

SB 136 -1 STAFF MEASURE SUMMARY

Senate Committee On Finance and Revenue

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Meeting Dates: 1/25, 3/16, 3/18

WHAT THE MEASURE DOES:

Creates a standalone provision detailing how the numerator of the sales factor should be calculated for broadcasting sales. Directs taxpayers to use third party ratings or information from their books and records to determine the numerator of the sales factor. In cases where aforementioned information is not available, the Department of Revenue may use the ratio of Oregon population to United States population as the sales factor. In the case of licensing to subscription services or advertising on subscription services, if sufficient information on the location of the taxpayer's audience is not available to the taxpayer, the numerator of the sales factor is equal to 0.6% multiplied by the taxpayer's receipts from licensing to subscription services and advertising on subscription services. Adds to statute a modified definition of broadcasting. Provides all taxpayers with an option to elect to apply their apportionment ratio to their total gross receipts, not just broadcasting sales. Repeals statutes specifically related to interstate broadcasters and removes from statute references that become obsolete upon repeal. Applies to tax years beginning on or after January 1, 2020. Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

- Historical changes to Oregon apportionment for interstate broadcasters
- Process of developing language for current bill

EFFECT OF AMENDMENT:

-1 Adds to statute a definition of the denominator of the sales factor. Clarifies language relating to which components are included in sales factor.

BACKGROUND:

In 2014, due to the passing of HB 4138, Oregon changed its method of corporate apportionment for interstate broadcasters. The legislation changed Oregon from an apportionment method based on the share of viewers in Oregon, called audience factor apportionment, to a method based on the state of domicile of customers of interstate broadcasters, called domicile factor apportionment. This temporary legislation was in place through tax year 2019. In the 2019 session, SB 193 temporarily extended the domicile factor method of apportionment for tax year 2019 and required the Legislative Revenue Officer, in consultation with the Department of Revenue, to study broadcaster apportionment methods. The bill required the LRO to submit a report detailing the results of this study.

The report had four key findings. First, LRO raised concerns about the breadth of the definition of broadcasting in Oregon statute. The report also highlighted the dynamic nature of the industry and its ongoing changes with an expectation of continued changes within the near future. Third, LRO described how key assumptions related to nexus affect the revenue impact estimates both in magnitude and direction. Finally, LRO suggested greater statutory direction on apportionment factor calculations for this industry.

During the 2020 legislative session, the Senate Committee on Finance and Revenue passed SB 1529 A but the bill did not pass the either chamber prior to the end of the session. This bill is a duplicate of SB 1529 A at the end of the 2020 Legislative Session.