

Multistate Tax Compact Update - Oregon proposed bill amendments repeal, re-enact portions of the Compact

May 2, 2013

In brief

UPDATE: Governor signed S.B. 307 on June 13, 2013

On May 1, 2013, the Oregon Senate Committee on Finance and Revenue voted to move amended S.B. 307 to the Senate floor with a do pass recommendation. S.B. 307 would repeal all provisions of ORS 305.665, which includes the Multistate Tax Compact, and then re-enact most provisions of the Compact excluding Article III (allowing taxpayers to elect to apportion under the laws of the state or in accordance with Compact provisions) and Article IV (containing the apportionment provisions). The bill would be effective for tax years beginning on or after January 1, 2013.

The takeaway

The legislature is presumably acknowledging the rationale in *Gillette v. California Franchise Tax Board* that a state cannot unilaterally modify elements of the Compact. Under *Gillette*, the only method a state may use to change elements of the Compact is by completely withdrawing from the Compact through a repeal of the enabling statute. S.B. 307 accomplishes this by repealing all provisions of the

Compact. The bill then adopts portions of the Compact that do not involve the apportionment election or that do not conflict with Oregon's non-Compact provisions.

Michael Herbert, tax partner in PwC's state and local tax practice in San Francisco, observes that Oregon is proposing actions similar to those of Utah and Minnesota. It remains questionable whether such actions have the impact of

the states becoming members of the existing Multistate Tax Compact. Finally, the impact of the states' partial re-enactments, which include participation in the audit program, is yet to be seen.

We will continue to monitor this legislation and report on any significant progress.

Let's talk

For more information about the Multistate Tax Compact and its impact on taxpayers in Oregon and in other member states, please contact:

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