

268. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS – SUSPENDED LOSSES FROM PASS-THROUGH ENTITIES (RULE 268).

Section 63-3026A, Idaho Code.

01. In General. A nonresident individual’s suspended losses from a pass-through entity are included in Idaho taxable income in the year included in federal taxable income only to the extent the losses were from an Idaho source in the year incurred. ()

a. Suspended Loss. For purposes of this rule, a suspended loss is a loss required to be carried over to a succeeding taxable year due to Section 465(a), Section 704(d), or Section 1366(d) of the Internal Revenue Code. ()

b. Idaho Source. A suspended loss is from an Idaho source in the year incurred to the extent provided by Section 63-3026A, Idaho Code, and related rules. For purposes of this rule, the Idaho source portion of a suspended loss subject to apportionment is determined by multiplying the loss by the Idaho apportionment factor of the pass-through entity in the year the loss was incurred. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. ()

c. Year Loss Incurred. For purposes of this rule, “year incurred” means the tax year the loss was first suspended. ()

d. Example. A nonresident individual’s federal taxable income includes one hundred thousand dollars (\$100,000) of loss from a partnership. Sixty thousand dollars (\$60,000) of that loss was incurred in the prior tax year and suspended due to the basis limitation of Section 704(d) of the Internal Revenue Code. Forty thousand (\$40,000) of that loss was incurred in the current tax year. The Idaho apportionment factor of the partnership is one hundred percent (100%) in the current year and fifty percent (50%) in the prior year. The individual’s Idaho taxable income includes seventy thousand dollars (\$70,000) of the partnership’s loss, computed as follows: (\$60,000 prior year suspended loss x 50% prior year Idaho apportionment factor plus (\$40,000 current year loss x 100% current year Idaho apportionment factor). ()

02. Losses from Multiple Years. For purposes of this rule, losses from a pass-through entity are considered used in the order incurred. ()

a. Example. A nonresident individual has suspended losses from a partnership of one hundred thousand dollars (\$100,000). The suspended losses consist of forty thousand dollars (\$40,000) of loss incurred in Year 1 and sixty thousand dollars (\$60,000) of loss incurred in Year 2. The individual also has a loss from the partnership in the current year of fifty thousand dollars (\$150,000). The partnership’s Idaho apportionment factor is one hundred percent (100%) in the current year and fifty percent (50%) in each of the preceding years. Due to the loss limitation of Section 704(d) of the

Internal Revenue Code, the individual's current year deduction is limited to one hundred thousand dollars (\$100,000). The \$100,000 loss allowed in computing federal taxable income is considered to be \$40,000 of suspended loss from Year 1 and \$60,000 of suspended loss from Year 2. The amount included in Idaho taxable income is \$ 50,000, computed as follows: (\$40,000 Year 1 loss x 50% Idaho apportionment factor) plus (\$60,000 Year 2 loss x 50% Idaho apportionment factor). ()