

Bureau of Revenue and Financial Services  
Revenue Division

# Conformity Ordinance

Conformity with Oregon Tax Law for the  
City and its Regional Partners

Agenda Item #772  
September 21, 2022



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# Background

- The City collects business taxes on behalf of Metro, Multnomah County and the City (collectively, tax jurisdictions).
- Before 2018, both the state and tax jurisdictions used the Cost of Performance apportionment method to source **service-based income** to the state and tax jurisdictions. In 2018 the state changed to Market-Based Sourcing.
- The professional service sector (legal, accounting, engineering, etc.) makes up 0.2%, or 1 in 500, of the City's taxpayers.
- This difference in methods places a larger compliance burden on businesses by requiring them to track different information for the state and the tax jurisdictions.
- This difference also limits our use of state tax return data in our compliance work.



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# Background

- Conformity with state tax law is not required. However, it will reduce the compliance burden on businesses and enhance our ability to use state tax return data to enforce local codes.
- Tax jurisdiction staff have discussed the conformity proposal and have agreed to implement these changes.
- City staff reached out to the business community for comment on the conformity proposal. Comments received were very supportive.
- Revenue is not expected to materially change as a result of the conformity proposal.



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# Cost of Performance vs. Market-Based Sourcing

- The Cost of Performance apportionment method sources income from service businesses to the tax jurisdiction **where income-producing service activity is being performed.**
- The Market-Based Sourcing apportionment method sources income to the tax jurisdiction **where the customer is located.**
- This change will generally reduce the tax paid by a service business located in the tax jurisdiction and increase the tax paid by a service business located outside the tax jurisdiction.




# Example Impacts

- Expected to generally reduce taxes for locally based service businesses (actual impact will vary based on individual taxpayer circumstances).

Portland Law Firm	Current Policy Cost-of-Performance Sourcing	Proposed Policy Market-Based Sourcing	Difference
Net Income	\$200K	\$200K	\$0
Apportionment %	97%	90%	-7%
Portland Taxable Income	\$194K	\$180K	 -\$14K

- Expected to generally increase taxes for some service businesses outside of the tax jurisdictions (actual impact will vary based on individual taxpayer circumstances).

San Francisco Law Firm	Current Policy Cost-of-Performance Sourcing	Proposed Policy Market-Based Sourcing	Difference
Net Income	\$1.2M	\$1.2M	\$0
Apportionment %	0.5%	5%	+4.5%
Portland Taxable Income	\$6K	\$60K	 +\$54K

# Another Element of Conformity

The following conformity item applies to **sales of physical goods**.

Protection from interstate taxation – PL 86-272

- This is a federal law that protects a business that sells physical goods into a state from taxation by a state in limited situations.
- The federal law applies on an interstate basis. The city currently applies this law on an intrastate basis.
- The proposal adopts the interstate application of this federal law. This will apply market-based sourcing to more Oregon sales of physical goods.