House Bill 2143

Introduced and printed pursuant to House Rule 12.00. Presession filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced.**

Reinstates provision requiring addition of income of member of unitary group incorporated in off-shore jurisdiction. Applies to tax years beginning on or after January 1, 2017.

Requires Department of Revenue to submit report to Legislative Assembly on or before January 1 of each odd-numbered year recommending additions to list of jurisdictions of incorporation for which income must be included on Oregon corporate excise tax return, if corporation is member of unitary group with Oregon corporation.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to tax treatment of multinational corporations; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. **Sections 2 and 3 of this 2019 Act are added to and made a part of ORS chapter 317.**

SECTION 2. **(1)(a) For purposes of determining Oregon taxable income, the taxable income or loss of any corporation that is a member of a unitary group or that is a corporation that files a separate return and that is incorporated in any of the jurisdictions listed in paragraph (b) of this subsection shall be added to the federal consolidated taxable income of the unitary group filing a consolidated Oregon return or to the federal taxable income of the corporation filing a separate return.**

(b) This section applies to Andorra, Anguilla, Antigua and Barbuda, Aruba, the Bahamas, Bahrain, Barbados, Belize, Bermuda, Bonaire, the British Virgin Islands, the Cayman Islands, the Cook Islands, Curacao, Cyprus, Dominica, Gibraltar, Grenada, Guatemala, Guernsey-Sark-Alderney, the Isle of Man, Jersey, Liberia, Liechtenstein, Luxembourg, Malta, the Marshall Islands, Mauritius, Montserrat, Nauru, Niue, Saba, Samoa, San Marino, Seychelles, Sint Eustatius, Sint Maarten, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Trinidad and Tobago, the Turks and Caicos Islands, the U.S. Virgin Islands and Vanuatu.

(2) Nothing in subsection (1)(a) of this section precludes either a taxpayer or the Department of Revenue from asserting that the provisions of ORS 314.667 apply.

(3) The department shall adopt rules:

(a) To determine the computation of income or loss for a corporation that is a member of a unitary group and that is not otherwise required to file a consolidated federal return.

(b) To prevent double taxation or double deduction of any amount included in the computation of income under this section.

(c) To implement this section.

SECTION 3. **On or before January 1 of each odd-numbered year, the Department of Re-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

venue shall submit a report to the Legislative Assembly in the manner provided by ORS 192.245. The report shall include recommendations for legislation related to jurisdictions listed in section 2 of this 2019 Act, including recommendations for additions to or subtractions from the list of jurisdictions in section 2 of this 2019 Act. In making the determination of which jurisdictions to recommend for inclusion, the department shall determine whether a jurisdiction is one that for the tax year has no or nominal effective tax on the relevant income and for which at least one of the following applies:

(1) The jurisdiction has laws or practices that prevent effective exchange of information for tax purposes with other governments about taxpayers benefiting from the tax regime.

(2) The jurisdiction has a tax regime that lacks transparency. A tax regime lacks transparency if the details of legislative, legal or administrative provisions are not open and apparent or are not consistently applied among similarly situated taxpayers, or if the information needed by tax authorities to determine a taxpayer's correct tax liability, such as accounting records and underlying documentation, is not adequately available.

(3) The jurisdiction facilitates the establishment of foreign-owned entities without the need for a local substantive presence or prohibits these entities from having any commercial impact on the local economy.

(4) The jurisdiction explicitly or implicitly excludes the jurisdiction's resident taxpayers from taking advantage of the tax regime's benefits or prohibits enterprises that benefit from the regime from operating in the jurisdiction's domestic market.

(5) The jurisdiction has created a tax regime that is favorable for tax avoidance, based upon an overall assessment of relevant factors, including whether the jurisdiction has a significant untaxed offshore financial or other services sector relative to its overall economy.

SECTION 4. Section 2 of this 2019 Act applies to tax years beginning on or after January 1, 2017.

SECTION 5. This 2019 Act takes effect on the 91st day after the date on which the 2019 regular session of the Eightieth Legislative Assembly adjourns sine die.