

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 751

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO TAXATION; AMENDING SECTION 63-3641, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE REBATE OF SALES TAX COLLECTED; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3641, Idaho Code, be, and the same is hereby amended to read as follows:

63-3641. REBATE OF SALES TAXES COLLECTED. (1) As provided in and subject to the limitations of this section, a developer of a retail complex shall receive a rebate of sales taxes collected and remitted to the state tax commission under this chapter by qualified retailers within the retail complex to reimburse the developer for project expenses incurred for the installation of approved transportation improvements.

(2) As used in this section:

(a) "Approved transportation improvements" means a highway project ~~the cost of which is in excess of six million dollars (\$6,000,000)~~ for the installation of an interchange from an interstate highway or ~~expended on~~ for the improvement of a highway as defined in section 40-109(5), Idaho Code, the cost of which is in excess of five million dollars (\$5,000,000). To qualify as an approved highway improvement the developer of a retail complex must enter into an agreement with the Idaho transportation board ~~and/or~~ or a political subdivision. An approved highway improvement shall include those costs directly associated with the highway project but shall not include any improvement not within the right-of-way of the proposed public highway improvement, improvements not specifically authorized in the agreement entered into, or developer financed improvements required by state or local agencies as part of the permitting and development process not within the public highway right-of-way. Such agreement shall not be amended in subsequent years to expand or redefine the scope of an approved transportation improvement.

(b) "Political subdivision" means a city, county or highway district that receives highway funding pursuant to section 40-709, Idaho Code.

(c) "Qualified retailer" means a specific location within a retail complex operated by a retailer in regard to which the retailer:

(i) Has obtained a separate seller's permit pursuant to section 63-3620, Idaho Code, applicable only to that location and has collected sales or use taxes in regard to retail sales made at that location and has remitted all such taxes to the state tax commission with returns related to that permit;

- 1 (ii) Has been identified in the manner required by rules of the
2 state tax commission as associated with the specific retail com-
3 plex; and
4 (iii) Did not directly or by any related party, ~~(as defined in sec-~~
5 ~~tion 63-3615A(2), Idaho Code),~~ operate a retail business in the
6 same location before construction of the retail complex.
- 7 (d) "Retail complex" means:
8 (i) One (1) or more buildings in a single location constructed by
9 a developer applying for a rebate under this section specifically
10 related to an approved transportation improvement;
11 (ii) Facilities reasonably related to the buildings, such as
12 parking lots, sidewalks, lighting, traffic signs and accessory
13 equipment; and
14 (iii) For which the developer has expended a minimum of four mil-
15 lion dollars (\$4,000,000).
- 16 (e) "Retailer" has the same meaning as provided in section 63-3610,
17 Idaho Code;
- 18 (f) "Retail sales" has the same meaning as that term is defined in sec-
19 tion 63-3609, Idaho Code.
- 20 (3) To obtain the rebate provided by this section, the developer of a
21 retail complex shall file a written claim with the state tax commission.
- 22 (a) The claim shall:
23 (i) Identify the location and boundaries of the retail complex;
24 (ii) Identify the qualified retailers making retail sales within
25 the complex;
26 (iii) Include verification that the developer has met the expendi-
27 ture requirements of paragraph (2) (d) (iii) of this section;
28 (iv) Include certification from the Idaho transportation depart-
29 ment or political subdivision of the amount expended on the ap-
30 proved transportation improvements related to the retail complex;
31 (v) Contain such additional information as the state tax commis-
32 sion may require by rule.
- 33 (b) The claim shall be subject to such reasonable documentation and
34 verification as the state tax commission may require.
- 35 (c) A developer of a retail complex must submit a claim under this sub-
36 section within two (2) years of the developer's last expenditure on ap-
37 proved transportation improvements.
- 38 (4) (a) Upon approval by the state tax commission, the developer is en-
39 titled to receive a rebate of sixty percent (60%) of all sales and use
40 taxes imposed by this chapter and remitted to the state tax commission
41 after the date of approval by qualified retailers in the retail complex
42 but not to exceed the lesser of:
43 (i) The amount certified pursuant to subsection (3) (a) (iv) of
44 this section; or
45 (ii) The limitation imposed by subsection (5) (c) of this section.
- 46 (b) No interest shall be paid on the amounts rebated.
- 47 (c) All sales and use tax information remitted by retailers shall be
48 deemed a trade secret, shall be confidential and shall not be disclosed
49 by the state tax commission.

1 (5) (a) When a retailer certifies to the state tax commission and the
2 commission determines that the requirements of subsection (3) (a) (i),
3 (ii) and (iii) of this section have been met, sixty percent (60%) of all
4 sales and use taxes imposed by this chapter and remitted to the state tax
5 commission after the date of approval by qualified retailers in the re-
6 tail complex, shall be deposited into the demonstration pilot project
7 fund, which is hereby created in the state treasury.

8 (b) All moneys rebated shall be paid by the state tax commission from
9 the demonstration pilot project fund in a timely manner not to exceed
10 sixty (60) calendar days after receipt as funds are available in the
11 demonstration pilot project fund. Payments shall be specific to and
12 accounted for by each project.

13 (c) Once a total of ~~thirty-five million dollars (\$35,000,000)~~ one hun-
14 dred million dollars (\$100,000,000) has been paid in as a rebate on a
15 particular approved transportation improvement, no additional rebates
16 shall be paid in regard to that approved transportation improvement.

17 SECTION 2. An emergency existing therefor, which emergency is hereby
18 declared to exist, this act shall be in full force and effect on and after its
19 passage and approval, and retroactively to January 1, 2026.