

Enrolled
Senate Bill 851

Sponsored by COMMITTEE ON FINANCE AND REVENUE

CHAPTER

AN ACT

Relating to tax treatment of foreign earnings; creating new provisions; amending ORS 317.267; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 316.

SECTION 2. In addition to the other modifications to federal taxable income contained in this chapter, to derive Oregon taxable income there shall be added to federal taxable income any amount deducted, for the tax year, for federal income tax purposes under section 965(c)(1) of the Internal Revenue Code.

SECTION 3. Section 4 of this 2019 Act is added to and made a part of ORS chapter 314.

SECTION 4. For purposes of ORS 317.267, amounts of global intangible low-taxed income described in section 951A of the Internal Revenue Code and included in gross income shall be treated in the same manner as a dividend.

SECTION 5. ORS 317.267, as amended by section 28, chapter 101, Oregon Laws 2018, is amended to read:

317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income:

(a) Amounts received as dividends from corporations deducted for federal purposes pursuant to section 243 or 245 of the Internal Revenue Code, except section 245(c) of the Internal Revenue Code[.];

(b) Amounts deducted for income repatriated, deemed or otherwise, under [*An Act to Provide for Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year 2018 (P.L. 115-97)*,] **section 965 of the Internal Revenue Code;**

(c) **Amounts deducted as global intangible low-taxed income pursuant to section 250 of the Internal Revenue Code;**

(d) Amounts paid as dividends by a public utility or telecommunications utility and deducted for federal purposes pursuant to section 247 of the Internal Revenue Code; or

(e) Dividends eliminated under Treasury Regulations adopted under section 1502 of the Internal Revenue Code that are paid by members of an affiliated group that are eliminated from a consolidated federal return pursuant to ORS 317.715 (2).

(2) To derive Oregon taxable income, after the modification prescribed under subsection (1) of this section, there shall be subtracted from federal taxable income an amount equal to 70 percent of dividends (determined without regard to section 78 of the Internal Revenue Code) received or deemed received from corporations if such dividends are included in federal taxable income. However:

(a) In the case of any dividend on debt-financed portfolio stock as described in section 246A of the Internal Revenue Code, the subtraction allowed under this subsection shall be reduced under the same conditions and in same amount as the dividends received deduction otherwise allowable for federal income tax purposes is reduced under section 246A of the Internal Revenue Code.

(b) In the case of any dividend received from a 20 percent owned corporation, as defined in section 243(c) of the Internal Revenue Code, **or global intangible low-taxed income included in gross income pursuant to section 951A of the Internal Revenue Code**, this subsection shall be applied by substituting “80 percent” for “70 percent.”

(c) A dividend that is not treated as a dividend under section 243(d) [*or 965(c)(3)*] of the Internal Revenue Code may not be treated as a dividend for purposes of this subsection.

(d) If a dividends received deduction is not allowed for federal tax purposes because of section 246(a) or (c) of the Internal Revenue Code, a subtraction may not be made under this subsection for received dividends that are described in section 246(a) or (c) of the Internal Revenue Code.

(e) In the case of any dividend received from an alien, domestic or foreign insurer, as defined in ORS 731.082, that would be included in the taxpayer’s consolidated Oregon return but for the application of ORS 317.710 (5) or (7), this subsection shall be applied by substituting “100 percent” for “70 percent.”

(f) A subtraction under this subsection is not allowed for any amount of foreign-source dividend income, as described in section 245A of the Internal Revenue Code, that is included in gross income.

(3) There shall be excluded from the sales factor of any apportionment formula employed to attribute income to this state any amount subtracted from federal taxable income under subsection (2) of this section[.] **or deducted under section 245A of the Internal Revenue Code. The amount of any dividend or of any global intangible low-taxed income that is apportionable shall be determined as provided by the apportionment formula applicable to the taxpayer, as provided in ORS 314.280 and 314.605 to 314.675, but may not include any amount subtracted under subsection (2) of this section.**

SECTION 6. (1) Section 2 of this 2019 Act applies to tax years beginning on or after January 1, 2017.

(2) Section 4 of this 2019 Act and the amendments to ORS 317.267 by section 5 of this 2019 Act apply to tax years beginning on or after January 1, 2018.

SECTION 7. The Department of Revenue may not impose any interest or penalty that would otherwise apply to taxes due if the interest or penalty is based on underpayment or underreporting that results solely from the operation of section 2 of this 2019 Act.

SECTION 8. Section 7 of this 2019 Act applies to tax years beginning on or after January 1, 2017, and before January 1, 2019.

SECTION 9. 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.

Passed by Senate June 17, 2019

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 24, 2019

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2019

Approved:

.....M,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2019

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Bev Clarno, Secretary of State