

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 213

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1
2 RELATING TO SALES TAX; AMENDING SECTION 63-3613, IDAHO CODE, TO DEFINE
3 "SALES PRICE" FOR SALES AND USE TAX PURPOSES TO CLARIFY THAT SALES PRICE
4 SHALL NOT INCLUDE A GRATUITY OR TIP RECEIVED WHEN PAID TO THE SERVICE
5 PROVIDER OF A MEAL AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMER-
6 GENCY AND PROVIDING RETROACTIVE APPLICATION.

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

8 SECTION 1. That Section 63-3613, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 63-3613. SALES PRICE. (a) The term "sales price" means the total
11 amount for which tangible personal property, including services agreed to be
12 rendered as a part of the sale, is sold, rented or leased, valued in money,
13 whether paid in money or otherwise, without any deduction on account of any
14 of the following:

15 1. The cost of the property sold. However, in accordance with such
16 rules as the state tax commission may prescribe, a deduction may be
17 taken if the retailer has purchased property for some purpose other than
18 resale or rental, has reimbursed his vendor for tax which the vendor is
19 required to pay to the state or has paid the use tax with respect to the
20 property, and has resold or rented the property prior to making any use
21 of the property other than retention, demonstration or display while
22 holding it for sale in the regular course of business. If such a deduc-
23 tion is taken by the retailer, no refund or credit will be allowed to his
24 vendor with respect to the sale of the property.

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

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

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

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

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

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

39 3. The amount charged for property returned by customers when the
40 amount charged therefor is refunded either in cash or credit; but this
41 exclusion shall not apply in any instance when the customer, in order

1 to obtain the refund, is required to purchase other property at a price
2 greater than the amount charged for the property that is returned.

3 4. The amount charged for labor or services rendered in installing or
4 applying the property sold, provided that said amount is stated sepa-
5 rately and such separate statement is not used as a means of avoiding
6 imposition of this tax upon the actual sales price of the tangible per-
7 sonal property; except that charges by a manufactured homes dealer for
8 set up of a manufactured home shall be included in the "sales price" of
9 such manufactured home.

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

13 6. The amount charged for finance charges, carrying charges, service
14 charges, time-price differential, or interest on deferred payment
15 sales, provided such charges are not used as a means of avoiding impo-
16 sition of this tax upon the actual sales price of the tangible personal
17 property.

18 7. Delivery and handling charges for transportation of tangible per-
19 sonal property to the consumer, provided that the transportation is
20 stated separately and the separate statement is not used as a means of
21 avoiding imposition of the tax upon the actual sales price of the tan-
22 gible personal property; except that charges by a manufactured homes
23 dealer for transportation of a manufactured home shall be included in
24 the "sales price" of such manufactured home.

25 8. Manufacturers' rebates when used at the time of a retail sale as a
26 down payment on or reduction to the retail sales price of a motor vehicle
27 to which the rebate applies. A manufacturer's rebate is a cash payment
28 made by a manufacturer to a consumer who has purchased or is purchasing
29 the manufacturer's product from the retailer.

30 9. The amount of any fee imposed upon an outfitter as defined in section
31 36-2102, Idaho Code, by a governmental entity pursuant to statute for
32 the purpose of conducting outfitting activities on land or water sub-
33 ject to the jurisdiction of the governmental entity, provided that the
34 fee is stated separately and is presented as a use fee paid by the out-
35 fitted public to be passed through to the governmental entity.

36 10. The amount of any discount or other price reduction on telecommuni-
37 cations equipment when offered as an inducement to the consumer to com-
38 mence or continue telecommunications service, or the amount of any com-
39 mission or other indirect compensation received by a retailer or seller
40 as a result of the consumer commencing or continuing telecommunications
41 service.

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

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

49 (e) Tangible personal property when sold at retail for more than eleven
50 cents (~~\$-.11¢~~) but less than one dollar and one cent (\$1.01) through a vend-

1 ing machine shall be deemed to have sold at a sales price equal to one hundred
2 seventeen percent (117%) of the price which is paid for such tangible per-
3 sonal property and/or its component parts including packaging by the owner
4 or operator of the vending machines.

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

9 SECTION 2. An emergency existing therefor, which emergency is hereby
10 declared to exist, this act shall be in full force and effect on and after its
11 passage and approval, and retroactively to January 1, 2011.