Oregon bills propose corporate income tax changes

February 8, 2013

In brief

The 2013 Oregon legislature convened on Monday, February 4, and a series of corporate tax proposals have been introduced. The proposals include adoption of the *Finnigan* sales factor rule for unitary group members, a switch to market-based sourcing for certain sales other than sales of tangible personal property, an accelerated depreciation deduction, a limitation on credits, and a revision to the minimum tax.

In detail

Sales factor and Finnigan rule

Presently, Oregon law provides that "members of an affiliated group making a consolidated federal return or a consolidated state return shall not be treated as one taxpayer." Under S.B. 310, this existing language is retained but the state would adopt the *Finnigan* approach for apportionment, under which the property, payroll, sales, or other factors of all members of a unitary group are included in the numerator of the Oregon apportionment percentage if any member of the group is taxable in Oregon. The legislation would apply to tax years beginning on or after January 1, 2014. [S.B. 310, referred to Finance & Revenue (S), 1/16/13]

Market-based sourcing

Under current law, sales other than sales of tangible personal property are Oregon sales for sales factor purposes if the income-producing activity is performed both in and out of Oregon and a greater proportion of the income-producing activity is performed in Oregon, based on costs of performance. Under S.B. 311, such sales would be deemed Oregon sales if receipts are derived from customers within Oregon or are otherwise attributable to Oregon's marketplace. The legislation would apply to tax years beginning on or after January 1, 2014. [S.B. 311, referred to Finance & Revenue (S), 1/16/13]

Depreciation

Senate Bill 451 would allow a subtraction from federal taxable income for that portion of the cost of a qualifying asset (as defined under I.R.C. Sec. 167) that exceeds the amount allowed as a deduction for depreciation of a capital asset on the taxpayer's federal return, up to $750,000 in any tax year. The amounts subtracted would thereafter be added to federal taxable income in the tax year they would otherwise be deductible. These provisions would apply to qualifying assets placed in service in tax years beginning on or after January 1, 2013, and before January 1, 2017. [S.B. 451, referred to Finance & Revenue (S), 1/16/13]

Credits and minimum Tax

House Bill 2303 would limit the amount by which credits can reduce a taxpayer's income tax liability (corporate excise and personal income) to 10% of the taxpayer's liability before the allowance of any credit. In addition, the legislation would revise Oregon's corporate minimum tax. Presently, the corporate minimum tax is determined by a taxpayer's Oregon sales and ranges from $150 to $100,000. Under the legislation, the minimum tax would be determined by multiplying a percent (as yet unstated in the bill) by the sum of the taxpayer's fixed assets (property, plant and equipment owned or rented by the taxpayer and used in the state during the tax year), Oregon sales, and payroll for the tax year. The legislation would apply to tax years beginning on or after January 1, 2013. [H.B. 2303, referred to Revenue (H), 1/22/13]

Another measure, H.B. 2518, would retroactively allow tax credits to be applied against a corporation's minimum tax liability, applicable to tax years beginning on or after January 1, 2009. [H.B. 2518, referred to Revenue (H), 1/22/13]

Capital gain deduction for investment

House Bill 2307 would allow a subtraction for up to $1 million for a qualified net capital gain, defined as a net capital gain that is treated as such for federal income tax purposes, that is includable as Oregon taxable income in an amount equal to that invested (excluding loans) in a 'qualified business.' The investment must be made before the due date the return is filed for the tax year and continue for at least 24 months. The Oregon Business Development Department will establish by rule the criteria and policies for taxpayers to qualify for the deduction. The legislation would apply to tax years beginning on or after January 1, 2013. [H.B. 2307, referred to Revenue (H), 1/22/13]

The takeaway

Given that the 2013 Oregon Legislature just got under way on February 4, the above described House and Senate bills are very early in the legislative process. Each of the above bills have had an initial reading and have been referred to their respective revenue committees for public hearings, further refinement, and / or movement along the law-making process. Since 2013 is an odd numbered year, the legislative session may not exceed 160 days. We will continue to monitor these bills and report on those that become law.

Let's talk

If you have any questions about these proposed changes, please contact:

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