

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 40

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3022, IDAHO CODE, TO PROVIDE  
2 THAT CAPITAL GAINS AND LOSSES ON PRECIOUS METAL BULLION AND MONETIZED  
3 BULLION SALES BE ADDED TO OR SUBTRACTED FROM IDAHO TAXABLE INCOME UN-  
4 DER CERTAIN CIRCUMSTANCES; AMENDING SECTION 63-3022A, IDAHO CODE, TO  
5 REVISE PROVISIONS REGARDING THE DEDUCTION OF MILITARY RETIREMENT PAY  
6 FROM TAXABLE INCOME AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION  
7 63-3024, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE IDAHO INCOME  
8 TAX RATE ON INDIVIDUALS, ESTATES, AND TRUSTS; AMENDING SECTION 63-3025,  
9 IDAHO CODE, TO REVISE PROVISIONS REGARDING THE IDAHO INCOME TAX RATE  
10 ON CORPORATIONS; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE  
11 APPLICATION.  
12

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

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

16 63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtrac-  
17 tions set forth in this section, and in sections 63-3022A through 63-3022U,  
18 Idaho Code, are to be applied to the extent allowed in computing Idaho tax-  
19 able income:

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

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

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

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

41 (3) Any portion of the net operating loss not subtracted from income in  
42 the two (2) preceding years may be subtracted from income in the next

1 twenty (20) years succeeding the taxable year in which the loss arises  
2 in order until exhausted. The sum of the deductions may not exceed the  
3 amount of the net operating loss deduction incurred. The carryback  
4 shall be limited to a total of fifty thousand dollars (\$50,000) in the  
5 case of an individual filing as married filing separate in the year of  
6 the loss.

7 (4) Net operating losses incurred by a corporation during a year in  
8 which such corporation did not transact business in Idaho or was not  
9 included in a group of corporations combined under section 63-3027(22),  
10 Idaho Code, may not be subtracted. However, if at least one (1) corpora-  
11 tion within a group of corporations combined under section 63-3027(22),  
12 Idaho Code, was transacting business in Idaho during the taxable year  
13 in which the loss was incurred, then the net operating loss may be  
14 subtracted. Net operating losses incurred by a person, other than a  
15 corporation, in activities not taxable by Idaho may not be subtracted.

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

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

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

25 (f) Subtract the amount of any income received or accrued during the  
26 taxable year that is exempt from taxation by this state, under the provisions  
27 of any other law of this state or a law of the United States, if not previously  
28 subtracted in arriving at taxable income.

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

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

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

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

45 (i) In the case of a corporation, including any corporation in a group  
46 of corporations combined under section 63-3027(22), Idaho Code, add any cap-  
47 ital loss or passive loss deducted, which loss was incurred during any year  
48 in which such corporation did not transact business in Idaho. However, do  
49 not add any capital loss deducted if a corporation, including any corpora-  
50 tion in a group of corporations combined under section 63-3027(22), Idaho

1 Code, was transacting business in Idaho during the taxable year in which the  
2 loss was incurred. In the case of persons other than corporations, add any  
3 capital loss or passive loss deducted that was incurred in activities not  
4 taxable by Idaho at the time such loss was incurred. In computing the in-  
5 come taxable to an S corporation or partnership under this section, deduc-  
6 tion shall not be allowed for a carryover or carryback of a net operating loss  
7 provided for in subsection (c) of this section, a passive loss, or a capital  
8 loss provided for in section 1212 of the Internal Revenue Code.

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

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

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

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

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

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

28 (n) In the case of an individual for any tax period ending on or prior  
29 to December 31, 2016, deduct the amount contributed to a college savings pro-  
30 gram, but not more than four thousand dollars (\$4,000) per tax year. In the  
31 case of an individual and for any tax period starting on or after January 1,  
32 2017, deduct the amount contributed to a college savings program, but not  
33 more than six thousand dollars (\$6,000) per tax year. For those married and  
34 filing jointly, deduct the amount contributed to a college savings program,  
35 but not more than twice of that allowed for an individual. To be qualified  
36 for this deduction, the contribution must be made during the taxable year and  
37 made to an Idaho college savings program account as described in chapter 54,  
38 title 33, Idaho Code.

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

47 (p) In the case of an individual, add the amount of a withdrawal from  
48 an individual trust account or savings account established pursuant to chap-  
49 ter 54, title 33, Idaho Code, transferred to a qualified tuition program, as  
50 defined in section 529 of the Internal Revenue Code, that is operated by a

1 state other than Idaho or to a qualified ABLE program as defined in section  
 2 529A of the Internal Revenue Code. The addition provided in this subsection  
 3 is limited to the amount of the contributions to the Idaho individual trust  
 4 account or savings account by the account owner that was deducted on the ac-  
 5 count owner's Idaho income tax return for the year of the transfer and the  
 6 prior taxable year.

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

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

17 (s) Subtract any amounts included in taxable income for funds received  
 18 or loans forgiven pursuant to the provisions of the coronavirus aid, relief,  
 19 and economic security act, P.L. 116-136.

20 (t) Subtract any amounts included in taxable income for loans forgiven  
 21 pursuant to the paycheck protection program and health care enhancement act,  
 22 P.L. 116-139, including economic injury disaster loan advance funds, and the  
 23 paycheck protection program flexibility act of 2020, P.L. 116-142.

24 (u) Add any amounts excluded from taxable income for funds received  
 25 pursuant to the emergency rental assistance program established by sec-  
 26 tion 501 of division N of the consolidated appropriations act, 2021, P.L.  
 27 116-260.

28 (v) Add or subtract the amount of net capital gains or losses that meets  
 29 the definition of precious metal bullion or monetized bullion under section  
 30 63-3622V, Idaho Code, included in the taxpayer's federal adjusted gross in-  
 31 come.

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

34 63-3022A. DEDUCTION OF CERTAIN RETIREMENT BENEFITS. ~~(a)~~ (1) An amount  
 35 specified by subsection ~~(b)~~ (2) of this section of the following retirement  
 36 benefits may be deducted by an individual from taxable income if such indi-  
 37 vidual has either attained age sixty-five (65) years, or has attained age  
 38 sixty-two (62) years and is classified as disabled:

39 ~~(1)~~ (a) Retirement annuities paid to a retired employee or the unmar-  
 40 ried widow or widower of a retired employee by the United States of Amer-  
 41 ica under the:

42 (i) Civil service retirement system; or

43 (ii) Foreign service retirement and disability system; or

44 (iii) Offset program of the civil service retirement system or  
 45 foreign service retirement and disability system.

46 ~~(2)~~ (b) Retirement benefits paid from the ~~firemen's~~ firefighters' re-  
 47 tirement fund of the state of Idaho to a retired ~~fireman~~ firefighter or  
 48 the unmarried widow or widower of a retired ~~fireman~~ firefighter.

1 ~~(3)~~ (c) Retirement benefits paid to a retired Idaho city police officer:  
2

3 (i) By a city or its agent in regard to a ~~police officer's~~ police re-  
4 tirement fund that no longer admits new members and on January 1,  
5 2012, was administered by a city in this state; or

6 (ii) In regard to a ~~police officer's~~ police retirement fund that no  
7 longer admits new members and on January 1, 2012, was administered  
8 by the public employee retirement system of Idaho; or

9 (iii) By the public employee retirement system of Idaho to a re-  
10 tired police officer in regard to Idaho employment not included in  
11 the federal social security retirement system; or

12 (iv) An unremarried widow or widower of a person described in sub-  
13 paragraph (i), (ii) or (iii) of this paragraph.

14 ~~(4)~~ (d) Retirement benefits paid by the United States of America to  
15 a retired member of the military services of the United States or the  
16 unremarried widow or widower of such member, regardless of the age or  
17 disability classification of the retired member or of the unremarried  
18 widow or widower of such retired member, provided that a person receiv-  
19 ing such retirement benefits who is not disabled and has not attained  
20 the age of sixty-two (62) years by the end of the tax year was employed  
21 during the tax year and received sufficient income from such employment  
22 to be required to file a federal return under section 6012(a)(1) of the  
23 Internal Revenue Code.

24 ~~(b)~~ (2) The amount of retirement benefits that may be deducted from tax-  
25 able income shall be an amount not in excess of maximum retirement benefits  
26 under the social security act, as amended, on the date on which this act is  
27 passed and approved, including adjustments to be made based ~~upon~~ on consumer  
28 price index adjustments provided in section 215 of the social security act.  
29 The state tax commission shall ascertain benefit changes made in accordance  
30 with the social security act and publish the appropriate deduction amounts  
31 provided by this section reflecting such changes annually. Maximum retire-  
32 ment benefits under the social security act shall mean:

33 ~~(1)~~ (a) In the case of a taxpayer who files a joint return with ~~his~~ the  
34 taxpayer's spouse for the tax year, an amount equal to the maximum so-  
35 cial security benefits payable for the tax year to a person attaining  
36 full retirement age in the tax year who has earned the maximum earnings  
37 creditable under social security for the years used in the computation  
38 of his benefits, and whose spouse has no social security benefits except  
39 those payable on his record of earnings.

40 ~~(2)~~ (b) In the case of a taxpayer who is not married, an amount equal  
41 to maximum social security benefits payable for the tax year to a person  
42 attaining full retirement age in the tax year who has earned the maximum  
43 earnings creditable under social security for the years used in the com-  
44 putation of his benefits.

45 ~~(3)~~ (c) In the case of an unremarried widow or widower, an amount equal  
46 to the maximum social security benefits payable for the tax year to a  
47 widow or widower attaining full retirement age in the tax year who has  
48 no social security benefits except those to which he or she is entitled  
49 on his or her deceased spouse's record and whose spouse had received no  
50 reduced retirement benefits prior to his or her death and whose spouse

1 had earned the maximum earnings creditable under social security for  
 2 the years used in the computation of his or her benefits under social  
 3 security.

4 ~~(4)~~ (d) Maximum retirement benefits shall, in every case, take into  
 5 consideration and be adjusted to reflect adjustments that would be made  
 6 to such amounts had they been received as social security benefits as  
 7 the result of the receipt of earnings in excess of earnings limitations.  
 8 The terms in this paragraph are those defined in the social security  
 9 act.

10 ~~(5)~~ (e) Taxpayers not described in paragraphs ~~(1), (2), (3) and (4)~~ (a),  
 11 (b), (c), and (d) of this subsection may not deduct any amount of re-  
 12 tirement benefits under this section. This includes retirement bene-  
 13 fits paid by the federal employees retirement system or foreign service  
 14 pension system.

15 ~~(e)~~ (3) The total deduction under this section may not exceed the total  
 16 amount of retirement benefits or annuities ~~which that~~ which that are described in sub-  
 17 section ~~(a)~~ (1) of this section and ~~which that~~ which that are included in the taxpayer's  
 18 gross income in the tax year. If the taxpayer or the taxpayer's spouse re-  
 19 ceives retirement benefits under the federal railroad retirement act or the  
 20 federal social security act in the tax year, then the amount of any retire-  
 21 ment annuities computed under subsection ~~(b)~~ (2) of this section shall be  
 22 reduced by the amount of such federal railroad retirement act and federal  
 23 social security act retirement benefits received by either the taxpayer or  
 24 the taxpayer's spouse, and the lesser of the amount so computed or the total  
 25 amount of retirement benefits or annuities ~~which that~~ which that are described in sub-  
 26 section ~~(a)~~ (1) of this section and ~~which that~~ which that are included in the taxpayer's  
 27 gross income shall constitute the allowable deduction. Furthermore, the al-  
 28 lowable deduction as calculated under this section may be subject to addi-  
 29 tional limitations under section 63-3026A(6), Idaho Code, and the rules pro-  
 30 mulgated thereunder.

31 ~~(d)~~ (4) As used in this section, the word "disabled" shall mean an indi-  
 32 vidual who is a disabled person described in section 63-701, Idaho Code, or  
 33 an individual who qualifies as a person with a "permanent disability" under  
 34 section 49-117(7) (b) (iv), Idaho Code.

35 SECTION 3. That Section 63-3024, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37 63-3024. INDIVIDUALS' TAX AND TAX ON ESTATES AND TRUSTS. (1) For each  
 38 taxable year, a tax measured by Idaho taxable income as defined in this chap-  
 39 ter is hereby imposed upon every individual, trust, or estate required by  
 40 this chapter to file a return.

41 (2) (a) The tax imposed upon individuals, trusts, and estates shall be  
 42 computed at the rate of ~~five and six hundred ninety-five thousandths~~  
 43 ~~percent (5.695%)~~ five and three-tenths percent (5.3%) of taxable income  
 44 over two thousand five hundred dollars (\$2,500).

45 (b) For taxpayers filing a joint return pursuant to the provisions of  
 46 section 63-3031, Idaho Code, the tax imposed shall be computed at the  
 47 rate of ~~five and six hundred ninety-five thousandths percent (5.695%)~~  
 48 five and three-tenths percent (5.3%) of taxable income over five thou-  
 49 sand dollars (\$5,000). For the purposes of this section, a return of

1 a surviving spouse, as defined in section 2(a) of the Internal Revenue  
2 Code, and a head of household, as defined in section 2(b) of the Internal  
3 Revenue Code, shall be treated as a joint return.

4 (3) For taxable year 2000 and each year thereafter, the state tax com-  
5 mission shall prescribe a factor that shall be used to compute the Idaho in-  
6 come tax thresholds provided in subsection (2) of this section. The factor  
7 shall provide an adjustment to the Idaho tax thresholds so that inflation  
8 will not result in a tax increase. The Idaho tax thresholds shall be adjusted  
9 as follows: multiply the last threshold amount by the percentage (the con-  
10 sumer price index for the calendar year immediately preceding the calendar  
11 year to which the adjusted threshold amount will apply divided by the con-  
12 sumer price index for calendar year 1998). For the purpose of this computa-  
13 tion, the consumer price index for any calendar year is the average of the  
14 consumer price index as of the close of the twelve (12) month period for the  
15 immediately preceding calendar year, without regard to any subsequent ad-  
16 justments, as adopted by the state tax commission. This adoption shall be  
17 exempt from the provisions of chapter 52, title 67, Idaho Code. The consumer  
18 price index shall mean the consumer price index for all U.S. urban consumers  
19 published by the United States department of labor. The state tax commission  
20 shall annually include the factor as provided in this subsection to multiply  
21 against Idaho taxable income using the thresholds in this section to arrive  
22 at that year's Idaho taxable income for tax threshold purposes.

23 (4) In the case of a trust that is an electing small business trust as  
24 defined in section 1361 of the Internal Revenue Code, the special rules for  
25 taxation of such trusts contained in section 641 of the Internal Revenue Code  
26 shall apply, except that the individual rate provided in subsection (2) (a)  
27 of this section shall apply in computing tax due under this chapter.

28 (5) The state tax commission may promulgate rules defining the condi-  
29 tions upon which such returns shall be filed.

30 SECTION 4. That Section 63-3025, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 63-3025. TAX ON CORPORATE INCOME. (1) For each taxable year, a tax  
33 is hereby imposed on the Idaho taxable income of a corporation, other than  
34 an S corporation, that transacts or is authorized to transact business in  
35 this state or has income attributable to this state. The tax shall be equal  
36 to ~~five and six hundred ninety-five thousandths percent (5.695%)~~ five and  
37 three-tenths percent (5.3%) of Idaho taxable income.

38 (2) In the case of an S corporation that is required to file a return un-  
39 der section 63-3030, Idaho Code, a tax is hereby imposed at the rate provided  
40 in subsection (1) of this section upon both:

41 (a) Net recognized built-in gain attributable to this state. The  
42 amount of net recognized built-in gain attributable to this state shall  
43 be computed in accordance with section 1374 of the Internal Revenue  
44 Code subject to the apportionment and allocation provisions of section  
45 63-3027, Idaho Code; and

46 (b) Excess net passive income attributable to this state. The amount of  
47 excess net passive income attributable to this state shall be computed  
48 in accordance with section 1375 of the Internal Revenue Code subject to

1           the apportionment and allocation provisions of section 63-3027, Idaho  
2           Code.

3           (3) The tax imposed by subsection (1) or (2) of this section shall not be  
4           less than twenty dollars (\$20.00); provided that the twenty-dollar (\$20.00)  
5           minimum payment shall not be collected from nonproductive mining corpora-  
6           tions.

7           (4) The tax imposed by this section shall not apply to corporations  
8           taxed pursuant to the provisions of section 63-3025A, Idaho Code.

9           SECTION 5. An emergency existing therefor, which emergency is hereby  
10          declared to exist, this act shall be in full force and effect on and after its  
11          passage and approval, and retroactively to January 1, 2025.