TITLE 63
REVENUE AND TAXATION

CHAPTER 30
INCOME TAX

63-3001. TITLE. This act shall be known and may be cited as the "Idaho Income Tax Act."

[63-3001, added 1959, ch. 299, sec. 1, p. 613.]

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 of 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.

[63-3002, added 1959, ch. 299, sec. 2, p. 613; am. 1969, ch. 319, sec. 1, p. 982; am. 1970, ch. 222, sec. 1, p. 621; am. 1993, ch. 284, sec. 1, p. 959; am. 1995, ch. 111, sec. 1, p. 349.]

63-3003. DEFINITIONS. When used in this act, the terms defined in this chapter shall have the meanings respectively ascribed to them.

[63-3003, added 1959, ch. 299, sec. 3, p. 613; am. 1992, ch. 11, sec. 1, p. 18.]

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

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

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

[63-3004, added 1959, ch. 299, sec. 4, p. 613; am. 1961, ch. 328, sec. 1, p. 622; am. 1963, ch. 339, sec. 1, p. 971; am. 1965, ch. 316, sec. 1, p. 880; am. 1967, ch. 294, sec. 1, p. 828; am. 1969, ch. 319, sec. 2, p. 982; am. 1970, ch. 222, sec. 2, p. 621; am. 1971, ch. 302, sec. 1, p. 1242; am. 1972, ch. 398, sec. 1, p. 1149; am. 1973, ch. 44, sec. 1, p. 79; am. 1974, ch. 56, sec. 1, p. 1118; am. 1975, ch. 12, sec. 1, p. 17; am. 1976, ch. 3, sec. 1, p. 12; am. 1977, ch. 1, sec. 1, p. 3; am. 1978, ch. 138, sec. 1, p. 313; am. 1979, ch. 255, sec. 1, p. 678; am. 1981, ch. 80, sec. 1, p. 113; am. 1982, ch. 11, sec. 1, p. 16; am. 1983, ch. 97, sec. 1, p. 209; am. 1984, ch. 35, sec. 1, p. 55; am. 1985, ch. 131, sec. 1, p. 326; am. 1986, ch. 11, sec. 1, p. 53; am. 1987, ch. 93, sec. 1, p. 176; am. 1988, ch. 2, sec. 1, p. 3; am. 1988, ch. 373, sec. 1, p. 1107; am. 1989, ch. 7, sec. 1, p. 8; am. 1990, ch. 34, sec. 1, p. 49; am. 1991, ch. 7, sec. 1, p. 18; am. 1991, ch. 55, sec. 1, p. 99; am. 1992, ch. 5, sec. 1, p. 10; am. 1993, ch. 1, sec. 1, p. 3; am. 1994, ch. 38, sec. 1, p. 56; am. 1995, ch. 79, sec. 1, p. 209; am. 1996, ch. 24, sec. 1, p. 59; am. 1997, ch. 19, sec. 1, p. 29; am. 1998, ch. 52, sec. 1, p. 206; am. 1999, ch. 27, sec. 1, p. 39; am. 2000, ch. 16, sec. 1, p. 32; am. 2001, ch. 58, sec. 1, p. 110; am. 2002, ch. 59, sec. 1, p. 127; am. 2003, ch. 350, sec. 1, p. 937; am. 2004, ch. 20, sec. 1, p. 22; am. 2005, ch. 14, sec. 1, p. 41; am. 2006, ch. 242, sec. 1, p. 736; am. 2007, ch. 13, sec. 1, p. 24; am. 2008, ch. 6, sec. 1, p. 7; am. 2008, ch. 319, sec. 1, p. 882; am. 2009, ch. 35, sec. 1, p. 105; am. 2009, ch. 228, sec. 1, p. 711; am. 2011, ch. 1, sec. 1, p. 3; am. 2012, ch. 2, sec. 1, p. 4; am. 2013, ch. 1, sec. 1, p. 3; am. 2014, ch. 10, sec. 1, p. 13; am. 2015, ch. 13, sec. 1, p. 17; am. 2016, ch. 1, sec. 1, p. 3; am. 2017, ch. 5, sec. 1, p. 17; am. 2018, ch. 3, sec. 1, p. 7; am. 2018, ch. 46, sec. 1, p. 111; am. 2018, ch. 198, sec. 1, p. 445; am. 2019, ch. 2, sec. 1, p. 4; am. 2019, ch. 161, sec. 11, p. 543; am. 2020, ch. 17, sec. 1, p. 54; am. 2021, ch. 8, sec. 1, p. 9; am. 2022, ch. 7, sec. 1, p. 20; am. 2023, ch. 1, sec. 1, p. 3; am. 2024, ch. 1, sec. 1, p. 3; am. 2025, ch. 1, sec. 1, p. 3; am. 2026, ch. 1, sec. 1, p. 3.]

63-3005. PERSON. The term "person" means an individual, a trust or estate, a partnership, an association, a limited liability company or a corporation.

[63-3005, added 1959, ch. 299, sec. 5, p. 613; am. 1998, ch. 55, sec. 1, p. 209.]

63-3006. CORPORATION. The term "corporation" includes any corporation formed under the laws of any government, any common law trust and any association of whatever kind other than a partnership. "Corporation" also includes any entity classified or taxed as a corporation pursuant to section 7701 or 7704 of the Internal Revenue Code and the regulations of the U.S. department of the treasury issued thereunder.

[63-3006, added 1959, ch. 299, sec. 6, p. 613; am. 1998, ch. 55, sec. 2, p. 209; am. 1999, ch. 60, sec. 1, p. 156.]

63-3006A. LIMITED LIABILITY COMPANY -- CLASSIFICATION AND TAXATION. Notwithstanding the provisions of section 63-3006, Idaho Code, for the purposes of chapter 30, title 63, Idaho Code, a limited liability company as defined in subsection (5) or (6) of section 53-601, Idaho Code, or as defined in section 30-6-102, Idaho Code, as appropriate pursuant to section

30-6-1104, Idaho Code, shall be classified as a partnership, corporation, unincorporated association or otherwise pursuant to the provisions of the internal revenue code. A limited liability company that is classified as a partnership pursuant to the internal revenue code shall be treated as a partnership for purposes of chapter 30, title 63, Idaho Code. A limited liability company that is classified other than a partnership pursuant to the internal revenue code shall be treated for purposes of chapter 30, title 63, Idaho Code, in accordance with its classification.

[63-3006A, added 1993, ch. 224, sec. 2, p. 790; am. 2008, ch. 176, sec. 3, p. 520.]

63-3006B. PARTNERSHIP. "Partnership" shall be as defined in section 7701 of the Internal Revenue Code and shall include any entity classified as a partnership pursuant to regulations of the U.S. department of the treasury issued under section 7701 of the Internal Revenue Code, but shall not include a publicly traded partnership taxed as a corporation under section 63-3006, Idaho Code.

[63-3006B, added 1998, ch. 55, sec. 3, p. 209; am. 1999, ch. 60, sec. 2, p. 156.]

63-3006C. PASS-THROUGH ENTITY. The term "pass-through entity" as used in this chapter includes a partnership, as defined in section 63-3006B, Idaho Code, a limited liability company taxed as a partnership under section 63-3006A, Idaho Code, an S corporation required to file a return under section 63-3030(4), Idaho Code, or a trust or estate required to file a return under section 63-3030, Idaho Code. An "owner of an interest in a pass-through entity" includes the shareholders of a corporation, the members of a limited liability company and partners of a partnership.

[63-3006C, added 2010, ch. 37, sec. 1, p. 67.]

63-3007. FIDUCIARY. The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in a position of trust or fiduciary capacity for any other person or group of persons.

[63-3007, added 1959, ch. 299, sec. 7, p. 613.]

63-3008. INDIVIDUAL. The term "individual" means a natural person.

[63-3008, added 1959, ch. 299, sec. 8, p. 613.]

63-3009. TAXPAYER. The term "taxpayer" means any person subject to a tax imposed by this act or required by the provisions of this act to file an income tax return, report income or pay a tax.

[63-3009, added 1959, ch. 299, sec. 9, p. 613; am. 1969, ch. 319, sec. 3, p. 982.]

63-3010. TAXABLE YEAR. The term "taxable year" with respect to any taxpayer means:

(1) The taxable year of such taxpayer required pursuant to the Internal Revenue Code; or

(2) Such other period as may be required by law; or
(3) The calendar year.

[63-3010, added 1959, ch. 299, sec. 10, p. 613; am. 1969, ch. 319, sec. 4, p. 982; am. 1997, ch. 57, sec. 1, p. 96.]

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

[63-3011, added 1995, ch. 111, sec. 2, p. 349.]

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

[63-3011A, added 1995, ch. 111, sec. 3, p. 349.]

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

[63-3011B, added 1995, ch. 111, sec. 4, p. 350.]

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.

[63-3011C, added 1995, ch. 111, sec. 5, p. 350.]

63-3012. INCLUDES AND INCLUDING. The terms "includes" and "including" when used in a definition contained in this act shall not be deemed to exclude other things otherwise within the meaning of the term defined.

[63-3012, added 1959, ch. 299, sec. 12, p. 613.]

63-3013. RESIDENT. (1) The term "resident," for income tax purposes, means any individual who:
(a) Is domiciled in the state of Idaho for the entire taxable year; or
(b) Maintains a place of abode in this state for the entire taxable year and spends in the aggregate more than two hundred seventy (270) days of the taxable year in this state. Presence within the state for any part of a calendar day shall constitute a day spent in the state unless the individual can show that his presence in the state for that day was for a temporary or transitory purpose.
(2) An individual shall not be considered a resident, but may be considered a part-year resident, during a period of absence from this state described as follows:
(a) The period begins with an individual leaving this state if the individual is absent from this state for at least four hundred forty-five (445) days in the first fifteen (15) months.
(b) During such period, but excluding the first fifteen (15) months, the individual was not present in this state for more than sixty (60) days in any calendar year.
(c) During such period, the individual did not maintain a permanent place of abode in this state at which his spouse (unless he and his

spouse are legally separated) or minor or dependent children are present for more than sixty (60) days during any calendar year.

(d) The individual did not, during such period, hold an elective or appointive office of the government of the United States (other than the armed forces of the United States or career appointees in the United States foreign service).

(e) The individual was not, during such period, employed on the staff of an elective officer in the legislative branch of the government of the United States; and

(f) The individual did not, during such period, claim Idaho as his tax home for federal income tax purposes.

(g) The period ends with an individual returning to this state if such individual remains or resides in the state for more than sixty (60) days.

(3) Any individual who is a nonresident alien as defined in section 7701 of the Internal Revenue Code is not a resident within the meaning of this section.

[63-3013, added 1959, ch. 299, sec. 13, p. 613; am. 1961, ch. 328, sec. 2, p. 622; am. 1986, ch. 245, sec. 1, p. 664; am. 1995, ch. 83, sec. 1, p. 239; am. 1995, ch. 111, sec. 6, p. 350; am. 1996, ch. 40, sec. 1, p. 103; am. 1997, ch. 57, sec. 2, p. 96; am. 2006, ch. 90, sec. 1, p. 264.]

63-3013A. PART-YEAR RESIDENT. The term "part-year resident," for income tax purposes, means any individual who is not a resident and who:

(a) Has changed his domicile from Idaho or to Idaho during the taxable year; or

(b) Has resided in Idaho for more than one (1) day during the taxable year. An individual shall be deemed to reside within Idaho for any calendar day in which that individual has a place of abode in this state and is present in this state for more than a temporary or transitory purpose. Presence for any fraction of a calendar day shall be counted as a whole day.

[I.C., sec. 63-3013A, as added by 1961, ch. 328, sec. 3, p. 622; am. 1965, ch. 316, sec. 2, p. 880; am. 1969, ch. 319, sec. 6, p. 982; am. 1970, ch. 222, sec. 3, p. 621; am. 1979, ch. 3, sec. 1, p. 6; am. 1986, ch. 90, sec. 1, p. 262; am. 1995, ch. 111, sec. 7, p. 351.]

63-3014. NONRESIDENT. The term "nonresident" means any individual who is not a resident or part-year resident.

[63-3014, added 1959, ch. 299, sec. 14, p. 613; am. 1961, ch. 328, sec. 4, p. 622.]

63-3015. ESTATES AND TRUSTS. (1) An estate is treated as a resident estate if the decedent was a resident of Idaho on the date of death.

(2) A trust, other than a qualified funeral trust, is treated as a resident trust if three (3) or more of the following conditions existed for the entire taxable year:

(a) The domicile or residency of the grantor is in Idaho;

(b) The trust is governed by Idaho law;

(c) The trust has real or tangible personal property located in Idaho;

(d) The domicile or residency of the trustee is in Idaho;

(e) The administration of the trust takes place in Idaho. Administration of the trust includes conducting trust business, investing trust assets, making administrative decisions, recordkeeping and preparation and filing of tax returns.

(3) A trust, other than a qualified funeral trust, is treated as a part-year resident trust each day of the taxable year during which three (3) or more of the conditions specified in subsection (2) of this section existed.

(4) A qualified funeral trust is treated as a resident trust if its trustee has elected treatment as a qualified funeral trust pursuant to section 685 of the Internal Revenue Code where, at the time of the initial funding of the trust, the trust is required to be established under the laws of this state or, in the absence of such a requirement, where a funeral home or cemetery located in this state is identified to provide the services or merchandise, or both, under the terms of a preneed contract requiring the establishment of the trust.

(5) Qualified funeral trusts having a single trustee may file a single, composite return pursuant to rules of the state tax commission. Each beneficiary's interest in a qualified funeral trust included in the composite return under this section shall be taxed as a separate trust for the purposes of application of the tax imposed in section 63-3024, Idaho Code, and determination of the filing requirement in section 63-3030, Idaho Code. The composite return shall not be a return of a person under section 63-3082, Idaho Code.

(6) If the estate does not qualify as a resident estate, it is treated as a nonresident estate.

(7) If the trust does not qualify as a resident or part-year resident trust, it is treated as a nonresident trust.

(8) For purposes of determining residency status of a trust, no distinction is made between inter vivos trusts and testamentary trusts or between revocable trusts and irrevocable trusts.

[63-3015, added 2002, ch. 36, sec. 1, p. 82; am. 2014, ch. 25, sec. 1, p. 32; am. 2022, 1st E.S., ch. 1, sec. 10, p. 8.]

63-3016. PAID OR INCURRED AND PAID OR ACCRUED. The terms "paid or incurred" and "paid or accrued" shall be defined as set forth in the Internal Revenue Code and shall be construed according to the method of accounting upon the basis of which the taxable income is computed.

[63-3016, added 1959, ch. 299, sec. 16, p. 613.]

63-3017. EMPLOYER. The term "employer" means "employer" as defined in the Internal Revenue Code.

[63-3017, added 1959, ch. 299, sec. 17, p. 613.]

63-3018. EMPLOYEE. The term "employee" means "employee" as defined in the Internal Revenue Code.

[63-3018, added 1959, ch. 299, sec. 18, p. 613.]

63-3020. FARMER. The term "farmer" means any person over two-thirds (2/3) of whose gross income is derived from farming.

[63-3020, added 1959, ch. 299, sec. 20, p. 613.]

63-3021. NET OPERATING LOSS. (a) The term "net operating loss" means the amount by which Idaho taxable income, after making the modifications specified in subsection (b) of this section, is less than zero (0).

(b) Add the following amounts:

(1) The amount of any net operating loss deduction included in Idaho taxable income.

(2) In the case of a taxpayer other than a corporation:

(i) Any amount deducted due to losses in excess of gains from sales or exchanges of capital assets; and

(ii) Any deduction for long-term capital gains provided by this chapter.

(3) Any deduction allowed under section 151 of the Internal Revenue Code (relating to personal exemption) or any deduction in lieu of any such deduction.

(4) Any deduction for the standard or itemized deductions provided for in section 63 of the Internal Revenue Code, or section 63-3022(j), Idaho Code, except for any deduction allowable under section 165(c)(3) of the Internal Revenue Code (relating to casualty losses) pertaining to property physically located inside Idaho at the time of the casualty.

(5) Any deduction allowed under section 199A of the Internal Revenue Code (relating to the deduction for qualified business income).

(c) Subject to the provisions of sections 381 and 382, Internal Revenue Code, Idaho net operating losses incurred by a corporation will survive a merger.

(1) Changes in the location of a loss corporation's business or its key employees shall not be treated as a failure to satisfy the continuity of business requirements.

(2) If the premerger corporation conducted operations in Idaho and at least one (1) other state, the section 382, Internal Revenue Code, loss limitation is limited further by the premerger loss corporation's Idaho apportionment factor for the last taxable year preceding the date of the merger.

[63-3021, added 1989, ch. 27, sec. 2, p. 32; am. 1992, ch. 11, sec. 2, p. 18; am. 1995, ch. 111, sec. 8, p. 351; am. 1998, ch. 42, sec. 1, p. 175; am. 2000, ch. 38, sec. 3, p. 72; am. 2010, ch. 11, sec. 1, p. 12; am. 2018, ch. 46, sec. 2, p. 112; am. 2019, ch. 9, sec. 1, p. 8.]

63-3021A. CALCULATION OF NET OPERATING LOSS WHEN TAXABLE INCOME IS DETERMINED BY EXCESS INCLUSION INCOME. When, pursuant to section 63-3011B, Idaho Code, taxable income for any tax year is determined by the amount of excess inclusion income taxable as determined by Internal Revenue Code section 860E, and when the taxpayer would incur a net operating loss or would be entitled to carry forward a net operating loss pursuant to section 63-3022, Idaho Code, except for the effect of the excess inclusion income reported for that tax year, the net operating loss incurred in that tax year or carried forward from an earlier tax year may be taken as deductions in other tax years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code. In computing the net operating loss that may be used in another tax year, the excess inclusion income recognized as taxable income shall be deducted from gross income or taxable income, as provided by treasury regulation 1.860E-1(a)(1).

[63-3021A, added 2014, ch. 74, sec. 1, p. 192.]

63-3022. ADJUSTMENTS TO TAXABLE INCOME. The additions and subtractions set forth in this section, and in sections 63-3022A through 63-3022U, Idaho Code, are to be applied to the extent allowed in computing Idaho taxable income:

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

(b) Add the net operating loss deduction used in arriving at taxable income.

(c)(1) A net operating loss for any taxable year commencing on and after January 1, 2000, but before January 1, 2013, shall be a net operating loss carryback not to exceed a total of one hundred thousand dollars ($100,000) to the two (2) immediately preceding taxable years. At the election of the taxpayer, the two (2) year carryback may be forgone and the loss subtracted from income received in taxable years arising in the next twenty (20) years succeeding the taxable year in which the loss arises in order until exhausted.

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

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

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

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

(d) In the case of a corporation, add the amount deducted under the provisions of sections 243(a) and (c), 244, 245, and 246A of the Internal Revenue Code (relating to dividends received by corporations and other special deductions) as limited by section 246(b)(1) of said code.

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

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

(g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:

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

(2) Net operating losses attributable to a beneficiary of a trust or estate under section 642 of the Internal Revenue Code shall be a deduction for the beneficiary to the extent that income from the trust or estate would be attributable to this state under the provisions of this chapter.

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

(i) In the case of a corporation, including any corporation in a group of corporations combined under section 63-3027(22), Idaho Code, add any capital loss or passive loss deducted, which loss was incurred during any year in which such corporation did not transact business in Idaho. However, do not add any capital loss deducted if a corporation, including any corporation in a group of corporations combined under section 63-3027(22), Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons other than corporations, add any capital loss or passive loss deducted that was incurred in activities not taxable by Idaho at the time such loss was incurred. In computing the income taxable to an S corporation or partnership under this section, deduction shall not be allowed for a carryover or carryback of a net operating loss provided for in subsection (c) of this section, a passive loss, or a capital loss provided for in section 1212 of the Internal Revenue Code.

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

(1) The standard deduction as defined in section 63 of the Internal Revenue Code; or

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

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

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

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

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

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

(p) In the case of an individual, add the amount of a withdrawal from an individual trust account or savings account established pursuant to chapter 54, title 33, Idaho Code, transferred to a qualified tuition program, as defined in section 529 of the Internal Revenue Code, that is operated by a state other than Idaho or to a qualified ABLE program as defined in section 529A of the Internal Revenue Code. The addition provided in this subsection is limited to the amount of the contributions to the Idaho individual trust account or savings account by the account owner that was deducted on the account owner's Idaho income tax return for the year of the transfer and the prior taxable year.

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

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

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

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

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

(v) Add or subtract the amount of net capital gains or losses that meets the definition of precious metal bullion or monetized bullion under section

63-3622V, Idaho Code, included in the taxpayer's federal adjusted gross income.

[63-3022, added 1959, ch. 299, sec. 22, p. 613; am. 1961, ch. 328, sec. 5, p. 622; am. 1963, ch. 339, sec. 3, p. 971; am. 1965, ch. 316, sec. 3, p. 880; am. 1967, ch. 294, sec. 2, p. 828; am. 1969, ch. 319, sec. 7, p. 982; am. 1970, ch. 222, sec. 4, p. 621; am. 1971, ch. 64, sec. 1, p. 146; am. 1972, ch. 398, sec. 3, p. 1149; am. 1973, ch. 45, sec. 1, p. 80; am. 1975, ch. 33, sec. 1, p. 57; am. 1975, ch. 90, sec. 1, p. 184; am. 1976, ch. 271, sec. 1, p. 916; am. 1977, ch. 84, sec. 1, p. 170; am. 1978, ch. 139, sec. 1, p. 314; am. 1979, ch. 91, sec. 1, p. 218; am. 1980, ch. 2, sec. 1, p. 4; am. 1980, ch. 4, sec. 1, p. 7; am. 1980, ch. 90, sec. 1, p. 194; am. 1981, ch. 130, sec. 1, p. 217; am. 1981, ch. 201, sec. 2, p. 355; am. 1982, ch. 135, sec. 1, p. 384; am. 1983, ch. 161, sec. 1, p. 463; am. 1983, ch. 257, sec. 1, p. 680; am. 1983, ch. 258, sec. 1, p. 685; am. 1984, ch. 35, sec. 2, p. 55; am. 1986, ch. 90, sec. 2, p. 262; am. 1987, ch. 93, sec. 2, p. 177; am. 1987, ch. 149, sec. 1, p. 295; am. 1989, ch. 76, sec. 1, p. 135; am. 1989, ch. 181, sec. 1, p. 450; am. 1990, ch. 63, sec. 1, p. 138; am. 1990, ch. 223, sec. 1, p. 593; am. 1990, ch. 307, sec. 1, p. 844; am. 1990, ch. 326, sec. 8, p. 894; am. 1991, ch. 7, sec. 2, p. 19; am. 1991, ch. 55, sec. 2, p. 100; am. 1991, ch. 318, sec. 3, p. 826; am. 1992, ch. 11, sec. 3, p. 18; am. 1993, ch. 3, sec. 1, p. 6.; am. 1993, ch. 284, sec. 2, p. 959; am. 1994, ch. 39, sec. 1, p. 57; am. 1994, ch. 186, sec. 1, p. 607; am. 1994, ch. 247, sec. 1, p. 777; am. 1995, ch. 83, sec. 2, p. 240; am. 1995, ch. 111, sec. 9, p. 351; am. 1995, ch. 362, sec. 3, p. 1268; am. 1996, ch. 340, sec. 2, p. 1142; am. 1997, ch. 57, sec. 5, p. 97; am. 1998, ch. 20, sec. 1, p. 119; am. 1998, ch. 42; sec. 2, p. 176; am. 1999, ch. 70, sec. 1, p. 191; am. 2000, ch. 38, sec. 4, p. 72; am. 2000, ch. 213, sec. 2, p. 581; am. 2001, ch. 46, sec. 1, p. 85; am. 2001, ch. 270, sec. 1, p. 977; am. 2002, ch. 33, sec. 1, p. 63; am. 2003, ch. 6, sec. 1, p. 11; am. 2003, ch. 10, sec. 1, p. 22; am. 2004, ch. 30, sec. 2, p. 57; am. 2005, ch. 14, sec. 2, p. 42; am. 2006, ch. 63, sec. 1, p. 193; am. 2007, ch. 190, sec. 1, p. 559; am. 2008, ch. 261, sec. 1, p. 756; am. 2010, ch. 44, sec. 1, p. 78; am. 2012, ch. 10, sec. 1, p. 17; am. 2012, ch. 14, sec. 1, p. 25; am. 2013, ch. 2, sec. 2, p. 4; am. 2013, ch. 4, sec. 1, p. 7; am. 2013, ch. 112, sec. 1, p. 268; am. 2014, ch. 9, sec. 1, p. 9; am. 2017, ch. 20, sec. 1, p. 36; am. 2017, ch. 84, sec. 1, p. 228; am. 2018, ch. 3, sec. 2, p. 7; am. 2018, ch. 46, sec. 3, p. 112; am. 2018, ch. 109, sec. 1, p. 221; am. 2019, ch. 9, sec. 2, p. 8; am. 2019, ch. 294, sec. 1, p. 873; am. 2021, ch. 72, sec. 1, p. 254; am. 2021, ch. 86, sec. 1, p. 288; am. 2022, ch. 52, sec. 2, p. 165; am. 2022, ch. 111, sec. 31, p. 391; am. 2025, ch. 13, sec. 1, p. 39.]

63-3022A. DEDUCTION OF CERTAIN RETIREMENT BENEFITS. (1) An amount specified by subsection (2) of this section of the following retirement benefits may be deducted by an individual from taxable income:

(a) If such individual has either attained age sixty-five (65) years or has attained age sixty-two (62) years and is classified as disabled:

(i) Retirement annuities paid to a retired employee or the unmarried widow or widower of a retired employee by the United States of America under the:

1. Civil service retirement system; or

2. Foreign service retirement and disability system; or

3. Offset program of the civil service retirement system or foreign service retirement and disability system.

(ii) Retirement benefits paid from the firefighters' retirement fund of the state of Idaho to a retired firefighter or the unremarried widow or widower of a retired firefighter.

(iii) Retirement benefits paid to a retired Idaho city police officer:

1. By a city or its agent in regard to a police retirement fund that no longer admits new members and on January 1, 2012, was administered by a city in this state; or

2. In regard to a police retirement fund that no longer admits new members and on January 1, 2012, was administered by the public employee retirement system of Idaho; or

3. By the public employee retirement system of Idaho to a retired police officer in regard to Idaho employment not included in the federal social security retirement system; or

4. An unremarried widow or widower of a person described in 1., 2., or 3. of this subparagraph.

(b) Retirement benefits paid by the United States of America to a retired member of the military services of the United States, or the unremarried widow or widower of such member, who:

(i) Is classified as disabled, as defined in subsection (4) of this section;

(ii) Has attained the age of sixty-two (62) years by the end of the tax year; or

(iii) Was employed during the tax year and received sufficient income from such employment to be required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) The amount of retirement benefits that may be deducted from taxable income shall be an amount not in excess of maximum retirement benefits under the social security act, as amended, on the date on which this act is passed and approved, including adjustments to be made based on consumer price index adjustments provided in section 215 of the social security act. The state tax commission shall ascertain benefit changes made in accordance with the social security act and publish the appropriate deduction amounts provided by this section reflecting such changes annually. Maximum retirement benefits under the social security act shall mean:

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

(b) In the case of a taxpayer who is not married, an amount equal to maximum social security benefits payable for the tax year to a person attaining full retirement age in the tax year who has earned the maximum earnings creditable under social security for the years used in the computation of his benefits.

(c) In the case of an unremarried widow or widower, an amount equal to the maximum social security benefits payable for the tax year to a widow or widower attaining full retirement age in the tax year who has no social security benefits except those to which he or she is entitled

on his or her deceased spouse's record and whose spouse had received no reduced retirement benefits prior to his or her death and whose spouse had earned the maximum earnings creditable under social security for the years used in the computation of his or her benefits under social security.

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

(e) Taxpayers not described in paragraphs (a), (b), (c), and (d) of this subsection may not deduct any amount of retirement benefits under this section. This includes retirement benefits paid by the federal employees retirement system or foreign service pension system.

(3) The total deduction under this section may not exceed the total amount of retirement benefits or annuities that are described in subsection (1) of this section and that are included in the taxpayer's gross income in the tax year. If the taxpayer or the taxpayer's spouse receives retirement benefits under the federal railroad retirement act or the federal social security act in the tax year, then the amount of any retirement annuities computed under subsection (2) of this section shall be reduced by the amount of such federal railroad retirement act and federal social security act retirement benefits received by either the taxpayer or the taxpayer's spouse, and the lesser of the amount so computed or the total amount of retirement benefits or annuities that are described in subsection (1) of this section and that are included in the taxpayer's gross income shall constitute the allowable deduction. Furthermore, the allowable deduction as calculated under this section may be subject to additional limitations under section 63-3026A(6), Idaho Code, and the rules promulgated thereunder.

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

[63-3022A, as added by 1973, ch. 278, sec. 2, p. 591; am. 1976, ch. 94, sec. 1, p. 312; am. 1979, ch. 86, sec. 3, p. 210; am. 1997, ch. 58, sec. 1, p. 108; am. 2000, ch. 26, sec. 3, p. 47; am. 2004, ch. 30, sec. 3, p. 59.; am. 2012, ch. 13, sec. 1, p. 23; am. 2013, ch. 4, sec. 2, p. 9; am. 2015, ch. 34, sec. 1, p. 71; am. 2025, ch. 13, sec. 2, p. 42; am. 2025, ch. 302, sec. 1, p. 1280.]

63-3022B. DEDUCTION FOR ENERGY EFFICIENCY UPGRADES. (1) An individual taxpayer may deduct from taxable income an amount actually paid or accrued by the individual taxpayer during the taxable year for the actual installation of energy efficiency upgrade measures within any existing residence. As used in this section, "existing residence" means any residence in the state of Idaho that serves as the primary place of residence of the individual taxpayer in being, under construction, or subject to an outstanding legal building permit on or before January 1, 2002.

(2) As used in this section:

(a) "Energy efficiency upgrade measure" means an energy efficiency improvement to the building envelope or duct system that meets or exceeds the minimum value for the improved component established by the version

of the international energy conservation code (IECC) in effect in Idaho during the taxable year in which the improvement is made or accrued.

(b) "Energy efficiency upgrade measure" includes:

(i) Insulation that shall be added to existing insulation not in replacement of existing insulation;

(ii) Windows that may replace less efficient existing windows;

(iii) Storm windows;

(iv) Weather stripping and caulking; and

(v) Duct sealing and insulation. Duct sealing requires mechanical fastening of joints and mastic sealant.

[63-3022B, added 1976, ch. 212, sec. 2, p. 773; am. 1995, ch. 111, sec. 10, p. 356.; am. 2012, ch. 202, sec. 1, p. 542; am. 2013, ch. 4, sec. 3, p. 10.]

63-3022C. DEDUCTION FOR ALTERNATIVE ENERGY DEVICE AT RESIDENCE. (1) An individual taxpayer who installs an alternative energy device to serve a place of residence of the individual taxpayer in the state of Idaho may deduct from taxable income the following amounts actually paid or accrued by the individual taxpayer: forty percent (40%) of the amount that is properly attributable to the construction, reconstruction, remodeling, installation or acquisition of the alternative energy device in the year when such device is completed or acquired and is placed in service by the taxpayer; and twenty percent (20%) per year thereafter for a period of three (3) succeeding years; provided, however, that said deduction shall not exceed five thousand dollars ($5,000) in any one (1) taxable year.

(2) An individual taxpayer who purchases a residence in the state of Idaho served by an alternative energy device for which none or less than all of the total deduction allowable under this section has been taken, may take the deduction specified in this section, or the unused balance of the deduction.

(3) As used in this section, "alternative energy device" means any system or mechanism or series of mechanisms using solar radiation, wind or geothermal resource as defined in section 42-4002, Idaho Code, primarily to provide heating, to provide cooling, to produce electrical power, or any combination thereof. Alternative energy device includes a fluid to air heat pump operating on a fluid reservoir heated by solar radiation or geothermal resource. Alternative energy device shall also include either a natural gas heating unit, or a propane heating unit, or a wood burning stove which meets the most current environmental protection agency certification, or a pellet stove which meets the most current industry and state standards, and which natural gas heating unit, or propane heating unit, or wood burning stove which meets the most current environmental protection agency certification, or pellet stove which meets the most current industry and state standards is used to replace during the same tax year a wood burning stove designed for residential heating and that does not meet environmental protection agency requirements for certification, provided the wood burning stove is surrendered to the department of environmental quality or its agent for destruction in accordance with applicable federal and state rules.

[63-3022C, added 1976, ch. 212, sec. 3, p. 774; am. 1994, ch. 355, sec. 1, p. 1114; am. 1995, ch. 91, sec. 1, p. 262; am. 1995, ch. 111, sec. 11, p. 356; am. 2001, ch. 103, sec. 97, p. 337; am. 2001, ch. 270, sec. 2, p. 979.]

63-3022D. DEDUCTION OF EXPENSES FOR HOUSEHOLD AND DEPENDENT CARE SERVICES. There shall be allowed as a deduction, in the case of an individual who maintains a household that includes as a member one (1) or more qualifying individuals, as defined in section 21(b)(1) of the Internal Revenue Code, the employment-related expenses, as defined in section 21(b)(2) of the Internal Revenue Code and as further specified and limited by section 21 (d) and (e) of the Internal Revenue Code, paid by such individual during the taxable year, not to exceed twelve thousand dollars ($12,000).

[63-3022D, added 1977, ch. 83, sec. 1, p. 169; am. 1989, ch. 181, sec. 2, p. 454; am. 2004, ch. 30, sec. 4, p. 61.; am. 2023, ch. 290, sec. 1, p. 881.]

63-3022E. HOUSEHOLD DEDUCTION FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSONS WITH DEVELOPMENTAL DISABILITIES. [EFFECTIVE UNTIL JANUARY 1, 2027] (1) An additional deduction from taxable income shall be allowed in the case of an individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older, or a person with developmental disabilities as defined in subsection (5) of section 66-402, Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household. The amount of the deduction shall be one thousand dollars ($1,000) for each individual sixty-five (65) years of age or older or with developmental disabilities.

(2) There shall not be allowed more than three (3) deductions of one thousand dollars ($1,000) under the provisions of this section on any one (1) return.

(3) No deductions shall be allowed under this section for the person(s) in whose name(s) the income tax return is filed except as set forth in subsection (4) of this section.

(4) A deduction of one thousand dollars ($1,000) shall be allowed under this section for a person with a developmental disability, as defined in subsection (5) of section 66-402, Idaho Code, who is filing his own return.

63-3022E. HOUSEHOLD DEDUCTION FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSONS WITH DEVELOPMENTAL DISABILITIES. [EFFECTIVE JANUARY 1, 2027] (1) An additional deduction from taxable income shall be allowed in the case of an individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older, or a person with developmental disabilities as defined in section 66-402(4), Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household. The amount of the deduction shall be one thousand dollars ($1,000) for each individual sixty-five (65) years of age or older or with developmental disabilities.

(2) There shall not be allowed more than three (3) deductions of one thousand dollars ($1,000) under the provisions of this section on any one (1) return.

(3) No deductions shall be allowed under this section for the person(s) in whose name(s) the income tax return is filed except as set forth in subsection (4) of this section.

(4) A deduction of one thousand dollars ($1,000) shall be allowed under this section for a person with a developmental disability, as defined in section 66-402(4), Idaho Code, who is filing his own return.

[63-3022E, added 1981, ch. 201, sec. 3, p. 358; am. 1984, ch. 176, sec. 1, p. 423; am. 1994, ch. 104, sec. 1, p. 233; am. 1995, ch. 111, sec. 12, p. 357; am. 1999, ch. 293, sec. 6, p. 740.; am. 2026, ch. 79, sec. 29, p. 419.]

63-3022F. COMPUTATION OF TAX WHERE TAXPAYER RESTORES SUBSTANTIAL AMOUNT HELD UNDER THE CLAIM OF RIGHT. In the case of a taxpayer who is entitled to a reduction in federal tax due to the restoration of an item of gross income under section 1341 of the Internal Revenue Code (relating to the computation of tax where the taxpayer restores a substantial amount held under claim of right), there shall be allowed a deduction in determining Idaho taxable income as provided in section 1341(a)(4) of the Internal Revenue Code, if not otherwise deducted by the taxpayer for Idaho income tax purposes. In computing the deduction allowable under this section, no deduction shall be allowed if the item of gross income for a prior taxable year was not included in Idaho taxable income. If the taxpayer has claimed a credit for claim of right income repayment adjustment under section 63-3029F, Idaho Code, then there shall be added to federal taxable income any amount taken as a deduction under section 1341 of the Internal Revenue Code in computing federal taxable income for the tax year.

[63-3022F, added 2005, ch. 16, sec. 1, p. 47; am. 2015, ch. 21, sec. 1, p. 27.]

63-3022G. MONEYS PAID TO JAPANESE-AMERICANS FOR REPARATIONS FOR WORLD WAR II DISPLACEMENT. (1) Amounts paid to eligible individuals shall not be included as Idaho taxable income if the payment was made from the United States civil liberties public education fund which is created by public law 100-383 (102 Stat. 905).

(2) As used in this section, the term "eligible individual" means any living individual of Japanese ancestry who, during the evacuation, relocation and internment period was a United States citizen or a permanent resident alien, and who was confined, held in custody, relocated or otherwise deprived of liberty or property as a result of:

(a) Executive order number 9066 dated February 19, 1942;

(b) The act entitled "An act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving or committing any act in military areas or zones" approved March 21, 1942 (56 Stat. 173); or

(c) Any other executive order, presidential proclamation, law of the United States, directive of the armed forces of the United States or other action made by or on behalf of the United States or its agents, representatives, officers or employees respecting the evacuation, relocation or internment of individuals solely on the basis of Japanese ancestry.

(3) As used in this section, the term "evacuation, relocation and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946.

(4) As used in this section the term "permanent resident alien" means an alien lawfully admitted into the United States for permanent residence.

[63-3022G, added 1989, ch. 246, sec. 1, p. 595; am. 1995, ch. 111, sec. 14, p. 358.]

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports capital gain net income in determining Idaho taxable income, eighty percent (80%) in taxable year 2001 and sixty percent (60%) in taxable years thereafter of the capital gain net income from the sale or exchange of qualified property shall be a deduction in determining Idaho taxable income.

(2) The deduction provided in this section is limited to the amount of the capital gain net income from all property included in taxable income. Gains treated as ordinary income by the Internal Revenue Code do not qualify for the deduction allowed in this section. The deduction otherwise allowable under this section shall be reduced by the amount of any federal capital gains deduction relating to such property, but not below zero.

(3) Property held by an estate, trust, S corporation, partnership, limited liability company or an individual is "qualified property" under this section if the property had an Idaho situs at the time of sale and is:

(a) Real property held at least twelve (12) months;

(b) Tangible personal property used in Idaho for at least twelve (12) months by a revenue-producing enterprise;

(c) Cattle or horses held for breeding, draft, dairy or sporting purposes for at least twenty-four (24) months in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months in Idaho;

(e) Timber grown in Idaho and held at least twenty-four (24) months;

(f) A partnership interest, other than a publicly traded partnership as defined by section 7704(b) of the Internal Revenue Code, held by an individual for at least twelve (12) months, but only to the extent the gain from sale or exchange of the interest is attributable to real property held by the partnership that is classified as a capital asset by section 1221 of the Internal Revenue Code and is qualified real property under paragraph (a) of this subsection. If the partnership holds property in addition to qualified real property, the portion of the capital gain attributable to qualified real property shall be determined under one (1) of the following methods at the option of the taxpayer:

(i) Fair market valuation. The capital gain from the sale or exchange of the interest attributable to qualified real property is the amount by which the fair market value of the qualified real property exceeds the adjusted basis of the qualified real property minus any gain taxable as ordinary income. For purposes of this section, fair market value must be established by:

1. A qualified appraisal as defined in 26 CFR 1.170A-13(c)(3);

2. A county assessor valuation; or

3. Other evidence acceptable to the state tax commission; or

(ii) Adjusted basis allocation. The capital gain from the sale or exchange of the interest attributable to qualified real property is the proportion of the capital gain included in Idaho taxable income that the adjusted basis of qualified real property held by the partnership on the date of sale or exchange of the partnership interest bears to the adjusted basis of all property held by the partnership at least twelve (12) months prior to the date of sale or exchange of the partnership interest. For this purpose, the ad-

justed basis shall be determined as provided in section 63-3022O, Idaho Code.

(4) In determining the period for which property subject to this section has been held by a taxpayer, the provisions of section 1223 of the Internal Revenue Code shall apply, except that the holding period shall not include the holding period of property given up in an exchange, when such property would not have constituted qualified property under this section without regard to meeting the holding period nor shall the holding period include any time period in which the property subject to this section was held by a corporation other than an S corporation. Notwithstanding the preceding sentence, the holding period of qualifying property that was distributed by an S corporation or an entity treated as a partnership to a person who was an owner, member or partner at the time of the distribution shall, for that person, include the amount of time that the S corporation or the entity held the property, regardless of whether the distribution was a liquidating distribution.

(5) As used in this section, "revenue-producing enterprise" means:

(a) The production, assembly, fabrication, manufacture, or processing of any agricultural, mineral or manufactured product;

(b) The storage, warehousing, distribution, or sale at wholesale of any products of agriculture, mining or manufacturing;

(c) The feeding of livestock at a feedlot;

(d) The operation of laboratories or other facilities for scientific, agricultural, animal husbandry, or industrial research, development, or testing.

(6) As used in this section, the term "real property" means land and includes the following:

(a) A "qualified conservation easement," as defined in section 2031(c)(8)(B) of the Internal Revenue Code, conveyed to a "qualified organization" as defined in section 170(h) of the Internal Revenue Code;

(b) Grazing permits or leases issued by the U.S. forest service, the bureau of land management or the Idaho department of lands, if such permit is transferred simultaneously with the transfer of the "base property"; and

(c) Any other property defined in section 1250(c) of the Internal Revenue Code as "section 1250 property" conveyed in perpetuity, the transfer of which would be required to be in writing by section 9-503, Idaho Code.

(7) Property that has been depreciated pursuant to section 1245 of the Internal Revenue Code is not eligible to be treated as real property for purposes of this deduction.

(8) Part-year resident and nonresident owners of multistate entities shall compute the allowable deduction as prescribed in the rules of the state tax commission.

[63-3022H, added 1987, ch. 324, sec. 1, p. 680; am. 1994, ch. 39, sec. 2, p. 62; am. 1995, ch. 83, sec. 3, p. 244; am. 1995, ch. 111, sec. 15, p. 359; am. 1996, ch. 41, sec. 2, p. 111; am. 1997, ch. 56, sec. 1, p. 94; am. 1998, ch. 414, sec. 1, p. 1306; am. 2001, ch. 321, sec. 1, p. 1136; am. 2001, ch. 323, sec. 1, p. 1138; am. 2002, ch. 35, sec. 2, p. 68; am. 2005, ch. 208, sec. 1, p. 624; am. 2008, ch. 314, sec. 1, p. 873; am. 2010, ch. 5, sec. 1, p. 6; am. 2015, ch. 41, sec. 1, p. 93; am. 2015, ch. 70, sec. 1,

p. 188; am. 2015, ch. 269, sec. 1, p. 1122; am. 2016, ch. 188, sec. 1, p. 511; am. 2018, ch. 186, sec. 1, p. 409.]

63-3022I. ADOPTION EXPENSES. For taxable years commencing on or after January 1, 2018, legal fees and costs and medical expenses and costs all related to the adoption of a child may be deducted from taxable income by adoptive parents. The deduction allowed pursuant to this section shall not exceed ten thousand dollars ($10,000) for the legal fees and costs and medical expenses and costs incurred in the adoption, or the actual costs of the legal fees and costs and medical expenses and costs incurred in the adoption, whichever amount is less, which amount may not include travel costs.

[63-3022I, added 1994, ch. 354, sec. 1, p. 1114; am. 2018, ch. 206, sec. 1, p. 459.]

63-3022J. DEDUCTION OF VALUE FOR TECHNOLOGICAL EQUIPMENT. (1) Any individual or corporation may deduct from taxable income an amount equal to the fair market value of technological equipment donated to public elementary or public secondary schools, private elementary or private secondary schools, public universities, private universities, public colleges, private colleges, public community colleges, private community colleges, public technical colleges or private technical colleges, or public libraries and library districts located within the state of Idaho, except that the amount of the deduction shall not exceed the amount of the taxpayer's cost of the technological equipment donated nor reduce Idaho taxable income to less than zero. The deduction allowed pursuant to this section shall be in addition to any other deduction allowed pursuant to this chapter. In order to take the deduction pursuant to this section, the taxpayer shall receive a written statement from the donee in which the donee agrees to accept the technological equipment donated.

(2) For the purposes of this section, "technological equipment" means a computer, computer software, scientific equipment or apparatus to be used by the university, college, community college, technical college, school or library directly or indirectly in the education program of the university, college, community college, technical college, school or library and which is donated to the university, college, community college, technical college, school or library no later than five (5) years after its manufacture has been substantially completed.

(3) For the purposes of this section, a public elementary or public secondary school means one that is located within this state and receives funding pursuant to chapter 10, title 33, Idaho Code.

(4) For purposes of this section, a private elementary or private secondary school means one that is located within this state and is operated on a nonprofit basis.

(5) For the purposes of this section, a public library or library district means one that is located within this state and receives funding pursuant to chapters 26 and 27, title 33, Idaho Code.

(6) For purposes of this section, a public university, public college, public community college or public technical college means one that is located within this state and receives an appropriation from the legislature.

(7) For purposes of this section, a private university, private college, private community college or private technical college means one that is located within this state and is operated on a nonprofit basis.

(8) The state tax commission shall promulgate rules to administer the provisions of this section. The rules shall be promulgated in compliance with chapter 52, title 67, Idaho Code.

[63-3022J, added 1995, ch. 111, sec. 16, p. 359; am. 1996, ch. 40, sec. 2, p. 104; am. 2002, ch. 35, sec. 3, p. 69; am. 2009, ch. 40, sec. 1, p. 114; am. 2013, ch. 4, sec. 4, p. 11.]

63-3022K. MEDICAL SAVINGS ACCOUNT. (1) For taxable years commencing on and after January 1, 1995, annual contributions to a medical savings account not exceeding two thousand dollars ($2,000) for the account holder and interest earned on a medical savings account shall be deducted from taxable income by the account holder, if such amount has not been previously deducted or excluded in arriving at taxable income. For married individuals the maximum deduction shall be computed separately for each individual. Contributions to the account shall not exceed the amount deductible under this section.

(2) For taxable years beginning on or after January 1, 2014, the annual contributions to a medical savings account shall be limited to ten thousand dollars ($10,000). Both interest earned and all contributions to medical savings accounts shall be deducted from taxable income by the account holder, if such amount has not been previously deducted or excluded in arriving at taxable income.

(3) For the purpose of this section, the following terms have the following meanings unless the context clearly denotes otherwise:

(a) "Account holder" means an individual, in the case of married individuals each spouse, including a self-employed person, on whose behalf the medical savings account is established.

(b) "Dependent" means a person for whom a deduction is permitted under section 151(b) or (c) of the Internal Revenue Code if a deduction for the person is claimed for that person on the account holder's Idaho income tax return.

(c) "Dependent child" means a child or grandchild of the account holder who is not a dependent if the account holder actually pays the eligible medical expenses of the child or grandchild and the child or grandchild is any of the following:

(i) Under twenty-one (21) years of age, or enrolled as a full-time student at an accredited college or university.

(ii) Legally entitled to the provision of proper or necessary subsistence, education, medical care or other care necessary for his or her health, guidance or well-being and not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States.

(iii) Mentally or physically incapacitated to the extent that he or she is not self-sufficient.

(d) "Depository" means a state or national bank, savings and loan association, credit union or trust company authorized to act as a fiduciary or an insurance administrator or insurance company authorized to do business in this state, a broker or investment advisor regulated by the department of finance, a broker or insurance agent regulated by the department of insurance or a health maintenance organization, fraternal benefit society, hospital and professional service corporation as defined in section 41-3403, Idaho Code, or nonprofit mutual insurer regulated under title 41, Idaho Code.

(e) "Eligible medical expense" means an expense paid by the taxpayer for medical care described in section 213(d) of the Internal Revenue Code, and long-term care expenses of the account holder and the spouse, dependents and dependent children of the account holder.

(f) "Long-term care expenses" means expenses incurred in providing custodial care in a nursing facility as defined in section 39-1301, Idaho Code, and for insurance premiums relating to long-term care insurance under chapter 46, title 41, Idaho Code.

(g) "Medical savings account" means an account established with a depository to pay the eligible medical expenses of the account holder and the dependents and dependent children of the account holder. Medical savings accounts shall carry the name of the account holder, a designated beneficiary or beneficiaries of the account holder and shall be designated by the depository as a "medical savings account."

(4) Upon agreement between an employer and employee, an employer may establish and contribute to the employee's medical savings account or contribute to an employee's existing medical savings account. For taxable years beginning on or after January 1, 1995, but before January 1, 2014, the total combined annual contributions by an employer and the account holder shall not exceed two thousand dollars ($2,000) for the account holder. Employer contributions to an employee's medical savings account shall be owned by the employee.

(5) Funds held in a medical savings account may be withdrawn by the account holder at any time. Withdrawals for the purpose of paying eligible medical expenses shall not be subject to the tax imposed in this chapter. Funds held in a medical savings account must be exhausted before the account holder, the account holder's dependent or the account holder's dependent child receives any state assistance for medical care. The burden of proving that a withdrawal from a medical savings account was made for an eligible medical expense is upon the account holder and not upon the depository or the employer of the account holder. Other withdrawals shall be subject to the following restrictions and penalties:

(a) There shall be a distribution penalty for withdrawal of funds by the account holder for purposes other than the payment of eligible medical expenses. The penalty shall be ten percent (10%) of the amount of withdrawal from the account and, in addition, the amount withdrawn shall be subject to the tax imposed in this chapter. The direct transfer of funds from a medical savings account to a medical savings account at a different depository shall not be considered a withdrawal for purposes of this section. Charges relating to the administration and maintenance of the account by the depository are not withdrawals for purposes of this section.

(b) After an account holder reaches fifty-nine and one-half (59 1/2) years of age, withdrawals may be made for eligible medical expenses or for any other reason without penalty, but subject to the tax imposed by this section.

(c) Upon the death of an account holder, the account principal, as well as any interest accumulated thereon, shall be distributed without penalty to the designated beneficiary or beneficiaries.

(d) Funds withdrawn which are later reimbursed shall be taxable unless redeposited into the account within sixty (60) days of the reimbursement. Deposits of reimbursed eligible medical expenses shall not be included in calculating the amount deductible.

(e) Funds deposited in a medical savings account which are deposited in error or unintentionally and which are withdrawn within thirty (30) days of being deposited shall be treated as if the amounts had not been deposited in the medical savings account. Funds withdrawn from a medical savings account which are withdrawn in error or unintentionally and which are redeposited within thirty (30) days of being withdrawn shall be treated as if the amounts had not been withdrawn from the medical savings account.

(f) Funds withdrawn which are, not later than the sixtieth day after the day of the withdrawal, deposited into another medical savings account for the benefit of the same account holder are not a withdrawal for purposes of this section and shall not be included in calculating the amount deductible.

(6) Reporting. Depositories, in the case of medical savings accounts, shall provide to the state tax commission, in the routine fashion used for all interest-bearing accounts, the same information that is provided for any interest-bearing bank account. So as to minimize the burden of reporting, the information shall be provided in the format in which information is provided for any interest-bearing bank account to the state tax commission. There shall be no other reporting requirements. Account holders shall provide on any state income tax form in which they take a deduction for a medical savings account the account number of their medical savings account and the depository at which the account is held.

(7) Any medical care savings account established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, may be continued pursuant to the provisions of this section and all duties, privileges and liabilities imposed in this section upon account holders of medical care savings accounts and the beneficiaries of those accounts shall apply to account holders of medical care savings accounts and their beneficiaries established pursuant to chapter 53, title 41, Idaho Code, as enacted by chapter 186, laws of 1994, as if the medical care savings account were a medical savings account established pursuant to this section.

(8) (a) If the account holder's surviving spouse acquires the account holder's interest in a medical savings account by reason of being the designated beneficiary of such account at the death of the account holder, the medical savings account shall be treated as if the spouse were the account holder.

(b) If, by reason of the death of the account holder, any person acquires the account holder's interest in a medical savings account in a case to which subsection (8)(a) of this section does not apply:

(i) Such account shall cease to be a medical savings account as of the date of death; and

(ii) An amount equal to the fair market value of the assets in such account on such date shall be includable, if such person is not the estate of such holder, in such person's Idaho taxable income for the taxable year which includes such date, or if such person is the estate of such holder, in such holder's Idaho taxable income for the last taxable year of such holder.

(c) The amount includable in Idaho taxable income under subsection (8)(b) of this section by any person, other than the estate, shall be reduced by the amount of qualified medical expenses which were incurred by the decedent before the date of the decedent's death and paid by such person within one (1) year after such date.

[(63-3022K) 63-3022J, added 1995, ch. 362, sec. 2, p. 1266; am. and redesig. 1996, ch. 60, sec. 1, p. 175; am. 1997, ch. 318, sec. 1, p. 940; am. 1998, ch. 398, sec. 1, p. 1245; am. 1999, ch. 31, sec. 1, p. 60; am. 2000, ch. 274, sec. 150, p. 885; am. 2001, ch. 270, sec. 3, p. 980; am. 2002, ch. 212, sec. 1, p. 584; am. 2007, ch. 148, sec. 7, p. 440; am. 2014, ch. 327, sec. 1, p. 810.]

63-3022L. INDIVIDUALS WHO ARE OWNERS OF AN INTEREST IN A PASS-THROUGH ENTITY OR BENEFICIARIES OF A TRUST OR ESTATE. (1) Individuals who are not a resident of Idaho as defined in section 63-3014, Idaho Code, but who are owners of an interest in a pass-through entity, as defined in section 63-3006C, Idaho Code, transacting business in Idaho or who are beneficiaries of a trust or estate with income taxable in Idaho may have Idaho tax relating to income described in subsection (2) of this section reported and paid by the pass-through entity on a return, referred to in this section as a "composite return." Income subject to this subsection shall be taxed at the rate applicable to corporations. The option to file a composite return and pay tax for nonresident owners is in lieu of the backup withholding requirements of section 63-3036B, Idaho Code.

(2) The provisions of subsection (1) of this section apply to the share of any income, loss, deduction or credit of a pass-through entity required to be included on such individual's Idaho return.

(3) For purposes of subsection (2) of this section, deductions, loss and credits allowed in computing the tax liability and income attributable to the individual owner shall be prescribed in the rules of the state tax commission pursuant to section 63-3026A, Idaho Code.

(4) If a corporation, partnership, trust or estate transacting business in Idaho does not comply with the provisions of section 63-3036B, Idaho Code, and also fails to file an Idaho income tax return reporting all of the items described in subsection (2) of this section or fails to pay any tax due thereon, such corporation, partnership, trust or estate shall be liable for tax on such items at the rate applicable to corporations. An entity may rely upon information provided by the individual indicating state of residency, as prescribed in the rules of the state tax commission.

(5) A pass-through entity that files a composite return as described in subsection (1) of this section shall include a statement with the return showing, and report on the K-1 to each individual whose income is included in the return, each individual's share of the income reported on the return and the tax paid by the pass-through entity on each individual's share of the income reported on the return. The statement shall be made on a form prescribed by the state tax commission and shall contain any other information required by it. If the individual filed an Idaho return, the individual shall include the income shown on the K-1 to that individual and shall be entitled to a credit for the tax paid by the entity on such income shown on the K-1 to that individual.

(6) "Individual" for purposes of this section means a:

(a) Natural person;

(b) Grantor trust as described in sections 673 through 677 or section 678 of the Internal Revenue Code;

(c) Qualified subchapter S trust as described in section 1361(d)(3) of the Internal Revenue Code; or

(d) Single member limited liability company that has not elected to be classified as a corporation and is treated as a disregarded entity for federal income tax purposes.

[63-3022L, added 1996, ch. 340, sec. 1, p. 1141; am. 1997, ch. 57, sec. 6, p. 100; am. 1999, ch. 60, sec. 3, p. 157; am. 2000, ch. 38, sec. 1, p. 70; am. 2001, ch. 270, sec. 4, p. 983; am. 2010, ch. 37, sec. 2, p. 67; am. 2011, ch. 3, sec. 1, p. 6; am. 2012, ch. 187, sec. 1, p. 491; am. 2014, ch. 36, sec. 1, p. 61.]

63-3022M. EXPENSES AND INTEREST RELATING TO TAX EXEMPT INCOME. For taxable years commencing on and after January 1, 1999:

(1) Add interest and dividends received or accrued during the taxable year from foreign securities and from securities issued by states and other political subdivisions exempt from federal income tax under the Internal Revenue Code, less applicable amortization.

(2) Subtract any expenses and interest not allowed under sections 265 and 291 of the Internal Revenue Code in computing taxable income, as defined in section 63-3011B, Idaho Code, for interest on indebtedness incurred or continued to purchase or to carry obligations the interest of which is not subject to the taxes imposed under the Internal Revenue Code.

(3) Subtract interest and dividends received or accrued during the taxable year from securities issued:

(a) By the federal government and its instrumentalities to the extent included in taxable income and not subject to taxation by this state, and

(b) By the state of Idaho, its cities and political subdivisions, exempt from federal income tax under the Internal Revenue Code.

(4) No deduction shall be allowed for interest on indebtedness incurred or continued to purchase or to carry obligations the interest of which is not subject to the taxes imposed under this chapter. The amount of interest on indebtedness thus incurred or continued shall be an amount which bears the same ratio to the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year as the taxpayer's interest income from the obligations mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year. "Aggregate amount allowable" means the taxpayer's total interest expense deducted in determining taxable income as defined in section 63-3011B, Idaho Code, plus interest expense disallowed under sections 265 and 291 of the Internal Revenue Code, plus interest expense from a pass-through entity, plus the interest expense of a foreign corporation that, pursuant to sections 63-3027 and 63-3027B through 63-3027E, Idaho Code, is included in a combined report with the taxpayer less interest expense of any corporation included with the taxpayer in a consolidated federal return but not a part of the combined report filed with the state tax commission for the same taxable year. The deduction under this subsection shall not exceed the amount of interest and dividend income added pursuant to subsection (1) of this section less interest and dividend income from the state of Idaho, its cities and political subdivisions, subtracted pursuant to subsection (3) of this section.

(5) No deduction shall be allowed for expenses (other than interest) attributable to interest or dividend income which is not subject to the taxes imposed under this chapter.

[63-3022M, added 1998, ch. 42, sec. 3, p. 179, am. 1999, ch. 28, sec. 1, p. 39.]

63-3022N. MARRIAGE PENALTY ADJUSTMENT. (1) To eliminate from the calculation of Idaho taxable income any marriage penalty that may exist in the basic standard deductions provided in the Internal Revenue Code, basic federal standard deductions shall be adjusted as provided in this section.

(2) As used in this section, "the marriage penalty" means the difference obtained by subtracting:

(a) The basic standard deduction for joint returns, from

(b) Two (2) times the basic standard deduction for an individual who is not married and who is not a surviving spouse or head of household.

(3) For each taxable year beginning on and after January 1, 2000, the standard deduction in section 63-3022(j)(1), Idaho Code, shall be: on a joint return, the basic federal joint standard deduction plus the marriage penalty, rounded to the nearest dollar, plus the amount of any additional standard deduction for the aged or blind for which a taxpayer may qualify under section 63 of the Internal Revenue Code.

(4) The basic federal standard deduction for an individual for whom a deduction under section 151 of the Internal Revenue Code is allowable to another taxpayer shall not be reduced below the minimum adjusted basic standard deduction provided by section 63 of the Internal Revenue Code.

[63-3022N, added 2000, ch. 479, sec. 4, p. 1654; am. 2004, ch. 30, sec. 5, p. 61.]

63-3022O. ADJUSTMENT -- PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001 -- SMALL BUSINESS EXPENSES -- LIMITATIONS ON ASSESSMENTS AND REFUNDS. For taxable years commencing on and after January 1, 2001, in computing Idaho taxable income:

(1)(a) The adjusted basis of depreciable property, depreciation, and gains and losses from sale, exchange, or other disposition of depreciable property acquired after September 10, 2001, and before December 31, 2007, shall be computed without regard to the bonus depreciation available under subsections (k) and (n) of section 168 of the Internal Revenue Code and the adjusted basis of depreciable property, depreciation, and gains and losses from sale, exchange, or other disposition of depreciable property acquired after December 31, 2009, shall be computed without regard to subsections (k) and (n) of section 168 of the Internal Revenue Code, provided that to the extent a taxpayer cannot use the additional depreciation claimed under subsections (k) and (n) of section 168 of the Internal Revenue Code in the current year for federal income tax purposes because of loss limitations imposed by sections 465, 469, 704(d), and 1366(d) of the Internal Revenue Code, then such additional depreciation shall not be added back to federal taxable income in order to determine Idaho taxable income in the current year, and the current and subsequent year bonus depreciation adjustments shall be suspended and the add-back and subtractions shall be applied as provided in this subsection.

(b) In subsequent taxable years, the additional depreciation that was not added back to federal taxable income in the year it originated as provided in this subsection shall be added back when a prior loss that has been suspended under section 465, 469, 704(d), or 1366(d) of the In-

ternal Revenue Code is deducted for federal income tax purposes in the following manner:

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

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

(iii) After the add-back or net add-back has been fully added back to Idaho taxable income, the taxpayer may take the remaining deductions over the life of the asset regardless of the limitations under sections 465, 469, 704(d), and 1366(d) of the Internal Revenue Code;

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

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

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

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

(ii) When a loss under section 465, 469, 704(d), or 1366(d) of the Internal Revenue Code is not sourced to Idaho, the add-back of additional depreciation shall be made in the current taxable year, notwithstanding the provisions of paragraph (a) of this subsection.

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

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

(4) In recognition of the fact that a taxpayer affected by this section may have a different tax basis in his pass-through entity interest and

a different carryover of loss limitations and amount at risk for Idaho tax purposes than for federal tax purposes, each partner, shareholder, member, or beneficiary of any pass-through entity that claims the additional depreciation pursuant to subsections (k) and (n) of section 168 of the Internal Revenue Code shall keep records of the Idaho tax basis of his interest in the pass-through entity, the amount at risk, and the balance of his carryover of Idaho loss limitations in order to confirm that the partner, shareholder, member, or beneficiary, or any successor of his interest by purchase or other means, does not receive directly or indirectly any Idaho income tax benefit from the additional depreciation available under subsections (k) and (n) of section 168 of the Internal Revenue Code.

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

[63-3022O, added 2003, ch. 350, sec. 2, p. 938; am. 2004, ch. 20, sec. 2, p. 23; am. 2007, ch. 11, sec. 1, p. 20; am. 2008, ch. 319, sec. 2, p. 882; am. 2011, ch. 1, sec. 2, p. 3; am. 2012, ch. 14, sec. 2, p. 28; am. 2012, ch. 59, sec. 1, p. 158; am. 2014, ch. 341, sec. 1, p. 859; am. 2018, ch. 7, sec. 1, p. 12; am. 2021, ch. 211, sec. 1, p. 580; am. 2022, ch. 186, sec. 1, p. 615; am. 2026, ch. 1, sec. 2, p. 3.]

63-3022P. HEALTH INSURANCE COSTS. With respect to an individual taxpayer, an amount equal to the amount paid by the taxpayer during the taxable year for insurance which constitutes medical care for the taxpayer, the spouse or dependents of the taxpayer which is not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes shall be allowed as a deduction for Idaho taxable income. As used in this section, "insurance which constitutes medical care" includes any hospital or medical policy or certificate, any subscriber contract, policies or certificates of insurance for specific disease, hospital confinement indemnity, accident-only, dental, vision, single employer self-funded coverage, meaning that portion of health insurance which is the retained risk of the employer, student health benefits only or coverage for medical care or treatment issued as a supplement to liability insurance. Employers shall provide to the employee a statement as to whether an employee's contribution for health insurance has been excluded from taxable income.

[63-3022P, added 2001, ch. 386, sec. 9, p. 1359; am. 2003, ch. 10, sec. 2, p. 24.]

63-3022Q. LONG-TERM CARE INSURANCE. For taxable years commencing on or after January 1, 2004, premiums paid during the taxable year, by a taxpayer

for long-term care insurance as that term is defined in section 41-4603, Idaho Code, which long-term care insurance is to be for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer, may be deducted from taxable income to the extent that the premium is not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes.

[(63-3022Q) 63-3022P, added 2001, ch. 384, sec. 1, p. 1347; am. and redesig. 2002, ch. 35, sec. 5, p. 70; am. 2004, ch. 358, sec. 1, p. 1066.]

63-3022R. CERTAIN LOSS RECOVERIES. If taxable income includes recovered amounts previously deducted from taxable income that were not allowed or allowable as a deduction from Idaho taxable income except as provided by this section, a deduction equal to the recovered amount shall be allowed in determining Idaho taxable income.

[63-3022R, added 2013, ch. 2, sec. 1, p. 3.]

63-3022S. INCOME EARNED ON AN INDIAN RESERVATION. (1) A taxpayer who is an enrolled member of a federally recognized Indian tribe who resides on the reservation of the Coeur d'Alene tribe, the Kootenai tribe of Idaho, the Nez Perce tribe, the Shoshone-Bannock tribes of the Fort Hall reservation or the Shoshone-Paiute tribes of the Duck Valley reservation may deduct from taxable income an amount equal to the taxpayer's income earned on the reservation of a tribe enumerated in this section, without regard to whether the reservation is the reservation of the tribe of which the taxpayer is an enrolled member.

(2) An enrolled member of a federally recognized Indian tribe who resides outside of the state of Idaho shall treat income earned by such member outside the physical boundaries of an Indian reservation in Idaho as subject to Idaho taxes. Income earned by such member within the physical boundaries of an Indian reservation in Idaho shall not be subject to Idaho taxes.

[63-3022S, added 2014, ch. 18, sec. 1, p. 25; am. 2024, ch. 2, sec. 1, p. 3.]

63-3022U. DEDUCTION FOR CERTAIN CHARITABLE CONTRIBUTIONS. A taxpayer may deduct from taxable income the amount by which the taxpayer must reduce a charitable contribution deduction under section 170(d)(1)(B) or 170(d)(2)(B) of the Internal Revenue Code. The amount allowed to a part-year resident or nonresident will be determined pursuant to section 63-3026A(6), Idaho Code. This deduction shall not apply to the calculation set forth in section 63-3022L, Idaho Code.

[63-3022U, added 2015, ch. 19, sec. 1, p. 25; am. 2018, ch. 5, sec. 1, p. 11.]

63-3022V. DEDUCTION FOR FIRST-TIME HOME BUYERS. (1) As used in this section:

(a) "Account holder" means an individual who resides in Idaho, who has filed an income tax return in Idaho for the most recent taxable year, who is a first-time home buyer, and who establishes, individually or jointly, a first-time home buyer savings account. A married individual living in Idaho who is also a first-time home buyer, filing separately, may be an account holder if the account is established separately from

the person's spouse. Married individuals filing jointly are considered the account holder if they both reside in Idaho, if at least one (1) of them has filed an income tax return in Idaho for the most recent taxable year, and if at least one (1) of them is a first-time home buyer.

(b) "Commission" means the Idaho state tax commission.

(c) "Depository" means a state or national bank, a savings and loan association, a credit union, or a trust company authorized to act as a fiduciary, authorized to do business in Idaho.

(d) (i) "Eligible home costs" means:

1. The down payment for the purchase of a single-family residence in Idaho; or

2. A cost, fee, tax, or payment incurred by, charged to, or assigned to an account holder for the purchase of a single-family residence in Idaho and listed on the statement of receipts and disbursements for the sale, including any statement prescribed by 12 CFR 1026.38, as amended.

(ii) "Eligible home costs" also includes any United States veterans administration funding fee incurred by, charged to, or assigned to a designated beneficiary in connection with a veterans administration home loan guaranty program.

(e) "First-time home buyer" means an individual who resides in Idaho, who has filed an income tax return in Idaho for the most recent taxable year, and who does not own, either individually or jointly, a single-family or multifamily residence and who has never owned or purchased, either individually or jointly, a single-family residence in any location.

(f) "First-time home buyer savings account" means an account established in Idaho with a depository to pay the eligible home costs of the account holder or to reimburse the account holder's eligible home costs in connection with a qualified home purchase.

(g) "Qualified home purchase" means, with respect to a first-time home buyer savings account, the purchase of a single-family residence in Idaho by the account holder on the date or after the date the account holder opened a first-time home buyer savings account.

(h) "Single-family residence" means a residential dwelling owned and occupied, or under contract to be constructed, by an account holder as the account holder's principal residence, including but not limited to a manufactured home, mobile home, condominium unit, or townhome.

(2) For taxable years commencing on and after January 1, 2020, annual contributions and interest earned on a first-time home buyer savings account may be deducted from the taxable income of the account holder. Annual deductions shall not exceed fifteen thousand dollars ($15,000) per year for an individual or thirty thousand dollars ($30,000) per year for a married couple filing jointly. Annual contributions to a first-time home buyer savings account shall not exceed the amount deductible under this section. Interest earned on the account shall be tax deferred provided such funds are used for a qualified home purchase subject to this section.

(3) The account holder shall be the beneficiary of the first-time home buyer savings account. The designation shall be made on forms provided by the commission during the year following the date on which the account is established.

(4) No withdrawals may be made from a first-time home buyer savings account within the first thirty (30) days from the establishment of the ac-

count. Thereafter, funds held in a first-time home buyer savings account may be withdrawn by the account holder at any time. Deposits into a first-time home buyer savings account shall not exceed one hundred thousand dollars ($100,000) for the lifetime of the account. Withdrawals for the purpose of paying eligible home costs shall not be subject to the tax imposed in this chapter. The burden of proving that a withdrawal from a first-time home buyer savings account was made for an eligible home cost is solely upon the account holder. Other withdrawals shall be subject to the following:

(a) The withdrawal of funds by the account holder for purposes other than the payment of eligible home costs shall be subject to taxes otherwise due.

(b) The direct transfer of funds from a first-time home buyer savings account to another first-time home buyer savings account at a different depository shall not be considered a withdrawal for purposes of this section. Charges relating to the administration and maintenance of the account by the depository are not withdrawals for purposes of this section.

(c) Funds deposited in a first-time home buyer savings account that are deposited in error or unintentionally and that are withdrawn within fifteen (15) days of being deposited shall be treated as if the amounts had not been deposited in the first-time home buyer savings account.

(d) Funds withdrawn from a first-time home buyer savings account that are redeposited into a first-time home buyer savings account within fifteen (15) days of being withdrawn shall be treated as if the amounts had not been withdrawn from the first-time home buyer savings account.

(e) Upon the death of an account holder, the account principal, as well as any interest accumulated thereon, shall be distributed without penalty to a beneficiary or beneficiaries designated by the account holder. Any taxes that are owing on the funds shall be paid by the beneficiary or beneficiaries.

(5) In the case of first-time home buyer savings accounts, account holders shall provide to the state tax commission, in the routine fashion used for all interest-bearing accounts, the same information that is provided for any interest-bearing bank account and shall also include an attestation under the penalty of perjury that the account holder is a first-time home buyer as defined in this section. To minimize the burden of reporting, the information shall be provided in the format in which information is provided for any interest-bearing bank account to the state tax commission. Depositories shall report withdrawals within ninety (90) days on a form provided by the commission. Account holders shall provide on any state income tax form in which they take a deduction for a first-time home buyer savings account the account number of their first-time home buyer savings account and the depository at which the account is held.

(6) First-time home buyer savings accounts shall be nontransferable to any person who is not the account holder.

(7) The commission shall promulgate rules to administer the provisions of this section.

[63-3022V, added 2020, ch. 252, sec. 1, p. 736.]

63-3023. TRANSACTING BUSINESS. Subject only to the limitations of the constitutions of the United States and of the state of Idaho, the term "transacting business" shall include owning or leasing, whether as lessor or lessee, of any property, including real and personal property, located in

this state, or engaging in or the transacting of any activity in this state, for the purpose of or resulting in economic or pecuniary gain or profit.

[63-3023, added 1959, ch. 299, sec. 23, p. 613; am. 1961, ch. 328, sec. 6, p. 622; am. 1988, ch. 197, sec. 1, p. 375; am. 1995, ch. 111, sec. 17, p. 360; am. 2007, ch. 59, sec. 1, p. 141.]

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

(2)(a) The tax imposed upon individuals, trusts, and estates shall be computed at the rate of five and three-tenths percent (5.3%) of taxable income over two thousand five hundred dollars ($2,500).

(b) For taxpayers filing a joint return pursuant to the provisions of section 63-3031, Idaho Code, the tax imposed shall be computed at the rate of five and three-tenths percent (5.3%) of taxable income over five thousand dollars ($5,000). For the purposes of this section, a return of a surviving spouse, as defined in section 2(a) of the Internal Revenue Code, and a head of household, as defined in section 2(b) of the Internal Revenue Code, shall be treated as a joint return.

(3) For taxable year 2000 and each year thereafter, the state tax commission shall prescribe a factor that shall be used to compute the Idaho income tax thresholds provided in subsection (2) of this section. The factor shall provide an adjustment to the Idaho tax thresholds so that inflation will not result in a tax increase. The Idaho tax thresholds shall be adjusted as follows: multiply the last threshold amount by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted threshold amount will apply divided by the consumer price index for calendar year 1998). For the purpose of this computation, the consumer price index for any calendar year is the average of the consumer price index as of the close of the twelve (12) month period for the immediately preceding calendar year, without regard to any subsequent adjustments, as adopted by the state tax commission. This adoption shall be exempt from the provisions of chapter 52, title 67, Idaho Code. The consumer price index shall mean the consumer price index for all U.S. urban consumers published by the United States department of labor. The state tax commission shall annually include the factor as provided in this subsection to multiply against Idaho taxable income using the thresholds in this section to arrive at that year's Idaho taxable income for tax threshold purposes.

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

(5) The state tax commission may promulgate rules defining the conditions upon which such returns shall be filed.

[63-3024, added 2022, 1st E.S., ch. 1, sec. 5, p. 6; am. 2024, ch. 237, sec. 2, p. 824; am. 2025, ch. 13, sec. 3, p. 43.]

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 tax-

payer, 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 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) of this section, be entitled to a refund in the amount provided in subsection (1) of this section.

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

(4) In no event shall more than one (1) taxpayer be allowed a credit or refund for the same personal exemption or under more than one (1) subsection of this section.

(5) In the event that a credit or refund is attributable to any individual for whom assistance under the federal food stamp program was received for any month or part of a month during the taxable year for which the credit or refund is claimed, the credit or refund allowed under this section shall be in proportion to the number of months of the year in which no assistance was received.

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

(7) No credit or refund shall be paid that is attributable to an individual residing illegally in the United States.

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

(9) In lieu of the flat tax credit amounts provided in subsection (1) of this section, a resident taxpayer may elect for the taxpayer, the taxpayer's spouse, and each dependent, as defined in section 152 of the Internal Revenue Code, claimed on such taxpayer's Idaho income tax return, the actual amount of sales tax paid by such persons on food purchases that took place in Idaho during the taxable year, up to a maximum of two hundred fifty dollars ($250) per person. To make this election, the taxpayer shall indicate this choice on the taxpayer's tax return or application and submit scanned copies of sales tax receipts of qualifying food purchases along with the tax return or application. 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. The provisions of section 63-3042A, Idaho Code, shall not apply to the credit provided in this section. If a taxpayer meets the qualifications under the provisions of subsection (5) of this section, such taxpayer shall not be eligible for the credit under this subsection. If a taxpayer misrepresents the amount of sales tax paid on food purchases on such taxpayer's tax return or application, the amounts that were improperly claimed shall be subject to recovery by the state tax commission pursuant to section 63-3045, Idaho

Code, and the taxpayer shall be subject to the penalties provided in sections 63-3046 and 63-3075(b), Idaho Code.

(a) For the purposes of this subsection, "food" means the sale of food sold for human consumption and shall have the same definition as provided in 7 U.S.C. 2012 as that section existed on January 1, 2025. The types and kinds of food products on which sales tax qualifies as credit by this section shall be the same types and kinds of food products that are eligible for purchase with benefits provided under the federal supplemental nutrition assistance program and shall not include candy, soda, restaurant sales of food, food sold in a heated state or heated by a retail seller, two (2) or more food ingredients mixed or combined by a retail seller for a single sale, or food sold with an eating utensil provided by the retail seller such as a plate, knife, fork, spoon, glass, cup, napkin, or straw.

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

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

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

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

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

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

(b) The fifteenth day of April of the year following the year to which the application relates, if the applicant is not required to file a return.

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

[63-3024A, added 2008, ch. 316, sec. 2, p. 876; am. 2017, ch. 16, sec. 1, p. 27; am. 2019, ch. 13, sec. 1, p. 15; am. 2020, ch. 271, sec. 2, p. 793; am. 2022, ch. 268, sec. 1, p. 858; am. 2025, ch. 56, sec. 1, p. 267.]

63-3024B. IDAHO TAX REBATE FUND. (1) There is hereby created in the state treasury the Idaho tax rebate fund for the purpose of implementing the provisions of this section.

(a) Up to two hundred twenty million dollars ($220,000,000), less administrative costs, shall be distributed by the state tax commission to pay rebates to individual taxpayers as provided in subsection (2) of this section, which moneys are continuously appropriated.

(b) For rebates authorized under subsection (3) of this section, up to three hundred fifty million dollars ($350,000,000), less administrative costs, shall be distributed by the state tax commission to pay rebates to individual taxpayers, which moneys are continuously appropriated.

(c) For rebates authorized under subsection (4) of this section, up to five hundred million dollars ($500,000,000), less administrative costs, shall be distributed by the state tax commission to pay rebates to individual taxpayers, which moneys are continuously appropriated.

(d) On June 1, 2023, of the moneys remaining following the distributions authorized pursuant to paragraphs (a), (b), and (c) of this subsection, anticipated to be approximately one hundred thirty million dollars ($130,000,000), fifty percent (50%) shall be transferred by the state controller to the homeowner property tax relief account established pursuant to section 63-724, Idaho Code, and fifty percent (50%) shall be transferred by the state controller to the school district facilities fund established pursuant to section 33-911, Idaho Code.

(2) After filing a 2020 Idaho individual income tax return or form 24 on or before December 31, 2021, any full-year resident taxpayer who also filed an individual income tax return or a form 24 for 2019 shall receive a onetime, nontaxable income tax rebate check in an amount approximately equal to nine percent (9%) of the tax amount, if any, reported on 2019 form 40, line 20, or for service members on 2019 form 43, line 42, or fifty dollars ($50.00) per taxpayer and each dependent, whichever is more. Any unexpended moneys remaining from the rebate authorized under this subsection shall be added by the state tax commission to the moneys designated for the rebate authorized under subsection (3) of this section.

(3) After filing a 2021 Idaho individual income tax return or form 24 on or before December 31, 2022, any full-year resident taxpayer who also filed a 2020 individual income tax return or form 24 on or before December 31, 2022, shall receive a onetime, nontaxable income tax rebate check in an amount approximately equal to twelve percent (12%) of the tax amount, if any, reported on 2020 form 40, line 20, or for service members on 2020 form 43, line 42, or seventy-five dollars ($75.00) per taxpayer and each dependent, whichever is more. The state tax commission shall issue such rebates during the 2022 fiscal year and 2023 fiscal year to the extent possible.

(4) In addition to the rebate granted under subsection (3) of this section, after filing a 2021 Idaho individual income tax return or form 24 on or before December 31, 2022, any full-year resident taxpayer who also filed a 2020 individual income tax return or a form 24 on or before December 31, 2022, shall receive a onetime nontaxable income tax rebate check in an amount approximately equal to ten percent (10%) of the tax amount, if any, reported on 2020 form 40, line 20, or for service members on 2020 form 43, line 42, or three hundred dollars ($300) per individual return or six hundred dollars ($600) per joint return, whichever is more. The state tax commission shall issue such rebates during the 2023 fiscal year to the extent possible.

[63-3024B, added 2021, ch. 342, sec. 2, p. 1041; am. 2022, ch. 1, sec. 2, p. 4; am. 2022, 1st E.S., ch. 1, sec. 2, p. 5; am. 2023, ch. 200, sec. 13, p. 551.]

63-3025. TAX ON CORPORATE INCOME. (1) For each taxable year, a tax is hereby imposed on the Idaho taxable income of a corporation, other than an S corporation, that transacts or is authorized to transact business in this state or has income attributable to this state. The tax rate imposed by this section shall be as follows:

(a) For each taxable year, commencing on and after January 1, 2001, the tax imposed by this section shall be equal to seven and six-tenths percent (7.6%) of Idaho taxable income.

(b) For each taxable year, commencing on and after January 1, 2012, the tax imposed by this section is changed and shall be equal to seven and four-tenths percent (7.4%) of Idaho taxable income.

(c) For each taxable year, commencing on and after January 1, 2018, the tax imposed by this section is changed and shall be equal to six and nine hundred twenty-five thousandths percent (6.925%) of Idaho taxable income.

(d) For each taxable year, commencing on and after January 1, 2021, the tax imposed by this section is changed and shall be equal to six and five-tenths percent (6.5%) of Idaho taxable income.

(e) For each taxable year, commencing on and after January 1, 2022, the tax imposed by this section is changed and shall be equal to six percent (6%) of Idaho taxable income.

(f) For each taxable year, commencing on and after January 1, 2023, the tax imposed by this section is changed and shall be equal to five and eight-tenths percent (5.8%) of Idaho taxable income.

(g) For each taxable year, commencing on and after January 1, 2024, the tax imposed by this section is changed and shall be equal to five and six hundred ninety-five thousandths percent (5.695%) of Idaho taxable income.

(h) For each taxable year, commencing on and after January 1, 2025, the tax imposed by this section is changed and shall be equal to five and three-tenths percent (5.3%) of Idaho taxable income.

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

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

(b) Excess net passive income attributable to this state. The amount of excess net passive income attributable to this state shall be computed in accordance with section 1375 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

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

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

[63-3025, added 2022, 1st E.S., ch. 1, sec. 7, p. 7; am. 2024, ch. 237, sec. 3, p. 825; am. 2025, ch. 13, sec. 4, p. 44; am. 2025, ch. 302, sec. 2, p. 1282.]

63-3025A. FRANCHISE TAX. (1) For taxable years commencing on and after January 1, 2001, a franchise tax shall be imposed upon any corporation, other than an S corporation, for the privilege of exercising its corporate franchise within the state during such taxable year including, but not limited to, corporations engaged in business in Idaho for the exclusive purpose of performing contracts with the United States department of energy at the Idaho national laboratory or any successor organization, which tax shall be measured by income which is attributable to this state under the provisions of this chapter and which tax shall be at the rate provided in section 63-3025, Idaho Code.

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

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

(b) Excess net passive income attributable to this state. The amount of excess net passive income attributable to this state shall be computed in accordance with section 1375 of the Internal Revenue Code subject to the apportionment and allocation provisions of section 63-3027, Idaho Code.

(3) The tax imposed by subsection (1) or (2) of this section shall not be less than twenty dollars ($20.00); provided further that the twenty dollar ($20.00) minimum payment shall not be collected from nonproductive mining corporations; but the twenty dollar ($20.00) minimum tax shall apply to corporations qualified to file returns and actually filing returns under the provisions of subchapter "S" of the Internal Revenue Code.

[63-3025A, added 1982, ch. 203, sec. 8, p. 536; am. 1983, ch. 221, sec. 2, p. 617; am. 1987, ch. 342, sec. 3, p. 727; am. 1995, ch. 111, sec. 21, p. 362; am. 2001, ch. 386, sec. 4, p. 1352; am. 2007, ch. 10, sec. 1, p. 10; am. 2007, ch. 15, sec. 2, p. 26.]

63-3025B. ORGANIZATIONS EXEMPT FROM THE TAX IMPOSED BY THIS CHAPTER. (1) Except as provided in subsection (4) of this section, an organization described in section 501 of the Internal Revenue Code, and the additional organizations listed in this section shall be specifically exempt from taxation under this chapter unless such exemption is denied under section 502, 503, 504 or 6033j of the Internal Revenue Code:

(a) Fraternal beneficiary societies, orders or associations, operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system;

(b) Farmer's or other mutual hail, cyclone, casualty or fire insurance companies or associations, including interinsurers and reciprocal un-

derwriters of the same class, the income of which is used or held only for the purpose of paying losses or expenses;

(c) Federal land banks and national farm loan associations as provided in the farm credit act of 1971, as amended.

(2) Farmer's cooperatives shall be exempt from taxation under this chapter to the extent exempted by section 521 of the Internal Revenue Code.

(3) Federal savings and loan associations shall not be exempt from taxation under this chapter.

(4) Unrelated business income as defined in the Internal Revenue Code shall be subject to taxation under this chapter.

[63-3025B, added 1995, ch. 111, sec. 23, p. 363; am. 1997, ch. 57, sec. 7, p. 101; am. 2014, ch. 9, sec. 2, p. 11.]

63-3025C. CORPORATIONS EXEMPT FROM MINIMUM TAX. The minimum tax provisions of sections 63-3025 and 63-3025A Idaho Code, shall not apply to any corporation which is not organized for profit and is not required to pay any federal tax on unrelated business income under the provisions of section 511 of the internal revenue code.

[63-3025C, added 1986, ch. 18, sec. 1, p.59.]

63-3025D. PAYMENT FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSONS WITH DEVELOPMENTAL DISABILITIES. [EFFECTIVE UNTIL JANUARY 1, 2027] (1) In lieu of the deduction from taxable income allowed by section 63-3022E, Idaho Code, a resident individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older or individuals with developmental disabilities, as defined in subsection (5) of section 66-402, Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the year from the individual who maintains the household, shall be entitled to a payment from the refund account of one hundred dollars ($100) for each such elderly member of the family or family member with a developmental disability. Any such payment shall be paid to such individual only upon his making application therefor at such time and in such manner as may be prescribed by the state tax commission.

(2) No more than three (3) such payments shall be made under the provisions of this section to any one (1) individual in any calendar year.

(3) No payment may be claimed under the provisions of this section by the individual himself except as set forth in subsection (4) of this section.

(4) A credit of one hundred dollars ($100) shall be allowed under this section for a person with a developmental disability as defined in subsection (5) of section 66-402, Idaho Code, who is filing his own tax return.

63-3025D. PAYMENT FOR DEPENDENTS SIXTY-FIVE YEARS OF AGE OR OLDER OR PERSONS WITH DEVELOPMENTAL DISABILITIES. [EFFECTIVE JANUARY 1, 2027] (1) In lieu of the deduction from taxable income allowed by section 63-3022E, Idaho Code, a resident individual who maintains a household, which includes as an immediate member of the family residing in that household, one (1) or more individuals sixty-five (65) years of age or older or individuals with developmental disabilities, as defined in section 66-402(4), Idaho Code, regardless of the age of the person when such developmental disability appeared, each of whom receives more than one-half (1/2) of his or her support for the

year from the individual who maintains the household, shall be entitled to a payment from the refund account of one hundred dollars ($100) for each such elderly member of the family or family member with a developmental disability. Any such payment shall be paid to such individual only upon his making application therefor at such time and in such manner as may be prescribed by the state tax commission.

(2) No more than three (3) such payments shall be made under the provisions of this section to any one (1) individual in any calendar year.

(3) No payment may be claimed under the provisions of this section by the individual himself except as set forth in subsection (4) of this section.

(4) A credit of one hundred dollars ($100) shall be allowed under this section for a person with a developmental disability as defined in section 66-402(4), Idaho Code, who is filing his own tax return.

[63-3025D, added 1981, ch. 201, sec. 4, p. 358; am. 1994, ch. 104, sec. 2, p. 233; am. 1999, ch. 293, sec. 7, p. 741; am. 2002, ch. 35, sec. 7, p. 72.; am. 2026, ch. 79, sec. 30, p. 420.]

63-3026. COMPUTING IDAHO TAXABLE INCOME OF RESIDENT INDIVIDUALS, TRUSTS AND ESTATES. The Idaho taxable income of resident individuals, trusts or estates shall be computed by making appropriate adjustments under the provisions of section 63-3022, Idaho Code, to the taxable income of the taxpayer.

[63-3026, added 1995, ch. 111, sec. 25, p. 364]

63-3026A. COMPUTING IDAHO TAXABLE INCOME OF PART-YEAR OR NONRESIDENT INDIVIDUALS, TRUSTS AND ESTATES. (1) For nonresident individuals, trusts, or estates the term "Idaho taxable income" includes only those components of Idaho taxable income as computed for a resident which are derived from or related to sources within Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

(2) For part-year resident individuals, trusts or estates the term "Idaho taxable income" includes the total of: (a) Idaho taxable income as computed for a resident for the portion of the tax period during which a taxpayer is domiciled in or is residing in Idaho, plus (b) those components of Idaho taxable income which are derived from or related to sources within Idaho for that portion of the tax period during which a taxpayer is not domiciled in and is not residing in Idaho. This is to be computed without the deductions for either the standard deduction or itemized deductions or personal exemptions except as provided in subsection (4) of this section.

(3) For the purposes of subsections (1) and (2) of this section:

(a) Income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from:

(i) Any business, trade, profession or occupation conducted or carried on in this state, including the distributive share of partnership income and deductions, and the pro rata share of S corporation income and deductions. Partnership income, including guaranteed payments pursuant to section 707 of the Internal Revenue Code, is sourced to Idaho based upon the Idaho apportionment factor of the partnership; excluding:

1. Guaranteed payment to a retired partner per 4 U.S.C. section 114(b)(1)(I) that is sourced to the recipient's state of domicile;

2. Guaranteed payment to an individual partner up to two hundred fifty thousand dollars ($250,000) in any calendar year is sourced as compensation for services. The amount of the guaranteed payment in excess of two hundred fifty thousand dollars ($250,000) is sourced to Idaho based upon the partnership's Idaho apportionment factor. The two hundred fifty thousand dollar ($250,000) amount will be adjusted annually by multiplying the amount by the percentage (the consumer price index for the calendar year immediately preceding the calendar year to which the adjusted amount will apply divided by the consumer price index for calendar year 2013) as defined in section 63-3024, Idaho Code;

(ii) The ownership or disposition of any interest in real or tangible personal property located in this state;

(iii) The ownership or disposition of any interest in intangible personal property only to the extent that such property is employed in a business, trade, profession or occupation conducted or carried on in this state. Provided however, that interest income from an installment sale of real or tangible personal property shall constitute income from sources within this state to the extent that the property sold was located within this state. Provided further, that interest income received by a partner or shareholder of a partnership or S corporation from such partnership or S corporation shall constitute income from sources within this state to the extent that the partnership or S corporation is transacting business within this state;

(iv) A resident estate or trust; provided however, that income distributed to beneficiaries of an estate or trust shall constitute income from sources within this state only to the extent the income would be Idaho source income if such income had been received directly by a nonresident individual;

(v) A nonresident estate or trust to the extent the income and deductions of the nonresident estate or trust were derived from or related to sources within this state;

(vi) The conduct of pari-mutuel wagering, charitable gaming or any other form of gambling taking place within this state, except as expressly limited in section 67-7439, Idaho Code;

(vii) Gains or losses realized from the sale or other disposition of a partnership interest or stock in an S corporation to the extent of the partnership's or S corporation's Idaho apportionment factor in the taxable year immediately preceding the year of sale. In the case of a nonresident individual who sells the nonresident's interest in a publicly traded partnership defined in section 7704 of the Internal Revenue Code doing business in Idaho, the gains or losses shall be determined using the amount described in section 751 of the Internal Revenue Code, multiplied by the apportionment factor for the year in which the sale occurred.

(b) Notwithstanding the provisions of subsection (3)(a) of this section, transactions and investments made, placed or directed by Idaho resident registered broker-dealers and investment advisers or

institutions exempt from registration under the Idaho securities act in securities listed with or through the New York Stock Exchange, the American Stock Exchange or any other stock exchange registered with the United States securities and exchange commission and approved by the director of the department of finance which generate dividends, interest, capital gains or similar profits or returns for nonresidents not otherwise subject to Idaho income taxation shall not result in the intangible property being deemed to have a situs outside the domicile of the owner.

(c) Nonresident individuals shall not be taxable on investment income from a qualified investment partnership. For purposes of this paragraph, a "qualified investment partnership" means a partnership, as defined in section 63-3006B, Idaho Code, that derives at least ninety percent (90%) of its gross income from investments that produce income that would not be taxable to a nonresident individual if the investment were held by that individual.

(d) Compensation paid by the United States for active service in the armed forces of the United States, performed by an individual not domiciled in this state, shall not constitute income derived from or related to sources within this state.

(e) The income of nonresident or part-year resident individuals, trusts or estates which is derived from or related to sources both within and without this state shall be attributable to this state in the manner prescribed in the rules of the state tax commission.

(4) In computing the Idaho taxable income of a part-year or nonresident individual, trust or estate, the standard deduction or itemized deductions, as defined in section 63-3022(j), Idaho Code, if applicable, and the exemptions, as defined in section 151 of the Internal Revenue Code or any allowance in lieu of such deduction, shall be allowed in the proportion that paragraph (a) of this subsection bears to paragraph (b) of this subsection:

(a) The Idaho taxable income of the taxpayer modified as follows:

(i) No allowance shall be made for either the standard deduction or itemized deductions;

(ii) No deduction shall be made for personal exemptions or any allowance in lieu of such deduction.

(b) The Idaho taxable income as would be calculated for a resident of Idaho modified as follows:

(i) No allowance shall be made for either a standard deduction or itemized deductions;

(ii) No deduction shall be made for personal exemptions or any allowance in lieu of such deduction;

(iii) Compensation for active military service in the armed forces shall not be deducted;

(iv) Income earned within the original exterior boundaries of any federally created Indian reservation by an enrolled Indian in a federally recognized Indian tribe on a federally recognized Indian reservation shall be added if not otherwise included.

(5) An adjustment may be made to eliminate distortions in the amount of net income attributable to a taxpayer's activities within the state of Idaho. Such deductions shall be limited to circumstances involving itemized deductions as referred to in subsection (4) of this section and which reflect:

(a) A failure to reflect the net income or deduction after reimbursements have been received; or

(b) A failure to reflect the net amount of mortgage interest income or expense from activities within Idaho.

(6) For the purposes of subsections (1) and (2) of this section, deductions and adjustments allowed in computing the Idaho taxable income of nonresident and part-year resident individuals, trusts and estates shall be prescribed in the rules of the state tax commission. Such rules shall be based upon:

(a) Whether or not the deduction or adjustment is related to the production of income reportable to Idaho;

(b) Whether or not the deduction or adjustment is related to income received, expenses paid, or events of tax consequence which occurred during a portion of a taxable year that the taxpayer was domiciled in or residing in Idaho; or

(c) Any other appropriate basis for making the adjustment. An "appropriate basis" is one which the state tax commission finds is needed to insure that the amount of Idaho taxable income is fairly and reasonably related to a taxpayer's activities in this state.

[63-3026A, added 1995, ch. 111, sec. 26, p. 364; am. 1996, ch. 40, sec. 3, p. 105; am. 1998, ch. 42, sec. 4, p. 180; am. 2000, ch. 38, sec. 5, p. 74; am. 2005, ch. 21, sec. 1, p. 57; am. 2005, ch. 405, sec. 1, p. 1380; am. 2007, ch. 12, sec. 1, p. 21; am. 2010, ch. 108, sec. 1, p. 219; am. 2011, ch. 3, sec. 2, p. 6; am. 2013, ch. 83, sec. 1, p. 203.]

63-3026B. AFFECTED BUSINESS ENTITIES -- STATE AND LOCAL TAXATION TREATMENT. (1) As used in this section:

(a) "Affected business entity" means any partnership or S corporation that elects to be subject to tax pursuant to this section.

(b) "Affected business entity income" means, in the case of an electing affected business entity, all items of income, gain, loss, or deduction derived from or connected with Idaho sources, except for that portion of such income, gain, loss, or deduction apportioned to an exempt entity that is a member of the affected business entity.

(c) "Exempt entity" means an entity that is exempt from taxation under this chapter.

(d) "Individual" means an individual, a trust, or an estate.

(e) "Member" means:

(i) A shareholder of an S corporation, except for exempt entities;

(ii) A partner in a general partnership, a limited partnership, or a limited liability partnership, except for exempt entities; or

(iii) A member of a limited liability company that is treated as a partnership or an S corporation for federal income tax purposes, except for exempt entities.

(f) "Partnership" has the meaning provided in section 63-3006B, Idaho Code. "Partnership" includes a limited liability company that is treated as a partnership for federal income tax purposes as described in section 63-3006A, Idaho Code.

(g) "S corporation" means a corporation or limited liability company that is treated as an S corporation for federal income tax purposes.

(h) "Taxable year" means the taxable year of a partnership or an S corporation for federal income tax purposes.

(2)(a) A partnership or an S corporation may elect in the manner set forth in this section to become an affected business entity required to pay the tax under this section in any taxable year. A separate election must be made for each taxable year.

(b) An election under this section must be made on a form and in the manner as the state tax commission prescribes by rule or instruction.

(c) An election under this section may be made for any taxable year by filing the election with a return for such taxable year. An election will also be valid if made by an amended return for the taxable year filed before the original due date of the fifteenth day of the fourth month following the taxable year.

(d) An election made under this section must be signed by:

(i) Each member of the electing entity who is a member at the time the election is filed; or

(ii) Any officer, manager, or member of the electing entity who is authorized under local law or by the entity's organizational documents to make the election and who represents under penalty of perjury that he has such authorization.

(e) An affected business entity is required to pay the tax imposed by section 63-3082, Idaho Code, for each member that is not an Idaho resident.

(3) Each affected business entity that is a partnership or an S corporation transacting business in this state shall, on or before the fifteenth day of the fourth month following the close of each taxable year, pay a tax in an amount determined as follows:

(a) Add all of the affected business entity income derived from or connected with sources within this state, as determined under the provisions of this chapter;

(b) Increase or decrease the sum from paragraph (a) of this subsection according to the modifications permitted or required under this chapter for computing Idaho taxable income, to the extent they are attributable to members subject to tax under this chapter;

(c) Multiply the result from paragraph (b) of this subsection by the tax rate applicable to corporations provided in section 63-3025, Idaho Code; and

(d) Apply any allowable credits earned by the affected business entity, adjusted by the recapture provisions of section 63-3029B, Idaho Code. All credits, including the allowable credits under this section from another affected business entity as adjusted for the recapture provisions of section 63-3029B, Idaho Code, shall flow through to the members as otherwise permitted under this chapter. Any unused credits that are allowed by law to be carried forward to succeeding taxable years may be claimed in succeeding taxable years for which the affected business entity elects to be subject to tax pursuant to this section. If the affected business entity does not make the election under this section in any succeeding taxable year, the unused credits will flow through to the members as otherwise permitted under this chapter.

(4) If the amount calculated under subsection (3)(b) of this section results in a net operating loss, such net operating loss may not be passed through to the members of the affected business entity that makes the election under this section but may be carried forward to succeeding taxable years for which the affected business entity elects to be subject to tax pursuant to this section until fully used. If the affected business entity

does not make the election under this section in any succeeding taxable year, the unused net operating loss will flow through to the members as otherwise permitted under this chapter.

(5) A nonresident individual who is a member is not required to file an income tax return under section 63-3030, Idaho Code, for any taxable year in which the only source of income derived from or connected with sources within this state for such member, or the member and the member's spouse if a joint federal income tax return is or shall be filed, is from one (1) or more affected business entities and such affected business entity or entities file and pay the tax due under this section.

(6) Each partnership and S corporation shall report to each of its members, for each taxable year, such member's pro rata share of the tax imposed under this section on such partnership or S corporation if it is an affected business entity. Such pro rata share of the tax shall be calculated by excluding the share of any member that is an exempt entity.

(7)(a) Each individual who is a member and is not an exempt entity is entitled to a credit against such tax. The credit will be in an amount equal to the individual's pro rata share of the tax paid under this section by any affected business entity of which the individual is a member. If the amount of the credit allowed pursuant to this paragraph exceeds the individual's tax liability for the tax imposed under this chapter, the individual will be paid a refund equal to the balance of the unused credit. Such pro rata share of the tax credit shall be calculated by excluding the share of any member that is an exempt entity.

(b) Each individual who is a member and is not an exempt entity, as a resident or a part-year resident of this state, is entitled to a credit against such tax for the individual's pro rata share of taxes paid to another state of the United States or the District of Columbia on income of any partnership or S corporation of which the individual is a member that is derived therefrom. Any such credit will be calculated in the manner prescribed by the state tax commission and shall be consistent with the provisions of section 63-3029, Idaho Code. Such pro rata share of the tax credit shall be calculated by excluding the share of any member that is an exempt entity.

(8) Each corporation that is a member and is subject to the tax imposed under section 63-3025 or 63-3025A, Idaho Code, is entitled to a credit against such tax. The credit will be in an amount equal to the corporation's pro rata share of the tax paid under this section by any affected business entity of which the corporation is a member. Such credit will be applied after all other applicable credits have been applied. Any balance of the credit not used in the taxable year during which the corporation reports the net income from such affected business entities will be paid as a refund to the corporation. Such pro rata share of the tax credit shall be calculated by excluding the share of any member that is an exempt entity.

(9) Each affected business entity that is a member of another affected business entity and elects to be subject to the tax imposed under this section is entitled to a credit against such tax. The credit will be in an amount equal to the affected business entity's pro rata share of the tax paid under this section by any affected business entity of which the affected business entity is a member. Such credit will be applied after all other applicable credits have been applied. Any balance of the credit not used in the taxable year during which the affected business entity reports net income will be paid as a refund to the affected business entity. Such pro rata share of

the tax credit shall be calculated by excluding the share of any member that is an exempt entity.

(10) Each pass-through entity, as defined in section 63-3006C, Idaho Code, that is a member of an affected business entity and does not elect to be subject to the tax imposed under this section is entitled to a credit. The credit will be in an amount equal to the pass-through entity's pro rata share of the tax paid under this section by any affected business entity of which the pass-through entity is a member. Such credit will be applied after all other applicable taxes and credits have been applied. Any balance of the credit not used in the taxable year will be paid as a refund to the pass-through entity.

(11) For trusts and estates that distribute their income to their beneficiaries to be reported by and taxed to said beneficiaries, the credit provided in subsection (7)(a) of this section shall be apportioned between the trust or estate and the beneficiaries in the same proportion as the income is allocated to and reported by the trust or estate and the beneficiaries.

(12) The interest and penalty provisions and the collection and enforcement procedures provided by sections 63-3038 through 63-3040, 63-3042 through 63-3065A, 63-3071, 63-3075, and 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this section and collection of any amounts due under this section. Said sections shall, for this purpose, be considered part of this section, and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this section, be described as affected business entity tax liens and proceedings.

[63-3026B, added 2021, ch. 239, sec. 1, p. 730; am. 2022, ch. 185, sec. 1, p. 611; am. 2026, ch. 81, sec. 1, p. 425.]

63-3027. COMPUTING IDAHO TAXABLE INCOME OF MULTISTATE OR UNITARY CORPORATIONS. The Idaho taxable income of any multistate or unitary corporation transacting business both within and without this state shall be computed in accordance with the provisions of this section:

(1) As used in this section, unless the context otherwise requires:

(a) "Apportionable income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income arising from tangible and intangible property if the acquisition, management, employment, development, or disposition of the property constitutes integral or necessary parts of the taxpayer's trade or business operations.

(b) "Broadcast customer" means a person, corporation, partnership, limited liability company, or other entity that has a direct connection or contractual relationship with the broadcaster under which revenue is derived by the broadcaster, such as an advertiser or a platform distribution company.

(c) "Broadcaster" means a taxpayer that is a television broadcast network, a cable program network, or a television distribution company.

(d) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(e) "Communications company" means any person or any related person described in section 267 of the Internal Revenue Code, whether individually or in the aggregate, that:

(i) Is:

1. A telecommunications carrier as defined in section 62-610B, Idaho Code;

2. A communications company that provides the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point or between or among points and includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether such service is referred to as a voice over internet protocol service or is classified by the federal communications commission as enhanced or value added. The company may also provide video programming provided by or generally considered comparable to programming provided by a television broadcast station, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Video programming includes but is not limited to cable service as defined in 47 U.S.C. 522 and video programming services delivered by providers of commercial mobile radio service as defined in 47 CFR 20.3; or

3. A broadcast company that provides an over-the-air broadcast radio station or over-the-air broadcast television station; and

(ii) Owns, operates, manages, or controls any plant or equipment used to furnish telecommunications service, communication services, broadband services, internet service, or broadcast services directly or indirectly to the general public at large and derives at least seventy percent (70%) of its gross sales for the current taxable year from the provision of these services. For purposes of the seventy percent (70%) test, "gross sales" does not include interest, dividends, rents, royalties, capital gains, or ordinary gains from asset dispositions, other than in the normal course of business.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Film programming" means one (1) or more performances, events, or productions, or segments of performances, events, or productions, intended to be distributed for visual and auditory perception, including but not limited to news, entertainment, sporting events, plays, stories, or other literary, commercial, educational, or artistic works.

(h) "Nonapportionable income" means all income other than apportionable income.

(i) "Sales" or "receipts" means all gross receipts of the taxpayer not allocated under this section and that are received from transactions and activities in the regular course of the taxpayer's trade or business or otherwise required to be included as apportionable income.

(j) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any taxpayer having income from business activity that is taxable both within and without this state shall allocate and apportion such net income as provided in this section.

(3) In any case in which the provisions of section 63-3701, Idaho Code, are inconsistent with the provisions of this section, the provisions of this section shall control.

(4) For purposes of allocation and apportionment of income under this section, a taxpayer is taxable in another state if:

(a) In that state he is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; or

(b) That state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

(5) Rents and royalties from real or tangible personal property, capital gains, interest, dividends, or patent or copyright royalties, to the extent that they constitute nonapportionable income, shall be allocated as provided in subsections (6) through (9) of this section. Allocable nonapportionable income shall be limited to the total nonapportionable income received in excess of any related expenses that have been allowed as a deduction during the taxable year. In the case of allocable nonapportionable interest or dividends, related expenses include interest on indebtedness incurred or continued to purchase or carry assets on which the interest or dividends are nonapportionable income.

(6)(a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state:

(i) If and to the extent that the property is utilized in this state; or

(ii) In their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, tangible personal property is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(7)(a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(i) The property had a situs in this state at the time of the sale; or

(ii) The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state, unless such gains and losses constitute apportionable income as defined in this section.

(8) Interest and dividends are allocable to this state if the taxpayer's commercial domicile is in this state, unless such interest or dividends constitute apportionable income as defined in this section.

(9)(a) Patent and copyright royalties are allocable to this state:

(i) If and to the extent that the patent or copyright is utilized by the payer in this state; or

(ii) If and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patent product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(10)(a) All apportionable income shall be apportioned to this state under subsection (11) of this section by multiplying the income by a fraction, the numerator of which is the total sales of the taxpayer in Idaho during the tax period and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

(b) An electrical corporation as defined in section 61-119, Idaho Code, a telephone corporation as defined in section 62-603, Idaho Code, a communications company as defined in this section, or a taxpayer subject to a special industry regulation pursuant to subsection (18) of this section may elect to apportion all apportionable income of the taxpayer to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3). Where a taxpayer makes an election to use a special industry regulation under this paragraph, if the property, payroll, or sales factors are defined in a special industry regulation pursuant to subsection (18) of this section, those definitions or terms will be controlling to the extent they are in conflict with the definitions provided in subsections (12) through (16) of this section.

(11)(a) In the case of a corporation or group of corporations combined under subsection (22) of this section, Idaho taxable income or loss of the corporation or combined group shall be determined as follows:

(i) From the income or loss of the corporation or combined group of corporations, subtract any nonapportionable income and subtract any nonapportionable loss included in the total; and

(ii) Multiply the amounts determined under subparagraph (i) of this paragraph by the Idaho apportionment percentage defined

in subsection (10) of this section, taking into account, where applicable, the property, payroll, and sales of all corporations, wherever incorporated, that are included in the combined group. The resulting product shall be the amount of income or loss apportioned to Idaho.

(b) To the amount determined as apportionable income or loss under paragraph (a)(ii) of this subsection, add nonapportionable income allocable entirely to Idaho under the provisions of this section or subtract nonapportionable loss allocable entirely to Idaho under this section. The resulting sum is the Idaho taxable income or loss of the corporation.

(c) In the case of a corporation not subject to subsection (22) of this section, the income or loss referred to in paragraph (a)(i) of this subsection shall be the taxable income of the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code.

(12) Sales of tangible personal property, including gross receipts from leases and other uses of tangible personal property, are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state, regardless of the free on board (f.o.b.) point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state; and

(i) The purchaser is the United States government; or

(ii) The taxpayer is not taxable in the state of the purchaser.

(13) Sales, other than sales of tangible property, are in this state if the taxpayer's market for the sales is in this state. The taxpayer's market for sales is in this state:

(a) In the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this state;

(b) In the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this state;

(c) In the case of a service, if and to the extent the service is delivered to a location in this state;

(d) In the case of intangible property that is:

(i) Rented, leased, or licensed, if and to the extent the property is used in this state, provided that intangible property utilized in marketing a good or service to a consumer is "used in this state" if that good or service is purchased by a consumer who is in this state; and

(ii) Sold, if and to the extent the property is used in this state, provided that:

1. A contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is "used in this state" if the geographic area includes all or part of this state; and

2. Receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subparagraph (i) of this paragraph; and

(e) In the case of sales of a broadcaster from advertising or licensing income that arises from the broadcast or other distribution of film programming by any means, if the commercial domicile of the broadcast customer, as defined in this section, is in this state. Other sales of a broadcaster shall be apportioned in a manner consistent with the rules that apply to such sales.

(14) If the state or states of assignment under subsection (13) of this section cannot be determined, the state or states of assignment shall be reasonably approximated.

(15) A communications company, as defined in this section, may elect to use this subsection for purposes of sourcing sales other than the sales of tangible personal property. If such an election is made, sales other than sales of tangible personal property are in this state if:

(a) All the income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(16) If a taxpayer makes the election in subsection (10)(b) of this section or is using an alternative method pursuant to subsection (17) of this section that requires the use of a property or payroll factor, the property and payroll factor definitions in this subsection apply.

(a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

(b) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

(c) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period, but the state tax commission may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(d) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(e) Compensation is paid in this state if:

(i) The individual's service is performed entirely within the state; or

(ii) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(iii) Some of the service is performed in the state and:

1. The base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state; or

2. The base of operations or the place from which the service is directed or controlled is not in any state in which some

part of the service is performed, but the individual's residence is in this state.

(17) If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the state tax commission may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one (1) or more of the factors;

(c) The inclusion of one (1) or more additional factors that will fairly represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(18) If the allocation and apportionment provisions of this section do not fairly represent the extent of business activity in Idaho of taxpayers engaged in a particular industry or in a particular transaction or activity, the state tax commission may, in addition to the authority in subsection (17) of this section, establish appropriate rules for determining alternative allocation and apportionment methods for such taxpayers. A rule adopted pursuant to this subsection shall be applied uniformly, except that, with respect to any taxpayer to whom such rule applies, the taxpayer may petition for, or the state tax commission may require, adjustment pursuant to subsection (17) of this section.

(19)(a) The party petitioning for, or the state tax commission requiring, the use of any method to effectuate an equitable allocation or apportionment of the taxpayer's income pursuant to subsection (17) of this section must prove by a preponderance of the evidence:

(i) That the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in Idaho; and

(ii) That the alternative to such provision is reasonable.

(b) The same burden of proof shall apply, whether the taxpayer is petitioning for, or the state tax commission is requiring, the use of any reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income. However, if the state tax commission can show that in any two (2) of the prior five (5) years the taxpayer had used an allocation or apportionment method at variance with its allocation or apportionment method or methods used for such other tax years, then the state tax commission shall not bear the burden of proof in imposing a different method pursuant to subsection (17) of this section.

(20) If the state tax commission requires any method to effectuate an equitable allocation and apportionment of the taxpayer's income, the state tax commission cannot impose any civil or criminal penalty with reference to the tax due that is attributable to the taxpayer's reasonable reliance solely on the allocation and apportionment provisions of this section.

(21) A taxpayer that has received written permission from the state tax commission to use a reasonable method to effectuate an equitable allocation and apportionment of the taxpayer's income shall not have that permission revoked with respect to transactions and activities that have already occurred unless there has been a material change in, or a material misrepresentation of, the facts provided by the taxpayer upon which the state tax commission reasonably relied.

(22) For purposes of this section and sections 63-3027B through 63-3027E, Idaho Code, the income of two (2) or more corporations, wherever incorporated, the voting stock of which is more than fifty percent (50%) owned directly or indirectly by a common owner or owners, when necessary to accurately reflect income, shall be allocated or apportioned as if the group of corporations were a single corporation, in which event:

(a) The Idaho taxable income of any corporation subject to taxation in this state shall be determined by use of a combined report that includes the income, determined under paragraph (b) of this subsection, of all corporations that are members of a unitary business, allocated and apportioned using apportionment factors for all corporations included in the combined report and methods set out in this section. The use of a combined report does not disregard the separate corporate identities of the members of the unitary group. Each corporation transacting business in this state is responsible for its apportioned share of the combined apportionable income plus its nonapportionable income or loss allocated to Idaho, minus its net operating loss carryover or carryback.

(b) The income of a corporation to be included in a combined report shall be determined as follows:

(i) For a corporation incorporated in the United States or included in a consolidated federal corporation income tax return, the income to be included in the combined report shall be the taxable income for the corporation after making appropriate adjustments under the provisions of section 63-3022, Idaho Code;

(ii) For a corporation incorporated outside the United States but not included in subparagraph (i) of this paragraph, the income to be included in the combined report shall be the net income before income taxes of such corporation stated on the profit and loss statements of such corporation which are included within the consolidated profit and loss statement prepared for the group of related corporations of which the corporation is a member, which statement is prepared for filing with the United States securities and exchange commission. If the group of related companies is not required to file such profit and loss statement with the United States securities and exchange commission, the profit and loss statement prepared for reporting to shareholders and subject to review by an independent auditor may be used to obtain net income before income taxes. In the alternative, and subject to reasonable substantiation and consistent application by the group of related companies, adjustments may be made to the profit and loss statements of the corporation incorporated outside the United States, if necessary, to conform such statements to tax accounting standards as required by the Internal Revenue Code as if such corporation were incorporated in the United States and required to file a federal income tax return, subject to appropriate adjustments under the provisions of section 63-3022, Idaho Code;

(iii) If the income computation for a group under subparagraphs (i) and (ii) of this paragraph results in a loss, such loss shall be taken into account in other years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code; and

(iv) When one (1) or more corporations included in a combined report have excess inclusion income for a tax year that is taxable to those corporations pursuant to section 63-3011B, Idaho Code,

the amount of such excess inclusion income shall be reported as the taxable income for those members of the combined group as provided by section 63-3011B, Idaho Code, and any net operating loss for that tax year or carried forward from an earlier tax year may be taken as deductions in other tax years, subject to the provisions of subsections (b) and (c) of section 63-3022, Idaho Code. In computing the net operating loss that may be used in another tax year for that corporation or other member of the combined return group, the excess inclusion income recognized as taxable income shall be deducted from gross income, as provided by treasury regulation 1.860E-1(a)(1).

(23) If compensation is paid in the form of a reasonable cash fee for the performance of management services directly for the United States government at the Idaho national laboratory or any successor organization, separate accounting for that part of the business activity without regard to other activity of the taxpayer in the state of Idaho or elsewhere shall be required; provided that only that portion of general expenses clearly identifiable with Idaho business operations of that activity shall be allowed as a deduction.

(24) The state tax commission shall promulgate rules as necessary or appropriate to carry out the purposes of this section.

[63-3027, added 1959, ch. 299, sec. 27, p. 613; am. 1961, ch. 328, sec. 10, p. 622; am. 1965, ch. 254, sec. 1, p. 639; am. 1969, ch. 319, sec. 9, p. 982; am. 1972, ch. 398, sec. 5, p. 1149; am. 1975, ch. 32, sec. 1, p. 52; am. 1979, ch. 250, sec. 1, p. 654; am. 1985, ch. 114, sec. 2, p. 233; am. 1993, ch. 284, sec. 3, p. 964; am. 1994, ch. 247, sec. 2, p. 782; am. 1994, ch. 301, sec. 1, p. 948; am. 1995, ch. 111, sec. 27, p. 366; am. 1998, ch. 42, sec. 5, p. 182; am. 2007, ch. 10, sec. 2, p. 10; am. 2014, ch. 74, sec. 2, p. 192; am. 2022, ch. 52, sec. 1, p. 157.]

63-3027A. COMPUTING IDAHO TAXABLE INCOME OF CORPORATIONS NOT SUBJECT TO SECTION 63-3027, IDAHO CODE. The Idaho taxable income of any corporation transacting business in this state which is not subject to the provisions of section 63-3027, Idaho Code, shall be computed by making appropriate adjustments under the provisions of section 63-3022, Idaho Code, to the taxable income of the taxpayer.

[63-3027A, added 1995, ch. 111, sec. 29, p. 372.]

63-3027B. WATER'S-EDGE ELECTION. (a) A qualified taxpayer, as defined in paragraph (3) of subsection (b) of this section whose income is subject to the tax imposed under this chapter, may elect to determine its income derived from or attributable to sources within this state pursuant to a water's-edge election in accordance with the provisions of this chapter, as modified by sections 63-3027B through 63-3027E, Idaho Code. A taxpayer who makes a water's-edge election shall take into account the income and apportionment factors of all affiliated corporations in a unitary relationship with the taxpayer, other than corporations filing elections under section 936 of the Internal Revenue Code, and which either file a federal income tax return under the Internal Revenue Code or are included in a federal consolidated return.

(b) For purposes of this section:

(1) The phrase "over fifty percent (50%) of the voting stock directly or indirectly owned or controlled" shall be substituted for the phrase "at least eighty percent (80%)" each place it appears in section 1504 of the Internal Revenue Code.

(2) Any combined return shall include only corporations the voting stock of which is more than fifty percent (50%) owned directly or indirectly by a common owner or owners.

(3) A "qualified taxpayer" is a corporation which files, with the state income tax return on which the water's-edge election is made, a consent to the reasonable production of documents within the taxing jurisdiction. The consent shall remain in effect so long as the water's-edge election is in effect.

(4) "Water's-edge combined group" shall mean all corporations or entities properly includable in the election of a taxpayer in subsection (a) of this section.

(5) The only income of a foreign sales corporation to be taken into account shall be the income subject to federal taxation, taking into account the provisions of section 921 of the Internal Revenue Code.

(6) For each corporation within the combined group subject to tax by this chapter, a water's-edge election will be deemed to have been filed and consent given under paragraph (3) of this subsection upon the filing of a valid water's-edge election by any qualified taxpayer of the combined group. If during the period a water's-edge election is in effect, another corporation subject to tax by this state becomes a part of the combined group, the corporation is deemed to have made a water's-edge election and given consent under paragraph (3) of this subsection.

(c) A water's-edge election may be disregarded, and the income of the taxpayer determined without regard to the provisions of this section pursuant to those conditions which may be required by the state tax commission under subsection (b) of section 63-3027C, Idaho Code, if any corporation fails to comply with:

(1) The domestic disclosure spreadsheet filing requirements defined in section 63-3027E, Idaho Code; or

(2) This state's legal and procedural requirements.

[63-3027B, added 1986, ch. 342, sec. 1, p. 846; am. 1993, ch. 284, sec. 4, p. 969; am. 1994, ch. 247, sec. 3, p. 787; am. 2000, ch. 26, sec. 4, p. 48; am. 2009, ch. 2, sec. 1, p. 3.]

63-3027C. ELECTION IS BINDING -- TREATMENT OF DIVIDENDS. (a) A water's-edge election shall be made in the original return for a year and shall be binding for all years thereafter, except as follows:

(1) If, in the future, the United States supreme court or the supreme court of the state of Idaho rules that there is a state or federal constitutional right for a group of corporations to use the worldwide unitary method, a water's-edge combined group of corporations may, without permission of the tax commission, change its future filing to the worldwide unitary method.

(2) Any changes to use of the water's-edge method or any other changes beyond those described in paragraph (1) of this subsection may only occur with the written permission of the tax commission.

(3) No water's-edge election shall be made for an income year beginning prior to the operative date of sections 63-3027B through 63-3027E, Idaho Code.

(b) When disregarding an election or granting a change of election, the tax commission shall impose conditions which are necessary to prevent the avoidance of tax or to clearly reflect income for the period the election was made.

(c) For purposes of this section:

(1) Dividends received from payors incorporated outside the fifty (50) states and District of Columbia, to the extent taxable, shall be treated as income subject to apportionment.

(2) The income of corporations filing elections under section 936 of the Internal Revenue Code shall be deemed dividends received from payors incorporated outside the fifty (50) states and District of Columbia.

(3) Eighty-five per cent (85%) of all dividends described in subsection (c)(1) or (c)(2) of this section shall be excluded from income subject to apportionment.

(4) The dividends subject to apportionment shall be in lieu of any expenses attributable to such dividend income.

(5) Any actual dividend received from a corporation filing an election under section 936 of the Internal Revenue Code shall be eliminated from income.

(d) Any dividend from any payor required to be combined under the water's-edge election shall be eliminated from the calculation of apportionable income. Dividends received from a corporation described in section 922 of the Internal Revenue Code (defining "FSC") will be treated as follows:

(1) Dividends received from an FSC will be eliminated in the proportion that FSC federal taxable income for the year, out of which the dividend was paid, bears to the total FSC income before taxes for such year.

(2) The portion of FSC dividend not eliminated under paragraph (1) of this subsection will be subject to the eighty-five per cent (85%) exclusion provided for in subsection (c)(3) of this section.

(e) For purposes of this section:

(1) Amounts included in income by reference to subpart F of part III of subchapter N of chapter 1 of the Internal Revenue Code shall constitute dividends from payors outside the fifty (50) states and District of Columbia;

(2) Amounts included in income under part VI of subchapter P of chapter 1 of the Internal Revenue Code shall constitute dividends from payors outside the fifty (50) states and the District of Columbia; and

(3) Deemed distributions defined by Section 78 of the Internal Revenue Code shall be excluded from the income of the water's-edge combined group.

[63-3027C, added 1986, ch. 342, sec. 1, p. 848; am. 1993, ch. 284, sec. 5, p. 971; am. 1994, ch. 247, sec. 4, p. 788; am. 1997, ch. 59, sec. 1, p. 110.]

63-3027D. PRESUMPTIONS AND BURDENS OF PROOF. (a) A qualified taxpayer and its affiliates shall be presumed to be a part of a unitary business and all income of that business shall be presumed to be apportionable business income if a valid water's-edge election has been made, except as provided in subsections (c) and (d) of section 63-3027C, Idaho Code.

(b) A taxpayer shall have the burden of proof regarding the issue of whether or not a corporation is a member of a water's-edge combined group.

[63-3027D, added 1986, ch. 342, sec. 1, p. 849.]

63-3027E. OPERATIVE DATES. (a) Sections 63-3027B through 63-3027E, Idaho Code, shall be operative for the computation of taxes for the earlier of either of the following:

(1) Taxable years beginning on or after January 1, 1988.

(2) Taxable years beginning on or after January 1 of the year after the year in which the board of examiners, upon advice of the attorney general, certifies to the tax commission that action has been taken by the United States, whether by statute, regulation, executive order, or any other means as may be appropriate, to comply substantially with the following:

(A) A requirement that any corporation required to file a United States tax return or which could be included in a consolidated federal tax return be required to file with the Internal Revenue Service a domestic disclosure spreadsheet if its payroll, property, or sales in a foreign country exceeds one million dollars ($1,000,000). The spreadsheet shall provide for full disclosure as to the income reported to each state, the state tax liability, and the method used for apportioning or allocating income to the states, and any other information as provided for by regulations as may be necessary to determine properly the amount of taxes due to each state and to identify the water's-edge corporate group and those of its affiliates of which more than twenty per cent (20%) of the voting stock is directly or indirectly owned or controlled by a common owner or owners.

(B) That the information filed pursuant to paragraph (2)(A) of this subsection will be available to qualified states. A "qualified state" is any state that does not require the use of the worldwide unitary method of taxation except in circumstances substantially similar to those authorized in subsection (c) of section 63-3027B, Idaho Code.

(C) That qualified states are authorized access to all material developed by the Internal Revenue Service in its examination of multinational operations.

(b) If sections 63-3027B through 63-3027E, Idaho Code, become operative pursuant to paragraph (1) of subsection (a) of this section, the tax commission may require, and taxpayers described in this subsection must file, no later than six months after filing the Idaho income tax return, a spreadsheet to provide disclosure as to the income reported for the year to the other states that require unitary combined reporting, the tax liability for each such state, the method used for allocating or apportioning income to such states, the property, payroll, and destination sales of the water's-edge corporate group in each state, and to identify the water's-edge corporate group and those of its affiliates of which more than twenty per cent (20%) of the voting stock is directly or indirectly owned or controlled by a common owner or owners. The provisions of this subsection shall apply only to corporations which both make a water's-edge election and have during the taxable year, payroll, property or sales in a foreign country which exceeds one million dollars ($1,000,000). Notwithstanding the requirement to file a spreadsheet in any tax year, a taxpayer may forego filing such a spreadsheet by submitting to the state tax commission a written declaration of its intention to forego filing such spreadsheet for such year. In the

event such declaration is filed in any tax year, no spreadsheet shall be required of such taxpayer and the percentage to be applied under section 63-3027C(c)(3) for such year shall be eighty per cent (80%) rather than eighty-five per cent (85%).

[63-3027E, added 1986, ch. 342, sec. 1, p. 849; am. 1993, ch. 284, sec. 6, p. 972; am. 1994, ch. 247, sec. 5, p. 789; am. 1997, ch. 243, sec. 1, p. 706.]

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, 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)(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) (a) Except as provided in subsection (3)(b) of this section:

(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)(a) of this section 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) 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.

(5) 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.

(9) A part-year resident is entitled to a credit, determined in the manner prescribed by the state tax commission, for income taxes paid to another state in regard to income which is:

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

(b) Subject to tax in such other state.

(10) If the interest in an S corporation, partnership, limited liability company, estate or trust was held for less than the entire taxable year, the share attributable to the individual shall be allocated in the same manner as for federal purposes.

[63-3029, added 1959, ch. 299, sec. 29, p. 613; am. 1961, ch. 328, sec. 12, p. 622; am. 1970, ch. 222, sec. 6, p. 621; am. 1975, ch. 106, sec. 1, p. 216; am. 1980, ch. 12, sec. 1, p. 25; am. 1982, ch. 8, sec. 1, p. 11; am. 1995, ch. 111, sec. 30, p. 372; am. 1996, ch. 422, sec. 1, p. 1446; am. 1998, ch. 10, sec. 1, p. 108; am. 2007, ch. 191, sec. 1, p. 562; am. 2008, ch. 315, sec. 1, p. 874; am. 2009, ch. 216, sec. 1, p. 675; am. 2012, ch. 222, sec. 1, p. 607.]

63-3029A. INCOME TAX CREDIT FOR CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty

percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to a nonprofit corporation, fund, foundation, trust, or association organized and operated exclusively for the benefit of institutions of higher learning located within the state of Idaho, including a university-related research park, to nonprofit private or public institutions of elementary, secondary, or higher education or their foundations located within the state of Idaho, to Idaho education public broadcast system foundations within the state of Idaho, to the Idaho state historical society or its foundation, to the council for the deaf and hard of hearing, to the developmental disabilities council, to the commission for the blind and visually impaired, to the commission on Hispanic affairs, to the state independent living council, to the Idaho commission for libraries and to public libraries or their foundations and library districts or their foundations located within the state of Idaho, to nonprofit public or private museums or their foundations located within the state of Idaho, to residency programs accredited by the accreditation council for graduate medical education or the American osteopathic association or their designated nonprofit support organizations based in Idaho and devoted to training residents in Idaho and to dedicated accounts within the Idaho community foundation inc. that exclusively support the charitable purposes otherwise qualifying for the tax credit authorized under the provisions of this section.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed fifty percent (50%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or five hundred dollars ($500), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five thousand dollars ($5,000), whichever is less.

For the purposes of this section, "contribution" means monetary donations reduced by the value of any benefit received in return such as food, entertainment, or merchandise.

For the purposes of this section, "institution of higher learning" means only an educational institution located within this state meeting all of the following requirements:

(a) It maintains a regular faculty and curriculum and has a regularly enrolled body of students in attendance at the place where its educational activities are carried on.

(b) It regularly offers education above the twelfth grade.

(c) It is accredited by the northwest commission on colleges and universities.

For the purposes of this section, a "nonprofit institution of secondary or higher education" means a private nonprofit secondary or higher educational institution located within the state of Idaho that is accredited by the northwest commission on colleges and universities or accredited by a body approved by the state board of education. A "nonprofit private institution of elementary education" means a private nonprofit elementary educational institution located within the state of Idaho and accredited by the state board of education pursuant to section 33-119, Idaho Code.

For the purposes of this section, a nonprofit corporation, fund, foundation, trust, or association that invests contributions in an endowment or

otherwise shall be subject to the standards of care imposed under section 33-5003, Idaho Code.

[63-3029A, added 1976, ch. 58, sec. 1, p. 198; am. 1977, ch. 249, sec. 1, p. 730; am. 1978, ch. 177, sec. 1, p. 406; am. 1984, ch. 286, sec. 14, p. 660; am. 1986, ch. 219, sec. 1, p. 557; am. 1987, ch. 304, sec. 1, p. 644; am. 1992, ch. 10, sec. 1, p. 16; am. 1994, ch. 211, sec. 1, p. 667; am. 1998, ch. 59, sec. 1, p. 216; am. 1999, ch. 361, sec. 1, p. 956; am. 2001, ch. 370, sec. 1, p. 1294; am. 2006, ch. 235, sec. 31, p. 718; am. 2010, ch. 274, sec. 1, p. 711; am. 2010, ch. 354, sec. 2, p. 930; am. 2013, ch. 40, sec. 1, p. 82; am. 2013, ch. 40, sec. 2, p. 84; am. 2015, ch. 209, sec. 1, p. 656; am. 2015, ch. 209, sec. 5, p. 658; am. 2016, ch. 78, sec. 1, p. 255; am. 2016, ch. 78, sec. 3, p. 256; am. 2018, ch. 33, sec. 1, p. 61; am. 2018, ch. 33, sec. 2, p. 63; am. 2026, ch. 184, sec. 3, p. 830.]

63-3029B. INCOME TAX CREDIT FOR CAPITAL INVESTMENT. (1) At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to the sum of:

(a) The tax credit carryovers; and

(b) The tax credit for the taxable year.

(2) The maximum allowable amount of the credit for the current taxable year shall be three percent (3%) of the amount of qualified investments made during the taxable year.

(3) As used in this section, "qualified investment" means certain property that:

(a)(i) Is eligible for the federal investment tax credit, as defined in sections 46(c) and 48 of the Internal Revenue Code, subject to the limitations provided for certain regulated companies in section 46(f) of the Internal Revenue Code, and is not a motor vehicle under eight thousand (8,000) pounds gross weight; or

(ii) Is qualified broadband equipment, as defined in section 63-3029I, Idaho Code;

(b) Is acquired, constructed, reconstructed, erected or placed into service after December 31, 1981; and

(c) Has a situs in Idaho, as determined pursuant to subsection (9) of this section.

(4)(a) For qualified investments placed in service in 2003 and thereafter, a taxpayer, other than a person whose rate of charge or rate of return or both is regulated or limited according to federal or state law, may elect, in lieu of the credit provided by this section, a two (2) year exemption from all taxes on personal property on the qualified investment. The exemption from personal property tax shall apply to the year the election is filed as provided in this section and the immediately following year. The election provided by this paragraph is available only to a taxpayer whose Idaho taxable income, before application of net operating losses carried back or forward, in the second preceding taxable year in which the investment is placed in service is negative.

(b) The election shall be made in the form prescribed by the state tax commission and shall include a specific description and location of all qualified investments placed into service and located in the jurisdiction of the assessing authority, a designation of the specific assets for which the exemption is claimed, and such other information

as the state tax commission may require. The election must be made by including the election form with the listing of personal property required by section 63-302, Idaho Code, or, in the case of operating property assessed under chapter 4, title 63, Idaho Code, with the operator's statement required by section 63-404, Idaho Code. Once made, the election is irrevocable. If no election is made, the election is not otherwise available. A copy of the election form must also be attached to the original income tax return due for the taxable year in which the claim was made.

(c) The state tax commission and the various county assessors are authorized to exchange information as necessary to properly coordinate the exemption provided in this subsection. Information disclosed to county officials under this subsection may be used only to determine the validity or amount of a taxpayer's entitlement to the exemption provided in this section and is not otherwise subject to public disclosure as provided in section 74-107, Idaho Code.

(d) In the event that an investment in regard to which the election under this subsection was made is determined by the state tax commission:

(i) To not be a qualified investment;

(ii) To have ceased to qualify during the recapture period; or

(iii) To be otherwise not qualified for the election;

the taxpayer shall be subject to recapture of the property tax benefit.

(e) The benefit to be recaptured in paragraph (d) of this subsection shall be computed in the manner required in subsection (7) of this section, and such recapture amount shall be subject to assessment in the same manner as a deficiency in tax under this chapter. For purposes of calculating the recapture, the property tax benefit shall be:

(i) In the case of locally assessed property located in a single county or nonapportioned centrally assessed property, the market value of exempted property times the average property tax levy for that county in the year or years for which the exemption was claimed; or

(ii) In the case of other centrally assessed property and property located in more than one (1) county, the market value of exempted property times the average urban property tax levy of the state as determined by the state tax commission in each of the years for which the exemption was claimed.

(f) In the event that a recapture of the exemption is required under this subsection, the person claiming the exemption shall report the event to the state tax commission in the manner the state tax commission may by rule require. The report shall be due no later than the due date of that person's income tax return under this chapter for the taxable year in which the event occurs. The recapture amount is due and payable with the report. Any amount of recapture not paid is a deficiency within the meaning of section 63-3044, Idaho Code.

(g) All moneys collected by the state tax commission pursuant to this subsection, which amounts are continuously appropriated for this purpose, shall be deposited with the state treasurer and placed in the state refund account, as provided by section 63-3067, Idaho Code, to be remitted to the county within which the property was located that was not a qualified investment or ceased to qualify during the recapture period. The county shall distribute this remittance to all appropriate taxing districts based on the proportion each appropriate

taxing district's levy is to the total of all the levies of the taxing districts for the tax code area where the property was located for each year the exemption was granted. If any taxing district is dissolved or disincorporated, the proportionate share of the remittance to be distributed to that taxing district shall be deposited in the county current expense fund.

(h) For purposes of the limitation provided by section 63-802, Idaho Code, moneys received pursuant to this subsection shall be treated as property tax revenue by taxing districts.

(5) Notwithstanding the provisions of subsections (1) and (2) of this section, the amount of the credit allowed shall not exceed fifty percent (50%) of the tax liability of the taxpayer. The tax liability of the taxpayer shall be the tax after deducting the credit allowed by section 63-3029, Idaho Code.

(6) If the sum of credit carryovers from the credit allowed by subsection (2) of this section and the amount of credit for the taxable year from the credit allowed by subsection (2) of this section exceed the limitation imposed by subsection (5) of this section for the current taxable year, the excess attributable to the current taxable year's credit shall be an investment credit carryover to the fourteen (14) succeeding taxable years as long as the qualified investment property for which the unused credit was granted otherwise remains a qualified investment as determined under subsection (3) of this section in each of the taxable years during the recapture period. In the case of a group of corporations filing a combined report under section 63-3027, Idaho Code, or sections 63-3027B through 63-3027E, Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (5) of this section, instead of carried over. The entire amount of unused credit shall be carried forward to the earliest of the succeeding years, wherein the oldest available unused credit shall be used first. For a combined group of corporations, credit carried forward may be claimed by any member of the group, unless the member who earned the credit is no longer included in the combined group.

(7) Any recapture of the credit allowed by subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of the recapture period, shall be determined according to the applicable recapture provisions of the Internal Revenue Code. In the case of a unitary group of corporations, the increase in tax due to the recapture of investment tax credit must be reported by the member of the group who earned the credit regardless of which member claimed the credit against tax.

(8) For the purpose of determining whether property placed in service is a "qualified investment" as defined in subsection (3) of this section, the provisions of section 49 of the Internal Revenue Code shall be disregarded. "Qualified investment" shall not include any amount for which a deduction is allowed under section 168(k) or section 179 of the Internal Revenue Code in computing Idaho taxable income.

(9) For purposes of this section, property has a situs in Idaho during a taxable year if it is used in Idaho at any time during the taxable year. Property not used in Idaho during a taxable year does not have a situs in Idaho in the taxable year during which the property is not used in Idaho or in any subsequent taxable year. The Idaho situs of property must be established by records maintained by the taxpayer that are created reasonably contemporaneously with the use of the property.

(10) In the case of property used both in and outside Idaho, the taxpayer electing to claim the credit provided in this section must elect to compute the qualified investment in property with a situs in Idaho for all such investments first qualifying during that year in one (1), but only one (1), of the following ways:

(a) The amount of each qualified investment in a specific asset shall be separately computed based on the percentage of the actual use of the property in Idaho by using a measure of the use, such as total miles or total machine hours, that most accurately reflects the beneficial use during the taxable year in which it is first acquired, constructed, reconstructed, erected, or placed into service; provided that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected, or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the measure of the use of that asset within Idaho for that year shall be based on the percentage of use in Idaho during the first ninety (90) days of use of the asset; or

(b) The investment in qualified property used both inside and outside Idaho during the taxable year in which it is first acquired, constructed, reconstructed, erected, or placed into service shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, for the same year; provided that the asset is placed in service more than ninety (90) days before the end of the taxable year. In the case of assets acquired, constructed, reconstructed, erected, or placed into service within ninety (90) days prior to the end of the taxable year in which the investment first qualifies, the investment in qualified property used both inside and outside Idaho shall be multiplied by the percent of the investment that would be included in the numerator of the Idaho property factor determined pursuant to section 63-3027, Idaho Code, during the first ninety (90) days of use of the asset.

(11) References to sections 46, 48 and 49 of the Internal Revenue Code mean those sections as they existed in the Internal Revenue Code of 1986 prior to November 5, 1990.

[63-3029B, added 1982, ch. 48, sec. 1, p. 72; am. 1987, ch. 319, sec. 1, p. 671; am. 1992, ch. 153, sec. 1, p. 459; am. 1993, ch. 2, sec. 1, p. 4; am. 1994, ch. 247, sec. 6, p. 790; am. 1995, ch. 94, sec. 1, p. 270; am. 1996, ch. 40, sec. 4, p. 107; am. 2000, ch. 457, sec. 1, p. 1430; am. 2000, ch. 479, sec. 5, p. 1655; am. 2001, ch. 270, sec. 6, p. 984; am. 2001, ch. 386, sec. 5, p. 1353; am. 2003, ch. 345, sec. 1, p. 923; am. 2004, ch. 204, sec. 1, p. 621; am. 2005, ch. 23, sec. 1, p. 61; am. 2006, ch. 195, sec. 2, p. 600; am. 2008, ch. 319, sec. 3, p. 883; am. 2011, ch. 271, sec. 1, p. 738; am. 2012, ch. 40, sec. 1, p. 123; am. 2015, ch. 141, sec. 160, p. 504; am. 2023, ch. 33, sec. 1, p. 165.]

63-3029C. INCOME TAX CREDIT FOR CERTAIN CHARITABLE CONTRIBUTIONS -- LIMITATION. At the election of the taxpayer, there shall be allowed, subject to the applicable limitations provided herein, as a credit against the income tax imposed by chapter 30, title 63, Idaho Code, an amount equal to fifty percent (50%) of the aggregate amount of charitable contributions made by such taxpayer during the year to the anchor house or its foundation, to

the children's home society of Idaho, inc., to the Idaho youth ranch or its foundation, to kinderhaven or its foundation, to the women's and children's alliance or its foundation, to children's village, inc. or its foundation, to Idaho drug free youth, inc. or its foundation, to gem youth services or its foundation, to the hope house, inc. or its foundation, to the north Idaho children's home or its foundation, to the shepherd's home, inc. or its foundation, to a project safe place located within the state of Idaho, to the learning lab, inc. or its foundation, to a center for independent living located within the state of Idaho, to project P.A.T.C.H., planned assistance for troubled children, to a nonprofit substance abuse center licensed by the department of health and welfare, or to a nonprofit rehabilitation facility located within the state of Idaho or its foundation.

(1) In the case of a taxpayer other than a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed twenty percent (20%) of such taxpayer's total income tax liability imposed by section 63-3024, Idaho Code, for the year, or one hundred dollars ($100), whichever is less.

(2) In the case of a corporation, the amount allowable as a credit under this section for any taxable year shall not exceed ten percent (10%) of such corporation's total income or franchise tax liability imposed by sections 63-3025 and 63-3025A, Idaho Code, for the year, or five hundred dollars ($500), whichever is less.

(3) For the purposes of this section, "center for independent living" shall mean a private, nonprofit, nonresidential organization in which at least fifty-one percent (51%) of the principal governing board, management and staff are individuals with disabilities and that:

(a) Is designed and operated within a local community by individuals with disabilities;

(b) Provides an array of independent living services and programs; and

(c) Is cross-disability.

(4) For the purposes of this section, "nonprofit rehabilitation facility" means only a facility that is accredited by the commission on accreditation of rehabilitation facilities or another accreditation organization recognized by the state of Idaho.

[63-3029C, added 1982, ch. 84, sec. 1, p. 157; am. 1986, ch. 141, sec. 1, p. 398; am. 1998, ch. 131, sec. 1, p. 485; am. 1998 ch. 133, sec. 1, p. 490; am. 1998, ch. 183, sec. 1, p. 672; am. 1999, ch. 257, sec. 1, p. 662; am. 2000, ch. 216, sec. 1, p. 604; am. 2001, ch. 157, sec. 1, p. 564; am. 2001, ch. 382, sec. 1, p. 1339; am. 2002, ch. 269, sec. 1, p. 799; am. 2004, ch. 80, sec. 1, p. 305; am. 2004, ch. 193, sec. 1, p. 603; am. 2006, ch. 69, sec. 1, p. 212; am. 2006, ch. 209, sec. 1, p. 638; am. 2006, ch. 307, sec. 1, p. 946; am. 2006, ch. 309, sec. 1, p. 952; am. 2006, ch. 320, sec. 1, p. 1018.]

63-3029D. TAX CREDIT FOR QUALIFIED EQUIPMENT UTILIZING POSTCONSUMER WASTE OR POSTINDUSTRIAL WASTE. (1) For income tax years commencing on and after January 1, 1994, there shall be allowed a credit against the tax imposed pursuant to this chapter for each taxpayer who purchases qualified equipment on and after January 1, 1994.

(2) The credit provided pursuant to the provisions of subsection (1) of this section shall be an amount equal to twenty percent (20%) of the costs incurred by the taxpayer for purchases of qualified equipment and shall be claimed in the income tax year in which at least ninety percent (90%) of the

total production of such qualified equipment is used by the taxpayer to manufacture products utilizing postconsumer waste or postindustrial waste. In no event shall the tax credit be more than thirty thousand dollars ($30,000) per tax year.

(3) If the amount of the credit provided pursuant to the provisions of subsection (2) of this section exceeds the amount of income taxes otherwise due on the income of the taxpayer in the income tax year for which the credit is being claimed, the amount of the credit not used as an offset against income taxes in such income tax year may be carried forward as a credit against subsequent years' income tax liability for a period not exceeding seven (7) years and shall be applied first to the earliest income tax years possible. Any amount of the credit which is not used after such period shall not be refundable to the taxpayer.

(4) As used in this section:

(a) "Collection" means:

(i) The acquisition of materials from businesses or the general public through purchase or donation, including the organization of systems for such acquisitions;

(ii) The preparation of materials for over-the-road transportation through cleaning, densification by shredding, baling, or any other method, or coalescence, including the organization of systems for such preparation; or

(iii) The transportation of postconsumer waste or postindustrial waste between separate geographical locations.

(b) "Costs" means the amount of the purchase price or the amount of the annual lease payment.

(c) "Postconsumer waste" or "postindustrial waste" means only those products and materials consisting of paper, glass or plastic generated by businesses or consumers which have served their intended end use or usefulness and either have been or would normally be disposed of as solid waste except for the fact that they are separated from solid waste for purposes of collection, recycling or reuse. "Postconsumer waste" or "postindustrial waste" shall not include radioactive waste, as defined in this section, or hazardous waste, as defined in chapter 44, title 39, Idaho Code.

(d) "Product" means any material resulting from a manufacturing process and offered for sale to the private or public sector which is composed of at least fifty percent (50%) postconsumer waste or postindustrial waste. "Product" does not include any shredded material unless such shredded material is incorporated directly into the manufacturing process.

(e) "Purchase" means:

(i) Any transaction under which title to qualified equipment is transferred for consideration; or

(ii) Any lease contract for qualified equipment for a period of at least three (3) years regardless of whether title to qualified equipment is transferred at the end of such period.

(f) "Qualified equipment" means machinery or equipment located within Idaho which has at least an estimated three (3) years' useful life and of which at least ninety percent (90%) of the total production thereof is used by the taxpayer to manufacture products utilizing postconsumer waste or postindustrial waste. "Qualified equipment" shall not include

any machinery or equipment which is used for the collection of postconsumer waste or postindustrial waste.

(g) "Radioactive waste" or "nuclear waste" means a waste or combination of wastes of a solid, liquid, semisolid or contained gaseous form which contains radiation.

(5) Any recomputation of the credit allowed in subsection (2) of this section on property disposed of or ceasing to qualify, prior to the close of its useful life, shall be determined according to section 47 of the Internal Revenue Code, as such existed on November 5, 1990.

[63-3029D, added 1994, ch. 342, sec. 1, p. 1077; am. 2007, ch. 83, sec. 10, p. 233.]

63-3029F. CLAIM OF RIGHT INCOME REPAYMENT ADJUSTMENTS. (1) Subject to the provisions of this section, a credit against the taxes otherwise due shall be allowed to a taxpayer for a claim of right income repayment adjustment.

(2) The credit under this section shall be allowed only if the taxpayer's federal tax liability is determined under section 1341(a) of the Internal Revenue Code.

(3) The amount of the credit shall equal the difference between:

(a) The taxpayer's actual Idaho state income tax liability for the tax year for which the claim of right was included in gross income for federal tax purposes; and

(b) The taxpayer's Idaho state income tax liability for that tax year, had the claim of right income not been included in gross income for federal tax purposes.

(4) A credit under this section shall be allowed only for the tax year for which the taxpayer's federal tax liability is determined under section 1341 of the Internal Revenue Code for federal tax purposes.

(5) If the amount allowable as a credit under this section, when added to the sum of other amounts allowable as a payment of tax and other refundable credit amounts, exceeds the taxes imposed (reduced by any nonrefundable credits allowed for the tax year), then the excess shall be treated as an overpayment of tax and shall be refunded or applied in the same manner as other tax overpayments.

(6) As used in this section, "claim of right income" means:

(a) An item included in federal gross income for a prior tax year because it appeared that the taxpayer had an unrestricted right to the item; and

(b) An item for which the taxpayer's federal tax liability is adjusted under section 1341 of the Internal Revenue Code because the taxpayer did not have an unrestricted right to the item of gross income.

[63-3029F, added 2015, ch. 21, sec. 2, p. 27.]

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

(1)(a) Subject to the limitations of this section, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025, and 63-3025A, Idaho Code, for increasing research activities in Idaho.

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

(i) Five percent (5%) of the excess of qualified research expenses for research conducted in Idaho over the base amount; and

(ii) Five percent (5%) basic research payments allowable under section 41(e) of the Internal Revenue Code for basic research conducted in Idaho.

(c) The credit allowed by paragraph (a) of this subsection shall be computed without regard to the calculation of the alternative incremental credit provided for in section 41(c)(4) of the Internal Revenue Code or the alternative simplified credit provided for in section 41(c)(5) of the Internal Revenue Code.

(2) As used in this section:

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

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

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

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

(A) May elect to be treated as a start-up company as provided in section 41(c)(3)(B) of the Internal Revenue Code, regardless of whether the taxpayer meets the requirements of section 41(c)(3)(B)(i)(I) or (II) of the Internal Revenue Code; and

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

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

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

(5) The credit allowed by subsection (1)(a) of this section shall be claimed for the taxable year during which the taxpayer qualifies for the credit. If the credit exceeds the limitation under subsection (3) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years. Any amounts deducted or amortized by a taxpayer pursuant to section 174 or 174A of the Internal Revenue Code that constitute qualified research expenses, qualified research, basic research payments, or basic research, as those terms are defined in subsection (2) of this section, shall not be eligible for the credit provided in this section.

(6) In addition to other needed rules, the state tax commission may promulgate rules prescribing, in the case of S corporations, partnerships,

trusts, or estates, a method of attributing the credit under this section to the shareholders, partners, or beneficiaries in proportion to their share of the income from the S corporation, partnership, trust, or estate.

[63-3029G, added 2001, ch. 386, sec. 6, p. 1355; am. 2002, ch. 35, sec. 1, p. 67; am. 2004, ch. 345, sec. 1, p. 1025; am. 2010, ch. 44, sec. 2, p. 80; am. 2022, ch. 52, sec. 3, p. 168; am. 2026, ch. 1, sec. 3, p. 5.]

63-3029I. INCOME TAX CREDIT FOR INVESTMENT IN BROADBAND EQUIPMENT. (1) Subject to the limitations of this section, for taxable years beginning after January 1, 2001, there shall be allowed to a taxpayer a nonrefundable credit against taxes imposed by sections 63-3024, 63-3025, and 63-3025A, Idaho Code, for qualified expenditures in qualified broadband equipment in Idaho.

(2) The credit permitted in subsection (1) of this section shall be three percent (3%) of the qualified investment in qualified broadband equipment in Idaho and shall be in addition to the credit for capital investment permitted by section 63-3029B, Idaho Code.

(3) As used in this section, the term:

(a) "Qualified investment" shall be as defined in section 63-3029B, Idaho Code.

(b) "Qualified broadband equipment" means equipment that qualifies for the credit for capital investment permitted by section 63-3029B, Idaho Code, and is capable of transmitting signals at a rate of at least two hundred thousand (200,000) bits per second to a subscriber and at least one hundred twenty-five thousand (125,000) bits per second from a subscriber, and:

(i) In the case of a telecommunications carrier, such qualifying equipment shall be necessary to the provision of broadband service and an integral part of a broadband network. "Telecommunications carrier" has the meaning given such term by 47 U.S.C. 153 but does not include a commercial mobile service provider.

(ii) In the case of a commercial mobile service carrier, such qualifying equipment shall extend from the subscriber side of the mobile telecommunications switching office to a transmitting/receiving antenna, including such antenna, on the outside of the structure in which the subscriber is located. "Commercial mobile service carrier" means any person authorized to provide commercial mobile radio service to subscribers as defined in 47 CFR 20.3 (10-1-99 ed.), as amended.

(iii) In the case of a cable or open video system operator, such qualifying equipment shall extend from the subscriber's side of the headend to the outside of the structure in which the subscriber is located. The terms "cable operator" and "open video system operator" have the meanings given such terms by sections 602(5) and 653, respectively, of the communications act of 1934, as amended.

(iv) In the case of a satellite carrier or a wireless carrier other than listed above, such qualifying equipment is only that equipment that extends from a transmitting/receiving antenna, including such antenna, which transmits and receives signals to or from multiple subscribers to a transmitting/receiving antenna on the outside of the structure in which the subscriber is located. "Satellite carrier" means any person using the facilities of a satellite or satellite services licensed by the federal commu-

nications commission and operating a fixed-satellite service or direct broadcast satellite services to provide point-to-multipoint distribution of signals. "Other wireless carrier" means any person, other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video operator, or satellite carrier, providing broadband services to subscribers through the radio transmission of energy.

(v) In the case of packet switching equipment, such packet equipment installed in connection with other qualifying equipment listed in subsection (3)(b)(i) through (iv) of this section, provided it is the last in a series of equipment that transmits signals to a subscriber or the first in a series of equipment that transmits signals from a subscriber. "Packet switching" means controlling or routing the path of a digital transmission signal assembled into packets or cells.

(vi) In the case of multiplexing and demultiplexing equipment, such equipment only to the extent that it is deployed in connection with providing broadband services in locations between packet switching equipment and the structure in which the subscriber is located. "Multiplexing" means the transmission of two (2) or more signals over a communications circuit without regard to the communications technology.

(vii) Any property not primarily used to provide services in Idaho to public subscribers is not qualified broadband equipment.

(4) No equipment described in subsection (3)(b)(i) through (vi) of this section shall qualify for the credit provided in subsection (1) of this section until the taxpayer applies to and obtains from the Idaho public utilities commission an order confirming that the installed equipment is qualified broadband equipment. Applications submitted to the commission shall be governed by the commission's rules of procedure. The commission may issue procedural orders necessary to implement this section.

(5) The credit allowed by subsection (1) of this section together with any credits carried forward under subsection (7) of this section shall not, in any one (1) taxable year, exceed the lesser of:

(a) The amount of tax due under sections 63-3024, 63-3025, and 63-3025A, Idaho Code, after allowance for all other credits permitted by this chapter; or

(b) Seven hundred fifty thousand dollars ($750,000).

When credits earned in more than one (1) taxable year are available, the oldest credits shall be applied first.

(6) In the case of a group of corporations filing a combined report under section 63-3027(22), Idaho Code, credit earned by one (1) member of the group but not used by that member may be used by another member of the group, subject to the provisions of subsection (7) of this section, instead of carried over. For a combined group of corporations, credit carried forward may be claimed by any member of the group unless the member who earned the credit is no longer included in the combined group.

(7) If the credit allowed by subsection (1) of this section exceeds the limitation under subsection (5) of this section, the excess amount may be carried forward for a period that does not exceed the next fourteen (14) taxable years.

(8) In the event that qualified broadband equipment upon which the credit allowed by this section has been used ceases to qualify for the

credit allowed by section 63-3029B, Idaho Code, or is subject to recapture of that credit, the recapture of credit under this section shall be in the same proportion and subject to the same provisions as the amount of credit required to be recaptured under section 63-3029B, Idaho Code.

(9)(a) Subject to the requirements of this subsection, a taxpayer who earns and is entitled to the credit or to an unused portion of the credit allowed by this section may transfer all or a portion of the unused credit to:

(i) Another taxpayer required to file a return under this chapter; or

(ii) To an intermediary for its use or for resale to a taxpayer required to file a return under this chapter.

In the event of either such a transfer, the transferee may claim the credit on the transferee's income tax return originally filed during the calendar year in which the transfer takes place and, in the case of carryover of the credit, on the transferee's returns for the number of years of carryover available to the transferor at the time of the transfer unless earlier exhausted.

(b) Before completing a transfer under this subsection, the transferor shall notify the state tax commission of its intention to transfer the credit and the identity of the transferee. The state tax commission shall provide the transferor with a written statement of the amount of credit available under this section as then appearing in the commission's records and the number of years the credit may be carried over. The transferee shall attach a copy of the statement to any return in regard to which the transferred credit is claimed.

(c) In the event that after the transfer the state tax commission determines that the amount of credit properly available under this section is less than the amount claimed by the transferor of the credit or that the credit is subject to recapture, the commission shall assess the amount of overstated or recaptured credit as taxes due from the transferor and not the transferee. The assessment shall be made in the manner provided for a deficiency in taxes under this chapter.

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

[63-3029I, added 2001, ch. 386, sec. 8, p. 1356; am. 2002, ch. 35, sec. 9, p. 73; am. 2003, ch. 89, sec. 1, p. 270; am. 2004, ch. 345, sec. 2, p. 1027; am. 2005, ch. 23, sec. 4, p. 66; am. 2012, ch. 14, sec. 3, p. 28; am. 2022, ch. 52, sec. 4, p. 169.]

63-3029K. TAX CREDIT FOR LIVE ORGAN DONATION EXPENSES. (1) As used in this section:

(a) "Human organ" means human bone marrow or any part of a human including the intestine, kidney, liver, lung or pancreas.

(b) "Live organ donation" means that an individual who is living donates one (1) or more of that individual's human organs to another human to be transplanted using a medical procedure to the body of the other human.

(c) "Live organ donation expenses" means the total amount of expenses incurred by a taxpayer that are not reimbursed to that taxpayer by any

person, are directly related to a live organ donation by the taxpayer or another individual that the taxpayer is allowed to claim as a dependent in accordance with section 151 of the Internal Revenue Code and include travel, lodging or lost wages as defined by rule by the state tax commission.

(2) For taxable years beginning on or after January 1, 2007, a taxpayer may claim a nonrefundable credit against taxes imposed by this chapter for live organ donation expenses incurred during the taxable year for which the live organ donation occurs in an amount equal to the lesser of the actual amount of the live organ donation expenses or five thousand dollars ($5,000).

(3) If the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit that exceeds the taxpayer's income tax liability may be carried forward for a period that does not exceed the next five (5) taxable years.

[63-3029K, added 2006, ch. 312, sec. 1, p. 968.]

63-3029L. CHILD TAX CREDIT. (1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, there shall be allowed to a taxpayer a nonrefundable credit against the tax imposed by this chapter in the amount of two hundred five dollars ($205) with respect to each qualifying child of the taxpayer. For purposes of this section, the term "qualifying child" has the meaning as defined in section 24(c) of the Internal Revenue Code. In no event shall more than one (1) taxpayer be allowed this credit for the same qualifying child. This credit is available only to Idaho residents. Any part-year resident entitled to a credit under this section shall receive a proportional credit reflecting the part of the year in which the part-year resident was domiciled in Idaho.

(2) In the case of divorced parents or parents who do not live together, if the qualifying child is in the custody of one or both of the child's parents for more than one-half of a calendar year, such child is the qualifying child of the custodial parent for the taxable year beginning during such calendar year. However, the child may be the qualifying child of the noncustodial parent if either of the following requirements are met:

(a) A court of competent jurisdiction has unconditionally awarded, in writing, to the noncustodial parent the tax benefits associated with the child pursuant to section 32-706, Idaho Code, and the noncustodial parent attaches a copy of the court order to the noncustodial parent's income tax return for the taxable year; or

(b) The custodial parent signs a written declaration that such custodial parent will not claim the credit of this section with respect to such child for any taxable year beginning in such calendar year and the noncustodial parent attaches such written declaration to the noncustodial parent's income tax return for the taxable year beginning during such calendar year.

[63-3029L, added 2018, ch. 46, sec. 6, p. 117; am. 2018, ch. 351, sec. 2, p. 842; am. 2019, ch. 14, sec. 1, p. 17; am. 2020, ch. 271, sec. 3, p. 795.]

63-3029M. INCOME TAX CREDIT FOR EMPLOYER CONTRIBUTIONS TO IDAHO COLLEGE SAVINGS PROGRAM ACCOUNTS. (1) Subject to the limitations of this sec-

tion, for taxable years beginning on and after January 1, 2020, there shall be allowed to an employer a nonrefundable credit against taxes imposed by this chapter for each of the employer's contributions to an employee's Idaho college savings program account established pursuant to chapter 54, title 33, Idaho Code.

(2) The credit allowed by this section shall be in the amount of twenty percent (20%) of the total contributions per employee, but may not exceed five hundred dollars ($500) per employee, per taxable year.

(3) If the amount of a tax credit under this section exceeds a taxpayer's tax liability under this chapter for a taxable year, the amount of the tax credit that exceeds the taxpayer's income tax liability may be carried forward for a period that does not exceed the next five (5) taxable years.

(4) As used in this section, the term "employee" means a person who, during the taxable year for which the credit is allowed, is subject to Idaho income tax withholding, whether or not any amounts are required to be withheld, and who is covered by the employer for unemployment insurance purposes under chapter 13, title 72, Idaho Code.

[63-3029M, added 2020, ch. 244, sec. 1, p. 715.]

63-3029N. IDAHO PARENTAL CHOICE TAX CREDIT. (1) There is hereby established the Idaho parental choice tax credit.

(2) For the purpose of this section:

(a) "Academic instruction" means kindergarten through grade 12 instruction that includes, at a minimum, English language arts, mathematics, science, and social studies.

(b) "Eligible student" means:

(i) A full-time resident of Idaho who is five (5) to eighteen (18) years of age at any time within the tax year; or

(ii) A child with disabilities requiring ancillary personnel as defined in section 33-2001, Idaho Code, who is five (5) to twenty-one (21) years of age at any time within the tax year.

(c) "Federal poverty level" means the federal poverty guidelines published and updated annually by the United States department of health and human services.

(d) "Nonpublic school" means a private school, microschool, or learning pod that provides academic instruction to eligible students, which academic instruction may be provided in person, online, virtually, or through any combination thereof, and such academic instruction is:

(i) Provided by an accredited school; or

(ii) Documented in a portfolio of evidence or learning record that indicates the student's growth. Records of the instruction shall be retained sufficient to establish that the instruction meets the requirements of paragraph (a) of this subsection and shall be available in the case of any audit by the state tax commission.

(e) "Parent" means an eligible student's parent, legal guardian, or foster parent, if such foster parent is licensed and in good standing pursuant to chapter 12, title 39, Idaho Code.

(f) "Qualified expenses" means kindergarten through grade 12 tuition or fees for attending a nonpublic school, tutoring of academic instruction, nationally standardized assessments, assessments used to determine college admission, advance placement examinations, industry-recognized certification exams, and preparatory courses for

nationally standardized assessments. "Qualified expenses" also means costs for textbooks, curricula provided by one (1) or more vendors as long as the total curriculum provided to the eligible student and claimed for the credit encompasses no more than kindergarten through grade 12 academic instruction, and transportation costs to and from a facility incurred for the purposes of receiving kindergarten through grade 12 academic instruction, including public transportation, ridesharing, and the use of privately owned vehicles, for which reimbursement shall use the mileage rate applicable to state employee travel in effect at the time the travel occurs. "Qualified expenses" shall not include expenses paid with funds received from a grant under section 33-1031, Idaho Code, or any reimbursement pursuant to section 33-4603, Idaho Code.

(3) The Idaho parental choice tax credit shall be administered as provided in this section. For tax year 2025 and subsequent tax years, there shall be allowed a refundable tax credit up to five thousand dollars ($5,000) per eligible student against the tax imposed by this chapter for any parent:

(a) Who incurs qualified expenses of up to five thousand dollars ($5,000) per eligible student during the tax year, if each eligible student is a dependent and is properly claimed on the parent's full-time Idaho resident individual income tax return; and

(b) Who timely and properly files an application.

(4) The state tax commission shall prescribe forms for the purpose of applying for and claiming the credit authorized by this section. The forms shall identify the civil and criminal penalties provided in sections 63-3046 and 63-3075, Idaho Code, for providing false and fraudulent tax information and shall require the parents to affirm under oath that the information submitted in the form is true and accurate. The forms shall also require any parent who has previously received a credit authorized by this section to certify and attach evidence that the parent completed the satisfaction and engagement survey required under subsection (14) of this section. Beginning in January 2026, and each year thereafter, the application period shall open on January 15 and shall remain open for a period of sixty (60) days. The state tax commission shall notify parents whether they will receive a credit award. Such notification must be within thirty (30) days of the close of the application period.

(5) The state tax commission shall calculate the total amount of credits claimed in completed applications that qualify under subsection (3) of this section. If the total amount does not exceed the annual maximum limit provided in subsection (12) of this section, the state tax commission shall re-open the application period to receive new applications. Such applications shall be accepted until August 15 or until the annual maximum limit is reached, whichever is first.

(6) Credits shall be issued on a yearly basis. For applications received in 2026, the state tax commission shall give priority to parents whose modified adjusted gross income as indicated on their most recently filed tax return does not exceed three hundred percent (300%) of the federal poverty level. Starting in the 2027 application period, the state tax commission shall give priority status to applications from parents who received a credit in the prior year, followed by parents whose taxable income as indicated on their most recently filed tax return does not exceed three hundred percent (300%) of the federal poverty level.

(7) The refundable tax credit limit under subsection (3) of this section shall be increased to seven thousand five hundred dollars ($7,500) for each eligible student up to twenty-one (21) years of age who is also considered a child with disabilities requiring ancillary personnel as defined in section 33-2001, Idaho Code. Parents claiming an increased credit under this subsection shall document the student's diagnosis or other determination made by an Idaho licensed health care provider or the student's eligibility for services under an individualized education program in accordance with the federal individuals with disabilities education act.

(8) The refundable tax credit provided in this section, including the advance payment, shall not constitute Idaho taxable income.

(9) The application forms pursuant to subsection (4) of this section shall permit parents to elect a onetime advance payment of the credit for each eligible student if a tax credit pursuant to this section has not been claimed in the previous year. When a parent elects to receive an advance payment pursuant to this subsection, the credit shall be issued in one (1) installment, to be paid within sixty (60) days of notifying a parent of such credit award but not later than August 30. The state tax commission shall approve advance payments only for eligible students whose parents' modified adjusted gross income as indicated on their most recently filed tax return does not exceed three hundred percent (300%) of the federal poverty level. Advance payments made under this subsection may be spent only on qualified expenses for which the parent may claim a credit under the provisions of this section. In order to enable parents whose modified adjusted gross income does not exceed three hundred percent (300%) of the federal poverty level to pay for a student's education, an advance payment that is expended on qualified expenses for an eligible student may be claimed for such expenditure in that year and a parental choice tax credit shall be allowed on a parent's tax return for that year, subject to the remaining requirements of this chapter. Notwithstanding any other provisions of law to the contrary, the state refund account pursuant to section 63-3067, Idaho Code, shall be used for the payment of advance payments of the tax credit pursuant to this subsection, and the provisions of section 63-3068, Idaho Code, shall apply to the advance payment of the tax credit issued pursuant to this subsection.

(10) Parents claiming the Idaho parental choice tax credit shall:

(a) Claim the credit for only qualified expenses incurred on behalf of an eligible student;

(b) Not claim the credit for any semester in which a student was enrolled full-time or part-time in a public school, public charter school, public virtual charter school, public magnet school, or part-time public kindergarten. A student participating in activities or instruction for which no academic credit is awarded, participating in public school sports or other extracurricular activities, transferring to and from nonpublic schools during the tax year, home schooling, or purchasing and taking Idaho digital learning academy (IDLA) courses that are offered for a fee and are not included in IDLA enrollment funding by the state pursuant to section 33-1020, Idaho Code, shall not be considered so enrolled pursuant to the provisions of this paragraph.

(c) Not claim the credit for any tuition or fees related to academic instruction provided by the parent to such parent's eligible student;

(d) Ensure no other parent claims a credit for an eligible student. In the event more than one (1) parent claims a credit under this section for the same eligible student in the same year, the provisions of section

63-3029L(2), Idaho Code, shall be used to determine which parent is entitled to receive the credit; and

(e) Fill out and submit the satisfaction and engagement survey provided for in subsection (14) of this section. No parent shall be eligible to receive a credit under the provisions of this section in a subsequent year if such parent has not submitted such survey for the last year that such parent received the credit.

(11) If the credit exceeds the tax imposed by this chapter, the excess credit amount shall be refunded to the taxpayer. The state tax commission shall design the tax return forms to account for advance payment of the credit when calculating the tax imposed by this chapter.

(12) The total amount of tax credits authorized for all taxpayers under this section shall not exceed fifty million dollars ($50,000,000) each tax year. In the event the total amount of claims for tax credits allowed by this section exceeds fifty million dollars ($50,000,000), the credits shall be allowed in full to parents whose applications were properly and timely filed and who have priority status under subsection (6) of this section, followed by the remaining parents who filed complete applications on a first-come, first-served basis, until the annual maximum limit is reached. The state tax commission shall create and maintain a waiting list demonstrating who would be eligible on a first-come, first-served basis if the annual maximum limit for credits allowed under this section is increased.

(13)(a) Beginning with the first regular session of the sixty-ninth Idaho legislature in 2027, the state tax commission shall provide an annual report to the governor, the senate local government and taxation committee, the house revenue and taxation committee, and the joint finance-appropriations committee that shall include:

(i) The total amount of tax credits provided each year under this section;

(ii) The number of parents who applied each year for the Idaho parental choice tax credit;

(iii) The amount of the average tax credit allowed;

(iv) The number of credits distributed to parents with an adjusted gross income below three hundred percent (300%) of the federal poverty level;

(v) The number of parents who applied each year for the advance payment pursuant to subsection (9) of this section, the number of advance payments awarded, and the median amount of the advance payments awarded;

(vi) The geographic area of parents applying for the credit;

(vii) The number of eligible students on the waiting list for each year; and

(viii) A list of the categories of qualified expenses for which recipients used the tax credit, which shall include the dollar amounts for each category listed in subsection (2)(f) of this section.

(b) The report shall not include any personally identifying information of eligible students, their parents, or their households.

(14) Beginning in 2026, and each year thereafter, the legislative services office shall deliver to each parent who has received a tax credit under the provisions of this section a parent satisfaction and engagement survey to evaluate the performance of the nonpublic school that the eligible student attended. The survey shall include but not be limited to the quality of

school leadership, school safety, student engagement, quality of academic instruction, and quality of learning outcomes. The state tax commission shall provide the legislative services office with contact information to identify each parent receiving a credit and any other information required for the legislative services office to properly deliver the surveys required under this subsection, and shall deliver the surveys to the parents no later than January 15 each year. Each parent shall complete the survey and submit the completed survey to the legislative services office no later than March 15. Beginning in 2027, the legislative services office shall submit a report to the governor, the senate local government and taxation committee, the house revenue and taxation committee, and the joint finance-appropriations committee that shall include a summary of the survey results.

(15) Any taxpayer receiving an advance payment or claiming a tax credit without submission of a timely and properly prescribed form shall be ineligible to receive such payment or claim such credit. The state tax commission shall deny or recapture credits claimed by a parent for expenditures not authorized by the provisions of this section. If a parent has received an advance payment for an eligible student in a previous year, the parent shall not claim the credit for qualified expenses incurred in a year that a student ceases to qualify as an eligible student, except for any portion of the credit that exceeds the amount of the advance payment received. If a student ceases to qualify as an eligible student and the parent has already received the credit for that year, an amount of the credit, not exceeding the amount of the advance payment received, shall be repaid to or recovered by the state tax commission and deposited into the general fund.

(16) Parents who claim the credit on a tax return without receiving prior approval of an application may not receive a credit, and the state shall have no liability to such parent.

(17) The state tax commission shall, in as close to real time as practicable, make available on its website the annual maximum limit, the cumulative amount of credits claimed in applications under this section, and the cumulative amount of advance payments issued under this section until the annual maximum limit is reached.

(18) The state tax commission shall also keep records of the total applications for credits and total claim of credits that exceed the annual maximum limit.

(19) The state tax commission shall ensure that parents of eligible students receive notice in the application that participation in the program is a parental placement under 20 U.S.C. 1412 of the federal individuals with disabilities education act, along with an explanation of the rights that parentally placed students possess under the federal individuals with disabilities education act, including eligibility for equitable services, and any applicable state laws and regulations.

(20) The provisions of this section shall not be construed to permit any government agency to exercise control or supervision over any nonpublic school or to give the state authority to regulate the education of nonpublic school students. A nonpublic school that enrolls a student whose parent directs a refundable tax credit to the school pursuant to this section is not an agent of the state or federal government. A nonpublic school shall not be required to alter its creed, practices, admissions policy, or curriculum in order to accept students whose payment of tuition or fees stems from a refundable tax credit under this section.

[63-3029N, added 2025, ch. 9, sec. 2, p. 29; am. 2026, ch. 302, sec. 1, p. 1236.]

63-3029P. PRIORITY OF CREDITS. When a taxpayer subject to any taxes imposed under this chapter is entitled to two (2) or more credits against such taxes, the priority of credits shall be determined in the following order:

(a) Nonrefundable credits. Nonrefundable credits shall be applied to the tax liability before application of refundable credits. If a taxpayer is entitled to more than one (1) nonrefundable credit, the credits shall be applied in the order in which the statutes authorizing the credits were enacted by the legislature.

(b) Refundable credits. Refundable credits shall be applied to the tax liability after application of any nonrefundable credits.

[(63-3029P) 63-3029H, added 1983, ch. 21, sec. 2, p. 61; am. and redesig. 2001, ch. 386, sec. 7, p. 1356.]

63-3030. PERSONS REQUIRED TO MAKE RETURNS OF INCOME. (a) Returns with respect to taxes measured by income in this chapter shall be made by the following:

(1) Every resident individual required to file a federal return under section 6012(a)(1) of the Internal Revenue Code.

(2) Any nonresident individual having for the current taxable year a gross income from Idaho sources in excess of two thousand five hundred dollars ($2,500), or any part-year resident individual having for the current taxable year a gross income from all sources while domiciled in or residing in Idaho, and from Idaho sources while not domiciled in and not residing in Idaho, which in total are in excess of two thousand five hundred dollars ($2,500);

(3) Every corporation which is transacting business in this state, authorized to transact business in this state or having income attributable to this state, unless exempt from the tax imposed in this chapter;

(4) Every corporation reporting as an S corporation pursuant to Internal Revenue Code sections 1361 through 1379 to the federal government, which is transacting business in this state, or is authorized to transact business in this state. A corporation which is reporting as an S corporation to the federal government must report to the state of Idaho as an S corporation for and during the same period or periods in which its election to report as such a corporation is effective for federal tax purposes and must identify itself as an S corporation on its income tax return filed with this state;

(5) Every estate, the residence of which estate is in Idaho, having a gross income of six hundred dollars ($600) or more for the current taxable year;

(6) Every estate, the residence of which is in a state other than Idaho, having a gross income from Idaho sources in excess of six hundred dollars ($600);

(7) Every trust required to file a federal return under the Internal Revenue Code, the residence of which trust is in Idaho, having gross income of one hundred dollars ($100) or more for the current taxable year;

(8) Every trust required to file a federal return under the Internal Revenue Code, the residence of which is in a state other than Idaho, having a gross income from Idaho sources in excess of one hundred dollars ($100);

(9) Every partnership which transacts business in this state. Such return shall be a supplemental information return and shall include the names and addresses of the persons who would be entitled to share in the net income of the partnership if distributed and the amount of the distributive share of each person. Such return shall be signed by one (1) of the partners.

(b) Returns of fiduciaries and receivers:

(1) Fiduciaries and receivers shall file returns with the state tax commission in accordance with the provisions of section 6012(b) of the Internal Revenue Code.

[63-3030, added 1959, ch. 299, sec. 30, p. 613; am. 1961, ch. 328, sec. 13, p. 622; am. 1967, ch. 294, sec. 5, p. 828; am. 1970, ch. 222, sec. 7, p. 621; am. 1971, ch. 302, sec. 3, p. 1242; am. 1973, ch. 100, sec. 1, p. 168; am. 1977, ch. 85, sec. 1, p. 174; am. 1981. ch. 291, sec. 1, p. 610; am. 1987, ch. 93, sec. 6, p. 184; am. 1987, ch. 315, sec. 1, p. 658; am. 1989, ch. 181, sec. 4, p. 455; am. 1993, ch. 3, sec. 3, p. 12; am. 1994, ch. 39, sec. 3, p. 62; am. 1995, ch. 111, sec. 31, p. 373; am. 1996, ch. 37, sec. 1, p. 100; am. 1998, ch. 51, sec. 1, p. 202; am. 2000, ch. 26, sec. 5, p. 49.]

63-3030A. MANDATE TO COMPEL RETURN. (a) If a taxpayer fails to file a return within sixty (60) days of the time prescribed by this chapter, a district judge of the county within which the taxpayer resides or has its principal place of business or of Ada county in the case of a nonresident taxpayer or one having its principal place of business outside the state, upon petition of the state tax commission, shall issue a writ of mandate requiring the person to file a return. The petition shall be returnable not later than twenty-eight (28) days after the filing of the petition. The petition shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the case, consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. Proceedings upon such suits shall be in accordance with chapter 3, title 7, Idaho Code.

(b) Nothing in this section shall limit the remedies otherwise available to the state tax commission under this chapter or any other laws of this state.

[63-3030A, added 1982, ch. 279, sec. 1, p. 711; am. 1993, ch. 3, sec. 4, p. 14.]

63-3031. JOINT RETURNS. (a) A husband and wife may make a single return jointly even though one of the spouses has neither gross income nor deductions, except as provided below:

(1) No joint return shall be made if, during the current taxable year, either the husband or the wife is a nonresident alien of the United States, unless they elect to file a joint return for federal purposes pursuant to sections 6013(g) and (h) of the Internal Revenue Code.

(2) No joint return shall be made if husband and wife have different taxable years, unless the difference in taxable years is the result of the death of either or both of them; except that if either spouse changes his annual accounting period during the taxable year, or if the surviving spouse remarries within the taxable year no such return shall be filed.

(3) For the purpose of subsection (2) of this section, the joint return, if permitted, shall be treated as if the taxable years of both spouses ended on the date of the closing of the surviving spouse's taxable year.

(4) In the case of death of one spouse or both spouses the joint return with respect to the decedent may be made only by his executor or administrator; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both himself and the decedent if no return for the taxable year has been made by the decedent, no executor or administrator has been appointed, and no executor or administrator is appointed before the last day prescribed by law for filing the return of the surviving spouse. If an executor or administrator of the decedent is appointed after the making of the joint return by the surviving spouse, the executor or administrator may disaffirm such joint return by making, within one (1) year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute his separate return.

(b) Definitions. For purposes of this section--

(1) The status as husband and wife of two (2) individuals having taxable years beginning on the same day shall be determined

(A) if both have the same taxable year -- as of the close of such year; and

(B) if one dies before the close of the taxable year of the other -- as of the time of such death; and

(2) An individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married; and

(3) If a joint return is made, the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several.

(c) Husbands and wives shall, if they elect to file a joint return for federal purposes, be required to file a joint return for state purposes.

[63-3031, added 1959, ch. 299, sec. 31, p. 613; am. 1961, ch. 328, sec. 14, p. 622; am. 1969, ch. 319, sec. 10, p. 982; am. 1980, ch. 53, sec. 1, p. 109; am. 1982, ch. 111, sec. 1, p. 313.]

63-3032. TIME FOR FILING INCOME TAX RETURNS. (1) Except as provided in section 63-3033, Idaho Code:

(a) Returns made on the basis of the calendar year shall be filed in the office of the Idaho state tax commission on or before the fifteenth day of April following the close of the calendar year and returns made on the basis of a fiscal year shall be filed in the office of the Idaho state tax commission on or before the fifteenth day of the fourth month following the close of the fiscal year.

(b) In the case of a return for any period of less than one (1) year, the return shall be filed on or before the date required in this section, or on or before such date as required for such tax period by the Internal Revenue Code, whichever is later.

(2) Returns made by farmer's cooperatives to the extent the cooperative is taxable under section 63-3025B, Idaho Code, shall be due on or before September 15 following the close of the calendar year or on or before the fifteenth day of the ninth month following the close of the fiscal year. The

provisions of section 63-3033, Idaho Code, shall not apply to returns due under this subsection.

[63-3032, added 1959, ch. 299, sec. 32, p. 613; am. 1988, ch. 149, sec. 1, p. 270; am. 1997, ch. 57, sec. 9, p. 102; am. 2000, ch. 26, sec. 6, p. 50.]

63-3033. EXTENSION OF TIME. (a) Taxpayers shall have an automatic extension of time for filing any return, declaration, statement or other document required by this chapter for a period of six (6) months if on or before the unextended due date the taxpayer has paid at least eighty percent (80%) of the total tax due on the income tax return when it is filed, or the total tax due on the income tax return for the prior year if a return was filed for the prior year.

(b) If, on the unextended due date, the payment required to meet the provisions of subsection (a) of this section, after consideration of any previous credits or payments applicable to the return, is fifty dollars ($50.00) or less, such payment shall not be required in order to qualify for the extension. However, interest shall accrue as provided in subsection (g) of this section. Payment of any balance of tax is due on the earlier of the extended due date or the date the return is filed.

(c) Taxpayers residing outside any of the United States and Puerto Rico (including persons in military or naval service) shall have an automatic extension of time within which to file income tax returns with this state for a period which shall expire on the fifteenth day of the sixth month following the close of their taxable year.

(d) Individuals who are entitled to extensions for filing federal income tax returns as a result of the application of the provisions of sections 911 and 7508 of the Internal Revenue Code, shall be entitled to extensions of time for the same period for filing income tax returns with the state of Idaho subject to the requirements imposed in implementation of the indicated sections.

(e) Any taxpayer entitled to an extension under subsection (c) or (d) of this section shall attach a statement to his return claiming his right to the extension.

(f) If the amount of payment made under subsection (a) of this section is less than eighty percent (80%) of the total tax due under the provisions of this chapter and is less than the amount of the total tax due on the income tax return for the prior year, except as permitted by subsection (b) of this section, a penalty may be applied to the total of the balance due unless reasonable cause can be established. The penalty shall be:

(1) If the taxes for the taxable year are paid on or before the extended due date, two percent (2%) per month from the original due date to the date of payment.

(2) If the taxes for the taxable year are not paid on or before the extended due date, the penalty provided in section 63-3046(c), Idaho Code, from the original due date.

(g) In all cases of an extension of time in which to file any return, except for those related to section 7508 of the Internal Revenue Code, interest shall be paid on any tax due from the original due date to date of payment at the rate provided in section 63-3045, Idaho Code. For an individual entitled to an extension of time allowed by subsection (d) of this section and section 7508 of the Internal Revenue Code, interest shall be paid on any tax due from

the extended due date allowed in subsection (d) of this section to the date of payment.

[63-3033, added 1959, ch. 299, sec. 33, p. 613; am. 1965, ch. 316, sec. 5, p. 880; am. 1969, ch. 319, sec. 11, p. 982; am. 1976, ch. 77, sec. 1, p. 249; am. 1976, ch. 270, sec. 1, p. 913; am. 1980, ch. 5, sec. 1, p. 10; am. 1981. ch. 290, sec. 3, p. 598; am. 1992, ch. 49, sec. 2, p. 151; am. 1993, ch. 3, sec. 5, p. 14; am. 1997, ch. 57, sec. 10, p. 102; am. 1998, ch. 54, sec. 1, p. 207; am. 1999, ch. 34, sec. 1, p. 71; am. 2001, ch. 53, sec. 1, p. 95; am. 2005, ch. 23, sec. 5, p. 69; am. 2006, ch. 56, sec. 1, p. 166; am. 2011, ch. 45, sec. 1, p. 102; am. 2014, ch. 9, sec. 3, p. 12.]

63-3034. PAYMENT OF TAX. (a) The entire tax imposed by this chapter shall be paid to the state tax commission on or before the date, including any extensions of the due date, upon which the return must be filed with the state tax commission, provided that payments made before the termination of the year for which taxes are paid shall be (1) based upon the taxpayer's estimate of total state tax liability or (2) when the estimated gross income of any such taxpayer is more than six hundred dollars ($600) and the state tax commission deems it necessary to insure compliance with this chapter, the commission may require any persons subject to this chapter to place with the commission such security as the commission may determine.

(b) The amount of the security shall be fixed by the tax commission but shall not be greater than twice the amount of tax estimated to be due, or twenty thousand dollars ($20,000), whichever is less. The amount of the security may be increased or decreased by the tax commission at any time within the limitations set forth in this subsection.

(c) If the tax commission finds that a taxpayer of whom security is required fails to furnish the security, the tax commission may issue a jeopardy assessment as prescribed by section 63-3065, Idaho Code, and take appropriate action to effect collection of the required security.

(d) The tax commission may sell the security at public auction or, in the case of security in the form of bearer bonds issued by the United States or the state of Idaho which have a prevailing market price, at a private sale at a price not lower than the prevailing market price if it becomes necessary to make such sale in order to recover any tax, interest or penalties due on any amount required to be collected. Notice of the sale must be given to the person who deposited the security at least ten (10) days before the sale; such notice may be given personally or by mail addressed to the person at the address furnished to the tax commission and as it appears in the records of the tax commission. Upon such sale, any surplus above the amounts due shall be returned to the person who placed the security.

[63-3034, added 1959, ch. 299, sec. 34, p. 613; am. 1961, ch. 328, sec. 15, p. 622; am. 1965, ch. 316, sec. 6, p. 880; am. 1976, ch. 284, sec. 1, p. 983; am. 1997, ch. 57, sec. 11, p. 103.]

63-3035. STATE WITHHOLDING TAX ON PERCENTAGE BASIS -- WITHHOLDING, COLLECTION AND PAYMENT OF TAX. (a) Every employer who is required under the provisions of the Internal Revenue Code to withhold, collect and pay income tax on wages or salaries paid by such employer to any employee (other than employees specified in Internal Revenue Code section 3401(a)(2)) shall, at the time of such payment of wages, salary, bonus or other emolument to such

employee, deduct and retain therefrom an amount substantially equivalent to the tax reasonably calculated by the state tax commission to be due from the employee under this chapter. The state tax commission shall prepare tables showing amounts to be withheld, and shall supply same to each employer subject to this section. In the event that an employer can demonstrate administrative inconvenience in complying with the exact requirements set forth in these tables, he may, with the consent of the state tax commission and upon application to it, use a different method which will produce substantially the same amount of taxes withheld. Every employer making payments of wages or salaries earned in Idaho, regardless of the place where such payment is made:

(1) Shall be liable to the state of Idaho for the payment of the tax required to be deducted and withheld under this section and shall not be liable to any individual for the amount deducted from his wages and paid over in compliance or intended compliance with this section;

(2) Must pay to the state tax commission monthly on or before the twentieth day of the succeeding month, or at such other times as the state tax commission may allow, an amount of tax which, under the provisions of this chapter, he is required to deduct and withhold;

(3) Shall register with the state tax commission, in the manner prescribed by it, to establish an employer's withholding account number. The account number will be used to report all amounts withheld for the annual reconciliation required in this section, and for such other purposes relating to withholding as the state tax commission may require; and

(4) Must, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, if the amount of withholding of such employer for the preceding twelve (12) month period equals or exceeds two hundred forty thousand dollars ($240,000) per annum or an average of twenty thousand dollars ($20,000) per month per annum, pay to the state tax commission on the basis of two (2) withholding periods. The first period shall begin on the first day of the month and end on the fifteenth day of the same month, and payment shall be made not later than the twentieth day of the same month. The second period shall begin on the sixteenth day of the same month and end on the last day of the same month, and payment shall be made not later than the fifth day of the following month. An employer meeting the withholding threshold requirements of this subsection, but only having one (1) pay period per month, may, upon request to and approval by the state tax commission, pay in accordance with paragraph (2) of this subsection.

(5) If a payment required pursuant to paragraph (2) or (4) of this subsection is not made or is made delinquently or if made is not equal to the withholding required under this section, the state tax commission may treat the failure as a failure to file a return and may take administrative and judicial actions as authorized by this chapter in the case of a failure to file a return. Interest, at the rate provided by section 63-3045, Idaho Code, shall apply to any such underpayment.

(6) Commencing in 2006, the state tax commission shall determine whether the threshold amounts established by paragraph (4) of this subsection must be adjusted to reflect fluctuations in the cost of living. The state tax commission shall base its determination on the cumulative effect of the annual cost-of-living percentage modifications determined by the United States secretary of health and human

services pursuant to 42 U.S.C. 415(i). When the cumulative percentage applied to the monthly threshold amount equals or exceeds five thousand dollars ($5,000), the commission shall promulgate a rule adjusting the monthly threshold amount by five thousand dollars ($5,000) and making the necessary proportional adjustment to the annual threshold amount. The rule shall be effective for the next succeeding calendar year and each year thereafter until again adjusted by the commission. The tax commission shall determine subsequent adjustments in the same manner, in each case using the year of the last adjustment as the base year.

(b) (1) In addition to the payments required pursuant to subsection (a)(2) and (4) of this section, every employer shall file a return upon such form as shall be prescribed by the state tax commission, but not more frequently than annually, or as required pursuant to any agreement between the state tax commission and the department of labor under section 63-3035B, Idaho Code, unless a shorter filing period and due date is prescribed by the state tax commission. The return shall be due on the last day of the first month following the end of the period to which the return relates. The return shall:

(i) Show, for the period to which it relates, the total amount of wages, salary, bonus or other emolument paid to his employees, the amount deducted therefrom in accordance with the provisions of the Internal Revenue Code, the amount deducted therefrom in accordance with the provisions of this section, the amount of any previous payments made pursuant to this section, the amount of any deficiency due from the employer or refund payable by the state tax commission and such pertinent and necessary information as the state tax commission may require.

(ii) Include a copy of the declaration of withholding provided to employees pursuant to paragraph (2) of this subsection.

(2) Every employer making a declaration of withholding as provided herein shall furnish to the employees annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission.

(3) Every employer who is required, under Internal Revenue Code section 6011, to file returns on magnetic media, machine readable form or electronic means, as defined in the Idaho uniform electronic transactions act, may be required by rules of the state tax commission to file corresponding state returns on similar magnetic media, machine readable form or electronic means. Such rules may provide a different due date for such returns, which shall be no later than the date employers are required to file such returns with the internal revenue service or the social security administration and shall provide a five (5) business day period for an employer to correct errors in the electronic file received by the due date.

(c) All moneys deducted and withheld by every employer shall immediately upon such deduction be state money and every employer who deducts and retains any amount of money under the provisions of this chapter shall hold the same in trust for the state of Idaho and for the payment thereof to the state tax commission in the manner and at the times in this chapter provided. Any employer who does not possess real property situated within the state of Idaho, which, in the opinion of the state tax commission, is of sufficient value to cover his probable tax liability, may be required to post a surety

bond in such sum as the state tax commission shall deem adequate to protect the state.

(d) The provisions of this chapter relating to additions to tax in case of delinquency, and penalties, shall apply to employers subject to the provisions of this section and for these purposes any amount deducted, or required to be deducted and remitted to the state tax commission under this section, shall be considered to be the tax of the employer and with respect to such amount he shall be considered the taxpayer.

(e) Amounts deducted from wages of an employee during any calendar year in accordance with the provisions of this section shall be considered to be in part payment of the tax imposed on such employee for his tax year, which begins within such calendar year, and the return made by the employer under this subsection shall be accepted by the state tax commission as evidence in favor of the employee of the amount so deducted from his wages. Where the total amount so deducted exceeds the amount of tax on the employee, based on his Idaho taxable income, or where his income is not taxable under this chapter, the state tax commission shall, after examining the annual return filed by the employee in accordance with this chapter, but not later than sixty (60) days after the filing of each return, refund the amount of the excess deducted.

(f) This section shall in no way relieve any taxpayer from his obligation of filing a return at the time required under this chapter, and, should the amount withheld under the provisions of this section be insufficient to pay the total tax of such taxpayer, such unpaid tax shall be paid at the time prescribed by section 63-3034, Idaho Code.

(g) An employee receiving wages shall on any day be entitled to not more than, but may claim fewer than, the number of withholding allowances to which he is entitled under the Internal Revenue Code for federal income tax withholding purposes.

(h) An employer shall use the allowance certificate filed by the employee with the employer under the withholding allowance provisions of the Internal Revenue Code in determining the amount of tax to be withheld from the employee's wages or salary under this chapter. The state tax commission may redetermine the number of withholding allowances to which an employee is entitled under subsection (g) of this section, and the state tax commission may require such allowance certificate to be filed on a form prescribed by the commission in any circumstance where the commission finds that the allowance certificate filed for Internal Revenue Code purposes does not properly reflect the number of withholding allowances to which the employee is entitled under this chapter. In no event shall any employee give an allowance certificate which claims a higher number of withholding allowances than the number to which the employee is entitled by subsection (g) of this section.

[63-3035, added 1959, ch. 299, sec. 35, p. 613; am. 1963, ch. 352, sec. 1, p. 1013; am. 1965, ch. 316, sec. 7, p. 880; am. 1967, ch. 294, sec. 6, p. 828; am. 1969, ch. 319, sec. 12, p. 982; am. 1971, ch. 38, sec. 1, p. 84; am. 1982, ch. 219, sec. 1, p. 594; am. 1983, ch. 4, sec. 13, p. 13; am. 1983, ch. 20, sec. 2, p. 58; am. 1986, ch. 132, sec. 1, p. 339; am. 1987, ch. 33, sec. 1, p. 55; am. 1989, ch. 180, sec. 1, p. 447; am. 1990, ch. 34, sec. 2, p. 49; am. 1993, ch. 5, sec. 1, p. 16; am. 1994, ch. 40, sec. 1, p. 66; am. 1995, ch. 83, sec. 4, p. 245; am. 1995, ch. 111, sec. 32, p. 375; am. 1998, ch. 230, sec. 2, p. 783; am. 1999, ch. 41, sec. 1, p. 80; am. 2001, ch. 56, sec. 1, p. 101; am. 2003, ch. 296, sec. 1, p. 802; am. 2004,

ch. 103, sec. 1, p. 364; am. 2004, ch. 103, sec. 2, p. 366; am. 2006, ch. 195, sec. 3, p. 604; am. 2008, ch. 9, sec. 1, p. 10; am. 2013, ch. 9, sec. 1, p. 17; am. 2016, ch. 12, sec. 1, p. 12; am. 2016, ch. 31, sec. 1, p. 74; am. 2019, ch. 12, sec. 1, p. 12.]

63-3035A. STATE INCOME TAX WITHHOLDING TAX ON LOTTERY WINNINGS. (1) Whenever the Idaho state lottery is required by the Internal Revenue Code to withhold, collect and pay over income tax on any prize, proceeds or winnings it shall, at the time of payment of such prize, proceeds or winnings to the recipient, withhold from the payment an amount equal to the maximum percentage applicable to individuals under section 63-3024, Idaho Code, of the prize, proceeds or winnings to be applied to Idaho income taxes due from the recipient.

(2) The state tax commission shall accept amounts withheld according to this section as payment by the recipient of the amount so withheld of income taxes imposed on the recipient for the taxable year in which the prize, proceeds or winnings are includable in the recipient's Idaho taxable income.

(3) When the total amount withheld (along with other credits due, withholding or payments attributable to the taxpayer) exceeds the taxes due from the recipient, the state tax commission shall, after examining the state income tax return filed by the recipient, refund the amount of the excess withheld in the manner provided for refunds of withholding under section 63-3035, Idaho Code.

(4) The Idaho state lottery shall remit the amounts withheld to the state tax commission on or before the date similar payments and reports are due to the internal revenue service.

(5) The Idaho state lottery shall furnish to the recipient, not later than thirty (30) days after the end of the calendar year, a record of the tax withheld during that year and shall, not later than the last day of the following February, file a copy of the record with the state tax commission.

(6) The Idaho state lottery and the state tax commission may agree to different times and procedures for making the remittances or reports required in this section.

(7) Nothing in this section relieves any taxpayer from an obligation to file a return or pay taxes at the time and in the manner required by this chapter.

[63-3035A, added 1997, ch. 382, sec. 3, p. 1238; am. 2001, ch. 56, sec. 2, p. 103; am. 2004, ch. 30, sec. 6, p. 61.]

63-3035B. JOINT POWER AUTHORIZATION. The state tax commission may, pursuant to sections 67-2326 through 67-2333, Idaho Code, enter into an agreement with the department of labor providing for the joint administration of employment security taxes and income tax withholding through common registration of employers, common tax reporting forms, centralized filing of returns and receipting of revenue and effective exchange of information.

[63-3035B, added 1998, ch. 230, sec. 3, p. 786.]

63-3035C. REVOCATION AND SUSPENSION OF WITHHOLDING ACCOUNTS -- PENALTIES. (1) An income tax withholding account issued under section 63-3035, Idaho Code, shall be held only by persons actively engaged in activities requiring such an account under this chapter. Any person not so engaged shall forthwith cancel his account number by notifying the state tax commission.

(2) Whenever any person fails to comply with any provision of this chapter relating to the withholding, reporting or payment of income tax withholding or any rules of the commission relating to such withholding prescribed and adopted under this chapter, the state tax commission may revoke or suspend any withholding account held by the person or may deny a new account to such person.

(3) The state tax commission may revoke the withholding account of a person not actively engaged in activities requiring an account under section 63-3035, Idaho Code.

(4) Notice of revocation shall be given in the manner provided for deficiencies in taxes in section 63-3045, Idaho Code, which shall be subject to review as provided in that section.

(5) A withholding account, held by a person who for a period of twelve (12) consecutive months reports no income tax withholding due under this chapter, shall expire automatically upon the state tax commission providing notice of the expiration to the last known address of the person to whom the account was issued.

(6) A person who engages in activities requiring a withholding account under this chapter without such an account or after an account has been revoked or suspended, and any person who is a responsible person, as defined in section 63-3078, Idaho Code, of such a business shall, after receiving written notice from the state tax commission, be subject to a civil penalty not in excess of one hundred dollars ($100), and each day shall constitute a separate offense, which the state tax commission may assess as a deficiency pursuant to section 63-3045, Idaho Code.

[63-3035C, added 2006, ch. 60, sec. 5, p. 188.]

63-3036. STATE WITHHOLDING TAX FOR FARMERS. (1) Every farmer who is an employer required by the provisions of the Internal Revenue Code to withhold, collect, and pay income tax on wages paid by such employer to any employee shall at the time of the payment of wages, salaries, bonuses or other emoluments to an employee, deduct and retain therefrom an amount determined in accordance with section 63-3035, Idaho Code, and the amount so withheld and deducted shall be held by said farmer-employer in trust for the state of Idaho and for the payment thereof to the state tax commission. Provided, that no tax need be withheld from an employee whose wages, salaries, bonuses and other emoluments total less than one thousand dollars ($1,000) for the tax year.

(2) The tax so withheld by a farmer-employer subject to this section shall be paid to the state tax commission on or before the date required by subsection (b)(1) of section 63-3035, Idaho Code.

(3) The farmer-employer shall deliver to the state tax commission a return upon such form as shall be prescribed by said state tax commission showing the amounts of wages, salaries, bonuses or other emoluments paid to his employee, the amount deducted therefrom in accordance with this section, and such other pertinent and necessary information as the state tax commission may require on or before the date payments required by this section are due.

(4) The farmer-employer making such a deduction as provided for in this section shall furnish to the employee annually, but not later than thirty (30) days after the end of the calendar year, a record of the amount of the tax withheld from such employee on forms to be prescribed, prepared and furnished by the state tax commission and at the same time every employer shall file a copy thereof with the state tax commission. The provisions of sub-

sections (d), (e), (f), (g) and (h) of section 63-3035, Idaho Code, shall be applicable to the tax withheld by the farmer-employer under this section.

[63-3036, added 1959, ch. 299, sec. 36, p. 613; am. 1965, ch. 316, sec. 8, p. 880; am. 1967, ch. 294, sec. 7, p. 828; am. 1969, ch. 319, sec. 13, p. 982; am. 1990, ch. 34, sec. 3, p. 52; am. 1991, ch. 7, sec. 3, p. 23; am. 1993, ch. 5, sec. 2, p. 19; am. 1994, ch. 39, sec. 4, p. 64; am. 1998, ch. 230, sec. 4, p. 786; am. 1999, ch. 41, sec. 2, p. 83; am. 2000, ch. 26, sec. 7, p. 51; am. 2005, ch. 23, sec. 6, p. 70.]

63-3036A. PAYMENT OF ESTIMATED TAX. (a) Any corporation subject to this chapter which is required to make a payment of estimated taxes to the internal revenue service and will have an Idaho income tax liability of five hundred dollars ($500) or more shall pay to the state tax commission estimated taxes due under this chapter.

(b) The provisions of the Internal Revenue Code relating to determination of reporting periods and the due dates of payments of estimated tax shall apply to the estimated payments due under this section.

(c) The amount of estimated tax due shall be determined as follows:

(1) Commencing with the calendar quarter that begins July 1, 1987, in the case of any corporation which was required to pay tax under this chapter for its immediately preceding taxable year, the amount of each quarterly payment for its current taxable year shall be twenty-five percent (25%) of the lesser of:

(i) The tax amount required to be reported on the return for the immediately preceding taxable year; or

(ii) Ninety percent (90%) of the tax required to be paid with the current year's return.

(2) Any corporation required to make estimated payments under this section and who makes annualized estimated payments under the Internal Revenue Code shall be permitted to annualize its estimated payments under this section in the manner prescribed by regulation of the state tax commission. Such regulations shall, to the extent practicable, follow the provisions of the Internal Revenue Code and the regulations thereunder relating to annualization of estimated payments.

(d) The amounts paid as estimated taxes pursuant to subsection (c) of this section shall be considered to be in part payment of the tax imposed by this chapter on the person reporting such estimated tax. The part payment shall apply to such tax for the tax year during which the reporting period for which the estimate is made occurs. In the event that such part payments, together with all other part payments, estimated payments, withheld taxes or other credits allowable against the taxes imposed by this chapter shall exceed the amount of tax due, the state tax commission shall refund such excess within the time and in the manner prescribed in section 63-3072(c), Idaho Code, relating to refund of taxes withheld by employers.

(e) The provisions of this section shall in no way relieve any person from any obligation to file a return under any provision of this chapter at the time such return may be due. In the event that the estimated payments required under this section, together with any other part payments, estimated payments, withheld taxes or other credits applicable to the same taxable year are less than the amount of taxes imposed by this chapter, the unpaid tax shall be paid at the time prescribed in section 63-3034, Idaho Code.

(f) The payment due for the first full reporting period occurring after the effective date of this act, and the payment due for each of the next three

(3) succeeding reporting periods shall be one-half (1/2) of the amount otherwise due under this section.

[63-3036A, added 1987, ch. 342, sec. 4, p. 728; am. 1991, ch. 7, sec. 4, p. 24; am. 2001, ch. 56, sec. 3, p. 104.]

63-3036B. PASS-THROUGH ENTITIES -- BACKUP WITHHOLDING. (1) A pass-through entity, as defined in section 63-3006C, Idaho Code, that is transacting business in Idaho during a taxable year shall withhold tax as prescribed in this section.

(2) For each nonresident individual who has income described in subsection (2) of section 63-3022L, Idaho Code, the pass-through entity shall withhold tax on the individual's share of income from the pass-through entity required to be included in Idaho taxable income of the individual, at the rate applicable for the taxable year under section 63-3024, Idaho Code.

(3) A pass-through entity is not required to withhold taxes under this section:

(a) In regard to an individual who is a resident of Idaho as defined in section 63-3013, Idaho Code; or

(b) If the pass-through entity is a publicly traded partnership, as defined in section 7704(b) of the Internal Revenue Code, that is treated as a partnership for purposes of the Internal Revenue Code and that has agreed to file an annual information return reporting the name, address, taxpayer identification number and other information requested by the state tax commission concerning each unitholder whose distributive share of partnership income from Idaho sources is more than five hundred dollars ($500); or

(c) If withholding is not required pursuant to a rule adopted under this section; or

(d) In regard to an individual who is not a resident of Idaho as defined in section 63-3013, Idaho Code, but for whom the pass-through entity has reported and paid the tax relating to said individual on a composite return pursuant to section 63-3022L, Idaho Code. An entity may rely upon information provided by the individual indicating state of residency as prescribed in the rules of the state tax commission.

(4) A pass-through entity that is required to withhold tax under this section shall file a withholding return with the state tax commission setting forth the amount of income described in subsection (2) of section 63-3022L, Idaho Code, the amount of tax withheld under this section and any other information required by the state tax commission. The return shall be filed with the state tax commission on the form and taxes withheld under this section shall be paid to the state tax commission in the time and manner prescribed by rules of the state tax commission. To the extent the state tax commission finds practicable, the rules shall generally conform to the requirements of section 63-3035, Idaho Code.

(5) A pass-through entity that is required to withhold tax under the provisions of this section shall furnish a statement to each individual on whose behalf tax is withheld. The statement shall state the amount of tax withheld on behalf of the individual for the taxable year of the pass-through entity. The statement shall be made on a form prescribed by the state tax commission and shall contain any other information required by it.

(6) A pass-through entity is liable to this state for amounts of tax required to be withheld and paid under the provisions of this section. A pass-through entity is not liable to an officer, director, or individual owner of

an interest in the pass-through entity for amounts required to be withheld under the provisions of this section that were paid to the state tax commission as prescribed in this section. Amounts required to be withheld and paid over to the state tax commission under this section that are not withheld or paid over at the time and in the manner required by the provisions of this section shall be a deficiency in tax as defined in section 63-3044, Idaho Code.

(7) For purposes of this section, "individual" shall have the same meaning as in subsection (6) of section 63-3022L, Idaho Code.

[63-3036B, added 2010, ch. 37, sec. 3, p. 68; am. 2011, ch. 3, sec. 3, p. 9; am. 2012, ch. 187, sec. 2, p. 492; am. 2014, ch. 36, sec. 2, p. 62; am. 2022, 1st E.S., ch. 1, sec. 11, p. 8.]

63-3037. INFORMATION RETURNS. (a) All persons, in whatever capacity, including lessees or mortgagors of real or personal property, fiduciaries and employers, making payment to another person of interest, rent, salaries, wages, except as provided by subsection (b) of section 63-3035, Idaho Code, and section 63-3036, Idaho Code, premiums, annuities, compensation, remunerations, emoluments, payments to subcontractors, other fixed or determinable gains, profits and income, or corporate liquidation distributions shall make returns to the state tax commission setting forth the amount of such gains, profits and income, and the name and address of the recipient of such payment. Such returns shall correspond to the requirements of the Internal Revenue Code, but shall be filed with the state tax commission on or before the last day of February of the year following the year to which the return relates.

(b) The state tax commission may, by rule:

(1) Excuse the filing of any returns required by subsection (a) of this section when it finds that the returns required of any class or group of persons do not contribute to the efficient administration of the taxes imposed by this chapter.

(2) When necessary for the efficient administration of this section, set a different due date for the returns required by this section, provided however, such date shall not be earlier than the date required by the Internal Revenue Code for filing equivalent federal returns in a nonelectronic format.

(c) The commission may prescribe rules providing standards consistent with section 63-115, Idaho Code, for determining which returns must be transmitted electronically. The commission may not require any person to transmit returns electronically unless such person is required to report on the return at least two hundred fifty (250) annual information returns. In promulgating such rules, the commission shall take into account, among other relevant factors, the ability of the taxpayer to comply, at a reasonable cost, with the requirements of such rules.

[63-3037, added 1959, ch. 299, sec. 37, p. 613; am. 1961, ch. 328, sec. 16, p. 622; am. 1972, ch. 287, sec. 1, p. 723; am. 1990, ch. 77, sec. 1, p. 160; am. 2009, ch. 3, sec. 2, p. 5; am. 2010, ch. 10, sec. 1, p. 11.]

63-3038. ADMINISTRATION. It shall be the duty of the state tax commission of the state of Idaho as established in chapter 1 of title 63, Idaho Code, to administer and enforce the provision of this title. The state tax commission is authorized to designate deputies and employees to

specifically administer the provisions of this title and such deputies and employees may be authorized to act in the name of the state tax commission and in its place and stead, provided, however, that such designation shall be made in writing.

[63-3038, added 1959, ch. 299, sec. 38, p. 613; am. 1998, ch. 53, sec. 1, p. 207.]

63-3039. RULES AND REGULATIONS -- PUBLICATION OF STATISTICS AND LAW. (1) The state tax commission shall prescribe all needful rules and regulations for the enforcement of this act, which shall be deemed to include all interpretations and constructions of this act, which must be uniformly made by the state tax commission, and shall prepare all forms which may be required of taxpayers. All rules or regulations and forms shall be printed for general distribution and the state tax commission is hereby authorized to contract for such printing. The state tax commission may make a charge for each copy of rules and regulations, which charge shall not exceed the actual cost of printing the same plus the actual expense of the state tax commission for postage or other handling costs but no charge shall be made for any form required of taxpayers. No rule or regulation shall become effective until thirty (30) days after the rule or regulation as published is made available to the public and each rule or regulation requiring compliance by a taxpayer shall have an effective date. The state tax commission is authorized to establish an annual charge for all rules, regulations and other publications of the commission and to receive subscriptions therefor which shall entitle the subscriber to delivery of such publications by mail as soon as the same are published.

(2) The state tax commission shall as soon as practicable after the effective date of this act adopt rules and regulations as provided herein. Such rules and regulations shall conform wherever practicable to the regulations promulgated by the commissioner for the Internal Revenue Code.

(3) Any law to the contrary notwithstanding, the state tax commission shall prepare and publish annually such statistics as are reasonably available with respect to the operation of the commission including pertinent statistics of the income reported, taxes collected, and such other matters as may be deemed valuable information for the public and also such information and statistics as the governor and/or the legislature may require from time to time.

(4) The state tax commission shall cause this act to be published in pamphlet form together with such amendments as may from time to time be made, which pamphlet shall include any rules or regulations then in effect and shall provide for the sale of the same to the public at a uniform price not to exceed the cost of printing plus the actual cost for postage and other handling charges incurred by the state tax commission.

(5) The publication and printing requirements set forth in this section for the act, amendments to the act, and rules or regulations are satisfied if the information is made available to the public in electronic form.

[63-3039, added 1959, ch. 299, sec. 39, p. 613; am. 1961, ch. 328, sec. 17, p. 622; am. 1983, ch. 104, sec. 1, p. 223; am. 2015, ch. 16, sec. 1, p. 23.]

63-3040. EXAMINATION OF RETURN AND DETERMINATION OF TAX. As soon as practicable after the return is filed, the state tax commission shall examine it and shall determine the correct amount of the tax.

[63-3040, added 1959, ch. 299, sec. 40, p. 613.]

63-3041. OVERPAYMENTS. If the taxpayer has paid more than the amount determined to be the correct amount of the tax, the excess shall be credited or refunded as provided in section 63-3072, Idaho Code, as amended. In the event a joint return has been filed and one (1) spouse dies prior to issuance of credit or refund, the credit or refund may be granted the surviving spouse. In the event a joint return has been filed by a couple separated after filing of the return, the credit or refund may be equally divided between such persons unless a joint claim has theretofore been properly executed.

[63-3041, added 1959, ch. 299, sec. 41, p. 613; am. 1961, ch. 328, sec. 18, p. 622.]

63-3042. EXAMINATION OF BOOKS AND WITNESSES. For the purpose of ascertaining the correctness of any return, making a return where none has been made, determining the liability of any person for any tax payable under this act or the liability at law or in equity of any person in respect to any tax provided in this act or collecting any such liability, the state tax commission or its duly authorized deputy is authorized--

(a) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(b) To summon the person liable for tax or required to perform the act, or any officer or employee of such person, or any person having possession, custody or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the commission or its deputy may deem proper, to appear before the commission or its delegate at a time and place named in the summons and to produce such books, papers, records or other data and/or give such testimony, under oath, as may be relevant or material to such inquiry; and taxpayers whose pertinent records are kept outside of the state must bring such records to Idaho for examination by the state tax commission upon request by it or a deputy, or, by agreement with the state tax commission, permit an auditor designated by the state tax commission to visit the place where the records are kept and there audit such records; and

(c) To take such testimony of the person concerned or summoned, under oath, as may be relevant or material to such inquiry.

A summons issued under the provisions of this section may be served by the state tax commission or its deputy or by any other person authorized to serve process under the laws of this state by a copy delivered in and to a person to whom it is directed; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

The time and place of examination pursuant to the provisions of this section shall be such time and place as may be fixed by the state tax commission or its deputy and as are reasonable under the circumstances, provided that in the case of a summons the date fixed for appearance before the state

tax commission or its deputy shall not be less than twenty (20) days from the time of service of the summons.

No taxpayer shall be subjected to unreasonable or unnecessary examinations or investigations.

[63-3042, added 1959, ch. 299, sec. 42, p. 613; am. 1963, ch. 339, sec. 6, p. 971; am. 1967, ch. 294, sec. 8, p. 828; am. 2003, ch. 10, sec. 6, p. 27.]

63-3042A. EVIDENCE OF EXPENDITURES. For the purpose of documenting an expenditure as a deduction or credit under this chapter, absent clear and convincing evidence of fraud, a taxpayer's statement or invoice from a credit card company or other financial institution reflecting the expenditure shall conclusively establish that the expenditure was made by the taxpayer, and the taxpayer's sworn statement that the expenditure was made for an identified deductible purpose shall conclusively establish a taxpayer's right to a deduction or credit. In any audit, assertion of deficiency or other proceeding in which substantiation of a deductible expense paid by credit card, debit card, or other electronic means is in question, the state tax commission shall notify a taxpayer in writing of the provisions of this section and retain proof that such notice has been provided as required by this section.

[63-3042A, added 2021, ch. 206, sec. 1, p. 561; am. 2023, ch. 34, sec. 1, p. 168; am. 2024, ch. 30, sec. 1, p. 224; am. 2025, ch. 224, sec. 1, p. 1047.]

63-3043. CONTEMPT. In case any person refuses to comply with any subpoena or order under this act or to produce or permit the examination or inspection of any books, papers or documents pertinent to any investigation or inquiry hereunder, or to testify to any matter regarding which he may lawfully be interrogated, such fact shall be reported by the state tax commission or a deputy commissioner, to the district court or the judge thereof of any district wherein such person resides or may be found, and such court or judge shall order such witness to attend and testify, or otherwise compel obedience to the lawful demands and requests of any of said officials; and on failure or refusal of any person to obey such order, he shall be dealt with as for contempt of court under the applicable provisions of chapter 6 of title 7, Idaho Code.

[63-3043, added 1959, ch. 299, sec. 43, p. 613; am. 1961, ch. 328, sec. 19, p. 622.]

63-3044. DEFICIENCY IN TAX. As used in this act in respect of a tax imposed by this act the term "deficiency" means:

(1) The amount by which the tax imposed by this act exceeds the amount shown as the tax by the taxpayer upon his return; but the amount so shown on the return shall first be increased by the amounts previously assessed (or collected without assessment) as a deficiency, and decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or,

(2) If no amount is shown as the tax by the taxpayer upon his return, or if no return is made by the taxpayer, then the amount by which the tax exceeds the amounts previously assessed (or collected without assessment) as a defi-

ciency; but such amounts previously assessed, or collected without assessment, shall first be decreased by the amounts previously abated, credited, refunded, or otherwise repaid in respect of such tax; or,

(3) Any amount of tax which is due and unpaid.

[63-3044, added 1959, ch. 299, sec. 44, p. 613; am. 1993, ch. 94, sec. 2, p. 229; am. 1994, ch. 172, sec. 1, p. 388; am. 2006, ch. 195, sec. 4, p. 607.]

63-3045. NOTICE OF REDETERMINATION OR DEFICIENCY -- INTEREST.

(1)(a) If, in the case of any taxpayer, the state tax commission determines that there is a deficiency in respect of the tax imposed by this title, the state tax commission shall, immediately upon discovery thereof, send notice of such deficiency to the taxpayer by first class mail, by other commercial delivery service providing proof of delivery, or by secure electronic communication, whichever is the most cost-efficient. The notice shall be sent to the taxpayer's last address known to the state tax commission. The notice of deficiency shall be accompanied by an explanation of the specific reason for the determination and an explanation of the taxpayer's right to appeal. Within sixty-three (63) days after such notice is sent, the taxpayer may, at his option, file a protest in writing with the state tax commission and obtain redetermination of the deficiency.

(b) If the taxpayer files a protest with the state tax commission within the period set forth in paragraph (a) of this subsection, and such protest does not comply with the rules of the state tax commission and is therefore inadequate to perfect the taxpayer's right to a redetermination of the deficiency determination, then the state tax commission shall notify the taxpayer, in the same manner as set forth in paragraph (a) of this subsection, of such inadequacies, setting forth in said notice the corrective action to be taken by the taxpayer to perfect his protest. The taxpayer shall thereafter have twenty-eight (28) days from the date of said notice to perfect his protest.

(c) No assessment of a deficiency in respect to the tax imposed by this chapter, and no distraint or proceedings in court for its collection, shall be made, begun, or prosecuted until such notice has been sent to the taxpayer, nor until all appeal rights relating to the deficiency have become final.

(2)(a) Following a perfected protest, the taxpayer has the right to an independent administrative redetermination of the originating division's determination before the state tax commission, including a hearing. The purpose of the hearing is to discuss the deficiency determination and the taxpayer's protest with a commissioner or duly authorized representative of the commission. The meeting shall be held informally and evidence shall be freely admitted regardless of the rules of evidence.

(b) Tax commission staff assigned to the administrative redetermination may not engage in communications relating to the taxpayer's protest with employees of the originating division without first providing the taxpayer the opportunity to participate, except for questions that involve ministerial, administrative or procedural matters that do not address the substance of the issues or positions taken in the case or as otherwise allowed under title 63, Idaho Code, and the rules promulgated thereunder. The state tax commission shall promulgate

rules governing communications with the originating division to ensure an independent review process. The provisions of this subsection do not create a substantive right affecting the taxpayer's tax liability or the state tax commission's ability to determine, assess or collect that tax liability, including statutory interest and any penalties, if applicable.

(3) Any hearing conducted under the provisions of this section may be conducted, in whole or in part, by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place.

(4) A taxpayer has the right to be represented by, or be accompanied by, any person of his choice in any proceeding before the tax commission. If the taxpayer is not present at a proceeding, the representative of that taxpayer must be designated in writing by the taxpayer as shall be prescribed in administrative rules or in any manner acceptable to the tax commission.

(5) Following a perfected protest, the taxpayer may submit additional evidence or documentation during the redetermination process subject to the provisions of section 63-3045B(3)(a), Idaho Code.

(6) If the taxpayer does not file a protest with the state tax commission within the time prescribed in subsection (1)(a) of this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the state tax commission.

(7)(a) Interest shall apply to deficiencies in tax and refunds of tax. Interest shall not apply to any penalty or to unpaid accrued interest. Interest relating to deficiencies or refunds accruing after the original due date of the return, but not including extensions of the due date, shall be computed on the net of any underpayments and overpayments of a tax liability required to be shown as due on the same return. Interest on deficiencies shall not accrue for any period beginning on the date on which the state tax commission identifies a return for possible audit until the date of the issuance of a notice of deficiency determination. Nor shall interest on deficiencies accrue for any period between the issuance of a notice of deficiency determination that is subject to a perfected protest and the final determination of the deficiency by the state tax commission following the state tax commission's disposition of the protest.

(b) Interest upon any deficiency shall be assessed at the same time as the deficiency, shall be due and payable upon notice and demand from the state tax commission and shall be collected as a part of the tax at the rate per annum determined under the provisions of paragraph (c) of this subsection from the date prescribed for the payment of the tax. In the event any of the deficiency is reduced by reason of a carryback of a net operating loss or a capital loss carryback, such reduction in deficiency shall not affect the computation of interest under this subsection for the period ending with the last day of the taxable year in which the net operating loss or capital loss arises.

(c) The rate of interest accruing during any calendar year, or portion thereof, upon any deficiency, or payable upon an overpayment or refund, shall be two percent (2%) plus the rate determined under section 1274(d), Internal Revenue Code, by the secretary of the treasury of the United States as the midterm federal rate as it applies on September 15 of the immediately preceding calendar year rounded to the nearest whole number.

(8) When the time provisions contained in this section conflict with the provisions of section 63-4208, Idaho Code, relating to the assessment of taxes on illegal possession of controlled substances, the provisions of section 63-4208, Idaho Code, shall prevail.

[63-3045, added 2012, ch. 6, sec. 1, p. 9; am. 2017, ch. 18, sec. 1, p. 30; am. 2017, ch. 19, sec. 1, p. 33; am. 2024, ch. 116, sec. 1, p. 499; am. 2025, ch. 302, sec. 4, p. 1284; am. 2026, ch. 153, sec. 5, p. 699.]

63-3045A. ASSESSMENT OF TAX. (1) Except as provided in subsection (2) of this section, no tax commission activities to enforce collection of tax may be conducted, nor may a proceeding to collect a tax be instituted, until taxes are assessed in accordance with the provisions of this section.

(a) Taxes and related interest, including revisions for mathematical errors, are assessed immediately upon receipt of a tax return, amended return or other consent signed by the taxpayer or the taxpayer's authorized representative showing the taxes due. The tax commission may presume that the signature is the signature of the taxpayer or the taxpayer's authorized representative until the contrary is established by a preponderance of the evidence.

(b) In the event that the amount of tax is understated on the taxpayer's return due to a mathematical error, the state tax commission shall notify the taxpayer that an amount of tax in excess of that shown on the return is due and has been asserted. Such a notice of additional tax due shall not be considered a notice of a deficiency nor shall the taxpayer have any right of protest or appeal as in the case of a deficiency based on such notice, and the assessment and collection of the amount of tax erroneously omitted in the return is not prohibited by any provision of this chapter.

(c) Any amount paid as a tax or in respect of a tax, other than amounts withheld at the source or paid as estimated income tax, shall be deemed to be assessed upon the date of receipt of payment, notwithstanding any other provisions of this chapter.

(d) For all other purposes of this chapter, a tax is deemed assessed when:

(i) A taxpayer fails to file a protest with the state tax commission within the time prescribed in section 63-3045, Idaho Code, or an action in district court or the board of tax appeals within the time prescribed in subsection (a) of section 63-3049, Idaho Code; or

(ii) Upon conclusion of any such proceeding for any amount upheld at that conclusion of such proceeding.

(2) An assessment is not required before the tax commission may conduct audits and investigations or make inquiries of taxpayers or other persons relating to matters within the tax commission's jurisdiction. The making of an assessment is not required before the tax commission may file a judicial action under section 63-3030A or 63-3064, Idaho Code, or actions for injunctive or declaratory relief.

(3) When taxes and related interest have been assessed, the state tax commission shall create a record of assessment by recording the liability of the taxpayer along with an identification of the taxpayer, the character of the liability assessed, the taxable period, if applicable, and the amount of the assessment. The record of an assessment shall be kept and maintained in a record in the office of the state tax commission in accordance with rules

prescribed by the state tax commission. Upon request of the taxpayer, the state tax commission shall furnish the taxpayer a copy of the record of assessment.

(4) Penalties and additions to tax in the case of a deficiency shall be assessed in the same manner as the taxes and related interest.

[63-3045A, added 1970, ch. 222, sec. 8, p. 621; am. 1987, ch. 86, sec. 1, p. 162; am. 1999, ch. 34, sec. 2, p. 72; am. 2006, ch. 195, sec. 5, p. 607.]

63-3045B. FINAL DECISIONS OF THE COMMISSION. (1) If a taxpayer does not file a protest within the sixty-three (63) day period allowed, the notice of deficiency of the tax commission becomes final on the day following the end of the protest period.

(2) If a taxpayer files a protest, but does not perfect the protest, the notice of deficiency of the tax commission becomes final on the twenty-ninth day following the date the tax commission notified the taxpayer that the protest was not perfected, except that the tax commission may reduce the amount of the deficiency during the twenty-nine (29) day period.

(3) When a perfected protest has been filed, the state tax commission shall, within fourteen (14) days thereof, provide the taxpayer with a written acknowledgment of the protest. After the acknowledgment, a final decision of the tax commission must be rendered within one hundred eighty (180) days from either:

(a) A request in writing, in a form prescribed by rules of the tax commission, from the taxpayer for a final decision on that issue; if the taxpayer requests such a decision, the tax commission may refuse to accept additional evidence or documentation or refuse to allow an appearance at any proceeding with the commission or any representative of the commission during such one hundred eighty (180) day period; or

(b) The conclusion of any hearing pursuant to section 63-3045(2)(a), Idaho Code, and the taxpayer has not requested or received any extension of time to present additional evidence or testimony.

(4) A final decision may be held in abeyance, notwithstanding the requirements of subsection (3) of this section, with the prior approval in writing of the taxpayer.

(5) If a final decision of the tax commission is not rendered or the protest is not resolved by compromise, consent or withdrawal of the notice of deficiency determination within the time limits established by subsection (3) of this section, the notice of deficiency shall be null and void ab initio, with prejudice.

(6) A final decision of the tax commission shall be issued in writing and mailed, delivered through secure electronic communication, or served upon the taxpayer within the time limits set forth herein. The final written decision of the tax commission shall, one hundred twenty (120) days after the date of the final written decision, be available for public inspection and copying pursuant to the provisions of section 74-102, Idaho Code, except:

(a) The taxpayer's name, address, taxpayer identification number, social security number, permit number, or other identifying information shall be removed from the final written decision of the tax commission that is made available to the public; and

(b) Any proprietary or other identifying information contained in the written decision that the taxpayer requests be excised shall be excised by the tax commission in the final written decision made available

to the public. The taxpayer must make such request in writing before ninety-one (91) days have elapsed after the date of the final decision.

(7) The tax commission shall label each written decision with a unique identification number and shall keep a list containing each decision number and the date of issuance, as excised in accordance with the provisions of this section. A decision shall serve as precedent for the tax commission in future protest determinations unless information excised, court decisions, changes in the Idaho Code, or changes in applicable administrative rules overrule, supersede, modify, distinguish, or otherwise make inapplicable the written decision of the tax commission.

[63-3045B, added 1993, ch. 94, sec. 4, p. 231; am. 1994, ch. 172, sec. 3, p. 391; am. 2015, ch. 141, sec. 161, p. 507; am. 2017, ch. 18, sec. 2, p. 31; am. 2017, ch. 19, sec. 2, p. 34; am. 2026, ch. 153, sec. 6, p. 701.]

63-3046. PENALTIES AND ADDITIONS TO THE TAX IN CASE OF DEFICIENCY. (a) If any part of any deficiency is due to negligence or disregard of rules but without intent to defraud, five percent (5%) of the total amount of the deficiency (in addition to such deficiency) shall be assessed, collected and paid in the same manner as if it were a deficiency.

(b) If any part of any deficiency is due to fraud with intent to evade tax, then fifty percent (50%) of the total amount of the deficiency (in addition to such deficiency) shall be so assessed, collected and paid.

(c) (1) In the event the return required by this chapter is not filed on or before the due date (including extensions) of the return, there may be collected a penalty of five percent (5%) of the tax due on such returns for each month elapsing after the due date (including extensions) of such returns until the return is filed.

(2) In the event the return required by this chapter is filed but the tax shown thereon to be due is not paid, there may be collected a penalty of one-half percent (0.5%) of the tax due on such return for each month elapsing after the later of the due date of such return or the date the return was filed until the tax is paid.

(d) (1) If there is a substantial understatement of tax for any taxable year, there shall be added to the tax an amount equal to ten percent (10%) of the amount of any underpayment attributable to such understatement.

(2) For purposes of this subsection, there is a substantial understatement of tax for any taxable year if the amount of the understatement for the taxable year exceeds the greater of:

(i) Ten percent (10%) of the tax required to be shown on the return for the taxable year, or

(ii) Five thousand dollars ($5,000).

(3) In the case of a corporation, paragraph (d)(2)(ii) of this section shall be applied by substituting ten thousand dollars ($10,000) for five thousand dollars ($5,000).

(4) For purposes of paragraph (d)(2) of this section, the term "understatement" means the excess of:

(i) The amount of tax required to be shown on the return for the taxable year, over

(ii) The amount of the tax imposed which is shown on the return.

(5) The amount of the understatement under paragraph (4) shall be reduced by that portion of the understatement which is attributable to:

(i) The tax treatment of any item by the taxpayer if there is or was substantial authority for such treatment, or

(ii) Any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

(6) In the case of any item attributable to a tax shelter as defined in section 6661 of the Internal Revenue Code:

(i) Paragraph (5)(ii) shall not apply, and

(ii) Paragraph (5)(i) shall not apply unless (in addition to meeting the requirements of such paragraph) the taxpayer reasonably believed that the tax treatment of such item by the taxpayer was more likely than not the proper treatment.

(7) The state tax commission may waive all or any part of the addition to tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement (or part thereof) and that the taxpayer acted in good faith.

(e) (1) Any person who fails to file a statement of payment to another person required by this chapter, including the duplicate statement of tax withheld on wages, on the date prescribed therefor (including any extension of time for filing) shall, be subject to a penalty of two dollars ($2.00) for each month or part of a month each statement is not so filed, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed two thousand dollars ($2,000).

(2) Any employer required to register under the provisions of section 63-3035, Idaho Code, who fails to register after receiving written notice from the state tax commission of the requirement to register shall be subject to a penalty of one hundred dollars ($100) for each month or part of a month after the date of the notice during which the failure occurs.

(3) The penalties provided in this subsection shall not apply if the person shows that the failure to register is due to reasonable cause and not to willful neglect.

(f) If the penalty to be added to the tax by subsection (a), (b), (c)(1), (d) or (e) of this section or by section 63-3033, Idaho Code, is less than ten dollars ($10.00), the penalty to be added to the tax shall be a minimum of ten dollars ($10.00).

(g) Total penalties imposed under subsections (a), (c) and (d) of this section and under section 63-3033, Idaho Code, shall not exceed twenty-five percent (25%) of the tax due on the return.

(h) A processing charge to be determined and established annually by the state tax commission shall be collected from any person who draws or delivers a check, draft or order for the payment of money in complete or partial satisfaction of the tax imposed by this chapter if that person does not have sufficient funds in or credit with the bank or depository upon which the check, draft or order is drawn. Money collected under this subsection shall be paid to the state tax commission to defer costs of handling such checks, drafts or orders.

[63-3046, added 1959, ch. 299, sec. 46, p. 613; am. 1969, ch. 319, sec. 15, p. 982; am. 1981, ch. 176, sec. 1, p. 310; am. 1982, ch. 278, sec. 1, p. 710; am. 1983, ch. 211, sec. 1, p. 586; am. 1993, ch. 5, sec. 3, p. 20; am. 1997, ch. 57, sec. 13, p. 105; am. 1997, ch. 61, sec. 1, p. 119;

am. 2000, ch. 19, sec. 1, p. 36; am. 2001, ch. 270, sec. 8, p. 986; am. 2002, ch. 35, sec. 10, p. 76.]

63-3046A. INTEREST ON UNDERPAYMENT OF ESTIMATED TAX. (a) In the event that a person required to pay estimated taxes under section 63-3036A, Idaho Code, fails to pay such estimated taxes or fails to pay the full amount of estimated taxes due, the state tax commission shall assess interest on such unpaid or underpaid estimated taxes at the rate of interest set in section 63-3045, Idaho Code, as the interest to be assessed on a deficiency in taxes.

(b) Interest shall be computed on the difference between the amount of estimated payment required to be made on each quarterly report and the amount of quarterly payment actually made. Interest shall apply from the due date of the quarterly report until the required amount is paid, or until, excluding extensions, the due date of the return, whichever is first.

[63-3046A, added 1987, ch. 342, sec. 5, p. 729.]

63-3046B. FAILURE TO FILE PARTNERSHIP RETURN. (a) Penalty. In addition to the penalty imposed by section 63-3075, Idaho Code, if any partnership required to file a return under section 63-3030, Idaho Code, for any taxable year:

(1) Fails to file such return at the time prescribed therefor by section 63-3030, Idaho Code, (determined with regard to any extension of time for filing); or

(2) Files a return which fails to show the information required under section 63-3030, Idaho Code, such partnership shall be liable for a penalty determined under subsection (b) of this section for each month (or fraction thereof) during which such failure continues (but not to exceed five (5) months), unless it is shown that such failure is due to reasonable cause.

(b) Amount per month. For purposes of subsection (a) of this section, the amount determined under this subsection for any month is the product of:

(1) Ten dollars ($10.00), multiplied by

(2) the number of persons who are partners in the partnership during any part of the taxable year, except that in the case of partnerships with no business activity in Idaho during the taxable year but with partners who are Idaho residents, multiply the amount in subsection (b)(1) of this section by the number of partners who are either Idaho residents or are persons other than individuals who are transacting business in Idaho.

(c) Assessment of penalty. The penalty imposed in subsection (a) of this section shall be assessed against the partnership.

[63-3046B, added 1989, ch. 182, sec. 1, p. 457; am. 1994, ch. 39, sec. 5, p. 65; am. 1995, ch. 111, sec. 33, p. 378.]

63-3047. COMPROMISED CASES. The state tax commission or its delegate may compromise any taxes, penalties or interest arising under the provisions of this chapter instead of commencing suit thereon and may settle any such case with the consent of the attorney general after suit thereon has been commenced.

[63-3047, added 1959, ch. 299, sec. 47, p. 613; am. 2009, ch. 120, sec. 2, p. 384.]

63-3048. ADJUSTED OR COMPROMISED CASES -- SETTLEMENT AND CLOSING AGREEMENTS. (a) The state tax commission or its delegate is authorized to enter into an agreement in writing with any person relating to the liability of such person, or of the person for whom he is acting, in respect of any tax under this chapter for any taxable period ending prior to the date of the agreement.

(b) Where the amount in issue relating to the tax liability of any taxpayer is equal to or exceeds fifty thousand dollars ($50,000) and the commission has delegated the authority to enter into a settlement or closing agreement for such liability to an individual commissioner, the following minimum standards of procedure shall apply:

(1) In addition to the individual commissioner delegated the principal responsibility to negotiate on behalf of the commission, a second commissioner shall be present for a final review of the negotiated settlement or closing agreement. Both commissioners shall be required to sign the settlement or closing agreement to make it binding and complete.

(2) In addition to the two (2) commissioners present at the final review, a representative of the office of the attorney general shall be present as well as tax commission staff, which shall include a tax policy specialist and either a representative from the audit division or other division where the case originated.

(3) The tax policy specialist or deputy attorney general assigned to a settlement or closing agreement shall prepare and submit to the commission a written summary for the final review explaining the terms of the settlement or closing agreement. The summary shall include any recommendations of agency staff including audit staff.

(4) The tax commission shall retain a copy of all settlement and closing agreements and, in addition, all summaries prepared pursuant to subsection (b)(3) of this section.

(c) The tax commission shall submit an annual report to the governor and the legislature by March 1 of each year summarizing all settlement and closing agreements entered into during the previous calendar year as defined by subsection (b) of this section.

(d) The tax commission shall promulgate administrative rules in compliance with chapter 52, title 67, Idaho Code, to implement the provisions of this section.

(e) Such agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact:

(1) The case shall not be reopened as to matters agreed upon or the agreement modified by any officer, employee, or agent of the state.

(2) In any suit, action, or proceeding, such agreement, or any determination, assessment, collection, payment abatement, refund, or credit made in accordance therewith, shall not be annulled, modified, set aside, or disregarded.

[63-3048, added 1959, ch. 299, sec. 48, p. 613; am. 2009, ch. 120, sec. 3, p. 385.]

63-3049. JUDICIAL REVIEW. (a) Redetermination by the state tax commission may be reviewed in the district court for Ada county or the county in which the taxpayer resides or has his principal office or place of business by a complaint filed by the taxpayer against the state tax commission within ninety-one (91) days after the receipt of notice of the decision of the state tax commission denying, in whole or in part, any protest of the taxpayer or,

within the same period, by filing an appeal with the board of tax appeals. Upon the serving of summons upon the state tax commission the case shall proceed as other civil cases but may be heard by the judge in chambers. If the case is appealed to the board of tax appeals, the hearing before that body shall proceed as set forth in the act creating such board. If the court finds that any tax is due, it shall enter judgment for such tax, including any interest or penalties that may also be due and owing, against the taxpayer. Any taxes, penalties or interest paid, found by the court to be in excess of that which can be legally assessed, shall be ordered refunded to the taxpayer with interest from the time of payment. In the case of sales or use tax and corporate income tax decisions by the state tax commission, when the amount asserted exceeds twenty-five thousand dollars ($25,000), no appeal to the board of tax appeals shall be allowed.

(b) Before a taxpayer may seek review by the district court or the board of tax appeals, the taxpayer shall secure the payment of the tax or deficiency as assessed by depositing cash with the tax commission in an amount equal to twenty percent (20%) of the amount asserted. In lieu of the cash deposit, the taxpayer may deposit any other type of security acceptable to the tax commission.

No act, order or proceeding of the tax commission shall be valid until after the time allowed for taking such court action has expired or such court action is finally determined. As used in this section, the term "amount asserted" shall mean the total amount due, as set forth in the decision of the state tax commission.

(c) Any party to the proceedings may appeal to the supreme court from the judgment of the district court under the rules and regulations prescribed for appeals. If the appeal be taken by the state tax commission, it shall not be required to give any undertaking or to make any deposits to secure the cost of such appeal or to secure the payment of any amounts ordered refunded by the court.

(d) Whenever it appears to the court that:

(1) Proceedings before it have been instituted or maintained by a party primarily for delay; or

(2) A party's position in such proceeding is frivolous or groundless; or

(3) A party unreasonably failed to pursue available administrative remedies;

the court, in its discretion, may require the party which did not prevail to pay to the prevailing party costs, expenses and attorney's fees.

[63-3049, added 1959, ch. 299, sec. 49, p. 613; am. 1965, ch. 316, sec. 10, p. 880; am. 1967, ch. 294, sec. 9, p. 828; am. 1969, ch. 453, sec. 16, p. 1195; am. 1983, ch. 229, sec. 1, p. 631; am. 1993, ch. 94, sec. 5, p. 233; am. 2005, ch. 17, sec. 1, p. 47.]

63-3050. ACTION TO COLLECT UNPAID TAX OR DEFICIENCY. Any tax owed the state tax commission, any interest, penalty, additional amount, or addition to such tax, and any tax or any interest, penalty, additional amount, or addition to such tax which has been erroneously refunded and any deficiency shall constitute a debt to the state of Idaho and may be collected by lien foreclosure or sued for and recovered in any proper form of action, in the name of the state of Idaho, in any court having jurisdiction over the taxpayer or property owned by or in which the taxpayer has an interest. The remedy herein shall be in addition to any and all other existing remedies.

[63-3050, added 1959, ch. 299, sec. 50, p. 613; am. 1996, ch. 42, sec. 1, p. 113.]

63-3050A. RELIEF FROM JOINT AND SEVERAL LIABILITY ON JOINT RETURN. (1) An individual who has filed a joint return and who has been granted relief from joint and several liability by the internal revenue service shall have such relief recognized, granted and honored by the state tax commission for state income tax purposes.

(2) The state tax commission shall promulgate such rules as are necessary to carry out the provisions of this section.

[63-3050A, added 2017, ch. 20, sec. 3, p. 39.]

63-3051. PROPERTY SUBJECT TO LIEN. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount of such tax, including any interest, penalty, additional amount, or addition to such tax, together with any costs that may accrue in addition thereto, shall be a lien in favor of the state of Idaho upon all property and rights to property, whether real or personal, belonging to such person or acquired afterwards and before the lien expires. Such lien shall not be valid as against any mortgagee or other lienholder, pledgee, secured party, purchaser, or judgment lienor until notice thereof has been filed in the office of the secretary of state in the form and manner provided in chapter 19, title 45, Idaho Code.

[63-3051, added 1959, ch. 299, sec. 51, p. 613; am. 1987, ch. 86, sec. 2, p. 162; am. 1994, ch. 42, sec. 1, p. 70; am. 1997, ch. 205, sec. 4, p. 615.]

63-3055. RELEASE OR SUBORDINATION OF INCOME TAX LIEN. (1) The state tax commission may at any time release all or any portion of the property subject to the lien from the lien, or it may subordinate the lien to other liens if it determines:

(a) That the taxes, penalties or interests are sufficiently secured by a lien on other property of the taxpayer; or

(b) That the release or subordination of the lien will not endanger or jeopardize the collection of such taxes, penalties or interest; or

(c) That a surety bond or securities satisfactory to secure deposits of public funds have been posted, deposited or pledged with the state tax commission in an amount sufficient to secure the payment of such taxes, penalties, or interest; or

(d) All or a part of such taxes, penalties or interest have been paid.

A certificate by the state tax commission to the effect that any property has been released from the lien herein provided for, or that such lien has been subordinated to other liens, shall be conclusive evidence that the property has been released or that the lien has been subordinated, as provided in the certificate.

(2) If the tax commission determines that the filing of the notice of any lien was erroneous, the tax commission shall expeditiously, and, to the extent practicable, within fourteen (14) days after such determination, issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous. A lien is not an erroneous lien if it is accurate at the time the lien is filed.

(3) Where an officer or employee of the tax commission knowingly or negligently fails to release a notice of lien, a taxpayer may bring an action against the tax commission pursuant to section 63-3074, Idaho Code, in district court seeking direct economic damages and costs. A taxpayer must first notify the tax commission that a release was not issued timely.

[63-3055, added 1959, ch. 299, sec. 55, p. 613; am. 1993, ch. 94, sec. 6, p. 234; am. 1994, ch. 172, sec. 4, p. 392.]

63-3056. ACTION TO ENFORCE LIEN. In any case where there has been a refusal or neglect to pay any tax, including interest, penalty, additional amount or addition to such tax, together with any costs that may accrue in addition thereto, the attorney general of the state, at the request of the state tax commission, may file an action in the district court for Idaho in the county where the property encumbered by the lien is located to enforce the lien of the state for such tax upon any property and rights to property, whether real or personal, or to subject any such property and rights to property owned by the delinquent, or in which he has any right, title, or interest, to the payment of such tax. Such action shall be commenced and pursued in like manner as is now provided by law for the foreclosure of mortgages and other liens in chapter 1, title 6, Idaho Code, which is hereby made applicable to the tax liens arising under this chapter to the extent that such provisions are not inconsistent with other provisions of this chapter, provided, however, that the redemption period may be fixed by the judge of the court wherein the proceeding was filed, but in no event shall the period of redemption exceed the time prescribed by sections 11-402 and 11-403, Idaho Code. Such action may be commenced at any time within five (5) years following the date such lien was filed, or was last extended.

[63-3056, added 1959, ch. 299, sec. 56, p. 613; am. 1969, ch. 319, sec. 16, p. 982; am. 2004, ch. 28, sec. 3, p. 47.]

63-3057. DISTRAINT ON PERSONAL PROPERTY. (1) In addition to all other remedies or actions provided by this act, it shall be lawful for the tax commission, or any of its agents or deputies, to collect any taxes (the word "taxes," as used in this section including any deficiencies in respect of such taxes) with such interest, penalties, and other additional amounts as are permitted by law, by distraint and sale, in the manner provided herein, of the property of any person liable to pay any taxes, interest, penalties, or other additional amounts, who neglects or refuses to pay the same within thirty (30) days from the mailing of notice and demand for payment thereof, and who has not appealed from the assessment of such taxes, interest, penalties and other additional amounts pursuant to the provisions of the act or who has not satisfied or discharged any lien filed under this act. The term "property" as used herein shall be construed to mean personal property, both tangible and intangible, any right, title, and interest to such personal property and shall include, without limitation, stocks, securities, bank accounts, and evidences of debt.

(2) In conjunction with the remedy provided in subsection (1) of this section, the state tax commission may file an action in the district court where a taxpayer resides or has his principal place of business or in which the property subject to distraint under this section is located for a writ of possession under chapter 3, title 8, Idaho Code. In such an action, the sheriff shall designate the state tax commission as the keeper of the property

under section 8-305, Idaho Code, and after expiration of the five (5) day period provided in section 8-308, Idaho Code, shall relinquish all custody and responsibility for such property to the state tax commission. The state tax commission may proceed in regard to such property as provided for property seized under a warrant issued by the commission under this chapter.

[63-3057, added 1959, ch. 299, sec. 57, p. 613; am. 1975, ch. 86, sec. 1, p. 178; am. 2003, ch. 81, sec. 1, p. 257.]

63-3058. EXEMPT PROPERTY. Property exempt from distraint shall be the same property as is exempt from execution under the provisions of chapter 6, title 11, Idaho Code.

[63-3058, added 1959, ch. 299, sec. 58, p. 613; am. 1982, ch. 2, sec. 1, p. 5.]

63-3059. LEVY OR DISTRAINT WARRANT. (1) In case of neglect or refusal to pay taxes or deficiencies as hereinabove provided, the state tax commission may levy, or, by warrant issued under its own hand, authorize its agents or employees or a sheriff or deputy, to levy upon, seize and sell all property, except such as is exempt by the preceding section, belonging to such person, for the payment of the amount due or for the enforcement of any lien authorized and filed pursuant to this chapter.

(2) Any person in possession of, or obligated with respect to, property or rights to property subject to levy upon which a levy has been made who, upon demand by the state tax commission or by a sheriff or deputy, surrenders such property or rights to property, or discharges such obligation, to the state tax commission shall be discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to such property or rights to property arising from such surrender or payment.

(3) Any person who fails or refuses to surrender any property or rights to property, subject to levy, shall be liable to the state of Idaho in a sum equal to the value of the property or rights not so surrendered, but not exceeding the amount of taxes for the collection of which such levy has been made, together with costs and interest on such sum at the rate established under section 63-3045, Idaho Code, from the date of such levy.

(4) Any amount, other than costs, recovered under this section shall be credited against the tax liability for the collection of which such levy was made.

[63-3059, added 1959, ch. 299, sec. 59, p. 613; am. 1961, ch. 328, sec. 20, p. 622; am. 2000, ch. 149, sec. 1, p. 386.]

63-3060. PROCEEDINGS ON LEVY OR DISTRAINT. When a warrant is issued by the state tax commission for the collection of any tax, interest, penalty, additional amount or addition to such tax, imposed by this chapter or for the enforcement of any lien authorized by this chapter, it shall be directed to any sheriff or agent of the state tax commission, and any such warrant shall have the same force and effect as a writ of execution. It may and shall be levied and sale made pursuant to it in the same manner and with the same force and effect as a levy and sale pursuant to a writ of execution. The sheriff or agent of the state tax commission, shall receive upon the completion of his services pursuant to said warrant, and the state tax commission is authorized to pay to said sheriff or agent of the state tax commission, the

same fees, commissions and expenses pursuant to said warrant as are provided by law for similar services pursuant to a writ of execution, except that fees for publication in a newspaper shall be subject to approval by the state tax commission rather than by the court; said fees, commissions and expenses shall be an obligation of the taxpayer and may be collected from the taxpayer by virtue of the warrant. Any such warrant issued by the state tax commission shall show the name and last known address of the taxpayer liable for the amount, and shall show the year for which such tax, interest, penalty, additional amount, or addition to such tax, is due and the amount thereof, and the fact that the state tax commission has complied with all provisions of this chapter in the determination of the amount required to be paid, and that the tax, interest, penalty, additional amount, or addition to such tax, is due and payable according to law.

[63-3060, added 1959, ch. 299, sec. 60, p. 613; am. 1961, ch. 328, sec. 21, p. 622; am. 2004, ch. 28, sec. 4, p. 48.]

63-3060A. CONTINUOUS EXECUTION ON INDIVIDUAL EARNINGS. Where an execution or garnishment against earnings for a state tax liability is served upon any person or upon the state of Idaho, and there is in possession of such person or the state of Idaho any such earnings of the individual debtor, the execution and the garnishment shall operate continuously and shall require such person or the state of Idaho to withhold the nonexempt portion of earnings at each succeeding earnings disbursement interval until released by the state tax commission or until the dollar amount specifically set forth on the record of assessment, identified in section 63-3045A, Idaho Code, and subject to garnishment as of the date the tax warrant is issued, is discharged or satisfied in full. The proportion of earnings subject to garnishment pursuant to this section, as compared to total gross taxable earnings, shall be limited to twenty-five percent (25%), except if the federal government is also garnishing the earnings of such person then the garnishment shall be limited to ten percent (10%). All garnishment or execution against earnings for the payments of any tax owed to the state of Idaho shall be governed by this section. For purposes of this section, earnings are gross taxable earnings from sources identified in section 11-206(1), Idaho Code.

[63-3060A, added 2013, ch. 244, sec. 1, p. 590.]

63-3061. SUCCESSIVE SEIZURES. Whenever any property which is seized and sold by virtue of the foregoing provisions is not sufficient to satisfy the claim of the state for which distraint or seizure is made, the sheriff or agent of the state tax commission, may thereafter, and as often as the same may be necessary, proceed to seize and sell in like manner any other property liable to seizure of the taxpayer against whom such claim exists, until the amount due from such taxpayer, together with all expenses, is fully paid.

[63-3061, added 1959, ch. 299, sec. 61, p. 613; am. 1961, ch. 328, sec. 22, p. 622; am. 2004, ch. 28, sec. 5, p. 48.]

63-3061A. NOTICE OF LEVY AND DISTRAINT. The state tax commission shall, at the time of levy, provide to the taxpayer and to any person in possession of the property subject to distraint, written notice of levy and distraint. The written notice of levy and distraint may be:

(1) Given in person;
(2) Left at the dwelling place or usual place of business of such person;
(3) Sent by first class mail to such person's last known address; or
(4) Delivered through secure electronic communication.

[63-3061A, added 2012, ch. 6, sec. 2, p. 10; am. 2026, ch. 153, sec. 7, p. 702.]

63-3062. PRODUCTION OF BOOKS. All persons, and officers of companies or corporations, are required on demand of a sheriff or agent of the state tax commission, about to distrain, or having distrained on any property or rights of property, to exhibit all books containing evidence or statements relating to the subject of distraint, or the property or rights of property liable to distraint for the tax due.

[63-3062, added 1959, ch. 299, sec. 61, p. 613; am. 1961, ch. 328, sec. 23, p. 622; am. 2004, ch. 28, sec. 6, p. 49.]

63-3063. COLLECTION BY DISTRAINT NOT EXCLUSIVE. The distraint provisions of this act shall not be deemed exclusive but shall be in addition to any and all other existing remedies provided by law for the enforcement of the revenue laws of the state of Idaho.

[63-3063, added 1959, ch. 299, sec. 63, p. 613.]

63-3064. OTHER REMEDIES PRESERVED. (a) Nothing in the act shall be construed so as to prohibit the commencing of any action at law by the state tax commission to collect any tax, interest, penalty, additional amount, or addition to such tax, due under the provisions of this act, whenever in the opinion of the state tax commission or the attorney general the commencement of such action is a more appropriate method of collecting such tax, interest, penalty, additional amount, or addition to such tax.
(b) The state tax commission is authorized to apply for and the court to grant a temporary or permanent injunction enjoining any person from violating or continuing to violate any of the provisions of this act or regulations promulgated under this act notwithstanding the existence of other remedies at law.

[63-3064, added 1959, ch. 299, sec. 64, p. 613; am. 1987, ch. 86, sec. 4, p. 163.]

63-3065. JEOPARDY ASSESSMENTS. (a) If the tax commission finds that a taxpayer is about to depart from the state of Idaho or to remove his property therefrom, or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partially ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the tax commission shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such findings and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of said taxes as is unpaid, whether or not the time otherwise allowed by law for filing returns and paying the tax has ex-

pired; and such taxes shall thereupon become immediately due and payable. The provisions of section 63-4003(1)(a), Idaho Code, shall not apply to a notice under this section and communications related thereto. In any proceedings in court brought to enforce payment of taxes made due and payable by virtue of the provisions of this section the finding of the tax commission, made as herein provided, whether made after notice to the taxpayer or not, shall be for all purposes prima facie evidence of the taxpayer's design.

(b) Collection procedures may be instituted immediately; however, any taxpayer deeming himself aggrieved by any act of the tax commission pursuant to the provisions of this section may, within sixty-three (63) days of receipt of said notice, petition the tax commission for a redetermination or commence action for refund or redetermination upon payment of the tax together with interest and penalty or upon filing a bond in the amount of the assessment.

(c) A taxpayer who is not in default in making any return or paying any taxes assessed under this chapter may furnish to the state of Idaho under regulations to be prescribed by the tax commission, security approved by the tax commission that he will duly make the return next thereafter required to be filed and pay the tax next thereafter required to be paid. The tax commission may approve and accept in like manner security for return and payment of taxes made due and payable by virtue of the provisions of this section.

(d) If security is approved and accepted pursuant to the provisions of this section and such further or other security with respect to the tax or taxes covered thereby is given as the tax commission shall from time to time find necessary and require, payment of such taxes shall not be enforced by any proceedings under the provisions of this section prior to the expiration of the time otherwise allowed for paying such respective taxes.

(e) In the case of a bona fide resident of the state of Idaho about to depart from the state of Idaho the tax commission may, at its discretion, waive any or all of the requirements placed upon the taxpayer by this section.

(f) If a taxpayer violates or attempts to violate this section there shall, in addition to all other penalties, be added as part of the tax twenty-five percent (25%) of the total amount of the tax or deficiency in the tax.

[63-3065, added 1959, ch. 299, sec. 65, p. 613; am. 1961, ch. 328, sec. 24, p. 622; am. 1967, ch. 294, sec. 10, p. 828; am. 1975, ch. 86, sec. 2, p. 178; am. 1987, ch. 86, sec. 5, p. 163; am. 1993, ch. 94, sec. 7, p. 234; am. 1994, ch. 172, sec. 5, p. 393; am. 2005, ch. 30, sec. 2, p. 142.]

63-3065A. JURISDICTION OVER NONRESIDENTS. A deficiency assessed and due and payable by a person not within the state may be prosecuted against such person by an action in any court having jurisdiction of the subject matter or in personam jurisdiction of such person in any action for taxes, penalty and interest owed the state tax commission. Notice shall be given and the action shall proceed in accordance with the applicable rules and statutes regulating civil procedure. In the event such notice shall be by publication, notice shall also be mailed by certified mail or secure electronic communication to such person at his last known address.

[I.C., sec. 63-3065A, as added by 1961, ch. 328, sec. 25, p. 622; am. 1996, ch. 42, sec. 2, p. 113; am. 2026, ch. 153, sec. 8, p. 702.]

63-3066. LEGAL ADVISER. The attorney general of the state shall be the legal counselor and adviser of the tax commission.

[63-3066, added 1959, ch. 299, sec. 66, p. 613; am. 1974, ch. 19, sec. 9, p. 524.]

63-3067. REVENUE RECEIVED -- STATE REFUND ACCOUNT. (1) A sum equal to the amount withheld under section 63-3035A, Idaho Code, shall be distributed fifty percent (50%) to the public school income fund to be utilized to facilitate and provide substance abuse programs in the public school system, and fifty percent (50%) shall be distributed to the counties to be utilized for county juvenile probation services. These funds shall be distributed quarterly to the counties based upon the percentage the population of the county bears to the population of the state as a whole.

(2) Except as may otherwise be provided by law, all moneys received by the state of Idaho under this chapter shall be deposited by the state tax commission, as received by it, with the state treasurer and shall be placed in and become a part of the general fund under the custody of the state treasurer. Provided, however, that an amount equal to twenty percent (20%) of the amount deposited with the state treasurer shall be placed in the state refund account, which is hereby created for the purpose of repaying overpayments and for the purpose of paying any other erroneous receipts illegally assessed or collected, penalties collected without authority, and taxes and licenses unjustly assessed or collected or that are excessive in amount. Whenever necessary for the purpose of making prompt payment of refunds, the board of examiners, upon request from the state tax commission and after review, may authorize the state tax commission to transfer any additional specific amount from income tax collections to the state refund account. There is appropriated out of the state refund account so much thereof as may be necessary for the payment of the refunds provided in this section. Claims for and payment of refunds under the provisions of this section shall be made in the same manner as other claims against the state of Idaho.

(3) Any unencumbered balance remaining in the state refund account on June 30 of each and every year in excess of the sum of five million dollars ($5,000,000) shall be transferred to the general fund, and the state controller is hereby authorized and directed on such dates to make such transfers unless the board of examiners, which is hereby authorized to do so, changes the date of transfer or sum to be transferred.

[63-3067, added 2022, 1st E.S., ch. 1, sec. 9, p. 7.]

63-3067A. INCOME TAX REFUND OR PAYMENT DESIGNATION BY INDIVIDUALS TO TRUST ACCOUNTS. (1) Every individual who:

(a) Has a refund due and payable for overpayment of taxes under this chapter may designate all or any portion thereof to be deposited in a trust account specified in subsection (3) of this section; or

(b) Has an income tax liability may, in addition to his tax obligation, include a donation to be deposited in a trust account specified in subsection (3) of this section.

(2) A designation under subsection (1) of this section may be made in any taxable year in such manner and form as prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(3) The trust accounts authorized to receive moneys designated under subsection (1) of this section are:

(a) The fish and game set-aside account created in section 36-111, Idaho Code;

(b) The children's trust fund created in section 39-6007, Idaho Code;
(c) The special olympics Idaho fund created in section 57-823, Idaho Code;
(d) The Idaho guard and reserve family support fund created in section 57-820, Idaho Code;
(e) The Idaho food bank fund created in section 57-824, Idaho Code;
(f) The veterans support fund created in section 65-209, Idaho Code; and
(g) The American red cross of greater Idaho fund created in section 57-821, Idaho Code.

(4) Prior to the distribution of funds into any of the trust accounts specified in subsection (3) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the accounts as follows: three thousand dollars ($3,000) from each account for start-up costs during the first year of collections, and three thousand dollars ($3,000) or twenty percent (20%) of the moneys remitted to each account during the fiscal year, whichever is less, from each account during each fiscal year thereafter, which amounts are hereby appropriated to the state tax commission.

[63-3067A, added 2019, ch. 116, sec. 3, p. 441.]

63-3067B. SUNSETTING DESIGNATIONS. (1) The designations referred to in section 63-3067A, Idaho Code, shall expire and no longer appear on the income tax return form when:

(a) For each of two (2) consecutive calendar years, the amount received by the state tax commission that is designated for a particular trust fund named in section 63-3067A, Idaho Code, fails to equal or exceed twenty thousand dollars ($20,000); and
(b) After one (1) year when collections fail to equal or exceed twenty thousand dollars ($20,000), the state tax commission has notified the appropriate agency that:
    (i) The amount received by the state tax commission that is designated for that particular trust fund failed to equal or exceed twenty thousand dollars ($20,000); and
    (ii) The amount received by the state tax commission that is designated for the particular trust fund in the next subsequent year fails to equal or exceed twenty thousand dollars ($20,000).

(2) As used in this section, "appropriate agency" means the agency of the state of Idaho that is responsible for administering the programs benefiting from the fund to which amounts designated under section 63-3067A, Idaho Code, are distributed. If no agency of the state of Idaho has such responsibility, the term means such other private or public entity that is the principal beneficiary of the funds.

(3) The state tax commission shall report annually to the house revenue and taxation committee on the trust funds that have failed to meet the necessary monetary threshold for collections for the prior two (2) years.

[(63-3067B) 63-3067C, added 1997, ch. 177, sec. 1, p. 495; am. and redesig. 2019, ch. 116, sec. 4, p. 442.]

63-3067D. DESIGNATION BY TAXPAYER -- OPPORTUNITY SCHOLARSHIP. (1) Every taxpayer who has a refund due and payable for overpayment of taxes under the provisions of this chapter may designate any portion of such refund to be

remitted to the state board of education or the board of regents of the university of Idaho for the purpose of awarding opportunity scholarships pursuant to chapter 56, title 33, Idaho Code. Every taxpayer who has an income tax liability may, in addition to his tax obligation, include a donation of any amount to be remitted to the state board of education for the purpose of awarding opportunity scholarships pursuant to section 33-4303, Idaho Code. Such moneys shall be deposited into the opportunity scholarship program account pursuant to section 33-4303, Idaho Code.

(2) A designation under subsection (1) of this section may be made in any taxable year in such manner and form as prescribed by the state tax commission. The manner and form so prescribed shall be a conspicuous portion of the principal form provided for the purpose of individual taxation.

(3) Prior to the distribution of funds into the opportunity scholarship program account as provided in subsection (1) of this section from the refund account, the state tax commission shall retain funds for the commission's costs for collecting and administering the moneys in the account as follows: three thousand dollars ($3,000) from the opportunity scholarship program account for start-up costs during the first year of collections, and three thousand dollars ($3,000) or twenty percent (20%) of the moneys remitted to the opportunity scholarship program account pursuant to this section during the fiscal year, whichever is less, from the opportunity scholarship program account during each fiscal year thereafter, which amounts are hereby appropriated to the state tax commission.

[63-3067D, added 2010, ch. 281, sec. 1, p. 758; am. 2016, ch. 32, sec. 3, p. 81.]

63-3068. PERIOD OF LIMITATIONS FOR ISSUING A NOTICE OF DEFICIENCY AND COLLECTION OF TAX. (a) Except as otherwise provided in this section, a notice of deficiency, as provided in section 63-3045, Idaho Code, for the tax imposed in this chapter shall be issued within three (3) years from either the due date of the return, without regard to extensions, or from the date the return was filed, whichever is later.

(b) If an assessment has been made as provided in this chapter, then such tax shall be collected either by levy, or by a proceeding brought in court, within a period of twelve (12) years from the date of entry of the record of assessment required by section 63-3045A, Idaho Code, of the tax and provided, further, that this shall not be in derogation of any of the remedies elsewhere provided in this chapter.

(c) In the case of a fraudulent return or a false return with the intent to evade the tax imposed in this chapter, or a willful attempt in any manner to defeat or evade the tax imposed in this chapter, a notice of deficiency may be issued, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time.

(d) In the case of a failure to file a return, for any reason, a notice of deficiency may be issued, the tax imposed in this chapter may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time, unless the taxpayer had a reasonable belief that no return was required to be filed under this chapter, in which case any deficiency, assessment, or proceeding for collection of such tax shall be commenced within three (3) years of the time the return was due.

(e) In the case of income received during the lifetime of a decedent, or by his estate during the period of administration, a notice of deficiency shall be issued, a claim shall be made, the tax shall be assessed or any pro-

ceeding in court without assessment for the collection of such tax shall be begun, within twelve (12) months after written request for prompt action is filed with the state tax commission by the executor, administrator, or other fiduciary representing the estate of such decedent. This subsection shall not apply if the return for which the request for prompt action relates has not been filed with the state tax commission.

(f) When Idaho taxable income or tax credits for any taxable year have been adjusted as a result of a final federal adjustment, the period of limitation for issuing a notice of deficiency shall be reopened and shall not expire until the later of one (1) year from the final determination date, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this section the term "final federal adjustment" shall have the same meaning as that term is defined in section 63-3070(2)(i), Idaho Code, and "final determination date" shall have the same meaning as that term is defined in section 63-3070(2)(h), Idaho Code. When the final federal adjustment is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (a) and (m) of this section, only those specific items of income, deductions, gains, losses, or credits which were adjusted in the final federal adjustment shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(g) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the credit, net operating loss, or capital loss claimed in such other tax year may be made and a resulting notice of deficiency may be issued even though such notice of deficiency would otherwise be barred under the provisions of this section.

(h) Notwithstanding any other provisions of this section, when an amended Idaho return is filed within the period of limitations as provided in subsections (a) and (m) of this section, the period of limitations for issuing a notice of deficiency shall be three (3) years from the date the amended return was filed. However, upon the expiration of the period of limitations as provided in subsections (a) and (m) of this section, only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended Idaho return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(i) If a taxpayer has filed an amended federal return, and no corresponding Idaho amended return has been filed with the state tax commission, then the period of limitations for issuing a notice of deficiency shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the taxpayer of the amended federal return. However, upon the expiration of the period of limitations as provided in subsections (a) and (m) of this section, then only those specific items of income, deductions, gains, losses, or credits, which were adjusted in the amended federal return shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(j) Notwithstanding any other provisions of this section, a notice of deficiency, related to items on the return of any pass-through entity, as defined in this section, which other taxpayers are required by law to report, shall be issued to such other taxpayers within the later of three (3) years from the due date of the other taxpayers' return, without regard to extensions, three (3) years from the date the other taxpayers' returns were filed, or three (3) years from the date of filing of the pass-through entity's return. If the pass-through entity files an amended return, notices of deficiency may be issued to the other taxpayers within three (3) years from the date the amended return for the pass-through entity was filed with the state tax commission. If the pass-through entity files an amended return with the internal revenue service, or the internal revenue service issues a final determination to the pass-through entity, then the period of limitations for issuing a notice of deficiency to the other taxpayers shall be reopened and shall not expire until three (3) years from the date of delivery to the tax commission by the pass-through entity of the amended federal return or the later of one (1) year from the date of delivery to the state tax commission by the pass-through entity of the final federal adjustment, three (3) years from the due date of the pass-through entity's return, without regard to extensions, or three (3) years from the date the pass-through entity's return was filed.

(k) For purposes of this section, "pass-through entity" means a partnership, S corporation, trust, limited liability company or any other entity whose items of income, deductions, gains, losses and credits must be reported by other taxpayer(s). For further purposes of this section, the term "other taxpayer" shall include, by way of unlimiting example, such taxpayers as partners, shareholders, beneficiaries, joint venturers or investors.

(l) In the case of a duplicate return filed under section 63-217(1)(b), Idaho Code, the limitation under this section shall be the later of one (1) year from the filing of the duplicate return or the date otherwise applicable under this section.

(m) Prior to the expiration of the time prescribed in this section for the issuance of a notice of deficiency for the tax imposed in this chapter, both the state tax commission, its delegate or deputy, and the taxpayer may consent in writing to extend the period of time within which a notice of deficiency may be issued. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When a pass-through entity extends the period of limitations in accordance with this subsection, the period of limitations for the other taxpayers is automatically extended for the same period for the purpose of issuing a notice of deficiency to the other taxpayers reflecting the adjustments to the pass-through entity's return.

(n) The expiration of the period of limitations as provided in this section shall be suspended for the time period during which the state tax commission is prohibited from issuing a notice of deficiency, making the assessment, or from collecting by levy or a proceeding in court, and for thirty (30) days thereafter.

(o) For the purposes of this section, "return" includes a notice of deficiency determination issued by the state tax commission when no return was filed by the taxpayer. Such a return is deemed filed on the date the taxes determined by the state tax commission are assessed.

[63-3068, added 1993, ch. 47, sec. 2, p. 119; am. 1995, ch. 111, sec. 34, p. 378; am. 1996, ch. 44, sec. 1, p. 114; am. 1997, ch. 113, sec. 4, p.

280; am. 2002, ch. 35, sec. 11, p. 78; am. 2005, ch. 23, sec. 7, p. 71; am. 2008, ch. 10, sec. 1, p. 13; am. 2013, ch. 244, sec. 2, p. 591; am. 2025, ch. 302, sec. 5, p. 1285; am. 2026, ch. 81, sec. 2, p. 428.]

63-3069. NOTICE OF ADJUSTMENT OF FEDERAL OR STATE TAX LIABILITY. (1) Upon final determination of any deficiency or refund of federal taxes, the taxpayer is required to send written notice to the state tax commission within one hundred eighty (180) days of the final determination date.

(2) Upon final determination of any deficiency or refund of income tax due to another state or territory to which the credit for taxes paid another state or territory applies, as provided in section 63-3029, Idaho Code, the taxpayer is required to send written notice to the state tax commission within one hundred eighty (180) days of the final determination date.

(3) If the notice required by this section is not sent by the taxpayer to the state tax commission within one hundred eighty (180) days of the final determination date, the taxpayer will be subject to the negligence penalty provided by section 63-3046, Idaho Code.

(4) As used in this section, "final determination date" has the same meaning as that term is defined in section 63-3070(2)(h), Idaho Code.

(5) A taxpayer subject to a federal audit is eligible to make estimated payments to the state tax commission in the same manner as provided in section 63-3070(6), Idaho Code.

[63-3069, added 1959, ch. 299, sec. 69, p. 613; am. 2000, ch. 18, sec. 1, p. 35; am. 2018, ch. 6, sec. 1, p. 11; am. 2026, ch. 81, sec. 3, p. 430.]

63-3069A. SPECIAL STATUTE OF LIMITATIONS. When a final determination of any income tax due to another state or territory changes the amount of the credit for taxes paid to another state or territory as provided in section 63-3029, Idaho Code:

(1) A claim for any credit or refund resulting from the change shall be filed within the later of:

(a) The time required by section 63-3072, Idaho Code; or

(b) One (1) year of the date the adjustment became final under the laws of the other state or territory.

(2) The period of limitation for issuing a notice of deficiency shall not expire until the later of:

(a) The time provided by section 63-3068, Idaho Code; or

(b) One (1) year from the date of delivery to the state tax commission by the taxpayer of the notice required by section 63-3069, Idaho Code.

[63-3069A, added 2000, ch. 18, sec. 2, p. 35.]

63-3070. PARTNERSHIP INCOME -- FEDERAL ADJUSTMENTS. (1) The definitions set forth in this chapter shall apply to this section unless modified in this section or unless the context clearly requires another definition.

(2) As used in this section:

(a) "Administrative adjustment request" means a request for an administrative adjustment filed by a partnership under section 6227 of the Internal Revenue Code.

(b) "Audited partnership" means a partnership subject to a partnership-level audit resulting in a federal adjustment.

(c) "Corporate partner" means a partner subject to tax under section 63-3025 or 63-3025A, Idaho Code.

(d) "Direct partner" means a partner that holds an interest directly in a partnership or pass-through entity.

(e) "Exempt partner" means a partner that is exempt from taxation under this chapter except on unrelated business taxable income.

(f) "Federal adjustment" means a change to an item or amount determined by the Internal Revenue Code that is used by a taxpayer to compute Idaho state income tax owed, whether that change results from action by the internal revenue service, including a partnership-level audit, or from the filing of an amended federal return, a federal refund claim, or an administrative adjustment request by the taxpayer.

(g) "Federal partnership representative" means the person the partnership designates for the taxable year as the partnership's representative or the person the internal revenue service has appointed to act as the federal partnership representative pursuant to section 6223(a) of the Internal Revenue Code.

(h) "Final determination date" means the following:

(i) Except as provided in subparagraphs (ii) and (iii) of this paragraph, if the federal adjustment arises from an internal revenue service audit or other action by the internal revenue service, the final determination date is the first day on which no federal adjustments arising from that audit or other action remain to be finally determined, whether by internal revenue service decision with respect to which all rights of appeal have been waived or exhausted, by agreement, or, if appealed or contested, by a final decision with respect to which all rights of appeal have been waived or exhausted. For agreements required to be signed by a representative of the internal revenue service and the taxpayer, the final determination date is the date on which the last party signed the agreement.

(ii) For federal adjustments arising from an internal revenue service audit or other action by the internal revenue service, if the taxpayer filed as a member of a combined report or consolidated return under Idaho law, the final determination date is the first day on which no related federal adjustments arising from such audit remain to be finally determined, as described in subparagraph (i) of this paragraph for the entire group.

(iii) If the federal adjustment results from filing an amended federal return, a federal refund claim, or an administrative adjustment request, or if it is a federal adjustment reported on an amended federal return or other similar report filed pursuant to section 6225 (c) of the Internal Revenue Code, the final determination date is the day on which the amended return, refund claim, administrative adjustment request, or other similar report was filed.

(i) "Final federal adjustment" means a federal adjustment that can no longer be modified because the final determination date for that federal adjustment has passed.

(j) "Indirect partner" means a partner in a partnership or pass-through entity that itself holds an interest directly or through another indirect partner in a partnership or pass-through entity.

(k) "Nonresident partner" means an individual, trust, or estate partner that is not a resident partner.

(l) "Partner" means a person that holds an interest directly or indirectly in a partnership or other pass-through entity.

(m) "Partnership-level audit" means an examination by the internal revenue service at the partnership level pursuant to sections 6221 through 6241 of the Internal Revenue Code, as amended by P.L. 114-74 and as in effect on November 2, 2015, that results in federal adjustments.

(n) "Reallocation adjustment" means a federal adjustment resulting from a partnership-level audit or an administrative adjustment request that changes the share of one (1) or more items of partnership income, gain, loss, expense, or credit allocated to direct partners.

(o) "Report of federal adjustments" means the taxpayer's report of final federal adjustments to the Idaho state tax commission, including an amended Idaho income tax return, information return, or a uniform multistate report.

(p) "Resident partner" means an individual, trust, or estate partner that is a resident in Idaho under section 63-3013, Idaho Code, for the relevant tax period.

(q) "Reviewed year" means the taxable year of a partnership that is subject to a partnership-level audit from which federal adjustments arise.

(r) "Tiered partner" means any partner that is a partnership or pass-through entity.

(s) "Unrelated business taxable income" has the same meaning as provided in section 512(a) of the Internal Revenue Code.

(3) Unless an election has been made pursuant to section 63-3026B, Idaho Code, a taxpayer shall report and pay any Idaho tax due with respect to final federal adjustments arising from an audit or other action by the internal revenue service or reported by the taxpayer on a timely filed amended federal income tax return, including a return or other similar report filed pursuant to section 6225(c)(2) of the Internal Revenue Code, or a federal claim for refund, by filing a report of federal adjustments with the state tax commission for the reviewed year and, if applicable, paying the additional Idaho tax owed by the taxpayer no later than one hundred eighty (180) days after the final determination date. This requirement shall not apply in the case of final federal adjustments required to be reported by a partnership and its partners using the procedures set forth in subsection (4) of this section and final federal adjustments required to be reported for federal purposes pursuant to section 6225(a)(2) of the Internal Revenue Code. If an election has been made pursuant to section 63-3026B, Idaho Code, the procedures and time frames set forth in this section shall apply to the electing partnership rather than the individual partners.

(4) Except for adjustments required to be reported for federal purposes pursuant to section 6225(a)(2) of the Internal Revenue Code and the distributive share of adjustments that has been reported as required under subsection (3) of this section, partnerships and partners shall report final federal adjustments arising from a partnership-level audit or an administrative adjustment request and make payments as follows:

(a) A state partnership representative shall act on behalf of the partnership as follows:

(i) With respect to an action required or permitted to be taken by a partnership under this subsection, and a proceeding under section 63-3048, Idaho Code, with respect to that action, the

state partnership representative for the reviewed year shall have the sole authority to act on behalf of the partnership. The partnership's direct partners and indirect partners shall be bound by those actions.

(ii) The state partnership representative for the reviewed year is the partnership's federal partnership representative unless the partnership designates in writing another person as its state partnership representative.

(iii) The state tax commission may establish reasonable qualifications and procedures for designating a person other than the federal partnership representative to be the state partnership representative.

(b) Final federal adjustments subject to the requirements of this subsection, except for those subject to a properly made election pursuant to paragraph (c) of this subsection, shall be reported as follows:

(i) No later than ninety (90) days after the final determination date, the partnership shall:

1. File a completed report of federal adjustments, including information required by Idaho law, with the state tax commission;

2. Notify each of its direct partners of their distributive share of the final federal adjustments, including information required by the state tax commission; and

3. File an amended composite return for direct partners as required pursuant to section 63-3022L, Idaho Code, or an amended withholding return for direct partners as required pursuant to section 63-3035, Idaho Code, and pay the additional amount pursuant to sections 63-3024 and 63-3025, Idaho Code, that would have been due had the final federal adjustments been reported properly as required.

(ii) Except as provided under section 63-3025, Idaho Code, no later than one hundred eighty (180) days after the final determination date, each direct partner taxed pursuant to section 63-3025, Idaho Code, shall:

1. File a report of federal adjustments reporting its distributive share of the adjustments reported under subparagraph (i)2. of this paragraph, as required under section 63-3069, Idaho Code; and

2. Pay any additional amount of tax due as if the report of federal adjustments had been properly reported, plus any interest and penalty due under sections 63-3045, 63-3046, and 63-3075, Idaho Code, and less any credit for related amounts paid or withheld and remitted on behalf of the direct partner under subparagraph (i)3. of this paragraph.

(c)(i) Subject to the limitations provided in subparagraph (iii) of this paragraph, an audited partnership making an election under this paragraph shall, no later than ninety (90) days after the final determination date, file a completed report of federal adjustments, including the information required by section 63-3069, Idaho Code, and notify the state tax commission that it is making the election under this subsection.

(ii) Subject to the limitations provided in subparagraph (iii) of this paragraph, an audited partnership making an election under

this paragraph shall, no later than one hundred eighty (180) days after the final determination date, pay, in lieu of taxes owed by its direct and indirect partners, an amount determined according to this subparagraph as follows:

1. Exclude from final federal adjustments the distributive share of these adjustments reported to a direct exempt partner not subject to tax under section 63-3025, Idaho Code;

2. For the total distributive shares of the remaining final federal adjustments reported to direct corporate partners subject to tax under section 63-3025, Idaho Code, and to direct exempt partners subject to tax under section 63-3025, Idaho Code, apportion and allocate such adjustments as provided in section 63-3027, Idaho Code, and multiply the resulting amount by the highest tax rate under section 63-3024, Idaho Code;

3. For the total distributive shares of the remaining final federal adjustments reported to nonresident direct partners subject to tax under section 63-3024, Idaho Code, determine the amount of the adjustments that is Idaho source income under section 63-3026A, Idaho Code, and multiply the resulting amount by the highest tax rate under section 63-3024, Idaho Code;

4. For the total distributive shares of the remaining final federal adjustments reported to tiered partners:

(A) Determine the amount of the adjustments of a type subject to sourcing to Idaho under section 63-3026A, Idaho Code, then determine the portion of this amount that would be sourced to Idaho by applying rules promulgated by the state tax commission;

(B) Determine the amount of the adjustments of a type not subject to sourcing to Idaho by a nonresident partner under section 63-3026A, Idaho Code;

(C) Of the amount determined in subparagraph (ii)4.(A) and (B) of this paragraph, determine the portion that, pursuant to rules promulgated by the state tax commission, is properly allocable to nonresident indirect partners or other partners not subject to tax on the adjustments or the portion that can be excluded under procedures for alternative reporting and payment method allowed under paragraph (e) of this subsection;

5. Multiply the total of the amounts determined in subparagraph (ii)4.(A) and (B) of this paragraph reduced by the amount determined in subparagraph (ii)4.(C) of this paragraph by the highest tax rate under section 63-3024, Idaho Code;

6. For the total distributive shares of the remaining final federal adjustments reported to resident direct partners subject to tax under section 63-3024, Idaho Code, multiply that amount by the highest tax rate under section 63-3024, Idaho Code; and

7. Add the amounts determined in subparagraph (ii)2., 3., 5., and 6. of this paragraph, along with interest

and penalty as provided in sections 63-3045, 63-3046, and 63-3075, Idaho Code.

(iii) Final federal adjustments subject to this election exclude:

1. The distributive share of final audit adjustments that under section 63-3027, Idaho Code, and rules promulgated by the state tax commission, must be included in the unitary business income of any direct or indirect corporate partner, provided it can be reasonably determined by the audited partnership; and

2. Any final federal adjustments resulting from an administrative adjustment request.

(iv) An audited partnership not otherwise subject to any reporting or payment obligation to the state of Idaho that makes an election under this subsection consents to be subject to Idaho laws relating to reporting, assessment, payment, and collection of Idaho tax calculated under the election.

(d) The direct and indirect partners of an audited partnership that are tiered partners, and all of the partners of those tiered partners that are subject to tax under sections 63-3024 and 63-3025, Idaho Code, are subject to the reporting and payment requirements of paragraph (b) of this subsection, and the tiered partners are entitled to make the elections provided in paragraphs (c) and (e) of this subsection. The tiered partners or their partners shall make the required reports and payments no later than ninety (90) days after the time for filing and furnishing statements to tiered partners and their partners as established under section 6226 of the Internal Revenue Code and the federal regulations thereunder. The state tax commission may promulgate rules to establish procedures and interim time periods for the reports and payments required by tiered partners and their partners and for making the elections under this subsection.

(e) Under procedures adopted by the state tax commission, an audited partnership or tiered partner may enter into an agreement with the state tax commission to use an alternative reporting and payment method, including applicable time requirements or any other provision of this subsection, if the audited partnership or tiered partner demonstrates that the requested method will reasonably provide for the reporting and payment of taxes, penalties, and interest due under the provisions of this subsection. Application for approval of an alternative reporting and payment method must be made by the audited partnership or tiered partner within the time for election as provided in this paragraph or paragraph (c) of this subsection, as appropriate.

(f)(i) The election made pursuant to paragraph (c) or (e) of this subsection is irrevocable unless the state tax commission, in its discretion, determines otherwise.

(ii) If properly reported and paid by the audited partnership or tiered partner, or by a partnership that has filed an election under section 63-3026B, Idaho Code, the amount determined in paragraph (c)(ii) of this subsection, or similarly under an optional election under paragraph (e) of this subsection, will be treated as paid in lieu of taxes owed by its direct and indirect partners, to the extent applicable, on the same final federal adjustments. The direct partners or indirect partners may not take any deduc-

tion or credit for this amount or claim a refund of the amount in this state. Nothing in this paragraph precludes a direct resident partner from claiming a credit against taxes paid to this state pursuant to section 63-3029, Idaho Code, for any amounts paid by the audited partnership or tiered partner on the resident partner's behalf to another state or local tax jurisdiction in accordance with the provisions of section 63-3029, Idaho Code.

(g) Nothing in this section shall be construed to prevent the state tax commission from assessing direct partners or indirect partners for taxes they owe, using the best information available, in the event that a partnership or tiered partner fails for any reason to timely make any report or payment required by this section or by section 63-3026B, Idaho Code.

(5) The state tax commission shall make adjustments as needed for any additional tax, interest, and penalties arising from final federal adjustments arising from an audit by the internal revenue service, including a partnership-level audit, or reported by the taxpayer on an amended federal income tax return or as part of an administrative adjustment request by the dates provided in this subsection.

(a) If a taxpayer files with the state tax commission a report of federal adjustments or an amended Idaho tax return as required within the period specified in subsection (3) or (4) of this section, the state tax commission may adjust any amounts, including in-lieu-of amounts, taxes, interest, and penalties arising from those federal adjustments if the state tax commission issues a notice of deficiency determination to the taxpayer no later than:

(i) The expiration of the limitations period specified in section 63-3068 or 63-3072, Idaho Code; or

(ii) The expiration of the one (1) year period following the date of the filing with the state tax commission of the report of federal adjustments.

(b) If the taxpayer fails to file the report of federal adjustments within the period specified in subsection (3) or (4) of this section, as appropriate, or the report of federal adjustments filed by the taxpayer omits final federal adjustments or understates the correct amount of tax owed, the state tax commission may assess amounts or additional amounts, taxes, interest, and penalties arising from the report of federal adjustments if it mails a notice of deficiency determination to the taxpayer by a date that is the latest of the following:

(i) The expiration of the limitations period specified in section 63-3068, Idaho Code;

(ii) The expiration of the one (1) year period following the date the report of federal adjustments was filed with the state tax commission; or

(iii) Absent fraud, the expiration of the six (6) year period following the final federal determination date.

(6) A taxpayer may make estimated payments to the state tax commission, following the process prescribed by the state tax commission, of Idaho tax expected to result from a pending internal revenue service audit prior to the due date of the report of federal adjustments without having to file the report with the state tax commission. The estimated tax payments shall be credited against any tax liability ultimately found to be due to Idaho and shall limit the accrual of further statutory interest on that amount. If the

estimated tax payments exceed the final tax liability and statutory interest ultimately determined to be due, the taxpayer is entitled to a refund or credit for the excess, provided the taxpayer files a report of federal adjustments claiming a refund or credit of tax pursuant to section 63-3072, Idaho Code, no later than one (1) year following the final federal determination.

(7)(a) Except for final federal adjustments required to be reported for federal purposes under section 6225(a)(2) of the Internal Revenue Code, a taxpayer may file a claim for refund or credit of tax arising from federal adjustments made by the internal revenue service on or before the later of:

(i) The expiration of the last day for filing a claim for refund or credit of Idaho tax pursuant to section 63-3072, Idaho Code, including any extensions; or

(ii) One (1) year from the date a report of federal adjustments prescribed in subsection (3) or (4) of this section, as applicable, was due to the state tax commission, including any extensions pursuant to subsection (8) of this section.

(b) The report of federal adjustments shall serve as the means for the taxpayer to report additional tax due, report a claim for refund or credit of tax, and make other adjustments, including to its net operating losses, resulting from adjustments to the taxpayer's federal taxable income.

(8)(a) Unless otherwise agreed in writing by the taxpayer and the state tax commission, any adjustments by the state tax commission or by the taxpayer made after the expiration of the time period set forth in section 63-3068, Idaho Code, shall be limited to changes to the taxpayer's tax liability arising from federal adjustments.

(b) The time periods provided for in section 63-3069, Idaho Code, may be extended:

(i) Automatically, upon written notice to the state tax commission, by sixty (60) days for an audited partnership or tiered partner that has ten thousand (10,000) or more direct partners; or

(ii) By written agreement between the taxpayer and the state tax commission pursuant to section 63-3068(m), Idaho Code.

(c) Any extension granted under this subsection for filing the report of federal adjustments extends the last day prescribed by law for assessing any additional tax arising from the adjustments to federal taxable income and the period for filing a claim for refund or credit of taxes pursuant to section 63-3068, Idaho Code.

[63-3070, added 2026, ch. 81, sec. 4, p. 430.]

63-3071. DESTRUCTION OF OLD RETURNS. After the expiration of the period of limitations fixed in section 63-3068, Idaho Code, the state tax commission may destroy old returns unless an earlier destruction is authorized in section 63-218, Idaho Code.

[63-3071, added 1959, ch. 299, sec. 71, p. 613; am. 2008, ch. 5, sec. 2, p. 7.]

63-3072. CREDITS AND REFUNDS. (a) Subject to the provisions of subsections (b), (c) and (h) of this section, where there has been an overpayment of the tax imposed by the provisions of this chapter, the amount of such over-

payment shall be credited against any tax administered by the state tax commission which tax is then due from the taxpayer, and any balance of such excess shall be refunded to the taxpayer.

(b) Except in regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, or amounts paid as backup withholding under section 63-3036B, Idaho Code, a claim for refund of tax, penalties, or interest paid shall be made within the later of three (3) years of the due date of the return, without regard to extensions, or three (3) years from the date the return was filed, and a claim for credit of tax, penalties, or interest paid shall be made within the later of ten (10) years of the due date of the return, without regard to extensions, or ten (10) years from the date the return was filed. However, with regard to remittances received with an extension of time to file, or a tentative return, a claim for credit or refund of such remittances shall be made within three (3) years from the due date of the return without regard to extensions.

(c) With regard to amounts withheld as provided in section 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under section 63-3036A, Idaho Code, or amounts paid as backup withholding under section 63-3036B, Idaho Code, a claim for refund shall be made within three (3) years from the due date of the return, without regard to extensions, for the taxable year in respect to which the tax was withheld or paid, and a claim for credit shall be made within ten (10) years from the due date of the return, without regard to extensions, for the taxable year with respect to which the tax was withheld or paid. However, with regard to an individual who is entitled to an extension of time as provided in section 7508 of the Internal Revenue Code, the three (3) year period provided in this subsection for claiming a credit or refund shall be extended by the number of days disregarded under section 7508 of the Internal Revenue Code.

(d) Notwithstanding any other provisions of this section, when Idaho taxable income and/or tax credits for any taxable year have been adjusted as a result of a final federal adjustment, the period of limitations for claiming a refund or credit of tax, penalties, or interest shall be reopened and shall not expire until the later of one (1) year from the final determination date, three (3) years from the due date of the return, without regard to extensions, or three (3) years from the date the return was filed. For purposes of this subsection, the term "final federal adjustment" shall have the same meaning as that term is defined in section 63-3070(2)(i), Idaho Code, and "final determination rate" shall have the same meaning as that term is defined in section 63-3070(2)(h), Idaho Code. When the final federal adjustment is submitted, the taxpayer shall also submit copies of all schedules and written explanations provided by the internal revenue service. Upon the expiration of the period of limitations as provided in subsections (b) and (h) of this section, only those specific items of income, deductions, gains, losses or credits which were adjusted in the final federal adjustment shall be subject to adjustment for purposes of recomputing Idaho income, deductions, gains, losses, credits, and the effect of such adjustments on Idaho allocations and apportionments.

(e) If a claim for credit or refund relates to an overpayment attributable to a net operating loss carryback incurred in a taxable year commencing in 2012 or earlier, or a capital loss carryback, in lieu of the period of limitations prescribed in subsection (b) of this section, the period shall be that period which ends with the expiration of the fifteenth day of the for-

tieth month following the end of the taxable year of the net operating loss or capital loss which results in such carryback. Claims for net operating losses carried back from taxable years commencing after 2012 shall be made pursuant to section 63-3022, Idaho Code.

(f) If an adjustment, which was made within the period of limitations as provided in this section, affects the amount of tax credit, net operating loss, or capital loss, claimed in a taxable year other than the tax year in which the adjustment is made, then adjustments to the credit, net operating loss, or capital loss, claimed in such other tax year may be made and a claim for credit or refund of tax, penalties or interest may be made even though such claim would otherwise be barred under the provisions of this section.

(g) In the case of a duplicate return filed under section 63-217(1)(b), Idaho Code, the limitations under this section shall be the later of one (1) year from the filing of the duplicate return or the date otherwise applicable under this section.

(h) Prior to the expiration of the time prescribed in this section for credit or refund of any tax imposed by the provisions of this chapter, both the state tax commission or its delegate or deputy and the taxpayer may consent in writing to extend such period of time. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon. When a pass-through entity extends the period of limitations in accordance with the provisions of this subsection the period of limitations for the other taxpayers is automatically extended for the same period for the purpose of claiming a credit or refund of tax, penalties or interest by the other taxpayers reflecting the pass-through entity adjustments.

(i) The expiration of the period of limitations as provided in this section shall be suspended for the time period between the issuance by the state tax commission of a notice under either section 63-3045 or 63-3065, Idaho Code, and the final resolution of any proceeding resulting from the notice.

(j) Appeal of a state tax commission decision denying in whole or in part a claim for credit or refund shall be made in accordance with and within the time limits prescribed in section 63-3049, Idaho Code.

(k) For purposes of this section, "return" includes a notice of deficiency determination issued by the state tax commission when no return was filed by the taxpayer. Such a return is deemed filed on the date the taxes determined by the state tax commission are assessed.

[63-3072, added 1993, ch. 47, sec. 3, p. 122; am. 1996, ch. 44, sec. 2, p. 117; am. 2001, ch. 56, sec. 4, p. 105; am. 2002, ch. 35, sec. 12, p. 80; am. 2007, ch. 10, sec. 4, p. 16; am. 2011, ch. 45, sec. 2, p. 103; am. 2013, ch. 4, sec. 5, p. 11; am. 2013, ch. 112, sec. 2, p. 271; am. 2022, ch. 311, sec. 1, p. 1002; am. 2026, ch. 81, sec. 5, p. 437.]

63-3073. INTEREST ON REFUNDS AND CREDITS. Upon the allowance of a credit or refund of any tax erroneously or illegally assessed or collected, or of any penalty collected without authority, or of any sum which was excessive or in any manner wrongfully collected, interest shall be allowed and paid on the amount of such credit or refund at the rate provided in section 63-3045, Idaho Code, from the date such tax, penalty, or sum was paid or from the date the return was required to be filed, whichever date is the later, to the date of the allowance of the refund, or in the case of a credit, to the due date of the amount against which the credit is taken; provided, however, that in case of a voluntary and unrequested payment in excess of actual tax

liability, no interest shall be allowed when such excess is refunded or credited.

Interest on refunds resulting from net operating loss carryback claims or from capital loss carryback claims shall be computed from the last day of the taxable year in which the net operating loss or capital loss arises.

[63-3073, added 1959, ch. 299, sec. 73, p. 613; am. 1969, ch. 319, sec. 19, p. 982; am. 1976, ch. 270, sec. 3, p. 915; am. 1981, ch. 290, sec. 2, p. 598; am. 1997, ch. 57, sec. 14, p. 107; am. 1998, ch. 51, sec. 3, p. 205.]

63-3074. ACTIONS AGAINST STATE OF IDAHO. The state tax commission may be made a party defendant in a civil action by any person aggrieved under this chapter or any other chapter in which this section is expressly incorporated by reference by the unlawful seizure or sale of his property, or in any suit for refund or to recover an overpayment, but only the state of Idaho shall be responsible for any final money judgment secured against the state tax commission, and said judgment shall be paid or satisfied out of the state refund fund created by section 63-3067, Idaho Code. No seizure or sale shall be considered unlawful if it occurs in the collection of any deficiency which was included in the person's tax return or asserted in a notice of deficiency determination pursuant to section 63-3045 or 63-3629, Idaho Code, or in a jeopardy assessment pursuant to the provisions of section 63-3629 or 63-3065, Idaho Code.

[63-3074, added 1959, ch. 299, sec. 74, p. 613; am. 1971, ch. 214, sec. 3, p. 936; am. 1993, ch. 3, sec. 6, p. 15.]

63-3075. PENALTIES. (a) Any person required under this act to pay any tax, or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information, for the purposes of the computation, assessment, or collection of any tax imposed by this act, who wilfully fails to pay such tax, make such returns, keep such records, or supply such information at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and, upon conviction thereof, be fined not more than three hundred dollars ($300), or imprisoned for not more than six (6) months or both.

(b) Any person required under this act to collect, account for and pay over any tax imposed by this act, who wilfully fails to collect or truthfully account for and pay over such tax, and any person who wilfully attempts in any manner to evade or defeat any tax imposed by this act or the payment thereof, shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, be fined not more than ten thousand dollars ($10,000), or imprisoned for not more than five (5) years or both.

(c) Any person who wilfully aids or assists in, or procures, counsels, or advises, the preparation or presentation under, or in connection with any matter arising under, this act, of a false or fraudulent return, affidavit, claim, or document, shall (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document) be guilty of a felony and, upon conviction thereof, be fined not more than ten thousand dollars ($10,000), or imprisoned for not more than five (5) years, or both.

(d) Notwithstanding the provisions of sections 19-402 and 19-403, Idaho Code, no person shall be prosecuted, tried, or punished for any of the

offenses contained in subsections (a), (b), or (c) of this section, unless the complaint or indictment is filed within six (6) years from the commission of the offense.

[63-3075, added 1959, ch. 299, sec. 75, p. 613; am. 1989, ch. 363, sec. 1, p. 909.]

63-3076. PENALTY FOR DIVULGING INFORMATION. In regard to the administration of the taxes imposed by this chapter or by any other statute to which this section and section 63-3077, Idaho Code, expressly apply:

(1) No state tax commissioner, deputy, or any clerk, agent, contractor or employee, or any centralized state computer facility employee or any person formerly employed in any such position shall knowingly divulge or make known to any person in any manner any tax return or tax information whatsoever obtained directly or indirectly by him in the discharge of his duties, except as provided by statute, court order or rules of the state tax commission promulgated under this section or section 63-3077, Idaho Code.

(2) In any action or proceeding brought for the collection, remission, cancellation or refund of the whole or any part of a tax imposed under the provisions of this chapter, or for enforcing the penalties prescribed for making false or fraudulent returns, any and all information contained in such returns and tax information may be furnished or made accessible to the officers or representatives of the state or county charged with the duty of investigating, prosecuting or defending the same; and all such returns and tax information and the statements and correspondence relating thereto may be produced in evidence in any action or proceeding, civil or criminal, directly pertaining to such returns or the tax imposed on the basis of such return. In addition, the state tax commission may provide information in its possession to a law enforcement agency or prosecutor pursuant to the investigation or prosecution of an offense under section 18-915, 18-1353, 18-1353A, 18-1354, 18-1355 or 18-6710, Idaho Code, when the victim of such an offense is, or at the time of the action was, a member, employee or agent of the state tax commission.

(3) A copy of all or any portion of a federal return, or information reflected on such federal return, which may be attached to an Idaho return, or otherwise come into the possession of any commissioner, deputy, clerk, agent, contractor or employee, or any employee of a centralized state computer facility, shall not be disclosed in any manner whatsoever other than as authorized by this section.

(4) Any officer, agent, clerk, contractor or employee who knowingly violates any of the provisions of this section shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000), or by imprisonment for not more than five (5) years. Such officer, agent, clerk, contractor or employee upon such conviction shall also forfeit his office, employment or contract and shall be incapable of holding any public office in this state for a period of two (2) years thereafter. Nothing in this subsection shall limit the state tax commission's ability to take disciplinary actions authorized in chapter 53, title 67, Idaho Code.

(5) As used in this section and section 63-3077, Idaho Code, the term:

(a) "Return" means any of the following whether required, provided for, or permitted by any statute administered by the state tax commission that is filed with the state tax commission by, for, or with respect to any person:

(i) Any tax or information return;
(ii) Declaration of estimated tax;
(iii) Claim for refund;
(iv) Any amendment or supplement thereto, including supporting schedules, attachments or lists that are supplemental to, or part of, the return.

(b) "Tax information" means:
(i) A taxpayer's identity;
(ii) The nature, source or amount of a taxpayer's income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments or tax payments;
(iii) The status of the processing or investigation of the taxpayer's liability;
(iv) Any other data received by, recorded by, prepared by, furnished to or collected by the state tax commission with respect to a return or with respect to the determination of the existence, or possible existence, of liability, or the amount thereof, of any person pursuant to the laws administered by the state tax commission for any tax, penalty, interest, fine, forfeiture, other imposition or offense;
(v) Any part of a written determination, or documents relating to a written determination, that is not open to public inspection; and
(vi) Information filed with, or furnished to, the state tax commission by or for the taxpayer to whom the information relates that is not otherwise public information.

[63-3076, added 1959, ch. 299, sec. 76, p. 613; am. 1969, ch. 319, sec. 20, p. 982, am. 1978, chl. 108, sec. 1, p. 225; am. 1979, ch. 48, sec. 1, p. 137; am. 1993, ch. 94, sec. 8, p. 235; am. 2000, ch. 297, sec. 1, p. 1025.]

63-3077. INFORMATION FURNISHED TO CERTAIN OFFICIALS. (1) The state tax commission, under such rules as it may prescribe, may disclose tax returns or tax information to:

(a) The commissioner of internal revenue of the United States or his delegate or the financial management services of the department of the treasury of the United States; or

(b) The proper officer of any state imposing a tax similar to a tax to which this section applies or the multistate tax commission or its delegate or the governing entity of the international fuels tax agreement or its delegate;

of any taxpayer making or who may be required to make returns, with the state tax commission or may furnish to such officer or his authorized representative an abstract or copy of any tax return or tax information or any information disclosed by the report of any audit or investigation relating to any taxpayer; but such permission shall be granted or information furnished to such officer or his representatives only if the statutes of the United States or such other state, as the case may be, grant substantially similar privileges to the state tax commission.

(2) Notwithstanding the provisions of this chapter as to secrecy, any duly constituted committee of either branch of the state legislature shall have the right to inspect returns upon request.

(3) Nothing in this chapter shall prohibit a taxpayer, or his authorized representative, upon proper identification, from inspecting or obtaining a copy of his own tax returns or tax information or authorizing, in writing, the disclosure of information to a third party.

(4) Any resident or part-year resident individual taxpayer making an income tax return shall furnish the state tax commission with the location of any residential property owned by the taxpayer and occupied by the taxpayer as his primary dwelling place on the first day of January of the year following the year to which the tax return relates. The state tax commission is hereby authorized and empowered to deliver to the county assessor of any county of the state of Idaho and the Idaho secretary of state information relating to a taxpayer's place of residence or domicile. The information may be used by county assessors and boards of equalization to assist in determining the validity of any homeowner's entitlement to the exemption provided in section 63-602G, Idaho Code. Each county assessor shall deliver to the state tax commission all information such assessor has received from a taxpayer pursuant to the provisions of section 63-602G(3), Idaho Code. All information relating to a taxpayer that is furnished to the Idaho secretary of state may be used by the Idaho secretary of state to assist in determining a person's residence for voting purposes as provided in section 34-107(2), Idaho Code, and for candidate qualifications as provided in section 34-701(3), Idaho Code. Information disclosed to county officials under this subsection may be used only for purposes described in this subsection and is not otherwise subject to public disclosure.

(5) The state tax commission additionally is authorized to utilize any centralized state computer facility.

(6) Nothing in this section or section 63-3076, Idaho Code, shall require the state tax commission to disclose information not required to be disclosed under the provisions of chapter 1, title 74, Idaho Code, or prevent the state tax commission from disclosing the current validity of any permit or license issued by the state tax commission or information that is otherwise publicly available.

[63-3077, added 1959, ch. 299, sec. 77, p. 613; am. 1961, ch. 328, sec. 28, p. 622; am. 1969, ch. 319, sec. 21, p. 982; am. 1972, ch. 398, sec. 6, p. 1149; am. 1992, ch. 9, sec. 1, p. 15; am. 1996, ch. 322, sec. 63, p. 1091; am. 2000, ch. 297, sec. 2, p. 1027; am. 2015, ch. 141, sec. 162, p. 508; am. 2024, ch. 168, sec. 2, p. 646.]

63-3077A. AGREEMENTS FOR EXCHANGE OF INFORMATION AND JOINT ADMINISTRATION WITH DEPARTMENT OF LABOR. (a) The state tax commission and the department of labor may enter into a written agreement for exchange of information relating to tax laws administered by the state tax commission and the employment security law administered by the department of labor. Any information so exchanged shall be confidential information in the hands of the recipient thereof and may be used only for the following:

(1) Determining whether the person to whom the information relates may have an undischarged duty or liability under the employment security law or the tax laws administered by the state tax commission, the amount of such liability, the person's whereabouts, social security number, and information helpful in collecting any liability due.

(2) Administering any joint agreement between the department of labor and the state tax commission relating to employment security taxes and

income tax withholding for the common registration of employers, common tax reporting forms, centralized filing and processing of forms.

(3) Administration of the state directory of new hires provided in chapter 16, title 72, Idaho Code.

(b) No such information shall be public information unless it is used in the course of a judicial proceeding arising under the employment security law or the tax laws administered by the state tax commission.

(c) An agreement made pursuant to this section may provide for the offset of any refunds owed to any person by either party to the agreement against any tax liability, overpayment of benefits liability, and any penalties and interest thereon owed to either party to the agreement. No offset may be made unless the liability against which it is applied is final, without any further right on the part of the person owing the liability to either administrative or judicial review.

[63-3077A, added 1985, ch. 23, sec. 1, p. 40; am. 1998, ch. 230, sec. 5, p. 787; am. 2006, ch. 38, sec. 4, p. 115; am. 2007, ch. 360, sec. 23, p. 1085.]

63-3077B. AGREEMENTS FOR EXCHANGE OF INFORMATION WITH INDUSTRIAL COMMISSION. The state tax commission and the industrial commission may enter into a written agreement for exchange of information relating to persons, firms, corporations, partnerships or associations who are or may be conducting business operations in this state. Such information shall be confidential to the recipient and may be used only for purposes of determining whether the person to whom the information relates may have an undischarged duty or obligation under the tax laws administered by the tax commission or may have an obligation to secure worker's compensation insurance coverage under the laws administered by the industrial commission. No such information shall be public information unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the tax commission shall be limited to the following:

(1) Names of individuals operating the business.
(2) The business name.
(3) The mailing address.
(4) The physical location of the business.
(5) The effective date of the withholding tax permit.
(6) The contact person.
(7) The telephone number of the contact person.

[63-3077B, added 1990, ch. 334, sec. 1, p. 911.]

63-3077C. AGREEMENT FOR EXCHANGE OF INFORMATION WITH DEPARTMENT OF FISH AND GAME. The state tax commission and the department of fish and game may enter into a written agreement for exchange of information relating to an individual's place of residence or domicile. Such information shall be confidential to the recipient and may be used by the department of fish and game only for purposes of determining whether a person who has purchased a resident fish and game license and to whom the information relates is entitled to purchase a resident fish and game license, or by the state tax commission for determining if the individual is complying with laws relating to taxation. No such information shall be public information unless it is used in the course of a judicial proceeding arising under the laws of this

state. The information provided by the state tax commission shall be limited to the following:

(1) Identification of an individual.

(2) An individual's home address.

(3) An individual's residency status.

[63-3077C, added 2002, ch. 79, sec. 1, p. 178.]

63-3077D. AGREEMENT FOR COLLECTION OF TAX. (1) The state tax commission may enter into agreements with the United States secretary of the treasury through the internal revenue service or the financial management service of the department of the treasury of the United States providing for the mutual offset of any refunds or other amount payable by either party against liabilities owed to the other party to the agreement. Any such agreement shall require that no offset may be made unless the liability against which it applies is final, without any further right on the part of the person owing the liability to either administrative review or judicial review.

(2) No refunds from this state shall be available for offset against any federal debt:

(a) Until any debts subject to offset that are owed to this state or agency thereof have been satisfied; or

(b) During any time when a reciprocal program for offset from federal refunds for tax debts owing to this state is not in effect.

[63-3077D, added 2006, ch. 55, sec. 1, p. 165.]

63-3077E. AGREEMENTS FOR EXCHANGE OF INFORMATION WITH THE STATE TREASURER. The state tax commission and the state treasurer may enter into a written agreement for exchange of information relating to persons, firms, corporations, partnerships or associations who are or may be conducting business operations in this state or who may be the owners of unclaimed property reported to the state treasurer. Such information shall be confidential to the recipient and may be used only for purposes of administering the provisions of the revised unclaimed property act in chapter 5, title 14, Idaho Code. No such information shall be public information unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the tax commission may include the following:

(1) Names and addresses of businesses within this state.

(2) The names and addresses of individuals or entities identified as owners or potential owners of unclaimed property in the custody of the state treasurer.

(3) Taxpayer identifying numbers.

[63-3077E, added 2010, ch. 202, sec. 6, p. 440; am. 2012, ch. 333, sec. 1, p. 926; am. 2024, ch. 27, sec. 9, p. 220.]

63-3077F. INFORMATION FURNISHED TO CERTAIN INDIVIDUALS. In the case of suspected identity theft involving the use of a social security number or other tax identification number, the state tax commission may disclose to the true owner of a social security number or other tax identification number any tax return or tax return information that identifies the individual using the true owner's stolen social security number or other tax identification number.

A disclosure shall be made only after receipt of a valid written information request from the victim of identity theft and would include only information to allow the victim to identify the individual using the stolen social security number or other tax identification number. Any disclosure to the true owner shall not include financial information on the tax returns or other tax information.

[63-3077F, added 2013, ch. 3, sec. 1, p. 6.]

63-3077G. AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DEPARTMENT OF CORRECTION. The state tax commission and the Idaho department of correction shall enter into a written agreement for exchange of information relating to an individual's incarceration status and whether that individual has claimed the Idaho food tax credit pursuant to section 63-3024A, Idaho Code. Such information shall be confidential to the recipient and may be used by the Idaho department of correction and the state tax commission only for purposes of determining whether an incarcerated person erroneously claimed the food tax credit in violation of section 63-3024A(6), Idaho Code. No such information shall be public unless it is used in the course of a judicial proceeding arising under the laws of this state. The information provided by the state tax commission shall be limited to name, date of birth, social security number, an indication as to whether the food tax credit was claimed under that person's name or social security number for a particular taxable year and incarceration status during the year at issue.

[63-3077G, added 2015, ch. 210, sec. 1, p. 660; am. 2025, ch. 56, sec. 2, p. 269.]

63-3077H. AGREEMENT FOR EXCHANGE OF INFORMATION WITH THE IDAHO DEPARTMENT OF HEALTH AND WELFARE. The state tax commission and the Idaho department of health and welfare shall enter into a written agreement for exchange of information relating to an individual's receipt of federal food stamp benefits and whether that individual has claimed the Idaho food tax credit pursuant to section 63-3024A, Idaho Code. Such information shall be confidential to the recipient and may be used by the Idaho department of health and welfare and the state tax commission only for purposes of determining whether a person who was receiving federal food stamp benefits erroneously claimed the food tax credit in violation of section 63-3024A(5), Idaho Code. No such information shall be public unless it is used in the course of a judicial proceeding arising under the laws of this state. Any information disclosed by the Idaho department of health and welfare pursuant to the provisions of this section must be disclosed in compliance with the privacy act of 1974, 5 U.S.C. 552a, applicable federal law or regulations regarding public assistance programs and any applicable state law or regulation.

[63-3077H, added 2015, ch. 210, sec. 2, p. 660; am. 2025, ch. 56, sec. 3, p. 270.]

63-3078. FAILURE TO COLLECT AND PAY OVER TAX, OR ATTEMPT TO EVADE OF DEFEAT TAX. Any person required to collect, truthfully account for and pay over any tax imposed by this title who wilfully fails to collect such tax, or truthfully account for and pay over such tax, or wilfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the

total amount of the tax evaded, or not collected, or not accounted for or paid over. No penalty shall be imposed under this or other Idaho Code sections for any offense to which this section is applicable except and to the extent that such would be imposed when this section is interpreted in a manner similar to the interpretation given to section 6672(a) of the internal revenue code.

[63-3078, added 1959, ch. 299, sec. 78, p. 613; am. 1967, ch. 294, sec. 11, p. 828; am. 1997, ch. 380, sec. 1, p. 1212.]

63-3079. FRANCHISE TAX NOT REPEALED. Nothing in this act shall be construed as repealing any law requiring corporations and other forms of associations to pay an annual franchise tax based on their income or on premiums collected or according to the amount of business transacted.

[63-3079, added 1959, ch. 299, sec. 79, p. 613; am. 1981, ch. 132, sec. 1, p. 221.]

63-3080. NOT A PROPERTY TAX. For the purpose of raising revenue the taxable income required to be shown on returns under this act and taken as a basis for determining the tax hereunder shall not be classified or held or construed to be property.

[63-3080, added 1959, ch. 299, sec. 80, p. 613.]

63-3082. ADDITIONAL TAX REQUIRED WHEN FILING INCOME TAX RETURN. (1) Every person required to file an income tax return shall pay a tax of ten dollars ($10.00). For this purpose, a husband and wife filing a joint return shall be deemed a single person. This tax shall be in the nature of an excise tax upon the receipt of the income which requires the filing of such return.

(2) A pass-through entity as defined in section 63-3006C, Idaho Code, shall also pay the tax imposed in subsection (1) of this section for each individual included within section 63-3022L, Idaho Code, on the composite return.

(3) For purposes of this section, a husband and wife filing a joint federal return may be deemed a single individual.

[63-3082, added 1959, ch. 303, sec. 1, p. 654; am. 1982, ch. 203, sec. 9, p. 537; am. 1983, ch. 221, sec. 3, p. 617; am. 1998, ch. 51, sec. 4, p. 205; am. 1999, ch. 60, sec. 4, p. 157; am. 2000, ch. 38, sec. 2, p. 71; am. 2012, ch. 187, sec. 3, p. 494; am. 2014, ch. 36, sec. 3, p. 63.]

63-3083. "PERSON" DEFINED. "Person" as used in sections 63-3082 through 63-3087, Idaho Code, means any individual, or entity required to file a return under section 63-3030, Idaho Code, unless all of the income or loss is distributed or otherwise reportable as a part of the taxable income of another taxpayer and the entity does not have any Idaho taxable income.

[63-3083, added 1959, ch. 303, sec. 2, p. 654; am. 1969, ch. 319, sec. 22, p. 982; am. 2008, ch. 8, sec. 1, p. 9.]

63-3084. TAX ADDITIONAL TO OTHER INCOME TAXES. The tax imposed by this act shall be in addition to any other income taxes imposed by the laws of this state.

[63-3084, added 1959, ch. 303, sec. 3, p. 654.]

63-3085. DATE TAX DUE AND PAYABLE. The tax herein imposed shall become due and payable to the state tax commission of the state of Idaho on or before the 15th day of April following the close of a calendar year or on or before the fifteenth day of the fourth month following the close of a fiscal year.

[63-3085, added 1959, ch. 303, sec. 4, p. 654.]

63-3086. PERSONS EXEMPT FROM TAX. This act shall not apply to any person who on the last day of his taxable year is blind or lawfully receiving public assistance payments from the state under title 56, Idaho Code.

[63-3086, added 1959, ch. 303, sec. 5, p. 654.]

63-3087. COLLECTION AND ENFORCEMENT. The collection and enforcement procedures provided by the Idaho Income Tax Act, sections 63-3038 through 63-3040, 63-3042 through 63-3065A, 63-3071, 63-3075 and 63-3078, Idaho Code, shall apply and be available to the state tax commission for enforcement of the provisions of this act and collection of any amounts due under this act, and said sections shall, for this purpose, be considered part of this act and wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under this act, be described as permanent building fund tax liens and proceedings.

[63-3087, as added by 1969, ch. 319, sec. 24, p. 982; am. 1974, ch. 63, sec. 1, p. 1141; am. 2007, ch. 10, sec. 6, p. 18.]