

Senate Bill 1523

Sponsored by Senators THOMSEN, BURDICK, Representative NOSSE; Senator RILEY, Representative WHISNANT
(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**.

Extends sunset for modified method of apportionment of business income of interstate broadcaster for purposes of corporate excise taxation. Continues use of gross receipts from customers with in-state commercial domicile in numerator of apportionment percentage calculation. Requires gross receipts of broadcaster to be included in numerator if member of affiliated group filing consolidated state return, regardless of whether interstate broadcaster has taxable presence in state.

First applies to tax years beginning on or after January 1, 2017.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to apportionment of income for interstate broadcasters; creating new provisions; amending
3 ORS 314.682 and 314.684 and section 5, chapter 103, Oregon Laws 2014; and prescribing an ef-
4 fective date.

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

6 **SECTION 1.** Section 5, chapter 103, Oregon Laws 2014, is amended to read:

7 **Sec. 5.** (1) The amendments to ORS 314.680 [*and 314.684 by sections 1 and 2 of this 2014 Act*]
8 **by section 1, chapter 103, Oregon Laws 2014, and the amendments to ORS 314.684 by section**
9 **4, chapter 103, Oregon Laws 2014, and section 2 of this 2018 Act** apply to tax years beginning
10 on or after January 1, 2014, and before January 1, [2017] **2021**.

11 (2) The amendments to ORS 314.680 [*and 314.684 by sections 3 and 4 of this 2014 Act*] **by section**
12 **3, chapter 103, Oregon Laws 2014, and the amendments to ORS 314.684 by section 3 of this**
13 **2018 Act** apply to tax years beginning on or after January 1, [2017] **2021**.

14 **SECTION 2.** ORS 314.684, as amended by section 4, chapter 103, Oregon Laws 2014, is amended
15 to read:

16 314.684. (1) The sales factor for an interstate broadcaster shall be determined as provided in this
17 section.

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

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

23 (4) Gross receipts from broadcasting of an interstate broadcaster that engages in income-
24 producing activity in this state shall be included in the numerator of the sales factor [*in the ratio*
25 *that the interstate broadcaster's audience or subscribers located in this state bears to its total audience*
26 *and subscribers located both within and without this state.*] **if:**

27 **(a) The customer is a resident of this state, in the case of an individual;**

28 **(b) The customer has physical presence in this state, in the case of a local television**

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 **station or a local cable provider; or**

2 **(c) The commercial domicile of the customer is in this state, in all other cases.**

3 **SECTION 3.** ORS 314.684, as amended by section 4, chapter 103, Oregon Laws 2014, and section
4 2 of this 2018 Act, is amended to read:

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

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

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

12 (4) Gross receipts from broadcasting of an interstate broadcaster that engages in income-
13 producing activity in this state shall be included in the numerator of the sales factor **in the ratio**
14 **that the interstate broadcaster's audience or subscribers located in this state bears to its**
15 **total audience and subscribers located both within and without this state.** [if:]

16 [(a) *The customer is a resident of this state, in the case of an individual;*]

17 [(b) *The customer has physical presence in this state, in the case of a local television station or a*
18 *local cable provider; or*]

19 [(c) *The commercial domicile of the customer is in this state, in all other cases.*]

20 **SECTION 4. Sections 5 and 6 of this 2018 Act are added to and made a part of ORS 314.680**
21 **to 314.690.**

22 **SECTION 5.** (1) As used in this section, “cable television system” does not include
23 Internet protocol television service or direct broadcast satellite television service.

24 (2) Notwithstanding ORS 314.684, if an interstate broadcaster engages in income-
25 producing activity in this state, broadcasts to subscribers or to an audience located both
26 within and without this state and derives receipts from the ownership and operation of cable
27 television systems:

28 (a) Gross receipts from broadcasting of the interstate broadcaster shall be included in
29 the numerator of the sales factor in the ratio that the interstate broadcaster's audience or
30 subscribers located in this state bears to its total audience and subscribers located both
31 within and without this state.

32 (b) The audience or subscribers ratio shall be determined by rule of the Department of
33 Revenue.

34 **SECTION 6.** In determining the sales factor for any interstate broadcaster that is a
35 member of a unitary group filing a consolidated state return, the numerator of the sales
36 factor shall include gross receipts determined under ORS 314.684 (4), without regard to
37 whether the interstate broadcaster has a taxable presence in this state.

38 **SECTION 7.** ORS 314.682 is amended to read:

39 314.682. (1) Notwithstanding any provisions of ORS 314.605 to 314.675 to the contrary, ORS
40 314.680, 314.684 and 314.686 **and sections 5 and 6 of this 2018 Act** shall apply to the apportionment
41 of the income of an interstate broadcaster.

42 (2) Except as provided in subsection (1) of this section, all other provisions of ORS 314.605 to
43 314.675 shall apply to the apportionment of the income of an interstate broadcaster.

44 **SECTION 8.** ORS 314.682, as amended by section 7 of this 2018 Act, is amended to read:

45 314.682. (1) Notwithstanding any provisions of ORS 314.605 to 314.675 to the contrary, ORS

1 314.680, 314.684 and 314.686 and [sections 5 and] **section 6** of this 2018 Act shall apply to the ap-
2 portionment of the income of an interstate broadcaster.

3 (2) Except as provided in subsection (1) of this section, all other provisions of ORS 314.605 to
4 314.675 shall apply to the apportionment of the income of an interstate broadcaster.

5 **SECTION 9.** (1) **Section 5 of this 2018 Act and the amendments to ORS 314.682 by section**
6 **7 of this 2018 Act apply to tax years beginning on or after January 1, 2017, and before Janu-**
7 **ary 1, 2021.**

8 (2) **Section 6 of this 2018 Act applies to tax years beginning on or after January 1, 2017.**

9 (3) **The amendments to ORS 314.682 by section 8 of this 2018 Act apply to tax years be-**
10 **ginning on or after January 1, 2021.**

11 **SECTION 10.** **This 2018 Act takes effect on the 91st day after the date on which the 2018**
12 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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