

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 515

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO ADJUSTMENTS TO TAXABLE INCOME; AMENDING SECTION 63-3022, IDAHO  
2 CODE, TO PROVIDE THAT THE ADDITION TO TAXABLE INCOME FOR A NONQUALIFIED  
3 WITHDRAWAL FROM A COLLEGE SAVINGS PLAN IS LIMITED TO CONTRIBUTIONS PRE-  
4 VIOUSLY EXEMPT FROM IDAHO STATE INCOME TAX AND EARNINGS GENERATED FROM  
5 THE PROGRAM AS LONG AS THE EARNINGS ARE NOT ALREADY INCLUDED IN FEDERAL  
6 ADJUSTED GROSS INCOME AND TO PROVIDE APPLICATION TO A QUALIFIED ABLE  
7 PROGRAM.  
8

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

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

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

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

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

23 (c) (1) A net operating loss for any taxable year commencing on and af-  
24 ter January 1, 2000, but before January 1, 2013, shall be a net oper-  
25 ating loss carryback not to exceed a total of one hundred thousand dol-  
26 lars (\$100,000) to the two (2) immediately preceding taxable years. At  
27 the election of the taxpayer, the two (2) year carryback may be forgone  
28 and the loss subtracted from income received in taxable years arising in  
29 the next twenty (20) years succeeding the taxable year in which the loss  
30 arises in order until exhausted. The election shall be made as under  
31 section 172(b)(3) of the Internal Revenue Code. An election under this  
32 subsection must be in the manner prescribed in the rules of the state tax  
33 commission and once made is irrevocable for the year in 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 means Idaho taxable in-  
17 come 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 Rev-  
14 enue 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 for any tax period ending on or prior  
30 to December 31, 2016, deduct the amount contributed to a college savings pro-  
31 gram but not more than four thousand dollars (\$4,000) per tax year. In the  
32 case of an individual and for any tax period starting on or after January 1,  
33 2017, deduct the amount contributed to a college savings program, but not  
34 more than six thousand dollars (\$6,000) per tax year. For those married and  
35 filing jointly, deduct the amount contributed to a college savings program,  
36 but not more than twice of that allowed for an individual. To be qualified  
37 for this deduction, the contribution must be made during the taxable year and  
38 made to an Idaho college savings program account as described in chapter 54,  
39 title 33, Idaho Code.

40 (o) In the case of an individual, add the amount of a nonqualified with-  
41 drawal from an individual trust account or savings account established pur-  
42 suant to chapter 54, title 33, Idaho Code, less any amount of such nonqual-  
43 ified withdrawal included in the individual's federal gross income pursuant  
44 to section 529 of the Internal Revenue Code. The addition provided in this  
45 subsection is limited to contributions previously exempt from Idaho state  
46 income tax and earnings generated from the program as long as the earnings  
47 are not already included in federal adjusted gross income.

48 (p) In the case of an individual, add the amount of a withdrawal from  
49 an individual trust account or savings account established pursuant to chap-  
50 ter 54, title 33, Idaho Code, transferred to a qualified tuition program, as

1 defined in section 529 of the Internal Revenue Code, that is operated by a  
2 state other than Idaho or to a qualified ABLE program as defined in section  
3 529A of the Internal Revenue Code. The addition provided in this subsection  
4 is limited to the amount of the contributions to the Idaho individual trust  
5 account or savings account by the account owner that was deducted on the ac-  
6 count owner's Idaho income tax return for the year of the transfer and the  
7 prior taxable year.