

Seventy-Eighth Oregon Legislative Assembly - 2015 Regular Session
PRELIMINARY STAFF MEASURE SUMMARY
Senate Committee On Finance and Revenue

MEASURE: SB 611

Fiscal: May have fiscal impact, but no statement yet issued

Revenue: May have revenue impact, but no statement yet issued

Action Date:

Action:

Meeting Dates: 02/24, 02/23, 02/16, 02/25, 02/17

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WHAT THE MEASURE DOES:

Directs the Department of Revenue to study the issue of central assessment.

ISSUES DISCUSSED:

- Public Utility Commission's administrative and oversight role
- Depreciation of assets, booked vs. tax depreciation, definition and terminology
- Existing rules on depreciation
- Revenue change for hypothetical company with high intangible to tangible value
- What constitutes "state of the art" communication infrastructure
- Definition of gigabyte and gigabit
- Clarification of tax treatment for data centers
- Application of other exemptions
- Revenue loss impact upon local taxing districts

EFFECT OF COMMITTEE AMENDMENT:

-2 Amendment

1. Changes which apply to all centrally assessed properties

a. Creates alternative cap based on historic cost of system wide tangible property multiplied by 1.3. Also establishes floor equal to 5% of total Oregon value.

b. Exempts franchises or FCC licenses or satellites from total valuation.

c. Exemptions do not apply to cap calculation.

2. Special Exemption for Qualified Projects

a. Projects must meet specified speed and access standards.

b. Projects must be certified by the PUC.

c. If the investment receives certification for a qualified infrastructure investment it will be valued for property tax purposes as the greater of:

i. \$250 million, or

ii. The total real market value of tangible real and personal property the company has in Oregon.

iii. Application fee required to cover cost of appraisal of tangible property.

3. Clarification of Tax Treatment for Companies with Data Centers in Oregon

- a. Owning and operating a data center in Oregon does not constitute communications activity for purposes of central assessment.
- b. Companies that primarily operate data centers in the state and have less than 10% of their other activities in communication related areas are not communications companies for purposes of central assessment.
- c. Retail trade activity, energy related activities and data storage facilities are not communications related activities for purposes of the 10% threshold.

BACKGROUND:

ORS 308.505 - 308.665 requires the Department of Revenue to assess utility properties as described in 308.515(1). This assessment is referred to as "central assessment". Central assessment differs from property assessments done by the county assessor in that central assessment follows a unitary assessment approach. Unitary valuation is singularly valuing an integrated group of assets functioning as an economic unit without reference to the component values. Unitary valuation includes the tangible and intangible value of a company in reaching a unitary value.

Beginning with the 2009-10 tax year, Department of Revenue changed its interpretation of a communication company as defined in ORS 308.515(1). This change resulted in companies being subject to central assessment that were previously locally assessed. This change in interpretation was upheld by the Oregon Supreme Court in Comcast Corporation v. Department of Revenue (issue related to maximum assessed value remanded to Tax Court). The result of interpreting more companies as being "communication" companies and therefore subject to central assessment is the inclusion of those company's tangible and intangible value in their property tax assessment. The composition of a communication company's tangible and intangible value can vary considerably. High levels of intangible to tangible value can result in tax assessments several times greater than what would be assessed if the assessment was based on tangible value only. This can be especially acute for companies newly investing tangible communication property in Oregon.