

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 198

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAX DEFICIENCIES; AMENDING SECTION 63-3045, IDAHO CODE, TO
2 REVISE PROVISIONS REGARDING THE ACCRUAL OF INTEREST ON INCOME TAX
3 DEFICIENCIES; AMENDING SECTION 63-3632, IDAHO CODE, TO REVISE PROVI-
4 SIONS REGARDING THE ACCRUAL OF INTEREST ON SALES TAX DEFICIENCIES; AND
5 DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.
6

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

8 SECTION 1. That Section 63-3045, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 63-3045. NOTICE OF REDETERMINATION OR DEFICIENCY -- INTEREST.

11 (1) (a) If, in the case of any taxpayer, the state tax commission de-
12 termines that there is a deficiency in respect of the tax imposed by
13 this title, the state tax commission shall, immediately upon discovery
14 thereof, send notice of such deficiency to the taxpayer by first class
15 mail or by other commercial delivery service providing proof of deliv-
16 ery, whichever is the most cost efficient. The notice shall be sent
17 to the taxpayer's last address known to the state tax commission. The
18 notice of deficiency shall be accompanied by an explanation of the spe-
19 cific reason for the determination and an explanation of the taxpayer's
20 right to appeal. Within sixty-three (63) days after such notice is
21 mailed, the taxpayer may, at his option, file a protest in writing with
22 the state tax commission and obtain redetermination of the deficiency.

23 (b) If the taxpayer files a protest with the state tax commission within
24 the period set forth in paragraph (a) of this subsection, and such
25 protest does not comply with the rules of the state tax commission and
26 is therefore inadequate to perfect the taxpayer's right to a redetermi-
27 nation of the deficiency determination, then the state tax commission
28 shall notify the taxpayer, in the same manner as set forth in paragraph
29 (a) of this subsection, of such inadequacies, setting forth in said
30 notice the corrective action to be taken by the taxpayer to perfect his
31 protest. The taxpayer shall thereafter have twenty-eight (28) days
32 from the date of said notice to perfect his protest.

33 (c) No assessment of a deficiency in respect to the tax imposed by this
34 chapter, and no distraint or proceedings in court for its collection,
35 shall be made, begun, or prosecuted until such notice has been mailed
36 to the taxpayer, nor until all appeal rights relating to the deficiency
37 have become final.

38 (2) (a) Following a perfected protest, the taxpayer has the right to
39 an independent administrative redetermination of the originating di-
40 vision's determination before the state tax commission, including a
41 hearing. The purpose of the hearing is to discuss the deficiency de-
42 termination and the taxpayer's protest with a commissioner or duly

1 authorized representative of the commission. The meeting shall be
2 held informally and evidence shall be freely admitted regardless of the
3 rules of evidence.

4 (b) Tax commission staff assigned to the administrative redetermi-
5 nation may not engage in communications relating to the taxpayer's
6 protest with employees of the originating division without first
7 providing the taxpayer the opportunity to participate, except for ques-
8 tions that involve ministerial, administrative or procedural matters
9 that do not address the substance of the issues or positions taken in the
10 case or as otherwise allowed under title 63, Idaho Code, and the rules
11 promulgated thereunder. The state tax commission shall promulgate
12 rules governing communications with the originating division to ensure
13 an independent review process. The provisions of this subsection do
14 not create a substantive right affecting the taxpayer's tax liability
15 or the state tax commission's ability to determine, assess or collect
16 that tax liability, including statutory interest and any penalties, if
17 applicable.

18 (3) Any hearing conducted under the provisions of this section may
19 be conducted, in whole or in part, by telephone, television, or other
20 electronic means if each participant in the hearing has an opportunity to
21 participate in the entire proceeding while it is taking place.

22 (4) A taxpayer has the right to be represented by, or be accompanied by,
23 any person of his choice in any proceeding before the tax commission. If the
24 taxpayer is not present at a proceeding, the representative of that taxpayer
25 must be designated in writing by the taxpayer as shall be prescribed in ad-
26 ministrative rules or in any manner acceptable to the tax commission.

27 (5) Following a perfected protest, the taxpayer may submit additional
28 evidence or documentation during the redetermination process subject to the
29 provisions of section 63-3045B(3) (a), Idaho Code.

30 (6) If the taxpayer does not file a protest with the state tax commis-
31 sion within the time prescribed in subsection (1) (a) of this section, the de-
32 ficiency shall be assessed and shall become due and payable upon notice and
33 demand from the state tax commission.

34 (7) (a) Interest shall apply to deficiencies in tax and refunds of tax.
35 Interest shall not apply to any penalty or to unpaid accrued interest.
36 Interest relating to deficiencies or refunds accruing after the origi-
37 nial due date of the return, but not including extensions of the due date,
38 shall be computed on the net of any underpayments and overpayments of a
39 tax liability required to be shown as due on the same return. Interest
40 on deficiencies shall not accrue for any period beginning on the date
41 on which the state tax commission sends written notice that an audit is
42 being initiated until the date of the issuance of a notice of deficiency
43 determination. Nor shall interest on deficiencies accrue for any pe-
44 riod between the issuance of a notice of deficiency determination that
45 is subject to a perfected protest and the final determination of the
46 deficiency by the state tax commission following the state tax commis-
47 sion's disposition of the protest.

48 (b) Interest upon any deficiency shall be assessed at the same time as
49 the deficiency, shall be due and payable upon notice and demand from
50 the state tax commission and shall be collected as a part of the tax at

1 the rate per annum determined under the provisions of paragraph (c) of
2 this subsection from the date prescribed for the payment of the tax.
3 In the event any of the deficiency is reduced by reason of a carryback
4 of a net operating loss or a capital loss carryback, such reduction in
5 deficiency shall not affect the computation of interest under this sub-
6 section for the period ending with the last day of the taxable year in
7 which the net operating loss or capital loss arises.

8 (c) The rate of interest accruing during any calendar year, or portion
9 thereof, upon any deficiency, or payable upon an overpayment or re-
10 fund, shall be two percent (2%) plus the rate determined under section
11 1274(d), Internal Revenue Code, by the secretary of the treasury of the
12 United States as the midterm federal rate as it applies on September 15
13 of the immediately preceding calendar year rounded to the nearest whole
14 number.

15 (8) When the time provisions contained in this section conflict with
16 the provisions of section 63-4208, Idaho Code, relating to the assessment of
17 taxes on illegal possession of controlled substances, the provisions of sec-
18 tion 63-4208, Idaho Code, shall prevail.

19 SECTION 2. That Section 63-3632, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 63-3632. INTEREST ON DEFICIENCIES. Interest upon any deficiency shall
22 be assessed ~~at the same time as the deficiency and shall be due and payable~~
23 ~~upon notice and demand from the state tax commission and shall be collected~~
24 ~~as a part of the tax at the rate provided in section 63-3045, Idaho Code, from~~
25 ~~the date prescribed for the payment of the tax~~ and calculated in accordance
26 with the provisions of that section.

27 SECTION 3. An emergency existing therefor, which emergency is hereby
28 declared to exist, this act shall be in full force and effect on and after its
29 passage and approval, and retroactively to January 1, 2023.