

SB 851 -2, -3 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 3/14, 4/24, 5/2, 5/9

WHAT THE MEASURE DOES:

Requires addition to Federal Taxable Income (FTI) amounts deducted as Global Intangible Low-Taxed Income (GILTI). Applies to tax years beginning on or after January 1, 2018. Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Relationship between GILTI and other similar parts of the Tax Cuts and Jobs Act (TCJA), such as the repatriation transition tax.
- Potential double deduction if GILTI treated similar to subpart F income for state taxation purposes
- Policy solutions and guidance from other states
- Water's edge and relation to GILTI
- Repeal of tax haven law and relation to GILTI

EFFECT OF AMENDMENT:

-2 Replaces the bill. Requires that when calculating Oregon taxable income, corporations add back to federal taxable income amounts deducted as foreign-derived intangible income (FDII), foreign-source dividends, and GILTI. Requires that when calculating Oregon taxable income for personal income taxation purposes, individuals add back amounts deducted for deemed repatriation as part of the one-time transition tax. Clarifies that Oregon will treat GILTI in the same manner as a dividend. Clarifies that amounts subtracted from federal taxable income are excluded from sales factor calculations.

-3 Replaces the bill. Requires that when calculating Oregon taxable income, corporations add back to federal taxable income amounts deducted as foreign-source dividends and GILTI. Requires that when calculating Oregon taxable income for personal income taxation purposes, individuals add back amounts deducted for deemed repatriation as part of the one-time transition tax. Clarifies that Oregon will treat GILTI in the same manner as a dividend. Clarifies that amounts subtracted from federal taxable income are excluded from sales factor calculations.

BACKGROUND:

Global Intangible Low-Taxed Income (GILTI) is a newly defined category of income that was created as part of the Tax Cuts and Jobs Act (TCJA). GILTI is an approximation of a taxpayer's portion of amounts earned outside of US borders, within controlled-foreign-corporations (CFCs), and above certain normal return parameters. Previously, corporations could defer repatriating income to the US and thus avoided US tax on that income until repatriation.

Under the TCJA and GILTI provisions, this income is now subject to US taxation on an annual basis. For federal taxation purposes, GILTI is included as a new category of gross income. A corresponding deduction is also provided at the federal level, the intention of which is to reduce the effective tax rate on GILTI.