

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 221

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO SALES TAXATION; AMENDING SECTION 63-3622D, IDAHO CODE, TO PRO-
2 VIDE THAT THE COSTS OF ACQUIRING, FEEDING, CARING FOR AND MAINTAINING
3 WILDLIFE OR FISH THAT ARE MADE AVAILABLE FOR HUNTING OR FISHING ARE ELI-
4 GIBLE FOR THE PRODUCTION EXEMPTION WHEN THE HUNTING OR FISHING ACTIVITY
5 IS TAXABLE AND TO MAKE TECHNICAL CORRECTIONS; DECLARING AN EMERGENCY
6 AND PROVIDING RETROACTIVE APPLICATION.
7

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

9 SECTION 1. That Section 63-3622D, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 63-3622D. PRODUCTION EXEMPTION. There are exempted from the taxes im-
12 posed by this chapter:

13 (a) The sale at retail, storage, use or other consumption in this state
14 of:

15 (1) Tangible personal property which will enter into and become an in-
16 gredient or component part of tangible personal property manufactured,
17 processed, mined, produced or fabricated for sale, including birds,
18 fish or other wildlife that are hunted or fished on property a business
19 owns, controls or has the right to use and where the business collects
20 sales tax for the charges imposed for the hunting or fishing activity,
21 and including the cost of acquiring such birds, fish or other wildlife
22 and the feed, supplies and labor used to raise or maintain such birds,
23 fish or other wildlife.

24 (2) Tangible personal property primarily and directly used or consumed
25 in or during a manufacturing, processing, mining, farming, ~~or fabri-~~
26 cating, hunting or fishing operation, including, but not limited to,
27 repair parts, lubricants, hydraulic oil, and coolants, which become a
28 component part of such tangible personal property and including, but
29 not limited to, ammunition, birds, fish or other wildlife; provided
30 that the use or consumption of such tangible personal property is neces-
31 sary or essential to the performance of such operation.

32 (3) Chemicals, catalysts, and other materials which are used for the
33 purpose of producing or inducing a chemical or physical change in the
34 product or for removing impurities from the product or otherwise plac-
35 ing the product in a more marketable condition as part of an operation
36 described in subsection (a)(2) of this section, and chemicals and
37 equipment used in clean-in-place systems in the food processing and
38 food manufacturing industries.

39 (4) Safety equipment and supplies required to meet a safety standard
40 of a state or federal agency when such safety equipment and supplies are
41 used as part of an operation described in subsection (a)(2) of this sec-
42 tion.

1 (5) Plants to be used as part of a farming operation.

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

12 (c) The exemptions allowed in subsections (a) (1), ~~(a) (2)~~, ~~(a) (3)~~ and
 13 ~~(a) (4)~~ of this section shall also be available to a business, or separately
 14 operated segment of a business, engaged in farming or mining, whether as a
 15 subcontractor, contractor, contractee or subcontractee, when such business
 16 or segment of a business is primarily devoted to producing tangible personal
 17 property which is intended for ultimate sale at retail within or without this
 18 state, without regard to the ownership of the product being produced; and
 19 shall also be available to a business, or separately operated segment of a
 20 business, engaged in offering the right to hunt birds or other wildlife or
 21 fish on property the business owns, controls or has the right to use, where
 22 the charges for such rights are subject to sales tax as provided in this chap-
 23 ter.

24 (d) The exemptions allowed in subsections (a) (1), ~~(a) (2)~~, ~~(a) (3)~~ and
 25 ~~(a) (4)~~ of this section shall also be available to a business, or separately
 26 operated segment of a business, engaged in the business of processing mate-
 27 rials, substances or commodities for use as fuel for the production of en-
 28 ergy, whether as a subcontractor, contractor, contractee or subcontractee,
 29 without regard to the ownership of the materials, substances or commodities
 30 being processed and irrespective of whether the materials, substances or
 31 commodities being processed are intended for ultimate sale at retail within
 32 or without this state.

33 (e) As used in this section, the term "directly used or consumed in or
 34 during" a farming operation means the performance of a function reasonably
 35 necessary to the operation of the total farming business, including, the
 36 planting, growing, harvesting and initial storage of crops and other agri-
 37 cultural products and movement of crops and produce from the place of harvest
 38 to the place of initial storage. It includes disinfectants used in the dairy
 39 industry to clean cow udders or to clean pipes, vats or other milking equip-
 40 ment.

41 (f) The exemptions allowed in this section do not include machinery,
 42 equipment, materials and supplies used in a manner that is incidental to the
 43 manufacturing, processing, mining, farming or fabricating operations such
 44 as maintenance and janitorial equipment and supplies.

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

47 (1) Hand tools with a unit purchase price not in excess of one hundred
 48 dollars (\$100). A hand tool is an instrument used or worked by hand.

49 (2) Tangible personal property used in any activities other than the
 50 actual manufacturing, processing, mining, farming, or ~~or~~ fabricating,

1 hunting or fishing operations, such as office equipment and supplies,
2 and equipment and supplies used in selling or distributing activities.

3 (3) Property used in transportation activities.

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

9 (5) Machinery, equipment, tools or other property used to manufacture,
10 fabricate, assemble or install tangible personal property which is:

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

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

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

17 (6) Any improvement to real property or fixture thereto or any tangible
18 personal property which becomes or is intended to become a component of
19 any real property or any improvement or fixture thereto.

20 (7) Motor vehicles and aircraft.

21 (8) Tangible personal property used or consumed in processing, produc-
22 ing or fabricating tangible personal property exempted from tax under
23 this chapter in sections 63-3622F and 63-3622I, Idaho Code.

24 (9) Tangible personal property described in section 63-3622HH, Idaho
25 Code.

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

33 SECTION 2. An emergency existing therefor, which emergency is hereby
34 declared to exist, this act shall be in full force and effect on and after its
35 passage and approval, and shall be applied retroactively to any case under
36 audit or in which a timely protest has been filed as of the date of this act's
37 passage and approval.