

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 364

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAX; AMENDING SECTION 63-3022A, IDAHO CODE, TO CLARIFY THE DEDUCTION FOR RETIREMENT BENEFITS PAID TO CERTAIN RETIRED POLICE OFFICERS AND REVISING THE DEFINITION OF "DISABLED"; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

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

63-3022A. DEDUCTION OF CERTAIN RETIREMENT BENEFITS. (a) An amount specified by subsection (b) of this section of the following retirement benefits may be deducted by an individual from taxable income if such individual has either attained age sixty-five (65) years, or has attained age sixty-two (62) years and is classified as disabled:

(1) Retirement annuities paid by the United States of America to a retired civil service employee or the unremarried widow or widower of a retired civil service employee.

(2) Retirement benefits paid from the firemen's retirement fund of the state of Idaho to a retired fireman or the unremarried widow or widower of a retired fireman.

(3) Retirement benefits paid ~~from the policemen's retirement fund of a city within this state to a retired policeman or the unremarried widow of a retired policeman~~ to a retired Idaho city police officer:

(i) By a city or its agent in regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by a city in this state; or

(ii) In regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by the public employee retirement system of Idaho; or

(iii) By the public employee retirement system of Idaho to a retired police officer in regard to Idaho employment not included in the federal social security retirement system; or

(iv) An unremarried widow or widower of a person described in subparagraph (i), (ii) or (iii) of this paragraph.

(4) Retirement benefits paid by the United States of America to a retired member of the military services of the United States or the unremarried widow of such member.

(b) The amount of retirement benefits that may be deducted from taxable income shall be an amount not in excess of maximum retirement benefits under the social security act, as amended, on the date on which this act is passed and approved, including adjustments to be made based upon consumer price index adjustments provided in section 215 of the social security act. The state tax commission shall ascertain benefit changes made in accordance

1 with the social security act and publish the appropriate deduction amounts  
2 provided by this section reflecting such changes annually. Maximum retire-  
3 ment benefits under the social security act shall mean:

4 (1) In the case of a taxpayer who files a joint return with his spouse  
5 for the tax year, an amount equal to the maximum social security bene-  
6 fits payable for the tax year to a person attaining full retirement age  
7 in the tax year who has earned the maximum earnings creditable under so-  
8 cial security for the years used in the computation of his benefits, and  
9 whose spouse has no social security benefits except those payable on his  
10 record of earnings.

11 (2) In the case of a taxpayer who is not married, an amount equal to max-  
12 imum social security benefits payable for the tax year to a person at-  
13 taining full retirement age in the tax year who has earned the maximum  
14 earnings creditable under social security for the years used in the com-  
15 putation of his benefits.

16 (3) In the case of an unremarried widow, an amount equal to the maximum  
17 social security benefits payable for the tax year to a widow attaining  
18 full retirement age in the tax year who has no social security benefits  
19 except those to which she is entitled on her deceased husband's record  
20 and whose husband had received no reduced retirement benefits prior to  
21 his death and whose husband had earned the maximum earnings creditable  
22 under social security for the years used in the computation of his bene-  
23 fits under social security.

24 (4) Maximum retirement benefits shall, in every case, take into con-  
25 sideration and be adjusted to reflect adjustments that would be made to  
26 such amounts had they been received as social security benefits as the  
27 result of the receipt of earnings in excess of earnings limitations.  
28 The terms in this paragraph are those defined in the social security  
29 act.

30 (5) Taxpayers not described in paragraphs (1), (2), (3) and (4) of this  
31 subsection may not deduct any amount of retirement benefits under this  
32 section.

33 (c) The total deduction under this section may not exceed the total  
34 amount of retirement benefits or annuities which are described in subsection  
35 (a) of this section and which are included in the taxpayer's gross income in  
36 the tax year. If the taxpayer or the taxpayer's spouse receives retirement  
37 benefits under the federal railroad retirement act or the federal social  
38 security act in the tax year, then the amount of any retirement annuities  
39 computed under subsection (b) of this section shall be reduced by the amount  
40 of such federal railroad retirement act and federal social security act re-  
41 tirement benefits received by either the taxpayer or the taxpayer's spouse,  
42 and the lesser of the amount so computed or the total amount of retirement  
43 benefits or annuities which are described in subsection (a) of this section  
44 and which are included in the taxpayer's gross income shall constitute the  
45 allowable deduction. Furthermore, the allowable deduction as calculated  
46 under this section may be subject to additional limitations under section  
47 63-3026A(6), Idaho Code, and the rules promulgated thereunder.

48 ~~(d) As used in this section, the word "widow" shall include a widower.~~

49 ~~(e)~~ As used in this section, the word "disabled" shall mean an individ-  
50 ual who is a disabled person described in section 63-701, Idaho Code or an in-

1 dividual who qualifies as a person with a "permanent disability" under sec-  
2 tion 49-117(7) (b) (iv), Idaho Code.

3 SECTION 2. An emergency existing therefor, which emergency is hereby  
4 declared to exist, this act shall be in full force and effect on and after its  
5 passage and approval, and retroactively to January 1, 2012.