

SB 193 -5 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

Prepared By: Kaitlyn Harger, Economist

Meeting Dates: 2/21, 3/14, 4/9

WHAT THE MEASURE DOES:

Makes permanent the customer domicile apportionment method for interstate broadcasters. Excludes the following entities from definition of interstate broadcaster and thus this method of apportionment: cable system operators, direct broadcast satellite system operators, and television or radio stations licensed by the Federal Communications Commission (FCC). Takes effect on the 91st day after sine die.

ISSUES DISCUSSED:

- Differences between audience and domicile methods of apportionment
- Potential difficulty in measurement of audience under audience method of apportionment
- Distribution of states by apportionment type

EFFECT OF AMENDMENT:

-5 Replaces the bill. Temporarily extends the domicile factor method of apportionment for tax year 2019.

Requires the Legislative Revenue Officer, in consultation with the Department of Revenue, to study broadcaster apportionment methods and submit a report detailing the results of the study to an interim committee of the Legislative Assembly related to revenue by December 15, 2019.

BACKGROUND:

In 2014, due to the passing of HB 4138, Oregon changed its method of corporate income apportionment for interstate broadcasters. The legislation changed Oregon from an apportionment method based on the share of viewers in Oregon, called audience factor apportionment, to a method based on the state of domicile of customers of interstate broadcasters, called domicile factor apportionment. This temporary legislation was in place until 2016, after which LRO was tasked with analyzing the policy.

The LRO report in 2017 was inconclusive due to three main areas of uncertainty. First, disagreement exists over which companies are interstate broadcasters and thus should be apportioning as such. Second, there is uncertainty over the business activities that imply nexus for an interstate broadcaster in Oregon. Third, disagreement exists over whether all or part of an interstate broadcaster's income is subject to interstate broadcaster apportionment methods. The temporary apportionment provision was again extended for tax years 2017 and 2018 as part of SB 1523 during the 2018 legislative session. Ongoing litigation exists in Oregon's court system regarding the three issues raised above.