

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 559

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-3004, IDAHO CODE, TO REVISE A PRO-
2 VISION REGARDING THE APPLICATION OF THE INTERNAL REVENUE CODE; AMENDING
3 SECTION 63-30220, IDAHO CODE, TO REVISE PROVISIONS REGARDING CERTAIN
4 ADJUSTMENTS; AMENDING SECTION 63-3029G, IDAHO CODE, TO REVISE PROVI-
5 SIONS REGARDING CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE
6 AND CERTAIN CARRYFORWARD PROVISIONS; AND DECLARING AN EMERGENCY AND
7 PROVIDING RETROACTIVE APPLICATION.
8

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

10 SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby
11 amended to read as follows:

12 63-3004. INTERNAL REVENUE CODE. The term "Internal Revenue Code"
13 means the Internal Revenue Code as amended and in effect on the first day of
14 January ~~2025~~ 2026, except that:

15 (1) Internal Revenue Code section 85 is applied as in effect on January
16 1, 2020; and

17 (2) Specified research or experimental expenditures, as defined in
18 section 174 of the Internal Revenue Code as in effect on December 31, 2024,
19 incurred in taxable years beginning on or after January 1, 2022, and before
20 January 1, 2025, shall continue to be expensed under the Internal Revenue
21 Code provisions as in effect immediately before the enactment of section
22 70302 of P.L. 119-21, rather than under the provisions of section 70302 of
23 P.L. 119-21.

24 SECTION 2. That Section 63-30220, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 63-30220. ADJUSTMENT -- PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001 --
27 SMALL BUSINESS EXPENSES -- LIMITATIONS ON ASSESSMENTS AND REFUNDS. For tax-
28 able years commencing on and after January 1, 2001, in computing Idaho tax-
29 able income:

30 (1) (a) The adjusted basis of depreciable property, depreciation, and
31 gains and losses from sale, exchange, or other disposition of deprecia-
32 ble property acquired after September 10, 2001, and before December 31,
33 2007, shall be computed without regard to the bonus depreciation avail-
34 able under ~~subsection~~ subsections (k) and (n) of section 168 of the In-
35 ternal Revenue Code and the adjusted basis of depreciable property, de-
36 preciation, and gains and losses from sale, exchange, or other dispo-
37 sition of depreciable property acquired after December 31, 2009, shall
38 be computed without regard to ~~subsection~~ subsections (k) and (n) of sec-
39 tion 168 of the Internal Revenue Code, provided that to the extent a tax-
40 payer cannot use the additional depreciation claimed under ~~subsection~~

1 subsections (k) and (n) of section 168 of the Internal Revenue Code in
2 the current year for federal income tax purposes because of loss limita-
3 tions imposed by sections 465, 469, 704(d), and 1366(d) of the Internal
4 Revenue Code, then such additional depreciation shall not be added back
5 to federal taxable income in order to determine Idaho taxable income in
6 the current year, and the current and subsequent year bonus deprecia-
7 tion adjustments shall be suspended and the add-back and subtractions
8 shall be applied as provided in this subsection.

9 (b) In subsequent taxable years, the additional depreciation that was
10 not added back to federal taxable income in the year it originated as
11 provided in this subsection shall be added back when a prior loss that
12 has been suspended under section 465, 469, 704(d), or 1366(d) of the In-
13 ternal Revenue Code is deducted for federal income tax purposes in the
14 following manner:

15 (i) Bonus depreciation deducted for federal income tax purposes
16 shall be added back to Idaho taxable income as the losses suspended
17 under sections 465, 469, 704(d), and 1366(d) of the Internal Rev-
18 enue Code are utilized, after the utilization of all losses other
19 than those attributable to bonus depreciation;

20 (ii) The amount of the bonus depreciation add-back shall be the
21 full amount of the add-back less the cumulative allowable depreci-
22 ation amounts for Idaho purposes. If, because of the limitations
23 of sections 465, 469, 704(d), and 1366(d) of the Internal Revenue
24 Code, there is a partial net add-back, then the net add-back amount
25 for future periods will be adjusted to reflect the amount that was
26 actually added back;

27 (iii) After the add-back or net add-back has been fully added back
28 to Idaho taxable income, the taxpayer may take the remaining de-
29 ductions over the life of the asset regardless of the limitations
30 under sections 465, 469, 704(d), and 1366(d) of the Internal Rev-
31 enue Code;

32 (iv) In the event of a disposition of a pass-through entity's own-
33 ership interest, adjustments shall be made to the tax basis of the
34 owner's interest of the pass-through entity to ensure there is no
35 double deduction of expense or double inclusion of income. The ba-
36 sis referred to in this subparagraph is the basis to the new owner
37 in his ownership interest or the basis to the owner who disposed of
38 this ownership interest, as applicable; and

39 (v) In the event of a disposition of a pass-through entity's as-
40 sets for which bonus depreciation was elected before the add-back
41 was fully realized, adjustments shall be made to ensure there is no
42 double deduction of expense or double inclusion of income.

43 (c) For determining the Idaho adjusted income for part-year residents
44 or nonresidents:

45 (i) When a loss under section 465, 469, 704(d), or 1366(d) of
46 the Internal Revenue Code is deducted for federal purposes and is
47 sourced to Idaho, the additional depreciation that was not added
48 back in the year it originated as provided in paragraph (a) of this
49 subsection shall be added back in subsequent years based on the ap-

1 portionment factor in the year the bonus depreciation originated;
2 and

3 (ii) When a loss under section 465, 469, 704(d), or 1366(d) of the
4 Internal Revenue Code is not sourced to Idaho, the add-back of ad-
5 ditional depreciation shall be made in the current taxable year,
6 notwithstanding the provisions of paragraph (a) of this subsec-
7 tion.

8 (2) The loss limitations imposed by sections 465, 469, 704(d), and
9 1366(d) of the Internal Revenue Code shall be calculated without regard
10 to depreciation claimed for federal tax purposes pursuant to ~~subsection~~
11 subsections (k) and (n) of section 168 of the Internal Revenue Code.

12 (3) Each partner, shareholder, member, or beneficiary shall include in
13 Idaho taxable income his share of the adjustments required by this section in
14 computing Idaho taxable income of any pass-through entity.

15 (4) In recognition of the fact that a taxpayer affected by this section
16 may have a different tax basis in his pass-through entity interest and a
17 different carryover of loss limitations and amount at risk for Idaho tax pur-
18 poses than for federal tax purposes, each partner, shareholder, member, or
19 beneficiary of any pass-through entity that claims the additional deprecia-
20 tion pursuant to ~~subsection~~ subsections (k) and (n) of section 168 of the In-
21 ternal Revenue Code shall keep records of the Idaho tax basis of his interest
22 in the pass-through entity, the amount at risk, and the balance of his carry-
23 over of Idaho loss limitations in order to confirm that the partner, share-
24 holder, member, or beneficiary, or any successor of his interest by purchase
25 or other means, does not receive directly or indirectly any Idaho income
26 tax benefit from the additional depreciation available under ~~subsection~~
27 subsections (k) and (n) of section 168 of the Internal Revenue Code.

28 (5) Notwithstanding the provisions of sections 63-3068 and 63-3072,
29 Idaho Code, the period of limitations for issuing a notice of deficiency de-
30 termination or filing a claim for refund for any year for which an adjustment
31 is required by this section shall not expire before three (3) years from the
32 later of: (a) the due date of the return for the last taxable year an adjust-
33 ment was required by this section; or (b) the date the return was filed for
34 the last taxable year an adjustment was required by this section. Upon the
35 expiration of the period of limitations as provided in subsections (a) and
36 (m) of section 63-3068, Idaho Code, and subsections (b) and (h) of section
37 63-3072, Idaho Code, only those specific items of basis, deductions, gains,
38 or losses that are computed without regard to ~~subsection~~ subsections (k) and
39 (n) of section 168 of the Internal Revenue Code, as required by this section,
40 shall be subject to adjustment, as well as the effect of such adjustments on
41 Idaho credits, net operating loss deductions, and capital loss carryovers.

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

44 63-3029G. CREDITS FOR RESEARCH ACTIVITIES CONDUCTED IN THIS STATE --
45 CARRYFORWARD.

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

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

- 3 (i) Five percent (5%) of the excess of qualified research ex-
4 penses for research conducted in Idaho over the base amount; and
5 (ii) Five percent (5%) basic research payments allowable under
6 section 41(e) of the Internal Revenue Code for basic research con-
7 ducted in Idaho.

8 (c) The credit allowed by paragraph (a) of this subsection shall be com-
9 puted without regard to the calculation of the alternative incremental
10 credit provided for in section 41(c) (4) of the Internal Revenue Code or
11 the alternative simplified credit provided for in section 41(c) (5) of
12 the Internal Revenue Code.

13 (2) As used in this section:

14 (a) The terms "qualified research expenses," "qualified research,"
15 "basic research payments" and "basic research" shall be as defined in
16 section 41 of the Internal Revenue Code, except that the research must
17 be conducted in Idaho.

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

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

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

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

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

32 (3) The credit allowed by subsection (1) (a) of this section together
33 with any credits carried forward under subsection (5) of this section
34 shall not exceed the amount of tax due under sections 63-3024, 63-3025, and
35 63-3025A, Idaho Code, after allowance for all other credits permitted by
36 this chapter. When credits earned in more than one (1) taxable year are
37 available, the oldest credits shall be applied first.

38 (4) In the case of a group of corporations filing a combined report
39 under section 63-3027(22), Idaho Code, credit earned by one (1) member of
40 the group but not used by that member may be used by another member of the
41 group. For a combined group of corporations, any member of the group may
42 claim credit carried forward unless the member who earned the credit is no
43 longer included in the combined group.

44 (5) The credit allowed by subsection (1) (a) of this section shall be
45 claimed for the taxable year during which the taxpayer qualifies for the
46 credit. If the credit exceeds the limitation under subsection (3) of this
47 section, the excess amount may be carried forward for a period that does not
48 exceed the next fourteen (14) taxable years. Any amounts deducted or amor-
49 tized by a taxpayer pursuant to section 174 or 174A of the Internal Revenue
50 Code that constitute qualified research expenses, qualified research, basic

1 research payments, or basic research, as those terms are defined in subsec-
2 tion (2) of this section, shall not be eligible for the credit provided in
3 this section.

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

9 SECTION 4. 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.