Income/Franchise:
Oregon: Taxpayer May Exclude Gross Receipts from Sales Factor Numerator Because Insurance Sub Lacks Nexus

TC Case No. 5416, Or. Tax Ct. (1/24/24). In an unpublished order of the Regular Division of the Oregon Tax Court (Court) involving a software company filing a consolidated Oregon corporate excise (income) tax return with various subsidiaries, the Oregon Tax Court (Court) concluded that, under the taxpayer's specific facts, the company may exclude 95% of certain Oregon insurance plan gross receipts paid by retail customers to an insurance subsidiary and forwarded to an out-of-state insurance subsidiary as reinsurer from the numerator of its sales apportionment factor pursuant to state "Joyce" rules, because Oregon did not have taxing jurisdiction over that out-of-state insurance subsidiary which did business only in Arizona. Under the taxpayer's facts, federal income tax law treated the two subsidiaries at issue as "insurance companies" and defined one subsidiary's "gross income" as excluding 95% of premiums ceded to the out-of-state insurance company subsidiary as reinsurer. In doing so, the Court rejected the Oregon Department of Revenue's (Department) theory that the reinsurer became subject to Oregon's taxing jurisdiction because its contract to reinsure the other insurance subsidiary's plans amounted to hiring it as an in-state agent. Specifically, according to the Court, the Department failed to show an agency relationship between the two insurance subsidiaries. Please contact us with any questions.
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