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Oregon: Draft of proposed commercial activity tax

In Oregon: a joint committee on tax reform has proposed a "commercial activity tax."

Background

In 2017, there has been an increased interest in gross receipts taxes or commercial activity taxes at the state-level. Both governors of Louisiana and West Virginia have proposed the adoption of gross receipts taxes in part to address current budget deficits. A bill introduced in Oklahoma would adopt a commercial activity tax that would be imposed in addition to the state's corporate income tax.

Most recently, lawmakers in Oregon released a draft gross receipts tax proposal that had been weeks in the making.

Oregon proposal

The 111-page **draft proposal** [PDF 286 KB] which, according to state Senator Mark Hass, is a "shell" to be "updated and replaced…or not" provides details on the proposed gross receipts tax. Certain Oregon lawmakers believe the proposed measure is the answer to filling the estimated $1.4 billion shortfall in the budget for the 2017-2019 biennium. It is expected that the proposal will be the subject of much debate and discussion in the coming weeks, as Oregon's legislative session starts to wind down. The legislature is scheduled to adjourn on July 10, 2017.

Details of the draft are summarized as follows.

- A new "corporate activities tax" would replace the corporate excise tax as of January 1, 2018.

- The new tax would be based on gross receipts sitused to Oregon, and would apply to all types of business entities, with the exception of certain specifically excluded entities (generally various non-profits).

- Financial institutions would be subject to the new tax.

- There are numerous exclusions from the definition of "gross receipts."

- Market-based situsing rules would apply to determine Oregon-sitused receipts. In addition to rules governing certain receipts from intangibles, receipts from the sale of tangible personal property would be sitused to Oregon if the destination of the property is Oregon, and receipts from services would be sitused to Oregon based on the proportion of the "purchaser's benefit" received in Oregon. Businesses with less than $3 million in Oregon-sitused sales would pay a flat $250 tax. Businesses with $3 million or more in Oregon-sitused sales would pay the new tax at rates that vary by industry.

The draft bill does not include rates, but a **summary** [PDF 100 KB] of the draft plan does provide details on the proposed rates—a 0.85% rate for service businesses, a 0.35% rate for retail, a 0.25% for wholesale and warehousing, and a 0.48% for all others.

It appears that unitary groups would continue to file as such and would be treated as a single taxpayer with an exclusion from gross receipts for receipts from transactions between unitary group members.

The draft also includes certain individual (personal) income tax changes and the estimated net revenue impact of the draft proposal is $954 million for the 2017-2019 biennium cycle and $1.4 billion by the 2021-2023 biennium.

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