

D R A F T

SUMMARY

Repeals special apportionment statutes applicable to income of interstate broadcasters, for purposes of corporate excise taxation.

Applies to tax years beginning on or after January 1, 2021.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to tax treatment of broadcasters; creating new provisions; amending
3 ORS 314.665; repealing ORS 314.680, 314.682, 314.684, 314.686, 314.688 and
4 314.690; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

6 **SECTION 1.** ORS 314.665 is amended to read:

7 314.665. (1) As used in ORS 314.650, the sales factor is a fraction, the
8 numerator of which is the total sales of the taxpayer in this state during the
9 tax period, and the denominator of which is the total sales of the taxpayer
10 everywhere during the tax period.

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

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

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

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

1 (i) The taxpayer's only activity in Oregon is the storage of the goods in
2 the public warehouse prior to shipment; or

3 (ii) The taxpayer's only activities in Oregon are the storage of the goods
4 in the public warehouse prior to shipment and the presence of employees
5 within this state solely for purposes of soliciting sales of the taxpayer's
6 products; and

7 (B) "Taxpayer" means a taxpayer as defined in section 7701 of the Inter-
8 nal Revenue Code, an affiliate of the person storing goods in a public ware-
9 house or a person that is related under section 267 of the Internal Revenue
10 Code to the person storing goods in a public warehouse.

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

13 (a) The sales are included in the numerator of a formula used to apportion
14 income to another state of the United States, a foreign country or the Dis-
15 trict of Columbia; and

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

18 (4) Sales, other than sales of tangible personal property, are in this state
19 if the taxpayer's market for sales is in this state, as determined under ORS
20 314.666.

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

25 (6) The department may determine that a warehouse that meets the defi-
26 nition of "public warehouse" under this section may not be treated as a
27 public warehouse if the warehouse is being used primarily for tax avoidance
28 purposes or if transactions related to the use of the warehouse are primarily
29 for tax avoidance purposes.

30 (7) As used in this section, "public warehouse":

31 (a) Means a warehouse owned or operated by a person that does not own

1 the goods stored in the warehouse; and

2 (b) Does not include a warehouse that is owned by a person that is related
3 to the person that owns goods that are stored in the warehouse, as deter-
4 mined under section 267 of the Internal Revenue Code, or an affiliate of the
5 person that owns goods that are stored in the warehouse.

6 **SECTION 2. ORS 314.680, 314.682, 314.684, 314.686, 314.688 and 314.690**
7 **are repealed.**

8 **SECTION 3. The amendments to ORS 314.665 by section 1 of this**
9 **2020 Act and the repeal of ORS 314.680, 314.682, 314.684, 314.686, 314.688**
10 **and 314.690 by section 2 of this 2020 Act apply to tax years beginning**
11 **on or after January 1, 2021.**

12 **SECTION 4. This 2020 Act takes effect on the 91st day after the date**
13 **on which the 2020 regular session of the Eightieth Legislative Assem-**
14 **bly adjourns sine die.**

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