

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 751

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO SALES TAX; AMENDING SECTION 63-3622D, IDAHO CODE, TO PROVIDE SALES TAX EXEMPTIONS FOR CERTAIN PROPERTY; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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, including birds, fish or other wildlife that are hunted or fished on property a business owns, controls or has the right to use and where the business collects sales tax for the charges imposed for the hunting or fishing activity, and including the cost of acquiring such birds, fish or other wildlife and the feed, supplies and labor used to raise or maintain such birds, fish or other wildlife.

(2) Tangible personal property primarily and directly used or consumed in or during a manufacturing, processing, mining, farming, fabricating, hunting or fishing operation, including, but not limited to, repair parts, lubricants, hydraulic oil, and coolants, which become a component part of such tangible personal property and including, but not limited to, ammunition, birds, fish or other wildlife; 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.

(6) Grain bin structures, augers, dryers, fans, sweep augers, and other equipment that is used directly and primarily in agricultural produc-

1 tion, whether or not such equipment is to become a part of real property
2 and whether or not installed by the farmer, a contractor, or a subcon-
3 tractor.

4 (7) Equipment and supplies used in the performance of a quality con-
5 trol function used to prepare a crop for storage in a grain bin structure
6 that is directly and primarily used in agricultural production, whether
7 or not such equipment and supplies used in the performance of a quality
8 control function are to become a part of real property and whether or not
9 installed by the farmer, a contractor, or subcontractor.

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

20 (c) The exemptions allowed in subsection (a) (1), (2), (3) and (4) of
21 this section shall also be available to a business, or separately operated
22 segment of a business, engaged in farming or mining, whether as a subcontrac-
23 tor, contractor, contractee or subcontractee, when such business or segment
24 of a business is primarily devoted to producing tangible personal property
25 which is intended for ultimate sale at retail within or without this state,
26 without regard to the ownership of the product being produced; and shall also
27 be available to a business, or separately operated segment of a business, en-
28 gaged in offering the right to hunt birds or other wildlife or fish on prop-
29 erty the business owns, controls or has the right to use, where the charges
30 for such rights are subject to sales tax as provided in this chapter.

31 (d) The exemptions allowed in subsection (a) (1), (2), (3) and (4) of
32 this section shall also be available to a business, or separately operated
33 segment of a business, engaged in the business of processing materials, sub-
34 stances or commodities for use as fuel for the production of energy, whether
35 as a subcontractor, contractor, contractee or subcontractee, without regard
36 to the ownership of the materials, substances or commodities being processed
37 and irrespective of whether the materials, substances or commodities being
38 processed are intended for ultimate sale at retail within or without this
39 state.

40 (e) As used in this section, the term "directly used or consumed in or
41 during" a farming operation means the performance of a function reasonably
42 necessary to the operation of the total farming business, including the
43 planting, growing, harvesting, storage and removal from storage of crops
44 and other agricultural products, and movement of crops and produce from the
45 place of harvest to the place of initial storage. It includes disinfectants
46 used in the dairy industry to clean cow udders or to clean pipes, vats or
47 other milking equipment.

48 (f) The exemptions allowed in this section do not include machinery,
49 equipment, materials and supplies used in a manner that is incidental to the

1 manufacturing, processing, mining, farming or fabricating operations such
2 as maintenance and janitorial equipment and supplies.

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

5 (1) Tangible personal property used in any activities other than the
6 actual manufacturing, processing, mining, farming, fabricating, hunt-
7 ing or fishing operations, such as office equipment and supplies, and
8 equipment and supplies used in selling or distributing activities.

9 (2) Property used in transportation activities.

10 (3) Machinery, equipment, tools or other property used to make repairs.
11 This subsection does not include repair parts that become a component
12 part of tangible property exempt from tax under this section or lubri-
13 cants, hydraulic oil, or coolants used in the operation of tangible per-
14 sonal property exempt under this section.

15 (4) Machinery, equipment, tools or other property used to manufacture,
16 fabricate, assemble or install tangible personal property which is:

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

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

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

23 (5) Any improvement to real property or fixture thereto or any tangible
24 personal property ~~which~~ that becomes or is intended to become a compo-
25 nent of any real property or any improvement or fixture thereto, except
26 as provided in subsection (a) (6) and (7) of this section.

27 (6) Motor vehicles and aircraft.

28 (7) Tangible personal property used or consumed in processing, produc-
29 ing or fabricating tangible personal property exempted from tax under
30 this chapter in sections 63-3622F and 63-3622I, Idaho Code.

31 (8) Tangible personal property described in section 63-3622HH, Idaho
32 Code.

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

40 SECTION 2. An emergency existing therefor, which emergency is hereby
41 declared to exist, this act shall be in full force and effect on and after its
42 passage and approval, and retroactively to January 1, 2024.