

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 84

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO RE-  
2 VISE THE DEFINITION OF THE TERM "REAL PROPERTY" FOR CAPITAL GAINS PUR-  
3 POSES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.  
4

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

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

8 63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer  
9 reports capital gain net income in determining taxable income, eighty per-  
10 cent (80%) in taxable year 2001 and sixty percent (60%) in taxable years  
11 thereafter of the capital gain net income from the sale or exchange of quali-  
12 fied property shall be a deduction in determining Idaho taxable income.

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

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

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

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

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

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

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

35 (f) In determining the period for which property subject to this sec-  
36 tion has been held by a taxpayer, the provisions of section 1223 of the  
37 Internal Revenue Code shall apply, except that the holding period shall  
38 not include the holding period of property given up in an exchange, when  
39 such property would not have constituted qualified property under this  
40 section without regard to meeting the holding period nor shall the hold-  
41 ing period include any time period in which the property subject to this  
42 section was held by a corporation other than an S corporation.

1 (4) As used in this section "revenue-producing enterprise" means:

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

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

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

7 (d) The operation of laboratories or other facilities for scientific,  
8 agricultural, animal husbandry, or industrial research, development,  
9 or testing.

10 (5) As used in this section the term "real property" ~~means land and~~  
11 ~~other tangible property permanently upon or affixed to the land~~ includes the  
12 following:

13 (a) A "qualified conservation easement," as defined in section  
14 2031(c) (8) (B) of the Internal Revenue Code, conveyed to a "Qualified  
15 Organization" as defined in section 170(h) of the Internal Revenue  
16 Code;

17 (b) Grazing permits or leases issued by the U.S. forest service, the bu-  
18 reau of land management or the Idaho department of lands, if such permit  
19 is transferred simultaneously with the transfer of the "base property";  
20 and

21 (c) Any other property defined in section 1250(c) of the Internal Rev-  
22 enue Code as "section 1250 property" conveyed in perpetuity, the trans-  
23 fer of which would be required to be in writing by section 9-503, Idaho  
24 Code.

25 SECTION 2. An emergency existing therefor, which emergency is hereby  
26 declared to exist, this act shall be in full force and effect on and after its  
27 passage and approval, and retroactively to all taxable years beginning on or  
28 after January 1, 2010.