

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 185

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO ADJUSTMENTS TO TAXABLE INCOME; AMENDING SECTION 63-3022, IDAHO  
2 CODE, TO INCREASE THE AMOUNT THAT MAY BE DEDUCTED ANNUALLY TO A COLLEGE  
3 SAVINGS PROGRAM, TO REMOVE OBSOLETE LANGUAGE AND TO MAKE A TECHNICAL  
4 CORRECTION.  
5

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

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

9 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-  
10 tions set forth in this section, and in sections 63-3022A through 63-3022R,  
11 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-  
12 able income:

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

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

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

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

38 (3) Any portion of the net operating loss not subtracted from income in  
39 the two (2) preceding years may be subtracted from income in the next  
40 twenty (20) years succeeding the taxable year in which the loss arises  
41 in order until exhausted. The sum of the deductions may not exceed the  
42 amount of the net operating loss deduction incurred. The carryback

1 shall be limited to a total of fifty thousand dollars (\$50,000) in the  
2 case of an individual filing as married filing separate in the year of  
3 the loss.

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

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

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

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

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

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

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

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

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

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

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

8 (j) In the case of an individual, there shall be allowed as a deduction  
9 from gross income either (1) or (2) at the option of the taxpayer:

10 (1) The standard deduction as defined in section 63, Internal Revenue  
11 Code.

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

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

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

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

26 (n) In the case of an individual for any tax period ending on or prior to  
27 December 31, 2016, deduct the amount contributed to a college savings pro-  
28 gram pursuant to chapter 54, title 33, Idaho Code, but not more than four  
29 thousand dollars (\$4,000) per tax year. If the contribution is made on or  
30 before April 15, 2001, it may be deducted for tax year 2000 and an individual  
31 can make another contribution and claim the deduction according to the lim-  
32 its provided in this subsection during 2001 for tax year 2001, as long as the  
33 contribution is made on or before December 31, 2001. In the case of an indi-  
34 vidual and for any tax period starting on or after January 1, 2017, deduct the  
35 amount contributed to a college savings program, but not more than six thou-  
36 sand dollars (\$6,000) per tax year. For those married and filing jointly,  
37 deduct the amount contributed to a college savings program, but not more than  
38 twice of that allowed for an individual. To be qualified for this deduction,  
39 the contribution must be made during the taxable year and made to an Idaho  
40 college savings program account as described in chapter 54, title 33, Idaho  
41 Code.

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

47 (p) In the case of an individual, add the amount of a withdrawal from an  
48 individual trust account or savings account established pursuant to chapter  
49 54, title 33, Idaho Code, transferred to a qualified tuition program, as de-  
50 fined in section 529 of the Internal Revenue Code, that is operated by a state

1 other than Idaho. The addition provided in this subsection is limited to the  
2 amount of the contributions to the Idaho individual trust account or savings  
3 account by the account owner that were deducted on the account owner's income  
4 tax return for the year of the transfer and the prior taxable year.