

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 39

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622D, IDAHO CODE, TO REMOVE A CERTAIN EXCEPTION TO THE PRODUCTION EXEMPTION.

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

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

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

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

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

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

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

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

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

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

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

8 (d) The exemptions allowed in subsections (a) (1), (a) (2), (a) (3) and
 9 (a) (4) of this section shall also be available to a business, or separately
 10 operated segment of a business, engaged in the business of processing mate-
 11 rials, substances or commodities for use as fuel for the production of en-
 12 ergy, whether as a subcontractor, contractor, contractee or subcontractee,
 13 without regard to the ownership of the materials, substances or commodities
 14 being processed and irrespective of whether the materials, substances or
 15 commodities being processed are intended for ultimate sale at retail within
 16 or without this state.

17 (e) As used in this section, the term "directly used or consumed in or
 18 during" a farming operation means the performance of a function reasonably
 19 necessary to the operation of the total farming business, including, the
 20 planting, growing, harvesting and initial storage of crops and other agri-
 21 cultural products and movement of crops and produce from the place of harvest
 22 to the place of initial storage. It includes disinfectants used in the dairy
 23 industry to clean cow udders or to clean pipes, vats or other milking equip-
 24 ment.

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

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

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

33 ~~(2) Tangible personal property used in any activities other than the~~
 34 ~~actual manufacturing, processing, mining, farming or fabricating op-~~
 35 ~~erations such as office equipment and supplies, and equipment and sup-~~
 36 ~~plies used in selling or distributing activities.~~

37 ~~(3) Property used in transportation activities.~~

38 ~~(4) Machinery, equipment, tools or other property used to make re-~~
 39 ~~pairs. This subsection does not include repair parts that become a~~
 40 ~~component part of tangible property exempt from tax under this section~~
 41 ~~or lubricants, hydraulic oil, or coolants used in the operation of tan-~~
 42 ~~gible personal property exempt under this section.~~

43 ~~(5) Machinery, equipment, tools or other property used to manufac-~~
 44 ~~ture, fabricate, assemble or install tangible personal property which~~
 45 ~~is:~~

46 (i) Not held for resale in the regular course of business; and

47 (ii) Owned by the manufacturer, processor, miner, farmer or fabri-
 48 cator;

1 provided, however, this subsection does not prevent exemption of ma-
2 chinery, equipment, tools or other property exempted from tax under
3 subsection (a) (2) or (a) (3) of this section.

4 (~~65~~) Any improvement to real property or fixture thereto or any tangi-
5 ble personal property which becomes or is intended to become a component
6 of any real property or any improvement or fixture thereto.

7 (~~76~~) Motor vehicles and aircraft.

8 (~~87~~) Tangible personal property used or consumed in processing, pro-
9 ducing or fabricating tangible personal property exempted from tax un-
10 der this chapter in sections 63-3622F and 63-3622I, Idaho Code.

11 (~~98~~) Tangible personal property described in section 63-3622HH, Idaho
12 Code.

13 (h) Any tangible personal property exempt under this section which
14 ceases to qualify for this exemption, and does not qualify for any other ex-
15 emption or exclusion of the taxes imposed by this chapter, shall be subject
16 to use tax based upon its value at the time it ceases to qualify for exemp-
17 tion. Any tangible personal property taxed under this chapter which later
18 qualifies for this exemption shall not entitle the owner of it to any claim
19 for refund.