

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 1529**

1 On page 1 of the printed bill, delete lines 5 through 29 and delete page
2 2 and insert:

3 **“SECTION 1. Section 2 of this 2020 Act is added to and made a part
4 of ORS 314.605 to 314.675.**

5 **“SECTION 2. (1) In the case of broadcasting sales, a taxpayer’s
6 market for sales for purposes of ORS 314.665 is in this state if the
7 taxpayer’s audience or subscribers are in this state. The numerator
8 of the sales factor based on audience or subscribers shall be deter-
9 mined using third-party ratings information where available and a
10 taxpayer with sales from broadcasting shall make actual information
11 from the taxpayer’s books, papers, records or memoranda available to
12 the Department of Revenue to determine the taxpayer’s audience or
13 subscribers.**

14 **“(2) If information sufficient for the taxpayer to determine audience
15 or subscribers is not available:**

16 **“(a) Except as provided in paragraph (b) of this subsection, the ratio
17 of population in Oregon to population in the United States shall be
18 used to apportion income.**

19 **“(b) For receipts that derive from licensing to subscription services
20 or advertising on subscription services, the taxpayer shall use 0.6 per-
21 cent multiplied by the taxpayer’s receipts from licensing to sub-**

1 **scription services and from advertising on subscription services as the**
2 **numerator of the sales factor.**

3 **“(3) As used in this section, ‘broadcasting’ means the activity of**
4 **transmitting programming through any one-way electronic signal by**
5 **radio waves, microwaves, wires, coaxial cables, wave guides or other**
6 **conduits of communications.**

7 **“SECTION 3.** ORS 314.665 is amended to read:

8 “314.665. (1) As used in ORS 314.650, the sales factor is a fraction, the
9 numerator of which is the total sales of the taxpayer in this state during the
10 tax period, and the denominator of which is the total sales of the taxpayer
11 everywhere during the tax period.

12 “(2) Sales of tangible personal property are in this state if:

13 “(a) The property is delivered or shipped to a purchaser, other than the
14 United States Government, within this state regardless of the f.o.b. point or
15 other conditions of the sale; or

16 “(b) The property is shipped from an office, store, warehouse, factory, or
17 other place of storage in this state and the purchaser is the United States
18 Government or the taxpayer is not taxable in the state of the purchaser. For
19 purposes of this paragraph:

20 “(A) The sale of goods shipped from a public warehouse is not considered
21 to take place in this state if:

22 “(i) The taxpayer’s only activity in Oregon is the storage of the goods in
23 the public warehouse prior to shipment; or

24 “(ii) The taxpayer’s only activities in Oregon are the storage of the goods
25 in the public warehouse prior to shipment and the presence of employees
26 within this state solely for purposes of soliciting sales of the taxpayer’s
27 products; and

28 “(B) ‘Taxpayer’ means a taxpayer as defined in section 7701 of the Inter-
29 nal Revenue Code, an affiliate of the person storing goods in a public ware-
30 house or a person that is related under section 267 of the Internal Revenue

1 Code to the person storing goods in a public warehouse.

2 “(3) Subsection (2)(b) of this section does not apply to sales of tangible
3 personal property if:

4 “(a) The sales are included in the numerator of a formula used to appor-
5 tion income to another state of the United States, a foreign country or the
6 District of Columbia; and

7 “(b) The other state, a foreign country or the District of Columbia has
8 imposed a tax on or measured by the apportioned income.

9 “(4) Sales, other than sales of tangible personal property, are in this state
10 if the taxpayer’s market for sales is in this state, as determined under ORS
11 314.666.

12 “(5) Where the sales apportionment factor is determined by administrative
13 rule pursuant to ORS [314.682, 314.684 or] 317.660 or other law, the Depart-
14 ment of Revenue shall adopt rules that are consistent with the determination
15 of the sales factor under this section.

16 “(6) The department may determine that a warehouse that meets the de-
17 finition of ‘public warehouse’ under this section may not be treated as a
18 public warehouse if the warehouse is being used primarily for tax avoidance
19 purposes or if transactions related to the use of the warehouse are primarily
20 for tax avoidance purposes.

21 “(7) As used in this section, ‘public warehouse’:

22 “(a) Means a warehouse owned or operated by a person that does not own
23 the goods stored in the warehouse; and

24 “(b) Does not include a warehouse that is owned by a person that is re-
25 lated to the person that owns goods that are stored in the warehouse, as
26 determined under section 267 of the Internal Revenue Code, or an affiliate
27 of the person that owns goods that are stored in the warehouse.

28 **“SECTION 4. ORS 314.680, 314.682, 314.684, 314.686, 314.688 and 314.690**
29 **are repealed.**

30 **“SECTION 5. Section 2 of this 2020 Act, the amendments to ORS**

1 314.665 by section 3 of this 2020 Act and the repeal of ORS 314.680,
2 314.682, 314.684, 314.686, 314.688 and 314.690 by section 4 of this 2020 Act
3 apply to tax years beginning on or after January 1, 2020.

4 SECTION 6. This 2020 Act takes effect on the 91st day after the
5 date on which the 2020 regular session of the Eightieth Legislative
6 Assembly adjourns sine die.”

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