

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 279

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO SALES TAX; 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 FOR THE PURCHASE OR USE OF ELIGIBLE SERVER EQUIPMENT
4 AND NEW DATA CENTER FACILITIES BY QUALIFYING BUSINESS ENTITIES AND TO
5 PROVIDE A TIME LIMITATION ON CERTAIN QUALIFYING BUSINESS ENTITIES; AND
6 PROVIDING AN EFFECTIVE DATE.
7

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

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

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

22 (2) As used in this section, the following terms have the following
23 meanings:

24 (a) "Business entity" means a separate legal entity or separately oper-
25 ated segment of business that exists for the primary purpose of engaging
26 in a commercial activity for profit and whose sole purpose is the oper-
27 ation of a data center. "Business entity" also means a separate legal
28 entity or separately operated segment of business that exists for the
29 primary purpose of engaging in commercial activity for profit and that
30 operates by collocating with a business entity that operates a data cen-
31 ter. For the purposes of this section, a separately operated segment of
32 business is a segment of a business for which separate records are main-
33 tained and that is operated by an employee or employees whose primary
34 employment responsibility is to operate the business segment.

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

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

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

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

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

7 (i) Uninterruptible power supplies, generator power, or both;

8 (ii) Sophisticated fire suppression and prevention systems; and

9 (iii) Enhanced physical security and restricted access.

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

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

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

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

33 (k) "Qualifying business entities" means:

34 (i) Business entities that have operated a data center, and busi-
35 ness entities that have collocated with a business operating a
36 data center, that certify to the state tax commission that they
37 have made capital investments of at least one million dollars
38 (\$1,000,000) in eligible server equipment in Idaho prior to Jan-
39 uary 1, 2019. Provided, however, business entities qualifying
40 under this subparagraph shall no longer be eligible for the exemp-
41 tion provided by this section on and after July 1, 2027.

42 (ii) Business entities that certify to the state tax commission
43 that they will make capital investments in one (1) or more data
44 centers after January 1, 2019, in amounts of least two hundred
45 fifty million dollars (\$250,000,000) in the aggregate within the
46 first five (5) years after commencement of construction, and that
47 they will create and maintain at least twenty (20) new jobs at the
48 data center within two (2) calendar years after the commencement
49 of operations. Such business entities shall be entitled to a pro-
50 visional exemption pursuant to this section during the period in

1 which they make capital investments in data center property. If
2 a business entity fails to meet the investment and job creation
3 requirements provided within the time periods required in this
4 section, it shall pay sales or use taxes that would have been due
5 if not for the granting of the provisional exemption. If a busi-
6 ness entity meets the investment and job creation requirements
7 provided within the time periods required in this section, its
8 provisional exemption shall become final without further action,
9 and thereafter the exemption shall also apply to all additional
10 purchases of eligible server equipment and purchases associated
11 with constructing new data center facilities.

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

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

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

18 (3) The state tax commission may promulgate rules to administer and
19 enforce the provisions of this section, including the promulgation of rules
20 relating to the provision of information necessary to certify that the
21 taxpayer satisfies the criteria for a qualifying business entity. For the
22 purpose of carrying out its duties to administer and enforce the provisions
23 of this section, the state tax commission shall have the powers and duties
24 provided by sections 63-3038, 63-3039, 63-3042 through 63-3067, 63-3068,
25 63-3071, 63-3074 through 63-3078, and 63-217, Idaho Code.

26 SECTION 2. This act shall be in full force and effect on and after July
27 1, 2020.