

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 171, As Amended in the Senate

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622, IDAHO CODE, TO REVISE PROVISIONS REGARDING SALES TAX EXEMPTION CERTIFICATES AND RESALE CERTIFICATES.

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

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

63-3622. EXEMPTIONS -- EXEMPTION CERTIFICATES AND RESALE CERTIFICATES -- PENALTIES. (a) To prevent evasion of the sales and use tax, it shall be presumed that all sales are subject to the taxes imposed by the provisions of this chapter and the retailer shall have the burden of establishing the facts giving rise to such exemption unless the purchaser delivers to the retailer, or has on file with the retailer, an exemption certificate or resale certificate, in which case the purchaser shall bear the burden of establishing the facts giving rise to the exemption.

(b) An exemption certificate shall show the purchaser's name, business name and address (if any), address, a federal employer identification number or driver's license number and state of issue, and signature, date, and the reason for and nature of the claimed exemption.

(c) A resale certificate shall be signed and dated by, and bear the name and address of, the purchaser or his agent, shall show the federal employer identification number or driver's license number and state of issue, shall indicate the number of the permit issued to the purchaser or that the purchaser is an out-of-state retailer, and shall indicate the general character of the tangible personal property sold or rented by the purchaser in the regular course of business. ~~A resale certificate relieves the seller from the burden of proof only if taken from a person who is engaged in the business of selling or renting tangible personal property and who holds a permit provided for in this section, or who is a retailer not engaged in business in this state, and who, at the time of purchasing the tangible personal property, intends to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose.~~ If a purchaser who gives a resale certificate makes any use of the property other than retention, demonstration or display while holding it for sale or rent in the regular course of business, the use shall be taxable to the purchaser as of the time the property is first used by him, and the sales price of the property to him shall be deemed the measure of the tax.

(d) A seller may accept an exemption certificate or resale certificate from a purchaser prior to the time of sale, at the time of the sale, or at any reasonable time after the sale when necessary to establish the privilege of the exemption. Other than as provided elsewhere in this section, when an ex-

1 exemption certificate or resale certificate, properly executed, is presented  
2 to or is on file with the seller, the seller has no duty or obligation to col-  
3 lect sales or use taxes in regard to any sales transaction so documented re-  
4 gardless of whether the purchaser properly or improperly claimed an exemp-  
5 tion. A seller so relieved of the obligation to collect tax is also relieved  
6 of any liability to the purchaser for failure to collect tax or for making any  
7 report or disclosure of information required or permitted under this chap-  
8 ter. The purchaser providing an exemption certificate or resale certificate  
9 to a seller shall bear all responsibility and liability for any subsequent  
10 audit of the transaction and the seller shall be held harmless. A seller need  
11 not accept an exemption certificate or resale certificate that is not read-  
12 able, legible or copyable.

13 (e) Any person who gives an exemption certificate or resale certificate  
14 with the intention of evading payment of the amount of the tax applicable to  
15 the transaction is guilty of a misdemeanor and punishable by a fine not ex-  
16 ceeding one thousand dollars (\$1,000) or imprisonment for not more than one  
17 (1) year, or by both such fine and imprisonment.

18 (f) An exemption certificate or resale certificate shall be substan-  
19 tially in such form as the state tax commission may prescribe. The claim for  
20 the exemption may be a part of the documentation on a sales invoice, purchase  
21 order, or other documentation retained by the retailer with regard to the  
22 sale. Unless the purchaser has an exemption certificate or resale certifi-  
23 cate on file with the seller, the purchaser or his agent must sign the ex-  
24 emption claim, which shall be in addition to any other signature which the  
25 seller normally requires on sales invoices, purchase orders, or other sales  
26 documentation.

27 (g) It shall be presumed that sales made to a person who has completed an  
28 exemption certificate or resale certificate for the seller's records are not  
29 taxable and the seller need not collect sales or use taxes unless the tangi-  
30 ble personal property or services purchased are taxable to the purchaser as  
31 a matter of law in the particular instance claimed on the exemption certifi-  
32 cate.