

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 524

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1
2 RELATING TO UNPAID TAXES; PROVIDING LEGISLATIVE INTENT; AMENDING SECTION
3 63-3050, IDAHO CODE, TO REVISE PROVISIONS REGARDING ACTIONS BY THE
4 STATE TAX COMMISSION TO COLLECT AN UNPAID TAX OR DEFICIENCY UNDER CER-
5 TAIN CIRCUMSTANCES; AND DECLARING AN EMERGENCY AND PROVIDING RETROAC-
6 TIVE APPLICATION.

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

8 SECTION 1. LEGISLATIVE INTENT. The Legislature finds that in cases in
9 which a thief deprives the rightful owners of their money or property and
10 then files bankruptcy after being convicted of the theft, it is inequitable
11 that the State of Idaho should exercise a higher claim to the proceeds of
12 the bankruptcy estate than the victims of the crime. It is the intent of the
13 Legislature that the State Tax Commission either shall not file a priority
14 tax claim or shall withdraw its priority tax claim in such a bankruptcy case
15 if there are insufficient funds in the bankruptcy estate to provide full
16 restitution to the victims of the crime. The Legislature has considered the
17 potential for disruption or unfairness caused by making this legislation
18 retroactive, and the Legislature finds that the benefits of retroactivity in
19 providing justice for victims of crime outweigh any such negative impacts.

20 SECTION 2. That Section 63-3050, Idaho Code, be, and the same is hereby
21 amended to read as follows:

22 63-3050. ACTION TO COLLECT UNPAID TAX OR DEFICIENCY. (1) Any tax owed
23 the state tax commission, any interest, penalty, additional amount, or addi-
24 tion to such tax, and any tax or any interest, penalty, additional amount, or
25 addition to such tax ~~which that~~ has been erroneously refunded, and any defi-
26 ciency shall constitute a debt to the state of Idaho and may be collected by
27 lien foreclosure or sued for and recovered in any proper form of action, in
28 the name of the state of Idaho, in any court having jurisdiction over the tax-
29 payer or property owned by or in which the taxpayer has an interest. The rem-
30 edy herein shall be in addition to any and all other existing remedies.

31 (2) In the interests of justice, the state tax commission either shall
32 not file a priority tax claim under 11 U.S.C. 507(a) (8) (A) or shall withdraw
33 its priority tax claim in the United States bankruptcy court if all of the
34 following occur:

35 (a) The unpaid tax or deficiency claim is due as a result of unpaid in-
36 come tax on unreported earnings or funds illegally obtained by the tax-
37 payer through a criminal act under Idaho law, including but not limited
38 to theft, embezzlement, or robbery;

39 (b) The taxpayer is convicted of the criminal act and the conviction has
40 not been appealed;

- 1 (c) The taxpayer files for bankruptcy in the United States bankruptcy
2 court for the district of Idaho;
3 (d) The victim or victims of the crime, other than the state tax com-
4 mission, whose funds were illegally obtained by the taxpayer, as deter-
5 mined by a court order or restitution order in the criminal case, files a
6 creditor claim in the bankruptcy estate; and
7 (e) The bankruptcy estate does not have sufficient funds to pay in full
8 the priority tax claims of the state tax commission and the claims of the
9 victim or victims of the crime.

10 SECTION 3. An emergency existing therefor, which emergency is hereby
11 declared to exist, this act shall be in full force and effect on and after its
12 passage and approval, and retroactively to July 1, 2019.