

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 252, As Amended

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE SALES AND USE TAX; AMENDING SECTION 63-3622R, IDAHO CODE,
2 TO IMPOSE A SALES AND USE TAX EXEMPTION WHERE THAT PORTION OF TAX EX-
3 CEEDS THE SALES AND USE TAX RATE THAT A NONRESIDENT PURCHASER WOULD PAY
4 IN THE STATE OF RESIDENCE ON SALES UNDER CERTAIN CONDITIONS, TO PROVIDE
5 DUTIES OF THE STATE TAX COMMISSION, TO IMPOSE A SALES AND USE TAX EXEMP-
6 TION FOR SALES OF CERTAIN ITEMS MANUFACTURED IN IDAHO FOR USE AND LI-
7 CENSING OUTSIDE OF IDAHO WHEN SOLD DIRECTLY BY THE MANUFACTURER TO THE
8 OUT-OF-STATE PURCHASER AND TO MAKE A TECHNICAL CORRECTION; AND AMEND-
9 ING SECTION 63-3638, IDAHO CODE, TO PROVIDE FOR REMITTANCE OF A CERTAIN
10 AMOUNT OF SALES TAX MONEYS TO THE STATE HIGHWAY ACCOUNT AND TO MAKE TECH-
11 NICAL CORRECTIONS.
12

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

14 SECTION 1. That Section 63-3622R, Idaho Code, be, and the same is hereby
15 amended to read as follows:

16 63-3622R. MOTOR VEHICLES, USED MANUFACTURED HOMES, VESSELS, ALL-TER-
17 RAIN VEHICLES, TRAILERS, OFF-ROAD MOTORCYCLES, SNOWMOBILES AND GLIDER
18 KITS. There are exempted from the taxes imposed by this chapter:

19 (a) That portion of the taxes imposed by this chapter which exceeds the
20 general retail sales or use tax, excluding any local taxes, that a nonres-
21 ident purchaser would pay in their state of residence on sales to nonres-
22 idents of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs),
23 motorcycles intended for off-road use and snowmobiles, for use outside of
24 this state even though delivery be made within this state, but only when:

25 (1) The motor vehicles, vessels, ATVs, motorcycles intended for off-
26 road use, snowmobiles or trailers will be taken from the point of deliv-
27 ery in this state directly to a point outside this state; and

28 (2) The motor vehicles, vessels, ATVs, motorcycles intended for off-
29 road use, snowmobiles and trailers will be registered immediately under
30 the laws of another state, will be titled in another state if required to
31 be titled in that state, will not be used in this state more than sixty
32 (60) days in any twelve (12) month period, and will not be required to be
33 titled under the laws of this state.

34 (3) For the purpose of this subsection (a), the term "all-terrain ve-
35 hicle" or "ATV" means all-terrain vehicle or ATV as defined in section
36 49-102, Idaho Code.

37 (4) For the purpose of this section, the term "vessel" means any boat
38 intended to carry one (1) or more persons upon the water which is either:

39 (i) Sold together with a motor, or

40 (ii) Eleven (11) feet in length or more, but shall not include can-
41 oes, kayaks or inflatable boats, unless such canoes, kayaks or
42 inflatable boats are sold together with a motor.

1 The state tax commission shall prepare at least annually a sales and use
 2 tax schedule listing the sales and use tax rates for other states not includ-
 3 ing local government sales and use tax rates, and post such schedule on its
 4 website and otherwise make the schedule available to dealers selling items
 5 listed in this subsection. Such schedule shall also contain a column for the
 6 sales tax rate to be applied by sellers under this subsection for nonresident
 7 purchasers based upon their state of residence and the Idaho tax due under
 8 this subsection.

9 (b) Sale of used manufactured homes, whether or not such used manufac-
 10 tured homes are sold for use outside this state, and whether or not such used
 11 manufactured homes are sold by a dealer. Every manufactured home sale after
 12 its sale as a "new manufactured home," as defined in section 63-3606, Idaho
 13 Code, is a sale as a used manufactured home.

14 (c) Sale or lease of motor vehicles with a maximum gross registered
 15 weight over twenty-six thousand (26,000) pounds, which shall be immediately
 16 registered under the international registration plan, whether or not base
 17 plated in Idaho, and the sale or lease of trailers which are part of a fleet
 18 of vehicles registered under the international registration plan when such
 19 vehicles and trailers are substantially used in interstate commerce. If
 20 such a motor vehicle or trailer is not substantially used in interstate com-
 21 merce during any four (4) fiscal year quarters beginning July 1 and ending
 22 June 30 of each year under the international registration plan, it shall be
 23 deemed used in Idaho and subject to the use tax under section 63-3621, Idaho
 24 Code. For the purpose of this subsection, "substantially used in interstate
 25 commerce" means that the vehicles or trailers will be part of a fleet with a
 26 minimum of ten percent (10%) of the miles operated by the fleet accrued out-
 27 side of Idaho in any four (4) fiscal year quarters beginning July 1 and ending
 28 June 30 of each year under the international registration plan.

29 (d) The sale or purchase of a glider kit when the glider kit will be used
 30 to assemble a glider kit vehicle as defined in section 49-123, Idaho Code,
 31 which will be immediately registered under a plan defined in subsection (c)
 32 of this section, provided that if the glider kit vehicle is not substantially
 33 used in interstate commerce as defined in subsection (c) of this section dur-
 34 ing any registration period, it shall be subject to the use tax under section
 35 63-3621, Idaho Code.

36 (e) The use or other consumption of a motor vehicle temporarily donated
 37 to a driver's education program sponsored by a nonprofit educational insti-
 38 tution as defined in section 63-36220, Idaho Code.

39 (f) Sales of items listed in subsection (a) (1) of this section, man-
 40 ufactured in the state of Idaho for use and licensing outside the state of
 41 Idaho when sold directly by the manufacturer to the out-of-state purchaser.

42 SECTION 2. That Section 63-3638, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 63-3638. SALES TAX -- DISTRIBUTION. All moneys collected under this
 45 chapter, except as may otherwise be required in sections 63-3203 and
 46 63-3709, Idaho Code, shall be distributed by the state tax commission as
 47 follows:

48 (1) An amount of money shall be distributed to the state refund account
 49 sufficient to pay current refund claims. All refunds authorized under this

1 chapter by the state tax commission shall be paid through the state refund
2 account, and those moneys are continuously appropriated.

3 (2) Five million dollars (\$5,000,000) per year is continuously appro-
4 priated and shall be distributed to the permanent building fund, provided by
5 section 57-1108, Idaho Code.

6 (3) Four million eight hundred thousand dollars (\$4,800,000) per year
7 is continuously appropriated and shall be distributed to the water pollution
8 control account established by section 39-3628, Idaho Code.

9 (4) An amount equal to the sum required to be certified by the chair-
10 man of the Idaho housing and finance association to the state tax commis-
11 sion pursuant to section 67-6211, Idaho Code, in each year is continuously
12 appropriated and shall be paid to any capital reserve fund, established by
13 the Idaho housing and finance association pursuant to section 67-6211, Idaho
14 Code. Such amounts, if any, as may be appropriated hereunder to the capital
15 reserve fund of the Idaho housing and finance association shall be repaid for
16 distribution under the provisions of this section, subject to the provisions
17 of section 67-6215, Idaho Code, by the Idaho housing and finance associa-
18 tion, as soon as possible, from any moneys available therefor and in excess
19 of the amounts which the association determines will keep it self-support-
20 ing.

21 (5) An amount equal to the sum required by the provisions of sections
22 63-709 and 63-717, Idaho Code, after allowance for the amount appropriated
23 by section 63-718(3), Idaho Code, is continuously appropriated and shall be
24 paid as provided by sections 63-709 and 63-717, Idaho Code.

25 (6) An amount required by the provisions of chapter 53, title 33, Idaho
26 Code.

27 (7) An amount required by the provisions of chapter 87, title 67, Idaho
28 Code.

29 (8) For fiscal year 2011, and each fiscal year thereafter, four million
30 one hundred thousand dollars (\$4,100,000), of which two million two hundred
31 thousand dollars (\$2,200,000) shall be distributed to each of the forty-four
32 (44) counties in equal amounts, and one million nine hundred thousand dol-
33 lars (\$1,900,000) of which shall be distributed to the forty-four (44) coun-
34 ties in the proportion that the population of the county bears to the popula-
35 tion of the state. For fiscal year 2012, and for each fiscal year thereafter,
36 the amount distributed pursuant to this subsection, shall be adjusted annu-
37 ally by the state tax commission in accordance with the consumer price index
38 for all urban consumers (CPI-U) as published by the U.S. department of la-
39 bor, bureau of labor statistics, but in no fiscal year shall the total amount
40 allocated for counties under this subsection, be less than four million one
41 hundred thousand dollars (\$4,100,000). Any increase resulting from the ad-
42 justment required in this section shall be distributed to each county in the
43 proportion that the population of the county bears to the population of the
44 state. Each county shall establish a special election fund to which shall be
45 deposited all revenues received from the distribution pursuant to this sub-
46 section. All such revenues shall be used exclusively to defray the costs as-
47 sociated with conducting elections as required of county clerks by the pro-
48 visions of section 34-1401, Idaho Code.

49 (9) One dollar (\$1.00) on each application for certificate of title
50 or initial application for registration of a motor vehicle, snowmobile,

1 all-terrain vehicle or other vehicle processed by the county assessor or the
2 Idaho transportation department excepting those applications in which any
3 sales or use taxes due have been previously collected by a retailer, shall be
4 a fee for the services of the assessor of the county or the Idaho transporta-
5 tion department in collecting such taxes, and shall be paid into the current
6 expense fund of the county or state highway account established in section
7 40-702, Idaho Code.

8 (10) Eleven and five-tenths percent (11.5%) is continuously appropri-
9 ated and shall be distributed to the revenue sharing account which is created
10 in the state treasury, and the moneys in the revenue sharing account will be
11 paid in installments each calendar quarter by the state tax commission as
12 follows:

13 (a) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
14 various cities as follows:

15 (i) Fifty percent (50%) of such amount shall be paid to the vari-
16 ous cities, and each city shall be entitled to an amount in the pro-
17 portion that the population of that city bears to the population of
18 all cities within the state; and

19 (ii) Fifty percent (50%) of such amount shall be paid to the vari-
20 ous cities, and each city shall be entitled to an amount in the pro-
21 portion that the preceding year's market value for assessment pur-
22 poses for that city bears to the preceding year's market value for
23 assessment purposes for all cities within the state.

24 (b) Twenty-eight and two-tenths percent (28.2%) shall be paid to the
25 various counties as follows:

26 (i) One million three hundred twenty thousand dollars
27 (\$1,320,000) annually shall be distributed one forty-fourth
28 (1/44) to each of the various counties; and

29 (ii) The balance of such amount shall be paid to the various coun-
30 ties, and each county shall be entitled to an amount in the propor-
31 tion that the population of that county bears to the population of
32 the state;

33 (c) Thirty-five and nine-tenths percent (35.9%) of the amount appro-
34 priated in this subsection shall be paid to the several counties for
35 distribution to the cities and counties as follows:

36 (i) Each city and county which received a payment under the provi-
37 sions of section 63-3638(e), Idaho Code, during the fourth quarter
38 of calendar year 1999, shall be entitled to a like amount during
39 succeeding calendar quarters.

40 (ii) If the dollar amount of money available under this subsection
41 (10)(c) in any quarter does not equal the amount paid in the fourth
42 quarter of calendar year 1999, each city's and county's payment
43 shall be reduced proportionately.

44 (iii) If the dollar amount of money available under this subsec-
45 tion (10)(c) in any quarter exceeds the amount paid in the fourth
46 quarter of calendar year 1999, each city and county shall be en-
47 titled to a proportionately increased payment, but such increase
48 shall not exceed one hundred five percent (105%) of the total pay-
49 ment made in the fourth quarter of calendar year 1999.

1 (iv) If the dollar amount of money available under this subsection
2 (10) (c) in any quarter exceeds one hundred five percent (105%) of
3 the total payment made in the fourth quarter of calendar year 1999,
4 any amount over and above such one hundred five percent (105%)
5 shall be paid fifty percent (50%) to the various cities in the pro-
6 portion that the population of the city bears to the population of
7 all cities within the state, and fifty percent (50%) to the various
8 counties in the proportion that the population of a county bears to
9 the population of the state; and

10 (d) Seven and seven-tenths percent (7.7%) of the amount appropriated in
11 this subsection shall be paid to the several counties for distribution
12 to special purpose taxing districts as follows:

13 (i) Each such district which received a payment under the provi-
14 sions of section 63-3638 (e), Idaho Code, during the fourth quarter
15 of calendar year 1999, shall be entitled to a like amount during
16 succeeding calendar quarters.

17 (ii) If the dollar amount of money available under this ~~subsection~~
18 ~~(10)(d) paragraph~~ in any quarter does not equal the amount paid
19 in the fourth quarter of calendar year 1999, each special purpose
20 taxing district's payment shall be reduced proportionately.

21 (iii) If the dollar amount of money available under this
22 ~~subsection (10)(d) paragraph~~ in any quarter exceeds the amount
23 distributed under subparagraph (i) of this ~~subsection (10)(d)~~
24 ~~paragraph~~, each special purpose taxing district shall be entitled
25 to a share of the excess based on the proportion each such dis-
26 trict's current property tax budget bears to the sum of the current
27 property tax budgets of all such districts in the state. The state
28 tax commission shall calculate district current property tax bud-
29 gets to include any unrecovered foregone amounts as determined
30 under section 63-802(1) (e), Idaho Code. When a special purpose
31 taxing district is situated in more than one (1) county, the state
32 tax commission shall determine the portion attributable to the
33 special purpose taxing district from each county in which it is
34 situated.

35 (iv) If special purpose taxing districts are consolidated, the
36 resulting district is entitled to a base amount equal to the sum of
37 the base amounts which were received in the last calendar quarter
38 by each district prior to the consolidation.

39 (v) If a special purpose taxing district is dissolved or disin-
40 corporated, the state tax commission shall continuously distrib-
41 ute to the board of county commissioners an amount equal to the
42 last quarter's distribution prior to dissolution or disincorpora-
43 tion. The board of county commissioners shall determine any re-
44 distribution of moneys so received.

45 (vi) Taxing districts formed after January 1, 2001, are not enti-
46 tled to a payment under the provisions of this ~~subsection (10)(d)~~
47 ~~paragraph~~.

48 (vii) For purposes of this ~~subsection (10)(d) paragraph~~, a special
49 purpose taxing district is any taxing district which is not a city,
50 a county or a school district.

1 (11) Amounts calculated in accordance with section 2, chapter 356, laws
2 of 2001, for annual distribution to counties and other taxing districts be-
3 ginning in October 2001 for replacement of property tax on farm machinery and
4 equipment exempted pursuant to section 63-602EE, Idaho Code. For nonschool
5 districts, the state tax commission shall distribute one-fourth (1/4) of
6 this amount certified quarterly to each county. For school districts, the
7 state tax commission shall distribute one-fourth (1/4) of the amount certi-
8 fied quarterly to each school district. For nonschool districts, the county
9 auditor shall distribute to each district within thirty (30) calendar days
10 from receipt of moneys from the state tax commission. Moneys received by
11 each taxing district for replacement shall be utilized in the same manner
12 and in the same proportions as revenues from property taxation. The moneys
13 remitted to the county treasurer for replacement of property exempt from
14 taxation pursuant to section 63-602EE, Idaho Code, may be considered by the
15 counties and other taxing districts and budgeted at the same time, in the
16 same manner and in the same year as revenues from taxation on personal prop-
17 erty which these moneys replace. If taxing districts are consolidated, the
18 resulting district is entitled to an amount equal to the sum of the amounts
19 which were received in the last calendar quarter by each district pursuant
20 to this subsection prior to the consolidation. If a taxing district is
21 dissolved or disincorporated, the state tax commission shall continuously
22 distribute to the board of county commissioners an amount equal to the
23 last quarter's distribution prior to dissolution or disincorporation. The
24 board of county commissioners shall determine any redistribution of moneys
25 so received. If a taxing district annexes territory, the distribution of
26 moneys received pursuant to this subsection shall be unaffected. Taxing
27 districts formed after January 1, 2001, are not entitled to a payment under
28 the provisions of this subsection. School districts shall receive an amount
29 determined by multiplying the sum of the year 2000 school district levy mi-
30 nus .004 times the market value on December 31, 2000, in the district of the
31 property exempt from taxation pursuant to section 63-602EE, Idaho Code, pro-
32 vided that the result of these calculations shall not be less than zero (0).
33 The result of these school district calculations shall be further increased
34 by six percent (6%). For purposes of the limitation provided by section
35 63-802, Idaho Code, moneys received pursuant to this section as property tax
36 replacement for property exempt from taxation pursuant to section 63-602EE,
37 Idaho Code, shall be treated as property tax revenues.

38 (12) Amounts necessary to pay refunds as provided in section 63-3641,
39 Idaho Code, to a developer of a retail complex shall be remitted to the demon-
40 stration pilot project fund created in section 63-3641, Idaho Code.

41 (13) Amounts calculated in accordance with subsection (4) of section
42 63-602KK, Idaho Code, for annual distribution to counties and other taxing
43 districts for replacement of property tax on personal property tax exemp-
44 tions pursuant to subsection (2) of section 63-602KK, Idaho Code, which
45 amounts are continuously appropriated unless the legislature enacts a dif-
46 ferent appropriation for a particular fiscal year. For purposes of the
47 limitation provided by section 63-802, Idaho Code, moneys received pursuant
48 to this section as property tax replacement for property exempt from taxa-
49 tion pursuant to section 63-602KK, Idaho Code, shall be treated as property
50 tax revenues. If taxing districts are consolidated, the resulting district

1 is entitled to an amount equal to the sum of the amounts that were received in
2 the last calendar year by each district pursuant to this subsection prior to
3 the consolidation. If a taxing district or revenue allocation area annexes
4 territory, the distribution of moneys received pursuant to this subsection
5 shall be unaffected. Taxing districts and revenue allocation areas formed
6 after January 1, 2013, are not entitled to a payment under the provisions of
7 this subsection.

8 (14) Amounts collected from purchasers and paid to the state of Idaho by
9 retailers that are not engaged in business in this state and which retailer
10 would not have been required to collect the sales tax, less amounts other-
11 wise distributed in subsections (1) and (10) of this section, shall be dis-
12 tributed to the tax relief fund created in section 57-811, Idaho Code. The
13 state tax commission will determine the amounts to be distributed under this
14 subsection.

15 (15) Ten million dollars (\$10,000,000) to the state highway account
16 for construction and improvement of state highways as provided in section
17 40-702(6), Idaho Code.

18 (16) Any moneys remaining over and above those necessary to meet and
19 reserve for payments under other subsections of this section shall be dis-
20 tributed to the general fund.