

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 2

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAXES; AMENDING CHAPTER 30, TITLE 63, IDAHO CODE, BY THE  
2 ADDITION OF A NEW SECTION 63-3022R, IDAHO CODE, TO ALLOW A DEDUCTION  
3 FOR CERTAIN RECOVERY AMOUNTS INCLUDED IN FEDERAL INCOME IF NO BENEFIT  
4 WAS PREVIOUSLY ALLOWED FOR IDAHO INCOME TAX PURPOSES; AMENDING SECTION  
5 63-3022, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; DECLARING AN  
6 EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.  
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8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 30, Title 63, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
11 ignated as Section 63-3022R, Idaho Code, and to read as follows:

12 63-3022R. CERTAIN LOSS RECOVERIES. If taxable income includes recov-  
13 ered amounts previously deducted from taxable income that were not allowed  
14 or allowable as a deduction from Idaho taxable income except as provided by  
15 this section, a deduction equal to the recovered amount shall be allowed in  
16 determining Idaho taxable income.

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

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

23 (a) Add any state and local taxes, as defined in section 164 of the In-  
24 ternal Revenue Code and, measured by net income, paid or accrued during the  
25 taxable year adjusted for state or local tax refunds used in arriving at tax-  
26 able income.

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

29 (c) (1) A net operating loss for any taxable year commencing on and  
30 after January 1, 2000, shall be a net operating loss carryback not to  
31 exceed a total of one hundred thousand dollars (\$100,000) to the two (2)  
32 immediately preceding taxable years. Any portion of the net operat-  
33 ing loss not subtracted from income in the two (2) preceding years may  
34 be subtracted from income in the next twenty (20) years succeeding the  
35 taxable year in which the loss arises in order until exhausted. The sum  
36 of the deductions may not exceed the amount of the net operating loss  
37 deduction incurred. At the election of the taxpayer, the two (2) year  
38 carryback may be foregone and the loss subtracted from income received  
39 in taxable years arising in the next twenty (20) years succeeding the  
40 taxable year in which the loss arises in order until exhausted. The

1 election shall be made as under section 172(b)(3) of the Internal Revenue Code. An election under this subsection must be in the manner  
2 prescribed in the rules of the state tax commission and once made is  
3 irrevocable for the year in which it is made. The term "income" as used  
4 in this subsection (c) means Idaho taxable income as defined in this  
5 chapter as modified by section 63-3021(b)(2), (3) and (4), Idaho Code.

6 (2) Net operating losses incurred by a corporation during a year in  
7 which such corporation did not transact business in Idaho or was not  
8 included in a group of corporations combined under subsection (t) of  
9 section 63-3027, Idaho Code, may not be subtracted. However, if at  
10 least one (1) corporation within a group of corporations combined under  
11 subsection (t) of section 63-3027, Idaho Code, was transacting business  
12 in Idaho during the taxable year in which the loss was incurred, then the  
13 net operating loss may be subtracted. Net operating losses incurred by  
14 a person, other than a corporation, in activities not taxable by Idaho  
15 may not be subtracted.  
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17 (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) as limited by section 246(b)(1) of said code.  
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21 (e) In the case of a corporation, subtract an amount determined under section 78 of the Internal Revenue Code to be taxable as dividends.  
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23 (f) Subtract the amount of any income received or accrued during the taxable year which 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.  
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27 (g) For the purpose of determining the Idaho taxable income of the beneficiary of a trust or of an estate:  
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29 (1) Distributable net income as defined for federal tax purposes shall be corrected for the other adjustments required by this section.  
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31 (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.  
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36 (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.  
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43 (i) In the case of a corporation, including any corporation included in a group of corporations combined under subsection (t) of section 63-3027, 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 subsection (t) of section 63-3027, Idaho Code, was transacting business in Idaho during the taxable year in which the loss was incurred. In the case of persons,  
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1 other than corporations, add any capital loss or passive loss deducted which  
2 was incurred in activities not taxable by Idaho at the time such loss was in-  
3 curred. In computing the income taxable to an S corporation or partnership  
4 under this section, deduction shall not be allowed for a carryover or carry-  
5 back of a net operating loss provided for in subsection (c) of this section  
6 or a capital loss or passive loss provided for in section 1212 of the Internal  
7 Revenue Code.

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

10 (1) The standard deduction as defined in section 63, Internal Revenue  
11 Code.

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

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

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

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

26 (n) In the case of an individual, deduct the amount contributed to a  
27 college savings program pursuant to chapter 54, title 33, Idaho Code, but not  
28 more than four thousand dollars (\$4,000) per tax year. If the contribution  
29 is made on or before April 15, 2001, it may be deducted for tax year 2000 and  
30 an individual can make another contribution and claim the deduction accord-  
31 ing to the limits provided in this subsection during 2001 for tax year 2001,  
32 as long as the contribution is made on or before December 31, 2001.

33 (o) In the case of an individual, add the amount of a nonqualified with-  
34 drawal from an individual trust account or savings account established pur-  
35 suant to chapter 54, title 33, Idaho Code, less any amount of such nonqual-  
36 ified withdrawal included in the individual's federal gross income pursuant  
37 to section 529 of the Internal Revenue Code.

38 (p) In the case of an individual, add the amount of a withdrawal from an  
39 individual trust account or savings account established pursuant to chapter  
40 54, title 33, Idaho Code, transferred to a qualified tuition program, as de-  
41 fined in section 529 of the Internal Revenue Code, that is operated by a state  
42 other than Idaho. The addition provided in this subsection is limited to the  
43 amount of the contributions to the Idaho individual trust account or savings  
44 account by the account owner that were deducted on the account owner's income  
45 tax return for the year of the transfer and the prior taxable year.

46 SECTION 3. An emergency existing therefor, which emergency is hereby  
47 declared to exist, this act shall be in full force and effect on and after its  
48 passage and approval, and retroactively to January 1, 2013.