

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 4

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, TO REVISE
2 CERTAIN ADJUSTMENTS TO TAXABLE INCOME REGARDING STATE AND LOCAL TAXES;
3 AMENDING SECTION 63-3022A, IDAHO CODE, TO PROVIDE THAT DEDUCTIONS AP-
4 PLY TO WIDOWERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
5 63-3022B, IDAHO CODE, TO PROVIDE THAT THE RESIDENCE MUST BE THE PRIMARY
6 RESIDENCE AND LOCATED IN THE STATE OF IDAHO; AMENDING SECTION 63-3022J,
7 IDAHO CODE, TO PROVIDE THAT A DEDUCTION FOR TECHNOLOGICAL EQUIPMENT
8 DONATIONS CANNOT EXCEED THE TAXPAYER'S COST OF THE TECHNOLOGICAL EQUIP-
9 MENT DONATED NOR REDUCE IDAHO TAXABLE INCOME TO LESS THAN ZERO; AMENDING
10 SECTION 63-3072, IDAHO CODE, TO PROVIDE APPLICATIONS TO AMOUNTS PAID
11 AS BACKUP WITHHOLDING; DECLARING AN EMERGENCY, PROVIDING RETROACTIVE
12 APPLICATION AND PROVIDING EFFECTIVE DATES.
13

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

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

17 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-
18 tions set forth in this section, and in sections 63-3022A through 63-3022Q,
19 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-
20 able income:

21 (a) Add any state and local taxes, as defined in section 164 of the
22 Internal Revenue Code ~~and~~, that are measured by net income, or for which a
23 credit is allowable under section 63-3029, Idaho Code, and paid or accrued
24 during the taxable year adjusted for state or local tax refunds used in ar-
25 riving at taxable income.

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

28 (c) (1) A net operating loss for any taxable year commencing on and
29 after January 1, 2000, shall be a net operating loss carryback not to
30 exceed a total of one hundred thousand dollars (\$100,000) to the two (2)
31 immediately preceding taxable years. Any portion of the net operat-
32 ing loss not subtracted from income in the two (2) preceding years may
33 be subtracted from income in the next twenty (20) years succeeding the
34 taxable year in which the loss arises in order until exhausted. The sum
35 of the deductions may not exceed the amount of the net operating loss
36 deduction incurred. At the election of the taxpayer, the two (2) year
37 carryback may be foregone and the loss subtracted from income received
38 in taxable years arising in the next twenty (20) years succeeding the
39 taxable year in which the loss arises in order until exhausted. The
40 election shall be made as under section 172(b)(3) of the Internal Rev-
41 enue Code. An election under this subsection must be in the manner
42 prescribed in the rules of the state tax commission and once made is

1 irrevocable for the year in which it is made. The term "income" as used
2 in this subsection (c) means Idaho taxable income as defined in this
3 chapter as modified by section 63-3021(b) (2), (3) and (4), Idaho Code.

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

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

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

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

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

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

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

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

1 under this section, deduction shall not be allowed for a carryover or carry-
2 back of a net operating loss provided for in subsection (c) of this section
3 or a capital loss or passive loss provided for in section 1212 of the Internal
4 Revenue Code.

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

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

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

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

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

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

23 (n) In the case of an individual, deduct the amount contributed to a
24 college savings program pursuant to chapter 54, title 33, Idaho Code, but not
25 more than four thousand dollars (\$4,000) per tax year. If the contribution
26 is made on or before April 15, 2001, it may be deducted for tax year 2000 and
27 an individual can make another contribution and claim the deduction accord-
28 ing to the limits provided in this subsection during 2001 for tax year 2001,
29 as long as the contribution is made on or before December 31, 2001.

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

35 (p) In the case of an individual, add the amount of a withdrawal from an
36 individual trust account or savings account established pursuant to chapter
37 54, title 33, Idaho Code, transferred to a qualified tuition program, as de-
38 fined in section 529 of the Internal Revenue Code, that is operated by a state
39 other than Idaho. The addition provided in this subsection is limited to the
40 amount of the contributions to the Idaho individual trust account or savings
41 account by the account owner that were deducted on the account owner's income
42 tax return for the year of the transfer and the prior taxable year.

43 SECTION 2. That Section 63-3022A, Idaho Code, be, and the same is hereby
44 amended to read as follows:

45 63-3022A. DEDUCTION OF CERTAIN RETIREMENT BENEFITS. (a) An amount
46 specified by subsection (b) of this section of the following retirement ben-
47 efits may be deducted by an individual from taxable income if such individual
48 has either attained age sixty-five (65) years, or has attained age sixty-two
49 (62) years and is classified as disabled:

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

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

7 (3) Retirement benefits paid to a retired Idaho city police officer:

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

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

14 (iii) By the public employee retirement system of Idaho to a re-
15 tired police officer in regard to Idaho employment not included in
16 the federal social security retirement system; or

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

19 (4) Retirement benefits paid by the United States of America to a re-
20 tired member of the military services of the United States or the unre-
21 married widow or widower of such member.

22 (b) The amount of retirement benefits that may be deducted from tax-
23 able income shall be an amount not in excess of maximum retirement benefits
24 under the social security act, as amended, on the date on which this act is
25 passed and approved, including adjustments to be made based upon consumer
26 price index adjustments provided in section 215 of the social security act.
27 The state tax commission shall ascertain benefit changes made in accordance
28 with the social security act and publish the appropriate deduction amounts
29 provided by this section reflecting such changes annually. Maximum retire-
30 ment benefits under the social security act shall mean:

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

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

43 (3) In the case of an unremarried widow or widower, an amount equal to
44 the maximum social security benefits payable for the tax year to a widow
45 or widower attaining full retirement age in the tax year who has no so-
46 cial security benefits except those to which he or she is entitled on his
47 or her deceased husband's spouse's record and whose husband spouse
48 had received no reduced retirement benefits prior to his or her death and
49 whose husband spouse had earned the maximum earnings creditable under

1 social security for the years used in the computation of his or her bene-
2 fits under social security.

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

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

12 (c) The total deduction under this section may not exceed the total
13 amount of retirement benefits or annuities which are described in subsection
14 (a) of this section and which are included in the taxpayer's gross income in
15 the tax year. If the taxpayer or the taxpayer's spouse receives retirement
16 benefits under the federal railroad retirement act or the federal social
17 security act in the tax year, then the amount of any retirement annuities
18 computed under subsection (b) of this section shall be reduced by the amount
19 of such federal railroad retirement act and federal social security act re-
20 tirement benefits received by either the taxpayer or the taxpayer's spouse,
21 and the lesser of the amount so computed or the total amount of retirement
22 benefits or annuities which are described in subsection (a) of this section
23 and which are included in the taxpayer's gross income shall constitute the
24 allowable deduction. Furthermore, the allowable deduction as calculated
25 under this section may be subject to additional limitations under section
26 63-3026A(6), Idaho Code, and the rules promulgated thereunder.

27 (d) As used in this section, the word "disabled" shall mean an indi-
28 vidual who is a disabled person described in section 63-701, Idaho Code, or
29 an individual who qualifies as a person with a "permanent disability" under
30 section 49-117(7) (b) (iv), Idaho Code.

31 SECTION 3. That Section 63-3022B, Idaho Code, be, and the same is hereby
32 amended to read as follows:

33 63-3022B. DEDUCTION FOR ENERGY EFFICIENCY UPGRADES. (1) An individ-
34 ual taxpayer may deduct from taxable income an amount actually paid or ac-
35 crued by the individual taxpayer during the taxable year for the actual in-
36 stallation of energy efficiency upgrade measures within any existing resi-
37 dence. As used in this section, "existing residence" means any residence in
38 the state of Idaho that serves as the primary place of residence of the indi-
39 vidual taxpayer in being, under construction, or subject to an outstanding
40 legal building permit on or before January 1, 2002.

41 (2) As used in this section:

42 (a) "Energy efficiency upgrade measure" means an energy efficiency im-
43 provement to the building envelope or duct system that meets or exceeds
44 the minimum value for the improved component established by the version
45 of the international energy conservation code (IECC) in effect in Idaho
46 during the taxable year in which the improvement is made or accrued.

47 (b) "Energy efficiency upgrade measure" includes:

48 (i) Insulation that shall be added to existing insulation not in
49 replacement of existing insulation;

- 1 (ii) Windows that may replace less efficient existing windows;
 2 (iii) Storm windows;
 3 (iv) Weather stripping and caulking; and
 4 (v) Duct sealing and insulation. Duct sealing requires mechani-
 5 cal fastening of joints and mastic sealant.

6 SECTION 4. That Section 63-3022J, Idaho Code, be, and the same is hereby
 7 amended to read as follows:

8 63-3022J. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) ~~For~~
 9 ~~taxable years commencing on and after January 1, 1985, a~~Any individual or
 10 corporation may deduct from taxable income an amount equal to the fair mar-
 11 ket value of technological equipment donated to public elementary or public
 12 secondary schools, private elementary or private secondary schools, public
 13 universities, private universities, public colleges, private colleges,
 14 public community colleges, private community colleges, public technical
 15 colleges or private technical colleges, or public libraries and library
 16 districts located within the state of Idaho, except that the amount of the
 17 deduction shall not exceed the amount of the taxpayer's cost of the tech-
 18 nological equipment donated nor reduce Idaho taxable income to less than
 19 zero. The deduction allowed pursuant to this section shall be in addition
 20 to any other deduction allowed pursuant to this chapter. In order to take
 21 the deduction pursuant to this section, the taxpayer shall receive a written
 22 statement from the donee in which the donee agrees to accept the technolog-
 23 ical equipment donated.

24 (2) For the purposes of this section, "technological equipment" means
 25 a computer, computer software, scientific equipment or apparatus to be used
 26 by the university, college, community college, technical college, school
 27 or library directly or indirectly in the education program of the univer-
 28 sity, college, community college, technical college, school or library and
 29 which is donated to the university, college, community college, technical
 30 college, school or library no later than five (5) years after its manufacture
 31 has been substantially completed.

32 (3) For the purposes of this section, a public elementary or public sec-
 33 ondary school means one that is located within this state and receives fund-
 34 ing pursuant to chapter 10, title 33, Idaho Code.

35 (4) For purposes of this section, a private elementary or private sec-
 36 ondary school means one that is located within this state and is operated on a
 37 nonprofit basis.

38 (5) For the purposes of this section, a public library or library dis-
 39 trict means one that is located within this state and receives funding pur-
 40 suant to chapters 26 and 27, title 33, Idaho Code.

41 (6) For purposes of this section, a public university, public college,
 42 public community college or public technical college means one that is lo-
 43 cated within this state and receives an appropriation from the legislature.

44 (7) For purposes of this section, a private university, private col-
 45 lege, private community college or private technical college means one that
 46 is located within this state and is operated on a nonprofit basis.

47 (8) The state tax commission shall promulgate rules to administer the
 48 provisions of this section. The rules shall be promulgated in compliance
 49 with chapter 52, title 67, Idaho Code.

1 SECTION 5. That Section 63-3072, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 63-3072. CREDITS AND REFUNDS. (a) Subject to the provisions of subsec-
4 tions (b), (c) and (h) of this section, where there has been an overpayment
5 of the tax imposed by the provisions of this chapter, the amount of such over-
6 payment shall be credited against any tax administered by the state tax com-
7 mission which tax is then due from the taxpayer, and any balance of such ex-
8 cess shall be refunded to the taxpayer.

9 (b) Except in regard to amounts withheld as provided in section
10 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated
11 payments under section 63-3036A, Idaho Code, or amounts paid as backup with-
12 holding under section 63-3036B, Idaho Code, a claim for credit or refund of
13 tax, penalties, or interest paid shall be made within the later of three (3)
14 years of the due date of the return, without regard to extensions, or three
15 (3) years from the date the return was filed. However, with regard to remit-
16 tances received with an extension of time to file, or a tentative return, a
17 claim for credit or refund of such remittances shall be made within three (3)
18 years from the due date of the return without regard to extensions.

19 (c) With regard to amounts withheld as provided in section 63-3035,
20 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under
21 section 63-3036A, Idaho Code, or amounts paid as backup withholding under
22 section 63-3036B, Idaho Code, a claim for credit or refund shall be made
23 within three (3) years from the due date of the return, without regard to
24 extensions, for the taxable year in respect to which the tax was withheld or
25 paid. However, with regard to an individual who is entitled to an extension
26 of time as provided in section 7508 of the Internal Revenue Code, the three
27 (3) year period provided in this subsection for claiming a credit or refund
28 shall be extended by the number of days disregarded under section 7508 of the
29 Internal Revenue Code.

30 (d) Notwithstanding any other provisions of this section, when Idaho
31 taxable income and/or tax credits for any taxable year have been adjusted
32 as a result of a final federal determination, the period of limitations for
33 claiming a refund or credit of tax, penalties, or interest shall be reopened
34 and shall not expire until the later of one (1) year from the date of deliv-
35 ery of the final federal determination to the taxpayer by the internal rev-
36 enue service, three (3) years from the due date of the return, without regard
37 to extensions, or three (3) years from the date the return was filed. For
38 purposes of this subsection, the term "final federal determination" shall
39 mean the final resolution of all issues which were adjusted by the inter-
40 nal revenue service. When the final federal determination is submitted, the
41 taxpayer shall also submit copies of all schedules and written explanations
42 provided by the internal revenue service. Upon the expiration of the period
43 of limitations as provided in subsections (b) and (h) of this section, only
44 those specific items of income, deductions, gains, losses or credits which
45 were adjusted in the final federal determination shall be subject to adjust-
46 ment for purposes of recomputing Idaho income, deductions, gains, losses,
47 credits, and the effect of such adjustments on Idaho allocations and appor-
48 tionments.

1 (e) If a claim for credit or refund relates to an overpayment attribut-
2 able to a net operating loss carryback or a capital loss carryback, in lieu of
3 the period of limitations prescribed in subsection (b) of this section, the
4 period shall be that period which ends with the expiration of the fifteenth
5 day of the fortieth month following the end of the taxable year of the net op-
6 erating loss or capital loss which results in such carryback.

7 (f) If an adjustment, which was made within the period of limitations
8 as provided in this section, affects the amount of tax credit, net operating
9 loss, or capital loss, claimed in a taxable year other than the tax year in
10 which the adjustment is made, then adjustments to the credit, net operating
11 loss, or capital loss, claimed in such other tax year may be made and a claim
12 for credit or refund of tax, penalties or interest may be made even though
13 such claim would otherwise be barred under the provisions of this section.

14 (g) In the case of a duplicate return filed under section 63-217(1)(b),
15 Idaho Code, the limitations under this section shall be the later of one (1)
16 year from the filing of the duplicate return or the date otherwise applicable
17 under this section.

18 (h) Prior to the expiration of the time prescribed in this section for
19 credit or refund of any tax imposed by the provisions of this chapter, both
20 the state tax commission or its delegate or deputy and the taxpayer may con-
21 sent in writing to extend such period of time. The period so agreed upon may
22 be extended by subsequent agreements in writing made before the expiration
23 of the period previously agreed upon. When a pass-through entity extends the
24 period of limitations in accordance with the provisions of this subsection
25 the period of limitations for the other taxpayers is automatically extended
26 for the same period for the purpose of claiming a credit or refund of tax,
27 penalties or interest by the other taxpayers reflecting the pass-through en-
28 tity adjustments.

29 (i) The expiration of the period of limitations as provided in this sec-
30 tion shall be suspended for the time period between the issuance by the state
31 tax commission of a notice under either section 63-3045 or 63-3065, Idaho
32 Code, and the final resolution of any proceeding resulting from the notice.

33 (j) Appeal of a state tax commission decision denying in whole or in
34 part a claim for credit or refund shall be made in accordance with and within
35 the time limits prescribed in section 63-3049, Idaho Code.

36 (k) For purposes of this section, "return" includes a notice of defi-
37 ciency determination issued by the state tax commission when no return was
38 filed by the taxpayer. Such a return is deemed filed on the date the taxes de-
39 termined by the state tax commission are assessed.

40 SECTION 6. An emergency existing therefor, which emergency is hereby
41 declared to exist, Sections 1, 2, 4 and 5 of this act shall be in full force
42 and effect on and after passage and approval, and retroactively to January
43 1, 2013. Section 3 of this act shall be in full force and effect on and after
44 passage and approval, and retroactively to January 1, 2012.