DRAFT REVENUE IMPACT OF PROPOSED LEGISLATION

80th Oregon Legislative Assembly
2019 Regular Session
Legislative Revenue Office

Bill Number:	**SB 851 - 8**
Revenue Area:	**Corporate Taxation**
Economist:	**Kaitlyn Harger**
Date:	**06/10/19**

Only Impacts on Original or Engrossed Versions are Considered Official

Measure Description:

Requires, for Oregon tax purposes, addition to federal taxable income of amounts deducted as global intangible low-tax income. Takes effect on the 91st following adjournment sine die.

Revenue Impact (in $Millions):

None.

Impact Explanation:

In December 2017, Congress passed the Tax Cuts and Jobs Act (TCJA). During the 2018 legislative session, the legislative assembly worked to understand the implications of the TCJA on Oregon's tax system. These discussions focused primarily on the one-time corporate repatriation and the intent was to avoid a double-deduction at the state level. At the time it was unclear how personal income taxes would be affected by the one-time repatriation. During the summer of 2018, the IRS issued new guidance and forms related to TCJA, including moving repatriated income calculations to a different federal form. As a result, this income no longer flowed through to Oregon taxable income. To address this change, the Department of Revenue (DOR), in consultation with the Department of Justice (DOJ), issued guidance relying on ORS 316.737 and instructed all taxpayers to add these amounts back.

SB 851 -8 makes three conceptual clarifications to statute. First, the bill clarifies that individuals who received a federal deduction for amounts due under the one-time repatriation (IRC 965(c)(1)), must add those amounts back for the purposes of calculating Oregon taxable income, applicable to tax years beginning on or after January 1, 2017. This change to statute is a clarification and is consistent with current practices of the DOR related to repatriation. The baseline for this revenue impact estimate assumes that the Department's position is correct and that these amounts should be added back. There is no revenue impact for this change because it reflects current enforcement standards used by DOR. While collections may increase because of this legislation, those collections would have been subject to audit by DOR. There is inherent uncertainty comparing the timing of such collections between this bill and those that may have been discovered through the DOR audit process.

Second, SB 851 -8 indicates that Oregon will treat global intangible low-taxed income (GILTI) in the same manner as a dividend and allow a state-level dividends-received deduction (DRD) on the gross amount of GILTI. Taxpayers will add the amounts deducted as GILTI at the federal level to their federal taxable income for the purposes of calculating Oregon taxable income. Then taxpayers receive an 80% DRD to apply to this income.

This change to statute is consistent with DOR's expected treatment of GILTI in the absence of legislation and as a result, there is no revenue impact for this modification.

Finally, the bill adds to statute language that avoids the potential for a double deduction related to foreign-source dividends. At the federal level, taxpayers receive a 100% DRD for the foreign-source portion of their dividends. SB 851 -8 adds to statute language to indicate that taxpayers cannot take an additional state-level subtraction related to this income. This change is again consistent with DOR's treatment in the absence of legislation and as a result, there is no revenue impact for this modification.

Creates, Extends, or Expands Tax Expenditure: Yes ☐ No ☒