

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 217

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO THE SALES AND USE TAX; AMENDING CHAPTER 36, TITLE 63, IDAHO CODE,  
2 BY THE ADDITION OF A NEW SECTION 63-3642, IDAHO CODE, TO PROVIDE A SALES  
3 AND USE TAX REBATE TO DEVELOPERS OF CERTAIN INFORMATION TECHNOLOGY  
4 COMPANIES, TO PROVIDE DEFINITIONS, AND TO ESTABLISH PROVISIONS, PROCE-  
5 DURES AND RULES REGARDING A REBATE APPLICATION; AND PROVIDING A SUNSET  
6 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 63-3642, Idaho Code, and to read as follows:

12 63-3642. IDAHO INFORMATION TECHNOLOGY EQUIPMENT TAX REBATE. (1) As  
13 provided in and subject to the limitations of this section, a qualifying  
14 business entity shall receive a rebate of sales and use taxes paid under this  
15 chapter on purchases of eligible server equipment.

16 (2) (a) A business entity seeking a rebate under this section must:

17 (i) If an existing data center in Idaho prior to January 1, 2017,  
18 invest at least one million dollars (\$1,000,000) in total pur-  
19 chases of eligible server equipment, in a calendar year, that is  
20 delivered to Idaho by December 31 of the calendar year the rebate  
21 is requested;

22 (ii) If created in Idaho on or after January 1, 2017, invest at  
23 least twenty-five million dollars (\$25,000,000) in capital in-  
24 vestment within the first five (5) calendar years of construction  
25 and create and maintain at least twenty (20) new jobs at the data  
26 center within two (2) calendar years of operation; or

27 (iii) If collocating with a business operating a data center, in-  
28 vest and pay Idaho sales or use tax on at least one million dollars  
29 (\$1,000,000) in total purchases of eligible server equipment, in  
30 a calendar year, that is delivered to a data center in Idaho by De-  
31 cember 31 of the calendar year the rebate is requested.

32 (b) After qualifying for a rebate based on capital investment and job  
33 creation, a business entity created in Idaho on or after January 1,  
34 2017, may seek additional rebates upon subsequent investment of at  
35 least five million dollars (\$5,000,000) in total purchases of eligible  
36 server equipment, in a calendar year, that is delivered to Idaho by De-  
37 cember 31 of the calendar year the rebate is requested.

38 (3) For purposes of this section:

39 (a) "Business entity" means a separate legal entity or separately oper-  
40 ated segment of business that exists for the primary purpose of engaging  
41 in commercial activity for profit and whose sole business is the opera-  
42 tion of a data center; or a separate legal entity or separately operated

1 segment of business that exists for the primary purpose of engaging in  
2 commercial activity for profit and that operates by collocating with a  
3 business entity that operates a data center.

4 (i) For this rebate, a separately operated segment of business is  
5 a segment of business for which separate records are maintained  
6 and which is operated by an employee or employees whose primary em-  
7 ployment responsibility is to operate the business segment.

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

10 (c) "Capital investment" means real or tangible personal property that  
11 is purchased for use in Idaho and is used by a business entity on or after  
12 January 1, 2017, for the purpose of operating a data center.

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

15 (e) "Data center" means a facility, comprised of one (1) or more build-  
16 ings in Idaho, used to house server equipment for the transmission and  
17 storage of data where the facility has the following characteristics:

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

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

20 (iii) Enhanced physical security and restricted access.

21 (f) "Eligible server equipment" means new server equipment, other than  
22 customer-provided equipment, purchased after July 1, 2017, by a qual-  
23 ifying business entity as described in subsection (2) of this section  
24 that is maintained and operated in a data center located in Idaho for the  
25 sole purpose of data transmission and storage services, providing data  
26 and transaction processing services, information technology services,  
27 or computer colocation services. Eligible server equipment includes  
28 servers, rack servers, chillers, storage devices, generators, cabling,  
29 and software upgrades integral to or installed on such equipment.

30 (g) "Generator" means an engine used in data centers to convert mechan-  
31 ical energy into electricity.

32 (h) "New jobs" means new jobs created in Idaho that are nonseasonal,  
33 full-time jobs that collectively pay an average annual wage that equals  
34 or exceeds the average annual county wage of the county where the data  
35 center is located. A job that shifts from one location in Idaho to an-  
36 other location in Idaho shall not be considered a new job. New jobs must  
37 exceed the business entity's maximum number of full-time employees in  
38 Idaho during the twenty-four (24) months immediately preceding the in-  
39 stallation of the data center.

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

42 (j) "Server" means a computer or computer program used in data centers  
43 that manages access to a centralized resource or service in a network.

44 (k) "Software upgrades" means the process of replacing an older soft-  
45 ware version with a newer version in order to bring systems up to date in  
46 a data center.

47 (l) "Storage device" means a piece of computer equipment, on which in-  
48 formation can be stored, used in data centers.

49 (4) Any business entity seeking a rebate under this section for sales  
50 taxes paid on eligible server equipment must submit an application to the

1 Idaho state tax commission. The Idaho state tax commission shall establish  
2 a rebate application and approval process for the rebate provided by this  
3 section. Any business entity applying for a rebate under this section shall  
4 provide verifiable documentation, as identified by the Idaho state tax com-  
5 mission, demonstrating the business entity's eligibility for the rebate.  
6 The application shall be submitted to the Idaho state tax commission within  
7 one (1) year after the close of the calendar year in which the eligible server  
8 equipment was purchased and qualified for the rebate. The rebate shall be  
9 paid by the state tax commission as a refund allowable under section 63-3626,  
10 Idaho Code, and the provisions of section 63-3635, Idaho Code, will be avail-  
11 able to the state tax commission to enforce the provisions of the rebate.

12 (5) No interest shall be paid on the amounts rebated.

13 (6) All sales and use tax information remitted by retailers shall be  
14 deemed a trade secret, shall be confidential and shall not be disclosed by  
15 the state tax commission.

16 (7) If a rebate application is denied by the state tax commission, the  
17 business entity may appeal such denial pursuant to the process set out in  
18 section 63-3626, Idaho Code.

19 (8) The state tax commission, in coordination with the Idaho department  
20 of commerce, may promulgate rules to administer this rebate.

21 SECTION 2. The provisions of Section 1 of this act shall be null, void  
22 and of no force and effect on and after July 1, 2024.