



MULTISTATE INCOME/FRANCHISE TAX

Oregon enacts sales factor apportionment rules for broadcasters

Tax Alert

Overview

Oregon [Senate Bill 136](#) (“S.B. 136”), which was signed into law on May 21, 2021 by Governor Kate Brown, provides guidance to determine the sales factor for taxpayers engaged in broadcasting services. Applicable for tax years beginning on or after January 1, 2020, S.B. 136 generally requires broadcasters to use their subscribers or audience in Oregon to determine the sales factor numerator to apportion sales from broadcasting services.

Oregon bill provides sales factor apportionment requirements for broadcasters

The first provision of S.B. 136 defines broadcasting as “the activity of transmitting programming through any one-way electronic signal by radio waves, microwaves, wires, coaxial cables, wave guides or other conduits of communications.”¹ For taxpayers engaged in broadcasting services as defined, S.B. 136 provides guidance on calculating the sales tax numerator. A broadcaster’s market is in Oregon if their subscribers or audience are in the state. Broadcasters can utilize the data provided by third-party ratings information available to the taxpayer to determine its subscribers or audience located in Oregon. For taxpayers that are unable to determine their subscribers or audience in Oregon based on third-party ratings or other information, S.B. 136 provides an alternative calculation. Under this alternative, a broadcaster can utilize the ratio of population in Oregon to the population in the United States to determine its market in the state. Taxpayers are required to make available the information used to determine their sales factor numerator to the Oregon Department of Revenue upon its request.

Additionally, S.B. 136 outlines specified rules for inclusion of receipts from advertising on subscription services or receipts from licensing subscription services within the sales factor numerator. If third-party ratings or other information to determine the audience or subscribers in Oregon is unavailable, taxpayers must use the following formula to calculate the amount included with their numerator: 0.6% multiplied by the taxpayer’s receipts from advertising on or licensing of subscription services.

To calculate the sales factor denominator, broadcasters must include the total gross receipts it derives from transactions in the regular course of its trade or business, including receipts from real or tangible person property, within their sales factor denominator.

S.B. 136 provides that taxpayers engaged in broadcasting services may elect to use the apportionment calculated under these rules to apportion all of its gross receipts for corporate excise tax purposes. S.B. 136 repeals the previous special apportionment statutes applicable to interstate broadcasters and applies to tax years beginning on or after January 1, 2020 and takes effect 91 days after Oregon's legislative assembly adjourns.²

Get in touch

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Footnotes

¹S.B. 136, 81st Leg. Assem., 2021 Reg. Sess. (Or. 2021), <http://olis.leg.state.or.us/liz/2021R1/Measures/Overview/S.B.136>.

²Oregon's legislative assembly is scheduled conclude sine die on June 28, 2021.

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