

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 715

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO INCOME TAX CREDITS AND REFUNDS; AMENDING SECTION 63-3072, IDAHO  
2 CODE, TO REVISE PROVISIONS REGARDING CERTAIN CLAIMS FOR INCOME TAX  
3 CREDITS AND REFUNDS; AND DECLARING AN EMERGENCY AND PROVIDING RETROAC-  
4 TIVE APPLICATION.  
5

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

7 SECTION 1. That Section 63-3072, Idaho Code, be, and the same is hereby  
8 amended to read as follows:

9 63-3072. CREDITS AND REFUNDS. (a) Subject to the provisions of subsec-  
10 tions (b), (c) and (h) of this section, where there has been an overpayment  
11 of the tax imposed by the provisions of this chapter, the amount of such over-  
12 payment shall be credited against any tax administered by the state tax com-  
13 mission which tax is then due from the taxpayer, and any balance of such ex-  
14 cess shall be refunded to the taxpayer.

15 (b) Except in regard to amounts withheld as provided in section  
16 63-3035, 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated  
17 payments under section 63-3036A, Idaho Code, or amounts paid as backup with-  
18 holding under section 63-3036B, Idaho Code, a claim for ~~credit or~~ refund of  
19 tax, penalties, or interest paid shall be made within the later of three (3)  
20 years of the due date of the return, without regard to extensions, or three  
21 (3) years from the date the return was filed, and a claim for credit of tax,  
22 penalties, or interest paid shall be made within the later of ten (10) years  
23 of the due date of the return, without regard to extensions, or ten (10) years  
24 from the date the return was filed. However, with regard to remittances  
25 received with an extension of time to file, or a tentative return, a claim  
26 for credit or refund of such remittances shall be made within three (3) years  
27 from the due date of the return without regard to extensions.

28 (c) With regard to amounts withheld as provided in section 63-3035,  
29 63-3035A or 63-3036, Idaho Code, or amounts paid as estimated payments under  
30 section 63-3036A, Idaho Code, or amounts paid as backup withholding under  
31 section 63-3036B, Idaho Code, a claim for ~~credit or~~ refund shall be made  
32 within three (3) years from the due date of the return, without regard to  
33 extensions, for the taxable year in respect to which the tax was withheld  
34 or paid, and a claim for credit shall be made within ten (10) years from the  
35 due date of the return, without regard to extensions, for the taxable year  
36 with respect to which the tax was withheld or paid. However, with regard to  
37 an individual who is entitled to an extension of time as provided in section  
38 7508 of the Internal Revenue Code, the three (3) year period provided in this  
39 subsection for claiming a credit or refund shall be extended by the number of  
40 days disregarded under section 7508 of the Internal Revenue Code.

41 (d) Notwithstanding any other provisions of this section, when Idaho  
42 taxable income and/or tax credits for any taxable year have been adjusted

1 as a result of a final federal determination, the period of limitations for  
2 claiming a refund or credit of tax, penalties, or interest shall be reopened  
3 and shall not expire until the later of one (1) year from the date of deliv-  
4 ery of the final federal determination to the taxpayer by the internal rev-  
5 enue service, three (3) years from the due date of the return, without regard  
6 to extensions, or three (3) years from the date the return was filed. For  
7 purposes of this subsection, the term "final federal determination" shall  
8 mean the final resolution of all issues which were adjusted by the inter-  
9 nal revenue service. When the final federal determination is submitted, the  
10 taxpayer shall also submit copies of all schedules and written explanations  
11 provided by the internal revenue service. Upon the expiration of the period  
12 of limitations as provided in subsections (b) and (h) of this section, only  
13 those specific items of income, deductions, gains, losses or credits which  
14 were adjusted in the final federal determination shall be subject to adjust-  
15 ment for purposes of recomputing Idaho income, deductions, gains, losses,  
16 credits, and the effect of such adjustments on Idaho allocations and appor-  
17 tionments.

18 (e) If a claim for credit or refund relates to an overpayment attribut-  
19 able to a net operating loss carryback incurred in a taxable year commencing  
20 in 2012 or earlier, or a capital loss carryback, in lieu of the period of lim-  
21 itations prescribed in subsection (b) of this section, the period shall be  
22 that period which ends with the expiration of the fifteenth day of the for-  
23 tieth month following the end of the taxable year of the net operating loss  
24 or capital loss which results in such carryback. Claims for net operating  
25 losses carried back from taxable years commencing after 2012 shall be made  
26 pursuant to section 63-3022, Idaho Code.

27 (f) If an adjustment, which was made within the period of limitations  
28 as provided in this section, affects the amount of tax credit, net operating  
29 loss, or capital loss, claimed in a taxable year other than the tax year in  
30 which the adjustment is made, then adjustments to the credit, net operating  
31 loss, or capital loss, claimed in such other tax year may be made and a claim  
32 for credit or refund of tax, penalties or interest may be made even though  
33 such claim would otherwise be barred under the provisions of this section.

34 (g) In the case of a duplicate return filed under section 63-217(1)(b),  
35 Idaho Code, the limitations under this section shall be the later of one (1)  
36 year from the filing of the duplicate return or the date otherwise applicable  
37 under this section.

38 (h) Prior to the expiration of the time prescribed in this section for  
39 credit or refund of any tax imposed by the provisions of this chapter, both  
40 the state tax commission or its delegate or deputy and the taxpayer may con-  
41 sent in writing to extend such period of time. The period so agreed upon may  
42 be extended by subsequent agreements in writing made before the expiration  
43 of the period previously agreed upon. When a pass-through entity extends the  
44 period of limitations in accordance with the provisions of this subsection  
45 the period of limitations for the other taxpayers is automatically extended  
46 for the same period for the purpose of claiming a credit or refund of tax,  
47 penalties or interest by the other taxpayers reflecting the pass-through en-  
48 tity adjustments.

49 (i) The expiration of the period of limitations as provided in this sec-  
50 tion shall be suspended for the time period between the issuance by the state

1 tax commission of a notice under either section 63-3045 or 63-3065, Idaho  
2 Code, and the final resolution of any proceeding resulting from the notice.

3 (j) Appeal of a state tax commission decision denying in whole or in  
4 part a claim for credit or refund shall be made in accordance with and within  
5 the time limits prescribed in section 63-3049, Idaho Code.

6 (k) For purposes of this section, "return" includes a notice of defi-  
7 ciency determination issued by the state tax commission when no return was  
8 filed by the taxpayer. Such a return is deemed filed on the date the taxes de-  
9 termined by the state tax commission are assessed.

10 SECTION 2. 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 January 1, 2022.