

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 85

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO PRO-
2 VIDE FOR CAPITAL GAINS PURPOSES THAT THE HOLDING PERIOD OF QUALIFYING
3 PROPERTY THAT WAS DISTRIBUTED BY AN S CORPORATION OR AN ENTITY TREATED
4 AS A PARTNERSHIP TO A PERSON WHO WAS AN OWNER, MEMBER OR PARTNER AT THE
5 TIME OF THE DISTRIBUTION SHALL, FOR THAT PERSON, INCLUDE THE AMOUNT OF
6 TIME THAT THE S CORPORATION OR THE ENTITY HELD THE PROPERTY, REGARDLESS
7 OF WHETHER THE DISTRIBUTION WAS A LIQUIDATING DISTRIBUTION; DECLARING
8 AN EMERGENCY AND PROVIDING 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) In determining the period for which property subject to this sec-
41 tion has been held by a taxpayer, the provisions of section 1223 of the
42 Internal Revenue Code shall apply, except that the holding period shall

1 not include the holding period of property given up in an exchange,
2 when such property would not have constituted qualified property under
3 this section without regard to meeting the holding period nor shall the
4 holding period include any time period in which the property subject
5 to this section was held by a corporation other than an S corporation.
6 Notwithstanding the preceding sentence, the holding period of qual-
7 ifying property that was distributed by an S corporation or an entity
8 treated as a partnership to a person who was an owner, member or part-
9 ner at the time of the distribution shall, for that person, include the
10 amount of time that the S corporation or the entity held the property,
11 regardless of whether the distribution was a liquidating distribution.

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

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

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

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

18 (d) The operation of laboratories or other facilities for scientific,
19 agricultural, animal husbandry, or industrial research, development,
20 or testing.

21 (5) As used in this section the term "real property" means land and
22 other tangible property permanently upon or affixed to the land.

23 SECTION 2. An emergency existing therefor, which emergency is hereby
24 declared to exist, this act shall be in full force and effect on and after its
25 passage and approval, and retroactively to January 1, 2015.