

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 108

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3029, IDAHO CODE, TO REVISE PROVISIONS REGARDING CREDIT FOR INCOME TAXES PAID ANOTHER STATE; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3029, Idaho Code, be, and the same is hereby amended to read as follows:

63-3029. CREDIT FOR INCOME TAXES PAID ANOTHER STATE. (1) A resident individual shall be allowed a credit against the tax otherwise due under this chapter for the amount of any income tax imposed on the individual, or an S corporation, partnership, limited liability company, estate, or trust of which the individual is a shareholder, partner, member, or beneficiary (to the extent attributable to the individual as a result of the individual's share of the S corporation's, partnership's, limited liability company's, estate's, or trust's taxable income in another state) for the taxable year by another state on income derived from sources therein while domiciled in Idaho and that is also subject to tax under this chapter.

(2) For purposes of this section:

(a) "State" shall include any state of the United States, the District of Columbia, or any possession or territory of the United States.

(b) Except as provided in subsection ~~(3)~~ (4) (a) (i) of this section, "individual" shall include estates and trusts.

(c) References to "domiciled in" shall mean "a resident of" for purposes of computing the credit for trusts and estates.

(3) For the purpose of determining the amount of credit under this section:

(a) No credit is allowed when tax is paid to another state on income not taxed by the state of Idaho; and

(b) A state's tax computation that does not allow the qualified business deduction allowed under section 199A of the Internal Revenue Code or any other Idaho modification must be recomputed allowing the qualified business deduction or the applicable Idaho modified amount.

~~(3) (4)~~ (a) Except as provided in subsection (3) paragraph (b) of this subsection:

(i) The credit provided under this section to an individual shall not exceed the proportion of the tax otherwise due under this chapter that the amount of the adjusted gross income of the taxpayer derived from sources in the other state as modified by this chapter bears to the adjusted gross income of the taxpayer as modified by this chapter.

(ii) The credit provided under this section to an estate or trust shall not exceed the proportion of the tax otherwise due under this

chapter that the amount of the federal total income of the estate or trust derived from sources in the other state and taxed by that state bears to the federal total income of the estate or trust. "Federal total income of the estate or trust derived from sources in the other state" shall be determined as provided under section 63-3026A, Idaho Code, as if the estate or trust was a nonresident.

(b) When tax is paid to another state on income of an S corporation, partnership, limited liability company, estate, or trust, the limitation calculated in ~~subsection (3)~~ paragraph (a) of this subsection with respect to that income shall be based on the proportion that the individual taxpayer's share of the entity's taxable income correctly reported to the other state under the laws of the other state bears to the individual's adjusted gross income, as modified by this chapter. This limitation shall apply whether the tax is paid to the other state by the individual or by the S corporation, partnership, limited liability company, estate, or trust.

(c) The credit provided under this section shall further be limited to the tax paid to the other state.

~~(4)~~ (5) To substantiate the credit allowed under this section, the state tax commission may require a copy of any receipt showing payment of income taxes to the other state or a copy of any return or returns filed with such other state, or both. The state tax commission may also require a copy of the qualified business deduction calculation.

~~(5)~~ (6) No credit allowed under this section shall be applied in calculating tax due under this chapter if the tax upon which the credit is based has been claimed as a deduction, unless the tax is restored to income on the Idaho return. ~~(6)~~ The credit shall not be allowed if such other state allows a credit against taxes imposed by such state for taxes paid or payable under this chapter.

(7) For purposes of this section, an income tax imposed on an S corporation, partnership, limited liability company, estate, or trust includes:

(a) A direct tax imposed upon the income for the taxable year of the S corporation, partnership, limited liability company, estate, or trust; and

(b) An excise or franchise tax that is measured by the income for the taxable year of the S corporation, partnership, limited liability company, estate, or trust.

(8) For purposes of subsection (7) of this section, an excise or franchise tax is "measured by income" only if the statute imposing the excise or franchise tax provides that the base for the tax:

(a) Includes:

(i) Revenue from sales;

(ii) Revenue from services rendered; and

(iii) Income from investments; and

(b) Permits a deduction for one (1) or both of the following:

(i) The cost of goods, inventory, or products with respect to revenue from sales; and

(ii) The cost of services rendered with respect to revenue from services rendered.

1 (9) A part-year resident is entitled to a credit, determined in the man-  
2 ner prescribed by the state tax commission, for income taxes paid to another  
3 state in regard to income ~~which~~ that is:

4 (a) Earned while the taxpayer is domiciled or residing in this state;  
5 and

6 (b) Subject to tax in such other state.

7 (10) If the interest in an S corporation, partnership, limited liabil-  
8 ity company, estate, or trust was held for less than the entire taxable year,  
9 the share attributable to the individual shall be allocated in the same man-  
10 ner as for federal purposes.

11 SECTION 2. An emergency existing therefor, which emergency is hereby  
12 declared to exist, this act shall be in full force and effect on and after its  
13 passage and approval, and retroactively to January 1, 2023.