

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 61

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO FOOD TAX CREDITS AND REFUNDS; AMENDING SECTION 63-3024A, IDAHO CODE, TO INCREASE THE AMOUNT OF THE FOOD TAX CREDIT, TO REMOVE A PROVISION REGARDING A CERTAIN CREDIT, TO PROVIDE FOR A FOOD TAX REFUND OF ACTUAL SALES TAX PAID ON CERTAIN FOOD ITEMS, TO DEFINE TERMS, TO PROVIDE PENALTIES, AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 63-3077G, IDAHO CODE, TO REVISE A PROVISION REGARDING AN AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DEPARTMENT OF CORRECTION AND TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 63-3077H, IDAHO CODE, TO REVISE A PROVISION REGARDING AN AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DEPARTMENT OF HEALTH AND WELFARE, TO PROVIDE A CORRECT CODE REFERENCE, AND TO MAKE A TECHNICAL CORRECTION; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3024A, Idaho Code, be, and the same is hereby amended to read as follows:

63-3024A. FOOD TAX CREDITS AND REFUNDS. (1) Any resident individual who is required to file and who has filed an Idaho income tax return shall be allowed a credit against taxes due under the Idaho income tax act for the taxpayer, the taxpayer's spouse, and each dependent, as defined in section 152 of the Internal Revenue Code, claimed on the taxpayer's Idaho income tax return, and awarded by the court under section 32-706, Idaho Code, if applicable. For tax year 2022, the credit is one hundred dollars (\$100). For tax years 2023 and after 2024, the credit is one hundred twenty dollars (\$120). For tax year 2025 and each year thereafter, the credit is one hundred fifty-five dollars (\$155). If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit.

(2) A resident individual who is not required to file an Idaho income tax return and for whom no credit or refund is allowed under any other subsection of this section shall, subject to the limitations of subsections (3), (4), (5), (6), and (7) and ~~(8)~~ of this section, be entitled to a refund in the amount provided in subsection (1) of this section.

~~(3) A resident individual who has reached his sixty-fifth birthday before the end of his taxable year and who has claimed the credit available under subsection (1) of this section, in addition to the amount of credit or refund due under subsection (1) of this section, shall be entitled to twenty dollars (\$20.00), which shall be claimed as a credit against any taxes due under the Idaho income tax act. If taxes due are less than the total credit allowed, the individual shall be paid a refund equal to the balance of the unused credit.~~

1 ~~(4)~~ (3) Except as provided in subsection ~~(9)~~ (8) of this section, a
2 credit or refund under this section is available only if the individual for
3 whom a personal exemption is claimed is a resident of the state of Idaho.

4 ~~(5)~~ (4) In no event shall more than one (1) taxpayer be allowed a credit
5 or refund for the same personal exemption, or under more than one (1) subsec-
6 tion of this section.

7 ~~(6)~~ (5) In the event that a credit or refund is attributable to any indi-
8 vidual for whom assistance under the federal food stamp program was received
9 for any month or part of a month during the taxable year for which the credit
10 or refund is claimed, the credit or refund allowed under this section shall
11 be in proportion to the number of months of the year in which no assistance
12 was received.

13 ~~(7)~~ (6) In the event that a credit or refund is attributable to any indi-
14 vidual who has been incarcerated for any month or part of a month during the
15 taxable year for which the credit or refund is claimed, the credit or refund
16 allowed under this section shall be in proportion to the number of months of
17 the year in which the individual was not incarcerated.

18 ~~(8)~~ (7) No credit or refund shall be paid that is attributable to an in-
19 dividual residing illegally in the United States.

20 ~~(9)~~ (8) Any part-year resident entitled to a credit under this section
21 shall receive a proportionate credit reflecting the part of the year in which
22 he was domiciled in this state.

23 (9) In lieu of the flat tax credit amounts provided in subsection (1) of
24 this section, a resident taxpayer may elect for the taxpayer, the taxpayer's
25 spouse, and each dependent, as defined in section 152 of the Internal Rev-
26 enue Code, claimed on such taxpayer's Idaho income tax return, the actual
27 amount of sales tax paid by such persons on food purchases that took place
28 in Idaho during the taxable year, up to a maximum of two hundred fifty dol-
29 lars (\$250) per person. To make this election, the taxpayer shall indicate
30 this choice on the taxpayer's tax return or application and submit scanned
31 copies of sales tax receipts of qualifying food purchases along with the tax
32 return or application. If taxes due are less than the total credit allowed,
33 the taxpayer shall be paid a refund equal to the balance of the unused credit.
34 The provisions of section 63-3042A, Idaho Code, shall not apply to the credit
35 provided in this section. If a taxpayer meets the qualifications under the
36 provisions of subsection (5) of this section, such taxpayer shall not be el-
37 igible for the credit under this subsection. If a taxpayer misrepresents
38 the amount of sales tax paid on food purchases on such taxpayer's tax return
39 or application, the amounts that were improperly claimed shall be subject
40 to recovery by the state tax commission pursuant to section 63-3045, Idaho
41 Code, and the taxpayer shall be subject to the penalties provided in sections
42 63-3046 and 63-3075(b), Idaho Code.

43 (a) For the purposes of this subsection, "food" means the sale of food
44 sold for human consumption and shall have the same definition as pro-
45 vided in 7 U.S.C. 2012 as that section existed on January 1, 2025. The
46 types and kinds of food products on which sales tax qualifies as credit
47 by this section shall be the same types and kinds of food products that
48 are eligible for purchase with benefits provided under the federal sup-
49 plemental nutrition assistance program and shall not include candy,
50 soda, restaurant sales of food, food sold in a heated state or heated

1 by a seller, two (2) or more food ingredients mixed or combined by a
 2 seller for a single sale, or food sold with an eating utensil provided by
 3 the seller such as a plate, knife, fork, spoon, glass, cup, napkin, or
 4 straw.

5 (b) For the purposes of paragraph (a) of this subsection:

6 (i) "Candy" means a preparation of sugar, honey, or other natural
 7 or artificial sweeteners combined with chocolate, fruits, nuts,
 8 or other ingredients or flavorings in the form of confections,
 9 bars, drops, or pieces. "Candy" does not include any item that
 10 contains more than ten percent (10%) flour by weight or requires
 11 refrigeration.

12 (ii) "Soda" means any nonalcoholic beverage that contains natural
 13 or artificial sweeteners. "Soda" does not include beverages that
 14 contain milk or milk substitutes, greater than fifty percent (50%)
 15 of vegetable or fruit juice by volume, or that require preparation
 16 before consumption, such as powders or concentrates.

17 (10) Any refund shall be paid to such individual only upon his making
 18 application therefor, at such time and in such manner as may be prescribed
 19 by the state tax commission. The state tax commission shall prescribe the
 20 method by which the refund is to be made to the taxpayer. The refunds autho-
 21 rized by this section shall be paid from the state refund fund in the same
 22 manner as the refunds authorized by section 63-3067, Idaho Code.

23 (11) An application for any refund that is due and payable under the pro-
 24 visions of this section must be filed with the state tax commission within
 25 three (3) years of:

26 (a) The due date, including extensions, of the return required under
 27 section 63-3030, Idaho Code, if the applicant is required to file a re-
 28 turn; or

29 (b) The fifteenth day of April of the year following the year to which
 30 the application relates, if the applicant is not required to file a re-
 31 turn.

32 (12) The state tax commission shall provide income tax payers with the
 33 irrevocable option of donating credited funds accruing pursuant to this sec-
 34 tion. Any funds so donated shall be remitted from the refund fund to the co-
 35 operative welfare fund, created pursuant to section 56-401, Idaho Code, and
 36 shall be used solely for the purpose of providing low-income Idahoans with
 37 assistance in paying home energy costs.

38 SECTION 2. That Section 63-3077G, Idaho Code, be, and the same is hereby
 39 amended to read as follows:

40 63-3077G. AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DE-
 41 PARTMENT OF CORRECTION. The state tax commission and the Idaho department of
 42 correction ~~may~~ shall enter into a written agreement for exchange of informa-
 43 tion relating to an individual's incarceration status and whether that indi-
 44 vidual has claimed the Idaho food tax credit pursuant to section 63-3024A,
 45 Idaho Code. Such information shall be confidential to the recipient and may
 46 be used by the Idaho department of correction and the state tax commission
 47 only for purposes of determining whether an incarcerated person erroneously
 48 claimed the food tax credit in violation of section 63-3024A~~(7)~~ (6), Idaho
 49 Code. No such information shall be public unless it is used in the course of

1 a judicial proceeding arising under the laws of this state. The information
2 provided by the state tax commission shall be limited to name, date of birth,
3 social security number, an indication as to whether the food tax credit was
4 claimed under that person's name or social security number for a particular
5 taxable year and incarceration status during the year at issue.

6 SECTION 3. That Section 63-3077H, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 63-3077H. AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DE-
9 PARTMENT OF HEALTH AND WELFARE. The state tax commission and the Idaho
10 department of health and welfare ~~may~~ shall enter into a written agreement
11 for exchange of information relating to an individual's receipt of federal
12 food stamp benefits and whether that individual has claimed the Idaho food
13 tax credit pursuant to section 63-3024A, Idaho Code. Such information shall
14 be confidential to the recipient and may be used by the Idaho department of
15 health and welfare and the state tax commission only for purposes of deter-
16 mining whether a person who was receiving federal food stamp benefits erro-
17 neously claimed the food tax credit in violation of section 63-3024A~~(6)~~(5),
18 Idaho Code. No such information shall be public unless it is used in the
19 course of a judicial proceeding arising under the laws of this state. Any
20 information disclosed by the Idaho department of health and welfare pursuant
21 to the provisions of this section must be disclosed in compliance with the
22 privacy act of 1974, 5 U.S.C. ~~section~~ 552a, applicable federal law or regula-
23 tions regarding public assistance programs and any applicable state law or
24 regulation.

25 SECTION 4. An emergency existing therefor, which emergency is hereby
26 declared to exist, this act shall be in full force and effect on and after its
27 passage and approval, and retroactively to January 1, 2025.