

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 416

BY ERPELDING

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE AD-  
2 JUSTMENTS TO TAXABLE INCOME FOR PAYMENTS MADE ON STUDENT LOANS AND FOR  
3 PAYMENTS OF TUITION, EXPENSES AND FEES TO CERTAIN POSTSECONDARY EDUCA-  
4 TIONAL INSTITUTIONS IN IDAHO FOR THE INDIVIDUAL OR A DEPENDENT.  
5

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

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

9 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-  
10 tions set forth in this section, and in sections 63-3022A through 63-3022R,  
11 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-  
12 able income:

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

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

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

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

37 (3) Any portion of the net operating loss not subtracted from income  
38 in the two (2) preceding years may be subtracted from income in the next  
39 twenty (20) years succeeding the taxable year in which the loss arises  
40 in order until exhausted. The sum of the deductions may not exceed the  
41 amount of the net operating loss deduction incurred.

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

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

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, deduct the ten percent (10%) of prin-  
36 cipal payments an individual taxpayer actually paid during the taxable year  
37 in retiring a student loan, where such student loan is in the name of the in-  
38 dividual taxpayer who is a resident of Idaho and who is employed in Idaho.

39 (q) In the case of an individual, deduct the amount an individual tax-  
40 payer actually paid or the individual taxpayer's dependent actually paid  
41 during the taxable year in tuition expenses and fees paid to a public univer-  
42 sity, college, community college or professional-technical postsecondary  
43 institution in this state. For purposes of this subsection, "tuition,  
44 expenses and fees" includes tuition, fees, books, room and board and educa-  
45 tional supplies that are directly related to the student's attendance at an  
46 educational institution described herein.

47 (r) In the case of an individual, add the amount of a withdrawal from an  
48 individual trust account or savings account established pursuant to chapter  
49 54, title 33, Idaho Code, transferred to a qualified tuition program, as de-  
50 fined in section 529 of the Internal Revenue Code, that is operated by a state

1 other than Idaho. The addition provided in this subsection is limited to the  
2 amount of the contributions to the Idaho individual trust account or savings  
3 account by the account owner that were deducted on the account owner's income  
4 tax return for the year of the transfer and the prior taxable year.