

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 563

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; AMENDING SECTION 63-3027, IDAHO CODE, TO REVISE
2 PROVISIONS REGARDING COMPUTING IDAHO TAXABLE INCOME OF MULTISTATE OR
3 UNITARY CORPORATIONS; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE
4 CORRECT CODE REFERENCES AND TO MAKE TECHNICAL CORRECTIONS; AMENDING
5 SECTION 63-3029G, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES AND
6 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3029I, IDAHO CODE,
7 TO PROVIDE A CORRECT CODE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS;
8 AMENDING SECTION 63-4406, IDAHO CODE, TO PROVIDE A CORRECT CODE REFER-
9 ENCE AND TO MAKE TECHNICAL CORRECTIONS; AND DECLARING AN EMERGENCY AND
10 PROVIDING RETROACTIVE APPLICATION.
11

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

13 SECTION 1. That Section 63-3027, Idaho Code, be, and the same is hereby
14 amended to read as follows:

15 63-3027. COMPUTING IDAHO TAXABLE INCOME OF MULTISTATE OR UNITARY COR-
16 PORATIONS. The Idaho taxable income of any multistate or unitary corporation
17 transacting business both within and without this state shall be computed in
18 accordance with the rules set forth in provisions of this section:

19 (a) As used in this section, unless the context otherwise requires:

20 (1a) "Business Apportionable income" means income arising from trans-
21 actions and activity in the regular course of the taxpayer's trade or
22 business and includes income from the acquisition, management, or dis-
23 position of tangible and intangible property when such acquisition,
24 management, or disposition constitutes integral or necessary parts
25 of the taxpayer's trade or business operations. Gains or losses and
26 dividend and interest income from stock and securities of any foreign
27 or domestic corporation shall be presumed to be income from intangible
28 property, the acquisition, management, or disposition of which con-
29 stitutes an integral part of the taxpayer's trade or business; such
30 presumption may only be overcome by clear and convincing evidence to
31 the contrary arising from tangible and intangible property if the ac-
32 quisition, management, employment, development, or disposition of the
33 property constitutes integral or necessary parts of the taxpayer's
34 trade or business operations.

35 (b) "Broadcast customer" means a person, corporation, partnership,
36 limited liability company, or other entity that has a direct connection
37 or contractual relationship with the broadcaster under which revenue is
38 derived by the broadcaster, such as an advertiser or a platform distri-
39 bution company.

40 (c) "Broadcaster" means a taxpayer that is a television broadcast net-
41 work, a cable program network, or a television distribution company.

1 (2d) "Commercial domicile" means the principal place from which the
2 trade or business of the taxpayer is directed or managed.

3 (e) "Communications company" means any person or any related person de-
4 scribed in section 267 of the Internal Revenue Code, whether individu-
5 ally or in the aggregate, that:

6 (i) Is:

7 1. A telecommunications carrier as defined in section
8 62-610B, Idaho Code;

9 2. A communications company that provides the electronic
10 transmission, conveyance, or routing of voice, data, au-
11 dio, video, or any other information or signals to a point
12 or between or among points and includes such transmission,
13 conveyance, or routing in which computer processing appli-
14 cations are used to act on the form, code, or protocol of the
15 content for purposes of transmission, conveyance, or rout-
16 ing without regard to whether such service is referred to as
17 a voice over internet protocol service or is classified by
18 the federal communications commission as enhanced or value
19 added. The company may also provide video programming pro-
20 vided by or generally considered comparable to programming
21 provided by a television broadcast station, regardless of
22 the medium, including the furnishing of transmission, con-
23 veyance, and routing of such services by the programming
24 service provider. Video programming includes but is not
25 limited to cable service as defined in 47 U.S.C. 522 and
26 video programming services delivered by providers of com-
27 mercial mobile radio service as defined in 47 CFR 20.3; or

28 3. A broadcast company that provides an over-the-air broad-
29 cast radio station or over-the-air broadcast television
30 station; and

31 (ii) Owns, operates, manages, or controls any plant or equip-
32 ment used to furnish telecommunications service, communication
33 services, broadband services, internet service, or broadcast ser-
34 vices directly or indirectly to the general public at large and
35 derives at least seventy percent (70%) of its gross sales for the
36 current taxable year from the provision of these services. For
37 purposes of the seventy percent (70%) test, "gross sales" does not
38 include interest, dividends, rents, royalties, capital gains, or
39 ordinary gains from asset dispositions, other than in the normal
40 course of business.

41 (3f) "Compensation" means wages, salaries, commissions, and any other
42 form of remuneration paid to employees for personal services.

43 (g) "Film programming" means one (1) or more performances, events, or
44 productions, or segments of performances, events, or productions, in-
45 tended to be distributed for visual and auditory perception, including
46 but not limited to news, entertainment, sporting events, plays, sto-
47 ries, or other literary, commercial, educational, or artistic works.

48 (4h) "NonbusinessNonapportionable income" means all income other than
49 business apportionable income.

1 (5i) "Sales" or "receipts" means all gross receipts of the taxpayer not
 2 allocated under ~~subsections (d) through (h)~~ of this section and that are
 3 received from transactions and activities in the regular course of the
 4 taxpayer's trade or business or otherwise required to be included as ap-
 5 portionable income.

6 (6j) "State" means any state of the United States, the District of Co-
 7 lumbia, the Commonwealth of Puerto Rico, any territory or possession
 8 of the United States, and any foreign country or political subdivision
 9 thereof.

10 (2) Any taxpayer having income from business activity ~~which~~ that is
 11 taxable both within and without this state shall allocate and apportion such
 12 net income as provided in this section.

13 (3) In any case in which the provisions of section 63-3701, Idaho Code,
 14 are inconsistent with the provisions of this section, the provisions of this
 15 section shall control.

16 (e4) For purposes of allocation and apportionment of income under this
 17 section, a taxpayer is taxable in another state if:

18 (1a) In that state he is subject to a net income tax, a franchise tax
 19 measured by net income, a franchise tax for the privilege of doing busi-
 20 ness, or a corporate stock tax; or

21 (2b) That state has jurisdiction to subject the taxpayer to a net income
 22 tax regardless of whether, in fact, the state does or does not.

23 (d5) Rents and royalties from real or tangible personal property, cap-
 24 ital gains, interest, dividends, or patent or copyright royalties, to the
 25 extent that they constitute ~~nonbusiness~~ nonapportionable income, shall be
 26 allocated as provided in subsections (e6) through (h9) of this section. Al-
 27 locable ~~nonbusiness~~ nonapportionable income shall be limited to the total
 28 ~~nonbusiness~~ nonapportionable income received ~~which is~~ in excess of any re-
 29 lated expenses ~~which~~ that have been allowed as a deduction during the tax-
 30 able year. In the case of allocable ~~nonbusiness~~ nonapportionable interest
 31 or dividends, related expenses include interest on indebtedness incurred or
 32 continued to purchase or carry assets on which the interest or dividends are
 33 ~~nonbusiness~~ nonapportionable income.

34 (e6) (1a) Net rents and royalties from real property located in this
 35 state are allocable to this state.

36 (2b) Net rents and royalties from tangible personal property are allo-
 37 cable to this state:

38 (i) If and to the extent that the property is utilized in this
 39 state; or

40 (ii) In their entirety if the taxpayer's commercial domicile is in
 41 this state and the taxpayer is not organized under the laws of or
 42 taxable in the state in which the property is utilized.

43 (3c) The extent of utilization of tangible personal property in a state
 44 is determined by multiplying the rents and royalties by a fraction, the
 45 numerator of which is the number of days of physical location of the
 46 property in the state during the rental or royalty period in the taxable
 47 year, and the denominator of which is the number of days of physical lo-
 48 cation of the property everywhere during all rental or royalty periods
 49 in the taxable year. If the physical location of the property during
 50 the rental or royalty period is unknown or unascertainable by the tax-

1 payer, tangible personal property is utilized in the state in which the
 2 property was located at the time the rental or royalty payer obtained
 3 possession.

4 (~~¶7~~) (~~1a~~) Capital gains and losses from sales of real property located
 5 in this state are allocable to this state.

6 (~~2b~~) Capital gains and losses from sales of tangible personal property
 7 are allocable to this state if:

8 (i) The property had a situs in this state at the time of the sale; or
 9 or

10 (ii) The taxpayer's commercial domicile is in this state and the
 11 taxpayer is not taxable in the state in which the property had a
 12 situs.

13 (~~3c~~) Capital gains and losses from sales of intangible personal prop-
 14 erty are allocable to this state if the taxpayer's commercial domicile
 15 is in this state, unless such gains and losses constitute ~~business~~
 16 apportionable income as defined in this section.

17 (~~¶8~~) Interest and dividends are allocable to this state if the tax-
 18 payer's commercial domicile is in this state, unless such interest or divi-
 19 dends constitute ~~business~~ apportionable income as defined in this section.

20 (~~¶9~~) (~~1a~~) Patent and copyright royalties are allocable to this state:

21 (i) If and to the extent that the patent or copyright is utilized
 22 by the payer in this state; or

23 (ii) If and to the extent that the patent or copyright is utilized
 24 by the payer in a state in which the taxpayer is not taxable and the
 25 taxpayer's commercial domicile is in this state.

26 (~~2b~~) A patent is utilized in a state to the extent that it is employed
 27 in production, fabrication, manufacturing, or other processing in the
 28 state or to the extent that a patent product is produced in the state.
 29 If the basis of receipts from patent royalties does not permit alloca-
 30 tion to states or if the accounting procedures do not reflect states of
 31 utilization, the patent is utilized in the state in which the taxpayer's
 32 commercial domicile is located.

33 (~~3c~~) A copyright is utilized in a state to the extent that printing or
 34 other publication originates in the state. If the basis of receipts
 35 from copyright royalties does not permit allocation to states or if
 36 the accounting procedures do not reflect states of utilization, the
 37 copyright is utilized in the state in which the taxpayer's commercial
 38 domicile is located.

39 ~~(i) (1) Notwithstanding the election allowed in article III.1 of the~~
 40 ~~multistate tax compact enacted as section 63-3701, Idaho Code, all~~
 41 ~~business income shall be apportioned to this state under subsection (j)~~
 42 ~~of this section by multiplying the income by a fraction, the numerator~~
 43 ~~of which is the property factor plus the payroll factor plus two (2)~~
 44 ~~times the sales factor, and the denominator of which is four (4), except~~
 45 ~~as provided in paragraph (2) of this subsection.~~

46 (10) (a) All apportionable income shall be apportioned to this state un-
 47 der subsection (11) of this section by multiplying the income by a frac-
 48 tion, the numerator of which is the total sales of the taxpayer in Idaho
 49 during the tax period and the denominator of which is the total sales of
 50 the taxpayer everywhere during the tax period.

1 ~~(2b) If a corporation, or a parent corporation of a combined group fil-~~
 2 ~~ing a combined report under sections 63-3027 and 63-3701, Idaho Code,~~
 3 ~~is an electrical corporation as defined in section 61-119, Idaho Code,~~
 4 ~~or is a telephone corporation as defined in section 62-603, Idaho Code,~~
 5 ~~all business income of the corporation shall be apportioned~~ An electri-
 6 cal corporation as defined in section 61-119, Idaho Code, a telephone
 7 corporation as defined in section 62-603, Idaho Code, a communications
 8 company as defined in this section, or a taxpayer subject to a special
 9 industry regulation pursuant to subsection (18) of this section may
 10 elect to apportion all apportionable income of the taxpayer to this
 11 state by multiplying the income by a fraction, the numerator of which is
 12 the property factor plus the payroll factor plus the sales factor, and
 13 the denominator of which is three (3). Where a taxpayer makes an elec-
 14 tion to use a special industry regulation under this paragraph, if the
 15 property, payroll, or sales factors are defined in a special industry
 16 regulation pursuant to subsection (18) of this section, those defini-
 17 tions or terms will be controlling to the extent they are in conflict
 18 with the definitions provided in subsections (12) through (16) of this
 19 section.

20 ~~(j) (1)~~ (11) (a) In the case of a corporation or group of corporations
 21 combined under subsection ~~(22)~~ of this section, Idaho taxable income
 22 or loss of the corporation or combined group shall be determined as fol-
 23 lows:

24 (i) From the income or loss of the corporation or combined group
 25 of corporations, subtract any ~~nonbusiness income~~, and add any ~~non-~~
 26 ~~business~~ nonapportionable income and subtract any nonapportion-
 27 able loss, included in the total; and

28 (ii) Multiply the amounts determined under ~~subparagraph (1) (i)~~ of
 29 this ~~subsection~~ paragraph by the Idaho apportionment percentage
 30 defined in subsection ~~(10)~~ of this section, taking into account,
 31 where applicable, the property, payroll, and sales of all corpora-
 32 tions, wherever incorporated, ~~which that~~ are included in the com-
 33 bined group. The resulting product shall be the amount of ~~business~~
 34 income or loss apportioned to Idaho.

35 (2b) To the amount determined as ~~apportioned business~~ apportionable
 36 income or loss under paragraph ~~(1a) (i)~~ of this subsection, add
 37 ~~nonbusiness~~ nonapportionable income allocable entirely to Idaho
 38 under the provisions of this section or subtract ~~nonbusiness~~
 39 nonapportionable loss allocable entirely to Idaho under this section.
 40 The resulting sum is the Idaho taxable income or loss of the corpora-
 41 tion.

42 (3c) In the case of a corporation not subject to subsection ~~(22)~~ of
 43 this section, the income or loss referred to in paragraph ~~(1a) (i)~~ of
 44 this subsection shall be the taxable income of the corporation af-
 45 ter making appropriate adjustments under the provisions of section
 46 63-3022, Idaho Code.

47 (12) Sales of tangible personal property, including gross receipts from
 48 leases and other uses of tangible personal property, are in this state if:

1 (a) The property is delivered or shipped to a purchaser, other than the
 2 United States government, within this state, regardless of the free on
 3 board (f.o.b.) point or other conditions of the sale; or

4 (b) The property is shipped from an office, store, warehouse, factory,
 5 or other place of storage in this state; and

6 (i) The purchaser is the United States government; or

7 (ii) The taxpayer is not taxable in the state of the purchaser.

8 (13) Sales, other than sales of tangible property, are in this state if
 9 the taxpayer's market for the sales is in this state. The taxpayer's market
 10 for sales is in this state:

11 (a) In the case of sale, rental, lease, or license of real property, if
 12 and to the extent the property is located in this state;

13 (b) In the case of rental, lease, or license of tangible personal prop-
 14 erty, if and to the extent the property is located in this state;

15 (c) In the case of a service, if and to the extent the service is deliv-
 16 ered to a location in this state;

17 (d) In the case of intangible property that is:

18 (i) Rented, leased, or licensed, if and to the extent the property
 19 is used in this state, provided that intangible property utilized
 20 in marketing a good or service to a consumer is "used in this state"
 21 if that good or service is purchased by a consumer who is in this
 22 state; and

23 (ii) Sold, if and to the extent the property is used in this state,
 24 provided that:

25 1. A contract right, government license, or similar intan-
 26 gible property that authorizes the holder to conduct a busi-
 27 ness activity in a specific geographic area is "used in this
 28 state" if the geographic area includes all or part of this
 29 state; and

30 2. Receipts from intangible property sales that are contin-
 31 gent on the productivity, use, or disposition of the intan-
 32 gible property shall be treated as receipts from the rental,
 33 lease, or licensing of such intangible property under sub-
 34 paragraph (i) of this paragraph; and

35 (e) In the case of sales of a broadcaster from advertising or licensing
 36 income that arises from the broadcast or other distribution of film pro-
 37 gramming by any means, if the commercial domicile of the broadcast cus-
 38 tommer, as defined in this section, is in this state. Other sales of a
 39 broadcaster shall be apportioned in a manner consistent with the rules
 40 that apply to such sales.

41 (14) If the state or states of assignment under subsection (13) of this
 42 section cannot be determined, the state or states of assignment shall be rea-
 43 sonably approximated.

44 (15) A communications company, as defined in this section, may elect to
 45 use this subsection for purposes of sourcing sales other than the sales of
 46 tangible personal property. If such an election is made, sales other than
 47 sales of tangible personal property are in this state if:

48 (a) All the income-producing activity is performed in this state; or

49 (b) The income-producing activity is performed both in and outside this
 50 state and a greater proportion of the income-producing activity is per-

1 formed in this state than in any other state, based on costs of perfor-
 2 mance.

3 (16) If a taxpayer makes the election in subsection (10) (b) of this sec-
 4 tion or is using an alternative method pursuant to subsection (17) of this
 5 section that requires the use of a property or payroll factor, the property
 6 and payroll factor definitions in this subsection apply.

7 ~~(a)~~ (a) The property factor is a fraction, the numerator of which is the
 8 average value of the taxpayer's real and tangible personal property
 9 owned or rented and used in this state during the tax period, and the
 10 denominator of which is the average value of all the taxpayer's real
 11 and tangible personal property owned or rented and used during the tax
 12 period.

13 ~~(b)~~ (b) Property owned by the taxpayer is valued at its original cost.
 14 Property rented by the taxpayer is valued at eight (8) times the net an-
 15 nual rental rate. Net annual rental rate is the annual rental rate paid
 16 by the taxpayer less any annual rental rate received by the taxpayer
 17 from subrentals.

18 ~~(c)~~ (c) The average value of property shall be determined by averaging the
 19 values at the beginning and ending of the tax period, but the state tax
 20 commission may require the averaging of monthly values during the tax
 21 period if reasonably required to reflect properly the average value of
 22 the taxpayer's property.

23 ~~(d)~~ (d) The payroll factor is a fraction, the numerator of which is the to-
 24 tal amount paid in this state during the tax period by the taxpayer for
 25 compensation, and the denominator of which is the total compensation
 26 paid everywhere during the tax period.

27 ~~(e)~~ (e) Compensation is paid in this state if:

28 ~~(i)~~ (i) The individual's service is performed entirely within the
 29 state; or

30 ~~(ii)~~ (ii) The individual's service is performed both within and with-
 31 out the state, but the service performed without the state is inci-
 32 dental to the individual's service within the state; or

33 ~~(iii)~~ (iii) Some of the service is performed in the state and:

34 ~~(1)~~ (i) 1. The base of operations or, if there is no base of oper-
 35 ations, the place from which the service is directed or con-
 36 trolled is in the state; or

37 ~~(2)~~ (ii) 2. The base of operations or the place from which the
 38 service is directed or controlled is not in any state in
 39 which some part of the service is performed, but the individ-
 40 ual's residence is in this state.

41 ~~(p)~~ (p) ~~The sales factor is a fraction, the numerator of which is the total~~
 42 ~~sales of the taxpayer in this state during the tax period, and the denomina-~~
 43 ~~tor of which is the total sales of the taxpayer everywhere during the tax pe-~~
 44 ~~riod.~~

45 ~~(q)~~ (q) ~~Sales of tangible personal property are in this state if:~~

46 ~~(1)~~ (1) ~~The property is delivered or shipped to a purchaser, other than the~~
 47 ~~United States government, within this state regardless of the f.o.b.~~
 48 ~~point or other conditions of the sale; or~~

49 ~~(2)~~ (2) ~~The property is shipped from an office, store, warehouse, factory,~~
 50 ~~or other place of storage in this state and:~~

1 ~~(i) The purchaser is the United States government, or~~

2 ~~(ii) The taxpayer is not taxable in the state of the purchaser.~~

3 ~~(r) Sales, other than sales of tangible property, are in this state, if:~~

4 ~~(1) The income-producing activity is performed in this state; or~~

5 ~~(2) The income-producing activity is performed both in and outside this~~
 6 ~~state and a greater proportion of the income-producing activity is per-~~
 7 ~~formed in this state than in any other state, based on costs of perfor-~~
 8 ~~mance.~~

9 ~~(s17) If the allocation and apportionment provisions of this section do~~
 10 ~~not fairly represent the extent of the taxpayer's business activity in this~~
 11 ~~state, the taxpayer may petition for or the state tax commission may require,~~
 12 ~~in respect to all or any part of the taxpayer's business activity, if reason-~~
 13 ~~able:~~

14 ~~(1a) Separate accounting, provided that only that portion of general~~
 15 ~~expenses clearly identifiable with Idaho business operations shall be~~
 16 ~~allowed as a deduction;~~

17 ~~(2b) The exclusion of any one (1) or more of the factors;~~

18 ~~(3c) The inclusion of one (1) or more additional factors which that will~~
 19 ~~fairly represent the taxpayer's business activity in this state; or~~

20 ~~(4d) The employment of any other method to effectuate an equitable al-~~
 21 ~~location and apportionment of the taxpayer's income.~~

22 ~~(18) If the allocation and apportionment provisions of this section do~~
 23 ~~not fairly represent the extent of business activity in Idaho of taxpayers~~
 24 ~~engaged in a particular industry or in a particular transaction or activ-~~
 25 ~~ity, the state tax commission may, in addition to the authority in subsec-~~
 26 ~~tion (17) of this section, establish appropriate rules for determining al-~~
 27 ~~ternative allocation and apportionment methods for such taxpayers. A rule~~
 28 ~~adopted pursuant to this subsection shall be applied uniformly, except that,~~
 29 ~~with respect to any taxpayer to whom such rule applies, the taxpayer may pe-~~
 30 ~~tition for, or the state tax commission may require, adjustment pursuant to~~
 31 ~~subsection (17) of this section.~~

32 ~~(19) (a) The party petitioning for, or the state tax commission requir-~~
 33 ~~ing, the use of any method to effectuate an equitable allocation or~~
 34 ~~apportionment of the taxpayer's income pursuant to subsection (17) of~~
 35 ~~this section must prove by a preponderance of the evidence:~~

36 ~~(i) That the allocation and apportionment provisions of this sec-~~
 37 ~~tion do not fairly represent the extent of the taxpayer's business~~
 38 ~~activity in Idaho; and~~

39 ~~(ii) That the alternative to such provision is reasonable.~~

40 ~~(b) The same burden of proof shall apply, whether the taxpayer is pe-~~
 41 ~~titioning for, or the state tax commission is requiring, the use of any~~
 42 ~~reasonable method to effectuate an equitable allocation and apportion-~~
 43 ~~ment of the taxpayer's income. However, if the state tax commission can~~
 44 ~~show that in any two (2) of the prior five (5) years the taxpayer had used~~
 45 ~~an allocation or apportionment method at variance with its allocation~~
 46 ~~or apportionment method or methods used for such other tax years, then~~
 47 ~~the state tax commission shall not bear the burden of proof in imposing a~~
 48 ~~different method pursuant to subsection (17) of this section.~~

49 ~~(20) If the state tax commission requires any method to effectuate an~~
 50 ~~equitable allocation and apportionment of the taxpayer's income, the state~~

1 tax commission cannot impose any civil or criminal penalty with reference
2 to the tax due that is attributable to the taxpayer's reasonable reliance
3 solely on the allocation and apportionment provisions of this section.

4 (21) A taxpayer that has received written permission from the state tax
5 commission to use a reasonable method to effectuate an equitable allocation
6 and apportionment of the taxpayer's income shall not have that permission
7 revoked with respect to transactions and activities that have already oc-
8 curring unless there has been a material change in, or a material misrepresen-
9 tation of, the facts provided by the taxpayer upon which the state tax com-
10 mission reasonably relied.

11 (~~22~~) For purposes of this section and sections 63-3027B through
12 63-3027E, Idaho Code, the income of two (2) or more corporations, wherever
13 incorporated, the voting stock of which is more than fifty percent (50%)
14 owned directly or indirectly by a common owner or owners, when necessary to
15 accurately reflect income, shall be allocated or apportioned as if the group
16 of corporations were a single corporation, in which event:

17 (~~1~~a) The Idaho taxable income of any corporation subject to taxation in
18 this state shall be determined by use of a combined report ~~which~~ that in-
19 cludes the income, determined under paragraph (~~2~~b) of this subsection,
20 of all corporations ~~which~~ that are members of a unitary business, al-
21 located and apportioned using apportionment factors for all corpora-
22 tions included in the combined report and methods set out in this sec-
23 tion. The use of a combined report does not disregard the separate cor-
24 porate identities of the members of the unitary group. Each corporation
25 ~~which is~~ transacting business in this state is responsible for its ap-
26 portioned share of the combined ~~business~~ apportionable income plus its
27 ~~nonbusiness~~ nonapportionable income or loss allocated to Idaho, minus
28 its net operating loss carryover or carryback.

29 (~~2~~b) The income of a corporation to be included in a combined report
30 shall be determined as follows:

31 (i) For a corporation incorporated in the United States or in-
32 cluded in a consolidated federal corporation income tax return,
33 the income to be included in the combined report shall be the tax-
34 able income for the corporation after making appropriate adjust-
35 ments under the provisions of section 63-3022, Idaho Code;

36 (ii) For a corporation incorporated outside the United States,
37 but not included in ~~subsection (t)(2) subparagraph (i) of this~~
38 ~~section~~ paragraph, the income to be included in the combined
39 report shall be the net income before income taxes of such corpora-
40 tion stated on the profit and loss statements of such corporation
41 which are included within the consolidated profit and loss state-
42 ment prepared for the group of related corporations of which the
43 corporation is a member, which statement is prepared for filing
44 with the United States securities and exchange commission. If
45 the group of related companies is not required to file such profit
46 and loss statement with the United States securities and exchange
47 commission, the profit and loss statement prepared for reporting
48 to shareholders and subject to review by an independent auditor
49 may be used to obtain net income before income taxes. In the alter-
50 native, and subject to reasonable substantiation and consistent

1 application by the group of related companies, adjustments may be
2 made to the profit and loss statements of the corporation incor-
3 porated outside the United States, if necessary, to conform such
4 statements to tax accounting standards as required by the Inter-
5 nal Revenue Code as if such corporation were incorporated in the
6 United States and required to file a federal income tax return,
7 subject to appropriate adjustments under the provisions of sec-
8 tion 63-3022, Idaho Code;

9 (iii) If the income computation for a group under subparagraphs
10 (i) and (ii) of this paragraph results in a loss, such loss shall
11 be taken into account in other years, subject to the provisions of
12 subsections (b) and (c) of section 63-3022, Idaho Code; and

13 (iv) When one (1) or more corporations included in a combined re-
14 port have excess inclusion income for a tax year that is taxable
15 to those corporations pursuant to section 63-3011B, Idaho Code,
16 the amount of such excess inclusion income shall be reported as
17 the taxable income for those members of the combined group as pro-
18 vided by section 63-3011B, Idaho Code, and any net operating loss
19 for that tax year or carried forward from an earlier tax year may
20 be taken as deductions in other tax years, subject to the provi-
21 sions of subsections (b) and (c) of section 63-3022, Idaho Code.
22 In computing the net operating loss that may be used in another tax
23 year for that corporation or other member of the combined return
24 group, the excess inclusion income recognized as taxable income
25 shall be deducted from gross income, as provided by treasury regu-
26 lation 1.860E-1(a)(1).

27 (¶23) If compensation is paid in the form of a reasonable cash fee for
28 the performance of management services directly for the United States gov-
29 ernment at the Idaho national laboratory or any successor organization, sep-
30 arate accounting for that part of the business activity without regard to
31 other activity of the taxpayer in the state of Idaho or elsewhere shall be
32 required; provided that only that portion of general expenses clearly iden-
33 tifiable with Idaho business operations of that activity shall be allowed as
34 a deduction.

35 (24) The state tax commission shall promulgate rules as necessary or ap-
36 propriate to carry out the purposes of this section.

37 SECTION 2. That Section 63-3022, Idaho Code, be, and the same is hereby
38 amended to read as follows:

39 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-
40 tions set forth in this section, and in sections 63-3022A through 63-3022U,
41 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-
42 able income:

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

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

1 (c) (1) A net operating loss for any taxable year commencing on and af-
2 ter January 1, 2000, but before January 1, 2013, shall be a net oper-
3 ating loss carryback not to exceed a total of one hundred thousand dol-
4 lars (\$100,000) to the two (2) immediately preceding taxable years. At
5 the election of the taxpayer, the two (2) year carryback may be forgone
6 and the loss subtracted from income received in taxable years arising in
7 the next twenty (20) years succeeding the taxable year in which the loss
8 arises in order until exhausted.

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

15 (3) Any portion of the net operating loss not subtracted from income in
16 the two (2) preceding years may be subtracted from income in the next
17 twenty (20) years succeeding the taxable year in which the loss arises
18 in order until exhausted. The sum of the deductions may not exceed the
19 amount of the net operating loss deduction incurred. The carryback
20 shall be limited to a total of fifty thousand dollars (\$50,000) in the
21 case of an individual filing as married filing separate in the year of
22 the loss.

23 (4) Net operating losses incurred by a corporation during a year in
24 which such corporation did not transact business in Idaho or was not
25 included in a group of corporations combined under ~~subsection (t) of~~
26 section 63-3027(22), Idaho Code, may not be subtracted. However, if
27 at least one (1) corporation within a group of corporations combined
28 under ~~subsection (t) of~~ section 63-3027(22), Idaho Code, was trans-
29 acting business in Idaho during the taxable year in which the loss was
30 incurred, then the net operating loss may be subtracted. Net operating
31 losses incurred by a person, other than a corporation, in activities not
32 taxable by Idaho may not be subtracted.

33 (5) The term "income" as used in this subsection means Idaho taxable in-
34 come as defined in this chapter as modified by section 63-3021(b) (2),
35 (3) and (4), Idaho Code.

36 (d) In the case of a corporation, add the amount deducted under the pro-
37 visions of sections 243(a) and (c), 244, 245, and 246A of the Internal Rev-
38 enue Code (relating to dividends received by corporations and other special
39 deductions) as limited by section 246(b) (1) of said code.

40 (e) In the case of a corporation, subtract an amount determined under
41 section 78 of the Internal Revenue Code to be taxable as dividends.

42 (f) Subtract the amount of any income received or accrued during the
43 taxable year ~~which~~ that is exempt from taxation by this state, under the pro-
44 visions of any other law of this state or a law of the United States, if not
45 previously subtracted in arriving at taxable income.

46 (g) For the purpose of determining the Idaho taxable income of the bene-
47 ficiary of a trust or of an estate:

48 (1) Distributable net income as defined for federal tax purposes shall
49 be corrected for the other adjustments required by this section.

1 (2) Net operating losses attributable to a beneficiary of a trust or es-
2 tate under section 642 of the Internal Revenue Code shall be a deduction
3 for the beneficiary to the extent that income from the trust or estate
4 would be attributable to this state under the provisions of this chap-
5 ter.

6 (h) In the case of an individual who is on active duty as a full-time
7 officer, enlistee, or draftee, with the armed forces of the United States,
8 which full-time duty is or will be continuous and uninterrupted for one hun-
9 dred twenty (120) consecutive days or more, deduct compensation paid by the
10 armed forces of the United States for services performed outside this state.
11 The deduction is allowed only to the extent such income is included in tax-
12 able income.

13 (i) In the case of a corporation, including any corporation included
14 in a group of corporations combined under ~~subsection (t)~~ of section
15 63-3027(22), Idaho Code, add any capital loss or passive loss deducted,
16 which loss was incurred during any year in which such corporation did not
17 transact business in Idaho. However, do not add any capital loss deducted if
18 a corporation, including any corporation in a group of corporations combined
19 under ~~subsection (t)~~ of section 63-3027(22), Idaho Code, was transacting
20 business in Idaho during the taxable year in which the loss was incurred. In
21 the case of persons other than corporations, add any capital loss or passive
22 loss deducted which was incurred in activities not taxable by Idaho at the
23 time such loss was incurred. In computing the income taxable to an S corpora-
24 tion or partnership under this section, deduction shall not be allowed for a
25 carryover or carryback of a net operating loss provided for in subsection (c)
26 of this section, a passive loss or a capital loss provided for in section 1212
27 of the Internal Revenue Code.

28 (j) In the case of an individual, there shall be allowed as a deduction
29 from gross income either paragraph (1) or (2) of this subsection at the op-
30 tion of the taxpayer:

31 (1) The standard deduction as defined in section 63 of the Internal Rev-
32 enue Code; or

33 (2) Itemized deductions as defined in section 63 of the Internal Rev-
34 enue Code except state or local taxes measured by net income and general
35 sales taxes as either is defined in section 164 of the Internal Revenue
36 Code.

37 (k) Add the taxable amount of any lump sum distribution excluded from
38 gross income for federal income tax purposes under the ten (10) year averag-
39 ing method. The taxable amount will include the ordinary income portion and
40 the amount eligible for the capital gain election.

41 (l) Deduct any amounts included in gross income under the provisions of
42 section 86 of the Internal Revenue Code relating to certain social security
43 and railroad benefits.

44 (m) In the case of a self-employed individual, deduct the actual cost
45 of premiums paid to secure worker's compensation insurance for coverage in
46 Idaho, if such cost has not been deducted in arriving at taxable income.

47 (n) In the case of an individual for any tax period ending on or prior
48 to December 31, 2016, deduct the amount contributed to a college savings pro-
49 gram but not more than four thousand dollars (\$4,000) per tax year. In the
50 case of an individual and for any tax period starting on or after January 1,

1 2017, deduct the amount contributed to a college savings program, but not
2 more than six thousand dollars (\$6,000) per tax year. For those married and
3 filing jointly, deduct the amount contributed to a college savings program,
4 but not more than twice of that allowed for an individual. To be qualified
5 for this deduction, the contribution must be made during the taxable year and
6 made to an Idaho college savings program account as described in chapter 54,
7 title 33, Idaho Code.

8 (o) In the case of an individual, add the amount of a nonqualified with-
9 drawal from an individual trust account or savings account established pur-
10 suant to chapter 54, title 33, Idaho Code, less any amount of such nonqual-
11 ified withdrawal included in the individual's federal gross income pursuant
12 to section 529 of the Internal Revenue Code. The addition provided in this
13 subsection is limited to contributions previously exempt from Idaho state
14 income tax and earnings generated from the program as long as the earnings
15 are not already included in federal adjusted gross income.

16 (p) In the case of an individual, add the amount of a withdrawal from
17 an individual trust account or savings account established pursuant to chap-
18 ter 54, title 33, Idaho Code, transferred to a qualified tuition program, as
19 defined in section 529 of the Internal Revenue Code, that is operated by a
20 state other than Idaho or to a qualified ABLE program as defined in section
21 529A of the Internal Revenue Code. The addition provided in this subsection
22 is limited to the amount of the contributions to the Idaho individual trust
23 account or savings account by the account owner that was deducted on the ac-
24 count owner's Idaho income tax return for the year of the transfer and the
25 prior taxable year.

26 (q) Deduct any amount disallowed under section 461(1)(1)(B) of the In-
27 ternal Revenue Code (relating to excess business losses) that is treated as
28 part of the taxpayer's net operating loss carryforward for federal income
29 tax purposes.

30 (r) Add the excess business losses under section 461(1) of the Internal
31 Revenue Code, as required by section 63-3004, Idaho Code. The excess busi-
32 ness losses may be carried forward and deducted as an Idaho net operating
33 loss under section 63-3021, Idaho Code, successively over the next twenty
34 (20) years succeeding the taxable year in which the loss arises until such
35 losses are exhausted. Excess business losses shall not be carried back.

36 (~~rs~~) Subtract any amounts included in taxable income for funds received
37 or loans forgiven pursuant to the provisions of the coronavirus aid, relief,
38 and economic security act, P.L. 116-136.

39 (~~st~~) Subtract any amounts included in taxable income for loans forgiven
40 pursuant to the paycheck protection program and health care enhancement act,
41 P.L. 116-139, including economic injury disaster loan advance funds, and the
42 paycheck protection program flexibility act of 2020, P.L. 116-142.

43 (~~tu~~) Add any amounts excluded from taxable income for funds received
44 pursuant to the emergency rental assistance program established by section
45 501 of division N of the consolidated appropriations act, 2021, P.L. 116-
46 260.

47 SECTION 3. That Section 63-3029G, Idaho Code, be, and the same is hereby
48 amended to read as follows:

1 63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE --
2 ~~CARRY FORWARD~~ CARRYFORWARD.

3 (1) (a) Subject to the limitations of this section, there shall be al-
4 lowed to a taxpayer a nonrefundable credit against taxes imposed by sec-
5 tions 63-3024, 63-3025, and 63-3025A, Idaho Code, for increasing re-
6 search activities in Idaho.

7 (b) The credit allowed by ~~subsection (1)~~ paragraph (a) of this
8 subsection shall be the sum of:

9 (i) Five percent (5%) of the excess of qualified research expenses
10 for research conducted in Idaho over the base amount; and

11 (ii) Five percent (5%) basic research payments allowable under
12 ~~subsection (c) of~~ section 41 (e) of the Internal Revenue Code for
13 basic research conducted in Idaho.

14 (c) The credit allowed by ~~subsection (1)~~ paragraph (a) of this
15 subsection shall be computed without regard to the calculation of the
16 alternative incremental credit provided for in section 41(c) (4) of the
17 Internal Revenue Code or the alternative simplified credit provided for
18 in section 41(c) (5) of the Internal Revenue Code.

19 (2) As used in this section:

20 (a) The terms "qualified research expenses," "qualified research,"
21 "basic research payments" and "basic research" shall be as defined in
22 section 41 of the Internal Revenue Code, except that the research must
23 be conducted in Idaho.

24 (b) The term "base amount" shall mean an amount calculated as provided
25 in sections 41(c) and ~~41~~(h) of the Internal Revenue Code, except that:

26 (i) A taxpayer's gross receipts include only those gross receipts
27 attributable to sources within this state as provided in subsec-
28 tions ~~(¶12)~~ and ~~(¶13)~~ of section 63-3027, Idaho Code; and

29 (ii) Notwithstanding section 41(c) of the Internal Revenue Code,
30 for purposes of calculating the base amount, a taxpayer:

31 (A) May elect to be treated as a start-up company as provided
32 in section 41(c) (3) (B) of the Internal Revenue Code, regard-
33 less of whether the taxpayer meets the requirements of sec-
34 tion 41(c) (3) (B) (i) (I) or (II) of the Internal Revenue Code;
35 and

36 (B) May not revoke an election to be treated as a start-up
37 company.

38 (3) The credit allowed by subsection (1) (a) of this section together
39 with any credits carried forward under subsection (5) of this section
40 shall not exceed the amount of tax due under sections 63-3024, 63-3025, and
41 63-3025A, Idaho Code, after allowance for all other credits permitted by
42 this chapter. When credits earned in more than one (1) taxable year are
43 available, the oldest credits shall be applied first.

44 (4) In the case of a group of corporations filing a combined report un-
45 der ~~subsection (t) of~~ section 63-3027 (22), Idaho Code, credit earned by one
46 (1) member of the group but not used by that member may be used by another
47 member of the group. For a combined group of corporations, any member of
48 the group may claim credit carried forward unless the member who earned the
49 credit is no longer included in the combined group.

1 (5) The credit allowed by subsection (1) (a) of this section shall be
2 claimed for the taxable year during which the taxpayer qualifies for the
3 credit. If the credit exceeds the limitation under subsection (3) of this
4 section, the excess amount may be carried forward for a period that does not
5 exceed the next fourteen (14) taxable years.

6 (6) In addition to other needed rules, the state tax commission may
7 promulgate rules prescribing, in the case of S corporations, partnerships,
8 trusts, or estates, a method of attributing the credit under this section to
9 the shareholders, partners, or beneficiaries in proportion to their share of
10 the income from the S corporation, partnership, trust, or estate.

11 SECTION 4. That Section 63-3029I, Idaho Code, be, and the same is hereby
12 amended to read as follows:

13 63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIP-
14 MENT. (1) Subject to the limitations of this section, for taxable years
15 beginning after January 1, 2001, there shall be allowed to a taxpayer a non-
16 refundable credit against taxes imposed by sections 63-3024, 63-3025, and
17 63-3025A, Idaho Code, for qualified expenditures in qualified broadband
18 equipment in Idaho.

19 (2) The credit permitted in subsection (1) of this section shall be
20 three percent (3%) of the qualified investment in qualified broadband equip-
21 ment in Idaho and shall be in addition to the credit for capital investment
22 permitted by section 63-3029B, Idaho Code.

23 (3) As used in this section, the term:

24 (a) "Qualified investment" shall be as defined in section 63-3029B,
25 Idaho Code.

26 (b) "Qualified broadband equipment" means equipment that qualifies for
27 the credit for capital investment permitted by section 63-3029B, Idaho
28 Code, and is capable of transmitting signals at a rate of at least two
29 hundred thousand (200,000) bits per second to a subscriber and at least
30 one hundred twenty-five thousand (125,000) bits per second from a sub-
31 scriber, and:

32 (i) In the case of a telecommunications carrier, such qualifying
33 equipment shall be necessary to the provision of broadband service
34 and an integral part of a broadband network. "Telecommunications
35 carrier" has the meaning given such term by ~~section 47 U.S.C. 153~~
36 ~~of the communications act of 1934, as amended,~~ but does not include
37 a commercial mobile service provider.

38 (ii) In the case of a commercial mobile service carrier, such
39 qualifying equipment shall extend from the subscriber side of the
40 mobile telecommunications switching office to a transmitting/re-
41 ceiving antenna, including such antenna, on the outside of the
42 structure in which the subscriber is located. "Commercial mobile
43 service carrier" means any person authorized to provide commer-
44 cial mobile radio service to subscribers as defined in ~~section~~
45 ~~20.3 of title 47, Code of Federal Regulations~~ 47 CFR 20.3 (10-1-99
46 ed.), as amended.

47 (iii) In the case of a cable or open video system operator, such
48 qualifying equipment shall extend from the subscriber's side of
49 the headend to the outside of the structure in which the subscriber

1 is located. The terms "cable operator" and "open video system op-
2 erator" have the meanings given such terms by sections 602(5) and
3 653, respectively, of the communications act of 1934, as amended.

4 (iv) In the case of a satellite carrier or a wireless carrier
5 other than listed above, such qualifying equipment is only that
6 equipment that extends from a transmitting/receiving antenna,
7 including such antenna, which transmits and receives signals to or
8 from multiple subscribers to a transmitting/receiving antenna on
9 the outside of the structure in which the subscriber is located.
10 "Satellite carrier" means any person using the facilities of a
11 satellite or satellite services licensed by the federal commu-
12 nications commission and operating a fixed-satellite service or
13 direct broadcast satellite services to provide point-to-multi-
14 point distribution of signals. "Other wireless carrier" means
15 any person, other than a telecommunications carrier, commercial
16 mobile service carrier, cable operator, open video operator, or
17 satellite carrier, providing broadband services to subscribers
18 through the radio transmission of energy.

19 (v) In the case of packet switching equipment, such packet equip-
20 ment installed in connection with other qualifying equipment
21 listed in subsections (3) (b) (i) through ~~(3) (b) (iv)~~ of this sec-
22 tion, provided it is the last in a series of equipment that trans-
23 mits signals to a subscriber or the first in a series of equipment
24 that transmits signals from a subscriber. "Packet switching"
25 means controlling or routing the path of a digital transmission
26 signal ~~which is~~ assembled into packets or cells.

27 (vi) In the case of multiplexing and demultiplexing equipment,
28 such equipment only to the extent that it is deployed in connection
29 with providing broadband services in locations between packet
30 switching equipment and the structure in which the subscriber is
31 located. "Multiplexing" means the transmission of two (2) or more
32 signals over a communications circuit without regard to the commu-
33 nications technology.

34 (vii) Any property not primarily used to provide services in Idaho
35 to public subscribers is not qualified broadband equipment.

36 (4) No equipment described in subsections (3) (b) (i) through ~~(3) (b) (vi)~~
37 of this section shall qualify for the credit provided in subsection (1) of
38 this section until the taxpayer applies to and obtains from the Idaho pub-
39 lic utilities commission an order confirming that the installed equipment
40 is qualified broadband equipment. Applications submitted to the commission
41 shall be governed by the commission's rules of procedure. The commission may
42 issue procedural orders necessary to implement this section.

43 (5) The credit allowed by subsection (1) of this section together with
44 any credits carried forward under subsection (7) of this section shall not,
45 in any one (1) taxable year, exceed the lesser of:

46 (a) The amount of tax due under sections 63-3024, 63-3025, and
47 63-3025A, Idaho Code, after allowance for all other credits permitted
48 by this chapter; or

49 (b) Seven hundred fifty thousand dollars (\$750,000).

1 When credits earned in more than one (1) taxable year are available, the old-
2 est credits shall be applied first.

3 (6) In the case of a group of corporations filing a combined report un-
4 der ~~subsection (t) of~~ section 63-3027(22), Idaho Code, credit earned by one
5 (1) member of the group but not used by that member may be used by another
6 member of the group, subject to the provisions of subsection (7) of this sec-
7 tion, instead of carried over. For a combined group of corporations, credit
8 carried forward may be claimed by any member of the group unless the member
9 who earned the credit is no longer included in the combined group.

10 (7) If the credit allowed by subsection (1) of this section exceeds the
11 limitation under subsection (5) of this section, the excess amount may be
12 carried forward for a period that does not exceed the next fourteen (14) tax-
13 able years.

14 (8) In the event that qualified broadband equipment upon which the
15 credit allowed by this section has been used ceases to qualify for the credit
16 allowed by section 63-3029B, Idaho Code, or is subject to recapture of that
17 credit, the recapture of credit under this section shall be in the same pro-
18 portion and subject to the same provisions as the amount of credit required
19 to be recaptured under section 63-3029B, Idaho Code.

20 (9) (a) Subject to the requirements of this subsection, a taxpayer who
21 earns and is entitled to the credit or to an unused portion of the credit
22 allowed by this section may transfer all or a portion of the unused
23 credit to:

24 (i) Another taxpayer required to file a return under this chapter;
25 or

26 (ii) To an intermediary for its use or for resale to a taxpayer re-
27 quired to file a return under this chapter.

28 In the event of either such a transfer, the transferee may claim the
29 credit on the transferee's income tax return originally filed during
30 the calendar year in which the transfer takes place and, in the case of
31 carryover of the credit, on the transferee's returns for the number of
32 years of carryover available to the transferor at the time of the trans-
33 fer unless earlier exhausted.

34 (b) Before completing a transfer under this subsection, the transferor
35 shall notify the state tax commission of its intention to transfer the
36 credit and the identity of the transferee. The state tax commission
37 shall provide the transferor with a written statement of the amount of
38 credit available under this section as then appearing in the commis-
39 sion's records and the number of years the credit may be carried over.
40 The transferee shall attach a copy of the statement to any return in re-
41 gard to which the transferred credit is claimed.

42 (c) In the event that after the transfer the state tax commission deter-
43 mines that the amount of credit properly available under this section is
44 less than the amount claimed by the transferor of the credit or that the
45 credit is subject to recapture, the commission shall assess the amount
46 of overstated or recaptured credit as taxes due from the transferor and
47 not the transferee. The assessment shall be made in the manner provided
48 for a deficiency in taxes under this chapter.

49 (10) In addition to other needed rules, the state tax commission may
50 promulgate rules prescribing, in the case of S corporations, partnerships,

1 trusts, or estates, a method of attributing the credit under this section to
2 the shareholders, partners, or beneficiaries in proportion to their share of
3 the income from the S corporation, partnership, trust, or estate.

4 SECTION 5. That Section 63-4406, Idaho Code, be, and the same is hereby
5 amended to read as follows:

6 63-4406. LIMITATIONS, AND OTHER PROVISIONS ON CREDITS AGAINST INCOME
7 TAXES. (1) In addition to other needed rules, the state tax commission may
8 promulgate rules prescribing:

9 (a) In the case of S corporations, partnerships, trusts, or estates,
10 a method of attributing a credit under this chapter to the sharehold-
11 ers, partners or beneficiaries in proportion to their share of the in-
12 come from the S corporation, partnership, trust, or estate; and

13 (b) The method by which the carryover of credits and the duty to recap-
14 ture credits shall survive and be transferred in the event of reorgani-
15 zations, mergers or liquidations.

16 (2) In the case of a unitary group of corporations filing a combined
17 report under ~~subsection (t) of~~ section 63-3027(22), Idaho Code, credits
18 against income tax provided by sections 63-4403, 63-4404, and 63-4405, Idaho
19 Code, earned by one (1) member of the group but not used by that member may be
20 used by another member of the group, subject to the limitation in subsection
21 (3) of this section, instead of carried over. For a combined group of cor-
22 porations, credit carried forward may be claimed by any member of the group
23 unless the member or members who earned the credit are no longer included in
24 the combined group.

25 (3) The total of all credits allowed by sections 63-4403, 63-4404, and
26 63-4405, Idaho Code, together with any credits carried forward under subsec-
27 tion (4) of this section shall not exceed the amount of tax due under sections
28 63-3024, 63-3025, and 63-3025A, Idaho Code, after allowance for all other
29 credits permitted by this chapter and the Idaho income tax act.

30 (4) If the credits exceed the limitation under subsection (3) of this
31 section, the excess amount may be carried forward for a period that does not
32 exceed:

33 (a) The next fourteen (14) taxable years, in the case of credits allowed
34 by sections 63-4403 and 63-4404, Idaho Code; or

35 (b) The next ten (10) taxable years, in the case of credits allowed by
36 section 63-4405, Idaho Code.

37 SECTION 6. An emergency existing therefor, which emergency is hereby
38 declared to exist, this act shall be in full force and effect on and after its
39 passage and approval, and retroactively to January 1, 2022.