AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3022, IDAHO CODE, AS AMENDED IN SECTION 3 OF HOUSE BILL NO. 463, AS ENACTED BY THE SECOND REGULAR SESSION OF THE SIXTY-FOURTH IDAHO LEGISLATURE, TO REVISE PROVISIONS REGARDING THE TAXATION OF A CORPORATION'S FOREIGN INCOME; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022, Idaho Code, as amended in Section 3 of House Bill No. 463, as enacted by the Second Regular Session of the Sixty-fourth Idaho Legislature, be, and the same is hereby amended to read as follows:

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 subsection (t) of
section 63-3027, Idaho Code, may not be subtracted. However, if at
least one (1) corporation within 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, 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 in-
come 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 pro-
visions of sections 243(a) and (c), 244, 245, 245A, 246A, and 250 and 265 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 which is exempt from taxation by this state, under the provi-
sions of any other law of this state or a law of the United States, if not pre-
viously subtracted in arriving at taxable income.
(g) For the purpose of determining the Idaho taxable income of the bene-
ficiary 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 es-
state 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 chap-
ter.
(h) In the case of an individual who is on active duty as a full-time
officer, enlisted or draftee, with the armed forces of the United States,
which full-time duty is or will be continuous and uninterrupted for one hun-
dred 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 tax-
able income.
(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 in-
curred during any year in which such corporation did not transact business in
Idaho. However, do not add any capital loss deducted if a corporation, in-
cluding any corporation in a group of corporations combined under subsection
(t) of section 63-3027, Idaho Code, was transacting business in Idaho dur-
ing 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 which
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.

(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.

(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. 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 income tax return for the year of the transfer and the prior taxable year.
SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval, and retroactively to January 1, 2018.