

LEGISLATURE OF THE STATE OF IDAHO
Sixty-third Legislature First Regular Session - 2015

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 109

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3022H, IDAHO CODE, TO REVISE THE DEFINITION OF THE TERM "REAL PROPERTY" FOR CAPITAL GAINS PURPOSES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3022H, Idaho Code, be, and the same is hereby amended to read as follows:

63-3022H. DEDUCTION OF CAPITAL GAINS. (1) If an individual taxpayer reports capital gain net income in determining 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 if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

(d) Breeding livestock other than cattle or horses held at least twelve (12) months if more than one-half (1/2) of the taxpayer's gross income (as defined in section 61(a) of the Internal Revenue Code) for the taxable year is from farming or ranching operations in Idaho;

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

(f) 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.

1 (4) As used in this section "revenue-producing enterprise" means:

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

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

6 (c) The feeding of livestock at a feedlot;

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

10 (5) As used in this section the term "real property" means land and
11 other tangible property permanently upon or affixed to the land and includes
12 the following:

13 (a) A "qualified conservation easement," as defined in section
14 2031(c)(8)(B) of the Internal Revenue Code, conveyed to a "Qualified
15 Organization" as defined in section 170(h) of the Internal Revenue
16 Code;

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

21 (c) Any other property defined in section 1250(c) of the Internal Rev-
22 enue Code as "section 1250 property" conveyed in perpetuity, the trans-
23 fer of which would be required to be in writing by section 9-503, Idaho
24 Code.

25 SECTION 2. An emergency existing therefor, which emergency is hereby
26 declared to exist, this act shall be in full force and effect on and after its
27 passage and approval, and retroactively to all taxable years beginning on or
28 after January 1, 2010.