

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB432

Hearing Date: Thursday March 04, 2021
Committee On: Revenue
Introducer: Revenue
One Liner: Change income tax rates

Roll Call Vote - Final Committee Action:

Advanced to General File with amendment(s)

Vote Results:

Aye:	7	Senators Albrecht, Briesse, Flood, Friesen, Lindstrom, Linehan, Pahls
Nay:		
Absent:		
Present Not Voting:	1	Senator Bostar

Oral Testimony:

Proponents:

Senator Lou Ann Linehan
Sarah Curry

Representing:

Introducer
Platte Institute

Opponents:

Representing:

Neutral:

Katherine Loughead
Jim Greisch
Bryan Slone
Renee Fry

Representing:

Tax Foundation
Blueprint Nebraska
Nebraska Chamber of Commerce & Industry
OpenSky Policy Institute

Summary of purpose and/or changes:

LB432 sunsets the current individual and corporate income tax rates for tax years beginning or deemed to begin on or after January 1, 2021. No new rates are set for future tax years.

LB432 is intended to be a placeholder bill by the Revenue Committee.

Explanation of amendments:

LB432 includes portions/provisions of the following bills:

- LB347 as amended
 - LB564
 - LB680
 - LB597
 - LB299 as amended
-

LB347 was heard on February 25, 2021, at 1:30 PM in Room 1524

In-Person Testimony

Proponents:

- Senator Brett Lindstrom, Introducer
- Stacy Watson, Nebraska Chamber of Commerce, Greater Omaha Chamber
- Patrick Reynolds Council of State Taxation

Opponents: NONE

Neutral: NONE

Written Submitted Testimony

Proponents:

- Don Brown, Cargill
- James Anderson, Lincoln Chamber of Commerce, BKD, LLP
- Rich Otto, Nebraska Retail Federation, Nebraska Restaurant Association

Opponents:

- Renee Fry, OpenSky Policy Institute

Neutral: NONE

Summary for LB347:

The federal Tax Cuts and Jobs Act ("TCJA") of 2017 changed several items addressing foreign income. For purposes of LB347, two of these items are addressed.

The TCJA, under new IRC Sect. 965(a), treated deferred earnings that were held offshore as "deemed" to have been repatriated, meaning they were immediately taxable by the federal government at the reduced rates of 15.5 percent on liquid assets and 8.0 percent on illiquid assets, rather than the statutory rate of 35 percent. This repatriated income is included in what is known as Subpart F income at the federal level.

Nebraska does not have a statutory deduction for Subpart F income per se, but does allow a deduction for dividends or deemed dividends received from corporations which are not subject to the Internal Revenue Code (i.e., foreign corporations). However, the Department of Revenue ruled in GIL 24-19-1 Income Tax: Section 965 Transition Tax for Tax Year 2017 that:

Income recognized under IRC Sect. 965(a) is added to subpart F income and does not meet the definition of dividend nor is it deemed a dividend in the IRC or related Treasury Regulations. Any dividend deduction claimed for the net IRC Sect. 965(a) income will be disallowed.

LB347 inserts language on Page 4 that would treat this repatriated income as dividends or deemed dividends received from foreign corporations, thereby allowing a deduction for the net amount of repatriated earnings.

The second matter involves what is known as GILTI - Global Intangible Low-Taxed Income. The TCJA also created Sect. 951A and Sect. 250 of the IRC. Sect. 951A requires taxpayers who are U.S. shareholders of a controlled foreign corporation (CFC) to include the taxpayer's GILTI in the taxpayer's gross income. GILTI is calculated as the taxpayer's net CFC tested income over the taxpayer's net deemed tangible income return. Sect. 250(a) allows domestic corporations to claim a deduction against a portion of GILTI from its gross income.

Again, the Department of Revenue held in GIL 24-20-1 Income Tax: Global Intangible Low-Taxed Income and Foreign-Derived Intangible Income that:

Examination of the IRC and related Treasury Regulations establish that GILTI is not a foreign dividend except for IRC Sect. 78 dividends that are attributed to GILTI pursuant to IRC Sect. 250(a)(1)(B)(ii). Therefore, under Nebraska law, with the exception of these IRC Sect. 78 dividends attributed to GILTI, there is no exclusion for GILTI income as a foreign dividend or deemed foreign dividend.

LB347 adds language on Page 4 that would treat GILTI as foreign dividend or deemed foreign dividend. Language on Page 4 also provides that the changes made are intended to clarify the meaning of this subsection as it existed prior to the effective date of this act and therefore such changes shall apply to tax returns filed prior to, on, or after the effective date of this act.

This means that any corporation, fiduciary or individual who included these types of income in their Nebraska tax returns may file amended returns to exclude this income.

The Committee voted to amend LB347 as amended into LB432.

8 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Friesen, Pahlis

The committee adopted AM463 to LB347. The amendment limits the new definition of "dividends deemed to be received" to only apply to Global Intangible Low-Taxed Income. Further, the amendment limits the deduction of this income to a prospective-only application.

LB564 was heard on March 4, 2021, at 9:30 AM in Room 1524

In-Person Testimony

Proponents:

- Senator Mike McDonnell, Introducer
- John Murante, Nebraska State Treasurer

Opponents: NONE

Neutral: NONE

Written Submitted Testimony

Proponents:

- Kristen Hassebrook, Nebraska Chamber, Greater Omaha Chamber, Lincoln Chamber of Commerce

Opponents: NONE

Neutral: NONE

Summary for LB564:

LB564 would change the definition of qualified higher education expenses under the Nebraska Education Savings Plan Trust ("NEST").

Currently, qualified expenses for which NEST funds may be used are generally limited to tuition, fees, books, supplies and equipment required for enrollment or attendance at an eligible education institution.

LB564 would add costs incurred on or after January 1, 2021, for participation in an apprenticeship program under the National Apprenticeship Program under 29 U.S.C. 50. There are no specific expenses listed in the bill.

The Committee voted to amend LB564 into LB432.

8 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Friesen, Pahls

LB680 was heard on February 25, 2021, at 1:30 PM in Room 1524

In-Person Testimony

Proponents:

- Senator Lou Ann Linehan, Introducer
- Sarah Curry, Platte Institute
- Bryan Slone, Nebraska Chamber of Commerce, Greater Omaha Chamber, Lincoln Chamber
- Dallas Jones, Lincoln Independent Business Association

Opponents:

- Renee Fry, OpenSky Policy Institute
- John Hansen, Nebraska Farmers Union

Neutral: NONE

Written Submitted Testimony

Proponents:

- Bob Hallstrom, National Federation of Independent Business, Nebraska Bankers Association

Opponents: NONE

Neutral: NONE

Summary for LB680:

Nebraska's corporate income tax has two brackets. The first \$100,000 of taxable income rate is taxed at 5.58 percent. All taxable income in excess of \$100,000 is taxed at a marginal rate of 7.81 percent.

LB680 would create parity between the highest marginal individual income tax rate of 6.84% and the top marginal corporate rate.

The Committee voted to amend LB680 into LB432.

7 Yes - Linehan, Lindstrom, Albrecht, Briese, Flood, Friesen, Pahls

1 No - Bostar

LB597 was heard on February 5, 2021, at 1:30 PM in Room 1524

In-Person Testimony

Proponents:

- Senator Joni Albrecht, Introducer
- Nate Grasz, Nebraska Family Alliance
- Holly Stutzman, Self
- Sandy Danek, Nebraska Right to Life
- Marion Miner, Nebraska Catholic Conference

Opponents: NONE

Neutral: NONE

Written Submitted Testimony

Proponents:

- Mark Bonkiewicz, Nebraskans for Founders' Values

Opponents: NONE

Neutral: NONE

Summary for LB597:

The bill creates a refundable credit against the individual income tax to the parent of a stillborn child.

The requirements to qualify for the credit include:

- 1) A fetal death certificate filed pursuant to Neb.Rev.Stat.Sect.71-606(1);
- 2) That the child had advanced to at least the 20th week of gestation; and
- 3) That the child would have been a dependent of the individual claiming the credit.

The credit amount is \$2,000 for taxable years beginning or deemed to begin on or after January 1, 2022. The credit is allowed for the taxable year in which the stillbirth occurred.

The Committee voted to amend LB597 into LB432

7 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Pahls

1 Present Not Voting - Friesen

LB299 was heard on February 25, 2021, at 1:30 PM in Room 1524

In-Person Testimony

Proponents:

- Senator Mike McDonnell, Introducer
- Darren Garrean, Nebraska Professional Firefighters Association
- Micheal Dwyer, Nebraska Volunteer Firefighters
- Kenny Krause, Nebraska State Fire Chiefs
- Joel Cerny, Nebraska State Volunteer Firefighters Association
- Patrick Moore, Nebraska State Volunteer Firefighters Association
- Jerry Stilmock, Nebraska State Volunteer Firefighters Association, Nebraska Fire Chiefs Association

Opponents:

- Lynn Rex, League of Nebraska Municipalities

Neutral: NONE

Written Submitted Testimony

Proponents: NONE

Opponents: NONE

Neutral: NONE

Summary for LB299:

The bill creates the Firefighter Cancer Benefits Act. Beginning on or after January 1, 2022, every rural or suburban fire protection district, airport authority, city, village, or nonprofit corporation shall provide and maintain enhanced cancer benefits for firefighters unless he or she is already provided paid firefighter cancer benefits pursuant to Neb.Rev.Stat.Sect.35-1001.

A graduated scale of enhanced cancer benefits are to be provided in either a lump sum or in monthly payments, depending on the degree of severity of the disease:

- \$25,000 lump sum for;
 - Each diagnosis of one or more malignant tumor that has metastasized and requires surgery, radiotherapy or chemotherapy;
 - Or if there is a tumor of the prostate;

- Or such firefighter has terminal cancer and has a life expectancy of 24 months or less.
- \$6,250 lump sum for;
 - Each diagnosis of carcinoma that requires surgery, radiotherapy or chemotherapy;
 - Malignant tumors; or
 - Malignant melanomas.
- A monthly benefit of \$1,500 for disability caused by cancer that precludes the firefighter from serving for up to 36 consecutive months; and
- Death benefits of \$50,000 to the beneficiaries.

The combined benefits under the Act are not to exceed \$50,000 during the firefighter's lifetime. A firefighter may not receive benefits from more than one department and remains eligible for these benefits for 60 months after formal cessation of their status as a firefighter. The State Fire Marshall is to report on the use of the program annually to the Legislature and the Governor beginning December 1, 2023.

Benefits received under the Act are excluded from federal adjusted gross income for Nebraska income tax purposes.

The bill has an operative date of January 1, 2022.

The Committee voted to amend LB299 as amended into LB432
7 Yes - Linehan, Lindstrom, Albrecht, Bostar, Briese, Flood, Pahls
1 No - Friesen

The committee voted to amend LB299 into LB432 on the basis that the mandate to provide enhanced cancer benefits be removed for fire protection districts, airport authorities, cities, villages or nonprofit corporation. Such entities may elect to provide additional benefits under the Firefighter Cancer Benefits Act and will be subject to the requirements of the Act if they choose to participate.

Lou Ann Linehan, Chairperson