

ADMINISTRATIVE RULE REVIEW

	Rule No. 150-317-0651	
New Rule	Page Page 1 of 6	Last Revised Date April 25, 2018
Permanent Rule	NOTICE OF INTENDED ACTION	
	Bulletin Dated May 2018	Hearing Scheduled May 22, 2018

Purpose: Prescribes method for taxpayers to compute the repatriation tax credit under 2018 Oregon Laws, chapter 101 based on the lesser of tax attributable to the 2014-2016 listed jurisdiction addition or the 2017 repatriation.

1 **150-317-0651**

2 **Repatriation Tax Credit**

3 (1)(a) For tax years beginning on or after January 1, 2017, and before January 1, 2018 (the 2017 tax year), a
4 repatriation tax credit is allowed under ORS chapter 317 or 318 for Oregon tax attributable to income reported
5 under section 965 of the Internal Revenue Code as post-1986 deferred foreign income. The amount of the credit
6 equals the lesser of the amount of Oregon tax for the 2017 tax year attributable to the section 965 mandatory
7 repatriation or the total amount of Oregon tax for the 2014, 2015, and 2016 tax years attributable to the addition
8 required under ORS 317.716, if any.

9 (b) No tax credit is available unless an addition under ORS 317.716 was required for at least one of tax years 2014,
10 2015, or 2016.

11 (c) The method for determining the amount of Oregon tax attributable to the section 965 mandatory repatriation is
12 set forth in section (2) below. The method for determining the total amount of Oregon tax attributable to the
13 addition required by ORS 317.716 for tax years 2014, 2015, and 2016 is set forth in section (3) below.

14 (2)(a) The amount of Oregon tax for the 2017 tax year attributable to the mandatory repatriation under section 965
15 equals the excess of the Oregon tax for tax year 2017 determined with the section 965 mandatory repatriation, over
16 the Oregon tax for tax year 2017 determined without the section 965 mandatory repatriation.

17 (b) The Oregon tax for the 2017 tax year determined with the section 965 mandatory repatriation is calculated by
18 including in taxable income under ORS 317.010(10) income reported under section 965(a) as post-1986 deferred
19 foreign income, modifying taxable income with respect to the repatriation income as provided in ORS 317.267(1)
20 and (2), and computing Oregon tax before the allowance of any Oregon tax credit. The resulting tax amount before
21 the allowance of any Oregon tax credit is the Oregon tax for tax year 2017 determined with the section 965
22 mandatory repatriation.

23 (c) The Oregon tax for tax year 2017 determined without the section 965 mandatory repatriation is calculated as if
24 IRC section 965 did not apply, by excluding from taxable income the amount of the section 965 mandatory

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- 1 repatriation from income, applying ORS 317.267(1) and (2) without regard to the mandatory repatriation, and
 2 computing Oregon tax before the allowance of any Oregon tax credit. The resulting tax amount before the
 3 allowance of any Oregon tax credit is the Oregon tax for tax year 2017 determined without the section 965
 4 mandatory repatriation.
- 5 (3)(a) The total amount of Oregon tax attributable to the addition required under ORS 317.716 for all tax years
 6 beginning on or after January 1, 2014, and before January 1, 2017 (the listed jurisdiction addition for tax years
 7 2014, 2015, and 2016) equals the excess of the total Oregon tax for tax years 2014, 2015, and 2016 determined
 8 with the listed jurisdiction addition for those three years, over the total Oregon tax for tax years 2014, 2015, and
 9 2016 determined without the listed jurisdiction addition for those three years.
- 10 (b) The total Oregon tax for tax years 2014, 2015, and 2016 determined with the listed jurisdiction addition is the
 11 sum of the Oregon tax for each tax year in which an addition under ORS 317.716 was required (an applicable year)
 12 and included on a taxpayer's return as filed or adjusted. The amount of tax for each applicable year is computed by
 13 including taxable income or taxable loss of any corporation in a listed jurisdiction that was part of the same unitary
 14 group as the taxpayer (within the meaning of ORS 317.705(2)) in the applicable year and computing Oregon tax
 15 before the allowance of any Oregon tax credit. The resulting tax amount before the allowance of any Oregon tax
 16 credit is the Oregon tax for the applicable year determined with the addition required under ORS 317.716. This
 17 calculation is based on a taxpayer's 2014, 2015 and 2016 returns as filed or adjusted.
- 18 (c) The total Oregon tax for tax years 2014, 2015, and 2016 determined without the listed jurisdiction addition is
 19 the sum of the Oregon tax for each applicable year described in subsection (b). The amount of tax for each
 20 applicable year is computed by excluding taxable income or loss of any corporation in a listed jurisdiction
 21 otherwise required to be added under ORS 317.716 and included on a taxpayer's return as filed or adjusted. Any
 22 receipts of a corporation in a listed jurisdiction included in the sales factor for purposes of subsection (b) must be
 23 removed from the sales factor for purposes of computing the total Oregon tax determined without the listed

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1 jurisdiction addition. The resulting tax amount before the allowance of any Oregon tax credit is the Oregon tax for
2 the applicable year determined without the addition under ORS 317.716.

3 (d) The total amount of Oregon tax attributable for tax years 2014, 2015, and 2016 under (3)(a) equals the sum
4 total of tax computed under (3)(b) minus the sum total of tax computed under (3)(c).

5 **Example 1:** XYZ Corporation computed the following amounts of tax with the listed jurisdiction addition:

6 2014	2015	2016
7 \$100	\$100	\$100

8 XYZ Corporation computed the following amounts of tax without the listed jurisdiction addition:

9 2014	2015	2016
10 \$0	\$200	\$25

11 The sum total amount of Oregon tax for all tax years with the listed jurisdiction addition was \$300 (\$100 + \$100 +
12 \$100). The sum total amount of Oregon tax without the listed jurisdiction was \$225 (\$0 + \$200 + \$25).

13 Accordingly, the total Oregon tax attributable to the listed jurisdiction addition was \$75 (\$300 - \$225).

14 **Example 2:**

15 ALPHA CORP, a US Corporation, is a 100% shareholder in two foreign corporations, BETA CORP and GAMMA
16 CORP. BETA CORP is incorporated in the Cayman Islands (a listed jurisdiction under ORS 317.716). GAMMA
17 CORP is incorporated in France. ALPHA, BETA, and GAMMA form one unitary group.

18 ALPHA CORP had total taxable income of \$2,000,000 in tax year 2014, \$1,500,000 in 2015, and \$2,000,000 in
19 2016. This income included the following income or loss amounts from BETA CORP: \$1,000,000 in tax year
20 2014, (\$500,000) in tax year 2015, and \$1,000,000 in tax year 2016. ALPHA's apportionment percentage was .8
21 percent in tax years 2014, 2015, and 2016. ALPHA's Oregon apportionment percentage for tax years 2014, 2015,
22 and 2016 would be 1.0 percent if BETA CORP's taxable income or loss were not included in ALPHA CORP's
23 taxable income under ORS 317.716.

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1 ALPHA CORP had \$11,000,000 taxable income in 2017 before Oregon modifications. ALPHA CORP included
 2 repatriated earnings and profits from BETA CORP and GAMMA CORP on ALPHA CORP's 2017 Oregon tax
 3 return. This 2017 repatriation added \$10,000,000 to ALPHA CORP's other taxable income of \$1,000,000 and did
 4 not change ALPHA's apportionment factor, which was 1.0 percent for tax year 2017. ALPHA CORP's taxable
 5 income for 2017 after modifications under ORS 317.267 attributable to the 2017 repatriation was \$3,000,000
 6 (\$11,000,000 less \$8,000,000 subtraction under ORS 317.267(2)).

7 For all tax years, all taxable income was apportionable as business income.

8 Solely for purposes of this example, assume a flat Oregon corporate tax rate of 6.6 percent.

9 **Step 1- Compute the tax attributable to the repatriation**

10 ALPHA CORP computes the tax attributable to the repatriation as follows

11 2017 with repatriation	11 2017 without repatriation
12 \$3,000,000 net income	\$1,000,000 net income
13 *1.0% apportionment factor	*1.0% apportionment factor
14 \$30,000 income attributed to Oregon	\$10,000 income attributed to Oregon
15 *6.6% tax rate	*6.6% tax rate
16 \$1,980 Oregon tax	\$660 Oregon tax

17 Accordingly, Oregon tax attributable to the repatriation is \$1,320. (\$1,980 - \$660)

18 **Step 2- Compute the tax attributable to the listed jurisdiction addition**

19 ALPHA CORP computes the tax attributable to the listed jurisdiction addition as follows:

20 2014 with listed jurisdiction	20 2014 without listed jurisdiction
21 \$2,000,000 net income	\$1,000,000 net income
22 *0.8% apportionment factor	*1.0% apportionment factor
23 \$16,000 income attributed to Oregon	\$10,000 income attributed to Oregon
24 *6.6% tax rate	*6.6% tax rate

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1	\$1,056 Oregon tax	\$660 Oregon tax
2	2015 with listed jurisdiction	2015 without listed jurisdiction
3	\$1,500,000 net income	\$2,000,000 net income
4	*0.8% apportionment factor	*1.0% apportionment factor
5	\$12,000 income attributed to Oregon	\$20,000 income attributed to Oregon
6	*6.6% tax rate	*6.6% tax rate
7	\$792 Oregon tax	\$1,320 Oregon tax
8	2016 with listed jurisdiction	2016 without listed jurisdiction
9	\$2,000,000 net income	\$1,000,000 net income
10	*0.8% apportionment factor	*1.0% apportionment factor
11	\$16,000 income attributed to Oregon	\$10,000 income attributed to Oregon
12	*6.6% tax rate	*6.6% tax rate
13	\$1,056 Oregon tax	\$660 Oregon tax
14	Step 3- total tax attributable to the listed jurisdiction addition	
15	The sum of the tax with the listed jurisdiction addition for 2014 to 2016 is \$2,904 (\$1,056 + \$792 + \$1,056). The	
16	sum of the tax without the listed jurisdiction addition for 2014 to 2016 is \$2,640 (\$660 + \$1,320 + \$660). Total tax	
17	attributable to the listed jurisdiction addition for tax years 2014, 2015, and 2016 is \$264 (\$2,904 - \$2,640).	
18	Step 4- Determine the amount of the repatriation tax credit	
19	The repatriation tax credit equals the lesser of the two following amounts.	
20	Tax attributable to Listed Jurisdiction additions (Step 3)	\$264
21	Tax attributable to repatriation (Step 1)	\$1,320
22	Accordingly, the repatriation tax credit equals \$264.	



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- 1 **[Publications:** Contact the Oregon Department of Revenue for information about how to obtain a copy of the
- 2 publication referred to or incorporated by reference in this rule pursuant to ORS 183.360(2) and ORS
- 3 183.355(1)(b).]
- 4 Statutory/Other Authority: ORS 305.100
- 5 Statutes/Other Implemented: 2018 Oregon Laws, chapter 101