

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 676

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO PRO-
2 VIDE FOR INTANGIBLE PERSONAL PROPERTY HELD AT LEAST TWELVE MONTHS UNDER
3 THE DEFINITION OF QUALIFYING PROPERTY FOR CAPITAL GAINS PURPOSES AND TO
4 MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND PROVIDING
5 RETROACTIVE APPLICATION.
6

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

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

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

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

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

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

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

27 (c) Cattle or horses held for breeding, draft, dairy or sporting pur-
28 poses for at least twenty-four (24) months in Idaho;

29 (d) Breeding livestock other than cattle or horses held at least twelve
30 (12) months in Idaho;

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

32 (f) Intangible personal property held at least twelve (12) months;

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

1 partnership to a person who was an owner, member or partner at the time
2 of the distribution shall, for that person, include the amount of time
3 that the S corporation or the entity held the property, regardless of
4 whether the distribution was a liquidating distribution.

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

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

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

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

11 (d) The operation of laboratories or other facilities for scientific,
12 agricultural, animal husbandry, or industrial research, development,
13 or testing.

14 (5) As used in this section, the term "real property" means land and in-
15 cludes the following:

16 (a) A "qualified conservation easement," as defined in section
17 2031(c) (8) (B) of the Internal Revenue Code, conveyed to a "qualified
18 organization" as defined in section 170(h) of the Internal Revenue
19 Code;

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

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

28 (6) Property that has been depreciated pursuant to section 1245 of the
29 Internal Revenue Code is not eligible to be treated as real property for pur-
30 poses of this deduction.

31 SECTION 2. An emergency existing therefor, which emergency is hereby
32 declared to exist, this act shall be in full force and effect on and after its
33 passage and approval, and retroactively to January 1, 2018.