

# House Bill 4138

Sponsored by Representative VEGA PEDERSON (Presession filed.)

## 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 method of apportionment of business income of interstate broadcaster for purposes of corporate excise taxation. In numerator of apportionment calculation, replaces ratio based on viewing audience with gross receipts from customers with in-state commercial domicile.

Applies to tax years beginning on or after January 1, 2014.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to apportionment of income of interstate broadcasters; creating new provisions; amending  
3 ORS 314.680 and 314.684; and prescribing an effective date.

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

5 **SECTION 1.** ORS 314.680 is amended to read:

6 314.680. As used in ORS 314.680 to 314.690, unless the context requires otherwise:

7 (1) "Broadcasting" means the [*activity of transmitting any one-way electronic signal by radio*  
8 *waves, microwaves, wires, coaxial cables, wave guides or other conduits of communications*] **trans-**  
9 **mission of film programming or radio programming by an electronic or other signal con-**  
10 **ducted:**

11 (a) **By radio waves, microwaves, wires, lines, coaxial cables, wave guides, fiber optics or**  
12 **satellite transmissions; or**

13 (b) **By or through any other means of communication or distribution.**

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

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

18 [(2)] (4) "Gross receipts from broadcasting" means **income from advertising, licensing or**  
19 **distributing film programming or radio programming and all other** gross receipts of an inter-  
20 state broadcaster from transactions and activities in the regular course of its trade or business ex-  
21 cept receipts from sales of real or tangible personal property.

22 [(3)] (5) "Interstate broadcaster" means a taxpayer that [*engages in the for-profit business of*  
23 *broadcasting to subscribers or to an audience located both within and without this state. The audience*  
24 *or subscribers ratio shall be determined by rule of the Department of Revenue.*] **apportions income**  
25 **within and without this state and is a television or radio broadcast network, a cable program**  
26 **network, a television distribution company or a television or radio station.**

27 **SECTION 2.** ORS 314.684 is amended to read:

28 314.684. (1) The sales factor for an interstate broadcaster shall be determined as provided in this  
29 section.

30 (2) The denominator of the sales factor shall include the total gross receipts derived by the

**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 interstate broadcaster from transactions and activities in the regular course of its trade or business,  
2 except receipts excluded under rules of the Department of Revenue.

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

5 (4) Gross receipts from broadcasting of an interstate broadcaster [*which*] **that** engages in  
6 income-producing activity in this state shall be included in the numerator of the sales factor [*in the*  
7 *ratio that the interstate broadcaster's audience or subscribers located in this state bears to its total*  
8 *audience and subscribers located both within and without*] **if the commercial domicile of the cus-**  
9 **tomer is in** this state.

10 **SECTION 3. The amendments to ORS 314.680 and 314.684 by sections 1 and 2 of this 2014**  
11 **Act apply to tax years beginning on or after January 1, 2014.**

12 **SECTION 4. This 2014 Act takes effect on the 91st day after the date on which the 2014**  
13 **regular session of the Seventy-seventh Legislative Assembly adjourns sine die.**

14