

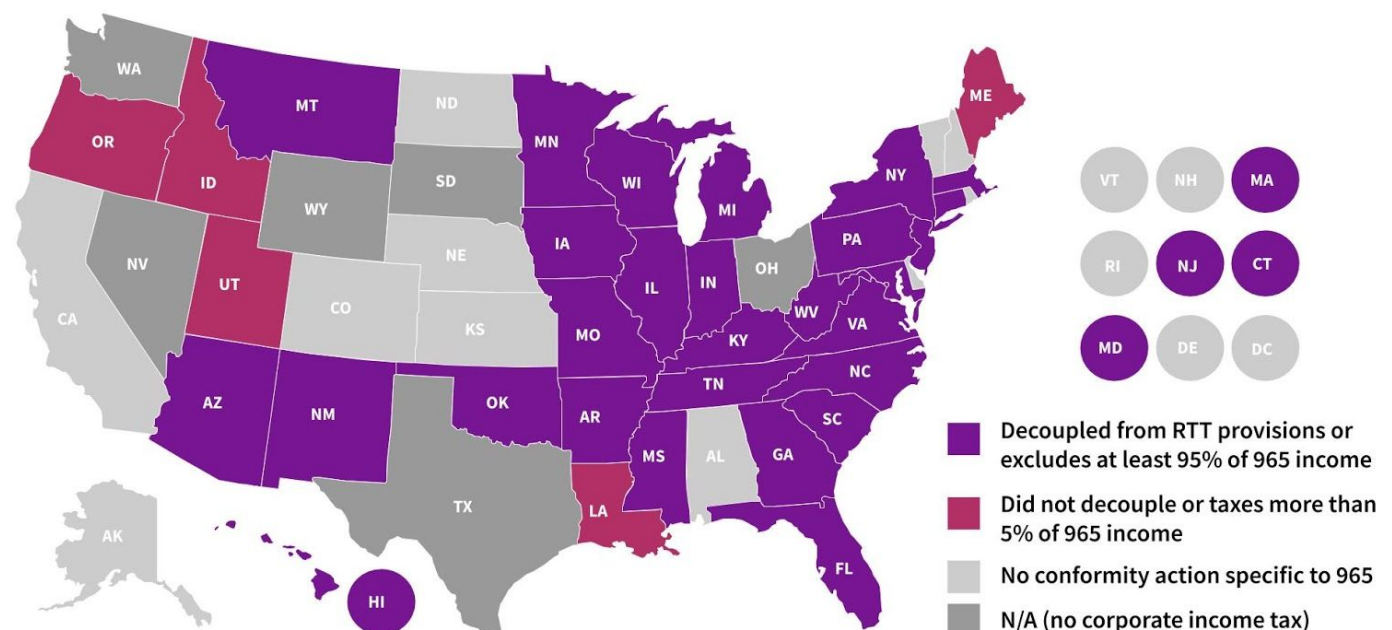
State Conformity to Federal Tax Reform *(as of January 2020)*

Repatriation Transition Tax

Decoupling from federal tax reform’s Repatriation Transition Tax (RTT) provisions has been the norm for states. The STAR Partnership recommends that states decouple from federal provisions addressing repatriated foreign earnings in order to remain consistent with policies to avoid taxation of foreign income, and a significant majority of states followed this recommendation. Under the prior federal tax system, states generally did not include foreign income in their own tax bases, for both policy reasons and Constitutional limitations. States should continue to respect these policy and Constitutional rationales and avoid taxation of foreign income by excluding these provisions from their business tax bases.

A significant majority of states which acted have decoupled from the one-time tax on repatriated earnings and profits. Twenty-eight states decoupled from the RTT (purple states in the map below). Only five states failed to decouple (or provide significant relief) and thus include one-time repatriated foreign earnings and profits in their state tax bases (red states on the map below). Three of these states are “static conformity” states (Idaho, Oregon, and Maine), meaning that when they adopted a new federal conformity date following the enactment of the TCJA they included repatriated earnings in their tax base. Utah is a “rolling conformity” state and its legislature considered legislation, but ultimately did not decouple from the RTT. Some of these states which couple to RTT (e.g., Oregon) provide a partial dividends received deduction. The remaining states either do not have a corporate income tax or have taken no affirmative action on RTT in the wake of the TCJA.

State Action on TCJA’s Repatriation Transition Tax Provisions



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.