

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 22

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE
2 A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS; REPEALING
3 SECTION 63-3022T, IDAHO CODE, RELATING TO RELIEF FROM JOINT AND SEVERAL
4 LIABILITY ON A JOINT RETURN; AND AMENDING CHAPTER 30, TITLE 63, IDAHO
5 CODE, BY THE ADDITION OF A NEW SECTION 63-3050A, IDAHO CODE, REGARDING
6 RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN.
7

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

9 SECTION 1. That Section 63-3022, Idaho Code, be, and the same is hereby
10 amended to read as follows:

11 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-
12 tions set forth in this section, and in sections 63-3022A through 63-3022RU,
13 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-
14 able income:

15 (a) Add any state and local taxes, as defined in section 164 of the In-
16 ternal Revenue Code that are measured by net income, or for which a credit is
17 allowable under section 63-3029, Idaho Code, and paid or accrued during the
18 taxable year adjusted for state or local tax refunds used in arriving at tax-
19 able income.

20 (b) Add the net operating loss deduction used in arriving at taxable in-
21 come.

22 (c) (1) A net operating loss for any taxable year commencing on and af-
23 ter January 1, 2000, but before January 1, 2013, shall be a net operating
24 loss carryback not to exceed a total of one hundred thousand dollars
25 (\$100,000) to the two (2) immediately preceding taxable years. At the
26 election of the taxpayer, the two (2) year carryback may be ~~foregone~~
27 forgone and the loss subtracted from income received in taxable years
28 arising in the next twenty (20) years succeeding the taxable year in
29 which the loss arises in order until exhausted. The election shall be
30 made as under section 172(b)(3) of the Internal Revenue Code. An elec-
31 tion under this subsection must be in the manner prescribed in the rules
32 of the state tax commission and once made is irrevocable for the year in
33 which it is made.

34 (2) A net operating loss for any taxable year commencing on or after
35 January 1, 2013, shall be a net operating loss carryback not to exceed
36 a total of one hundred thousand dollars (\$100,000) to the two (2) imme-
37 diately preceding taxable years only if an amended return carrying the
38 loss back is filed within one (1) year of the end of the taxable year of
39 the net operating loss that results in such carryback.

40 (3) Any portion of the net operating loss not subtracted from income in
41 the two (2) preceding years may be subtracted from income in the next
42 twenty (20) years succeeding the taxable year in which the loss arises

1 in order until exhausted. The sum of the deductions may not exceed the
2 amount of the net operating loss deduction incurred. The carryback
3 shall be limited to a total of fifty thousand dollars (\$50,000) in the
4 case of an individual filing as married filing separate in the year of
5 the loss.

6 (4) Net operating losses incurred by a corporation during a year in
7 which such corporation did not transact business in Idaho or was not
8 included in a group of corporations combined under subsection (t) of
9 section 63-3027, Idaho Code, may not be subtracted. However, if at
10 least one (1) corporation within a group of corporations combined under
11 subsection (t) of section 63-3027, Idaho Code, was transacting business
12 in Idaho during the taxable year in which the loss was incurred, then the
13 net operating loss may be subtracted. Net operating losses incurred by
14 a person, other than a corporation, in activities not taxable by Idaho
15 may not be subtracted.

16 (5) The term "income" as used in this subsection ~~(e)~~ means Idaho taxable
17 income as defined in this chapter as modified by section 63-3021 (b) (2),
18 (3) and (4), Idaho Code.

19 (d) In the case of a corporation, add the amount deducted under the pro-
20 visions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue
21 Code (relating to dividends received by corporations) as limited by section
22 246(b) (1) of said code.

23 (e) In the case of a corporation, subtract an amount determined under
24 section 78 of the Internal Revenue Code to be taxable as dividends.

25 (f) Subtract the amount of any income received or accrued during the
26 taxable year which is exempt from taxation by this state, under the provi-
27 sions of any other law of this state or a law of the United States, if not pre-
28 viously subtracted in arriving at taxable income.

29 (g) For the purpose of determining the Idaho taxable income of the bene-
30 ficiary of a trust or of an estate:

31 (1) Distributable net income as defined for federal tax purposes shall
32 be corrected for the other adjustments required by this section.

33 (2) Net operating losses attributable to a beneficiary of a trust or es-
34 tate under section 642 of the Internal Revenue Code shall be a deduction
35 for the beneficiary to the extent that income from the trust or estate
36 would be attributable to this state under the provisions of this chap-
37 ter.

38 (h) In the case of an individual who is on active duty as a full-time
39 officer, enlistee or draftee, with the armed forces of the United States,
40 which full-time duty is or will be continuous and uninterrupted for one hun-
41 dred twenty (120) consecutive days or more, deduct compensation paid by the
42 armed forces of the United States for services performed outside this state.
43 The deduction is allowed only to the extent such income is included in tax-
44 able income.

45 (i) In the case of a corporation, including any corporation included
46 in a group of corporations combined under subsection (t) of section 63-3027,
47 Idaho Code, add any capital loss or passive loss deducted which loss was in-
48 curred during any year in which such corporation did not transact business in
49 Idaho. However, do not add any capital loss deducted if a corporation, in-
50 cluding any corporation in a group of corporations combined under subsection

1 (t) of section 63-3027, Idaho Code, was transacting business in Idaho dur-
2 ing the taxable year in which the loss was incurred. In the case of persons
3 other than corporations, add any capital loss or passive loss deducted which
4 was incurred in activities not taxable by Idaho at the time such loss was in-
5 curred. In computing the income taxable to an S corporation or partnership
6 under this section, deduction shall not be allowed for a carryover or carry-
7 back of a net operating loss provided for in subsection (c) of this section,
8 a passive loss or a capital loss provided for in section 1212 of the Internal
9 Revenue Code.

10 (j) In the case of an individual, there shall be allowed as a deduction
11 from gross income either paragraph (1) or (2) of this subsection at the op-
12 tion of the taxpayer:

13 (1) The standard deduction as defined in section 63, of the Internal
14 Revenue Code.

15 (2) Itemized deductions as defined in section 63 of the Internal Rev-
16 enue Code except state or local taxes measured by net income and general
17 sales taxes as either is defined in section 164 of the Internal Revenue
18 Code.

19 (k) Add the taxable amount of any lump sum distribution excluded from
20 gross income for federal income tax purposes under the ten (10) year averag-
21 ing method. The taxable amount will include the ordinary income portion and
22 the amount eligible for the capital gain election.

23 (l) Deduct any amounts included in gross income under the provisions of
24 section 86 of the Internal Revenue Code relating to certain social security
25 and railroad benefits.

26 (m) In the case of a self-employed individual, deduct the actual cost
27 of premiums paid to secure worker's compensation insurance for coverage in
28 Idaho, if such cost has not been deducted in arriving at taxable income.

29 (n) In the case of an individual, deduct the amount contributed to a
30 college savings program pursuant to chapter 54, title 33, Idaho Code, but not
31 more than four thousand dollars (\$4,000) per tax year. If the contribution
32 is made on or before April 15, 2001, it may be deducted for tax year 2000 and
33 an individual can make another contribution and claim the deduction accord-
34 ing to the limits provided in this subsection during 2001 for tax year 2001,
35 as long as the contribution is made on or before December 31, 2001.

36 (o) In the case of an individual, add the amount of a nonqualified with-
37 drawal from an individual trust account or savings account established pur-
38 suant to chapter 54, title 33, Idaho Code, less any amount of such nonqual-
39 ified withdrawal included in the individual's federal gross income pursuant
40 to section 529 of the Internal Revenue Code.

41 (p) In the case of an individual, add the amount of a withdrawal from an
42 individual trust account or savings account established pursuant to chapter
43 54, title 33, Idaho Code, transferred to a qualified tuition program, as de-
44 fined in section 529 of the Internal Revenue Code, that is operated by a state
45 other than Idaho. The addition provided in this subsection is limited to the
46 amount of the contributions to the Idaho individual trust account or savings
47 account by the account owner that ~~were~~ was deducted on the account owner's
48 income tax return for the year of the transfer and the prior taxable year.

49 SECTION 2. That Section 63-3022T, Idaho Code, be, and the same is hereby
50 repealed.

1 SECTION 3. That Chapter 30, Title 63, Idaho Code, be, and the same is
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
3 ignated as Section 63-3050A, Idaho Code, and to read as follows:

4 63-3050A. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RE-
5 TURN. (1) An individual who has filed a joint return and who has been granted
6 relief from joint and several liability by the internal revenue service
7 shall have such relief recognized, granted and honored by the state tax com-
8 mission for state income tax purposes.

9 (2) The state tax commission shall promulgate such rules as are neces-
10 sary to carry out the provisions of this section.