House Bill 2672

Sponsored by Representative NOSSE (Presession filed.)

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.**

Provides for addition, on Oregon corporate excise tax return, of income or loss of corporation incorporated in tax haven and member of unitary group, if income or loss is connected to trade or business in United States. Defines "tax haven." Discontinues use of biennially updated list of jurisdictions of incorporation for inclusion on return.

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

Relating to tax reporting of multinational corporations; creating new provisions; amending ORS 317.716; repealing ORS 317.717; and prescribing an effective date.

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

SECTION 1. ORS 317.716 is amended to read:

317.716. **(1) As used in this section:**

(a) "Federal income tax treaty" means a comprehensive tax treaty between the United States and a foreign jurisdiction.

(b)(A) "Tax haven" means a jurisdiction that for the tax year has no or nominal effective tax on the relevant income and that meets at least one of the following criteria:

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

(ii) 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.

(iii) 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.

(iv) 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.

(v) 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.

(B) "Tax haven" does not include a jurisdiction that has entered in a federal income tax treaty with the United States.

[*(1)(a)*] **(2)** For purposes of determining Oregon taxable income, the taxable income or loss [*of*

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.

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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] **that is effectively connected, or treated as effectively connected under the Internal Revenue Code, with the conduct of a trade or business within the United States of any corporation that is a member of a unitary group and that is incorporated in a tax haven** 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.*]

(3) There is no requirement to add income to federal consolidated taxable income under subsection (2) of this section if:

(a) A corporation incorporated in a tax haven has a property, payroll or sales factor within the United States of less than 20 percent; or

(b) The income results from transactions conducted between unitary group members at arm's length, without the principal purpose to avoid the payment of taxes.

[*(2)*] **(4)** 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)*] **(5)** 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 2. The amendments to ORS 317.716 by section 1 of this 2017 Act apply to tax years beginning on or after January 1, 2018.

SECTION 3. ORS 317.717 is repealed.

SECTION 4. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.