

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 386

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO THE PRODUCTION EXEMPTION; AMENDING SECTION 63-3622D, IDAHO  
CODE, TO REVISE A TERM; AND DECLARING AN EMERGENCY.

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 im-  
posed 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 in-  
gredient 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, fabri-  
cating, 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 neces-  
sary 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 plac-  
ing 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 sec-  
tion.

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

(b) Other than as provided in subsection (c) of this section, the ex-  
emptions allowed in subsection (a)(1), (2), (3) and (4) of this section are  
available only to a business or separately operated segment of a business

1 which is primarily devoted to producing tangible personal property which  
2 that business will sell and which is intended for ultimate sale at retail  
3 within or without this state. A contractor providing services to a business  
4 entitled to an exemption under this section is not exempt as to any property  
5 owned, leased, rented or used by it unless, as a result of the terms of the  
6 contract, the use of the property is exempt under section 63-3615(b), Idaho  
7 Code.

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

19 (d) The exemptions allowed in subsection (a) (1), (2), (3) and (4) of  
20 this section shall also be available to a business, or separately operated  
21 segment of a business, engaged in the business of processing materials, sub-  
22 stances or commodities for use as fuel for the production of energy, whether  
23 as a subcontractor, contractor, contractee or subcontractee, without regard  
24 to the ownership of the materials, substances or commodities being processed  
25 and irrespective of whether the materials, substances or commodities being  
26 processed are intended for ultimate sale at retail within or without this  
27 state.

28 (e) As used in this section, the term "directly used or consumed in or  
29 during" a farming operation means the performance of a function reasonably  
30 necessary to the operation of the total farming business, including the  
31 planting, growing, harvesting, ~~and initial storage~~ and removal from storage  
32 of crops and other agricultural products, and movement of crops and produce  
33 from the place of harvest to the place of initial storage. It includes dis-  
34 infectants used in the dairy industry to clean cow udders or to clean pipes,  
35 vats or other milking equipment.

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

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

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

46 (2) Property used in transportation activities.

47 (3) Machinery, equipment, tools or other property used to make repairs.  
48 This subsection does not include repair parts that become a component  
49 part of tangible property exempt from tax under this section or lubri-

1 cants, hydraulic oil, or coolants used in the operation of tangible per-  
2 sonal property exempt under this section.

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

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

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

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

11 (5) Any improvement to real property or fixture thereto or any tangible  
12 personal property which becomes or is intended to become a component of  
13 any real property or any improvement or fixture thereto.

14 (6) Motor vehicles and aircraft.

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

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

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

27 SECTION 2. An emergency existing therefor, which emergency is hereby  
28 declared to exist, this act shall be in full force and effect on and after its  
29 passage and approval.