NECHAMBER
POLICY BRIEF

FOREIGN-SOURCE INCOME TAX EXEMPTION

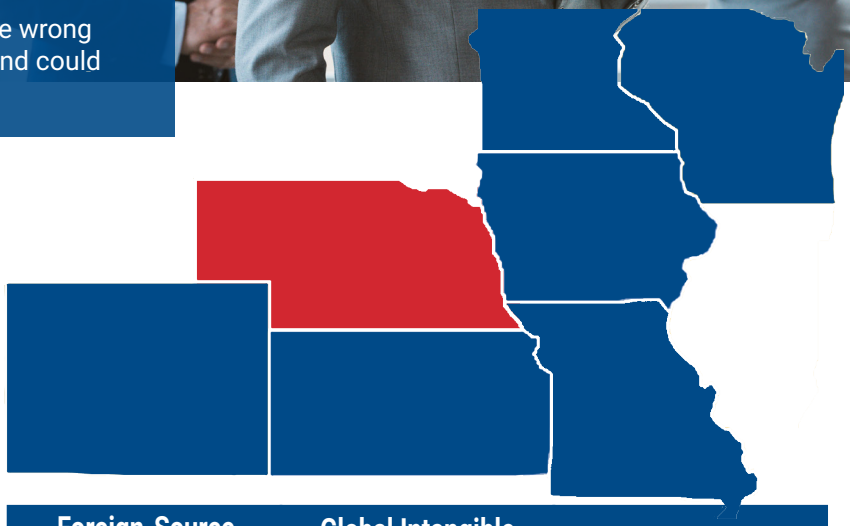
Preserving Our Reputation for Competitive and Consistent Tax Strategy

CHALLENGE

Nebraska has a longstanding policy of taxing only income earned inside the state. **After 30 years, the Nebraska Department of Revenue announced plans to tax 100% of foreign-source income** – both in the future and retroactively. **No other state is taxing 100% of this income**, creating a significant competitive disadvantage for some Nebraska businesses compared to other states.

Competitive and consistent tax policy is one of the factors that has earned Nebraska recognition as the #5 best place to do business (Forbes). Employers strongly consider a state's track record in regulatory certainty when determining whether to stay or locate operations in Nebraska.

Changing the rules in the middle of the game sends the wrong message to current and future Nebraska businesses and could hold the state back in economic growth.



WE ARE SEEKING:

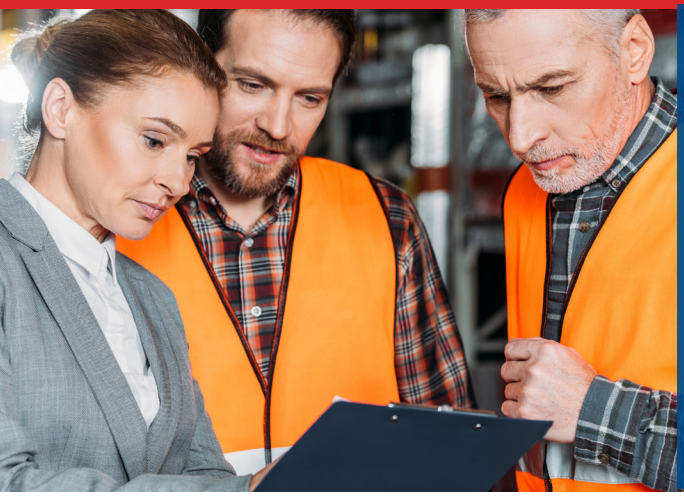
- ✓ ***Recommitment to Nebraska's 30-year policy of taxing only income earned in the state***
- ✓ ***Regulatory certainty***
- ✓ ***Even playing field for current and future Nebraska businesses***

Foreign-Source Income Type	Global Intangible Low-Taxed Income	Section 965 Income
Minnesota	100% Exempted	100% Exempted
Wisconsin	100% Exempted	100% Exempted
Iowa	100% Exempted	100% Exempted
Missouri	100% Exempted	100% Exempted
Kansas	80% Exempted	80% Exempted
Colorado	50% Exempted	50% Exempted

Back to Business

In 2019, with input from 7,000 Nebraskans, Blueprint Nebraska offered a roadmap for economic growth. The 15 priority initiatives identified by Blueprint Nebraska are even more critical today. Adopting an agenda to grow the state's population and economy and keep Nebraska competitive in business, talent attraction and quality of life will fuel our pandemic recovery and set the stage for game-changing economic growth.
Learn more. nechamber.com/back-to-business

Legislative Remedy



The Nebraska Legislature can join other states in clarifying that foreign-source income will not be taxed in Nebraska.

Overriding Objectives

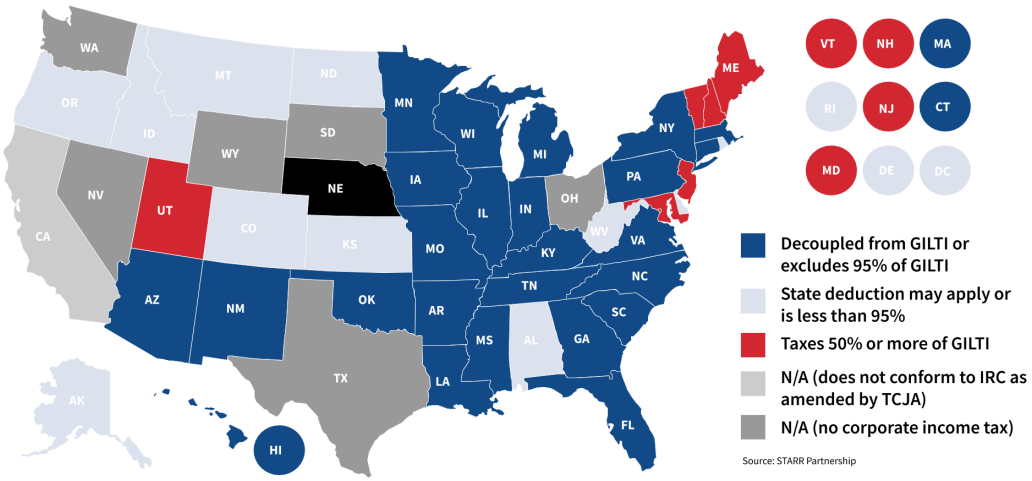
1. Even the playing field between Nebraska and out-of-state businesses.
2. Encourage investment and job creation.
3. Assure regulatory certainty.

U.S. treatment of foreign-source income

Two new categories of foreign-source income were created in the 2017 Tax Cut and Jobs Act (TCJA).

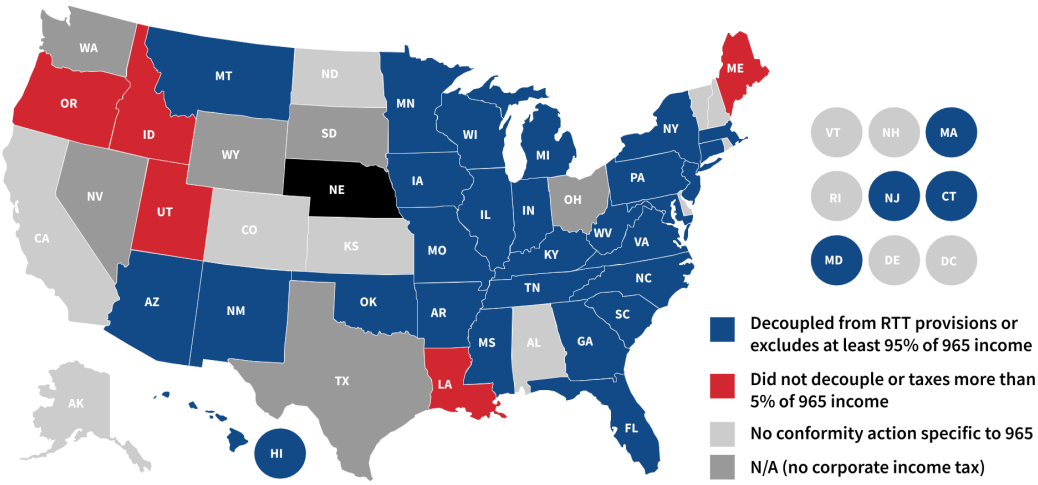
Global Intangible Low-Taxed Income is earned from intangible assets, such as patents, trademarks and copyrights. Nebraska can decouple its tax provisions from the federal Global Intangible Low-Taxed Income (GILTI) provisions to remain consistent with historical income tax policy.

Which states decoupled from the TCJA's **Global Intangible Low-Taxed Income (GILTI)** provisions?



Source: STARR Partnership

Which states decoupled from the TCJA's **Repatriation Transition Tax** provisions?



Source: STARR Partnership

Nebraska's Department of Revenue has issued guidance providing that 965 income is taxed, but such guidance is inconsistent with Nebraska's statute. The **New Mexico** Department of Revenue issued guidance providing that 965 Income is excluded only for separate company filers.

Section 965 Income is earned by shareholders of specified foreign corporations. Nebraska could take action to decouple its tax provisions from the federal Repatriation Transition Tax in TCJA to stay consistent with historical tax policy.