

LEGISLATURE OF THE STATE OF IDAHO  
Sixty-first Legislature First Regular Session - 2011

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 102

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXES; AMENDING SECTION 63-3004, IDAHO CODE, TO UPDATE REFERENCES TO THE INTERNAL REVENUE CODE; AMENDING SECTION 63-30220, IDAHO CODE, TO REVISE HOW THE ADJUSTED BASIS OF DEPRECIABLE PROPERTY, DEPRECIATION AND CAPITAL GAINS AND LOSSES SHALL BE COMPUTED AS A RESULT OF TWO 2010 CONGRESSIONAL ENACTMENTS; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-3004, Idaho Code, be, and the same is hereby amended to read as follows:

63-3004. INTERNAL REVENUE CODE. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States, as amended, and in effect on the ~~seventeenth~~ first day of ~~February~~ January, 2009~~11~~.

(b) Provisions of the Internal Revenue Code amended, deleted, or added prior to the effective date of the latest amendment to this section shall be applicable for Idaho income tax purposes on the effective date provided for such amendments, deletions, or additions, including retroactive provisions.

SECTION 2. 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, ~~AND BEFORE DECEMBER 31, 2007~~ -- EXPENSES OF ELEMENTARY AND SECONDARY TEACHERS -- 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 capital gains and losses shall be computed without regard to subsection (k) of section 168 of the Internal Revenue Code, as amended by the "tax relief, unemployment insurance reauthorization and job creation act of 2010" and as amended by the "small business jobs act of 2010"; and

(2) No deduction shall be allowed relating to expenses of elementary and secondary teachers otherwise allowable under section 62(a)(2)(D) of the Internal Revenue Code; and

(3) Adjustments in computing Idaho taxable income required by subsection (1) of this section shall be made without regard to loss limitations im-

1 posed by sections 465, 469, 704(d) and 1366(d) of the Internal Revenue Code;  
2 and

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

7 (5) Each partner, shareholder, member or beneficiary, shall include in  
8 Idaho taxable income his share of the adjustments required by this section in  
9 computing Idaho taxable income of any pass-through entity; and

10 (6) Notwithstanding the provisions of sections 63-3068 and 63-3072,  
11 Idaho Code, the period of limitations for issuing a notice of deficiency de-  
12 termination or filing a claim for refund for any year for which an adjustment  
13 is required by this section shall not expire before three (3) years from the  
14 later of: (a) the due date of the return for the last taxable year an adjust-  
15 ment was required by this section, or (b) the date the return was filed for  
16 the last taxable year an adjustment was required by this section. Upon the  
17 expiration of the period of limitations as provided in subsections (a) and  
18 (m) of section 63-3068, Idaho Code, and subsections (b) and (h) of section  
19 63-3072, Idaho Code, only those specific items of basis, deductions, gains  
20 or losses that are computed, without regard to subsection (k) of section 168  
21 of the Internal Revenue Code, as required by this section shall be subject to  
22 adjustment.

23 SECTION 3. An emergency existing therefor, which emergency is hereby  
24 declared to exist, this act shall be in full force and effect on and after its  
25 passage and approval, and retroactively to January 1, 2010.