

SB 1523 A STAFF MEASURE SUMMARY

Carrier: Rep. Nosse

House Committee On Revenue

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

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.