



This Week in State Tax (TWIST)

18th March 2024



To listen to the podcast please [click here](#)

Oregon: New Nexus and P.L. 86-272 Guidance Posted on DOR's Website

The Oregon Department of Revenue recently posted new guidance on its website for “foreign” corporations, meaning corporations with headquarters outside Oregon. The guidance explains situations in which taxpayers are considered to be doing business in Oregon, including but not limited to, when they have an economic presence through which the taxpayer regularly takes advantage of Oregon’s economy to produce income. The website also lists several different nexus creating activities that might be performed by a company or its employees directly, or by the company’s use of third parties and agents. The guidance also addresses P.L. 86-272 and cautions companies that the U.S. Supreme Court narrowly interpreted P.L. 86-272 to protect only the actual solicitation of orders and activities entirely ancillary to the solicitation of orders. For more information, the Department suggests that companies read the Multistate Tax Commission’s (MTC) “Statement of Information Concerning Practices of Multistate Tax Commission and Signatory States Under Public Law 86-272.” Recall, in November 2020, the MTC approved revisions to the statement that incorporated fact patterns common in the current economy due to technological advancements. The general rule stated in the MTC’s revised statement is that when a business interacts with a person or entity in the state via the business’s website or app, the business engages in an activity within the state. If that activity goes beyond solicitation of sales, then the business is not protected under P.L. 86-272. Examples of activities conducted by a seller of tangible personal property over the Internet that would appear to cause the loss of P.L. 86-272 protection include, but are not limited to, providing post-sales assistance over the Internet and leaving cookies on customer devices that gather marketing information. At one point, the Oregon Department of Revenue had considered adoption of the revised statement; ultimately, the Department declined to move forward. It is unclear whether the reference to the revised statement as a source of additional information for companies means that the Department will be applying the revised statement on audit. Please stay tuned to TWIST for additional updates on nexus and P.L. 86-272.

Learn about us:



[kpmg.com](https://www.kpmg.com)