

Requested by SENATE COMMITTEE ON FINANCE AND REVENUE

**PROPOSED AMENDMENTS TO
SENATE BILL 1529**

1 On page 1 of the printed bill, delete lines 5 through 29 and delete page
2 2 and insert:

3 **“SECTION 1. Section 2 of this 2020 Act is added to and made a part
4 of ORS 314.605 to 314.675.**

5 **“SECTION 2. (1) As used in this section:**

6 **“(a) ‘Broadcasting’ means the activity of transmitting programming
7 through any one-way electronic signal by radio waves, microwaves,
8 wires, coaxial cables, wave guides or other conduits of communi-
9 cations.**

10 **“(b) ‘Total gross receipts’ means all gross receipts of a person en-
11 gaged in broadcasting from transactions and activities in the regular
12 course of the person’s trade or business, except receipts from sales of
13 real or tangible personal property.**

14 **“(2)(a) In the case of broadcasting sales, a taxpayer’s market for
15 sales for purposes of ORS 314.665 is in this state if the taxpayer’s au-
16 dience or subscribers are in this state. The numerator of the sales
17 factor based on audience or subscribers shall be determined using
18 third-party ratings information where available and a taxpayer with
19 sales from broadcasting shall make actual information from the
20 taxpayer’s books, papers, records or memoranda available to the De-
21 partment of Revenue to determine the taxpayer’s audience or sub-**

1 **scribers.**

2 **“(b) If information sufficient for the taxpayer to determine audi-**
3 **ence or subscribers is not available, the ratio of population in Oregon**
4 **to population in the United States shall be used to apportion income.**

5 **“(3) For broadcasting sales receipts that derive from licensing to**
6 **subscription services or advertising on subscription services, if infor-**
7 **mation sufficient for the taxpayer to determine audience or subscrib-**
8 **ers is not available, the taxpayer shall use 0.6 percent multiplied by**
9 **the taxpayer’s receipts from licensing to subscription services and**
10 **from advertising on subscription services as the numerator of the sales**
11 **factor.**

12 **“(4) A taxpayer engaged in broadcasting may elect to use subsection**
13 **(2) of this section in apportioning the taxpayer’s total gross receipts.**

14 **“SECTION 3.** ORS 314.665 is amended to read:

15 **“314.665. (1) As used in ORS 314.650, the sales factor is a fraction, the**
16 **numerator of which is the total sales of the taxpayer in this state during the**
17 **tax period, and the denominator of which is the total sales of the taxpayer**
18 **everywhere during the tax period.**

19 **“(2) Sales of tangible personal property are in this state if:**

20 **“(a) The property is delivered or shipped to a purchaser, other than the**
21 **United States Government, within this state regardless of the f.o.b. point or**
22 **other conditions of the sale; or**

23 **“(b) The property is shipped from an office, store, warehouse, factory, or**
24 **other place of storage in this state and the purchaser is the United States**
25 **Government or the taxpayer is not taxable in the state of the purchaser. For**
26 **purposes of this paragraph:**

27 **“(A) The sale of goods shipped from a public warehouse is not considered**
28 **to take place in this state if:**

29 **“(i) The taxpayer’s only activity in Oregon is the storage of the goods in**
30 **the public warehouse prior to shipment; or**

1 “(ii) The taxpayer’s only activities in Oregon are the storage of the goods
2 in the public warehouse prior to shipment and the presence of employees
3 within this state solely for purposes of soliciting sales of the taxpayer’s
4 products; and

5 “(B) ‘Taxpayer’ means a taxpayer as defined in section 7701 of the Inter-
6 nal Revenue Code, an affiliate of the person storing goods in a public ware-
7 house or a person that is related under section 267 of the Internal Revenue
8 Code to the person storing goods in a public warehouse.

9 “(3) Subsection (2)(b) of this section does not apply to sales of tangible
10 personal property if:

11 “(a) The sales are included in the numerator of a formula used to appor-
12 tion income to another state of the United States, a foreign country or the
13 District of Columbia; and

14 “(b) The other state, a foreign country or the District of Columbia has
15 imposed a tax on or measured by the apportioned income.

16 “(4) Sales, other than sales of tangible personal property, are in this state
17 if the taxpayer’s market for sales is in this state, as determined under ORS
18 314.666.

19 “(5) Where the sales apportionment factor is determined by administrative
20 rule pursuant to ORS [314.682, 314.684 or] 317.660 or other law, the Depart-
21 ment of Revenue shall adopt rules that are consistent with the determination
22 of the sales factor under this section.

23 “(6) The department may determine that a warehouse that meets the de-
24 finition of ‘public warehouse’ under this section may not be treated as a
25 public warehouse if the warehouse is being used primarily for tax avoidance
26 purposes or if transactions related to the use of the warehouse are primarily
27 for tax avoidance purposes.

28 “(7) As used in this section, ‘public warehouse’:

29 “(a) Means a warehouse owned or operated by a person that does not own
30 the goods stored in the warehouse; and

1 “(b) Does not include a warehouse that is owned by a person that is re-
2 lated to the person that owns goods that are stored in the warehouse, as
3 determined under section 267 of the Internal Revenue Code, or an affiliate
4 of the person that owns goods that are stored in the warehouse.

5 **“SECTION 4. ORS 314.680, 314.682, 314.684, 314.686, 314.688 and 314.690**
6 **are repealed.**

7 **“SECTION 5. Section 2 of this 2020 Act, the amendments to ORS**
8 **314.665 by section 3 of this 2020 Act and the repeal of ORS 314.680,**
9 **314.682, 314.684, 314.686, 314.688 and 314.690 by section 4 of this 2020 Act**
10 **apply to tax years beginning on or after January 1, 2020.**

11 **“SECTION 6. This 2020 Act takes effect on the 91st day after the**
12 **date on which the 2020 regular session of the Eightieth Legislative**
13 **Assembly adjourns sine die.”.**

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