

Conformity to the Internal Revenue Code.

### General Background

The Idaho Income Tax Act is based on conforming to the Internal Revenue Code (IRC). Idaho is a "static" conformity state, meaning that we conform as of a specific date. Conformity is the foundation of the Idaho income tax code. We avoid having to duplicate the federal laws and allow taxpayers to utilize the work that they put into preparing the federal return.

Tax laws that Congress passes can have a large impact on Idaho's income tax revenue. It's important for the Legislature to carefully consider the impact of conforming or not conforming. There are indirect effects that go beyond the fiscal impact. Deviations from the IRC create confusion and extra work for taxpayers, tax preparers, and tax software developers. The effects of nonconformity that pose the biggest problems for the Tax Commission are the potential for an increase in audits, litigation, and general confusion among taxpayers.

Because Idaho's income tax code uses the IRC as a starting point, Idaho's income tax returns begin with the federal adjusted gross income (AGI). Idaho lawmakers generally have conformed to the IRC each year historically – except for the bonus depreciation expense and net operating loss provisions.

These are the specific statutes, in part, that are involved in our conformity:

63-3002. DECLARATION OF INTENT. It is the intent of the legislature by the adoption of this act, insofar as possible to make the provisions of the Idaho act identical to the provisions of the Federal Internal Revenue Code **relating to the measurement of taxable income**, to the end that the taxable income reported each taxable year by a taxpayer to the internal revenue service shall be the identical sum reported to this state, subject only to modifications contained in the Idaho law; to achieve this result by the application of the various provisions of the Federal Internal Revenue Code relating to the definition of income, exceptions therefrom, deductions (personal and otherwise), accounting methods, taxation of trusts, estates, partnerships and corporations, basis and other pertinent provisions to gross income as defined therein, resulting in an amount called "taxable income" in the Internal Revenue Code, and then to impose the provisions of this act thereon to derive a sum called "Idaho taxable income"; to impose a tax on residents of this state measured by Idaho taxable income wherever derived and on the Idaho taxable income of nonresidents which is the result of activity within or derived from sources within this state. All the foregoing is subject to modifications in Idaho law including, without limitation, modifications applicable to unitary groups of corporations, which include corporations incorporated outside the United States. **Emphasis added.**

63-3004. INTERNAL REVENUE CODE. (63-3004. INTERNAL REVENUE CODE. (1) The term "Internal Revenue Code" means the Internal Revenue Code, as amended, and in effect on the first day of January 202±2, except that Internal Revenue Code sections 85 and 461(1) ~~is~~ are applied as in effect on January 1, 2020.

~~(2) For all purposes of the Idaho income tax act, a marriage must be one that is considered valid or recognized under section 28, article III, of the constitution of the state of Idaho and defined in section 32-201, Idaho Code, or as recognized under section 32-209, Idaho Code.~~

Underlines added.

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~~(3) Notwithstanding subsection (2) of this section, marriages recognized and permitted by the United States supreme court and the ninth circuit court of appeals shall also be recognized for purposes of the Idaho income tax act.~~

63-3011. GROSS INCOME. The term "gross income" means gross income as defined in section 61(a) of the Internal Revenue Code.

63-3011A. ADJUSTED GROSS INCOME. The term "adjusted gross income" means adjusted gross income as defined in section 62 of the Internal Revenue Code.

63-3011B. TAXABLE INCOME. The term "taxable income" means federal taxable income as determined under the Internal Revenue Code. *Emphasis added.*

63-3011C. IDAHO TAXABLE INCOME. The term "Idaho taxable income" means taxable income as modified pursuant to the Idaho adjustments specifically provided in this chapter. *Emphasis added.*