

# House Bill 3413

Sponsored by COMMITTEE ON REVENUE

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Modifies formula used to apportion business income by requiring use of payroll, property and double-weighted sales factors for corporate taxpayers, including telecommunications and utilities corporations and taxpayers in forest products industry.

Applies to tax years beginning on or after January 1, 2010.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to apportionment of business income for taxation purposes; creating new provisions;  
3 amending ORS 314.280 and 314.650; prescribing an effective date; and providing for revenue  
4 raising that requires approval by a three-fifths majority.

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

6 **SECTION 1.** ORS 314.650 is amended to read:

7 314.650. (1) All business income shall be apportioned to this state by multiplying the income by  
8 [*the sales factor*] **a fraction, the numerator of which is the property factor plus the payroll**  
9 **factor plus two times the sales factor, and the denominator of which is four.**

10 [(2)(a) *Notwithstanding subsection (1) of this section, the business income of a taxpayer that is in*  
11 *the forest products industry, that owns and manages 300,000 or more acres in this state, but less than*  
12 *400,000 acres, and that processes at least 20 percent of the taxpayer's total wood chip supply for*  
13 *papermaking from sawmill residue generated within this state, shall be apportioned to this state by*  
14 *multiplying the income by a fraction, the numerator of which is the property factor plus the payroll*  
15 *factor plus two times the sales factor, and the denominator of which is four.*]

16 [(b)] (2) If the denominator of the property factor, payroll factor or sales factor, as determined  
17 under ORS 314.650 to 314.665, is zero, then the denominator specified in [*paragraph (a) of this sub-*  
18 *section*] **subsection (1) of this section** shall be reduced by the number of factors with a denomina-  
19 tor of zero.

20 **SECTION 2.** ORS 314.280 is amended to read:

21 314.280. (1) If a taxpayer has income from business activity as a financial organization or as a  
22 public utility (as defined respectively in ORS 314.610 (4) and (6)) which is taxable both within and  
23 without this state (as defined in ORS 314.610 (8) and 314.615), the determination of net income shall  
24 be based upon the business activity within the state, and the Department of Revenue shall have  
25 power to permit or require either the segregated method of reporting or the apportionment method  
26 of reporting, under rules and regulations adopted by the department, so as fairly and accurately to  
27 reflect the net income of the business done within the state.

28 (2) The provisions of subsection (1) of this section dealing with the apportionment of income  
29 earned from sources both within and without the State of Oregon are designed to allocate to the  
30 State of Oregon on a fair and equitable basis a proportion of such income earned from sources both

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.  
New sections are in **boldfaced** type.

1 within and without the state. Any taxpayer may submit an alternative basis of apportionment with  
 2 respect to the income of the taxpayer and explain that basis in full in the return of the taxpayer.  
 3 If approved by the department that method will be accepted as the basis of allocation.

4 (3)[(a)] Apportionment rules adopted by the department under this section must apply the  
 5 weightings used in ORS 314.650 to comparable factors used to apportion income from business ac-  
 6 tivity of taxpayers subject to this section.

7 [(b) *Notwithstanding paragraph (a) of this subsection, a taxpayer primarily engaged in utilities or*  
 8 *telecommunications may elect to have income from business activity apportioned by applying the*  
 9 *weightings used in ORS 314.650 (1999 Edition) to comparable factors used to apportion such income.*]

10 [(c) *The election shall be made in the time and manner prescribed by the department by rule. The*  
 11 *election shall continue in force and effect for the tax year for which the election is made and for each*  
 12 *subsequent tax year until the year in which the taxpayer revokes the election.*]

13 [(d) *An electing taxpayer may revoke the taxpayer's election by filing a revocation of election in the*  
 14 *time and manner prescribed by the department. The revocation shall apply to the tax year following the*  
 15 *year in which the election is made and to each subsequent tax year.*]

16 [(e) *As used in this subsection:*]

17 [(A) *"Telecommunications" means business operations that conduct, maintain or provide for the*  
 18 *transmission of voice data and text between network termination points and telecommunications resell-*  
 19 *ing. Transmission facilities may be based on one technology or a combination of technologies.*]

20 [(B) *"Utilities" means business operations that provide electric power, natural gas, steam supply,*  
 21 *water supply or sewage removal through a permanent infrastructure of lines, mains and pipes.*]

22 **SECTION 3. The amendments to ORS 314.280 and 314.650 by sections 1 and 2 of this 2009**  
 23 **Act apply to tax years beginning on or after January 1, 2010.**

24 **SECTION 4. This 2009 Act takes effect on the 91st day after the date on which the reg-**  
 25 **ular session of the Seventy-fifth Legislative Assembly adjourns sine die.**