

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 276

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-30220, IDAHO CODE, TO REVISE PROVISIONS REGARDING BUSINESS DEPRECIATION INCOME TAX DEDUCTIONS; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-30220, Idaho Code, be, and the same is hereby amended to read as follows:

63-30220. 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) 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 subsection (k) 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 subsection (k) of section 168 of the Internal Revenue Code, provided that to the extent a taxpayer cannot use the additional depreciation claimed under subsection (k) 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; and

~~(2) Adjustments in computing Idaho taxable income required by subsection (1) of this section shall be made without regard to 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 subsection (k) of section 168 of the Internal Revenue Code; and~~

~~(3) A taxpayer's basis in an interest in a pass-through entity, amount at risk, and passive activity loss carryover shall be the same amount for purposes of the Idaho income tax act as the amount determined under the Internal Revenue Code; and~~

~~(4) 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; and~~

~~(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~~

1 later of: (a) the due date of the return for the last taxable year an adjust-
2 ment was required by this section, or (b) the date the return was filed for
3 the last taxable year an adjustment was required by this section. Upon the
4 expiration of the period of limitations as provided in subsections (a) and
5 (m) of section 63-3068, Idaho Code, and subsections (b) and (h) of section
6 63-3072, Idaho Code, only those specific items of basis, deductions, gains
7 or losses that are computed without regard to subsection (k) of section 168
8 of the Internal Revenue Code, as required by this section, shall be subject
9 to adjustment, as well as the effect of such adjustments on Idaho credits,
10 net operating loss deductions and capital loss carryovers.

11 SECTION 2. An emergency existing therefor, which emergency is hereby
12 declared to exist, this act shall be in full force and effect on and after its
13 passage and approval, and retroactively to January 1, 2021.