



MULTISTATE INCOME/FRANCHISE TAX

## Portland, Oregon adopts market-based sourcing ordinances

### Tax Alert

## Overview

On September 28, 2022, the Portland, Oregon city council unanimously voted to adopt a market-based sourcing methodology [ordinance](#) for sourcing sales of items other than tangible personal property. In an effort to conform to Oregon's market sourcing regime which began in 2018, under the new Business License Tax [ordinances](#), Portland adopts the market-based sourcing apportionment and allocation provisions under Oregon Revised Statutes, Chapters 314, 317, and 318, and the related Oregon Administrative Rules, unless otherwise provided.

This Tax Alert summarizes some of the provisions of the newly adopted city ordinances.

## Portland adopts market-based sourcing ordinances

The new Portland ordinances are effective for taxable years beginning on or after January 1, 2023 and will only apply if the Metropolitan Service District ("Metro") and Multnomah County [adopt](#) substantially similar rules, as the Portland Revenue Division also administers taxes for these two governments. The Multnomah County Board of Commissioners held a [public hearing](#) on amending its Business Income Tax to align with the state's sourcing methodology. Currently, Portland, Multnomah County, and Metro generally apply a ratio-of-time-spent cost of performance methodology to source sales of items other than tangible personal property.

The industry-specific or income-specific apportionment methodologies required under the Oregon Revised Statutes and Administrative Rules apply to the extent Portland has not otherwise adopted a rule.

## Considerations

In addition to the Business License Tax, Portland also imposes a [Clean Energy Surcharge](#) of 1% on retail sales made within Portland by "large

retailers.” Portland defines “large retailers” as businesses that have retail sales of \$1 billion or more everywhere and retail sales of \$500,000 or more in Portland. Portland follows Oregon’s consolidated filing methodology; for taxpayers filing on a consolidated basis in Portland, the large retailer determination is made based on the unitary group filing the Portland return. To the extent the new law becomes effective, taxpayers who previously sourced their receipts from services and/or intangibles outside of Portland under the cost of performance rules may need to consider whether they have a market in Portland under the market-based sourcing regime and whether they are now subject to the Clean Energy Surcharge. Taxpayers who are currently defined as large retailers may not meet the definition under the new sourcing rules.

## Get in touch

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