

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 471

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAX; AMENDING SECTION 63-3026A, IDAHO CODE, TO PROVIDE
2 FOR CONSTITUTING CERTAIN INCOME DISTRIBUTED TO BENEFICIARIES OF AN
3 ESTATE OR TRUST AS IDAHO SOURCE INCOME; DECLARING AN EMERGENCY AND
4 PROVIDING RETROACTIVE APPLICATION.
5

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

7 SECTION 1. That Section 63-3026A, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 63-3026A. COMPUTING IDAHO TAXABLE INCOME OF PART-YEAR OR NONRESIDENT
10 INDIVIDUALS, TRUSTS AND ESTATES. (1) For nonresident individuals, trusts,
11 or estates the term "Idaho taxable income" includes only those components
12 of Idaho taxable income as computed for a resident which are derived from
13 or related to sources within Idaho. This is to be computed without the
14 deductions for either the standard deduction or itemized deductions or
15 personal exemptions except as provided in subsection (4) of this section.

16 (2) For part-year resident individuals, trusts or estates the term
17 "Idaho taxable income" includes the total of: (a) Idaho taxable income as
18 computed for a resident for the portion of the tax period during which a
19 taxpayer is domiciled in or is residing in Idaho, plus (b) those components
20 of Idaho taxable income which are derived from or related to sources within
21 Idaho for that portion of the tax period during which a taxpayer is not
22 domiciled in and is not residing in Idaho. This is to be computed without
23 the deductions for either the standard deduction or itemized deductions or
24 personal exemptions except as provided in subsection (4) of this section.

25 (3) For the purposes of subsections (1) and (2) of this section:

26 (a) Income shall be considered derived from or relating to sources
27 within Idaho when such income is attributable to or resulting from:

28 (i) Any business, trade, profession or occupation conducted
29 or carried on in this state, including the distributive share of
30 partnership income and deductions, and the pro rata share of S
31 corporation income and deductions;

32 (ii) The ownership or disposition of any interest in real or
33 tangible personal property located in this state;

34 (iii) The ownership or disposition of any interest in intangible
35 personal property only to the extent that such property is
36 employed in a business, trade, profession or occupation conducted
37 or carried on in this state. Provided however, that interest
38 income from an installment sale of real or tangible personal
39 property shall constitute income from sources within this state
40 to the extent that the property sold was located within this
41 state. Provided further, that interest income received by a
42 partner or shareholder of a partnership or S corporation from

1 such partnership or S corporation shall constitute income from
2 sources within this state to the extent that the partnership or S
3 corporation is transacting business within this state;

4 (iv) A resident estate or trust; provided however, that income
5 distributed to beneficiaries of an estate or trust shall
6 constitute income from sources within this state only to the
7 extent the income would be Idaho source income if such income had
8 been received directly by a nonresident individual;

9 (v) A nonresident estate or trust to the extent the income and
10 deductions of the nonresident estate or trust were derived from or
11 related to sources within this state;

12 (vi) The conduct of pari-mutuel wagering, charitable gaming or
13 any other form of gambling taking place within this state, except
14 as expressly limited in section 67-7439, Idaho Code;

15 (vii) Gains or losses realized from the sale or other disposition
16 of a partnership interest or stock in an S corporation to
17 the extent of the partnership's or S corporation's Idaho
18 apportionment factor in the taxable year immediately preceding
19 the year of sale.

20 (b) Notwithstanding the provisions of subsection (3)(a) of this
21 section, transactions and investments made, placed or directed by
22 Idaho resident registered broker-dealers and investment advisers or
23 institutions exempt from registration under the Idaho securities act
24 in securities listed with or through the New York Stock Exchange, the
25 American Stock Exchange or any other stock exchange registered with
26 the United States securities and exchange commission and approved by
27 the director of the department of finance which generate dividends,
28 interest, capital gains or similar profits or returns for nonresidents
29 not otherwise subject to Idaho income taxation shall not result in the
30 intangible property being deemed to have a situs outside the domicile of
31 the owner.

32 (c) Nonresident individuals shall not be taxable on investment
33 income from a qualified investment partnership. For purposes of this
34 paragraph, a "qualified investment partnership" means a partnership,
35 as defined in section 63-3006B, Idaho Code, that derives at least ninety
36 percent (90%) of its gross income from investments that produce income
37 that would not be taxable to a nonresident individual if the investment
38 were held by that individual.

39 (d) Compensation paid by the United States for active service in the
40 armed forces of the United States, performed by an individual not
41 domiciled in this state, shall not constitute income derived from or
42 related to sources within this state.

43 (e) The income of nonresident or part-year resident individuals,
44 trusts or estates which is derived from or related to sources both
45 within and without this state shall be attributable to this state in the
46 manner prescribed in the rules of the state tax commission.

47 (4) In computing the Idaho taxable income of a part-year or nonresident
48 individual, trust or estate, the standard deduction or itemized deductions,
49 as defined in section 63-3022(j), Idaho Code, if applicable, and the
50 exemptions, as defined in section 151 of the Internal Revenue Code or any

1 allowance in lieu of such deduction, shall be allowed in the proportion that
2 paragraph (a) of this subsection bears to paragraph (b) of this subsection:

3 (a) The Idaho taxable income of the taxpayer modified as follows:

4 (i) No allowance shall be made for either the standard deduction
5 or itemized deductions;

6 (ii) No deduction shall be made for personal exemptions or any
7 allowance in lieu of such deduction.

8 (b) The Idaho taxable income as would be calculated for a resident of
9 Idaho modified as follows:

10 (i) No allowance shall be made for either a standard deduction or
11 itemized deductions;

12 (ii) No deduction shall be made for personal exemptions or any
13 allowance in lieu of such deduction;

14 (iii) Compensation for active military service in the armed forces
15 shall not be deducted;

16 (iv) Income earned within the original exterior boundaries of
17 any federally created Indian reservation by an enrolled Indian
18 in a federally recognized Indian tribe on a federally recognized
19 Indian reservation shall be added if not otherwise included.

20 (5) An adjustment may be made to eliminate distortions in the amount
21 of net income attributable to a taxpayer's activities within the state
22 of Idaho. Such deductions shall be limited to circumstances involving
23 itemized deductions as referred to in subsection (4) of this section and
24 which reflect:

25 (a) A failure to reflect the net income or deduction after
26 reimbursements have been received; or

27 (b) A failure to reflect the net amount of mortgage interest income or
28 expense from activities within Idaho.

29 (6) For the purposes of subsections (1) and (2) of this section,
30 deductions and adjustments allowed in computing the Idaho taxable income of
31 nonresident and part-year resident individuals, trusts and estates shall
32 be prescribed in the rules of the state tax commission. Such rules shall be
33 based upon:

34 (a) Whether or not the deduction or adjustment is related to the
35 production of income reportable to Idaho;

36 (b) Whether or not the deduction or adjustment is related to income
37 received, expenses paid, or events of tax consequence which occurred
38 during a portion of a taxable year that the taxpayer was domiciled in or
39 residing in Idaho; or

40 (c) Any other appropriate basis for making the adjustment. An
41 "appropriate basis" is one which the state tax commission finds is
42 needed to insure that the amount of Idaho taxable income is fairly and
43 reasonably related to a taxpayer's activities in this state.

44 SECTION 2. An emergency existing therefor, which emergency is hereby
45 declared to exist, this act shall be in full force and effect on and after
46 its passage and approval, and retroactively to January 1, 2010, and shall
47 apply to all proceedings pending before the State Tax Commission, Board of
48 Tax Appeals or the courts of this state on the effective date of this act.