

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Appropriations.

HB26-1289 be amended as follows:

1 Amend printed bill, page 20, strike lines 25 through 27.

2 Page 21, strike lines 1 and 2 and substitute:

3 "(A) THE APPORTIONABLE INCOME OF A MEMBER OF THE
4 AFFILIATED GROUP THAT IS EFFECTIVELY CONNECTED OR TREATED AS
5 EFFECTIVELY CONNECTED PURSUANT TO THE INTERNAL REVENUE CODE
6 WITH THE CONDUCT OF A TRADE OR BUSINESS WITHIN THE UNITED STATES
7 AND, FOR THAT REASON, SUBJECT TO FEDERAL INCOME TAX AND THE
8 RELATED APPORTIONMENT FACTORS; AND".

9 Page 21, line 4, strike "EARNNS" and substitute "IS A RESIDENT OF A
10 COUNTRY THAT DOES NOT HAVE A COMPREHENSIVE INCOME TAX TREATY
11 WITH THE UNITED STATES AND EARNNS".

12 Page 23, line 11, strike "FAILS TO COMPLY WITH" and substitute
13 "KNOWINGLY FAILS TO COMPLY WITH OR RECKLESSLY DISREGARDS".

14 Page 24, line 26, strike "(3)(i)" and substitute "(1)(b)(I), (3)(i)".

15 Page 25, after line 1 insert:

16 "(1) (b) (I) (A) For income tax years commencing on or after
17 January 1, 2022, BUT BEFORE JANUARY 1, 2027, in the case of a C
18 corporation that is not incorporated in the United States, or included in a
19 consolidated federal corporate income tax return, "federal taxable
20 income" means the C corporation's income or loss as determined from a
21 profit and loss statement prepared for that C corporation on a separate
22 entity basis in the currency in which its books of account are regularly
23 maintained, provided this profit and loss statement is subject to an
24 independent audit, adjusted to conform to the accounting principles
25 generally accepted in the United States for the preparation of such
26 statements and further modified to take into account any book-tax
27 adjustments necessary to reflect federal and state tax law. Income or loss
28 so computed includes all income wherever derived and is not limited to
29 items of income from sources within the United States or effectively
30 connected income within the meaning of the internal revenue code. Items
31 of income, expense, gain or loss, and related apportionment factors that
32 are denominated in a foreign currency must also be translated into United
33 States dollars on a reasonable basis consistently applied year-to-year and
34 entity-by-entity. Unrealized foreign currency gains and losses are not

1 recognized. Income apportioned to this state is to be expressed in United
2 States dollars.

3 (B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
4 1, 2027, IN THE CASE OF A C CORPORATION THAT IS INCLUDED IN A
5 COMBINED GROUP PURSUANT TO SECTION 39-22-303, AND THAT IS NOT
6 INCORPORATED IN THE UNITED STATES, OR INCLUDED IN A CONSOLIDATED
7 FEDERAL CORPORATE INCOME TAX RETURN, "FEDERAL TAXABLE INCOME"
8 MEANS THE C CORPORATION'S INCOME OR LOSS AS DETERMINED FROM A
9 PROFIT AND LOSS STATEMENT PREPARED FOR THAT C CORPORATION ON A
10 SEPARATE ENTITY BASIS IN THE CURRENCY IN WHICH ITS BOOKS OF
11 ACCOUNT ARE REGULARLY MAINTAINED, PROVIDED THIS PROFIT AND LOSS
12 STATEMENT IS SUBJECT TO AN INDEPENDENT AUDIT, ADJUSTED TO
13 CONFORM TO THE ACCOUNTING PRINCIPLES GENERALLY ACCEPTED IN THE
14 UNITED STATES FOR THE PREPARATION OF SUCH STATEMENTS, AND
15 FURTHER MODIFIED TO TAKE INTO ACCOUNT ANY BOOK-TAX ADJUSTMENTS
16 NECESSARY TO REFLECT FEDERAL AND STATE TAX LAW. INCOME OR LOSS
17 SO COMPUTED INCLUDES ALL INCOME WHEREVER DERIVED AND IS NOT
18 LIMITED TO ITEMS OF INCOME FROM SOURCES WITHIN THE UNITED STATES
19 OR EFFECTIVELY CONNECTED INCOME WITHIN THE MEANING OF THE
20 INTERNAL REVENUE CODE. ITEMS OF INCOME, EXPENSE, GAIN OR LOSS,
21 AND RELATED APPORTIONMENT FACTORS THAT ARE DENOMINATED IN A
22 FOREIGN CURRENCY MUST ALSO BE TRANSLATED INTO UNITED STATES
23 DOLLARS ON A REASONABLE BASIS CONSISTENTLY APPLIED YEAR-TO-YEAR
24 AND ENTITY-BY-ENTITY. UNREALIZED FOREIGN CURRENCY GAINS AND
25 LOSSES ARE NOT RECOGNIZED. INCOME APPORTIONED TO THE STATE IS TO
26 BE EXPRESSED IN UNITED STATES DOLLARS.

27 (C) SUBSECTION (1)(b)(I)(A) OF THIS SECTION AND THIS
28 SUBSECTION (1)(b)(I)(C) ARE REPEALED, EFFECTIVE DECEMBER 31,
29 2031."

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