

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Encourage Computer Data Center Development

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §2020 is enacted to read:

§ 2020. Refund of sales tax for computer data center purchases

1. Definitions. As used in this section, unless the context otherwise indicates, the following words have the following meanings.

A. "Computer data center" or "center" means a facility comprised of one or more buildings occupied by one or more businesses with a combined square footage of at least 20,000 square feet, constructed or refurbished to be used primarily to house working servers, and having:

(1) An uninterruptible power supply or generator backup power;

(2) Sophisticated fire suppression and prevention systems; and

(3) Enhanced building security, such as restricted access to the facility, permanent security guards, video camera surveillance, electronic passcode systems, keycards, biometric scans or similar security features.

For a computer data center comprised of multiple buildings, each separate building is considered a computer data center if the building has all of the characteristics listed in subparagraphs (1) to (3).

B. "Electronic data storage and data management services" includes, but is not limited to:

(1) Providing data storage and backup services;

(2) Providing computer power and hosting enterprise software applications;

(3) Hosting websites; and

(4) Providing online services such as e-mail, website browsing and searching, media applications and other services, regardless of whether a charge is made for those services.

C. "Eligible computer data center" means a computer data center located in the State that has at least 20,000 square feet dedicated to housing working servers, when the space is not dedicated to housing working servers before October 1, 2011 and for which a building permit is issued before October 1, 2014.

D. "Eligible power infrastructure" means all fixtures and equipment necessary for the transformation, distribution or management of electricity that is required to operate eligible server equipment within an eligible computer data center, including electrical substations, generators, wiring and cogeneration equipment.

E. "Eligible server equipment" means server equipment installed in an eligible computer data center on or after October 1, 2011 and server equipment that replaces existing server equipment, if the sale or use of the server equipment being replaced qualifies for a refund or exemption under this section and is installed and put into regular use before October 1, 2014.

F. "Qualifying business" means a business entity that exists for the primary purpose of engaging in commercial activity for profit and that is the owner or lessee of an eligible computer data center that adds at least 20 qualifying jobs at a center within 6 years after the date the qualifying business first becomes eligible for an exemption under this section.

G. "Qualifying job" means a full-time job with an average weekly wage that exceeds the average weekly wage for the county in which the job is located.

H. "Server" means blade or rack-mount server computers used in a computer data center exclusively to provide electronic data storage and data management services for internal use by the owner or lessee of the computer data center, for the clients of the owner or lessee of the computer data center or for both. "Server" does not include personal computers.

I. "Server equipment" means the server chassis and all computer hardware contained within the server chassis. "Server equipment" also includes computer software necessary to operate the server. "Server equipment" does not include the racks upon which the server chassis is installed and computer peripherals such as keyboards, monitors, printers and other devices.

2. Refund authorized. A qualifying business is eligible for a refund of sales tax on the purchase of the following services or the purchase or lease of the following items upon presenting to the State Tax Assessor evidence that the transaction is eligible for refund under this section:

- A. Eligible server equipment;
- B. Eligible power infrastructure; and
- C. Electronic data storage and data management services.

An application for a refund must be filed with the assessor within 36 months after the date of purchase or lease.

3. Sales tax exemption; certificate. Sales tax need not be paid on the purchase of services or lease or purchase of items eligible for a refund under this section if the purchaser or lessee has obtained a certificate from the assessor stating that the purchaser or lessee is eligible to purchase services or lease or purchase eligible items without paying sales tax. The seller or lessor is required to obtain a copy of the certificate together with an affidavit as prescribed by the assessor, to be maintained in the seller's or lessor's records, attesting to the qualification of the purchase or lease for exemption pursuant to this section. In order to qualify for this exemption, the items or services must be used directly in or by an eligible computer data center.

4. Recapture. A qualifying business that fails to meet the requirement of adding 20 new full-time employees within 6 years after the qualifying business first becomes eligible under this section must be assessed the amount of sales tax forgone or refunded by the State plus interest.

SUMMARY

This bill provides a sales tax refund or exemption for sales of eligible server equipment, eligible power infrastructure and electronic data storage and data management services to an eligible computer data center that begins operation between October 1, 2011 and October 1, 2014. A qualifying business must add at least 20 jobs with above-average wages within 6 years after the business first becomes eligible or the amount of exempt or refunded taxes plus interest will be recaptured by the State.