

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 630

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO REVISE
2 PROVISIONS RELATING TO CERTAIN QUALIFIED PROPERTY HELD BY AN ESTATE,
3 TRUST, S CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY OR AN IN-
4 DIVIDUAL, TO ESTABLISH PROVISIONS RELATING TO FAIR MARKET VALUATION, TO
5 ESTABLISH PROVISIONS RELATING TO ADJUSTED BASIS ALLOCATION, TO ESTAB-
6 LISH PROVISIONS RELATING TO CERTAIN PART-YEAR RESIDENT AND NONRESIDENT
7 OWNERS OF MULTISTATE ENTITIES; DECLARING AN EMERGENCY AND PROVIDING
8 RETROACTIVE APPLICATION.
9

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

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

13 63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer
14 reports capital gain net income in determining taxable income, eighty per-
15 cent (80%) in taxable year 2001 and sixty percent (60%) in taxable years
16 thereafter of the capital gain net income from the sale or exchange of quali-
17 fied property shall be a deduction in determining Idaho taxable income.

18 (2) The deduction provided in this section is limited to the amount of
19 the capital gain net income from all property included in taxable income.
20 Gains treated as ordinary income by the Internal Revenue Code do not qualify
21 for the deduction allowed in this section. The deduction otherwise allow-
22 able under this section shall be reduced by the amount of any federal capital
23 gains deduction relating to such property, but not below zero.

24 (3) Property held by an estate, trust, S corporation, partnership, lim-
25 ited liability company or an individual is "qualified property" under this
26 section if the property had an Idaho situs at the time of sale and is:

27 (a) Real property held at least twelve (12) months;

28 (b) Tangible personal property used in Idaho for at least twelve (12)
29 months by a revenue-producing enterprise;

30 (c) Cattle or horses held for breeding, draft, dairy or sporting pur-
31 poses for at least twenty-four (24) months if more than one-half (1/2)
32 of the taxpayer's gross income (as defined in section 61(a) of the In-
33 ternal Revenue Code) for the taxable year is from farming or ranching
34 operations in Idaho;

35 (d) Breeding livestock other than cattle or horses held at least twelve
36 (12) months if more than one-half (1/2) of the taxpayer's gross income
37 (as defined in section 61(a) of the Internal Revenue Code) for the tax-
38 able year is from farming or ranching operations in Idaho;

39 (e) Timber grown in Idaho and held at least twenty-four (24) months;

40 (f) A partnership interest (other than a publicly traded partnership as
41 defined by section 7704(b) of the Internal Revenue Code) held by an in-
42 dividual for at least twelve (12) months, but only to the extent the gain

1 from sale or exchange of the interest is attributable to real property
 2 held by the partnership that is classified as a capital asset by section
 3 1221 of the Internal Revenue Code and is qualified real property under
 4 subsection (3) (a) of this section. If the partnership holds property in
 5 addition to qualified real property, the portion of the capital gain at-
 6 tributable to qualified real property shall be determined under one (1)
 7 of the following methods at the option of the taxpayer:

8 (i) Fair market valuation. The capital gain from the sale or ex-
 9 change of the interest attributable to qualified real property is
 10 the amount the fair market value of the qualified real property ex-
 11 ceeds the adjusted basis of the qualified real property minus any
 12 gain taxable as ordinary income. For purposes of this section,
 13 "fair market value" must be established by:

14 1. A "qualified appraisal" as defined in Treasury Regula-
 15 tion section 1.170A-13(c) (3);

16 2. A county assessor valuation; or

17 3. Other evidence acceptable to the state tax commission.

18 (ii) Adjusted basis allocation. The capital gain from the sale or
 19 exchange of the interest attributable to qualified real property
 20 is the proportion of the capital gain included in Idaho taxable
 21 income that the adjusted basis of qualified real property held by
 22 the partnership on the date of sale or exchange of the partnership
 23 interest bears to the adjusted basis of all property held by the
 24 partnership at least twelve (12) months prior to the date of sale
 25 or exchange of the partnership interest. For this purpose, the ad-
 26 justed basis shall be determined as provided in section 63-30220,
 27 Idaho Code.

28 (4) In determining the period for which property subject to this sec-
 29 tion has been held by a taxpayer, the provisions of section 1223 of the In-
 30 ternal Revenue Code shall apply, except that the holding period shall not in-
 31 clude the holding period of property given up in an exchange, when such prop-
 32 erty would not have constituted qualified property under this section with-
 33 out regard to meeting the holding period nor shall the holding period include
 34 any time period in which the property subject to this section was held by a
 35 corporation other than an S corporation.

36 (45) As used in this section "revenue-producing enterprise" means:

37 (a) The production, assembly, fabrication, manufacture, or processing
 38 of any agricultural, mineral or manufactured product;

39 (b) The storage, warehousing, distribution, or sale at wholesale of any
 40 products of agriculture, mining or manufacturing;

41 (c) The feeding of livestock at a feedlot;

42 (d) The operation of laboratories or other facilities for scientific,
 43 agricultural, animal husbandry, or industrial research, development,
 44 or testing.

45 (56) As used in this section the term "real property" means land and
 46 other tangible property permanently upon or affixed to the land.

47 (7) Part-year resident and nonresident owners of multistate entities
 48 shall compute the allowable deduction as prescribed in the rules of the state
 49 tax commission.

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, 2014.