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April 8, 2026

Via E-mail

Senator Ann Cummings, Chair
Senator Thomas Chittenden, Vice Chair
Senate Committee on Finance
Vermont General Assembly

Re: COST Opposes Elimination of IRC Section 250 Deduction in H. 933

Dear Chair Cummings, Vice Chair Chittenden, and Members of the Committee:

On behalf of the Council On State Taxation (COST), we are writing to oppose a provision in H. 933 that would eliminate the Internal Revenue Code Section 250 (Section 250) 40% deduction for Net Controlled Foreign Corporation Tested Income (“NCTI”).

Sound tax policy would only impose a state tax on an apportioned share of a corporation’s U.S. source income. H. 933’s elimination of the Section 250 deduction, however, would not only impose Vermont’s corporate income tax on all foreign-source income (not U.S.-source), but do so regardless of whether (or to what extent) that foreign-source income was taxed at the federal level or by the foreign country where it was earned. This violation of sound tax policy principles will likely lead to protracted litigation, is contrary to the federal policy goals for enacting NCTI¹ and puts U.S. multinational corporations operating in Vermont at a competitive disadvantage with their foreign counterparts that generally are not subject to NCTI. Vermont is already an outlier among the states as it currently taxes 50% of NCTI’s predecessor, GILTI and, even without the elimination of the Section 250 deduction will tax 60% of NCTI. With the elimination of the Section 250 deduction, Vermont would become one of only two states that taxes 100% of NCTI, which will have a direct impact on U.S. multinational corporations expansion and relocation decisions.

About COST

COST is a nonprofit trade association based in Washington, DC that was formed in 1969 as an advisory committee to the Council of State Chambers of Commerce and today has an independent membership of approximately 500 major corporations engaged in interstate and

¹ NCTI and its predecessor GILTI (Global Intangible Low-Taxed Income) are included in the federal tax base as a means of minimizing incentives for multinational entities to locate in low-tax nations, consistent with the long-standing effort by the Organization for Economic Co-operation and Development’s Base Erosion and Profit Shifting (BEPS) project, of which the US is a participant. The exclusion of NCTI or GILTI from the *state* corporate income tax base is consistent with COST’s long-standing policy position to exclude all types of foreign source income from the state tax base because it is not related to business activity in a state. See “Excluding Foreign Income,” in the COST Policy Statement on “State Corporate Income Tax Filing Methods.” <https://www.cost.org/state-tax-resources/cost-policy-positions/>.

international business. COST's objective is to preserve and promote equitable and nondiscriminatory state and local taxation of multistate business entities. Many COST members conduct business and retail operations in Vermont and would be negatively impacted by H. 933's inclusion of 100% of NCTI in the State's corporate income tax base.

State Taxation of NCTI Is Contrary to Federal Tax Policy Goals

Over the last decade, a global consensus has emerged that new corporate income tax rules are needed to address the issue of low-taxed foreign-source income. In 2017, the United States pioneered a new approach to minimize low-taxed foreign income by enacting the GILTI (global intangible low-taxed income) provision as part of the Federal Tax Cuts and Jobs Act (TCJA). GILTI initially included foreign-source income in the federal corporate income tax (CIT) base at an effective tax rate of 13.125%, which increased to 16.406% in 2026.² In 2025, the U.S. Congress replaced GILTI with a new "minimum tax", NCTI, with a broader income tax base and an effective tax rate of 14%.³ At the international level, dozens of countries (including all of the European Union nations) adopted some or all of the provisions of the Organization for Economic Co-operation and Development's (OECD) Pillar 2 Global Minimum Tax (GMT), which imposes a 15% tax on the foreign-source income of each country's multinational entities.⁴ While there are differences between the U.S. GILTI/NCTI provisions and the OECD's Pillar 2 GMT, they share three critical elements: 1) To foster a level playing field among nations, the issue of low-taxed foreign source income is addressed by GMTs only at the national level, not the subnational (state and local) level; 2) to promote effective tax rate parity between nations, the national GMTs each adopt a tax rate of roughly 15%; and 3) to avoid double taxation, the GMTs are imposed only if the country where the activities take place does not impose a tax on the economic activities at or near the minimum tax rate. At the federal level the Section 250 deduction coupled with the 90% foreign tax credit create a tax rate parity between the U.S. tax scheme and the GMT. Vermont's current inclusion of 60% (and proposed inclusion of 100%) of NCTI in the state corporate income tax base violates the three key elements of the emerging global consensus on GMTs.

First, no country other than the United States allows the taxation of foreign source income by both national and state and local (subnational) governments. The combined federal and state taxation of foreign source income creates a competitive disadvantage for U.S. multinational entities that are taxed at two levels, compared to foreign multinational entities that are generally only taxed at the national level.⁵

Second, tax rate parity is undermined when the state corporate income tax rate is imposed on foreign source income on top of the federal NCTI rate of 14%. By comparison, the OECD Pillar 2 GMT rate of 15% is imposed by foreign countries on their own multinational entities at the national

² For a summary of the GILTI provisions in the Tax Cuts and Job Act (TCJA), see Karl A. Frieden and Barbara M Angus, "Convergence and Divergence of Global and U.S. Tax Policies," Tax Notes State, Aug. 30, 2021.

³ For a comparison of the GILTI and NCTI provisions, see Frieden and Marilyn Wethekam, "The Impact of the OBBBA on State Taxation of Foreign-Source Income," Tax Notes State, Aug. 8, 2025. NCTI broadened the tax base by eliminating the qualified business asset investment (QBAI) deduction. Id.

⁴ For a description of the OECD's Pillar 2 GMT, see Frieden and Douglas L. Lindholm, "Revisiting the Debate Over State Taxation of Foreign-Source Income," Tax Notes State, June 23, 2025, at 812-815. For a list of the countries adopting the OECD's Pillar 2 GMT, see: PwC's Pillar 2 Country Tracker.

⁵ Frieden and Wethekam, *supra* note 3; Frieden and Lindholm, *supra* note 4. No other economically advanced nations including ones with federalist systems, include foreign source income in the corporate income tax base at the subnational level. See PwC, "Survey of Subnational Corporate Income Taxes in Major World Economies: Treatment of Foreign Source Income," prepared for STRI (Nov. 2019).

level. No additional subnational corporate income tax is imposed.⁶ The failure to allow the Section 250 deduction further exacerbates the lack of rate parity.

Third, the inclusion of 100% of NCTI in the corporate income tax base creates significant potential for double taxation because Vermont does not allow an offsetting foreign tax credit. Foreign-source income is taxed at the state level regardless of whether (or to what extent) the foreign-source income is taxed at the U.S. federal level or in the foreign country.⁷

At the federal level only foreign source income that did not face substantial tax in a foreign jurisdiction is subject to tax. The inclusion of NCTI in the Vermont corporate income tax base includes substantial amounts of foreign source income in the tax base that was previously taxed by the foreign countries where it was earned and creates significant potential for double taxation because there is no offsetting foreign tax credit.⁸ This potential for double taxation runs afoul of the Foreign Commerce Clause and will likely lead to protracted litigation.⁸

Thus, the full inclusion of NCTI in the Vermont corporate income tax base would put U.S. multinational corporations operating in Vermont at a competitive disadvantage with the elimination of the Section 250 deduction. No country other than the United States allows the taxation of foreign source income by both national and subnational (state and local) governments. The combined federal and state taxation of foreign source income creates a competitive disadvantage for U.S. multinational corporations. This competitive disadvantage will likely directly impact Vermont's economic development as U.S. multinational entities will seek other locations for expansion.

Conclusion

COST respectfully requests that, at a minimum, you amend H. 933 to remove the provision in Section 55 that eliminates the Section 250 deduction. The taxation of NCTI violates sound tax policy, will likely lead to protracted litigation, is contrary to the federal goals for enacting NCTI, and places U.S. multinational corporations operating in Vermont at a competitive disadvantage.

Respectfully,


Leonore F. Heavey


Marilyn A. Wethekam

cc: COST Board of Directors
Patrick J. Reynolds, COST President & Executive Director

⁶ Frieden and Wethekam, *supra* note 3.

⁷ See Frieden and Lindholm, *supra* note 4.

⁸ The U.S. Supreme Court held that if a tax not withstanding apportionment creates a substantial risk of international multiple taxation it contravenes the Commerce Clause. *Japan Line, Ltd. v. County of Los Angeles*. 441 U.S. 434. (1979).