

1 **SALES TAX EDUCATION FUNDING ACT OF 2022**
2 **{with effective date following voter Referendum}**

3
4 **LEGISLATURE OF THE STATE OF IDAHO**

5
6 Sixty-seventh Legislature.

First Regular Session 2022

7
8
9 **IN THE HOUSE OF REPRESENTATIVES**

10 **BILL No. _____**

11 **By ___ Bi -Partison with sponsors from both Parties**

12
13 **AN ACT Providing for a REFERENDUM**

14
15
16
17 RELATING TO TAXATION; NAMING THE ACT “THE SALES TAX EDUCATION FUNDING ACT
18 OF 2022” AND PROVIDING STATEMENT OF PURPOSE; REDUCING THE SALES AND USE TAX
19 RATE FROM SIX PERCENT (6%) TO FOUR PERCENT (4%); ELIMINATING SEVENTEEN (17)
20 EXEMPTIONS TO SPECIFIC USES NOT TAXED: IRRIGATION EQUIPMENT AND SUPPLIES,
21 POLLUTION CONTROLE EQUIPMENT, BROADCAST EQUIPMENT AND SUPPLIES,
22 PUBLISHING EQUIPMENT AND SUPPLIES, COMMERCIAL AIRCRAFT, RAILROAD STOCK
23 AND MANUFACTURING, LODGING, EATING, AND DRINKING PLACES, SKI LIFTS AND
24 SNOWGROOMING EQUIPMENT, CLEAN ROOMS, ALTERNATIVE ENERGY PRODUCING
25 EQUIPMENT, SMALL EMPLOYER HEADQUARTERS CONSTRUCTION, STATE TAX
26 ANTICIPATION REVENUE, MOTOR VEHICLES OF NONRESIDENTIAL STUDENTS, BEVERAGE
27 AND FOOD SAMPLES, PREPARED BEVERAGE AND FOOD GIVEN TO EMPLOYEES;
28 ELIMINATING TEN (10) EXEMPTIONS TO GOODS NOT TAXED: UTILITY SALES, USED
29 MANUFACTURED HOMES, VENDING MACHINES AND AMUSEMENT DEVICES,
30 PRESCRIPTIONS AND DURABLE MEDICAL EQUIPMENT, FUNERAL CASKETS, OFFICIAL
31 DOCUMENTS, PRECIOUS METAL BULLION, IDAHO COMMEMORATIVE SILVER
32 MEDALLIONS, TELECOMMUNICATIONS EQUIPMENT, PERSONAL PROPERTY TAX ON
33 RENTALS; ASSESSING TAXES TO SEVENTEEN (17) SERVICES NOT TAXED: CONSTRUCTION,
34 AGRICULTURAL AND INDUSTRIAL SERVICES, TRANSPORTATION SERVICES,
35 INFORMATION SERVICES, REPAIRS, PROFESSIONAL SERVICES, BUSINESS SERVICES,
36 PERSONAL SERVICES, HEALTH AND MEDICAL SERVICES, SOCIAL SERVICES,
37 EDUCATIONAL SERVICES, LOTTERY TICKETS AND PARI-MUTUAL BETTING, MEDIA
38 MEASUREMENT SERVICES, MISCELLANEOUS SERVICES, NONPROFIT SHOOTING RANGE
39 FEES, DEALER LABOR FOR NEW VEHICLE ACCESSORIES; ASSESSING TAXES TO SIXTEEN
40 (16) SPECIFIC ENTITIES NOT TAXED: FORREST PROTECTIVE ASSOCIATION PURCHASES,
41 FOOD BANK PURCHASES, CENTERS FOR INDEPENDENT LIVING, INL RESEARCH AND
42 DEVELOPMENT PURCHASES, MOTOR VEHICLE PURCHASES BY FAMILY MEMBERS, SALES
43 BY OUTFITTERS AND GUIDES, SALES THROUGH VENDING MACHINES, AUTO
44 MANUFACTURE REBATES, INCIDENTAL SALES BY CHURCHES, VOLUNTEER FIRE
45 DEPARTMENT AND EMERGENCY MEDICAL SERVICES, SENIOR CITIZENS CENTERS, BLIND
46 SERVICES FOUNDATION, INC., ADVOCATES FOR SURVIVORS OF DOMESTIC VIOLENCE
47 AND SEXUAL ABUSE, FREE DENTAL CLINICS, MUSEUMS; PROVIDING FOR SEVERABILITY;
48 PROVIDING FOR EFFECTIVE DATE FOLLOWING PASSAGE OF VOTER REFERENDUM.

49
50 Be It Enacted by the Legislature of the State of Idaho:

51
52 SECTION 1. SHORT TITLE AND STATEMENT OF PURPOSE—This Act is named:
53 “The Sales Tax Education Funding Act of 2022.” Idaho’s K-12 education system is currently
54 underfunded by at least \$700 Million per year in its operational budget, plus the need for an
55 additional \$52 Million to fully fund Kindergarten. Higher Education annual operating budgets are
56 underfunded by approximately \$340 Million per year.

57 Additionally, Idaho’s K-12 public school buildings and infrastructure require at least \$900 Million
58 in repairs and upgrade to bring them up to a status rated “good.” Further, a recent study funded
59 by the Albertson Foundation finds Idaho will need over 100 new school buildings by year 2030
60 due to population growth.

61 This legislation will net the state General Fund approximately \$821,658,000 and additionally net
62 approximately \$87,688,000 to local government.

63 SECTION 2. That Section 63-602L, Idaho Code, be, and the same is hereby amended to read as follows:

64
65 63-602L. PROPERTY EXEMPT FROM TAXATION -- INTANGIBLE PERSONAL PROP-
66 ERTY. (1) The following intangible personal property is exempt from taxation: capital stock and bonds.
67 The deposits in national banks, state banks, and savings and loan associations. Shares and accounts of
68 savings and loan associations, credit unions or associations organized under the laws of the state of Idaho
69 for the purpose of accumulating the savings and funds of their members and lending the same to their
70 members. Goodwill, customer lists, contracts and contract rights, patents, trademarks, ~~custom computer~~
71 ~~programs as defined in section 63-3616, Idaho Code~~, copyrights, trade secrets, franchises, licenses, rights-
72 of-way which are possessory only and not accompanied by title.

73 (2) The commission shall promulgate rules which shall provide for the exclusion of exempt
74 intangible personal property from taxable value of operating property. Such rules shall allow each taxpayer
75 the right to elect one (1) of the following three (3) methods for exclusion of exempt intangible personal
76 property from its taxable value:

- 77 (a) Separate exclusion of the exempt intangible personal property at the system level value; or
78 (b) Separate exclusion of the exempt intangible personal property at the state allocated value; or
79 (c) Exclusion of the exempt intangible personal property by valuation of only tangible personal
80 property and nonexempt intangible personal property using valuation models which do not impound or
81 include values of the exempt intangible personal property.

82
83 SECTION 3. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the
84 addition thereto of a NEW SECTION, to be known and designated as Section 63-3602A, Idaho Code, and
85 to read as follows:

86
87 63-3602A. COMPUTER SOFTWARE AND DIGITAL GOODS. The term "computer software"
88 means any computer program, part of a program or any sequence of instructions for automatic data
89 processing equipment or information stored in an electronic medium. The term "computer software"
90 includes both prewritten and custom software. Computer software is deemed to be tangible personal
91 property for purposes of this chapter regardless of the method by which the title, possession or right to use
92 the software is transferred to the user. The term "digital goods" means items such as audio, video and graphic
93 files that are downloaded via electronic means which would be tangible personal property if sold in another
94 format, such as a CD, DVD, film or cassette.

95
96 SECTION 4. That Section 63-3608, Idaho Code, be, and the same is hereby amended to read as
97 follows:
98

99 63-3608. PURCHASE. The term "purchase" means any transfer, rental, exchange, or barter,
100 conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a
101 consideration. The term "purchase" shall also include the payment of consideration for services as defined
102 in section 63-3614A, Idaho Code. A transaction whereby the possession of property is transferred but the
103 seller retains the title as security for the payment of the price is a purchase. A transfer for a consideration of
104 any publication or of tangible personal property which has been produced, fabricated, or printed to the
105 special order of the customer is also a purchase.
106

107 SECTION 5. That Section 63-3609, Idaho Code, be, and the same is hereby amended to read as
108 follows:
109

110 63-3609. RETAIL SALE -- SALE AT RETAIL. The terms "retail sale" or "sale at retail" means a
111 sale for any purpose other than resale in the regular course of business or lease or rental of property in the
112 regular course of business where such rental or lease is taxable under section 63-3612(h), Idaho Code.
113

114 ~~(a) All persons engaged in constructing, altering, repairing or improving real estate, are consumers~~
115 ~~of the material used by them; all sales to or use by such persons of tangible personal property are taxable~~
116 ~~whether or not such persons intend resale of the improved property.~~

117 ~~_____~~(b) For the purpose of this chapter, the sale or purchase of personal property incidental to the sale
118 of real property or used mobile homes is deemed a sale of real property.
119

120 SECTION 6. That Section 63-3610, Idaho Code, be, and the same is hereby amended to read as follows:
121

122 63-3610. RETAILER. The term "retailer" includes: (a) Every seller who makes any retail sale or
123 sales of tangible personal property and every person engaged in the business of making retail sales at auction
124 of tangible personal property owned by the person or others.

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

128 (c) Every person making more than two (2) retail sales of tangible personal property during any
129 twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors, or
130 receiver or trustee in bankruptcy, or every person making fewer sales who holds himself out as engaging in
131 the business of selling such tangible personal property at retail or who sells a motor vehicle.

132 (d) When the state tax commission determines that it is necessary for the efficient administration
133 of this act to regard any salesmen, representatives, peddlers, or canvassers as agents of the dealers,
134 distributors, supervisors, or employers under whom they operate or from whom they obtain the tangible
135 personal property sold by them, irrespective of whether they are making sales on their own behalf or on
136 behalf of such dealers, distributors, supervisors, or employers, the state tax commission may so regard them
137 and may regard the dealers, distributors, supervisors, or employers as retailers for the purpose of this act.

138 ~~(e) Persons conducting both contracting and retailing activities. Such persons must keep separate~~
139 ~~accounts for the retail portion of their business and pay tax in the usual fashion on this portion~~
140

141 SECTION 7. That Section 63-3612, Idaho Code, be, and the same is hereby amended to read as
142 follows:
143

144 63-3612. SALE. (1) The term "sale" means any transfer of title, exchange or barter, conditional or
145 otherwise, of tangible personal property for a consideration and shall include any similar transfer of

146 possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange
147 or barter.

148 (2) "Sale" shall also include the following transactions when a consideration is transferred,
149 exchanged or bartered:

150 (a) Producing, fabricating, processing, printing, or imprinting of tangible personal property for
151 consumers who furnish, either directly or indirectly, the tangible personal property used in the
152 producing, fabricating, processing, printing, or imprinting.

153 (b) Furnishing, preparing, or serving food, meals, or drinks and non-depreciable goods and services
154 directly consumed by customers included in the charge thereof.

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

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

159 (e) Admission to a place or for an event in Idaho, provided that an organization conducting an
160 exempt function as defined in section 527 or exempted by section 501(c)(3) of the Internal Revenue
161 Code, as incorporated in section 63-3004, Idaho Code, and collecting any charges for attendance
162 at the aforementioned event, shall not have those admission charges be defined as a sale if the
163 event:

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

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

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

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

170 (g) Providing hotel, motel, campground, or trailer court accommodations, nondepreciable goods
171 directly consumed by customers and included services, except where residence is maintained
172 continuously under the terms of a lease or similar agreement for a period in excess of thirty (30)
173 days.

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

175 ~~(i) The intrastate transportation for hire by air of freight or passengers, except (1) as part of a~~
176 ~~regularly scheduled flight by a certified air carrier, under authority of the United States, or (2) when~~
177 ~~providing air ambulance services. Sales of services as defined in section 63-3614A, Idaho Code.~~
178 Sales of services as defined in section 63-3614A, Idaho Code.

179 (j) Computer software and digital goods as defined in section 63-3602A, Idaho Code.

180 (k) Contracts for applying, installing, cleaning, altering, improving, decorating, treating, storing
181 or repairing tangible personal property or real property.

182 (3) As used in subsections (2)(b) and (2)(g) of this section, goods "directly consumed by customers"
183 shall not be interpreted to mean any linens, bedding, cloth napkins or similar non-disposable property.

184
185 SECTION 8. That Section 63-3613, Idaho Code, be, and the same is hereby amended to read as
186 follows:
187

188 63-3613. SALES PRICE. (a) The term "sales price" means the total amount for which tangible
189 personal property, ~~including and~~ services ~~agreed to be rendered as a part of the sale, is~~ are sold, rented or
190 leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of
191 the following:

192 1. The cost of the property sold. However, in accordance with such rules as the state tax commission
193 may prescribe, a deduction may be taken if the retailer has purchased property for some purpose
194 other than resale or rental, has reimbursed his vendor for tax which the vendor is required to pay to
195 the state or has paid the use tax with respect to the property, and has resold or rented the property
196 prior to making any use of the property other than retention, demonstration or display while holding

197 it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund
198 or credit will be allowed to his vendor with respect to the sale of the property.

199 2. The cost of materials used, labor or service cost, losses, or any other expense.

200 3. The cost of transportation of the property ~~prior to its sale.~~

201 4. The face value of manufacturer's discount coupons. A manufacturer's discount coupon is a price
202 reduction coupon presented by a consumer to a retailer upon purchase of a manufacturer's product,
203 the face value of which may only be reimbursed by the manufacturer to the retailer.

204 5. Any additional charge added to the sales price of tangible personal property.

205 6. The amount charged for applying, installing, cleaning, altering, improving, decorating, treating,
206 storing or repairing tangible personal property or real property.

207 (b) The term "sales price" does not include any of the following:

208 1. Retailer discounts allowed and taken on sales, but only to the extent that such retailer discounts
209 represent price adjustments as opposed to cash discounts offered only as an inducement for prompt
210 payment.

211 2. Any sums allowed on merchandise accepted in payment of other merchandise, provided that this
212 allowance shall not apply to the sale of a "new manufactured home" or a "modular building" as
213 defined herein.

214 3. The amount charged for property returned by customers when the amount charged therefor is
215 refunded either in cash or credit; but this exclusion shall not apply in any instance when the
216 customer, in order to obtain the refund, is required to purchase other property at a price greater than
217 the amount charged for the property that is returned.

218 ~~4. The amount charged for labor or services rendered in installing or applying the property sold,~~
219 ~~provided that said amount is stated separately and such separate statement is not used as a means~~
220 ~~of avoiding imposition of this tax upon the actual sales price of the tangible personal property;~~
221 ~~except that charges by a manufactured homes dealer for set up of a manufactured home shall be~~
222 ~~included in the "sales price" of such manufactured home.~~

223 ~~5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax)~~
224 ~~imposed by the United States upon or with respect to retail sales whether imposed upon the retailer~~
225 ~~or the consumer.~~

226 ~~6. The amount charged for finance charges, carrying charges, service charges, time-price~~
227 ~~differential, or interest on deferred payment sales, provided such charges are not used as a means~~
228 ~~of avoiding imposition of this tax upon the actual sales price of the tangible personal property.~~

229 ~~7. Delivery and handling charges for transportation of tangible personal property to the consumer,~~
230 ~~provided that the transportation is stated separately and the separate statement is not used as a~~
231 ~~means of avoiding imposition of the tax upon the actual sales price of the tangible personal~~
232 ~~property; except that charges by a manufactured homes dealer for transportation of a manufactured~~
233 ~~home shall be included in the "sales price" of such manufactured home.~~

234 ~~8. Manufacturers' rebates when used at the time of a retail sale as a down payment on or deduction~~
235 ~~to the retail sales price of a motor vehicle to which the rebate applies. A manufacturer's rebate is a~~
236 ~~cash payment made by a manufacturer to a consumer who has purchased or is purchasing the~~
237 ~~manufacturer's product from the retailer.~~

238 ~~9. The amount of any fee imposed upon an outfitter as defined in section 36-2102, Idaho Code,~~
239 ~~by a governmental entity pursuant to statute for the purpose of conducting outfitting activities on~~
240 ~~land or water subject to the jurisdiction of the governmental entity, provided that the fee is stated~~
241 ~~separately and is presented as a use fee paid by the outfitted public to be passed through to the~~
242 ~~governmental entity.~~

243 ~~10. The amount of any discount or other price reduction on telecommunications equipment when~~
244 ~~offered as an inducement to the consumer to commence or continue telecommunications service,~~
245 ~~or the amount of any commission or other indirect compensation received by a retailer or seller as~~
246 ~~a result of the consumer commencing or continuing telecommunications service.~~

247 ~~(c) The sales price of a "new manufactured home" or a "modular building" as defined in this act~~
248 ~~shall be limited to and include only fifty five percent (55%) of the sales price as otherwise defined~~
249 ~~herein.~~

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

253 ~~(ed) Tangible personal property when sold at retail for more than eleven cents (\$.11) but less than~~
254 ~~one dollar and one cent (\$.01) through a vending machine shall be deemed to have sold at a sales~~
255 ~~price equal to one hundred seventeen percent (117%) of the price which is paid for such tangible~~
256 ~~personal property and/or its component parts including packaging by the owner or operator of the~~
257 ~~vending machines.~~

258 ~~(f) The use of or the privilege~~
259

260 SECTION 9. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition
261 thereto of a NEW SECTION, to be known and designated as Section 63-3614A, Idaho Code, and to read
262 as follows:
263

264 63-3614A. SERVICES. The term "services" means all activities engaged in for other persons for a
265 consideration, which activities involve predominantly the performance of a service as distinguished from
266 selling or leasing property. The Services subject to taxation are those 17 categories listed at page
267 66 of the Fiscal Year 2021 version of the Office of the Governor, Division of Financial
268 Management, publication: "General Fund Revenue Book."

269 The term "services" does not include services provided by an employee to an employer. In
270 determining what is a service, the intended use, principal objective or ultimate objective of the contracting
271 parties shall not be controlling. The term "services" also includes the constructing, repairing, decorating or
272 improving of new or existing buildings or other structures under, upon or above real property, including the
273 installing or attaching of any article of tangible personal property therein or thereto, whether or not such
274 personal property becomes a part of the realty by virtue of installation, and shall also include the clearing
275 of land and the moving of earth.

276
277 SECTION 10. That Section 63-3615, Idaho Code, be, and the same is hereby amended to read as
278 follows:
279

280 63-3615. STORAGE -- USE. (a) The term "storage" includes any keeping or retention in this state
281 for any purpose except sale in the regular course of business or subsequent use solely outside this state of
282 tangible personal property purchased from a retailer.

283 (b) The term "use" includes the exercise of any right or power over tangible personal property
284 incident to the ownership or the leasing of that property or the exercise of any right or power over tangible
285 personal property by any person in the performance of a contract, or to fulfill contract or subcontract
286 obligations, whether the title of such property be in the subcontractor, contractor, contractee, subcontractee,
287 or any other person, or whether the titleholder of such property would be subject to the sales or use tax,
288 unless such property would be exempt to the titleholder under section 63-3622D, Idaho Code, except that
289 the term "use" does not include the sale of that property in the regular course of business. The term "use"
290 includes the consumption of a service in Idaho.

291 (c) "Storage" and "use" do not include the keeping, retaining, or exercising of any right or power
292 over tangible personal property for the purpose of subsequently transporting it outside the state for use
293 thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into,
294 attached to, or incorporated into other tangible personal property to be transported outside the state, and
295 thereafter used solely outside the state.
296

297 SECTION 11. That Section 63-3616, Idaho Code, be, and the same is hereby amended to read as
298 follows:
299

300 63-3616. TANGIBLE PERSONAL PROPERTY. (a) The term "tangible personal property" means
301 personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner
302 perceptible to the senses.

303 ~~(b) The term "tangible personal property" includes any computer software which is not a custom
304 computer program.~~

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

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

320 ~~(c) The term "tangible personal property" does not include advertising space when sold to an
321 advertiser or its agent by the publisher of the newspaper or the magazine in which the advertisement is
322 displayed or circulated.~~

323
324 SECTION 12. That Section 63-3619, Idaho Code, be, and the same is hereby amended to read as
325 follows:
326

327 63-3619. IMPOSITION AND RATE OF THE SALES TAX. An excise tax is hereby imposed upon
328 each sale at retail at the rate of ~~six~~ four percent (~~6%~~) (4%) of the sales price of all retail sales, including sales
329 of services, subject to taxation under this chapter and such amount shall be computed monthly on all sales
330 at retail within the preceding month.

331 (a) The tax shall apply to, be computed on, and collected for all credit, installment, conditional or
332 similar sales at the time of the sale or, in the case of rentals, at the time the rental is charged.

333 (b) The tax hereby imposed shall be collected by the retailer from the consumer.

334 (c) The state tax commission shall provide schedules for collection of the tax on sales, including
335 sales of services, which involve a fraction of a dollar. The retailer shall calculate the tax upon the entire
336 amount of the purchases of the consumer made at a particular time and not separately upon each item
337 purchased. The retailer may retain any amount collected under the bracket system prescribed which is in
338 excess of the amount of tax for which he is liable to the state during the period as compensation for the
339 work of collecting the tax.

340 (d) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer,
341 directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it
342 will not be added to the selling price of the property or service sold or that if added it or any part thereof
343 will be refunded. Any person violating any provision of this section is guilty of a misdemeanor.

344 (e) The tax commission may by rule provide that the amount collected by the retailer from the
345 customer in reimbursement of the tax be displayed separately from the list price, the price advertised on the
346 premises, the marked price, or other price on the sales slip or other proof of sale.

347 (f) The taxes imposed by this chapter shall apply to the sales, including sales of services, to
348 contractors purchasing for use in the performance of contracts with the United States.
349

350 SECTION 13. That Section 63-3621, Idaho Code, be, and the same is hereby amended to read as
351 follows:
352

353 63-3621. IMPOSITION AND RATE OF THE USE TAX -- EXEMPTIONS. An excise tax is
354 hereby imposed on the storage, use, or other consumption in this state of tangible personal property or
355 services acquired on or after ~~October 1, 2006~~ July 1, 2021, for storage, use, or other consumption in this
356 state at the rate of ~~six percent (6%)~~ four percent (4%) of the value of the property or service, and a recent
357 sales price shall be presumptive evidence of the value of the property or service unless the property is
358 wireless telecommunications equipment, in which case a recent sales price shall be conclusive evidence of
359 the value of the property or service.

360 (a) Every person storing, using, or otherwise consuming, in this state, tangible personal property
361 or services is liable for the tax. His liability is not extinguished until the tax has been paid to this state except
362 that a receipt from a retailer maintaining a place of business in this state or engaged in business in this state
363 given to the purchaser is sufficient to relieve the purchaser from further liability for the tax to which the
364 receipt refers. A retailer shall not be considered to have stored, used or consumed wireless
365 telecommunications equipment by virtue of giving, selling or otherwise transferring such equipment at a
366 discount as an inducement to a consumer to commence or continue a contract for telecommunications
367 service.

368 (b) Every retailer engaged in business in this state, and making sales of tangible personal property
369 or services for the storage, use, or other consumption in this state, not exempted under section 63-3622,
370 Idaho Code, shall, at the time of making the sales or, if storage, use or other consumption of the tangible
371 personal property or services is not then taxable hereunder, at the time the storage, use or other consumption
372 becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the
373 manner and form prescribed by the state tax commission.

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

376 (d) Every retailer engaged in business in this state or maintaining a place of business in this state
377 shall register with the state tax commission and give the name and address of all agents operating in this
378 state, the location of all distributions or sales houses or offices or other places of business in this state, and
379 such other information as the state tax commission may require.

380 (e) For the purpose of the proper administration of this act and to prevent evasion of the use tax and
381 the duty to collect the use tax, it shall be presumed that tangible personal property or services sold by any
382 person for delivery in this state is sold for storage, use, or other consumption in this state. The burden of
383 proving the sale is tax exempt is upon the person who makes the sale unless he obtains from the purchaser
384 a resale certificate to the effect that the property or service is purchased for resale or rental. It shall be
385 presumed that sales made to a person who has completed a resale certificate for the seller's records are not
386 taxable and the seller need not collect sales or use taxes unless the tangible personal property or service
387 purchased is taxable to the purchaser as a matter of law in the particular instance claimed on the resale
388 certificate.
389

390 A seller may accept a resale certificate from a purchaser prior to the time of sale, at the time of sale,
391 or at any reasonable time after the sale when necessary to establish the privilege of the exemption. The
392 resale certificate relieves the person selling the property or service from the burden of proof only if taken
393 from a person who is engaged in the business of selling or renting tangible personal property or service and
394 who holds the permit provided for by section 63-3620, Idaho Code, or who is a retailer not engaged in
395 business in this state, and who, at the time of purchasing the tangible personal property or service, intends
396 to sell or rent it in the regular course of business or is unable to ascertain at the time of purchase whether
397 the property or service will be sold or will be used for some other purpose. Other than as provided elsewhere

398 in this section, when a resale certificate, properly executed, is presented to the seller, the seller has no duty
399 or obligation to collect sales or use taxes in regard to any sales transaction so documented regardless of
400 whether the purchaser properly or improperly claimed an exemption. A seller so relieved of the obligation
401 to collect tax is also relieved of any liability to the purchaser for failure to collect tax or for making any
402 report or disclosure of information required or permitted under this chapter.

403 The resale certificate shall bear the name and address of the purchaser, shall be signed by the
404 purchaser or his agent, shall indicate the number of the permit issued to the purchaser, or that the purchaser
405 is an out-of-state retailer, and shall indicate the general character of the tangible personal property or service
406 sold by the purchaser in the regular course of business. The certificate shall be substantially in such form
407 as the state tax commission may prescribe.

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

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

413 (h) It shall be presumed that tangible personal property shipped or brought to this state by the
414 purchaser was purchased from a retailer, for storage, use or other consumption in this state.

415 (i) It shall be presumed that tangible personal property or service delivered outside this state to a
416 purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use,
417 or other consumption in this state. This presumption may be controverted by evidence satisfactory to the
418 state tax commission that the property or service was not purchased for storage, use, or other consumption
419 in this state.

420 (j) When the tangible personal property or service subject to use tax has been subjected to a general
421 retail sales or use tax by another state of the United States in an amount equal to or greater than the amount
422 of the Idaho tax, and evidence can be given of such payment, the property will not be subject to Idaho use
423 tax. If the amount paid the other state was less, the property or service will be subject to use tax to the extent
424 that the Idaho tax exceeds the tax paid to the other state. For the purposes of this subsection, a registration
425 certificate or title issued by another state or subdivision thereof for a vehicle or trailer or a vessel as defined
426 in section 67-7003, Idaho Code, shall be sufficient evidence of payment of a general retail sales or use tax.

427 (k) The use tax herein imposed shall not apply to the use by a nonresident of this state of a motor
428 vehicle which is registered or licensed under the laws of the state of his residence and is not used in this
429 state more than a cumulative period of time totaling ninety (90) days in any consecutive twelve (12) months,
430 and which is not required to be registered or licensed under the laws of this state.

431 (l) The use tax herein imposed shall not apply to the use of household goods, personal effects and
432 personally owned vehicles or personally owned aircraft by a resident of this state, if such articles were
433 acquired by such person in another state while a resident of that state and primarily for use outside this
434 state and if such use was actual and substantial, but if an article was acquired less than three (3) months
435 prior to the time he entered this state, it will be presumed that the article was acquired for use in this state
436 and that its use outside this state was not actual and substantial. For purposes of this subsection, "resident"
437 shall be as defined in section 63-3013 or 63-3013A, Idaho Code.

438 (m) The use tax herein imposed shall not apply to the storage, use or other consumption of tangible
439 personal property or service which is or will be incorporated into real property and which has been donated
440 to and has become the property of:

- 441 (1) A nonprofit organization as defined in section 63-3622O, Idaho Code; or
- 442 (2) The state of Idaho; or
- 443 (3) Any political subdivision of the state.

444 This exemption applies whether the tangible personal property or service is incorporated in real property
445 by the donee, a contractor or subcontractor of the donee, or any other person.

446
447 SECTION 14. That Section 63-3622, Idaho Code, be, and the same is hereby amended to read as
448 follows:

449
450 63-3622. EXEMPTIONS -- EXEMPTION AND RESALE CERTIFICATES -- PENALTIES. (a)
451 To prevent evasion of the sales and use tax, it shall be presumed that all sales are subject to the taxes
452 imposed by the provisions of this chapter and the retailer shall have the burden of establishing the facts
453 giving rise to such exemption unless the purchaser delivers to the retailer, or has on file with the retailer,
454 an exemption or resale certificate.

455 (b) An exemption certificate shall show the purchaser's name, business name and address (if any),
456 address, and signature and the reason for and nature of the claimed exemption.

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

470 (d) A seller may accept an exemption or resale certificate from a purchaser prior to the time of sale,
471 at the time of the sale, or at any reasonable time after the sale when necessary to establish the privilege of
472 the exemption. Other than as provided elsewhere in this section, when an exemption or resale certificate,
473 properly executed, is presented to or is on file with the seller, the seller has no duty or obligation to collect
474 sales or use taxes in regard to any sales transaction so documented regardless of whether the purchaser
475 properly or improperly claimed an exemption. A seller so relieved of the obligation to collect tax is also
476 relieved of any liability to the purchaser for failure to collect tax or for making any report or disclosure of
477 information required or permitted under this chapter. A seller need not accept an exemption or resale
478 certificate that is not readable, legible or copyable.

479 (e) Any person who gives an exemption or resale certificate with the intention of evading payment
480 of the amount of the tax applicable to the transaction is guilty of a misdemeanor and punishable by a fine
481 not exceeding one thousand dollars (\$1,000) or imprisonment for not more than one (1) year, or by both
482 such fine and imprisonment.

483 (f) An exemption or resale certificate shall be substantially in such form as the state tax commission
484 may prescribe. The claim for the exemption may be a part of the documentation on a sales invoice, purchase
485 order, or other documentation retained by the retailer with regard to the sale. Unless the purchaser has an
486 exemption or resale certificate on file with the seller, the purchaser or his agent must sign the exemption
487 claim, which shall be in addition to any other signature which the seller normally requires on sales invoices,
488 purchase orders, or other sales documentation.

489 (g) It shall be presumed that sales made to a person who has completed an exemption or resale
490 certificate for the seller's records are not taxable and the seller need not collect sales or use taxes unless the
491 tangible personal property or services purchased are taxable to the purchaser as a matter of law in the
492 particular instance claimed on the exemption certificate.

493
494 SECTION 15. That Section 63-3622D, Idaho Code, be, and the same is hereby amended to read as
495 follows:
496

497 63-3622D. PRODUCTION EXEMPTION. There are exempted from the taxes imposed by this
498 chapter:

499 (a) The sale at retail, storage, use or other consumption in this state of:

500 (1) Tangible personal property and services which will enter into and become an ingredient or
501 component part of tangible personal property manufactured, processed, mined, produced or
502 fabricated for sale.

503 (2) Tangible personal property and services primarily and directly used or consumed in or during
504 a manufacturing, processing, mining, farming, or fabricating operation, including, but not limited
505 to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such
506 tangible personal property; provided that the use or consumption of such tangible personal property
507 is necessary or essential to the performance of such operation.

508 (3) Chemicals, catalysts, and other materials which are used for the purpose of producing or
509 inducing a chemical or physical change in the product or for removing impurities from the product
510 or otherwise placing the product in a more marketable condition as part of an operation described
511 in subsection (a)(2) of this section, and chemicals and equipment used in clean-in-place systems in
512 the food processing and food manufacturing industries.

513 (4) Safety equipment and supplies required to meet a safety standard of a state or federal agency
514 when such safety equipment and supplies are used as part of an operation described in subsection
515 (a)(2) of this section.

516 (5) Plants to be used as part of a farming operation.

517 (b) Other than as provided in subsection (c) of this section, the exemptions allowed in subsections
518 (a)(1), (a)(2), (a)(3) and (a)(4) of this section are available only to a business or separately operated segment
519 of a business which is primarily devoted to producing tangible personal property which that business will
520 sell and which is intended for ultimate sale at retail within or without this state. A contractor providing
521 services to a business entitled to an exemption under this section is not exempt as to any property owned,
522 leased, rented or used by it unless, as a result of the terms of the contract, the use of the property is exempt
523 under section 63-3615(b), Idaho Code.

524 (c) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also
525 be available to a business, or separately operated segment of a business, engaged in farming or mining,
526 whether as a subcontractor, contractor, contractee or subcontractee, when such business or segment of a
527 business is primarily devoted to producing tangible personal property which is intended for ultimate sale
528 at retail within or without this state, without regard to the ownership of the product being produced.

529 (d) The exemptions allowed in subsections (a)(1), (a)(2), (a)(3) and (a)(4) of this section shall also
530 be available to a business, or separately operated segment of a business, engaged in the business of
531 processing materials, substances or commodities for use as fuel for the production of energy, whether as a
532 subcontractor, contractor, contractee or subcontractee, without regard to the ownership of the materials,
533 substances or commodities being processed and irrespective of whether the materials, substances or
534 commodities being processed are intended for ultimate sale at retail within or without this state.

535 (e) As used in this section, the term "directly used or consumed in or during" a farming operation
536 means the performance of a function reasonably necessary to the operation of the total farming business,
537 including, the planting, growing, harvesting and initial storage of crops and other agricultural products and
538 movement of crops and produce from the place of harvest to the place of initial storage. It includes
539 disinfectants used in the dairy industry to clean cow udders or to clean pipes, vats or other milking
540 equipment.

541 (f) The exemptions allowed in this section do not include machinery, equipment, materials and
542 supplies used in a manner that is incidental to the manufacturing, processing, mining, farming or fabricating
543 operations such as maintenance and janitorial equipment and supplies.

544 (g) Without regard to the use of such property, this section does not exempt:

545 (1) Hand tools with a unit purchase price not in excess of one hundred dollars (\$100). A hand tool
546 is an instrument used or worked by hand.

547 (2) Tangible personal property used in any activities other than the actual manufacturing,
548 processing, mining, farming or fabricating operations such as office equipment and supplies, and
549 equipment and supplies used in selling or distributing activities.

550 (3) Property used in transportation activities.

551 (4) Machinery, equipment, tools or other property used to make repairs.
552 This subsection does not include repair parts that become a component part of tangible property
553 exempt from tax under this section or lubricants, hydraulic oil, or coolants used in the operation of
554 tangible personal property exempt under this section.

555 (5) Machinery, equipment, tools or other property used to manufacture, fabricate, assemble or
556 install tangible personal property which is:

- 557 (i) Not held for resale in the regular course of business; and
 - 558 (ii) Owned by the manufacturer, processor, miner, farmer or fabricator;
- 559 provided, however, this subsection does not prevent exemption of machinery, equipment, tools or
560 other property exempted from tax under subsection (a)(2) or (a)(3) of this section.

561 (6) Any improvement to real property or fixture thereto or any tangible personal property which
562 becomes or is intended to become a component of any real property or any improvement or fixture
563 thereto.

564 (7) Motor vehicles and aircraft.

565 (8) Tangible personal property used or consumed in processing, producing or fabricating tangible
566 personal property exempted from tax under this chapter in sections 63-3622F and 63-3622I, Idaho
567 Code.

568 (9) Tangible personal property described in section 63-3622HH, Idaho Code.

569 (h) Any tangible personal property exempt under this section which ceases to qualify for this
570 exemption, and does not qualify for any other exemption or exclusion of the taxes imposed by this chapter,
571 shall be subject to use tax based upon its value at the time it ceases to qualify for exemption. Any tangible
572 personal property taxed under this chapter which later qualifies for this exemption shall not entitle the owner
573 of it to any claim for refund.
574

575 SECTION 16. That Sections 63-3622 F, G, N, R, S, T,U, V, W, X, Y, BB, CC, DD, GG, II, KK,
576 LL, MM, NN, OO, PP, RR, SS, TT, and VV, and 63-3326B Idaho Code, be, and the same are hereby
577 repealed.
578

579 SECTION 17. That Section 63-3623, Idaho Code, be, and the same is hereby amended to read as
580 follows:
581

582 63-3623. RETURNS AND PAYMENTS. (a) The taxes imposed by this act are due and payable to
583 the state tax commission monthly on or before the twentieth day of the succeeding month.

584 (b) All moneys collected or received by the state tax commission from the taxes, penalties, interest
585 and fees imposed by this act shall be deposited with the state treasurer to be credited by him to the sales tax
586 account created by this act.

587 (c) On or before the twentieth day of the month a return shall be filed with the state tax commission
588 in such form as the state tax commission may prescribe.

589 (d) For the purpose of the sales tax, a return shall be filed by every seller. For the purposes of the
590 use tax, a return shall be filed by every retailer engaged in business in this state and by every person
591 purchasing tangible personal property, the storage, use, or other consumption of which is subject to the use
592 tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the
593 person required to file the return or by his duly authorized agent.

594 (e) For the purposes of the sales tax, the return shall show the total sales at retail subject to tax
595 under this act during the reporting period. For the purposes of the use tax, in case of a return filed by a
596 retailer, the return shall show the total sales price of the property sold by him, the storage, use, or
597 consumption of which property became subject to the use tax during the reporting period; in the case of a
598 return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the
599 storage, use, or consumption of which became subject to the use tax during the reporting period.

600 (f) The return shall show the amount of the taxes for the period covered by the return and such
601 other information as the state tax commission deems necessary for the proper administration of this act.

602 (g) The person required to file the return shall mail or deliver the return together with a remittance
603 of any tax due to the state tax commission for the reporting period.

604 (h) The state tax commission, if it deems it necessary in order to insure payment to or facilitate the
605 collection by the state of taxes, may require returns for periods other than monthly periods.

606 (i) For the purposes of the sales tax, gross amounts from rentals or leases of tangible personal
607 property which may be subject to tax under this act shall be reported and the tax paid in accordance with
608 such rules as the state tax commission may prescribe.

609 (j) The state tax commission for good cause may extend, for not to exceed one (1) month, the time
610 for making any return or paying any amount required to be paid under this act.

611 (k) Any person to whom an extension is granted and who pays the tax within the period for which
612 the extension is granted shall pay, in addition to the tax, interest at the rate provided in section 63-3045,
613 Idaho Code, from the date on which the tax would have been due without the extension until the day of
614 payment.

615 (l) Upon the transfer of ownership of a motor vehicle subject to sales or use tax, a certificate of
616 title will be issued to the new owner only upon presentation of evidence of payment of sales or use tax on
617 the transaction.

618 (m) The owner of a motor vehicle or trailer required to be registered by the laws of this state shall,
619 upon demand, furnish to the officer issuing such registration, satisfactory evidence that any sales or use tax
620 to which such motor vehicle or trailer is subject has been paid to this state before any such registration
621 shall be issued.

622 (n) Retail sales of tangible personal property through a vending machine which are taxable upon
623 the purchase price paid by the owner or operator of the vending machine pursuant to subsection (ed) {??}
624 of section 63-3613, Idaho Code, shall be reported upon the sales tax return of the owner or operator of the
625 vending machine in the manner by which the tax commission may by rule prescribe.
626

627 SECTION 18. That Section 63-3640, Idaho Code, be, and the same is hereby repealed.
628

629 SECTION 19. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the
630 addition thereto of a NEW SECTION, to be known and designated as Section 63-3642, Idaho Code, and to
631 read as follows:
632

633 63-3642. PLACE WHERE SALE OCCURS -- SOURCING. (1) The term "sourcing" means the
634 point at which a retail sale occurs. The retail sale of a product or service, excluding lease or rental, of a
635 product shall be sourced as follows:

636 (a) When the product or service is received by the purchaser at a business location of the seller, the
637 sale is sourced to that business location.

638 (b) When the product or service is not received by the purchaser at a business location of the seller,
639 the sale is sourced to the location where received by the purchaser, or the purchaser's donee, designated as
640 such by the purchaser, occurs, including the location indicated by instructions for delivery to the purchaser,
641 or donee, known to the seller.

642 (c) When subsection (1)(a) and (1)(b) of this section does not apply, the sale is sourced to the
643 location indicated by an address for the purchaser that is available from the business records of the seller
644 that are maintained in the ordinary course of the seller's business when use of this address does not constitute
645 bad faith.

646 (d) When subsection (1)(a), (1)(b) and (1)(c) of this section does not apply, the sale is sourced to
647 the location indicated by an address for the purchaser obtained during the consummation of the sale,
648 including the address of a purchaser's payment instrument, if no other address is available, when use of this
649 address does not constitute bad faith.

650 (e) When none of the previous provisions of subsection (1)(a), (1)(b), (1)(c) or (1)(d) of this section
651 apply, including the circumstance in which the seller is without sufficient information to apply the previous
652 provisions, then the location will be determined by the address from which tangible personal property was

653 shipped, from which the digital goods or the computer software delivered electronically was first available
654 for transmission by the seller, or from which the service was provided, disregarding for these purposes any
655 location that merely provided the digital transfer of the product or service sold.

656 (2) The lease or rental of tangible personal property, other than property identified in subsection
657 (3) or (4) of this section, shall be sourced as follows:

658 (a) For a lease or rental that requires recurring periodic payments, the first periodic payment is
659 sourced the same as a retail sale in accordance with the provisions of subsection (1) of this section.
660 Periodic payments made subsequent to the first payment are sourced to the primary property
661 location for each period covered by the payment. The primary property location shall be as
662 indicated by an address for the property provided by the lessee that is available to the lessor from
663 its records maintained in the ordinary course of business, when use of this address does not
664 constitute bad faith. The property location shall not be altered by intermittent use at different
665 locations, such as use of business property that accompanies employees on business trips and
666 service calls.

667 (b) For a lease or rental that does not require recurring periodic payments, the payment is sourced
668 the same as a retail sale in accordance with the provisions of subsection (1) of this section.

669 (3) The lease or rental of motor vehicles, trailers, semitrailers or aircraft that do not qualify as
670 transportation equipment as defined in subsection (4) of this section, shall be sourced as follows:

671 (a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced
672 to the primary property location. The primary property location shall be as indicated by an address
673 for the property provided by the lessee that is available to the lessor from its records maintained in
674 the ordinary course of business, when use of this address does not constitute bad faith. This location
675 shall not be altered by intermittent use at different locations.

676 (b) For a lease or rental that does not require recurring periodic payments, the payment is sourced
677 the same as a retail sale in accordance with the provisions of subsection (1) of this section.

678 (4) The retail sale, including lease or rental, of transportation equipment shall be sourced the same
679 as a retail sale in accordance with the provisions of subsection (1) of this section, notwithstanding
680 the exclusion of lease in subsection (1) of this section. "Transportation equipment" means any of
681 the following:

682 (a) Locomotives and railcars that are utilized for the carriage of persons or property in interstate
683 commerce.

684 (b) Trucks and truck tractors with a gross vehicle weight rating (GVWR) greater than twenty-six
685 thousand (26,000) pounds, trailers, semitrailers or passenger buses that are:

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

687 (ii) Operated under authority of a carrier authorized and certificated by the U.S. department
688 of transportation or another federal authority to engage in the carriage of persons or
689 property in interstate commerce.

690 (c) Aircraft that are operated by air carriers authorized and certificated by the U.S. department of
691 transportation or another federal or a foreign authority to engage in the carriage of persons or
692 property in interstate or foreign commerce.

693 (d) Containers designed for use on and component parts attached or secured on the items set forth
694 in subsection (4)(a) through (4)(c) of this section.

695 (5) Services performed and consumed at the same location in Idaho are sourced to that location.
696 Services performed in another state but consumed in Idaho will be sourced to the Idaho location at which
697 the consumption occurs. Services performed in Idaho but consumed in another state shall not be sourced to
698 Idaho.

700 SECTION 20. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the
701 addition thereto of a NEW SECTION, to be known and designated as Section 63-3643, Idaho Code, and to
702 read as follows:

704 63-3643. GENERAL SOURCING DEFINITIONS. For the purposes of subsection (1) of section
705 63-3642, Idaho Code, the terms "receive" and "receipt" mean:

- 706 (1) Taking possession of tangible personal property;
- 707 (2) Making first use of services; or
- 708 (3) Taking possession or making first use of digital goods, whichever comes first. The terms
709 "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

710
711 SECTION 21. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the
712 addition thereto of a NEW SECTION, to be known and designated as Section 63-3644, Idaho Code, and to
713 read as follows:

714
715 63-3644. MULTIPLE POINTS OF USE. Notwithstanding the provisions of section 63-3642, Idaho
716 Code, a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase
717 of a digital good, computer software delivered electronically or a service that the digital good, computer
718 software delivered electronically or service will be concurrently available for use in more than one (1)
719 jurisdiction shall deliver to the seller in conjunction with its purchase a "multiple points of use" or "MPU"
720 exemption form disclosing this fact.

721 (1) Upon receipt of the MPU exemption form, the seller is relieved of all obligation to collect, pay
722 or remit the applicable tax and the purchaser shall be obligated to collect, pay or remit the applicable tax
723 on a direct pay basis.

724 (2) A purchaser delivering the MPU exemption form may use any reasonable but consistent and
725 uniform method of apportionment that is supported by the purchaser's business records as they exist at the
726 time of the consummation of the sale.

727 (3) The MPU exemption form shall remain in effect for all future sales by the seller to the purchaser,
728 except as to the subsequent sale's specific apportionment that is governed by the provisions of subsection
729 (2) of this section and the facts existing at the time of the sale until it is revoked in writing.

730 (4) A holder of a direct pay permit shall not be required to deliver an MPU exemption form to the
731 seller. A direct pay permit holder shall follow the provisions of subsection (2) of this section in apportioning
732 the tax due on a digital good or a service that will be concurrently available for use in more than one (1)
733 jurisdiction.

734
735 SECTION 22. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the
736 addition thereto of a NEW SECTION, to be known and designated as Section 63-3645, Idaho Code, and to
737 read as follows:

738
739 63-3645. CONTRACTS FOR SERVICES ENTERED INTO PRIOR TO JULY 1, 2021. (1)
740 Beginning July 1, 2021, and ending June 30, 2023, the sales of services to improve real property shall be
741 exempt if the contract to improve real property is in writing and entered into prior to July 1, 2021.
742 Contractors purchasing materials for such a contract shall be deemed the consumers of those materials and
743 shall pay sales or use tax on the purchase of such materials.

744 (2) Beginning July 1, 2021, and ending June 30, 2023, purchasers of services other than
745 improvements to real property may claim a refund of the sales tax actually paid for such services if the sales
746 of the services would have been exempt prior to July 1, 2021. To qualify for a refund the agreement to
747 purchase such services must be in writing. The service must be one that is either:

748 (a) Continuous in nature and started prior to July 1, 2021, but not completed until after that date;
749 or

750 (b) Agreed to commence after July 1, 2021.

751 (c) Agreements that are not continuous in nature will not qualify for a refund of tax. For instance,
752 if a purchaser contracts for a service to be performed once a week for a year and the service is one
753 that is started and completed within one (1) day, payments for such service will not be subject to
754 refund if they occur after July 1, 202

755 SECTION 25. SEVERABILITY. The provisions of this statute are hereby
756 declared to be severable and if any provision of this statute or the
757 application of such provision to any person or circumstance is declared
758 invalid for any reason, such declaration shall not affect the validity
759 of the remaining portions of this statute.

760
761 SECTION 26. EFFECTIVE DATE--This statute shall be in full force and
762 effect on and after January 1st of the 1st year after the approval of this
763 Act by voter Referendum.