

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 369

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXATION; AMENDING SECTION 63-3015, IDAHO CODE, TO REVISE
2 CRITERIA FOR DETERMINING THE RESIDENCY OF AN ESTATE OR TRUST AND TO MAKE
3 A TECHNICAL CORRECTION; DECLARING AN EMERGENCY AND PROVIDING RETROAC-
4 TIVE APPLICATION.
5

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

7 SECTION 1. That Section 63-3015, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 63-3015. ~~QUALIFIED FUNERAL ESTATES AND TRUSTS.~~ (1) An estate is
10 treated as a resident estate if the decedent was domiciled in Idaho on the
11 date of death. If the estate is the estate of a decedent, it is treated as a
12 resident estate if the person for whom the estate was created is a resident
13 of Idaho.

14 (2) A trust, other than a qualified funeral trust, is treated as a res-
15 ident trust if three (3) or more of the following conditions existed for the
16 entire taxable year:

17 (a) The domicile or residency of the grantor is in Idaho;

18 (b) The trust is governed by Idaho law;

19 (c) The trust has real or tangible personal property located in Idaho;

20 (d) The domicile or residency of the trustee is in Idaho;

21 (e) The administration of the trust takes place in Idaho. Administra-
22 tion of the trust includes conducting trust business, investing trust
23 assets, making administrative decisions, recordkeeping and prepara-
24 tion and filing of tax returns.

25 (3) A trust, other than a qualified funeral trust, is treated as a part-
26 year resident trust each day of the taxable year during which three (3) or
27 more of the conditions specified in subsection (2) of this section existed.

28 (4) ~~A resident of this state includes a trust whose qualified funeral~~
29 ~~trust is treated as a resident trust if its trustee has elected treatment as a~~
30 ~~qualified funeral trust pursuant to section 685 of the Internal Revenue Code~~
31 ~~where, at the time of the initial funding of the trust, the trust is required~~
32 ~~to be established under the laws of this state, or, in the absence of such a~~
33 ~~requirement, where a funeral home or cemetery located in this state is iden-~~
34 ~~tified to provide the services or merchandise, or both, under the terms of a~~
35 ~~preneed contract requiring the establishment of the trust.~~

36 (25) Qualified funeral trusts having a single trustee may file a sin-
37 gle, composite return pursuant to rules of the state tax commission. Each
38 beneficiary's interest in a qualified funeral trust included in the compos-
39 ite return under this section shall be taxed as a separate trust for the pur-
40 poses of application of the rate schedules in section 63-3024, Idaho Code,
41 and determination of the filing requirement in section 63-3030, Idaho Code.

1 The composite return shall not be a return of a person under section 63-3082,
2 Idaho Code.

3 (6) If the estate does not qualify as a resident estate, it is treated as
4 a nonresident estate.

5 (7) If the trust does not qualify as a resident or part-year resident
6 trust, it is treated as a nonresident trust.

7 (8) For purposes of determining residency status of a trust, no dis-
8 tinction is made between inter vivos trusts and testamentary trusts or be-
9 tween revocable trusts and irrevocable trusts.

10 SECTION 2. An emergency existing therefor, which emergency is hereby
11 declared to exist, this act shall be in full force and effect on and after its
12 passage and approval, and retroactively to January 1, 2013.