

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 521

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE, BY THE AD-
2 DITION OF A NEW SECTION 63-3622VV, IDAHO CODE, TO PROVIDE A SALES AND
3 USE TAX EXEMPTION; AND AMENDING SECTION 63-301A, IDAHO CODE, TO EXCLUDE
4 ITEMS THAT QUALIFY FOR A CERTAIN EXEMPTION FROM THE AMOUNT OF TAXABLE
5 MARKET VALUE OF NEW CONSTRUCTION.
6

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

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

11 63-3622VV. IDAHO INFORMATION TECHNOLOGY EQUIPMENT. (1) On and after
12 July 1, 2020, there is exempted from the taxes imposed by this chapter the
13 purchase or use of eligible server equipment and new data center facilities,
14 as defined in this section. The exemption provided in this section shall be
15 available only to qualifying business entities and contractors installing
16 eligible server equipment or building new data center facilities for qual-
17 ifying business entities. The exemption provided in this section shall not
18 be available for property that has been the subject of business incentives
19 granted to a taxpayer or its affiliates, pursuant to the Idaho reimbursement
20 incentive act, sections 67-4737 through 67-4744, Idaho Code.

21 (2) As used in this section:

22 (a) "Business entity" means a separate legal entity or separately oper-
23 ated segment of business that exists for the primary purpose of engaging
24 in a commercial activity for profit and whose sole purpose is the oper-
25 ation of a data center. For the purposes of this section, a separately
26 operated segment of business is a segment of a business for which sep-
27 arate records are maintained and that is operated by an employee or em-
28 ployees whose primary employment responsibility is to operate the busi-
29 ness segment.

30 (b) "Cabling" means a fiber or copper cable used in data centers to con-
31 nect information sources to a server or storage device.

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

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

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

39 (f) "Data center" means a facility comprised of one (1) or more build-
40 ings in Idaho that is used to house eligible server equipment for the
41 transmission and storage of data where the facility has the following
42 characteristics:

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

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

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

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

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

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

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

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

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

3 (3) The state tax commission may promulgate rules to administer and
4 enforce the provisions of this section, including the promulgation of rules
5 relating to the provision of information necessary to certify that the
6 taxpayer satisfies the criteria for a qualifying business entity. For the
7 purpose of carrying out its duties to administer and enforce the provisions
8 of this section, the state tax commission shall have the powers and duties
9 provided by sections 63-217, 63-3038, 63-3039, 63-3042 through 63-3067,
10 63-3068, 63-3071, and 63-3074 through 63-3078, Idaho Code.

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

13 63-301A. NEW CONSTRUCTION ROLL. (1) The county assessor shall prepare
14 a new construction roll, which shall be in addition to the property roll,
15 which new construction roll shall show:

16 (a) The name of the taxpayer;

17 (b) The description of the new construction, suitably detailed to meet
18 the requirements of the individual county;

19 (c) A description of the land and its change in use, suitably detailed
20 to meet the needs of the individual county;

21 (d) The amount of taxable market value added to the property on the cur-
22 rent year's property roll that is directly the result of new construc-
23 tion or a change in use of the land or both;

24 (e) The amount of taxable market value added as provided in subsection
25 (3) (g) of this section as a result of dissolution of any revenue alloca-
26 tion area;

27 (f) The amount of taxable market value to be deducted to reflect the ad-
28 justments required in paragraphs (f) (i), (f) (ii), (f) (iii) and (f) (iv)
29 of this subsection:

30 (i) Any board of tax appeals or court-ordered value change, if
31 property has a taxable value lower than that shown on any new con-
32 struction roll in any one (1) of the immediate five (5) tax years
33 preceding the current tax year;

34 (ii) Any reduction in value resulting from correction of value im-
35 properly included on any previous new construction roll as a re-
36 sult of double or otherwise erroneous assessment;

37 (iii) Any reduction in value, in any one (1) of the immediate five
38 (5) tax years preceding the current tax year, resulting from a
39 change of land use classification;

40 (iv) Any reduction in value resulting from the exemption provided
41 in section 63-602W(4), Idaho Code, in any one (1) of the immediate
42 five (5) tax years preceding the current tax year.

43 (2) As soon as possible, but in any event by no later than the first Mon-
44 day in June, the new construction roll shall be certified to the county audi-
45 tor and a listing showing the amount of value on the new construction roll in
46 each taxing district or unit be forwarded to the state tax commission on or
47 before the fourth Monday in July. Provided however, the value shown in sub-
48 section (3) (f) of this section shall be reported to the appropriate county
49 auditor by the state tax commission by the third Monday in July and the value

1 sent by the county auditor to each taxing district. The value established
2 pursuant to subsection (3) (f) of this section is subject to correction by the
3 state tax commission until the first Monday in September and any such correc-
4 tions shall be sent to the appropriate county auditor, who shall notify any
5 affected taxing districts.

6 (3) The value shown on the new construction roll shall include the tax-
7 able market value increase from:

- 8 (a) Construction of any new structure that previously did not exist; or
9 (b) Additions or alterations to existing nonresidential structures; or
10 (c) Installation of new or used manufactured housing that did not pre-
11 viously exist within the county; or
12 (d) Change of land use classification; or
13 (e) Property newly taxable as a result of loss of the exemption provided
14 by section 63-602W(3) or (4), Idaho Code; or
15 (f) The construction of any improvement or installation of any equip-
16 ment used for or in conjunction with the generation of electricity and
17 the addition of any improvement or equipment intended to be so used, ex-
18 cept property that has a value allocated or apportioned pursuant to sec-
19 tion 63-405, Idaho Code, or that is owned by a cooperative or municipal-
20 ity as those terms are defined in section 61-332A, Idaho Code, or that
21 is owned by a public utility as that term is defined in section 61-332A,
22 Idaho Code, owning any other property that is allocated or apportioned.
23 No replacement equipment or improvements may be included; or
24 (g) Provided such increases do not include increases already reported
25 on the new construction roll as permitted in paragraphs (j) and (k) of
26 this subsection, increases in value over the base value of property on
27 the base assessment roll within an urban renewal revenue allocation
28 area that has been terminated pursuant to section 50-2909(4), Idaho
29 Code, to the extent that this increment exceeds the incremental value
30 as of December 31, 2006, or, for revenue allocation areas formed after
31 December 31, 2006, the entire increment value. Notwithstanding other
32 provisions of this section, the new construction roll shall not include
33 new construction located within an urban renewal district's revenue
34 allocation area, except as provided in this paragraph; or
35 (h) New construction, in any one (1) of the immediate five (5) tax years
36 preceding the current tax year, allowable but never included on a new
37 construction roll, provided however, that, for such property, the value
38 on the new construction roll shall reflect the taxable value that would
39 have been included on the new construction roll for the first year in
40 which the property should have been included.
41 (i) Formerly exempt improvements on state college or state university-
42 owned land for student dining, housing, or other education-related pur-
43 poses approved by the state board of education and board of regents of
44 the university of Idaho as proper for the operation of such state col-
45 lege or university provided however, such improvements were never in-
46 cluded on any previous new construction roll.
47 (j) Increases in base value when due to previously determined incre-
48 ment value added to the base value as required in sections 50-2903 and
49 50-2903A, Idaho Code, due to a modification of the urban renewal plan.
50 In this case, the amount added to the new construction roll will equal

1 the amount by which the increment value in the year immediately preced-
2 ing the year in which the base value adjustment described in this sub-
3 section occurs exceeds the incremental value as of December 31, 2006,
4 or, for revenue allocation areas formed after December 31, 2006, the en-
5 tire increment value.

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

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

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

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