) All persons engaged in constructing, altering, repairing or im-
 30 proving real estate, are consumers of the material used by them; all sales to
 31 or use by such persons of tangible personal property are taxable whether or
 32 not such persons intend resale of the improved property.

33 (b) For the purpose of this chapter, the sale or purchase of personal
 34 property incidental to the sale of real property or used mobile homes is
 35 deemed a sale of real property.

36 SECTION 8. That Section 63-3610, Idaho Code, be, and the same is hereby
 37 amended to read as follows:

38 63-3610. RETAILER. The term "retailer" includes:

39 (a) Every seller who makes any retail sale or sales of tangible personal
 40 property or sale or sales as described in section 63-3612(2), Idaho Code,
 41 and every person engaged in the business of making retail sales at auction of
 42 tangible personal property owned by the person or others.

1 (b) Every person engaged in the business of making sales for storage,
 2 use, or other consumption or in the business of making sales at auction of
 3 tangible personal property owned by the person or others for storage, use, or
 4 other consumption.

5 (c) Every person making more than two (2) retail sales of tangible per-
 6 sonal property or retail sales as described in section 63-3612(2), Idaho
 7 Code, during any twelve (12) month period, including sales made in the ca-
 8 pacity of assignee for the benefit of creditors, or receiver or trustee in
 9 bankruptcy, or every person making fewer sales who holds himself out as en-
 10 gaging in the business of selling such tangible personal property at retail
 11 or who sells a motor vehicle.

12 (d) When the state tax commission determines that it is necessary for
 13 the efficient administration of this act to regard any salesmen, representa-
 14 tives, peddlers, or canvassers as agents of the dealers, distributors, su-
 15 pervisors, or employers under whom they operate or from whom they obtain the
 16 tangible personal property sold by them, irrespective of whether they are
 17 making sales on their own behalf or on behalf of such dealers, distributors,
 18 supervisors, or employers, the state tax commission may so regard them and
 19 may regard the dealers, distributors, supervisors, or employers as retail-
 20 ers for the purpose of this act.

21 (e) Persons conducting both contracting and retailing activities.
 22 Such persons must keep separate accounts for the retail portion of their
 23 business and pay tax in the usual fashion on this portion.

24 SECTION 9. That Section 63-3611, Idaho Code, be, and the same is hereby
 25 amended to read as follows:

26 63-3611. RETAILER ENGAGED IN BUSINESS IN THIS STATE. "Retailer en-
 27 gaged in business in this state" as used in this chapter means any retailer
 28 who:

29 (1) Engages in recurring solicitation of purchases from residents of
 30 this state or otherwise purposefully directs its business activities at res-
 31 idents of this state; and

32 (2) Has sufficient contact with this state, in accordance with the con-
 33 stitution of the United States, to allow the state to require the seller to
 34 collect and remit use tax on sales of tangible personal property or ~~services~~
 35 sales as described in section 63-3612(2), Idaho Code, made to customers in
 36 this state.

37 (3) The term includes any of the following:

38 (a) Any retailer maintaining, occupying or using, permanently or tem-
 39 porarily, directly or indirectly, or through a subsidiary or agent, by
 40 whatever name called, an office, place of distribution, sales or sample
 41 room or place, warehouse or storage place, or other place of business or
 42 maintaining a stock of goods.

43 (b) Any retailer having any representative, agent, salesman, canvasser
 44 or solicitor operating in this state under the authority of the retailer
 45 or its subsidiary for the purpose of selling, delivering, installing or
 46 the taking of orders for any tangible personal property.

47 (c) Any retailer, with respect to a lease or rental, deriving rentals
 48 from a lease or rental of tangible personal property situated in this
 49 state.

1 (d) Any retailer engaging in any activity in connection with servicing
2 or installing tangible personal property in this state.

3 (e) Any retailer with substantial nexus in this state within the mean-
4 ing of section 63-3615A, Idaho Code.

5 (f) Any retailer having a franchisee or licensee operating under its
6 trade name if the franchisee or licensee is required to collect the tax
7 under the provisions of this section.

8 (g) Any retailer making sales as described in section 63-3612(2), Idaho
9 Code, the sale of which is subject to tax under the provisions of this
10 chapter and chapter 46, title 63, Idaho Code.

11 SECTION 10. That Section 63-3612, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 63-3612. SALE. (1) The term "sale" means any transfer of title, ex-
14 change or barter, conditional or otherwise, of tangible personal property
15 for a consideration and shall include any similar transfer of possession
16 found by the state tax commission to be in lieu of, or equivalent to, a trans-
17 fer of title, exchange or barter.

18 (2) "Sale" shall also include the following transactions when a consid-
19 eration is transferred, exchanged or bartered:

20 (a) Producing, fabricating, processing, printing, or imprinting of
21 tangible personal property for consumers who furnish, either directly
22 or indirectly, the tangible personal property used in the producing,
23 fabricating, processing, printing, or imprinting.

24 (b) Furnishing, preparing, or serving food, meals, or drinks and nonde-
25 preciable goods and services directly consumed by customers included in
26 the charge thereof.

27 (c) A transfer of possession of property where the seller retains the
28 title as security for the payment of the sales price.

29 (d) A transfer of the title or possession of tangible personal property
30 which has been produced, fabricated, or printed to the special order of
31 the customer, or of any publication.

32 (e) Admission to a place or for an event in Idaho, provided that an or-
33 ganization conducting an exempt function as defined in section 527 or
34 exempted by section 501(c)(3) of the Internal Revenue Code, as incor-
35 porated in section 63-3004, Idaho Code, and collecting any charges for
36 attendance at the aforementioned event, shall not have those admission
37 charges be defined as a sale if the event:

38 (i) Is not predominately recreational or commercial; and

39 (ii) Any included entertainment value is minimal when compared to
40 the charge for attendance; and

41 (iii) Such entity has paid sales and use tax on taxable property or
42 services used during the event.

43 (f) The use of or the privilege of using tangible personal property or
44 facilities for recreation.

45 (g) Providing hotel, motel, campground, or trailer court accommo-
46 dations, nondepreciable goods directly consumed by customers and
47 included services, except where residence is maintained continuously
48 under the terms of a lease or similar agreement for a period in excess of
49 thirty (30) days.

1 (h) The lease or rental of tangible personal property.

2 (i) ~~The intrastate transportation for hire by air of freight or passen-~~
 3 ~~gers, except (1) as part of a regularly scheduled flight by a certified~~
 4 ~~air carrier, under authority of the United States, or (2) when provid-~~
 5 ~~ing air ambulance services~~ The sale, lease or rental of digital products
 6 including specified digital products and digital codes that provide a
 7 purchaser with the right to obtain one (1) or more digital products and
 8 regardless of the method by which the title, possession or right to use
 9 the digital product is transferred to the user.

10 (3) As used in subsections ~~(2) (b) and (2) (g)~~ of this section, goods "di-
 11 rectly consumed by customers" shall not be interpreted to mean any linens,
 12 bedding, cloth napkins or similar nondisposable property.

13 SECTION 11. That Section 63-3613, Idaho Code, be, and the same is hereby
 14 amended to read as follows:

15 63-3613. SALES PRICE. (a) The term "sales price" means the total
 16 amount for which tangible personal property or a transaction as described in
 17 section 63-3612(2), Idaho Code, including services agreed to be rendered as
 18 a part of the sale of tangible personal property, is sold, rented or leased,
 19 valued in money, whether paid in money or otherwise, without any deduction on
 20 account of any of the following: The total amount of consideration includes
 21 cash, credit, services and property for which tangible personal property
 22 or a transaction as described in section 63-3612(2), Idaho Code, is sold,
 23 leased or rented. There is no deduction in sales price for any of the follow-
 24 ing:

25 (1-) The seller's cost of the property sold. However, in accordance
 26 with such rules as the state tax commission may prescribe, a deduction
 27 may be taken if the retailer has purchased property for some purpose
 28 other than resale or rental, has ~~reimbursed his~~ paid tax to the vendor
 29 ~~for tax which the vendor is required to pay to the state~~ or has paid
 30 the use tax to the state with respect to the property, and has resold
 31 or rented the property prior to making any use of the property other
 32 than retention, demonstration or display while holding it for sale in
 33 the regular course of business. If such a deduction is taken by the re-
 34 tailer, no refund or credit will be allowed to his vendor with respect to
 35 the sale of the property.

36 (2-) The cost of materials used, labor or service cost, losses, all
 37 taxes imposed on the seller or any other expense.

38 (3-) The cost of transportation of the property prior to its sale.

39 (4-) The face value of manufacturer's discount coupons pursuant to
 40 subsection (b) of this section. A manufacturer's discount coupon is a
 41 price reduction coupon presented by a consumer to a retailer upon pur-
 42 chase of a manufacturer's product, the face value of which may only be
 43 reimbursed by the manufacturer to the retailer.

44 (b) ~~The term "Sales price" does not include any of the following shall~~
 45 include consideration received by the seller from third parties if:

46 (1) The seller actually receives consideration from a party other than
 47 the purchaser and the consideration is directly related to a price re-
 48 duction or discount on the sale;

1 (2) The seller has an obligation to pass the price reduction or discount
 2 through to the purchaser;

3 (3) The amount of the consideration attributable to the sale is fixed
 4 and determinable by the seller at the time of the sale of the item to the
 5 purchaser; and

6 (4) One (1) of the following criteria is met:

7 (i) The purchaser presents a coupon, certificate or other doc-
 8 umentation to the seller to claim a price reduction or discount
 9 where the coupon, certificate or documentation is authorized,
 10 distributed or granted by a third party with the understanding
 11 that the third party will reimburse any seller to whom the coupon,
 12 certificate or documentation is presented;

13 (ii) The purchaser identifies himself to the seller as a member of
 14 a group or organization entitled to a price reduction or discount.
 15 A preferred customer card that is available to any patron does not
 16 constitute membership in such a group; or

17 (iii) The price reduction or discount is identified as a third
 18 party price reduction or discount on the invoice received by the
 19 purchaser or on a coupon, certificate or other documentation pre-
 20 sented by the purchaser.

21 (c) "Sales price" shall not include:

22 (1-) Retailer discounts allowed and taken on sales, but only to the
 23 extent that such retailer discounts represent price adjustments as
 24 opposed to cash discounts offered only as an inducement for prompt pay-
 25 ment.

26 (2-) Any sums allowed on merchandise accepted in payment of other mer-
 27 chandise, provided that this allowance shall not apply to the sale of a
 28 "new manufactured home" or a "modular building" as defined herein.

29 (3-) The amount charged for property returned by customers when the
 30 amount charged therefor is refunded either in cash or credit; but this
 31 exclusion shall not apply in any instance when the customer, in order
 32 to obtain the refund, is required to purchase other property at a price
 33 greater than the amount charged for the property that is returned.

34 (4-) The amount charged for labor or services rendered in installing
 35 or applying the property sold, provided that said amount is stated sep-
 36 arately and such separate statement is not used as a means of avoiding
 37 imposition of this tax upon the actual sales price of the tangible per-
 38 sonal property; except that charges by a manufactured homes dealer for
 39 set up of a manufactured home shall be included in the "sales price" of
 40 such manufactured home.

41 (5-) The amount of any tax (not including, however, any manufacturers'
 42 or importers' excise tax) imposed by the United States upon or with re-
 43 spect to retail sales whether imposed upon the retailer or the consumer
 44 Any taxes legally imposed directly on the consumer provided that the
 45 charge is stated separately.

46 (6-) The amount charged for finance charges, carrying charges, ser-
 47 vice charges, time-price differential, or interest on deferred payment
 48 sales, provided such charges are not used as a means of avoiding impo-
 49 sition of this tax upon the actual sales price of the tangible personal
 50 property.

1 ~~(7-)~~ Delivery ~~and handling~~ charges for transportation of tangible
 2 personal property to the consumer, provided that the transportation
 3 is stated separately and the separate statement is not used as a means
 4 of avoiding imposition of the tax upon the actual sales price of the
 5 tangible personal property; except that delivery charges by a manufac-
 6 tured homes dealer for transportation of a manufactured home shall be
 7 included in the "sales price" of such manufactured home.

8 ~~(8-)~~ Manufacturers' rebates when used at the time of a retail sale as a
 9 down payment on or reduction to the retail sales price of a motor vehicle
 10 to which the rebate applies. A manufacturer's rebate is a cash payment
 11 made by a manufacturer to a consumer who has purchased or is purchasing
 12 the manufacturer's product from the retailer.

13 ~~(9-)~~ The amount of any fee imposed upon an outfitter as defined in sec-
 14 tion 36-2102, Idaho Code, by a governmental entity pursuant to statute
 15 for the purpose of conducting outfitting activities on land or water
 16 subject to the jurisdiction of the governmental entity, provided that
 17 the fee is stated separately and is presented as a use fee paid by the
 18 outfitted public to be passed through to the governmental entity.

19 ~~(10-)~~ The amount of any discount or other price reduction on telecom-
 20 munications equipment when offered as an inducement to the consumer to
 21 commence or continue telecommunications service, or the amount of any
 22 commission or other indirect compensation received by a retailer or
 23 seller as a result of the consumer commencing or continuing telecommu-
 24 nications service.

25 (ed) The sales price of a "new manufactured home" or a "modular build-
 26 ing" as defined in this chapter shall be limited to and include only fifty-
 27 five percent (55%) of the sales price as otherwise defined herein.

28 ~~(d) Taxes previously paid on amounts represented by accounts found to~~
 29 ~~be worthless may be credited upon a subsequent payment of the tax provided in~~
 30 ~~this chapter or, if no such tax is due, refunded. If such accounts are there-~~
 31 ~~after collected, a tax shall be paid upon the amount so collected.~~

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

38 ~~(f) Taxes previously paid on amounts represented by accounts found to~~
 39 ~~be worthless may be credited upon a subsequent payment of the tax provided in~~
 40 ~~this chapter or, if no such tax is due, refunded. If such accounts are there-~~
 41 ~~after collected, a tax shall be paid upon the amount so collected.~~

42 (g) Sales price shall not include a gratuity or tip received when paid
 43 to the service provider of a meal. The gratuity or tip can be either volun-
 44 tary or mandatory, but must be given for the service provided and as a supple-
 45 ment to the service provider's income.

46 SECTION 12. That Section 63-3614, Idaho Code, be, and the same is hereby
 47 amended to read as follows:

48 63-3614. SELLER. The term "seller" means every person making sales at
 49 retail or retail sales to a buyer or consumer, or on behalf of a buyer or con-

1 sumer, whether as principal, agent, or broker or principal. The term in-
2 cludes every person making retail sales as described in section 63-3612(2),
3 Idaho Code.

4 SECTION 13. That Chapter 36, Title 63, Idaho Code, be, and the same is
5 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
6 ignated as Section 63-3615B, Idaho Code, and to read as follows:

7 63-3615B. DEFINITIONS. As used in this chapter and in chapter 46, ti-
8 tle 63, Idaho Code:

9 (1) "Agent" means a person appointed by a seller to represent the seller
10 before the member states of the streamlined sales tax agreement.

11 (2) "Certified automated system" (CAS) means software certified under
12 the streamlined sales tax agreement to calculate the tax imposed by each ju-
13 risdiction on a transaction, to determine the amount of tax to remit to the
14 appropriate state and to maintain a record of the transaction.

15 (3) "Certified service provider" (CSP) means an agent certified under
16 the streamlined sales tax agreement to perform all the seller's sales and
17 use tax functions, other than the seller's obligation to remit tax on its own
18 purchases.

19 (4) "Entity-based exemption" means an exemption based on who purchases
20 the product or who sells the product. An exemption that is available to all
21 individuals shall not be considered an entity-based exemption.

22 (5) "Model 1 seller" means a seller registered under the streamlined
23 sales tax agreement that has selected a CSP as its agent to perform all the
24 seller's sales and use tax functions, other than the seller's obligation to
25 remit tax on its own purchases.

26 (6) "Model 2 seller" means a seller registered under the streamlined
27 sales tax agreement that has selected a CAS to perform part of its sales and
28 use tax functions, but retains responsibility for remitting the tax.

29 (7) "Model 3 seller" means a seller registered under the streamlined
30 sales tax agreement that has sales in at least five (5) member states,
31 has total annual sales revenue of at least five hundred million dollars
32 (\$500,000,000), has a proprietary system that calculates the amount of tax
33 due each jurisdiction and has entered into a performance agreement with the
34 member states that establishes a tax performance standard for the seller.
35 As used in this definition, a seller includes an affiliated group of sellers
36 using the same proprietary system.

37 (8) "Model 4 seller" means a seller that is registered under the stream-
38 lined sales tax agreement and is not a model 1, 2 or 3 seller.

39 (9) "Product-based exemption" means an exemption based on the descrip-
40 tion of the product and not based on who purchases the product or how the pur-
41 chaser intends to use the product.

42 (10) "Registered under the streamlined sales tax agreement" means reg-
43 istration by a seller with the member states under the registration system
44 provided in chapter 46, title 63, Idaho Code.

45 (11) "Use-based exemption" means an exemption based on a specified use
46 of the product by the purchaser.

47 (12) "State" means any state of the United States, the District of Co-
48 lumbia, the Commonwealth of Puerto Rico or any territory of possession of the
49 United States.

1 (13) "Bundled transaction" means the retail sale of two (2) or more
2 products, except real property and services to real property, where the
3 products are otherwise distinct and identifiable, and the products are sold
4 for one (1) nonitemized price. A bundled transaction does not include the
5 sale of any products in which the sales price varies or is negotiable, based
6 upon the selection by the purchaser of the products included in the transac-
7 tion.

8 (a) Distinct and identifiable products do not include:

9 (i) Packaging such as containers, boxes, sacks, bags and bot-
10 tles, or other materials such as wrapping, labels, tags and in-
11 struction guides, that accompany the retail sale of the products
12 and are incidental or immaterial to the retail sale thereof. Ex-
13 amples of packaging that are incidental or immaterial include gro-
14 cery sacks, shoe boxes, dry cleaning garment bags and express de-
15 livery envelopes and boxes;

16 (ii) A product provided free of charge with the required purchase
17 of another product. A product is provided free of charge if the
18 sales price of the product purchased does not vary depending on the
19 inclusion of the product provided free of charge;

20 (iii) Items included in the definition of "sales price," pursuant
21 to this chapter;

22 (b) "One nonitemized price" does not include a price that is sep-
23 arately identified by product on binding sales or other supporting
24 sales-related documentation made available to the customer in paper or
25 electronic form including, but not limited to, an invoice, bill of sale,
26 receipt, contract, service agreement, lease agreement, periodic notice
27 of rates and services, rate card or price list;

28 (c) A transaction that otherwise meets the definition of a "bundled
29 transaction" pursuant to this chapter is not a bundled transaction if:

30 (i) It is the retail sale of tangible personal property and a ser-
31 vice where the tangible personal property is essential to the use
32 of the service, and is provided exclusively in connection with the
33 service, and the true object of the transaction is the service; or

34 (ii) It is the retail sale of services where one (1) service is
35 provided that is essential to the use or receipt of a second ser-
36 vice, and the first service is provided exclusively in connection
37 with the second service, and the true object of the transaction is
38 the second service; or

39 (iii) It is a transaction that includes taxable products and non-
40 taxable products and the purchase price or sales price of the tax-
41 able products is de minimis;

42 1. "De minimis" means the seller's purchase price or sales
43 price of the taxable products is ten percent (10%) or less of
44 the total purchase price or sales price of the bundled prod-
45 ucts;

46 2. Sellers shall use either the purchase price or the sales
47 price of the products to determine if the taxable products
48 are de minimis. Sellers may not use a combination of the pur-
49 chase price and sales price of the products to determine if
50 the taxable products are de minimis;

1 3. Sellers shall use the full term of a service contract to
2 determine if the taxable products are de minimis; or

3 (iv) It is the retail sale of exempt tangible personal property
4 and taxable tangible personal property where:

5 1. The transaction includes food and food ingredients,
6 drugs, durable medical equipment, mobility enhancing equip-
7 ment, over-the-counter drugs, prosthetic devices, as de-
8 fined in this chapter or medical supplies; and

9 2. The seller's purchase price or sales price of the taxable
10 tangible personal property is fifty percent (50%) or less of
11 the total purchase price or sales price of the bundled tangi-
12 ble personal property. Sellers may not use a combination of
13 the purchase price and sales price of the tangible personal
14 property when making the fifty percent (50%) determination
15 for a transaction.

16 (14) "Delivery charges" means charges by the seller of personal prop-
17 erty or services for preparation and delivery to a location designated by the
18 purchaser of personal property including, but not limited to, transporta-
19 tion, shipping, postage, handling, crating and packing.

20 (15) "Direct mail" means printed material delivered or distributed by
21 United States mail or other delivery service to a mass audience or to ad-
22 dressees on a mailing list provided by the purchaser or at the direction of
23 the purchaser when the cost of the items is not billed directly to the recip-
24 ients. Direct mail includes tangible personal property supplied directly or
25 indirectly by the purchaser to the direct mail seller for inclusion in the
26 package containing the printed material. Direct mail does not include mul-
27 tiple items of printed material delivered to a single address.

28 (16) (a) "Lease or rental" means any transfer of possession or control
29 of tangible personal property for a fixed or indeterminate term for con-
30 sideration. A "lease or rental" may include future options to purchase
31 or extend.

32 (b) "Lease or rental" does not include:

33 (i) A transfer of possession or control of property under a secu-
34 rity agreement or deferred payment plan that requires the transfer
35 of title upon completion of the required payments;

36 (ii) A transfer of possession or control of property under an
37 agreement that requires the transfer of title upon completion of
38 required payments and payment of an option price does not exceed
39 the greater of one hundred dollars (\$100) or one percent (1%) of
40 the total required payments; or

41 (iii) Providing tangible personal property along with an operator
42 for a fixed or indeterminate period of time. A condition of this
43 exclusion is that the operator is necessary for the equipment to
44 perform as designed. For the purpose of this subsection, an opera-
45 tor must do more than maintain, inspect or set up the tangible per-
46 sonal property;

47 (c) This definition shall be used for sales and use tax purposes regard-
48 less if a transaction is characterized as a lease or rental under gen-
49 erally accepted accounting principles, the Internal Revenue Code, the

1 uniform commercial code or other provisions of federal, state or local
2 law.

3 (17) "Computer" means an electronic device that accepts information in
4 digital or similar form and manipulates it for a result based on a sequence of
5 instructions.

6 (a) "Computer software" means a set of coded instructions designed to
7 cause a computer or automatic data processing equipment to perform a
8 task;

9 (b) "Delivered electronically" means delivered to the purchaser by
10 means other than tangible storage media;

11 (c) "Electronic" means relating to technology having electrical, digi-
12 tal, magnetic, wireless, optical, electromagnetic or similar capabili-
13 ties;

14 (d) "Load and leave" means delivery to the purchaser by use of a tan-
15 gible storage media where the tangible storage media is not physically
16 transferred to the purchaser.

17 (18) "Drug" means a compound, substance or preparation, and any compo-
18 nent of a compound, substance or preparation, other than food and food ingre-
19 dients, dietary supplements or alcoholic beverages: recognized in the of-
20 ficial United States pharmacopoeia, official homeopathic pharmacopoeia of
21 the United States, or official national formulary, and supplement to any of
22 them; or intended for use in the diagnosis, cure, mitigation, treatment, or
23 prevention of disease; or intended to affect the structure or any function of
24 the body.

25 (19) "Durable medical equipment" means equipment including repair and
26 replacement parts for same, but does not include mobility enhancing equip-
27 ment, which: can withstand repeated use; and is primarily and customarily
28 used to serve a medical purpose; and generally is not useful to a person in
29 the absence of illness or injury; and is not worn in or on the body.

30 (20) "Mobility enhancing equipment" means equipment including repair
31 and replacement parts to same, but does not include durable medical equip-
32 ment, which: is primarily and customarily used to provide or increase the
33 ability to move from one (1) place to another and which is appropriate for
34 use either in a home or a motor vehicle; is not generally used by persons with
35 normal mobility; and does not include any motor vehicle or equipment on a mo-
36 tor vehicle normally provided by a motor vehicle manufacturer.

37 (21) "Over-the-counter drug" means a drug that contains a label that
38 identifies the product as a drug as required by 21 CFR 201.66.

39 (22) "Prescription" means an order, formula or recipe issued in any
40 form of oral, written, electronic or other means of transmission by a duly
41 licensed practitioner authorized by the laws of Idaho.

42 (23) "Prosthetic device" means a replacement, corrective or supportive
43 device including repair and replacement parts for same worn on or in the body
44 to: artificially replace a missing portion of the body; prevent or correct
45 physical deformity or malfunction; or support a weak or deformed portion of
46 the body.

47 SECTION 14. That Section 63-3616, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 63-3616. TANGIBLE PERSONAL PROPERTY. (a) The term "tangible personal
2 property" means personal property which may be seen, weighed, measured, felt
3 or touched, or which is in any other manner perceptible to the senses, in-
4 cluding electricity, water, gas, steam and prewritten computer software.

5 (b) The term "tangible personal property" includes any computer soft-
6 ware that is not a custom computer program and is not application software
7 accessed over the internet or through wireless media.

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

15 (ii) As used in this subsection, the term "custom computer program"
16 means any computer software (as defined in this subsection) which is
17 written or prepared exclusively for a customer and includes those ser-
18 vices represented by separately stated charges for the modification of
19 existing prewritten programs when the modifications are written or pre-
20 pared exclusively for a customer. The term does not include a "canned"
21 or prewritten program which is held or existing for general or repeated
22 sale, lease or license, even if the program was initially developed on a
23 custom basis or for in-house use. Modification to an existing prewrit-
24 ten program to meet the customer's needs is custom computer programming
25 only to the extent of the modification, and only to the extent that
26 the actual amount charged for the modification is separately stated on
27 invoices, statements, and other billing documents supplied to the pur-
28 chaser.

29 (iii) As used in this section, the term "application software accessed
30 over the internet or through wireless media" means the right to use
31 computer software where the software is accessed over the internet
32 or through wireless media from a location owned or maintained by the
33 seller or an agent of the seller and is not loaded and left at the user's
34 location. The term does not include such remotely accessed computer
35 software if the primary purpose of such computer software is for en-
36 tertainment use, or if the vendor of that computer software offers for
37 sale, in a storage media or by an electronic download, to the user's
38 computer or server, and either directly or through wholesale or retail
39 channels, that same computer software or comparable computer software
40 that performs the same functions.

41 (c) The term "tangible personal property" does not include:

42 (i) Advertising space when sold to an advertiser or its agent by the
43 publisher of the newspaper or the magazine in which the advertisement is
44 displayed or circulated; or

45 (ii) "Specified digital products," which means electronically trans-
46 ferred:

47 1. "Digital audio-visual works," which means a series of related
48 images that when shown in succession impart an impression of mo-
49 tion, together with accompanying sounds, if any;

1 2. "Digital audio works," which means works that result from the
 2 fixation of a series of musical, spoken, or other sounds, includ-
 3 ing ringtones; and

4 3. "Digital books," which means works that are generally recog-
 5 nized in the ordinary and usual sense as books.

6 For purposes of the definitions of specified digital products, "trans-
 7 ferred electronically" means obtained by the purchaser by means other
 8 than tangible storage media. For the purposes of the definition of
 9 digital audio works, "ringtones" means digitized sound files that are
 10 downloaded onto a device and that may be used to alert the customer with
 11 respect to a communication.

12 (d) "Prewritten computer software" means computer software, includ-
 13 ing prewritten upgrades, that is not designed and developed by the author
 14 or other creator to the specifications of a specific purchaser. The combin-
 15 ing of two (2) or more prewritten computer software programs or prewritten
 16 portions thereof does not cause the combination to be other than prewrit-
 17 ten computer software. Prewritten computer software includes software de-
 18 signed and developed by the author or other creator to the specifications
 19 of a specific purchaser when it is sold to a person other than the specific
 20 purchaser. When a person modifies or enhances computer software of which
 21 the person is not the author or creator, the person shall be deemed to be
 22 the author or creator only of such person's modifications or enhancements.
 23 Prewritten computer software or a prewritten portion thereof that is modi-
 24 fied or enhanced to any degree, where such modification or enhancement is de-
 25 signed and developed to the specifications of a specific purchaser, remains
 26 prewritten computer software; provided however, that where there is a rea-
 27 sonable, separately stated charge or an invoice or other statement of the
 28 price given to the purchaser for such modification or enhancement, such mod-
 29 ification or enhancement shall not constitute prewritten computer software.

30 SECTION 15. That Section 63-3621, Idaho Code, be, and the same is hereby
 31 amended to read as follows:

32 63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise
 33 tax is hereby imposed on the storage, use, or other consumption in this state
 34 of tangible personal property acquired or any transaction as described in
 35 section 63-3612(2), Idaho Code, on or after October 1, 2006, for storage,
 36 use, or other consumption in this state at the rate of six percent (6%) of
 37 the value of the property, and a recent sales price shall be presumptive ev-
 38 idence of the value of the tangible personal property or any transaction as
 39 described in section 63-3612(2), Idaho Code, unless the property is wireless
 40 telecommunications equipment, in which case a recent sales price shall be
 41 conclusive evidence of the value of the property.

42 (a) Every person storing, using, or otherwise consuming, in this
 43 state, tangible personal property or any transaction as described in section
 44 63-3612(2), Idaho Code, is liable for the tax. His liability is not extin-
 45 guished until the tax has been paid to this state except that a receipt from a
 46 retailer maintaining a place of business in this state or engaged in business
 47 in this state given to the purchaser is sufficient to relieve the purchaser
 48 from further liability for the tax to which the receipt refers. A retailer
 49 shall not be considered to have stored, used or consumed wireless telecommu-

1 communications equipment by virtue of giving, selling or otherwise transferring
2 such equipment at a discount as an inducement to a consumer to commence or
3 continue a contract for telecommunications service.

4 (b) Every retailer engaged in business in this state, and making sales
5 of tangible personal property or any transaction as described in section
6 63-3612(2), Idaho Code, for the storage, use, or other consumption in this
7 state, not exempted under section 63-3622, Idaho Code, shall, at the time
8 of making the sales or, if storage, use or other consumption of the tangible
9 personal property or any transaction as described in section 63-3612(2),
10 Idaho Code, is not then taxable hereunder, at the time the storage, use or
11 other consumption becomes taxable, collect the tax from the purchaser and
12 give to the purchaser a receipt therefor in the manner and form prescribed by
13 the state tax commission.

14 (c) The provisions of this section shall not apply when the retailer
15 pays sales tax on the transaction and collects reimbursement for such sales
16 tax from the customer.

17 (d) Every retailer engaged in business in this state or maintaining a
18 place of business in this state shall register with the state tax commission
19 and give the name and address of all agents operating in this state, the loca-
20 tion of all distributions or sales houses or offices or other places of busi-
21 ness in this state, and such other information as the state tax commission
22 may require.

23 (e) For the purpose of the proper administration of this act and to pre-
24 vent evasion of the use tax and the duty to collect the use tax, it shall be
25 presumed that tangible personal property or any transaction as described in
26 section 63-3612(2), Idaho Code, sold by any person for delivery in this state
27 is sold for storage, use, or other consumption in this state. The burden of
28 proving the sale is tax exempt is upon the person who makes the sale unless he
29 obtains from the purchaser a resale certificate to the effect that the prop-
30 erty is purchased for resale or rental. It shall be presumed that sales made
31 to a person who has completed a resale certificate for the seller's records
32 are not taxable and the seller need not collect sales or use taxes unless the
33 tangible personal property purchased or any transaction as described in sec-
34 tion 63-3612(2), Idaho Code, is taxable to the purchaser as a matter of law in
35 the particular instance claimed on the resale certificate.

36 A seller may accept a resale certificate from a purchaser prior to the
37 time of sale, at the time of sale, or at any reasonable time after the sale
38 when necessary to establish the privilege of the exemption. The resale cer-
39 tificate relieves the person selling the property from the burden of proof
40 only if taken from a person who is engaged in the business of selling or rent-
41 ing tangible personal property or any transaction as described in section
42 63-3612(2), Idaho Code, and who holds the permit provided for by section
43 63-3620, Idaho Code, or who is a retailer not engaged in business in this
44 state, and who, at the time of purchasing the tangible personal property or
45 any transaction as described in section 63-3612(2), Idaho Code, intends to
46 sell or rent it in the regular course of business or is unable to ascertain
47 at the time of purchase whether the property will be sold or will be used
48 for some other purpose. Other than as provided elsewhere in this section,
49 when a resale certificate, properly executed, is presented to the seller,
50 the seller has no duty or obligation to collect sales or use taxes in regard

1 to any sales transaction so documented regardless of whether the purchaser
2 properly or improperly claimed an exemption. A seller so relieved of the
3 obligation to collect tax is also relieved of any liability to the purchaser
4 for failure to collect tax or for making any report or disclosure of informa-
5 tion required or permitted under this chapter.

6 The resale certificate shall bear the name and address of the purchaser,
7 shall be signed by the purchaser or his agent, shall indicate the number of
8 the permit issued to the purchaser, or that the purchaser is an out-of-state
9 retailer, and shall indicate the general character of the tangible personal
10 property or any transaction as described in section 63-3612(2), Idaho Code,
11 sold by the purchaser in the regular course of business. The certificate
12 shall be substantially in such form as the state tax commission may pre-
13 scribe.

14 (f) If a purchaser who gives a resale certificate makes any storage or
15 use of the property other than retention, demonstration or display while
16 holding it for sale in the regular course of business, the storage or use is
17 taxable as of the time the property is first so stored or used.

18 (g) Any person violating any provision of this section is guilty of a
19 misdemeanor and punishable by a fine not in excess of one hundred dollars
20 (\$100), and each violation shall constitute a separate offense.

21 (h) It shall be presumed that tangible personal property or any trans-
22 action as described in section 63-3612(2), Idaho Code, shipped or brought to
23 this state by the purchaser was purchased from a retailer, for storage, use
24 or other consumption in this state.

25 (i) It shall be presumed that tangible personal property or any trans-
26 action as described in section 63-3612(2), Idaho Code, delivered outside
27 this state to a purchaser known by the retailer to be a resident of this state
28 was purchased from a retailer for storage, use, or other consumption in this
29 state. This presumption may be controverted by evidence satisfactory to the
30 state tax commission that the property was not purchased for storage, use, or
31 other consumption in this state.

32 (j) When the tangible personal property or any transaction as described
33 in section 63-3612(2), Idaho Code, subject to use tax has been subjected to
34 a general retail sales or use tax by another state of the United States in an
35 amount equal to or greater than the amount of the Idaho tax, and evidence can
36 be given of such payment, the property will not be subject to Idaho use tax.
37 If the amount paid the other state was less, the property will be subject to
38 use tax to the extent that the Idaho tax exceeds the tax paid to the other
39 state. For the purposes of this subsection, a registration certificate or
40 title issued by another state or subdivision thereof for a vehicle or trailer
41 or a vessel as defined in section 67-7003, Idaho Code, shall be sufficient
42 evidence of payment of a general retail sales or use tax.

43 (k) The use tax herein imposed shall not apply to the use by a nonres-
44 ident of this state of a motor vehicle which is registered or licensed un-
45 der the laws of the state of his residence and is not used in this state more
46 than a cumulative period of time totaling ninety (90) days in any consecutive
47 twelve (12) months, and which is not required to be registered or licensed
48 under the laws of this state. The use tax herein shall also not apply to any
49 use of a motor vehicle which is registered or licensed under the laws of the
50 state of residence of a nonresident student while such nonresident student

1 is enrolled as a full-time student in an institution of postsecondary educa-
2 tion that is both physically located in Idaho and recognized as accredited by
3 the state board of education.

4 (1) The use tax herein imposed shall not apply to the use of household
5 goods, personal effects and personally owned vehicles or personally owned
6 aircraft by a resident of this state if such articles were acquired by such
7 person in another state while a resident of that state and primarily for use
8 outside this state and if such use was actual and substantial, but if an arti-
9 cle was acquired less than three (3) months prior to the time he entered this
10 state, it will be presumed that the article was acquired for use in this state
11 and that its use outside this state was not actual and substantial. The use
12 tax herein imposed shall not apply to the use of household goods, personal
13 effects and personally owned vehicles or personally owned aircraft by ac-
14 tive duty military personnel temporarily assigned in this state and spouses
15 who accompany them if such articles were acquired prior to receipt of orders
16 to transfer to Idaho or three (3) months prior to moving to Idaho, whichever
17 time period is shorter. For purposes of this subsection, "resident" shall be
18 as defined in section 63-3013 or 63-3013A, Idaho Code.

19 (m) The use tax herein imposed shall not apply to the storage, use or
20 other consumption of tangible personal property which is or will be incor-
21 porated into real property and which has been donated to and has become the
22 property of:

23 (1) A nonprofit organization as defined in section 63-36220, Idaho
24 Code; or

25 (2) The state of Idaho; or

26 (3) Any political subdivision of the state.

27 This exemption applies whether the tangible personal property is incorpo-
28 rated in real property by the donee, a contractor or subcontractor of the
29 donee, or any other person.

30 (n) The use tax herein imposed shall not apply to tastings of food and
31 beverages including, but not limited to, wine and beer. For the purposes of
32 this subsection, a tasting of wine and beer shall be defined as the maximum
33 serving allowed by state or federal laws for such occasions provided to a po-
34 tential customer, at no charge, at a location where like or similar beverages
35 are sold. For nonalcoholic beverages and food, a tasting shall be defined as
36 a sample from a unit available for sale at the tasting location.

37 SECTION 16. That Section 63-3622F, Idaho Code, be, and the same is
38 hereby amended to read as follows:

39 63-3622F. UTILITIES NATURAL GAS, ELECTRICITY, STEAM AND WATER. There
40 is exempted from the taxes imposed by this chapter the sale or purchase of
41 natural gas, electricity, steam and water when delivered to consumers at the
42 place of consumption by means of pipes, wires, conduits, aqueducts, mains,
43 canals, ditches, natural and man-made waterways or similar systems.

44 SECTION 17. That Section 63-3622UU, Idaho Code, be, and the same is
45 hereby repealed.

1 SECTION 18. That Title 63, Idaho Code, be, and the same is hereby
2 amended by the addition thereto of a NEW CHAPTER, to be known and designated
3 as Chapter 46, Title 63, Idaho Code, and to read as follows:

4 CHAPTER 46
5 STREAMLINED SALES TAX SIMPLIFICATION

6 63-4601. AGREEMENT NOT TO PREEMPT STATE LAW. No provision of the
7 agreement authorized pursuant to this chapter in whole or in part invali-
8 dates or amends any provision of the laws of this state. Adoption of the
9 agreement by this state does not amend or modify any law of this state.
10 Implementation of any condition of the agreement in this state, whether
11 adopted before, at, or after membership of this state in the agreement, must
12 be by the action of the legislature or by administrative rules of the state
13 tax commission authorized by the legislature.

14 63-4602. STATEMENT OF FINDINGS AND INTENT. The legislature finds that
15 a simplified sales and use tax system will reduce and, over time, eliminate
16 the burden and cost for all vendors to collect this state's sales and use
17 tax. The legislature further finds that this state should participate in the
18 agreement to simplify and modernize sales and use tax administration in or-
19 der to substantially reduce the burden of tax compliance for all sellers and
20 for all types of commerce.

21 63-4603. DUTIES OF THE STATE TAX COMMISSION. (1) The state tax commis-
22 sion shall provide state-level administration of sales and use taxes subject
23 to the state-level agreement. The state-level administration shall be per-
24 formed by the state tax commission. Sellers and purchasers are only required
25 to register with, file returns with, and remit funds to the state-level au-
26 thority. The state tax commission shall provide for collection of any local
27 taxes and distribution of them to the appropriate taxing jurisdictions. The
28 state tax commission shall conduct, or others may be authorized to conduct on
29 its behalf, subject to the provisions of this chapter and chapter 36, title
30 63, Idaho Code, all audits of the sellers and purchasers for that state's tax
31 and the tax of its local jurisdictions. Except as provided herein, local ju-
32 risdictions shall not conduct independent sales or use tax audits of sellers
33 and purchasers.

34 (2) Nothing in this section prohibits the state tax commission from au-
35 thORIZING audits of taxpayers to be conducted or performed by others on be-
36 half of the state tax commission so long as:

37 (a) The person is conducting the audit for all taxes due and not just for
38 taxes due to a specific local taxing jurisdiction;

39 (b) The person is subject to the same confidentiality provisions, and
40 other protections afforded to a taxpayer, as a person working for the
41 state tax commission;

42 (c) Absent fraud, a refund claim filed subsequent to the audit that cov-
43 ers part of the audit period or, if by mutual consent, the audit does not
44 cover an audit period already conducted by the state tax commission or
45 another person acting on its behalf; and

46 (d) The audit is subject to the same administrative and appeal proce-
47 dures granted to audits conducted by the state tax commission.

1 63-4604. STATE AND LOCAL TAX BASES. The tax base for local jurisdic-
2 tions shall be identical to the state tax base unless otherwise prohibited
3 by federal law. The provisions of this section do not apply to sales or use
4 taxes levied on fuel used to power motor vehicles, aircraft, locomotives
5 or watercraft, or to electricity, piped natural or artificial gas or other
6 fuels delivered by the seller and the retail sale or transfer of motor ve-
7 hicles, aircraft, watercraft, modular homes, manufactured homes or mobile
8 homes.

9 63-4605. DEFINITIONS. The definitions in this section apply through-
10 out this chapter unless the context clearly requires otherwise.

11 (1) "Agreement" means the streamlined sales and use tax agreement as
12 adopted.

13 (2) "Commission" means the Idaho state tax commission.

14 (3) "Sales tax" means the tax levied by the provisions of sections
15 63-3619 and 67-4917B, Idaho Code.

16 (4) "Seller" means any person making sales, leases or rentals of per-
17 sonal property or transactions as described in section 63-3612(2), Idaho
18 Code.

19 (5) "State" means any state of the United States and the District of Co-
20 lumbia.

21 (6) "Use tax" means the tax levied by the provisions of section
22 63-3621, Idaho Code, and local sales taxes levied in accordance with section
23 67-4917B, Idaho Code.

24 63-4606. SELLER REGISTRATION. (1) The commission shall participate
25 in an online sales and use tax registration system in cooperation with
26 the other member states. Under this system a seller registering under
27 the streamlined sales tax agreement shall be registered in Idaho. A model
28 2, model 3 or model 4 seller may elect to be registered in one (1) or more
29 states as a seller that anticipates making no sales into such state(s) if it
30 has not had sales into such state(s) for the preceding twelve (12) months.
31 Such election does not relieve the seller of its agreement pursuant to this
32 chapter to collect taxes on all sales into such states or its liability for
33 remitting to the proper states any taxes collected. The commission agrees
34 not to require the payment of any registration fees or other charges for a
35 seller to register in a state in which the seller has no legal requirement to
36 register. A written signature from the seller is not required and an agent
37 may register a seller under uniform procedures adopted by the member states.
38 A seller may cancel its registration under the system at any time under uni-
39 form procedures adopted by the governing board and cancellation does not
40 relieve the seller of its liability for remitting to the proper states any
41 taxes collected.

42 (2) Nothing in this section shall be construed to relieve a seller of
43 any legal obligation it may have under a state's laws to register in that
44 state or its obligation to collect and remit taxes for at least thirty-six
45 (36) months in a state and meet all other requirements for amnesty set out
46 in this chapter in order to be eligible for amnesty in such state. Sellers
47 registered under the streamlined sales tax agreement shall be registered in
48 Idaho as follows:

- 1 (a) Model 1 sellers will be automatically registered in Idaho.
2 (b) Model 2, model 3 and model 4 sellers will be automatically regis-
3 tered in the state of Idaho but may elect to be registered as a seller
4 that anticipates making no sales into the state of Idaho.
5 (3) Upon registration, the commission shall provide to the seller
6 information regarding the requirements and options for filing a simpli-
7 fied electronic return and for filing remittances in any member state. The
8 commission may provide information to sellers concerning other tax return
9 filing options in the state of Idaho. The commission shall cause the system
10 for registering under the streamlined sales tax agreement to include a fea-
11 ture that allows sellers registered under the agreement to update relevant
12 registration data in the system and have such updated data provided to all
13 member states.

14 63-4607. NOTICE FOR STATE TAX CHANGES. (1) The commission shall lessen
15 the difficulties faced by sellers when there is a change in Idaho's state
16 sales or use tax rate or base by making a reasonable effort to do all of the
17 following:

- 18 (a) Provide sellers with as much advance notice as practicable of a rate
19 change;
20 (b) Limit the effective date of a rate change to the first day of a cal-
21 endar quarter; and
22 (c) Notify sellers of legislative changes in the tax base and amend-
23 ments to sales and use tax rules.

24 (2) Failure of a seller to receive notice or failure of a member state to
25 provide notice or limit the effective date of a rate change shall not relieve
26 the seller of its obligation to collect sales or use taxes for Idaho.

27 (3) If Idaho fails to provide for at least thirty (30) days between the
28 enactment of the statute providing for a rate change and the effective date
29 of such rate change, the seller shall be relieved of liability for failing to
30 collect tax at the new rate if:

- 31 (a) The seller collected tax at the immediately preceding effective
32 rate; and
33 (b) The seller's failure to collect at the newly effective rate does
34 not extend beyond thirty (30) days after the date of enactment of the new
35 rate.

36 (4) Notwithstanding subsection (3) of this section, if the commission
37 establishes the seller fraudulently failed to collect at the new rate or so-
38 licits purchasers based on the immediately preceding effective rate this re-
39 lief does not apply.

40 (5) The commission may provide for relief of liability for failing to
41 collect tax as a result of a tax change beyond the liability relief required
42 by this section.

43 63-4608. APPLICATION OF GENERAL SOURCING RULES AND EXCLUSIONS FROM
44 THE RULES. The commission shall require sellers to source the retail sale
45 of a product in accordance with sections 63-4609 and 63-4611, Idaho Code.
46 Except as provided in section 63-4612, Idaho Code, the provisions of section
47 63-4611, Idaho Code, apply to all sales regardless of the characterization
48 of a product as tangible personal property, a digital good, or a transaction

1 as described in section 63-3612(2), Idaho Code. Except as otherwise pro-
2 vided in this chapter and chapter 36, title 63, Idaho Code, the provisions of
3 sections 63-4610 and 63-4612, Idaho Code, only apply to determine a seller's
4 obligation to pay or collect and remit a sales or use tax with respect to the
5 seller's retail sale of a product. These provisions do not affect the obli-
6 gation of a purchaser or lessee to remit tax on the use of the product to the
7 taxing jurisdictions of that use. Sections 63-4610 and 63-4612, Idaho Code,
8 do not apply to sales or use taxes levied on the following:

9 (1) The retail sale or transfer of watercraft, modular homes, manufac-
10 tured homes or mobile homes. These items must be sourced according to rules
11 of the commission.

12 (2) The retail sale, excluding lease or rental of motor vehicles,
13 trailers, semi-trailers or aircraft that do not qualify as transportation
14 equipment as defined in section 63-4609, Idaho Code. The retail sale of
15 these items shall be sourced according to the rules of the commission and the
16 lease or rental items must be sourced according to section 63-4612, Idaho
17 Code.

18 (3) Florist sales as defined by chapter 36, title 63, Idaho Code, and
19 such sales must be sourced according to those provisions.

20 (4) The retail sales of products and transactions described in section
21 63-3612(2) Idaho Code, qualifying as direct mail shall be sourced in accor-
22 dance with this chapter.

23 63-4609. GENERAL SOURCING RULES. (1) Except as provided in this chap-
24 ter, the retail sale, excluding the lease or rental of a product, shall be
25 sourced as follows:

26 (a) When the product is received by the purchaser at a business location
27 of the seller, the sale is sourced to that business location.

28 (b) When the product is not received by the purchaser at a business lo-
29 cation of the seller, the sale is sourced to the location where receipt
30 by the purchaser, or the purchaser's donee, designated as such by the
31 purchaser, occurs, including the location indicated by instructions
32 for delivery to the purchaser or donee, known by the seller.

33 (c) When the provisions of paragraphs (a) and (b) of this subsection
34 do not apply, the sale is sourced to the location indicated by an ad-
35 dress for the purchaser that is available from the business records of
36 the seller that are maintained in the ordinary course of the seller's
37 business when use of this address does not constitute bad faith.

38 (d) When the provisions of paragraphs (a), (b) and (c) of this subsec-
39 tion do not apply, the sale is sourced to the location indicated by an
40 address for the purchaser obtained during the consummation of the sale,
41 including the address of a purchaser's payment instrument, if no other
42 address is available, when use of this address does not constitute bad
43 faith.

44 (e) When the provisions of paragraphs (a) through (d) of this section
45 do not apply, including the circumstance in which the seller is without
46 sufficient information to apply the previous rules, then the location
47 will be determined by the address from which tangible personal property
48 was shipped, from which the digital good or the computer software deliv-
49 ered electronically was first available for transmission by the seller,

1 or from which the service was provided, disregarding for these purposes
2 any location that merely provided the digital transfer of the product
3 sold.

4 (2) The lease or rental of tangible personal property, other than prop-
5 erty identified in subsection (3) or (4) of this section, shall be sourced as
6 follows:

7 (a) For a lease or rental that requires recurring periodic payments,
8 the first periodic payment is sourced the same as a retail sale in accor-
9 dance with the provisions of subsection (1) of this section. Periodic
10 payments made subsequent to the first payment are sourced to the pri-
11 mary property location for each period covered by the payment. The pri-
12 mary property location shall be indicated by an address for the property
13 provided by the lessee that is available to the lessor from its records
14 maintained in the ordinary course of business, when use of this address
15 does not constitute bad faith. The property location shall not be al-
16 tered by intermittent use at different locations, such as use of busi-
17 ness property that accompanies employees on business trips and service
18 calls.

19 (b) For a lease or rental that does not require recurring periodic pay-
20 ments, the payment is sourced the same as a retail sale in accordance
21 with the provisions of subsection (1) of this section.

22 (c) This subsection does not affect the imposition or computation of
23 sales or use tax on leases or rentals based on a lump sum or accelerated
24 basis, or on the acquisition of property for lease.

25 (3) The lease or rental of motor vehicles, trailers, semitrailers or
26 aircraft that do not qualify as transportation equipment as defined in sub-
27 section (4) of this section shall be sourced as follows:

28 (a) For a lease or rental that requires recurring periodic payments,
29 each periodic payment is sourced to the primary property location.
30 The primary property location shall be indicated by an address for the
31 property provided by the lessee that is available to the lessor from its
32 records maintained in the ordinary course of business, when use of this
33 address does not constitute bad faith.

34 (b) For a lease or rental that does not require recurring periodic pay-
35 ments, the payment is sourced the same as a retail sale in accordance
36 with the provisions of subsection (1) of this section.

37 (c) This subsection does not affect the imposition or computation of
38 sales or use tax on leases or rentals based on a lump sum or accelerated
39 basis or on the acquisition of property for lease.

40 (4) The retail sale, including lease or rental, of transportation
41 equipment shall be sourced the same as a retail sale in accordance with the
42 provisions of subsection (1) of this section, notwithstanding the exclusion
43 of lease or rental in subsection (1) of this section. "Transportation equip-
44 ment" means any of the following:

45 (a) Locomotive and railcars that are utilized for the carriage of per-
46 sons or property in interstate commerce.

47 (b) Trucks and truck-tractors with a gross vehicle weight rating (GVWR)
48 of ten thousand one (10,001) pounds or greater, trailers, semitrailers
49 or passenger buses that are:

50 (i) Registered through the international registration plan; and

1 (ii) Operated under authority of a carrier authorized and cer-
2 tificated by the United States department of transportation or an-
3 other federal authority to engage in the carriage of persons or
4 property in interstate or foreign commerce.

5 (c) Aircraft that are operated by air carriers authorized and certifi-
6 cated by the United States department of transportation or another fed-
7 eral or foreign authority to engage in the carriage of persons or prop-
8 erty in interstate or foreign commerce.

9 (d) Containers designed for use on and component parts attached or se-
10 cured on the items set forth in paragraphs (a) through (c) of this sub-
11 section.

12 63-4610. GENERAL SOURCING DEFINITIONS. For purposes of subsection (1)
13 of section 63-4609, Idaho Code, the terms "receive" and "receipt" mean tak-
14 ing possession of tangible personal property, making first use of a trans-
15 action described in section 63-3612(2), Idaho Code, or taking possession or
16 making first use of digital goods, whichever comes first. The terms receive
17 and receipt do not include possession by a shipping company on behalf of the
18 purchaser.

19 63-4611. DIRECT MAIL SOURCING. (1) Notwithstanding section 63-4610,
20 Idaho Code, the following provisions apply to sales of advertising and pro-
21 motional direct mail:

22 (a) A purchaser of advertising and promotional direct mail may provide
23 the seller with either:

24 (i) A direct pay permit;

25 (ii) An agreement certificate of exemption claiming direct mail
26 or other written statement approved, authorized or accepted by the
27 commission; or

28 (iii) Information showing the jurisdictions to which the adver-
29 tising and promotional direct mail is to be delivered to recipi-
30 ents.

31 (b) If the purchaser provides the permit, certificate or statement
32 referred to in paragraph (a) (i) or (ii) of this subsection, the seller,
33 in the absence of bad faith, is relieved of all obligations to col-
34 lect, pay or remit any tax on any transaction involving advertising and
35 promotional direct mail to which the permit, certificate or statement
36 applies. The purchaser shall source the sale to the jurisdictions to
37 which the advertising and promotional direct mail is to be delivered to
38 the recipients and shall report and pay any applicable tax due.

39 (c) If the purchaser provides the seller information showing the ju-
40 risdictions to which the advertising and promotional direct mail is to
41 be delivered to recipients, the seller shall source the sale to the ju-
42 risdictions to which the advertising and promotional direct mail is to
43 be delivered and shall collect and remit the applicable tax. In the ab-
44 sence of bad faith, the seller is relieved of any further obligation to
45 collect any additional tax on the sale of advertising and promotional
46 direct mail where the seller has sourced the sale according to the de-
47 livery information provided by the purchaser.

1 (d) If the purchaser does not provide the seller with any of the items
2 listed in paragraph (a) (i), (ii) or (iii) of this subsection, the sale
3 shall be sourced according to section 63-4609(1) (e), Idaho Code. The
4 state to which the advertising and promotional direct mail is delivered
5 may disallow credit for tax paid on sales sourced under this subsection.

6 (2) Notwithstanding section 63-4609, Idaho Code, the following provi-
7 sions apply to sales of other direct mail:

8 (a) Except as otherwise provided in this subsection, sales of other di-
9 rect mail are sourced in accordance with subsection (1) (c) of section
10 63-4609, Idaho Code.

11 (b) A purchaser of other direct mail may provide the seller with either
12 a direct pay permit or an agreement certificate of exemption claiming
13 direct mail or other written statement approved, authorized or accepted
14 by the commission.

15 (c) If the purchaser provides the permit, certificate or statement re-
16 ferred to in paragraph (b) of this subsection, the seller in the absence
17 of bad faith is relieved of all obligations to collect, pay or remit any
18 tax on any transaction involving other direct mail to which the per-
19 mit, certificate or statement applies. Notwithstanding paragraph (a)
20 of this subsection, the sale shall be sourced to the jurisdictions to
21 which other direct mail is to be delivered to the recipients, and the
22 purchaser shall report and pay any applicable tax due.

23 (3) For purposes of this section:

24 (a) "Advertising and promotional direct mail" means printed material
25 that meets the definition of "direct mail" in chapter 36, title 63,
26 Idaho Code, or this chapter and the primary purpose of which is to at-
27 tract public attention to a product, person, business or organization,
28 or to attempt to sell, popularize or secure financial support for a
29 product, person, business or organization. As used in this subsection,
30 the word "product" means tangible personal property, transactions de-
31 scribed in section 63-3612(2), Idaho Code, or a product transferred
32 electronically.

33 (b) "Other direct mail" means any direct mail that is not advertis-
34 ing and promotional direct mail regardless of whether advertising and
35 promotional direct mail is included in the same mailing. The term in-
36 cludes, but is not limited to, transactional direct mail that contains
37 personal information specific to the addressee including, but not lim-
38 ited to, invoices, bills, statements of account, payroll advices; any
39 legally required mailings including, but not limited to, privacy no-
40 tices, tax reports and stockholder reports; and other nonprofessional
41 direct mail delivered to existing or former shareholders, customers,
42 employees, or agents including, but not limited to, newsletters and in-
43 formational pieces. Other direct mail does not include the development
44 of billing information or the provision of any data processing service
45 that is more than incidental.

46 (4) This section applies to a transaction characterized under state law
47 as the sale of services only if the service is an integral part of the produc-
48 tion and distribution of printed material that meets the definition of "di-
49 rect mail." This section does not apply to any transaction that includes the
50 development of billing information or the provision of any data processing

1 service that is more than incidental regardless of whether advertising and
2 promotional direct mail is included in the same mailing. If a transaction
3 is a bundled transaction that includes advertising and promotional direct
4 mail, this section applies only if the primary purpose of the transaction is
5 the sale of products or services that meet the definition of "advertising and
6 promotional direct mail."

7 (5) Nothing in this section shall limit any purchaser's: obligation
8 for sales or use tax to any state to which the direct mail is delivered; right
9 under local, state, federal or constitutional law to a credit for sales or
10 use taxes legally due and paid to other jurisdictions; or right to a refund
11 of sales or use taxes overpaid to any jurisdiction. This section applies for
12 purposes of uniformly sourcing direct mail transactions and does not impose
13 requirements on states regarding the taxation of products that meet the def-
14 inition of "direct mail" or to the application of sales for resale or other
15 exemptions.

16 63-4612. ADMINISTRATION OF EXEMPTIONS. (1) The commission shall ob-
17 serve the following provisions when a purchaser claims an exemption:

18 (a) The seller shall obtain identifying information of the purchaser
19 and the reason for claiming a tax exemption at the time of the purchase
20 as determined by the governing board.

21 (b) A purchaser is not required to provide a signature to claim an ex-
22 emption from tax unless a paper exemption certificate is used.

23 (c) The seller shall use the standard form for claiming an exemption
24 electronically as adopted by the commission.

25 (d) The seller shall obtain the same information for proof of a claimed
26 exemption regardless of the medium in which the transaction occurred.

27 (e) The commission may utilize a system wherein the purchaser exempt
28 from the payment of the tax is issued an identification number that
29 shall be presented to the seller at the time of the sale.

30 (f) The seller shall maintain proper records of exempt transactions and
31 provide them to the commission when requested.

32 (g) The commission shall administer use-based and entity-based exemp-
33 tions when practicable through a direct pay permit, an exemption cer-
34 tificate, or another means that does not burden sellers.

35 (h) In the case of drop shipment sales, the commission must allow a
36 third party vendor (e.g., drop shipper) to claim a resale exemption
37 based on an exemption certificate provided by its customer/reseller or
38 any other acceptable information available to the third party vendor
39 evidencing qualification for a resale exemption, regardless of whether
40 the customer/reseller is registered to collect and remit sales and use
41 tax in the state where the sale is sourced.

42 (2) The commission shall relieve sellers that follow the requirements
43 of this section from the tax otherwise applicable if it is determined that
44 the purchaser improperly claimed an exemption and to hold the purchaser li-
45 able for the nonpayment of tax. This relief from liability does not apply to
46 a seller who fraudulently fails to collect tax; to a seller who solicits pur-
47 chasers to participate in the unlawful claim of an exemption; to a seller who
48 accepts an exemption certificate when the purchaser claims an entity-based
49 exemption when the subject of the transaction sought to be covered by the ex-

1 exemption certificate is actually received by the purchaser at a location op-
2 erated by the seller and the state in which that location resides provides an
3 exemption certificate that clearly and affirmatively indicates, graying out
4 exemption reason types on the uniform form and posting it on the commission's
5 website as an indicator that the claimed exemption is not available in Idaho.

6 (3) The commission shall relieve a seller of the tax otherwise appli-
7 cable if the seller obtains a fully completed exemption certificate or cap-
8 tures the relevant data elements required under the streamlined sales tax
9 agreement within ninety (90) days subsequent to the date of sale. The com-
10 mission may provide, by rule, for a period longer than ninety (90) days for
11 the seller to obtain necessary information.

12 (4) If the seller has not obtained an exemption certificate or all rel-
13 evant data elements as provided in subsection (3) of this section, the com-
14 mission shall provide the seller within one hundred twenty (120) days subse-
15 quent to a request for substantiation by a member state to either:

16 (a) Obtain a fully completed exemption certificate from the purchaser,
17 taken in good faith, which means that the seller obtains a certificate
18 that claims an exemption that:

19 (i) Was statutorily available on the date of the transaction in the
20 jurisdiction where the transaction is sourced;

21 (ii) Could be applicable to the item being purchased; and

22 (iii) Is reasonable for the purchaser's type of business; or

23 (b) Obtain other information establishing that the transaction was not
24 subject to the tax. The commission may provide for a period longer than
25 one hundred twenty (120) days for sellers to obtain the necessary infor-
26 mation.

27 (5) If the seller obtains the information described in subsection
28 (4) (a) of this section, the commission shall relieve the seller of any li-
29 ability for the tax on the transaction unless it is discovered through the
30 audit process that the seller had knowledge or had reason to know at the time
31 such information was provided that the information relating to the exemption
32 claimed was materially false or that the seller otherwise knowingly partici-
33 pated in activity intended to purposefully evade the tax that is properly due
34 on the transaction. The state must establish that the seller had knowledge
35 or had reason to know, at the time the information was provided, that the
36 information was materially false.

37 (6) Nothing in this section shall affect the ability of member states to
38 require purchasers to update exemption certificate information or to reap-
39 ply with the state to claim certain exemptions.

40 (7) The commission shall relieve a seller of the tax otherwise appli-
41 cable if it obtains a blanket exemption certificate from a purchaser with
42 which the seller has a recurring business relationship. Notwithstanding the
43 provisions of subsection (6) of this section, the commission may not request
44 from the seller renewal of blanket certificates or updates of exemption cer-
45 tificate information or data elements when there is a recurring business re-
46 lationship between the buyer and seller. For purposes of this section, a
47 recurring business relationship exists when a period of no more than twelve
48 (12) months elapses between sales transactions.

49 (8) The commission shall post on its website the uniform paper exemp-
50 tion certificate (streamlined sales and use tax exemption certificate) as

1 revised and adopted by the governing board, with any applicable graying out
2 of nonapplicable exemption types pursuant to this section and rules of the
3 commission.

4 63-4613. UNIFORM TAX RETURNS. (1) The commission shall:

5 (a) Require that only a single tax return for each taxing period for
6 each seller be filed with the commission to include all the taxing ju-
7 risdictions within Idaho.

8 (b) Require that returns be due no sooner than the twentieth day of the
9 month following the month in which the transaction occurred, and when
10 the due date for a return falls on a Saturday or Sunday or legal holiday
11 in Idaho, the return shall be due on the next succeeding business day.
12 If the return is filed in conjunction with a remittance and the remit-
13 tance cannot be made pursuant to section 63-4616, Idaho Code, the return
14 shall be accepted as timely filed on the same day as the remittance under
15 that section.

16 (c) Make available to all sellers, whether or not registered under the
17 agreement, except sellers of products qualifying for exclusion from the
18 provisions of section 63-4609, Idaho Code, a simplified return that is
19 filed electronically as follows:

20 (i) The simplified electronic return (SER) shall be in a form
21 approved by the commission and governing board and shall contain
22 only those fields approved by the governing board. The SER shall
23 contain two (2) parts. Part 1 shall contain information relating
24 to remittances and allocations and part 2 shall contain informa-
25 tion relating to exempt sales.

26 (ii) The commission must notify the governing board if it requires
27 the submission of the part 2 information. Provided however, the
28 commission may not require the submission of part 2 information
29 from a model 4 seller that has no legal requirement to register in
30 Idaho.

31 (d) Returns shall be required as follows:

32 (i) Certified service providers must file an SER with the commis-
33 sion on behalf of model 1 sellers. Certified service providers,
34 on behalf of such sellers, shall file the audit reports provided
35 for in rules of the commission and, in addition, pursuant to rules
36 of the commission, shall be required to file part 1 of the SER each
37 month. The commission shall allow a model 1 seller to file both
38 part 1 and the part 2 of the SER. A model 1 seller that chooses to
39 file both part 1 and the part 2 of the SER shall still be required to
40 file the audit reports provided for in rules of the commission.

41 (ii) Model 2 and model 3 sellers must file an SER with the com-
42 mission unless they have indicated that they anticipate making no
43 sales in Idaho. Such sellers shall file part 1 of the SER every
44 month if they anticipate making sales in Idaho or to Idaho resi-
45 dents. After January 1, 2016, they shall have the following op-
46 tions for meeting their obligation to furnish part 2 information:

47 1. File part 2 of the SER together with part 1 of the SER ev-
48 ery month; or

1 2. File part 2 of the SER at the same time part 1 of the SER
2 for the month of December is due. Part 2 information filed
3 pursuant to this option shall cover the month of December and
4 all previous months of the same calendar year and shall only
5 require annual and not monthly totals.

6 Such sellers shall only be required to file part 2 of the SER
7 for any state that has notified the governing board that it
8 will require the submission of the part 2 information pur-
9 suant to subsection (1) (c) (ii) of this section.

10 (iii) No later than January 1, 2016, the commission shall allow
11 model 4 sellers to file an SER. Such sellers shall file part 1 of
12 the SER every month unless the commission allows less frequent
13 filing. Model 4 sellers that have a legal requirement to register
14 in Idaho shall have the following options for meeting their obli-
15 gation to furnish part 2 information:

16 1. File part 2 of the SER together with part 1 of the SER; or

17 2. File part 2 of the SER at the same time part 1 of the SER
18 for the month of December is due. Part 2 information filed
19 pursuant to this option shall cover the month of December and
20 all previous months of the same calendar year and shall only
21 require annual and not monthly totals.

22 Such sellers shall only be required to file part 2 of the SER
23 for any state that has notified the governing board that it
24 will require the submission of the part 2 information pur-
25 suant to subsection (1) (c) (ii) of this section.

26 (iv) The tax commission may provide an exemption from the require-
27 ment of part 2 information to a seller under terms and conditions
28 set out by the commission.

29 (v) The commission may require a seller that elects to file an SER
30 to give at least three (3) months notice of the seller's intent to
31 discontinue filing an SER.

32 (2) After January 1, 2016, the commission shall not require the fil-
33 ing of a return from a seller that is registered under the streamlined sales
34 tax agreement that has indicated at the time of registration that it antic-
35 ipates making no sales that would be sourced to the state under the stream-
36 lined sales tax agreement. A seller shall lose such exemption upon making
37 any taxable sales into Idaho and shall file a return in the month following
38 such sale. The commission may, but is not required to, allow a seller to re-
39 gain such filing exemption upon such terms and conditions as the commission
40 may impose.

41 (3) The commission shall adopt a standardized transmission process to
42 allow for receipt of uniform tax returns and other formatted information as
43 approved by the governing board of the streamlined sales tax agreement. Such
44 a process will provide for the filing of separate returns for multiple le-
45 gal entities in a single transmission for each state and will not include any
46 requirement for manual entry or input by the seller of any of the aforemen-
47 tioned information. This process will allow a certified service provider, a
48 tax preparer or any other person authorized to do so, to file returns for more
49 than one (1) seller in a single electronic transmission. However, sellers

1 filing returns for multiple legal entities may only do so for affiliated le-
2 gal entities.

3 (4) After January 1, 2016, the commission shall give notice to a seller
4 registered under the streamlined sales tax agreement that has no legal re-
5 quirement to register in Idaho of a failure to file a required return and a
6 minimum of thirty (30) days to file thereafter prior to establishing a lia-
7 bility amount for taxes based solely on the seller's failure to timely file
8 a return. Provided however, the commission may establish a liability amount
9 for taxes based solely on the seller's failure to timely file a return if such
10 seller has a history of nonfiling or late filing.

11 (5) Nothing in this section shall prohibit the commission from allowing
12 additional return options or the filing of returns less frequently.

13 63-4614. UNIFORM RULES FOR REMITTANCES OF FUNDS. (1) The commission
14 shall:

15 (a) Require only one (1) remittance for each return except as provided
16 in this subsection. If any additional remittance is required, it may
17 only be required from sellers that collect more than thirty thousand
18 dollars (\$30,000) in sales and use taxes in Idaho during the preceding
19 calendar year as provided in this chapter. The commission shall al-
20 low the amount of any additional remittance to be determined through
21 a calculation method rather than actual collections. Any additional
22 remittances shall not require the filing of an additional return.

23 (b) Require, at the commission's discretion, all remittances in pay-
24 ment of taxes reported on the approved simplified return format to be
25 remitted electronically.

26 (c) Allow for electronic payments by all remitters by both automated
27 clearing house (ACH) credit and ACH debit.

28 (d) Provide an alternative method for making same-day payments if an
29 electronic funds transfer fails.

30 (e) Provide that if a due date for a payment falls on a Saturday or Sun-
31 day or legal holiday in Idaho, the payment, including any related pay-
32 ment voucher information, is due to the commission on the next succeed-
33 ing business day. Additionally, if the federal reserve bank is closed
34 on a due date that prohibits a person from being able to make a payment by
35 ACH debit or credit, the payment shall be accepted as timely if made on
36 the next day the federal reserve bank is open.

37 (f) Require that any data that accompanies a remittance be formatted
38 using uniform tax type and payment type codes approved by rule of the
39 commission.

40 (2) The commission shall adopt a standardized transmission process ap-
41 proved by the governing board of the streamlined sales tax agreement that
42 allows for the remittance in a single electronic transmission of a single
43 (bulk) payment for taxes reported on multiple SERs by affiliated entities,
44 certified service providers or preparers. The commission shall comply with
45 this provision no later than two (2) years after the governing board of the
46 streamlined sales tax agreement approves such a standardized transmission
47 process.

1 63-4615. UNIFORM RULES FOR RECOVERY OF BAD DEBTS. (1) The commission
2 shall use the following to provide a deduction for bad debts to a seller. To
3 the extent the commission provides a bad debt deduction to any other party,
4 the same procedures will apply. The commission shall:

5 (a) Allow a deduction from taxable sales for bad debts. Any deduction
6 taken that is attributed to bad debts shall not include interest.

7 (b) Utilize the federal definition of "bad debt" in 26 U.S.C. section
8 166 as the basis for calculating bad debt recovery. However, the amount
9 calculated pursuant to 26 U.S.C. section 166 shall be adjusted to ex-
10 clude: financing charges or interest; sales or use taxes charged on the
11 purchase price; uncollectible amounts on property that remains in the
12 possession of the seller until the full purchase price is paid; expenses
13 incurred in attempting to collect any debt and repossessed property.

14 (c) Allow bad debts to be deducted on the return for the period dur-
15 ing which the bad debt is written off as uncollected in the claimant's
16 books and records and is eligible to be deducted for federal income tax
17 purposes. For purposes of this subsection, a claimant who is not re-
18 quired to file federal income tax returns may deduct a bad debt on a re-
19 turn filed for the period in which the bad debt is written off as uncol-
20 lectible in the claimant's books and records and would be eligible for
21 a bad debt deduction for federal income tax purposes if the claimant was
22 required to file a federal income tax return.

23 (d) Require that, if a deduction is taken for a bad debt and the debt
24 is subsequently collected in whole or in part, the tax on the amount so
25 collected must be paid and reported on the return filed for the period in
26 which the collection is made.

27 (e) Provide that, when the amount of bad debt exceeds the amount of tax-
28 able sales for the period during which the bad debt is written off, a
29 refund claim may be filed within the commission's otherwise applicable
30 statute of limitations for refund claims; however, the statute of lim-
31 itations shall be measured from the due date of the return on which the
32 bad debt could first be claimed.

33 (f) Where filing responsibilities have been assumed by a CSP, allow
34 the service provider to claim, on behalf of the seller, any bad debt al-
35 lowance provided by this section. The CSP must credit or refund the full
36 amount of any bad debt allowance or refund received to the seller.

37 (g) Provide that, for the purposes of reporting a payment received on
38 a previously claimed bad debt, any payments made on a debt or account
39 are applied first proportionally to the taxable price of the property
40 or service and the sales tax thereon, and secondly to interest, service
41 charges and any other charges.

42 (h) Permit the allocation in situations where the books and records of
43 the party claiming the bad debt allowance support an allocation of the
44 bad debts among the member states of the streamlined sales tax agree-
45 ment.

46 (2) The commission shall promulgate rules to provide in situations
47 where the books and records of the party claiming the bad debt allowance may
48 be used in support of an allocation, and permit the allocation of the bad debt
49 among the member states.

63-4616. CONFIDENTIALITY AND PRIVACY PROTECTIONS UNDER MODEL

1 1. (1) The purpose of this section is to set forth the member states' policy
2 for the protection of the confidentiality rights of all participants in the
3 system and of the privacy interests of consumers who deal with model 1 sell-
4 ers.
5

6 (2) As used in this section, the term "confidential taxpayer informa-
7 tion" means all information that is protected under a member state's laws,
8 regulations and privileges; the term "personally identifiable information"
9 means information that identifies a person; and the term "anonymous data"
10 means information that does not identify a person.

11 (3) The state of Idaho agrees that a fundamental precept in model 1 is to
12 preserve the privacy of consumers by protecting their anonymity. With very
13 limited exceptions, a CSP shall perform its tax calculation, remittance and
14 reporting functions without retaining the personally identifiable informa-
15 tion of consumers.

16 (4) The commission, through the governing board of the streamlined
17 sales tax agreement, may certify a CSP only if that CSP certifies that:

18 (a) Its system has been designed and tested to ensure that the fundamen-
19 tal precept of anonymity is respected;

20 (b) That personally identifiable information is only used and retained
21 to the extent necessary for the administration of model 1 with respect
22 to exempt purchasers and proper identification of taxing jurisdic-
23 tions;

24 (c) It provides consumers clear and conspicuous notice of its informa-
25 tion practices, including what information it collects, how it collects
26 the information, how it uses the information, how long, if at all, it re-
27 tains the information and whether it discloses the information to mem-
28 ber states. Such notice shall be satisfied by a written privacy policy
29 statement accessible by the public on the official website of the CSP;

30 (d) Its collection, use and retention of personally identifiable in-
31 formation will be limited to that required by the member states to en-
32 sure the validity of exemptions from taxation that are claimed by reason
33 of a consumer's status or the intended use of the goods or services pur-
34 chased and for documentation of the correct assignment of taxing jurisdic-
35 tions; and

36 (e) It provides adequate technical, physical and administrative safe-
37 guards so as to protect personally identifiable information from unau-
38 thorized access and disclosure.

39 (5) The commission shall provide public notification to consumers, in-
40 cluding their exempt purchasers, of the state's practices relating to the
41 collection, use and retention of personally identifiable information.

42 (6) When any personally identifiable information that has been col-
43 lected and retained is no longer required for the purposes set forth in
44 subsection (4) (d) of this section, such information shall no longer be re-
45 tained by the commission.

46 (7) When personally identifiable information regarding an individ-
47 ual is retained by or on behalf of the commission, such state shall provide
48 reasonable access by such individual to his or her own information in the
49 state's possession and a right to correct any inaccurately recorded infor-
50 mation.

1 (8) If anyone other than the commission, or a person authorized by that
2 state law or the streamlined sales tax agreement, seeks to discover person-
3 ally identifiable information, the commission from whom the information is
4 sought should make a reasonable and timely effort to notify the individual of
5 such request.

6 (9) This privacy policy is subject to enforcement by the attorney gen-
7 eral.

8 (10) Idaho's laws and rules regarding the collection, use and mainte-
9 nance of confidential taxpayer information shall remain fully applicable
10 and binding. Without limitation, the streamlined sales tax agreement shall
11 not enlarge or limit Idaho's authority to:

12 (a) Conduct audits or other review as provided under the streamlined
13 sales tax agreement and state law.

14 (b) Provide records pursuant to chapter 3, title 9, Idaho Code.

15 (c) Prevent, consistent with state law, disclosures of confidential
16 taxpayer information.

17 (d) Prevent, consistent with federal law, disclosures or misuse of fed-
18 eral return information obtained under a disclosure agreement with the
19 internal revenue service.

20 (e) Collect, disclose, disseminate or otherwise use anonymous data for
21 governmental purposes.

22 (11) This privacy policy does not preclude the commission through the
23 governing board from certifying a CSP whose privacy policy is more protec-
24 tive of confidential taxpayer information or personally identifiable infor-
25 mation than is required by the streamlined sales tax agreement.

26 63-4617. EFFECTIVE DATE FOR RATE CHANGES. The effective date of rate
27 changes for services covering a period starting before and ending after the
28 statutory effective date shall be as follows: for a rate increase, the new
29 rate shall apply to the first billing period starting on or after the effec-
30 tive date, and for a rate decrease, the new rate shall apply to bills rendered
31 on or after the effective date.

32 63-4618. CAPS AND THRESHOLDS. The commission shall not have caps or
33 thresholds on the application of state sales or use tax rates or exemptions
34 that are based on the value of the transaction or item or have caps that are
35 based on the application of the rates unless the commission assumes the ad-
36 ministrative responsibility in a manner that places no additional burden on
37 the retailer. The legislature may not place caps or thresholds on the ap-
38 plication of local rates or use tax rates or exemptions that are based on the
39 value of the transaction or item. The provisions of this section do not apply
40 to sales or use taxes levied on the retail sale or transfer of motor vehicles,
41 aircraft, watercraft, modular homes, manufactured homes or mobile homes or
42 to instances where the burden of administration has been shifted from the re-
43 tailer.

44 63-4619. ROUNDING RULE. (1) The commission shall adopt a rounding al-
45 gorithm that meets the following criteria:

46 (a) Tax computation must be carried to the third decimal place; and

1 (b) The tax must be rounded to a whole cent using a method that rounds
2 up to the next cent whenever the third decimal place is greater than four
3 (4).

4 (2) The commission shall allow sellers to elect to compute the tax due
5 on a transaction on an item or on an invoice basis and shall allow the round-
6 ing rule to be applied to the aggregated state and local taxes. The commis-
7 sion shall not require a seller to collect tax based on a bracket system.

8 63-4620. CUSTOMER REFUND PROCEDURES. (1) The commission shall allow
9 a purchaser to seek a return of over-collected sales or use taxes from the
10 seller and this section shall provide procedures for such refunds.

11 (2) Nothing in this section shall either require the commission to pro-
12 vide or prevent the commission from providing a procedure by which a pur-
13 chaser may seek a refund directly from the state arising out of sales or use
14 taxes collected in error by a seller from the purchaser. Nothing in this sec-
15 tion shall operate to extend any person's time to seek a refund of sales or
16 use taxes collected or remitted in error.

17 (3) These customer refund procedures provide the first course of rem-
18 edy available to purchasers seeking a return of over-collected sales or use
19 taxes from the seller. A cause of action against the seller for the over-
20 collected sales or use taxes does not accrue until a purchaser has provided
21 written notice to a seller and the seller has had sixty (60) days to respond.
22 Such notice to the seller must contain the information necessary to deter-
23 mine the validity of the request.

24 (4) In connection with a purchaser's request from a seller of over-col-
25 lected sales or use taxes, a seller shall be presumed to have a reasonable
26 business practice if, in the collection of such sales or use taxes, the
27 seller: uses either a provider or a system, including a proprietary system,
28 that is certified by the commission; and has remitted to the commission all
29 taxes collected less any deductions, credits or collection allowances.

30 63-4621. DIRECT PAY PERMITS. The commission shall provide for a direct
31 pay authority that allows the holder of a direct pay permit to purchase oth-
32 erwise taxable sales, leases or rentals described in section 63-3612, Idaho
33 Code, without payment of tax to the supplier at the time of purchase. The
34 holder of the direct pay permit will make a determination of the taxability
35 and then report and pay the applicable tax due directly to the commission.
36 The commission shall provide by rule limits and requirements for the direct
37 pay permit. The commission, in promulgating rules setting state direct pay
38 limits and requirements, shall consider use of the model direct payment per-
39 mit regulation as developed by the task force on electronic data interchange
40 (EDI) audit and legal issues for tax administration.

41 63-4622. TAXABILITY MATRIX. (1) To ensure uniform application of
42 terms defined in this chapter and chapter 36, title 63, Idaho Code, the com-
43 mission shall complete a taxability matrix adopted by the governing board of
44 the streamlined sales tax agreement. The commission's entries in the matrix
45 shall be provided and maintained in a database that is in a downloadable
46 format approved by the governing board. The commission shall provide notice
47 of changes in the taxability of the products or sales covered under chapter

1 36, title 63, Idaho Code, listed in the taxability matrix as required by the
2 governing board.

3 (2) The commission shall relieve sellers and CSPs from liability to the
4 commission and local jurisdictions for having charged and collected the in-
5 correct amount of sales or use tax resulting from the seller or CSP relying on
6 erroneous data provided by the commission in the taxability matrix.

7 (3) If a sales and use tax is imposed on a specified digital product and
8 provides an exemption for an item within the definition of such specified
9 digital product pursuant to chapter 36, title 63, Idaho Code, and this chap-
10 ter, such exemption must be noted in the taxability matrix.

11 63-4623. RELIEF FROM CERTAIN LIABILITY FOR PURCHASERS. (1) The com-
12 mission shall relieve a purchaser from liability for penalty and its local
13 jurisdictions for having failed to pay the correct amount of sales or use tax
14 in the following circumstances:

15 (a) A purchaser's seller or CSP relied on erroneous data provided by the
16 commission on tax rates, boundaries, taxing jurisdiction assignments
17 or in the taxability matrix completed by the commission pursuant to sec-
18 tion 63-4622, Idaho Code;

19 (b) A purchaser holding a direct pay permit relied on erroneous data
20 provided by the commission on tax rates, boundaries, taxing jurisdic-
21 tion assignments or in the taxability matrix completed by the commis-
22 sion pursuant to section 63-4622, Idaho Code;

23 (c) A purchaser relied on erroneous data provided by the commission in
24 the taxability matrix completed by the commission pursuant to section
25 63-4622, Idaho Code; or

26 (d) A purchaser using databases pursuant to section 63-4608, Idaho
27 Code, relied on erroneous data provided by the commission on tax rates,
28 boundaries or taxing jurisdiction assignments. After providing ade-
29 quate notice as determined by the governing board, if the commission
30 provided an address-based database for assigning taxing jurisdictions
31 pursuant to section 63-4608, Idaho Code, it may cease providing lia-
32 bility relief for errors resulting from the reliance on the database
33 provided by the commission under the provisions of chapter 46, title 63,
34 Idaho Code.

35 (2) Except where prohibited by the constitution of the state of Idaho,
36 the commission shall also relieve a purchaser from liability for tax and in-
37 terest to the state of Idaho and its local jurisdictions for having failed
38 to pay the correct amount of sales or use tax in the circumstances described
39 in this section, provided that, with respect to reliance on the taxability
40 matrix completed by the commission pursuant to section 63-4622, Idaho Code,
41 such relief is limited to the state's erroneous classification in the taxa-
42 bility matrix of terms included in the definitions of this chapter and chap-
43 ter 36, title 63, Idaho Code, as "taxable" or "exempt," "included in sales
44 price" or "excluded from sales price" or "included in the definition" or "ex-
45 cluded from the definition."

46 (3) For purposes of this section, the term "penalty" means an amount im-
47 posed for noncompliance that is not fraudulent, willful or intentional that
48 is in addition to the correct amount of sales or use tax and interest.

1 (4) The commission may allow relief on terms and conditions more favor-
2 able to a purchaser than the terms required by this section.

3 63-4624. PROHIBITED REPLACEMENT TAXES. The legislature shall not en-
4 act a prohibited replacement tax on any product defined in this chapter or
5 chapter 36, title 63, Idaho Code, which has the effect of avoiding the intent
6 of the streamlined sales tax agreement.

7 63-4625. SELLER PARTICIPATION. (1) The commission shall provide an
8 online registration system that will allow sellers to register in all the
9 member states of the streamlined sales tax agreement.

10 (2) By registering, the seller agrees to collect and remit sales and use
11 taxes for all taxable sales into the member states, including member states
12 joining after the seller's registration. Withdrawal or revocation of a mem-
13 ber state shall not relieve a seller of its responsibility to remit taxes
14 previously or subsequently collected on behalf of the state.

15 63-4626. AMNESTY FOR REGISTRATION. (1) Subject to the limitation in
16 this section:

17 (a) The commission shall provide amnesty for uncollected or unpaid
18 sales or use tax to a seller who registers to pay or to collect and remit
19 applicable sales or use tax on sales made to purchasers in the state in
20 accordance with the terms of the streamlined sales tax agreement, pro-
21 vided that the seller was not so registered in Idaho in the twelve (12)
22 month period preceding the effective date of Idaho's participation in
23 the streamlined sales tax agreement.

24 (b) The amnesty will preclude assessment for uncollected or unpaid
25 sales or use tax together with penalty or interest for sales made during
26 the period the seller was not registered in Idaho, provided regis-
27 tration occurs within twelve (12) months of the effective date of the
28 state's participation in the streamlined sales tax agreement.

29 (c) Amnesty similarly shall be provided by any additional state that
30 joins the agreement after the seller has registered.

31 (2) The amnesty is not available to a seller with respect to any matter
32 or matters for which the seller received notice of the commencement of an au-
33 dit and which audit is not yet finally resolved including any related admin-
34 istrative and judicial processes.

35 (3) The amnesty is not available for sales or use taxes already paid or
36 remitted to the state or to taxes collected by the seller.

37 (4) The amnesty is fully effective, absent the seller's fraud or inten-
38 tional misrepresentation of a material fact, as long as the seller contin-
39 ues registration and continues payment or collection and remittance of ap-
40 plicable sales or use taxes for a period of at least thirty-six (36) months.
41 Idaho's statute of limitations applicable to asserting a tax liability dur-
42 ing this thirty-six (36) month period is tolled.

43 (5) The amnesty is applicable only to sales or use taxes due from a
44 seller in its capacity as a seller and not to sales or use taxes due from a
45 seller in its capacity as a buyer.

1 (6) The legislature and the commission may allow amnesty on terms and
2 conditions more favorable to a seller than the terms required by this sec-
3 tion.

4 63-4627. METHOD OF REMITTANCE. When registering, the seller may se-
5 lect one (1) of the following methods of remittance or other method allowed
6 by state law to remit the taxes collected:

7 (1) Model 1, wherein a seller selects a CSP as an agent to perform all
8 the seller's sales or use tax functions, other than the seller's obligation
9 to remit tax on its own purchases.

10 (2) Model 2, wherein a seller selects a CAS to use that calculates the
11 amount of tax due on a transaction.

12 (3) Model 3, wherein a seller utilizes its own proprietary automated
13 sales tax system that has been certified as a CAS.

14 63-4628. REGISTRATION BY AN AGENT. A seller may be registered by an
15 agent. Such appointment shall be in writing and submitted to the commission
16 if so requested.

17 63-4629. CERTIFICATION OF SERVICE PROVIDERS AND AUTOMATED SYS-
18 TEMS. (1) The commission shall certify automated systems and service
19 providers to aid in the administration of sales and use tax collections.

20 (2) The commission may certify a person as a CSP if the person meets all
21 of the following requirements:

22 (a) The person uses a CAS;

23 (b) The person integrates its CAS with the system of a seller for whom
24 the person collects tax so that the tax due on a sale is determined at the
25 time of the sale;

26 (c) The person agrees to file returns on behalf of the sellers for whom
27 it collects tax;

28 (d) The person agrees to protect the privacy of tax information it ob-
29 tains in accordance with this chapter; and

30 (e) The person enters into a contract with the member states of the
31 streamlined sales tax agreement and agrees to comply with the terms of
32 the contract.

33 (3) The commission may certify a software program as a CAS if the com-
34 mission determines that the program meets all of the following requirements:

35 (a) It determines the applicable state and local sales and use tax rate
36 for a transaction, in accordance with this chapter and chapter 36, title
37 63, Idaho Code;

38 (b) It determines whether or not an item is exempt from tax;

39 (c) It determines the amount of tax to be remitted for each taxpayer for
40 a reporting period;

41 (d) It can generate reports and returns as required by the commission;
42 and

43 (e) It can meet any other requirement set by the commission.

44 (4) The commission may establish one (1) or more sales tax performance
45 standards for model 3 sellers that meet the eligibility criteria set by the
46 commission and that developed a proprietary system to determine the amount
47 of sales and use tax due on transactions.

1 63-4630. REVIEW AND APPROVAL OF CERTIFIED AUTOMATED SYSTEM SOFTWARE
2 AND CERTAIN LIABILITY RELIEF. (1) The commission shall review software sub-
3 mitted to the commission for certification as a CAS under section 63-4629,
4 Idaho Code. Such review shall include a review to determine that the program
5 accurately reflects the taxability of the product categories included in the
6 program. Upon approval by the commission, the commission shall certify to
7 the governing board of the streamlined sales tax agreement its acceptance
8 of the determination of the taxability of the product categories included in
9 the program.

10 (2) The commission shall relieve CSPs and model 2 sellers from liabil-
11 ity to the commission and local jurisdictions for not collecting sales or use
12 taxes resulting from the CSP or model 2 seller relying on the certification
13 provided by the commission.

14 (3) The commission shall provide relief from liability to CSPs for not
15 collecting sales and use taxes in the same manner as provided to sellers un-
16 der the provisions of this chapter.

17 (4) The commission shall not be responsible for classification of an
18 item or transaction within the product categories certified. The relief
19 from liability provided in this section shall not be available for a CSP or
20 model 2 seller that has incorrectly classified an item or transaction into
21 a product category certified by the commission. This subsection shall not
22 apply to the individual listing of items or transactions within a product
23 definition approved by the commission.

24 (5) If the commission determines that an item or transaction is incor-
25 rectly classified as to its taxability, it shall notify the CSP or model 2
26 seller of the incorrect classification. The CSP or model 2 seller shall have
27 ten (10) days to revise the classification after receipt of notice from the
28 commission of the determination. Upon expiration of the ten (10) days, the
29 CSP or model 2 seller shall be liable for the failure to collect the correct
30 amount of sales or use taxes due and owing to the commission.

31 63-4631. MONETARY ALLOWANCE UNDER MODEL 1. (1) The commission shall
32 provide a monetary allowance to a CSP in model 1 in accordance with the terms
33 of the contract between the governing board and the CSP. The details of the
34 monetary allowance will be provided through the contract process. The gov-
35 erning board shall require that such allowance be funded entirely from money
36 collected in model 1.

37 (2) The contract between the commission and a CSP may base the monetary
38 allowance to a CSP on one (1) or more of the following:

39 (a) A base rate that applies to taxable transactions processed by the
40 CSP; or

41 (b) For a period not to exceed twenty-four (24) months following a vol-
42 untary seller's registration through the streamlined sales tax agree-
43 ment's central registration process, a percentage of tax revenue gener-
44 ated for a member state by the voluntary seller for each member state for
45 which the seller does not have a requirement to register to collect the
46 tax.

1 63-4632. MONETARY ALLOWANCE FOR MODEL 2 SELLERS. The commission ini-
2 tially anticipates that it will provide a monetary allowance to sellers un-
3 der model 2 based on the following:

4 (1) All sellers shall receive a base rate for a period not to exceed
5 twenty-four (24) months following the commencement of participation by a
6 seller. The base rate will be set after the base rate has been established
7 for model 1. This allowance will be in addition to any discount afforded by
8 the commission at the time.

9 (2) The commission anticipates a monetary allowance to a model 2 seller
10 based on the following:

11 (a) For a period not to exceed twenty-four (24) months following a vol-
12 untary seller's registration through the streamlined sales tax agree-
13 ment's central registration process, a percentage of tax revenue gener-
14 ated for a member state by the voluntary seller for each member state for
15 which the seller does not have a requirement to register to collect the
16 tax;

17 (b) Following the conclusion of the twenty-four (24) month period, a
18 seller will only be entitled to a vendor discount afforded under Idaho
19 law at the time the base rate expires.

20 SECTION 19. SEVERABILITY. The provisions of this act are hereby de-
21 clared to be severable and if any provision of this act or the application
22 of such provision to any person or circumstance is declared invalid for any
23 reason, such declaration shall not affect the validity of the remaining por-
24 tions of this act.

25 SECTION 20. This act shall be in full force and effect on and after Jan-
26 uary 1, 2016. The Idaho State Tax Commission may apply to the Streamlined
27 Sales and Use Tax Governing Board to have Idaho become a member state of the
28 Streamlined Sales and Use Tax Agreement on and after July 1, 2014.