

A-Engrossed
Senate Bill 851

Ordered by the Senate June 12
Including Senate Amendments dated June 12

Sponsored by COMMITTEE ON FINANCE AND 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.

Requires, for Oregon personal income tax purposes, taxpayers to add back amounts deducted as deemed repatriation under one-time transition tax. Requires Department of Revenue to waive penalty or interest due to underpayment or underreporting resulting from add-back requirement. Applies to tax years beginning on or after January 1, 2017.

Requires, for Oregon corporate excise or income tax purposes, addition to federal taxable income of amounts deducted as global intangible low-tax income. Allows 80 percent dividends received deduction for global intangible low-tax income. Provides for treatment of global intangible low-tax income in same manner as dividend. Requires apportionment of dividend or global intangible low-taxed income according to taxpayer's applicable apportionment formula. Disallows deduction for foreign-source dividend income, and excludes foreign-source dividend income from apportionment calculation. Applies to tax years beginning on or after January 1, 2018.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax treatment of foreign earnings; creating new provisions; amending ORS 317.267; and
3 prescribing an effective date.

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

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

6 **SECTION 2. In addition to the other modifications to federal taxable income contained**
7 **in this chapter, to derive Oregon taxable income there shall be added to federal taxable in-**
8 **come any amount deducted, for the tax year, for federal income tax purposes under section**
9 **965(c)(1) of the Internal Revenue Code.**

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

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

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

16 317.267. (1) To derive Oregon taxable income, there shall be added to federal taxable income:

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

20 (b) Amounts deducted for income repatriated, deemed or otherwise, under [*An Act to Provide for*
21 *Reconciliation Pursuant to Titles II and V of the Concurrent Resolution on the Budget for Fiscal Year*
22 *2018 (P.L. 115-97),]* **section 965 of the Internal Revenue Code;**

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.

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

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

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

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

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

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

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

23 (d) If a dividends received deduction is not allowed for federal tax purposes because of section
24 246(a) or (c) of the Internal Revenue Code, a subtraction may not be made under this subsection for
25 received dividends that are described in section 246(a) or (c) of the Internal Revenue Code.

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

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

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

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

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

44 **SECTION 7. The Department of Revenue may not impose any interest or penalty that**
45 **would otherwise apply to taxes due if the interest or penalty is based on underpayment or**

1 **underreporting that results solely from the operation of section 2 of this 2019 Act.**

2 **SECTION 8. Section 7 of this 2019 Act applies to tax years beginning on or after January**
3 **1, 2017, and before January 1, 2019.**

4 **SECTION 9. This 2019 Act takes effect on the 91st day after the date on which the 2019**
5 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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