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FLORIDA DEPARTMENT OF REVENUE
PUBLIC MEETING
HELD ON OCTOBER 24, 2018

Transcribed by:
DOREEN M. MANNINO
Court Reporter

1 MS. EAGLE: Good morning. My name is
2 Chelsea Eagle. I will be the moderator for
3 today's meeting. My role as moderator is to
4 preside in a neutral fashion. I'm joined by
5 Mark Hamilton, the Department's General
6 Counsel, and Anthony Jackson, who will serve as
7 our technical assistant.

8 Today is October 24th, 2018, and this is a
9 public meeting scheduled under subsection (1)
10 of section 120.525, Florida Statutes. This
11 meeting is held pursuant to Section 3 of
12 Chapter 2018-119, Laws of Florida.

13 The purpose of this meeting is to allow
14 interested parties to present comments on the
15 impact of the federal Tax Cuts and Jobs Act of
16 2017 on Florida Corporate Income Tax and on
17 Florida businesses.

18 The Department previously identified 13
19 topics from the Tax Cuts and Jobs Act of 2017
20 with the potential to have a significant impact
21 on Florida. These topics were originally
22 presented at the August 22nd, 2018 public
23 meeting. A fourteenth topic was added before
24 this meeting based on comments from the public.
25 A list of the topics, along with copies of the

1 agenda and Section 3 of 2018-119, Laws of
2 Florida, are available at the front of the
3 room. For electronic participants, they are
4 also posted with today's agenda on the
5 Department's website at
6 floridarevenue.com/CITReview.

7 We will take comments on each agenda item
8 from anyone present. For anyone present, we
9 ask that you step up to the podium when you
10 want to speak on an agenda item. Please tell
11 us your name and whom you represent.

12 I will now ask Anthony Jackson to explain
13 the process that we will use for taking
14 electronic comments on the agenda items.

15 MR. JACKSON: Good morning, ladies and
16 gentlemen. If you are attending this meeting
17 using the option "Telephone with AUDIO PIN" and
18 you have a question or a comment, send an email
19 to CITReview@floridarevenue.com to let me know
20 you wish to speak. We will address you by name
21 and unmute your phone when it is your turn to
22 speak.

23 If you are using the option "Telephone
24 with NO AUDIO PIN," you must email your
25 question or comment directly to

1 CITReview@floridarevenue.com. Please use the
2 subject line, "October 24 meeting." For the
3 comment, we ask that you add your name and whom
4 you represent and your email. We will read
5 your comment out loud, and the court reporter
6 will enter it into the record.

7 If you are attending this hearing using
8 your computer, raise your hand using the icon
9 on the Grab Tab, left of your control panel,
10 and we will address you when it is your turn to
11 speak. Please state your name and whom you
12 represent, and the court reporter will enter it
13 into the record along with your question or
14 comment. If you experience difficulty, use the
15 quick "chat" option to send me a message.

16 MS. EAGLE: All visitors need to wear a
17 public meeting badge while in the building.
18 Please return it when the meeting is finished.
19 If there is an emergency evacuation, we will
20 walk together to the evacuation zone for your
21 safety. Please mute or turn off any cell phone
22 ringers or other noisemaking devices.

23 Thank you.

24 Our first agenda item is an overview of
25 the Florida Corporate Income Tax Review

1 Project, which was created in 2018-19, Laws of
2 Florida.

3 During the 2018 legislative session, the
4 Florida Legislature recognized that federal tax
5 law changes made by the Tax Cuts and Jobs Act
6 of 2017 (Public Law 115-97) would have
7 significant effects on Florida corporate income
8 tax and taxpayers when it is fully implemented.
9 To better understand these effects, the
10 Department of Revenue was directed to examine
11 how the Act will affect the state corporate
12 income tax as a result of the state's adoption
13 of the 2018 Internal Revenue Code.

14 Chapter 2018-119, Laws of Florida,
15 provides guidance on how the examination is to
16 be conducted and requires a final report to be
17 submitted to the Governor, President of the
18 Senate, Speaker of the House of Representatives
19 and the chairs of the appropriate legislative
20 committees by February 1, 2019. The
21 examination includes review of IRS guidance,
22 external analyses, and the gathering of public
23 comments through a public input process and
24 public meetings, like the one being held today.

25 The chapter law also required the

1 Department to provide a status report on
2 August 3rd, 2018, and requires the Department
3 to provide another status report on November
4 16th, 2018, to the chairs of the appropriate
5 legislative committees. The first status
6 report is available on the Department's CIT
7 Review webpage.

8 Our second agenda item is to accept public
9 comments on each of the fourteen current topics
10 under review. The topics are listed in the
11 order they appear in the Department's August
12 3rd, 2018 status report, with the recently
13 added topic at the bottom of the list. I will
14 give a brief explanation of each topic and then
15 open the floor for public comment. When you
16 come forward to give comments, we ask that you
17 begin by stating your name and whom you
18 represent.

19 At the last meeting, certain topics
20 received more public interest than others. To
21 facilitate comments on the most popular topics,
22 the Department will take some items out of
23 order and receive comments on them now. The
24 first item we will receive comments on is
25 Number 14 on your list of current topics under

1 review by the Department. This new topic is
2 Like-Kind Exchanges (also known as
3 "ten-thirty-one exchanges").

4 The Tax Cuts and Jobs Act of 2017 amends
5 Internal Revenue Code section 1031 to limit the
6 nonrecognition of gain in like-kind exchanges
7 to exchanges of real property not held
8 primarily for sale. As under pre-enactment
9 law, real property located in the US is not
10 considered like-kind to real property located
11 outside the US.

12 Effective January 1, 2018, exchanges of
13 machinery; equipment; vehicles; art work;
14 collectibles; patents and other intellectual
15 property; and intangible business assets no
16 longer qualify for like-kind exchange
17 treatment.

18 Are there any public comments on this
19 topic?

20 MR. HOGAN: Good morning. My name is
21 Steven Hogan, I'm with the Ausley McMullen Law
22 Firm.

23 With regard to this topic on 1031
24 exchanges, we submitted written comments
25 yesterday. I know they haven't been put up on

1 the website, but I hope you all have gotten
2 them. And mostly we'll defer to written
3 comments, but I'll just give a quick overview
4 of what's in those written comments just for
5 sake of summarizing the issues. And I don't
6 know if the Department is offering questions to
7 people that are giving public comments, but if
8 there are any, I'd be happy to address any that
9 might come up.

10 So, as you said, the Tax Cuts and Jobs Act
11 eliminated the 1031 exchanges for tangible
12 property and intangible property used in a
13 trader business. This comment that we have
14 here today is mostly focussed on the tangible
15 property issue. So a company that sells
16 tangible personal property that was used in
17 their trader business, could formulate, avoid
18 recognizing any gain on the sale of that
19 property, if they were replacing that property
20 with like-kind property and buying it, they
21 would be following the 1031 regulations. So
22 that was how it used to be. But with the
23 change, with the Tax Cuts and Jobs Act, the
24 1031 exchange process was eliminated for
25 tangible property. So that's no longer

1 something that can be used for anything other
2 than real property. So now what that means for
3 taxpayers is that taxpayers that have been in
4 the business routine, shall we say, of selling
5 the tangible personal property or tangible
6 property that they were using in their business
7 and then replacing it with new tangible
8 property to also be used in a business, now
9 they're in a situation where they have to all
10 of a sudden recognize gain on the sale of their
11 old property. And they can't avoid the
12 recognition of it under 1031 as they always
13 could since that section has been in place.
14 Now, that means that they have a bubble of
15 gain, essentially that was unexpected, now that
16 they have to deal with.

17 At the federal level, the 1031 issue that
18 I've just described is offset somewhat by the
19 fact that the Tax Cuts and Jobs Act has
20 also given taxpayers a new bonus appreciation
21 amount where when a taxpayer purchases new
22 property to be used in a trader business, they
23 can take a depreciation deduction worth up to
24 100% of what they paid for that replacement
25 property. So what this means in effect is that

1 a company that sells their old property, that
2 sells their old property, they're going to have
3 to recognize gain on that -- on that sale of
4 the old property, but they can also wipe it out
5 with the deduction. Let's say that they're
6 selling property and replacing it one-to-one
7 with new property, that presumably it costs
8 more than the stuff that they just sold because
9 it was -- the stuff was older, Right, so
10 they're able to wipeout at the federal level
11 all this unexpected gain that would have of
12 otherwise had existed. So there is no real
13 bubble problem of tax liability at the federal
14 level.

15 Now, when you drop down to the Florida
16 level, though, there's an issue because in the
17 Florida Statutes in 220.13, the Florida
18 Statutes instruct taxpayers when they're
19 calculating their Florida corporate income tax
20 liability, that any bonus depreciation that
21 they took under section 168(k) of the Internal
22 Revenue Code, has to be added back into their
23 Florida corporate income tax base. So all the
24 bonus depreciation that they may have used to
25 wipeout the unexpected gain at the federal

1 level, has to be added back in. So they can't
2 take that bonus depreciation at the Florida
3 level.

4 What they can take in that same section of
5 220.13, what they can take is one seventh of
6 the bonus depreciation amount that they would
7 have otherwise taken. So instead of the 100%,
8 they can take one seventh of 100%. So they can
9 cut the gain down that they're recognizing on
10 the sale of the old property. They can cut it
11 by one seventh. And then in year 2, they can
12 use another one seventh; year 3, one seventh;
13 all the way up for seven years. So it's not
14 like this bonus depreciation deduction goes
15 away. It's just stretched out. It's a timing
16 issue. So that creates a problem at the
17 Florida level for such taxpayers in this
18 situation, this unexpected situation where they
19 have a bubble of tax liability at the Florida
20 level right now that they can't offset with the
21 bonus depreciation or, frankly, anything else.
22 Well, let's cap it at the bonus depreciation
23 and not worry about extraneous factors.

24 So that means the taxpayers in this
25 situation are going to face a serious cash flow

1 issue because all of a sudden, they have this
2 surprise liability in Florida that they're
3 going to have to pay in cash money to the
4 Florida Department of Revenue.

5 Now, is this something that can be fixed
6 by the Department internally? I don't think
7 so. I think it's a statutory fix that would
8 need to be done because the statute says very
9 clearly that this one seventh depreciation
10 issue is the way things are done in Florida,
11 and the Department can't rewrite the statute,
12 of course. But in the report to the
13 legislature, we hope that the Department of
14 Revenue would raise this issue so that the
15 legislature is inclined to take action on this
16 issue. They will at least have input from the
17 Department.

18 I think that concludes my comments unless
19 there are any questions, if you all are
20 offering questions.

21 MR. HAMILTON: I have no questions. I
22 want to thank you for your comments. And just
23 for everybody's benefit, I will confirm that
24 the Department did receive your written
25 comments yesterday, and those are in the

1 process of being posted. For anyone that's
2 interested, they will be posted later.

3 MR. HOGAN: Thank you.

4 MS. EAGLE: Thank you.

5 Are there any additional comments from the
6 public?

7 (No response.)

8 Are there any comments from electronic
9 participants?

10 (No response.)

11 The next topic the Department will receive
12 comments on is number 10 on your list of
13 current topics under review by the Department.

14 The tenth topic under review is Global
15 Intangible Low-Taxed Income.

16 The Tax Cuts and Jobs Act of 2017 creates
17 Internal Revenue Code section 951A, which
18 imposes a tax on the global intangible
19 low-taxed income of certain US taxpayers and
20 their affiliates for tax years beginning on or
21 after January 1st, 2018. Global intangible
22 low-taxed income is included in a company's
23 gross income and generally treated in a manner
24 similar to Subpart F income, with certain
25 deductions and exemptions.

1 Are there any public comments on this
2 topic?

3 MS. O'CONNOR: Good morning. My name is
4 Victoria O'Connor, and I'm Senior Tax Counsel
5 here on behalf of Anheuser-Busch Companies.

6 Prior to the enactment of Federal Tax
7 Reform, Florida earnings were either taxed
8 through the Subpart F rules as a deemed
9 dividend or when earnings were paid back into
10 the United States with an actual dividend. In
11 both instances the federal tax was offset by
12 foreign tax credits to avoid double taxation.
13 Typically, states like Florida limited their
14 taxation to income earned domestically.
15 Foreign income was generally considered outside
16 the purview of a state's jurisdiction to tax,
17 thus, states generally decoupled from Subpart F
18 provisions and provided dividend received
19 deductions for dividends from foreign
20 corporations. Florida was no exception.

21 With federal tax reform, in an effort to
22 shift to a quasi-territorial regime, Congress
23 enacted Section 951A to function as a minimum
24 tax on global income. It created a new
25 category of income called Global Intangible

1 Low-Taxed Income, otherwise known as GILTI,
2 such that a tax of at least 13% was paid on
3 certain foreign earnings. Mechanically to
4 achieve this minimum effect of tax, 50% of the
5 controlled form corporation's foreign taxable
6 income is reduced by 80% of the foreign tax
7 credit used. Florida does not recognize, nor
8 use foreign tax credits. Use of foreign tax
9 credits was unnecessary given Florida's
10 historic approach to only taxing domestic
11 income. Without the utilization of foreign tax
12 credits, Florida will therefore include 50% of
13 foreign income in the Florida tax base
14 regardless of how that income is taxed in the
15 foreign jurisdiction. Conforming to the GILTI
16 provisions is problematic for several reasons
17 and would result in an unprecedented expansion
18 of the Florida tax base to include foreign
19 earnings.

20 First, this would be a break with
21 Florida's longstanding approach of only taxing
22 domestic earnings of corporations that have a
23 connection or a nexus with the state. Under
24 its own definition, GILTI does not include
25 income of controlled foreign corporations that

1 is effectively connected with the United
2 States. As such, GILTI will always be foreign
3 income that has no nexus with the state.
4 Moreover, a state tax on foreign income, like
5 this one, is likely prohibited by the foreign
6 Commerce Clause under US Supreme Court decision
7 in Kraft General Foods versus The Iowa
8 Department of Revenue and Finance. This
9 decision prohibits a state from taxing foreign
10 earnings differently than they would tax
11 domestic earnings, if similarly situated. By
12 conforming to GILTI, Florida will be taxing
13 foreign earnings with no nexus; whereas,
14 similar domestic earnings with no nexus in
15 Florida would remain untaxed.

16 Second, because Florida does not recognize
17 foreign tax credits, it would only be
18 conforming to a portion of the federal GILTI
19 calculation. This results an inclusion of
20 income that has already been subject to foreign
21 taxation offering higher tax rates. For this
22 reason, the state's application of GILTI would
23 be inconsistent with the intent and limitation
24 of the GILTI rule. The resulting tax would
25 violate fundamental principles of taxation

1 aimed to prevent double taxation. From a
2 federal tax perspective, GILTI is similar to
3 Subpart F income, including being treated as a
4 deemed dividend, included on schedule C in the
5 federal income tax return and reported as a
6 dividend. Conforming to GILTI would treat
7 similar provisions asymmetrically by not
8 allowing Florida's standard dividends received
9 deduction to apply. Similar to other sections,
10 section 163(j), which we'll talk about shortly,
11 GILTI expands tax base as a paid for to allow
12 significant reduction in the corporate income
13 tax rate. Absent such a reduction in Florida's
14 own corporate tax rate, conforming to GILTI is
15 merely an increase in corporate taxes in the
16 state.

17 For these reasons we strongly urge the
18 state to completely decouple from GILTI.

19 Thank you.

20 MS. EAGLE: Thank you.

21 Are there any additional comments from the
22 public?

23 (No response.)

24 Are there any comments from electronic
25 participants?

1 MR. JACKSON: You go ahead, Ms. Quinn.

2 MS. QUINN: Hi, my name is Katie Quinn. I
3 am a lawyer in the firm McDermott, Will &
4 Emery, and I'm here on behalf of the STAR
5 Partnership.

6 I wanted to echo Ms. O'Connor's comments
7 on Florida's decoupling from GILTI. And I just
8 wanted to add a few other comments.

9 First, the STAR Partnership has made a
10 written comment back in September, and Diann
11 Smith from the STAR Partnership attended the
12 last public hearing and made comments, but I
13 won't repeat hers. But we do reemphasize
14 those. But I do have a few additional
15 comments.

16 So, as Victoria said, Florida does provide
17 a dividend received deduction for foreign
18 dividends including traditional Subpart F
19 income. Now, for federal purposes, again as
20 Victoria said, GILTI is treated similar to
21 subpart F income, and subpart F income for most
22 federal tax purposes are treated like a
23 dividend.

24 And I just wanted to address IRS's forms
25 that were recently released. And on the draft

1 form, the IRS provides that GILTI is reported
2 as a dividend on schedule C of the 1120, which
3 sort of indicates and emphasizes that the IRS
4 considers subpart F income -- I'm sorry -- the
5 IRS considers GILTI to be a dividend, so
6 Florida should also be considered GILTI to be a
7 dividend that's subject to the 100% DRD.

8 And my second comment is that since our
9 last meeting, South Carolina has also decoupled
10 from the GILTI provision. So Florida's
11 neighboring states, Virginia, North Carolina,
12 South Carolina and Georgia, all decoupled or
13 provide a dividend received deduction for GILTI
14 income.

15 Now, I also just wanted to clear up some
16 misconceptions that, you know, I sort of heard
17 in the tax world recently, that, you know, a
18 bunch of states -- I think I've heard 15 states
19 do tax GILTI. And I don't know where that
20 information is coming from, but that's
21 completely wrong. There is very few states
22 that have actively decided to tax a material
23 portion. The rest of the states have a DRD
24 that, you know, that could apply. If the state
25 hasn't spoken on it, a lot of tax departments,

1 the Department of Revenue, are coming out and
2 saying that GILTI is a dividend treated subject
3 to the state's DRD; thereby, excluding the
4 GILTI from the state tax base. So I just
5 wanted to clear up any misconception that
6 states are actively, you know, pulling out and
7 trying to tax GILTI because that's just not the
8 case. Thank you.

9 MS. EAGLE: Thank you.

10 Are there any additional comments?

11 (No response.)

12 The next topic the Department will receive
13 comments on is item 12 on your list of current
14 topics under review by the Department.

15 The twelfth topic under review is the Net
16 Interest Deduction.

17 The deduction for interest expenses is
18 limited to 30% of "adjusted taxable income"
19 plus business interest income, with special
20 elections available for real property trades
21 and businesses. For the first four years after
22 the enactment of the Tax Cuts and Jobs Act of
23 2017, adjusted taxable income is computed
24 without subtracting depreciation, amortization,
25 or depletion in addition to interest and taxes.

1 Beginning in 2022, adjusted taxable income will
2 be decreased by depreciation, amortization, and
3 depletion, thus making the computation 30% of
4 net interest expense exceeding earnings before
5 interest and taxes.

6 Are there any public comments on this
7 topic?

8 MS. O'CONNOR: Hello again. This is
9 Victoria O'Connor, Senior Tax Counsel on behalf
10 of Anheuser-Busch Companies.

11 Section 163(j), as amended by the Federal
12 Tax Reform, limits a taxpayer's ability to
13 deduct interest borne expenses to 30% of
14 adjusted taxable income. The result of this
15 provision and isolation is to raise the cost of
16 borrowing to the taxpayer.

17 For capital-intensive companies, the most
18 immediate consequence of these increased
19 borrowing costs will be to limit the ability to
20 invest in new projects. Congress's rationale
21 in limiting the interest deductibility was to
22 offset the significant reduction in the federal
23 corporate tax rate from 35% to 21%, as well as
24 the immediate expensing provisions of newly
25 deployed assets. Florida has enacted no

1 similar offsets. The corporate tax rate
2 remains the same, and Florida typically has
3 decoupled from bonus depreciation. By
4 conforming to section 163(j), Florida is simply
5 implementing a tax increase on business and
6 investment in state.

7 Costs recent -- the coalition -- excuse
8 me. Costs recently noted that the provision
9 alone is estimated to increase the Florida
10 Corporate tax base by an average of more than
11 7% over the next ten years. This was part of a
12 study that ELI put together looking at the
13 impact of federal corporate tax reform on the
14 states. This puts Florida at a disadvantage
15 with its neighbors in the southeast. States
16 such as Georgia, Tennessee, South Carolina and
17 Mississippi have elected not to conform with
18 federal tax reform on section 163(j), and we
19 invite Florida to do the same.

20 Unfortunately, when coupled together, the
21 adoption of the GILTI provisions spoke about
22 before and section 163(j), is going -- will
23 render Florida a less attractive place for
24 business investment. In light of this, many
25 states have opted out of these provisions.

1 You've heard the states mentioned, including
2 other states in the southeast region such as
3 Georgia, Kentucky, North Carolina and South
4 Carolina. Conforming to these two provisions
5 would make Florida an outlier resulting in a
6 competitive disadvantage with its closest
7 neighbors. Florida, though, can remain
8 competitive and cover any budget shortfalls
9 without having to raise taxes from new
10 provisions. The ELI study also mentioned that
11 the entire -- the -- conforming to the entire
12 federal tax reform will -- is increased -- will
13 increase the tax base and tax collections by
14 about 13% for Florida, which is above the
15 general average that ELI discussed. The
16 section 163(j) GILTI provisions make up only a
17 portion of that 13%.

18 For the reasons cited above, we strongly
19 urge the legislative body to completely
20 decouple from both of these provisions. In
21 doing so, we believe Florida will reaffirm its
22 widely recognized reputation as a state that
23 aligns its tax policies with international
24 norms and keep the state competitive for local
25 growth and investment for years to come.

1 Thank you.

2 MS. EAGLE: Thank you.

3 Are there any additional comments from the
4 public?

5 MR. GOLDMAN: Good morning. I'm Bob
6 Goldman with Dean Mead Law Firm here in
7 Tallahassee.

8 I hope you don't mind. I just wanted to
9 ask a question. After listening to comments
10 here today and looking at comments that you've
11 received in the past at the last workshop,
12 you've gotten some pretty persuasive arguments
13 for decoupling this -- this new interest
14 deduction limitation, and I'm -- from this
15 interest deduction limitation. And I'm
16 wondering if either from comments you've
17 received or your internal discussions, if any
18 policy position has been identified which would
19 support incorporating the same limitation in
20 Florida.

21 MR. HAMILTON: Today's workshop is for
22 receiving public comments. We're still in the
23 process of taking public comments. Obviously,
24 one of the things that's most important to the
25 Department is we don't dictate tax policy.

1 That's for the legislature to determine. We're
2 in the process of finalizing our next status
3 report, which is due on the 16th, and we're
4 taking additional comments at this time. So
5 thank you for any comments you'd like to
6 provide us.

7 MR. GOLDMAN: Okay. Well, I thought I
8 read that we could ask questions.

9 MR. HAMILTON: Today's not for questions.

10 MR. GOLDMAN: Okay. All right. Thank
11 you.

12 MR. HAMILTON: Thank you.

13 MS. EAGLE: Thank you.

14 Are there any additional comments from the
15 public?

16 (No response.)

17 Are there any comments from electronic
18 participants?

19 MR. JACKSON: Go ahead, Ms. Quinn.

20 MS. QUINN: Thank you. This is Katie
21 Quinn again from the firm McDermott, Will,
22 Emery on behalf of the STAR Partnership.

23 Again, I want to echo Victoria's comment
24 that decoupling from 163(j) will keep Florida
25 competitive, a competitive state for

1 businesses. Florida's neighboring states,
2 Georgia most recently, South Carolina and
3 Tennessee, have affirmatively decoupled from
4 163(j), and, you know, there are more
5 states -- most other states that have not
6 enacted legislation in response to federal tax
7 reform. So, you know, we think it's likely
8 that a lot more states will ultimately decouple
9 in next year's legislative session.

10 The other issue in Florida that we
11 emphasis in our -- the comments that were
12 submitted on September 17th, and that Diann
13 discussed at the last meeting, is that
14 conforming to 163(j) will create significant
15 complexities, particularly because Florida is
16 generally a separate return state. The
17 taxpayers each file -- every -- you know, every
18 entity each file its own return, unlike the
19 federal consolidated return where the
20 corporations file as a group, so this will
21 create just complexities computing whether an
22 interest loan exists, how the suspended
23 interest is carried forward by each individual
24 taxpayer. And I think that this is something
25 that if Florida is going to conform to 163(j),

1 that the tax department will have to really
2 consider how this can be fairly administered,
3 and it still creates real complexities.

4 So, again, like, you know, this is what
5 other states have been considering, Georgia,
6 South Carolina, when they've decided to
7 decouple, just, you know, the real
8 complexities. So we would urge Florida to
9 follow in their footsteps and decouple as well.

10 MS. EAGLE: Thank you.

11 Are there any additional comments?

12 (No response.)

13 We will now return to the order provided
14 in the list of current topics under review by
15 the Department.

16 The next topic under review is the
17 Treatment of Deferred Foreign Income Upon
18 Transition to a Participation Exemption System
19 of Taxation.

20 The Tax Cuts and Jobs Act of 2017 amends
21 Internal Revenue Code section 965 to impose a
22 one-time transition tax on deferred (untaxed)
23 foreign income as if such income had been
24 repatriated to the United States in the
25 business's last tax year beginning before

1 January 1, 2018.

2 Are there any public comments on this
3 topic?

4 (No response.)

5 Are there any comments from electronic
6 participants?

7 (No response.)

8 The next topic under review is the Repeal
9 of Alternative Minimum Tax.

10 The Tax Cuts and Jobs Act of 2017 repeals
11 the federal corporate alternative minimum tax
12 for taxable years beginning after December 31,
13 2017. The Act also accelerates the use of
14 previously earned federal alternative minimum
15 tax credits by not only allowing those credits
16 to offset the regular federal corporate income
17 tax liability, but also by allowing the credit
18 to be refunded.

19 Are there any public comments on this
20 topic?

21 (No response.)

22 Are there any comments from electronic
23 participants?

24 (No response.)

25 The next topic under review is Increases

1 in the Section 179 Expense Amount.

2 Taxpayers may elect to immediately expense
3 certain business assets rather than
4 depreciating them over time. The Tax Cuts and
5 Job Acts of 2017 amends Internal Revenue Code
6 section 179, to increase the deduction from
7 \$500,000 to \$1 million and the deduction
8 phase-out from \$2 million to \$2.5 million.

9 Are there any public comments on this
10 topic?

11 (No response.)

12 Any comments from electronic participants?

13 (No response.)

14 The next topic under review is Changes to
15 the Net Operating Loss Deduction.

16 The Tax Cuts and Jobs Act of 2017 amends
17 Internal Revenue Code section 172 to eliminate
18 the two-year net operating loss carryback for
19 most taxpayers, extend the carryforward period
20 indefinitely, and limit the amount of net
21 operating loss deduction that may be claimed in
22 each year to 80% of income.

23 Are there any public comments on this
24 topic?

25 (No response.)

1 Any comments from electronic participants?

2 (No response.)

3 The next topic under review is Bonus
4 Depreciation.

5 The Tax Cuts and Jobs Act of 2017 extends
6 and modifies the additional first-year bonus
7 depreciation deduction through 2026 for most
8 property acquired and placed in service after
9 September 27th, 2017. The 50% allowance is
10 increased to 100% for property placed in
11 service before January 1, 2023. After December
12 31, 2022, the 100% allowance is reduced by 20%
13 per calendar year and eliminated in 2027.

14 Are there any public comments on this
15 topic?

16 (No response.)

17 Any comments from electronic participants?

18 (No response.)

19 The next topic under review is the Repeal
20 of the Deduction for Domestic Production
21 Activities.

22 Internal Revenue Code section 199 provided
23 a reduced tax rate for income from certain
24 domestic production activities. The Tax Cuts
25 and Jobs Act of 2017 repeals the domestic

1 production activities deduction for taxable
2 years beginning after December 31, 2017.

3 Are there any public comments on this
4 topic?

5 (No response.)

6 Any comments from electronic participants?

7 (No response.)

8 The next topic under review is Base
9 Erosion Anti-Abuse Tax.

10 The Tax Cuts and Jobs Act of 2017 creates
11 a new base erosion anti-abuse tax in Internal
12 Revenue Code section 59A, which is a new
13 minimum tax on large corporations with
14 significant base erosion payments to related
15 foreign parties. The base erosion and
16 anti-abuse tax is assessed in addition to the
17 regular federal income tax and is calculated on
18 payments made to related entities.

19 Are there any public comments on this
20 topic?

21 (No response.)

22 Any comments from electronic participants?

23 (No response.)

24 The next topic under review is
25 Amortization of Research and Experimental

1 Expenditures.

2 The Tax Cuts and Jobs Act of 2017
3 eliminates the current deduction for Internal
4 Revenue Code section 174 expenditures, and
5 requires all domestic research expenditures to
6 be amortized over a minimum of five years and
7 for all foreign research expenditures to be
8 amortized over a minimum of fifteen years. The
9 Research and Development Credit is not affected
10 by the Act.

11 Are there any public comments on this
12 topic?

13 (No response.)

14 Any comments from electronic participants?

15 (No response.)

16 The next topic under review is the
17 Deduction for Dividends Received from Foreign
18 Corporations.

19 The Tax Cuts and Jobs Act of 2017 provides
20 in Internal Revenue Code section 245A that a US
21 corporation that is a 10% or more owner of a
22 foreign corporation may claim a 100%
23 dividends-received deduction for the foreign
24 source portion of dividends received from that
25 foreign corporation. The foreign

1 dividends received deduction is limited to
2 domestic corporations (not including Real
3 Estate Investment Trusts or Regulated
4 Investment Companies) and may not be included
5 in the computation of the foreign tax credit.

6 Are there any public comments on this
7 topic?

8 (No response.)

9 Any comments from electronic participants?

10 (No response.)

11 The text topic under review was Global
12 Intangible Low-taxed Income, which we addressed
13 earlier.

14 The next topic under review is the
15 Deduction for Foreign-Derived Intangible
16 Income.

17 The Tax Cuts and Jobs Act of 2017 creates
18 a new provision in Internal Revenue Code
19 section 250 that gives domestic corporations
20 reduced rates of US tax on their
21 foreign-derived intangible income. It provides
22 a lower effective tax rate on high returns
23 related to foreign sales. The calculation is
24 similar to Global Intangible Low-Taxed Income
25 in that returns in excess of 10% of fixed

1 assets form the basis of the calculation.

2 This is achieved by providing domestic
3 corporations a deduction against
4 foreign-derived intangible income (subject to
5 certain limitations) of 37.5% initially,
6 reduced to 21.875% for tax years beginning
7 after 2025. At a 21% corporate tax rate, the
8 deduction results in effective rates of 13.125%
9 and 16.40625% respectively. Internal Revenue
10 Code section 250 also provides a subtraction
11 for 50% of Global Intangible Low-Taxed Income
12 and for 50% of Internal Revenue Code section 78
13 dividends.

14 Are there any public comments on this
15 topic?

16 (No response.)

17 Any comments from electronic participants?

18 (No response.)

19 The next topic under review was the Net
20 Interest Deduction, which we addressed earlier.

21 The final topic under review is Changes to
22 the Treatment of Capital Contributions.

23 The Tax Cuts and Jobs Act of 2017 amends
24 Internal Revenue Code section 118 to provide
25 that certain federal, state and local

1 incentives used to attract companies are
2 treated as current taxable income to those
3 businesses rather than deferred capital
4 contributions.

5 Are there any public comments on this
6 topic?

7 (No response.)

8 Any comments from electronic participants?

9 MR. JACKSON: Go ahead, Ms. Quinn.

10 MS. QUINN: Hello. This is Katie Quinn
11 again from McDermott, Emery on behalf of the
12 STAR Partnership.

13 We wanted to again emphasize our written
14 comments that conforming to IRC section 118 as
15 amended by the Tax Cuts and Jobs Act
16 effectively would impose tax on contributions
17 by governmental entities and civic groups that
18 are designed to attract and obtain businesses.
19 If Florida wants to use the incentive to
20 attract and obtain businesses, it imposes tax
21 on those effected, significantly reduces the
22 effectiveness of such policy, and recently
23 South Carolina decoupled from section 118,
24 thereby, making South Carolina a more
25 competitive state than Florida. And as we

1 discussed the last time, Tennessee, South
2 Carolina and Mississippi have all decoupled.
3 And there's another provision where, you know,
4 states are still thinking about it, so we think
5 next year it's likely that additional states
6 will decouple from IRC section 118.

7 MS. EAGLE: Thank you.

8 Are there any additional comments from the
9 public?

10 (No response.)

11 As we addressed topic fourteen, Like-Kind
12 Exchanges, earlier, this concludes the
13 discussion of topics currently under review by
14 the Department.

15 Are there any public comments on topics
16 not presented by the Department?

17 MR. BROWN: Good morning. French Brown
18 with Dean Mead here in Tallahassee.

19 Just a couple of procedural questions or
20 comments. One is obviously addressing this is
21 the second public workshop that was required
22 under the law for the Department to handle. I
23 know that I've had a lot of questions from
24 clients, and I'm sure the public would be very
25 interested to know when the Department is going

1 to stop accepting written comments. Obviously,
2 the report is due February 1st. There's going
3 to have to be some deadline. But if the
4 Department can provide guidance to the public
5 about when those comments need to be in, as
6 people are still formulating their comments and
7 getting them to the Department.

8 The second question is, one of the other
9 requirements in the report is that the
10 Department conduct an estimate for the
11 potential fiscal impact for each one of these
12 14 issues. I'm sure the public would be very
13 interested to hear how the Department
14 anticipates maybe formulating that, to be able
15 to put that and what that process is going to
16 look like, if there's going to be public
17 involvement and so on for that portion of the
18 report.

19 Thank you.

20 MR. HAMILTON: Thank you.

21 MS. EAGLE: Are there any additional
22 comments from the public?

23 (No response.)

24 Any comments from electronic participants?

25 (No response.)

1 On behalf of the Department, I want to
2 thank everyone for participating and sharing
3 your comments with us. Your participation is
4 very helpful during this process.

5 The transcript from today's meeting will
6 be posted on the Department's website at
7 floridarevenue.com/CITReview as soon as it is
8 received. It normally takes about two weeks
9 from the meeting to be transcribed.

10 Any additional comments you may have after
11 this meeting may be submitted to
12 CITReview@floridarevenue.com. All public
13 comments are posted to the Department's
14 website.

15 This concludes the meeting.

16 (Whereupon, the meeting was adjourned at
17 9:43 a.m.)

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C E R T I F I C A T E

STATE OF FLORIDA)

COUNTY OF LEON)

I, Doreen Mannino, Court Reporter, do hereby certify that I was authorized to and did report in stenotypy and electronically the foregoing proceedings, and that the foregoing pages constitute a true and correct transcription of my recording thereof.

IN WITNESS WHEREOF, I have hereunto affixed my hand the 10th day of November 2018 at Tallahassee, Leon County, Florida.

Doreen M. Mannino