LEGISLATURE OF THE STATE OF IDAHO

Sixty-fifth Legislature  Second Regular Session - 2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 521

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 63-3622VV, IDAHO CODE, TO PROVIDE A SALES AND USE TAX EXEMPTION; AND AMENDING SECTION 63-301A, IDAHO CODE, TO EXCLUDE ITEMS THAT QUALIFY FOR A CERTAIN EXEMPTION FROM THE AMOUNT OF TAXABLE MARKET VALUE OF NEW CONSTRUCTION.

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

SECTION 1. That Chapter 36, Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 63-3622VV, Idaho Code, and to read as follows:

63-3622VV. IDAHO INFORMATION TECHNOLOGY EQUIPMENT. (1) On and after July 1, 2020, 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. 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 transmission and storage of data where the facility has the following characteristics:
(i) Uninterruptible power supplies, generator power, or both;
(ii) Sophisticated fire suppression and prevention systems; and
(iii) Enhanced physical security and restricted access.

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

(h) "Generator" means an engine used in data centers to convert mechanical energy into electricity.

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

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

(k) "Qualifying business entity" means a business entity that certifies to the state tax commission that it will make capital investments in one (1) or more data centers after July 1, 2020, in amounts of at least two hundred fifty million dollars ($250,000,000) in the aggregate within the first five (5) years after commencement of construction and that it will create and maintain at least thirty (30) new jobs at the data center within two (2) calendar years after the commencement of operations. Such business entities shall be entitled to a provisional exemption pursuant to this section during the period in which they make capital investments in data center property. If a business entity fails to meet the investment and job creation requirements provided within the time periods required in this section, it shall pay sales or use taxes that would have been due if not for the granting of the provisional exemption. If a business entity meets the investment and job creation requirements provided within the time periods required in this section, its provisional exemption shall become final without further action, and thereafter the exemption shall also apply to all additional purchases of eligible server equipment and purchases associated with constructing new data center facilities.

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

(m) "Server" means a computer or computer program used in data centers that manages access to a centralized resource or service in a network.
(n) "Storage device" means a piece of computer equipment on which information can be stored and that is used in data centers.

(3) The state tax commission may promulgate rules to administer and enforce the provisions of this section, including the promulgation of rules relating to the provision of information necessary to certify that the taxpayer satisfies the criteria for a qualifying business entity. For the purpose of carrying out its duties to administer and enforce the provisions of this section, the state tax commission shall have the powers and duties provided by sections 63-217, 63-3038, 63-3039, 63-3042 through 63-3067, 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code.

SECTION 2. That Section 63-301A, Idaho Code, be, and the same is hereby amended to read as follows:

63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare a new construction roll, which shall be in addition to the property roll, which new construction roll shall show:

(a) The name of the taxpayer;
(b) The description of the new construction, suitably detailed to meet the requirements of the individual county;
(c) A description of the land and its change in use, suitably detailed to meet the needs of the individual county;
(d) The amount of taxable market value added to the property on the current year's property roll that is directly the result of new construction or a change in use of the land or both;
(e) The amount of taxable market value added as provided in subsection (3)(g) of this section as a result of dissolution of any revenue allocation area;
(f) The amount of taxable market value to be deducted to reflect the adjustments required in paragraphs (f)(i), (f)(ii), (f)(iii) and (f)(iv) of this subsection:

(i) Any board of tax appeals or court-ordered value change, if property has a taxable value lower than that shown on any new construction roll in any one (1) of the immediate five (5) tax years preceding the current tax year;
(ii) Any reduction in value resulting from correction of value improperly included on any previous new construction roll as a result of double or otherwise erroneous assessment;
(iii) Any reduction in value, in any one (1) of the immediate five (5) tax years preceding the current tax year, resulting from a change of land use classification;
(iv) Any reduction in value resulting from the exemption provided in section 63-602W(4), Idaho Code, in any one (1) of the immediate five (5) tax years preceding the current tax year.

(2) As soon as possible, but in any event by no later than the first Monday in June, the new construction roll shall be certified to the county auditor and a listing showing the amount of value on the new construction roll in each taxing district or unit be forwarded to the state tax commission on or before the fourth Monday in July. Provided however, the value shown in subsection (3)(f) of this section shall be reported to the appropriate county auditor by the state tax commission by the third Monday in July and the value
sent by the county auditor to each taxing district. The value established
pursuant to subsection (3)(f) of this section is subject to correction by the
state tax commission until the first Monday in September and any such correc-
tions shall be sent to the appropriate county auditor, who shall notify any
affected taxing districts.

(3) The value shown on the new construction roll shall include the tax-
able market value increase from:
(a) Construction of any new structure that previously did not exist; or
(b) Additions or alterations to existing nonresidential structures; or
(c) Installation of new or used manufactured housing that did not pre-
viously exist within the county; or
(d) Change of land use classification; or
(e) Property newly taxable as a result of loss of the exemption provided
by section 63-602W(3) or (4), Idaho Code; or
(f) The construction of any improvement or installation of any equip-
ment used for or in conjunction with the generation of electricity and
the addition of any improvement or equipment intended to be so used, ex-
cept property that has a value allocated or apportioned pursuant to sec-
tion 63-405, Idaho Code, or that is owned by a cooperative or municipal-
ity as those terms are defined in section 61-332A, Idaho Code, or that
is owned by a public utility as that term is defined in section 61-332A,
Idaho Code, owning any other property that is allocated or apportioned.
No replacement equipment or improvements may be included; or
(g) Provided such increases do not include increases already reported
on the new construction roll as permitted in paragraphs (j) and (k) of
this subsection, increases in value over the base value of property on
the base assessment roll within an urban renewal revenue allocation
area that has been terminated pursuant to section 50-2909(4), Idaho
Code, to the extent that this increment exceeds the incremental value
as of December 31, 2006, or, for revenue allocation areas formed after
December 31, 2006, the entire increment value. Notwithstanding other
provisions of this section, the new construction roll shall not include
new construction located within an urban renewal district's revenue
allocation area, except as provided in this paragraph; or
(h) New construction, in any one (1) of the immediate five (5) tax years
preceding the current tax year, allowable but never included on a new
construction roll, provided however, that, for such property, the value
on the new construction roll shall reflect the taxable value that would
have been included on the new construction roll for the first year in
which the property should have been included.
(i) Formerly exempt improvements on state college or state university-
owned land for student dining, housing, or other education-related pur-
poses approved by the state board of education and board of regents of
the university of Idaho as proper for the operation of such state col-
lege or university provided however, such improvements were never in-
cluded on any previous new construction roll.
(j) Increases in base value when due to previously determined incre-
ment value added to the base value as required in sections 50-2903 and
50-2903A, Idaho Code, due to a modification of the urban renewal plan.
In this case, the amount added to the new construction roll will equal
the amount by which the increment value in the year immediately preceding the year in which the base value adjustment described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value.

(k) Increases in base value when due to previously determined increment value added to the base value as a result of a de-annexation within a revenue allocation area as defined in section 50-2903, Idaho Code. In this case, the amount added to the new construction roll will equal the amount by which the increment value in the year immediately preceding the year in which the de-annexation described in this subsection occurs exceeds the incremental value as of December 31, 2006, or, for revenue allocation areas formed after December 31, 2006, the entire increment value within the area subject to the de-annexation.

(4) The amount of taxable market value of new construction shall be the change in net taxable market value that is attributable directly to new construction or a change in use of the land or loss of the exemption provided by section 63-602W(3) or (4), Idaho Code. It shall not include any change in value of existing property that is due to external market forces such as general or localized inflation, except as provided in subsection (3)(g) of this section.

(5) The amount of taxable market value of new construction shall not include any new construction of property that has been granted a provisional property tax exemption, pursuant to section 63-1305C, Idaho Code. A property owner may apply to the board of county commissioners, if an application is required pursuant to section 63-602, Idaho Code, for an exemption from property tax at the time the initial building permits are applied for or at the time construction of the property has begun, whichever is earlier, or at any time thereafter.

(6) The amount of taxable market value of new construction shall not include any new construction of property for which an exemption from sales and use tax has been granted pursuant to section 63-3622VV, Idaho Code.