

**PROPOSED AMENDMENTS TO
HOUSE BILL 4138**

1 On page 1 of the printed bill, delete lines 5 through 30 and delete page
2 2 and insert:

3 **“SECTION 1.** ORS 314.680 is amended to read:

4 “314.680. As used in ORS 314.680 to 314.690, unless the context requires
5 otherwise:

6 “(1) ‘Broadcasting’ means the activity of transmitting any one-way elec-
7 tronic signal by radio waves, microwaves, wires, coaxial cables, wave guides
8 or other conduits of communications.

9 **“(2) ‘Commercial domicile’ has the meaning given that term in ORS**
10 **314.610.**

11 **“(3) ‘Customer’ means an advertiser, a licensee or any other person**
12 **that has a direct contractual relationship with an interstate**
13 **broadcaster under which revenue is derived by the interstate**
14 **broadcaster.**

15 “[2] (4) ‘Gross receipts from broadcasting’ means [*all*] **income from**
16 **advertising, licensing or distributing video programming or audio**
17 **programming and all other** gross receipts of an interstate broadcaster from
18 transactions and activities in the regular course of its trade or business ex-
19 cept receipts from sales of real or tangible personal property.

20 “[3] (5) ‘Interstate broadcaster’ means a taxpayer that engages in the
21 for-profit business of broadcasting to [*subscribers or to an audience*] **persons**
22 located both within and without this state. [*The audience or subscribers ratio*

1 *shall be determined by rule of the Department of Revenue.]*

2 “(6) ‘Resident of this state’ has the meaning given that term in ORS
3 316.027.

4 “**SECTION 2.** ORS 314.684 is amended to read:

5 “314.684. (1) The sales factor for an interstate broadcaster shall be deter-
6 mined as provided in this section.

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

11 “(3) The numerator of the sales factor shall include all gross receipts at-
12 tributable to this state, with gross receipts from broadcasting to be included
13 as specified in subsection (4) of this section.

14 “(4) Gross receipts from broadcasting of an interstate broadcaster
15 [*which*] **that** engages in income-producing activity in this state shall be in-
16 cluded in the numerator of the sales factor [*in the ratio that the interstate*
17 *broadcaster’s audience or subscribers located in this state bears to its total*
18 *audience and subscribers located both within and without*] **if the commercial**
19 **domicile of the customer is in this state or, in the case of an individ-**
20 **ual, the customer is a resident of this state.**

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

23 “314.680. As used in ORS 314.680 to 314.690, unless the context requires
24 otherwise:

25 “(1) ‘Broadcasting’ means the activity of transmitting any one-way elec-
26 tronic signal by radio waves, microwaves, wires, coaxial cables, wave guides
27 or other conduits of communications.

28 “[2] ‘Commercial domicile’ has the meaning given that term in ORS
29 314.610.]

30 “[3] ‘Customer’ means an advertiser, a licensee or any other person that

1 *has a direct contractual relationship with an interstate broadcaster under*
2 *which revenue is derived by the interstate broadcaster.]*

3 “[4] (2) ‘Gross receipts from broadcasting’ means [*income from advertis-*
4 *ing, licensing or distributing video programming or audio programming and*
5 *all other*] **all** gross receipts of an interstate broadcaster from transactions
6 and activities in the regular course of its trade or business except receipts
7 from sales of real or tangible personal property.

8 “[5] (3) ‘Interstate broadcaster’ means a taxpayer that engages in the
9 for-profit business of broadcasting to [*persons*] **subscribers or to an audi-**
10 **ence** located both within and without this state. **The audience or sub-**
11 **scribers ratio shall be determined by rule of the Department of**
12 **Revenue.**

13 “[6] ‘Resident of this state’ has the meaning given that term in ORS
14 316.027.]

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

17 “314.684. (1) The sales factor for an interstate broadcaster shall be deter-
18 mined as provided in this section.

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

23 “(3) The numerator of the sales factor shall include all gross receipts at-
24 tributable to this state, with gross receipts from broadcasting to be included
25 as specified in subsection (4) of this section.

26 “(4) Gross receipts from broadcasting of an interstate broadcaster that
27 engages in income-producing activity in this state shall be included in the
28 numerator of the sales factor [*if the commercial domicile of the customer is*
29 *in this state or, in the case of an individual, the customer is a resident of*] **in**
30 **the ratio that the interstate broadcaster’s audience or subscribers lo-**

1 cated in this state bears to its total audience and subscribers located
2 both within and without this state.

3 **“SECTION 5. (1) The amendments to ORS 314.680 and 314.684 by**
4 **sections 1 and 2 of this 2014 Act apply to tax years beginning on or**
5 **after January 1, 2014, and before January 1, 2020.**

6 **“(2) The amendments to ORS 314.680 and 314.684 by sections 3 and**
7 **4 of this 2014 Act apply to tax years beginning on or after January 1,**
8 **2020.**

9 **“SECTION 6. Not later than February 1, 2019, the Legislative Reve-**
10 **nue Officer, after consultation with the Department of Revenue, shall**
11 **make a report to an interim committee of the Legislative Assembly**
12 **related to revenue. The report shall address the amendments to ORS**
13 **314.680 and 314.684 by sections 1 and 2 of this 2014 Act. The Legislative**
14 **Revenue Officer shall conduct an analysis, based on existing statutory**
15 **authority, of the impact and utilization of the affected method of ap-**
16 **portionment.**

17 **“SECTION 7. This 2014 Act takes effect on the 91st day after the**
18 **date on which the 2014 regular session of the Seventy-seventh Legis-**
19 **lative Assembly adjourns sine die.”.**

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