

Income/Franchise:

Oregon Tax Court Magistrate Says In-State Activities Create Substantial Nexus and Special Industry Apportionment Applies

Case No. TC-MD 220337N, Or. Tax Ct. (3/31/25). In an unpublished order of the Magistrate Division of the Oregon Tax Court, the presiding magistrate held that several affiliates of a media and entertainment company constituted “broadcasters” subject to Oregon’s statutory special industry apportionment formula for interstate broadcasters and that their in-state business activities created a substantial nexus satisfying federal constitutional standards under both the Due Process and Commerce Clauses even though they lacked an in-state physical presence and did not make direct sales to or otherwise contract with Oregon customers. In doing so, the magistrate explained that based on the collective facts at hand, the broadcasters generated significant income – including from Oregon viewers – through the activity of distributing cable programming in Oregon pursuant to third-party affiliation agreements, and their contacts with Oregon’s market were continuous and systematic, creating a sufficient nexus with Oregon. Because it was “yet to be determined” in this case whether certain other affiliates of the company constituted broadcasters, the presiding magistrate also concluded that it was premature to consider whether Oregon’s statutory interstate broadcaster formula unfairly apportioned income relative to the broadcasters’ in-state business activities.

URL: <https://cdm17027.contentdm.oclc.org/digital/collection/p17027coll6/id/9883/rec/1>

Note that in another recent unpublished order of the Magistrate Division of the Oregon Tax Court involving a different taxpayer, the magistrate similarly held that an interstate broadcaster’s in-state business activities created a substantial nexus with Oregon due to its continuous and intentional “substantial virtual presence” [see *State Tax Matters*, Issue 2025-12, for more details on this other recent ruling]. Please contact us with any questions.

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