

Income/Franchise:

Oregon DOR Posts Guidance for Foreign Corporations on Doing Business, Nexus, and P.L. 86-272

Foreign Corporations: Corporations with headquarters outside Oregon, Or. Dept. of Rev. (3/24). The Oregon Department of Revenue (Department) posted general nonbinding guidance for corporations “with headquarters outside Oregon,” explaining that corporations that are “doing business” in Oregon or have income from an Oregon source may be required to file an Oregon corporate excise or income tax return. In doing so, the Department states that “doing business” generally means being engaged in any profit-seeking activity in Oregon, and that a taxpayer having one or more of the following in Oregon is doing business in Oregon:

URL: <https://www.oregon.gov/dor/programs/businesses/Pages/foreign-corps.aspx>

- A stock of goods;
- An office;
- A place of business (other than an office) where affairs of the corporation are regularly conducted;
- Employees or representatives providing services to customers as the primary business activity (such as accounting or personal services), or services incidental to the sale of tangible or intangible personal property (such as installation, inspection, maintenance, warranty, or repair of a product); or
- An economic presence through which the taxpayer regularly takes advantage of Oregon’s economy to produce income.

The Department also explains that if a company has tangible or intangible property or other assets being used in Oregon, any resulting income it receives is “Oregon-source income” and it may, with some exceptions, be required to file an Oregon corporate income tax return (Form OR-20-INC). Referencing the Multistate Tax Commission’s “Model Regulations, Statutes and Guidelines” publication and “Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under Public Law 86-272,” the Department also addresses the application, as well as limitations, of P.L. 86-272. The Department notes that an out-of-state company has nexus and is considered to be doing business in Oregon if activities (*i.e.*, those not specifically protected by P.L. 86-272) performed in Oregon on behalf of the taxpayer are significantly associated with the taxpayer’s ability to establish and maintain an in-state market. Please contact us with any questions.

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