

Background

Senate Bill 136 modifies the method of apportionment of broadcaster income to Oregon for purposes of the corporate excise tax. This bill is identical to SB 1529A which was discussed during the 2020 Regular legislative session.

In 1989, Oregon adopted audience factor apportionment for broadcasters. In 2014, Oregon replaced audience factor sourcing with commercial domicile apportionment for broadcasters. Commercial domicile sourcing was sunset for tax years beginning on or after January 1, 2020.

Current law, ORS 314.680 to ORS 314.690, prescribes how broadcasters apportion their sales. For tax years beginning on or after January 1, 2020, broadcasters apportion their sales (except sales of tangible personal property and real property) using an audience/subscriber factor, and ORS 314.680(3) gives the Department of Revenue rulemaking authority to prescribe how an audience/subscriber factor is calculated. If audience/subscriber data are unavailable, population of the state is used to apportion sales of a broadcaster.

Impact of Senate Bill 136

SB 136 proposes to change how the sales of broadcasters are apportioned in the following ways.

- The audience/subscriber factor will only apply to broadcasting sales. However, a taxpayer may elect to apply the audience/subscriber factor to all gross receipts.
- The bill specifies that an audience/subscriber factor shall be computed using third party information and that taxpayers shall make information from their books and records available.
- The bill specifies that receipts from licensing to or advertising on subscription services will be sourced to Oregon using a 0.6% apportionment factor if information sufficient to calculate a subscriber factor is not available for the subscription service in question.
- The bill will repeal current broadcaster provisions in ORS 314.680 to ORS 314.690.

Implementation

Senate Bill 136 applies to tax years beginning on or after January 1, 2020, therefore the department will develop a plan to communicate the retroactive change in tax law to affected taxpayers who will begin filing returns in May 2021. However, most affected taxpayers will file returns in November 2021 which may allow them additional time to comply with changes proposed in SB 136.

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