

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 315

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-3622VV, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE IDAHO INFORMATION TECHNOLOGY EQUIPMENT SALES TAX EXEMPTION; AND DECLARING AN EMERGENCY.

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

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

63-3622VV. IDAHO INFORMATION TECHNOLOGY EQUIPMENT. (1) On and after July 1, 2020, and before March 1, 2025, there is exempted from the taxes imposed by this chapter the purchase or use of eligible server equipment and new data center facilities, as defined in this section. The exemption provided in this section shall be available only to qualifying business entities and contractors installing eligible server equipment or building new data center facilities for qualifying business entities. On and after March 1, 2025, the exemption provided in this section shall only be available for the time period provided in subsection (2) (k) of this section and shall be subject to the provisions of subsection (3) of this section. The exemption provided in this section shall not be available for property that has been the subject of business incentives granted to a taxpayer or its affiliates, pursuant to the Idaho reimbursement incentive act, sections 67-4737 through 67-4744, Idaho Code.

(2) As used in this section:

(a) "Business entity" means a separate legal entity or separately operated segment of business that exists for the primary purpose of engaging in a commercial activity for profit and whose sole purpose is the operation of a data center. For the purposes of this section, a separately operated segment of business is a segment of a business for which separate records are maintained and that is operated by an employee or employees whose primary employment responsibility is to operate the business segment.

(b) "Cabling" means a fiber or copper cable used in data centers to connect information sources to a server or storage device.

(c) "Capital investment" means real or tangible personal property that is purchased for use in Idaho and is used by a business entity for the purpose of operating a data center.

(d) "Chiller" means a cooling system used in data centers to remove heat from an element and deposit it into another element.

(e) "Commencement of operations" means the date on which a certificate of occupancy is issued for a data center.

(f) "Data center" means a facility comprised of one (1) or more buildings in Idaho that is used to house eligible server equipment for the

1 transmission and storage of data where the facility has the following
2 characteristics:

- 3 (i) Uninterruptible power supplies, generator power, or both;
4 (ii) Sophisticated fire suppression and prevention systems; and
5 (iii) Enhanced physical security and restricted access.

6 (g) "Eligible server equipment" means new server equipment acquired
7 by a qualifying business entity as described in this subsection that is
8 maintained and operated in a data center located in Idaho for the sole
9 purpose of data transmission and storage services, providing data and
10 transaction processing services, information technology services, or
11 computer collocation services. "Eligible server equipment" includes
12 servers, rack servers, chillers, storage devices, generators, cabling,
13 and enabling software integral to or installed on such equipment.

14 (h) "Generator" means an engine used in data centers to convert mechan-
15 ical energy into electricity.

16 (i) "New data center facilities" means buildings or structural com-
17 ponents of buildings, including equipment, materials, and fixtures
18 thereof, that are used in or intended for use primarily as a data center
19 in Idaho.

20 (j) "New jobs" means new jobs created in Idaho that are nonseasonal,
21 full-time jobs that collectively pay an average weekly wage that equals
22 or exceeds the average weekly wage for the county where the data center
23 is located, as determined by the most recent report of the United States
24 bureau of labor statistics. A job that merely changes locations within
25 the state of Idaho shall not be considered a new job under this section.
26 New jobs must exceed the business entity's highest number of full-time
27 employees in Idaho during the twenty-four (24) months immediately pre-
28 ceding the commencement of operations of the data center.

29 (k) "Qualifying business entity" means a business entity that certi-
30 fies to the state tax commission that it will make capital investments
31 in one (1) or more data centers after July 1, 2020, in amounts of at
32 least two hundred fifty million dollars (\$250,000,000) in the aggre-
33 gate within the first five (5) years after commencement of construction
34 and that it will create and maintain at least thirty (30) new jobs at
35 the data center within two (2) calendar years after the commencement of
36 operations. Such business entities shall be entitled to a provisional
37 exemption pursuant to this section during the period in which they make
38 capital investments in data center property. If a business entity fails
39 to meet the investment and job creation requirements provided within
40 the time periods required in this section, it shall pay sales or use
41 taxes that would have been due if not for the granting of the provi-
42 sional exemption. If a business entity meets the investment and job
43 creation requirements provided within the time periods required in this
44 section, its provisional exemption shall become final without further
45 action, and thereafter the exemption shall also apply to all additional
46 purchases of eligible server equipment and purchases associated with
47 constructing new data center facilities. For any qualifying business
48 entity receiving the exemption provided in this section on and after
49 March 1, 2025, the exemption shall expire seven (7) years from the date
50 that the provisional exemption becomes final.

1 (l) "Rack server" means a computer in a data center dedicated to use as a
2 server and designed to be installed in a framework called a rack.

3 (m) "Server" means a computer or computer program used in data centers
4 that manages access to a centralized resource or service in a network.

5 (n) "Storage device" means a piece of computer equipment on which in-
6 formation can be stored and that is used in data centers.

7 (3) A qualifying business entity that receives an exemption pursuant to
8 this section on and after March 1, 2025, shall, for each year after the exemp-
9 tion expires after the time period provided in subsection (2) (k) of this sec-
10 tion, remit to the state tax commission sales tax on any item that would oth-
11 erwise be exempt if the qualifying business entity was continuing to claim
12 the exemption provided in this section. The state tax commission shall, on a
13 quarterly basis, transfer all such remitted funds to the tax relief fund es-
14 tablished pursuant to section 57-811, Idaho Code.

15 ~~(3)~~ (4) The state tax commission may promulgate rules to administer
16 and enforce the provisions of this section, including the promulgation of
17 rules relating to the provision of information necessary to certify that the
18 taxpayer satisfies the criteria for a qualifying business entity and to fa-
19 cilitate the remittance of taxes pursuant to subsection (3) of this section.
20 For the purpose of carrying out its duties to administer and enforce the
21 provisions of this section, the state tax commission shall have the powers
22 and duties provided by sections 63-217, 63-3038, 63-3039, 63-3042 through
23 63-3067, 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code.

24 SECTION 2. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after its
26 passage and approval.