

**SB 1523 A STAFF MEASURE SUMMARY**

**Carrier:** Rep. Nosse

**House Committee On Revenue**

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**Action Date:** 02/28/18

**Action:** Do pass with amendments. (Printed A-Eng.)

**Vote:** 9-0-0-0

**Yeas:** 9 - Barnhart, Buehler, Findley, Hernandez, Marsh, Nosse, Reschke, Smith G, Smith Warner

**Fiscal:** Has minimal fiscal impact

**Revenue:** No revenue impact, statement issued (Indeterminate Impact)

**Prepared By:** Chris Allanach, Acting Revenue Officer

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**WHAT THE MEASURE DOES:**

Extends the method of apportioning income for broadcasters based on customer domicile. Applies to tax years 2017 and 2018.

**ISSUES DISCUSSED:**

- How video broadcasting technology has changed over the decades
- Apportionment difference between an audience factor and a domicile factor
- Pending litigation over the interpretation of current law regarding the taxation of interstate broadcasters

**EFFECT OF AMENDMENT:**

Replaces the bill

**BACKGROUND:**

In 2014 the Legislature passed, and the Governor signed into law, HB 4138. The bill modified how corporation income for interstate broadcasters is apportioned to Oregon. Put simply, it changed the apportionment percentage from one based on the share of viewers in Oregon (i.e. audience factor) to the state of domicile for the direct customers of the broadcasters (i.e. domicile factor). The policy change was a temporary provision, affecting tax years 2014 through 2016. The implementing legislation required the policy to be reviewed by the Legislative Revenue Office. That report was produced in 2017 based on preliminary tax return data but had results that were inconclusive. The report cited three areas of uncertainty regarding the policy's revenue impact: 1) lack of clarity regarding which companies are interstate broadcasters, 2) which business activities would cause an interstate broadcaster to have nexus in Oregon, and 3) which portion of company's income is subject to apportionment under the interstate broadcaster provisions. Current litigation in the Oregon court system may eventually provide insight into these issues.

**REVENUE IMPACT OF  
PROPOSED LEGISLATION**  
79th Oregon Legislative Assembly  
2018 Regular Session  
Legislative Revenue Office

Bill Number:	SB 1523 - A
Revenue Area:	Income Taxes
Economist:	Chris Allanach
Date:	2-28-2018

*Only Impacts on Original or Engrossed  
Versions are Considered Official*

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The revenue impact of this measure is indeterminate for the following reasons:

The bill extends for two years a policy that changes how income for interstate broadcasters is apportioned to Oregon. The policy was first put into place for tax year 2014. Preliminary data for that tax year was analyzed and the results were inconclusive, as described in a Legislative Revenue Office report. Information for some taxpayers suggested that the policy increased revenue by roughly one million dollars per year. However, a few legal cases pending in the Oregon court system could affect the interpretation of current law and, therefore, the basis for any revenue impact, potentially reversing the direction of the impact. The report cited three areas of uncertainty regarding the policy impact: 1) lack of clarity regarding which companies are interstate broadcasters, 2) which business activities would cause an interstate broadcaster to have nexus in Oregon, and 3) which portion of company's income is subject to apportionment under the interstate broadcaster provisions. Given the current level of uncertainty, the revenue impact is deemed to be indeterminate.