

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 374

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022, IDAHO CODE, TO CLAR-
2 IFY THAT A NET OPERATING LOSS CARRYBACK IS LIMITED TO FIFTY THOUSAND
3 DOLLARS FOR AN INDIVIDUAL FILING AS MARRIED FILING SEPARATE IN THE
4 YEAR OF THE LOSS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION
5 63-3025B, IDAHO CODE, TO ADD A REFERENCE TO THE INTERNAL REVENUE CODE
6 RELATING TO FAILURE TO FILE A RETURN, TO CORRECT A CITE REFERENCE AND
7 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3033, IDAHO CODE,
8 TO PROVIDE A CORRECT CITATION; DECLARING AN EMERGENCY AND PROVIDING
9 RETROACTIVE APPLICATION.
10

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

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

14 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-
15 tions set forth in this section, and in sections 63-3022A through 63-3022R,
16 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-
17 able income:

18 (a) Add any state and local taxes, as defined in section 164 of the In-
19 ternal Revenue Code that are measured by net income, or for which a credit is
20 allowable under section 63-3029, Idaho Code, and paid or accrued during the
21 taxable year adjusted for state or local tax refunds used in arriving at tax-
22 able income.

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

25 (c) (1) A net operating loss for any taxable year commencing on and af-
26 ter January 1, 2000, but before January 1, 2013, shall be a net oper-
27 ating loss carryback not to exceed a total of one hundred thousand dol-
28 lars (\$100,000) to the two (2) immediately preceding taxable years. At
29 the election of the taxpayer, the two (2) year carryback may be foregone
30 and the loss subtracted from income received in taxable years arising in
31 the next twenty (20) years succeeding the taxable year in which the loss
32 arises in order until exhausted. The election shall be made as under
33 section 172(b)(3) of the Internal Revenue Code. An election under this
34 subsection must be in the manner prescribed in the rules of the state tax
35 commission and once made is irrevocable for the year in which it is made.

36 (2) A net operating loss for any taxable year commencing on or after
37 January 1, 2013, shall be a net operating loss carryback not to exceed
38 a total of one hundred thousand dollars (\$100,000) to the two (2) imme-
39 diately preceding taxable years only if an amended return carrying the
40 loss back is filed within one (1) year of the end of the taxable year of
41 the net operating loss that results in such carryback.

1 (3) Any portion of the net operating loss not subtracted from income in
2 the two (2) preceding years may be subtracted from income in the next
3 twenty (20) years succeeding the taxable year in which the loss arises
4 in order until exhausted. The sum of the deductions may not exceed the
5 amount of the net operating loss deduction incurred. The carryback
6 shall be limited to a total of fifty thousand dollars (\$50,000) in the
7 case of an individual filing as married filing separate in the year of
8 the loss.

9 (4) Net operating losses incurred by a corporation during a year in
10 which such corporation did not transact business in Idaho or was not
11 included in a group of corporations combined under subsection (t) of
12 section 63-3027, Idaho Code, may not be subtracted. However, if at
13 least one (1) corporation within a group of corporations combined under
14 subsection (t) of section 63-3027, Idaho Code, was transacting business
15 in Idaho during the taxable year in which the loss was incurred, then the
16 net operating loss may be subtracted. Net operating losses incurred by
17 a person, other than a corporation, in activities not taxable by Idaho
18 may not be subtracted.

19 (5) The term "income" as used in this subsection (c) means Idaho taxable
20 income as defined in this chapter as modified by section 63-3021 (b) (2),
21 (3) and (4), Idaho Code.

22 (d) In the case of a corporation, add the amount deducted under the pro-
23 visions of sections 243(a) and (c), 244, 245 and 246A of the Internal Revenue
24 Code (relating to dividends received by corporations) as limited by section
25 246(b) (1) of said code.

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

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

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

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

36 (2) Net operating losses attributable to a beneficiary of a trust or es-
37 tate under section 642 of the Internal Revenue Code shall be a deduction
38 for the beneficiary to the extent that income from the trust or estate
39 would be attributable to this state under the provisions of this chap-
40 ter.

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

48 (i) In the case of a corporation, including any corporation included
49 in a group of corporations combined under subsection (t) of section 63-3027,
50 Idaho Code, add any capital loss or passive loss deducted which loss was in-

1 curred during any year in which such corporation did not transact business in
2 Idaho. However, do not add any capital loss deducted if a corporation, in-
3 cluding any corporation in a group of corporations combined under subsection
4 (t) of section 63-3027, Idaho Code, was transacting business in Idaho dur-
5 ing the taxable year in which the loss was incurred. In the case of persons
6 other than corporations, add any capital loss or passive loss deducted which
7 was incurred in activities not taxable by Idaho at the time such loss was in-
8 curred. In computing the income taxable to an S corporation or partnership
9 under this section, deduction shall not be allowed for a carryover or carry-
10 back of a net operating loss provided for in subsection (c) of this section, a
11 passive loss or a capital loss ~~or passive loss~~ provided for in section 1212 of
12 the Internal Revenue Code.

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

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

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

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

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

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

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

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

43 (p) In the case of an individual, add the amount of a withdrawal from an
44 individual trust account or savings account established pursuant to chapter
45 54, title 33, Idaho Code, transferred to a qualified tuition program, as de-
46 fined in section 529 of the Internal Revenue Code, that is operated by a state
47 other than Idaho. The addition provided in this subsection is limited to the
48 amount of the contributions to the Idaho individual trust account or savings
49 account by the account owner that were deducted on the account owner's income
50 tax return for the year of the transfer and the prior taxable year.

1 SECTION 2. That Section 63-3025B, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 63-3025B. ORGANIZATIONS EXEMPT FROM THE TAX IMPOSED BY THIS CHAP-
4 TER. (1) Except as provided in subsection (4) of this section, an organi-
5 zation described in section 501 of the ~~Internal Revenue Code~~, and the
6 additional organizations listed ~~below in this section~~ shall be specifically
7 exempt from taxation under this chapter unless such exemption is denied un-
8 der section 502, 503, ~~or 504 or 6033j~~ of the ~~Internal Revenue Code~~:

9 (a) Fraternal beneficiary societies, orders, or associations, operat-
10 ing under the lodge system or for the exclusive benefit of the members of
11 a fraternity itself operating under the lodge system;

12 (b) Farmer's or other mutual hail, cyclone, casualty, or fire insur-
13 ance companies or associations, ~~(including interinsurers and recipro-~~
14 ~~cal underwriters of the same class),~~ the income of which is used or held
15 only for the purpose of paying losses or expenses;

16 (c) Federal land banks and national farm loan associations, as provided
17 in the ~~federal farm loan credit act of 1971~~, as amended.

18 (2) Farmer's cooperatives shall be exempt from taxation under this
19 chapter to the extent exempted by section 521 of the ~~Internal Revenue~~
20 ~~eCode~~.

21 (3) Federal savings and loan associations shall not be exempt from tax-
22 ation under this chapter.

23 (4) Unrelated business income as defined in the ~~Internal Revenue~~
24 ~~eCode~~ shall be subject to taxation under this chapter.

25 SECTION 3. That Section 63-3033, Idaho Code, be, and the same is hereby
26 amended to read as follows:

27 63-3033. EXTENSION OF TIME. (a) Taxpayers shall have an automatic ex-
28 tension of time for filing any return, declaration, statement or other doc-
29 ument required by this chapter for a period of six (6) months if on or before
30 the unextended due date the taxpayer has paid at least eighty percent (80%)
31 of the total tax due on the income tax return when it is filed, or the total
32 tax due on the income tax return for the prior year if a return was filed for
33 the prior year.

34 (b) If, on the unextended due date, the payment required to meet the
35 provisions of subsection (a) of this section, after consideration of any
36 previous credits or payments applicable to the return, is fifty dollars
37 (\$50.00) or less, such payment shall not be required in order to qualify for
38 the extension. However, interest shall accrue as provided in subsection
39 (~~g~~) of this section. Payment of any balance of tax is due on the earlier of
40 the extended due date or the date the return is filed.

41 (c) Taxpayers residing outside any of the United States and Puerto Rico
42 (including persons in military or naval service) shall have an automatic ex-
43 tension of time within which to file income tax returns with this state for a
44 period which shall expire on the fifteenth day of the sixth month following
45 the close of their taxable year.

46 (d) Individuals who are entitled to extensions for filing federal in-
47 come tax returns as a result of the application of the provisions of sections
48 911 and 7508 of the Internal Revenue Code, shall be entitled to extensions of

1 time for the same period for filing income tax returns with the state of Idaho
2 subject to the requirements imposed in implementation of the indicated sec-
3 tions.

4 (e) Any taxpayer entitled to an extension under subsection (c) or (d) of
5 this section shall attach a statement to his return claiming his right to the
6 extension.

7 (f) If the amount of payment made under subsection (a) of this section
8 is less than eighty percent (80%) of the total tax due under the provisions
9 of this chapter and is less than the amount of the total tax due on the income
10 tax return for the prior year, except as permitted by subsection (b) of this
11 section, a penalty may be applied to the total of the balance due unless rea-
12 sonable cause can be established. The penalty shall be:

13 (1) If the taxes for the taxable year are paid on or before the extended
14 due date, two percent (2%) per month from the original due date to the
15 date of payment.

16 (2) If the taxes for the taxable year are not paid on or before the
17 extended due date, the penalty provided in section 63-3046(c), Idaho
18 Code, from the original due date.

19 (g) In all cases of an extension of time in which to file any return, ex-
20 cept for those related to section 7508 of the Internal Revenue Code, interest
21 shall be paid on any tax due from the original due date to date of payment at
22 the rate provided in section 63-3045, Idaho Code. For an individual entitled
23 to an extension of time allowed by subsection (d) of this section and section
24 7508 of the Internal Revenue Code, interest shall be paid on any tax due from
25 the extended due date allowed in subsection (d) of this section to the date of
26 payment.

27 SECTION 4. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after its
29 passage and approval, and retroactively to January 1, 2014.