

SB 851 A STAFF MEASURE SUMMARY**Senate Committee On Finance and Revenue****Action Date:** 06/10/19**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 4-0-1-0**Yeas:** 4 - Bentz, Boquist, Hass, Riley**Exc:** 1 - Taylor**Fiscal:** Has minimal fiscal impact**Revenue:** Revenue impact issued**Prepared By:** Kaitlyn Harger, Economist**Meeting Dates:** 3/14, 4/24, 5/2, 5/9, 6/6, 6/10**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:

Replaces the bill. Requires that when calculating Oregon taxable personal income in tax years beginning on or after 2017, individuals add back amounts deducted for deemed repatriation as part of the one-time transition tax. Prevents the Department of Revenue (DOR) from imposing penalties and interest for tax years 2017 and 2018, if the underpayment or underreporting is due to the repatriation add back. Requires that when calculating Oregon taxable income, taxpayers add back to federal taxable income amounts deducted as GILTI. Clarifies that Oregon will treat GILTI in the same manner as a dividend for purposes of modification to taxable income. Provides corporations an 80% dividends received deduction (DRD) for GILTI. Prevents taxpayers from taking a DRD for amounts of foreign-source dividend income, as described in IRC 245A, included in FTI. Indicates that amounts subtracted under IRC 245A are excluded from apportionment calculations. Indicates that taxpayers should include dividends and/or GILTI in sales factor apportionment calculations as indicated by the apportionment formula for that specific taxpayer. Takes effect on the 91st day following adjournment sine die.

BACKGROUND:

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), which receives an above normal return. Previously, corporations could defer taxation this income until repatriation into the United States. Under these new 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.