

Enrolled
House Bill 4138

Sponsored by Representative VEGA PEDERSON (Presession filed.)

CHAPTER

AN ACT

Relating to apportionment of income of interstate broadcasters; creating new provisions; amending ORS 314.680 and 314.684; and prescribing an effective date.

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

SECTION 1. ORS 314.680 is amended to read:

314.680. As used in ORS 314.680 to 314.690, unless the context requires otherwise:

(1) "Broadcasting" means the activity of transmitting any one-way electronic signal by radio waves, microwaves, wires, coaxial cables, wave guides or other conduits of communications.

(2) "Commercial domicile" has the meaning given that term in ORS 314.610.

(3) "Customer" means an advertiser, a licensee or any other person that has a direct contractual relationship with an interstate broadcaster under which revenue is derived by the interstate broadcaster.

[(2)] (4) "Gross receipts from broadcasting" means [all] income from advertising, licensing or distributing video programming or audio programming and all other gross receipts of an interstate broadcaster from transactions and activities in the regular course of its trade or business except receipts from sales of real or tangible personal property.

[(3)] (5) "Interstate broadcaster" means a taxpayer that engages in the for-profit business of broadcasting to [subscribers or to an audience] persons located both within and without this state and that for the tax year is of a class or type of taxpayer that would properly be subject to apportionment under ORS 314.680 to 314.690 as in effect prior to the effective date of this 2014 Act. [The audience or subscribers ratio shall be determined by rule of the Department of Revenue.]

(6) "Resident of this state" has the meaning given that term in ORS 316.027.

SECTION 2. ORS 314.684 is amended to read:

314.684. (1) The sales factor for an interstate broadcaster shall be determined as provided in this section.

(2) The denominator of the sales factor shall include the total gross receipts derived by the interstate broadcaster from transactions and activities in the regular course of its trade or business, except receipts excluded under rules of the Department of Revenue.

(3) The numerator of the sales factor shall include all gross receipts attributable to this state, with gross receipts from broadcasting to be included as specified in subsection (4) of this section.

(4) Gross receipts from broadcasting of an interstate broadcaster [which] that engages in income-producing activity in this state shall be included in the numerator of the sales factor [in the ratio that the interstate broadcaster's audience or subscribers located in this state bears to its total

audience and subscribers located both within and without] **if the commercial domicile of the customer is in this state or, in the case of an individual, the customer is a resident of this state.**

SECTION 3. ORS 314.680, as amended by section 1 of this 2014 Act, is amended to read:

314.680. As used in ORS 314.680 to 314.690, unless the context requires otherwise:

(1) "Broadcasting" means the activity of transmitting any one-way electronic signal by radio waves, microwaves, wires, coaxial cables, wave guides or other conduits of communications.

[(2) "*Commercial domicile*" has the meaning given that term in ORS 314.610.]

[(3) "*Customer*" means an advertiser, a licensee or any other person that has a direct contractual relationship with an interstate broadcaster under which revenue is derived by the interstate broadcaster.]

[(4)] (2) "Gross receipts from broadcasting" means [*income from advertising, licensing or distributing video programming or audio programming and all other*] **all** gross receipts of an interstate broadcaster from transactions and activities in the regular course of its trade or business except receipts from sales of real or tangible personal property.

[(5)] (3) "Interstate broadcaster" means a taxpayer that engages in the for-profit business of broadcasting to [*persons*] **subscribers or to an audience** located both within and without this state [*and that for the tax year is of a class or type of taxpayer that would properly be subject to apportionment under ORS 314.680 to 314.690 as in effect prior to the effective date of this 2014 Act*]. **The audience or subscribers ratio shall be determined by rule of the Department of Revenue.**

[(6) "*Resident of this state*" has the meaning given that term in ORS 316.027.]

SECTION 4. ORS 314.684, as amended by section 2 of this 2014 Act, is amended to read:

314.684. (1) The sales factor for an interstate broadcaster shall be determined as provided in this section.

(2) The denominator of the sales factor shall include the total gross receipts derived by the interstate broadcaster from transactions and activities in the regular course of its trade or business, except receipts excluded under rules of the Department of Revenue.

(3) The numerator of the sales factor shall include all gross receipts attributable to this state, with gross receipts from broadcasting to be included as specified in subsection (4) of this section.

(4) Gross receipts from broadcasting of an interstate broadcaster that engages in income-producing activity in this state shall be included in the numerator of the sales factor [*if the commercial domicile of the customer is in this state or, in the case of an individual, the customer is a resident of*] **in the ratio that the interstate broadcaster's audience or subscribers located in this state bears to its total audience and subscribers located both within and without this state.**

SECTION 5. (1) **The amendments to ORS 314.680 and 314.684 by sections 1 and 2 of this 2014 Act apply to tax years beginning on or after January 1, 2014, and before January 1, 2017.**

(2) **The amendments to ORS 314.680 and 314.684 by sections 3 and 4 of this 2014 Act apply to tax years beginning on or after January 1, 2017.**

SECTION 6. **Not later than February 1, 2017, the Legislative Revenue Officer, after consultation with the Department of Revenue, shall make a report to an interim committee of the Legislative Assembly related to revenue. The report shall address the amendments to ORS 314.680 and 314.684 by sections 1 and 2 of this 2014 Act. The Legislative Revenue Officer shall conduct an analysis, based on existing statutory authority, of the impact and utilization of the affected method of apportionment.**

SECTION 7. **This 2014 Act takes effect on the 91st day after the date on which the 2014 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

Passed by House February 20, 2014

Repassed by House March 6, 2014

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 5, 2014

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2014

Approved:

.....M,....., 2014

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2014

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Kate Brown, Secretary of State