

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 634

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; AMENDING SECTION 63-3029, IDAHO CODE, TO CLARIFY
2 THE CREDIT FOR TAXES PAID TO OTHER STATES; DECLARING AN EMERGENCY AND
3 PROVIDING RETROACTIVE APPLICATION.
4

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

6 SECTION 1. That Section 63-3029, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 63-3029. CREDIT FOR INCOME TAXES PAID ANOTHER STATE. (1) A resident
9 individual shall be allowed a credit against the tax otherwise due under this
10 chapter for the amount of any income tax imposed on the individual, an S cor-
11 poration, partnership, limited liability company, estate or trust of which
12 the individual is a shareholder, partner, member, or beneficiary (to the ex-
13 tent attributable to the individual as a result of the individual's share of
14 the S corporation's, partnership's, limited liability company's, estate's
15 or trust's taxable income in another state), for the taxable year by another
16 state on income derived from sources therein while domiciled in Idaho and
17 that is also subject to tax under this chapter.

18 (2) For purposes of this section:

19 (a) "State" shall include any state of the United States, the District
20 of Columbia, or any possession or territory of the United States.

21 (b) Except as provided in subsection (3) (a) (i) of this section, "indi-
22 vidual" shall include estates and trusts.

23 (c) References to "domiciled in" shall mean "a resident of" for pur-
24 poses of computing the credit for trusts and estates.

25 (3) (a) Except as provided in subsection (3) (b) of this section:

26 (i) The credit provided under this section to an individual shall
27 not exceed the proportion of the tax otherwise due under this chap-
28 ter that the amount of the adjusted gross income of the taxpayer
29 derived from sources in the other state as modified by this chapter
30 bears to the adjusted gross income of the taxpayer as modified by
31 this chapter.

32 (ii) The credit provided under this section to an estate or trust
33 shall not exceed the proportion of the tax otherwise due under this
34 chapter that the amount of the federal total income of the estate
35 or trust derived from sources in the other state and taxed by that
36 state bears to the federal total income of the estate or trust.
37 "Federal total income of the estate or trust derived from sources
38 in the other state" shall be determined as provided under section
39 63-3026A, Idaho Code, as if the estate or trust was a nonresident.

40 (b) When tax is paid to another state on income of an S corporation,
41 partnership, limited liability company, estate or trust, the limita-
42 tion calculated in subsection (3) (a) of this section with respect to

1 that income shall be based on the proportion that the individual tax-
 2 payer's share of the entity's taxable income correctly reported to the
 3 other state under the laws of the other state bears to the individual's
 4 adjusted gross income, as modified by this chapter. This limitation
 5 shall apply whether the tax is paid to the other state by the individual
 6 or by the S corporation, partnership, limited liability company, estate
 7 or trust.

8 (c) The credit provided under this section shall further be limited to
 9 the tax paid to the other state.

10 (4) To substantiate the credit allowed under this section, the state
 11 tax commission may require a copy of any receipt showing payment of income
 12 taxes to the other state or a copy of any return or returns filed with such
 13 other state, or both.

14 (5) No credit allowed under this section shall be applied in calculat-
 15 ing tax due under this chapter if the tax upon which the credit is based has
 16 been claimed as a deduction, unless the tax is restored to income on the Idaho
 17 return.

18 (6) The credit shall not be allowed if such other state allows a credit
 19 against taxes imposed by such state for taxes paid or payable under this
 20 chapter.

21 (7) For purposes of this section an income tax imposed on an S corpora-
 22 tion, partnership, limited liability company, estate or trust includes:

23 (a) A direct tax imposed upon the income for the taxable year of the S
 24 corporation, partnership, limited liability company, estate or trust;
 25 and

26 (b) An excise or franchise tax that is measured by the income for the
 27 taxable year of the S corporation, partnership, limited liability com-
 28 pany, estate or trust.

29 (8) For purposes of subsection (7) of this section, an excise or fran-
 30 chise tax is "measured by income" only if the statute imposing the excise or
 31 franchise tax provides that the base for the tax:

32 (a) Includes:

33 (i) Revenue from sales;

34 (ii) Revenue from services rendered; and

35 (iii) Income from investments; and

36 (b) Permits a deduction for one (1) or both of the following:

37 (i) The cost of goods sold, inventory or products with respect to
 38 revenue from sales; and

39 (ii) The cost of services rendered with respect to revenue from
 40 services rendered.

41 (9) A part-year resident is entitled to a credit, determined in the man-
 42 ner prescribed by the state tax commission, for income taxes paid to another
 43 state in regard to income which is:

44 (a) Earned while the taxpayer is domiciled or residing in this state;
 45 and

46 (b) Subject to tax in such other state.

47 (10) If the interest in an S corporation, partnership, limited liabil-
 48 ity company, estate or trust was held for less than the entire taxable year,
 49 the share attributable to the individual shall be allocated in the same man-
 50 ner as for federal purposes.

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