

Taxation Section

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How Oregon Taxes Its Visiting Workforce

By Jeremy Babener¹

I. Introduction

The modern work force is creative and mobile. Fewer and fewer individuals expect to work for a single employer, or even in a single state, throughout their working lives.

Workers who visit Oregon may be surprised to learn that, among the 50 States and the District of Columbia, Oregon imposes the third highest marginal tax rate on personal income (9.9% on income exceeding \$125,000), after Hawaii (11% on income exceeding \$200,000) and California (13.3% on income exceeding \$1,000,000).²

This article discusses the Oregon income taxation of workers who visit Oregon temporarily, indefinitely, or as part of a process that ultimately leads to Oregon residence, using the following 2013 cases for illustration:³

1. **Harper**, a professional soccer player with the Seattle Sounders, played against the Portland Timbers in Portland several times in 2013. He also received regular royalty payments from ShoeCo on sales of soccer shoes bearing his name.
2. **Riley**, a sole practitioner lawyer living in New York, conducted depositions in Portland for five days in 2013. Riley bills by the hour.
3. **Sara – Alternative 1**. Sara, a software engineer who has been working in SoftCo's San Francisco office, moved to Oregon on June 14, 2013, after SoftCo assigned her to SoftCo's Portland office to work on three discrete projects. Sara's manager told her that, after she completes the projects, she can either return to the San Francisco office or move to the Seattle office. The manager expected the projects to take about a year. As of December 31, 2013, Sara had completed two of the projects. While working in Portland, Sara (a) rented out her San Francisco condo, but (b) kept her California bank account and driver's license, and (c) did not obtain an Oregon bank account or driver's license. During 2013, SoftCo paid Sara wages and granted her nonqualified options on SoftCo stock. She also received deferred compensation from a prior job and derived net rental income from the tenant of her San Francisco condo.
4. **Sara – Alternative 2**. The facts are the same as in Alternative 1 except that Sara's manager assigned Sara to SoftCo's Portland office for a fixed period of 16 months and told her that, after that period, she can return to San Francisco or move to SoftCo's Seattle office.
5. **Sara – Alternative 3**. The facts are the same as in Alternative 2, except that Sara moved to Oregon on June 16, 2013, and, before the end of 2013, SoftCo offered Sara a permanent job in Portland, and Sara accepted the offer. Also in 2013, Sara sold her San Francisco condo as well as stock in her investment portfolio, realizing gains from both sales.

II. The Tax Consequences of Status as an Oregon Resident, Nonresident, or Part-Year Resident

The amount of an individual's Oregon income tax depends on her status as a full-year resident, full-year nonresident, or part-year resident.

A full-year resident is taxable on *all* of her taxable income, regardless of the source.⁴ A full-year resident's taxable income is equal to her federal taxable income with certain adjustments.⁵

A full-year nonresident is taxable *only* on her taxable income "derived from sources within [Oregon]."⁶ In general, a full-year nonresident's taxable income equals the net amount of her items of income, gain, loss, and deduction "derived from or connected with" Oregon sources that entered into her federal adjusted gross income.⁷ A full-year nonresident may deduct (a) the amount of her standard or itemized deductions multiplied by (b) the fraction determined by dividing her federal adjusted gross income from Oregon sources by her federal adjusted gross income from all sources.⁸

A part-year resident's tax is equal to (a) the tax that would be imposed on her if she were a full-year resident multiplied by (b) the fraction determined by dividing her federal adjusted gross income from Oregon sources by her federal adjusted gross income from all sources.⁹

Thus, in order to determine the Oregon taxable income for a full-year nonresident or part year resident,

it is essential to determine whether each of her items of income, gain, loss, and deduction is derived from an Oregon source. A part-year resident generally treats all income as Oregon-source income during the portion of the year in which she is an Oregon resident.¹⁰

This article does not discuss general rules for determining whether items of income, etc., are derived from Oregon sources. The source of specific items relevant to Harper, Riley, and Sara is discussed in Section IV below.

III. Determining an Individual's Status as an Oregon Resident, Nonresident, and Part-Year Resident¹¹

In most cases, an individual is an Oregon "resident" for Oregon income tax purposes on any given day if (a) she is domiciled in Oregon on that day or (b) that day falls within a tax year in which she spends more than 200 days in Oregon. Both of these concepts can depend on whether the individual has (c) a "permanent place of abode" in Oregon.

However, regardless of domicile or days spent in Oregon, an individual is not an Oregon resident if she is (a) a "qualified individual" under Code Section 911(d), (b) a resident alien under Code Section 7701(b) who would be a qualified individual if she were a U.S. citizen, or (c) a spouse of an individual described by either (a) or (b) if the spouse has a "principal place of abode" for the tax year outside Oregon.¹² Code Section 911(d) defines a "qualified individual" as an individual whose tax home

Seeking Nominations For The Award Of Merit

The Executive Committee of the OSB Taxation Section would like to recognize and honor those among us who exemplify professionalism in the practice of tax law in the State of Oregon. In 2009, we presented the Taxation Section's first Award of Merit to David Culpepper. Subsequently, the award has been presented to Robert Manicke (2010), John Draneas (2012), and the Honorable Henry C. Breithaupt (2013). We are now accepting nominations for the Taxation Section's fifth Award of Merit. Nominations must be received by April 15, 2014. There is no guarantee that an Award will be presented during 2014; the Executive Committee is striving to ensure that the Award is only given to candidates who truly deserve it. The Award will be granted to the candidate the Committee believes to best personify the Oregon State Bar's Statement of Professionalism, and best serves as a role model for other lawyers. Factors considered include competence, ethics, conduct with

others and the courts, and pro bono contributions to the Bar and tax system. The candidate's accomplishments must fall within the tax field. If a recipient is selected, the Award will be presented at the 14th Annual Oregon Tax Institute.

More information about the criteria for the award and the nomination form is available online at www.osbartax.com/Award-of-Merit.

Please send your completed nomination form to me at the e-mail address below (please do not respond to this list serve e-mail with your nomination). If you have any questions, feel free to contact me by e-mail or phone.

Regards,

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is in a foreign country and who (a) spends at least 330 days in a foreign country or countries during any 12-month period or (b) establishes that she is a “bona fide resident” of a foreign country or countries for an entire tax year.

A. Oregon Residence Based on Domicile

In general, an individual who is domiciled in Oregon is an Oregon resident *unless* she (a) spends less than 31 days in Oregon during the tax year, (b) does not maintain a “place of abode” in Oregon, and (c) does not maintain a place of abode outside Oregon.¹³

An individual can have only one domicile at any given time.¹⁴ The Oregon Administrative Rules (the “OARS”) define “domicile” as “the place an individual considers to be the individual’s true, fixed, permanent home. An individual can only have one domicile at a given time. It continues as the domicile until the individual demonstrates an intent to abandon it, to acquire a new domicile, and actually resides in the new domicile. Factors that contribute to determining domicile include family, business activities and social connections.”¹⁵

An individual’s intent to abandon one domicile and acquire another is subjective, and the Oregon Tax Court has placed the burden on the taxpayer to establish her intent based on the facts and circumstances. In determining whether the individual intended to establish domicile in Oregon, or to abandon her Oregon domicile and establish domicile elsewhere, the Court relies heavily on overt actions.¹⁶ The Court has considered a variety of overt actions, including (a) the purchase of a house in Oregon, (b) the operation of a home business in Oregon, (c) the acquisition of an Oregon driver’s license, and (d) the registration of personal automobiles in Oregon.¹⁷

B. Oregon Residence Based on Time Spent in Oregon

In general, an individual who is *not* domiciled in Oregon is an Oregon resident for a tax year if she (a) “spends” more than 200 days in Oregon during the tax year and (b) maintains a permanent place of abode in Oregon, *unless* she (c) proves that she is in Oregon only for a “temporary or transitory purpose.”¹⁸

An individual’s presence in Oregon is considered to be “temporary or transitory” if it is “not permanent and is not expected to last indefinitely.”¹⁹ According to an example in the OARS, the Oregon presence of two individuals who are domiciled in Minnesota is considered to be “temporary or transitory” in a tax year in which (a) they stay at the Oregon coast for 200 days at a house that they purchased, (b) they maintain their family residence in Minnesota, (c) they continue some involvement in their personal and business activities in Minnesota, and (d) they have no business activities in Oregon other than renting their Oregon house when they are not using it.²⁰

An individual domiciled in another state who is present in Oregon for a “short period” to “complete a particular transaction” is treated as being in Oregon for temporary or transitory purposes.²¹

An individual domiciled in another state who is assigned to work in Oregon for a “fixed and limited period,” after which she is to return to a permanent location, is not deemed a resident.²² Applying this rule, an example in the OARS states that the Oregon presence of a New York domiciled individual is “temporary and transitory” where (a) he accepts an employment position in Oregon with the expectation that the work will take one and one-half years, (b) he spends almost the entirety of that period in Oregon living in a house built by his employer, (c) his family lives with him during the summer, (d) he votes and maintains his bank accounts in New York, and (e) he intends to move back to New York when his work is complete.²³ Another example in the OARS states that a California-domiciled individual becomes a resident of Oregon where (a) she accepts an *indefinite* transfer to her employer’s Oregon office, and (b) she rents an apartment in Oregon, even though (c) her family remains in California, and she believes that she may be transferred back to California within three years.²⁴

C. Permanent Place of Abode.

The OARS define “permanent place of abode” as “a dwelling place permanently maintained by the taxpayer, whether or not owned by the taxpayer, and generally includes a dwelling place owned or leased by the taxpayer’s spouse. To constitute a permanent place of abode, the taxpayer must maintain a fixed place of abode over a sufficient period of time to create a well-settled physical connection with a given locality. It is distinguishable from ‘domicile’ in that an individual may have several residences (or abodes), but only one domicile, at any given time.”²⁵

An individual is not considered to be maintaining a “permanent place of abode” merely by reason of owning residential property in Oregon if the individual and her family *never* use that property as a dwelling.²⁶ However, use of the property by the individual during the tax year, even for one day, may be sufficient for it to be considered a “permanent place of abode” if it is also used by the individual’s family “for a sufficient period of time to create a well-settled physical connection.”²⁷

IV. Do Harper, Riley, and Sara Owe Oregon Income Tax?

A. Harper – The Soccer Player

Full-year Nonresident. During 2013, Harper lived in Washington and had no connection to Oregon other than playing at the Portland Timber’s Jeld-Wen Field on six occasions. Therefore, he was a full-year nonresident taxable only on income derived from Oregon sources.

Income of a Professional Athlete. The OARs provide specific rules to identify the source of income of each nonresident “member of a professional athletic team” (e.g., active players, players on the disabled list, coaches, managers, and trainers).²⁸ Such an athlete’s Oregon-source income includes an amount equal to (a) the athlete’s total compensation (including certain types of bonuses) for services rendered as a member multiplied by (b) a fraction, determined by dividing the number of days that the athlete spent in Oregon “rendering services” to the team by the total number of “duty days” spent in and outside Oregon.²⁹

“Duty days” generally include all days from the beginning of the team’s official pre-season through the last game day, plus days on which the athlete “renders a service” for his team (e.g., participation in instructional leagues or promotional events). A travel day that does not include some kind of team event is a duty day, but is not treated as a duty day spent in Oregon.

During 2013, Harper was a nonresident member of a professional athletic team who played in Oregon. Therefore, a portion of his compensation is Oregon-source income. If Harper played in Portland on six days, and had 200 duty days, three percent of his compensation would be Oregon-source income.

Royalty Income. In general, “income from the use of” a nonresident individual’s intangible property (e.g., royalties) is Oregon-source income only if the property is “used in the conduct of the [individual’s] business, trade, or profession in Oregon.”³⁰ A 2008 ruling by the Oregon Tax Court indicates that, in general, property is “used” in the conduct of a business if the business (a) creates or enhances the property’s value rather than (b) merely maintaining the property and waiting for external market forces to increase the property’s value.³¹

During 2013, Harper continuously received royalty payments from ShoeCo based on sales of soccer shoes bearing his name. Harper’s only business, trade, or profession in Oregon was playing soccer. The intangible property that he licensed to ShoeCo was not used in the conduct of that business. Therefore, his royalty income is not Oregon-source income.

B. Riley – The Sole Practitioner

Full-year Nonresident. During 2013, Riley lived in New York and had no connection to Oregon other than conducting depositions in Portland for five days. Therefore, she was a full-year nonresident taxable only on her net income derived from Oregon sources.

Independent Contractor Services Income. In general, a nonresident individual’s income from services not performed for an employer (i.e., performed as an independent contractor) is Oregon-source income if it is “from the [individual’s] business, trade, profession or occupation carried on in this state.”³²

Since Riley bills by the hour, it is relatively easy to determine the amount of income she received from her

work in Oregon. Had she charged her client on some other basis (e.g., a flat fee or a success-based fee), further analysis would be needed to determine the portion of her compensation that is “from” her work in Oregon.

C. Sara – The Software Engineer

Sara’s situation, and her alternative situations, are more complex than those of Harper and Riley. Section C.1 discusses whether Sara was a full-year nonresident or part-year resident during 2013 under the three alternative scenarios. Section C.2 discusses whether each of her items of income is Oregon-source income.

1. Determining Sara’s Residency

a. Alternative 1 – Indefinite Assignment in Oregon

In the first alternative, Sara moved to Portland on June 14, 2013, after SoftCo assigned her to SoftCo’s Portland office indefinitely (i.e., until she completes three projects). Under the OARs, the purpose of her presence in Oregon was not “temporary or transitory” because her assignment was “not for a fixed and limited period.” Because she also spent more than 200 days in Oregon during the tax year (2013, in fact) and maintained a permanent place of abode in Oregon, she was a full-year resident in 2013.³³

Had Sara planned better, she might have reduced the number of days that she spent in Oregon (i.e., to less than 200 days). In that case, she would have been a full-year nonresident, and therefore taxable only on her Oregon-source income, *unless* she established Oregon domicile. Her overt actions suggest that she has not done so: (a) she kept her California condo, bank account, and driver’s license, and (b) she did not obtain an Oregon bank account or driver’s license.

As a full-year resident, Sara is taxable on all of her taxable income, regardless of the source.³⁴

b. Alternative 2 – Sixteen-Month Assignment in Oregon

In the second alternative, Sara moved to Portland on June 14, 2013, after SoftCo assigned her to SoftCo’s Portland office for sixteen months. Under OARs, the purpose of her presence in Oregon was “temporary or transitory” because her assignment was for a “fixed and limited period.”³⁵

Therefore, Sara was a full-year nonresident and taxable only on her Oregon-source income *unless* she established Oregon domicile.³⁶ As noted in the Alternative 1 analysis, her overt actions suggest that she has not done so.

c. Alternative 3 – Sixteen-Month Assignment in Oregon, Followed by Acceptance of a Permanent Oregon Job Offer

In the third alternative, like the second, SoftCo assigned Sara to SoftCo’s Portland office for sixteen months. However, Sara moved to Oregon on June 16, 2013, and, before the end of 2013, SoftCo offered Sara a permanent job in Portland, and Sara accepted the offer.

Also in 2013, Sara sold her San Francisco condo and stock in her investment portfolio.

In this case, Sara established Oregon domicile during 2013 by demonstrating a clear intent to move to Oregon for an indefinite period. Therefore, she was a part-year resident in 2013.³⁷ Because she only spent 199 days in Oregon during 2013, she could not be a full-year resident under the 200-day rule.³⁸

It is unclear *when* Sara abandoned her California domicile and established her Oregon domicile and therefore became an Oregon resident. The Oregon Department of Revenue might point to the date on which she accepted SoftCo's new job offer. Arguably, however, she did not abandon her California domicile until *after* she sold her San Francisco condo. Hopefully, she considered whether she would pay more tax on the gain from her sale of stock by establishing Oregon domicile *before* or *after* selling the stock.

As a part-year resident in 2013, Sara's Oregon income tax is equal to (a) the tax that would be imposed on her if she were a full-year resident, multiplied by (b) the fraction determined by dividing her federal adjusted gross income from Oregon sources by her federal adjusted gross income from all sources.³⁹

2. Sourcing Sara's Income

For the portion of the year in which Sara was a resident, all of her income was Oregon-source income.⁴⁰ Below, this article discusses whether the items of income that Sara recognized during the time she was a nonresident are Oregon-source items.⁴¹

In-State Employee Wages and Out-of-State Severance Pay. In general, a nonresident's employment-related income is Oregon-source income if it is attributable to services performed in Oregon, regardless of whether the income is regular wages, unemployment compensation, or severance pay.⁴² In general, the portion of wages attributable to services performed in Oregon equals the individual's compensation multiplied by a fraction, determined by dividing the number of days worked in Oregon by the total number of days worked in and outside Oregon.⁴³

During 2013, Sara received wages for her services performed in Portland. If she worked 144 days in Portland, and a total of 262 days in Portland and San Francisco, 55 percent (144/262) of her wages would have been Oregon-source income.

Sara's Oregon-source income did not include any of her severance pay because it was attributable to services performed outside Oregon.

Nonqualified Stock Options. Under Code Section 83(a) and Treasury Regulations Section 1.83-7(a), an employee who receives a nonqualified stock option with a readily ascertainable value recognizes income at the time the recipient's rights to the option are freely transferable or no longer subject to substantial risk of forfeiture (or possibly earlier, if the employee makes a Code

Section 83(b) election). If the option does not have a readily ascertainable value at the time of the grant, no income is recognized until the option is exercised or otherwise disposed of.

Under the OARs, an employee's income from the grant of a nonqualified stock option *with* an ascertainable fair market value is treated as Oregon-source income based on the portion of the tax year that the employee worked in Oregon *during the year of the grant*.⁴⁴

Also under OARs, if an employee is granted a nonqualified stock option *without* an ascertainable fair market value during a tax year in which the employee worked in Oregon, the income from exercise or disposition of the option is treated as Oregon-source income based on the fraction determined by dividing (a) the number of days the taxpayer worked in Oregon from the date of the grant to the date income from the option is recognized by (b) the number of days worked everywhere during that period.⁴⁵

Thus, if SoftCo granted Sara nonqualified stock options *with* a readily ascertainable value in 2013 before or after she moved to Portland, 55 percent (201 days divided by 365 days) of the stock's value will be included in her Oregon-source income when she recognizes it for federal tax purposes.

If SoftCo granted stock options *without* a readily ascertainable value (which is much more likely to be the case), the Oregon-source percentage of the income that Sara eventually realizes from exercising the option will increase the longer she stays in Oregon.

Out-of-State Rental Income and Out-of-State Real Property Sale Proceeds. Income attributable to the ownership or disposition of real or tangible property in Oregon is Oregon-source income.⁴⁶ Although the rules do not state so explicitly, there is a strong implication that income attributable to the ownership or disposition of real or tangible property outside Oregon is Oregon-source income *only if* the income is attributable to a business carried on in Oregon.

Therefore, Sara's rental income and sale proceeds from her San Francisco condo were not Oregon-source income.

Proceeds from the Sale of Stock. Gain from the sale or exchange of stock in a C corporation or an S corporation, bonds, or other securities generally is not Oregon-source income unless the securities are "used in the conduct of the taxpayer's business, trade, or profession in Oregon."⁴⁷ As discussed in Section IV.A, the Oregon Tax Court has indicated that property is "used" in the conduct of a business if the business (a) creates or enhances the property's value rather than (b) merely maintaining the property and waiting for external market forces to increase the property's value.⁴⁸

Therefore, Sara's Oregon-source income does not include the gain she recognized from selling stock.

Conclusion

The Oregon income tax treats visitors differently based on (a) their intentions, (b) the length of their stay in Oregon, and (c) the type of income they earn. Individuals who expect to work in Oregon temporarily or indefinitely must pay careful attention to the applicable rules to determine their potential Oregon tax liabilities, and, possibly, plan their affairs to minimize those liabilities.

Endnotes

- 1 Jeremy Babener is an attorney in the Tax Practice Group at Lane Powell PC.
- 2 Tax Foundation, *Facts & Figures 2013: How Does Your State Compare?*, Table 12, <http://taxfoundation.org/sites/taxfoundation.org/files/docs/ff2013.pdf>.
- 3 Except in this footnote, this article does not discuss withholding and reporting by employers. In general, an employer must withhold a portion of each employee's "wages" and no portion of an independent contractor's compensation. ORS 316.167; ORS 316.162(2)(j). An employer may elect to use "an alternate method of filing, reporting or calculating tax liability for payroll earned in Oregon by [full-year] nonresident employees for a payroll period not to exceed 200 days in one calendar year." OAR 150-316.223(1).
- 4 ORS 316.037(1)(a). Unless otherwise indicated, references to "ORS" are to the 2013 edition of the Oregon Revised Statutes. References to "OAR" are to the Oregon Administrative Rules as of January 1, 2014. References to the "Code" are to the Internal Revenue Code of 1986, as amended.
- 5 ORS 316.048.
- 6 ORS 316.037(3).
- 7 ORS 316.130(1); ORS 316.127(1).
- 8 ORS 316.117(1); OAR 150-316.117-(A).
- 9 ORS 316.037(2); ORS 316.117.
- 10 See OAR 150-316.117-(A)(11); OAR 150-316.048.
- 11 For a discussion of residency and domicile issues, see John Gadon et al., *Personal Income Tax Issues Related to Residency and Domicile*, PRACTICAL TAX LAWYER, at 9-23 (Spring, 2009), available at http://www.lanepowell.com/wp-content/uploads/2013/05/PTXL1205_Gadon1.pdf.
- 12 ORS 316.027(1)(b).
- 13 ORS 316.027(1)(a)(A).
- 14 *Zimmerman v. Zimmerman*, 175 Or 585 (1945); OAR 150-316.027(1)(a). The federal constitution does not bar courts in different states from simultaneously determining that an individual is domiciled in their respective states. See *Cory v. White*, 457 U.S. 85 (1982). Oregon law gives some protection to taxpayers in this situation by providing tax credits for taxes paid to another state on income earned in that state. ORS 316.082; ORS 316.131.
- 15 OAR 150-316.027(1)(1)(a).
- 16 See, e.g., *Bleasdel v. Dept. of Rev.*, 18 Or. T.C. 354 (Mag. Div. 2004) (concluding that the taxpayer established Oregon domicile but abandoned it and established Florida domicile two years later); *Ashby v. Dep't of Rev.*, No. TC 5024, 2012 WL 5448193 (Nov. 5, 2013) (concluding that the taxpayer did not abandon his Oregon domicile).
- 17 *Bleasdel*, 18 OTR-MD at 359-360.
- 18 ORS 316.027(1)(a)(B).
- 19 OAR 150-316.027(1)(2).
- 20 OAR 150-316.027(1)(2), Example 5.
- 21 OAR 150-316.027(1)(2).
- 22 OAR 150-316.027(1)(2)(a) and (b).
- 23 OAR 150-316.027(1)(2)(b), Example 7; see *Butler v. Dep't of Rev.*, No. TC-MD 050687C (May 11, 2006).
- 24 OAR 150-316.027(1)(2)(b), Example 8.
- 25 OAR 150-316.027(1)(1)(b).
- 26 OAR 150-316.027(1)(1)(b)(B).
- 27 *Id.*
- 28 OAR 150-316.127-(F).
- 29 OAR 150-316.127-(F)(1)(a).
- 30 OAR 316.127-(D)(1)(a); ORS 316.127(3).
- 31 *Crystal Commc'ns v. Dep't of Rev.*, 19 Or. Tax 524, 545-46 (2008, as amended in 2009).
- 32 See OAR 150-316.127-(C)(1)(a). Under OAR 150-316.127-(C)(1)(a), "net income" is determined "in a manner consistent with" Oregon's version of the Uniform Division of Income Tax Purposes Act ("UDITPA"). Oregon's UDITPA generally apportions and allocates "business income" between multiple states if the income is taxable in those states. ORS 314.615. A portion of such income is apportioned to Oregon by multiplying (a) the taxpayer's business income by (b) the fraction determined by dividing "gross receipts attributable to this state and derived by the taxpayer from transactions and activity in the regular course of its trade or business" by "total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business." OAR 150-314.665(1)-(A)(5), -(B)(2).
- 33 OAR 150-316.027(2)(b). See ORS 316.027(1)(B); ORS 316.022(5).
- 34 ORS 316.037(1)(a).
- 35 OAR 150-316.027(2)(a).
- 36 OAR 150-316.027(2).
- 37 See OAR 150-316.027(1)(a); ORS 316.022(5).
- 38 ORS 316.027(B).
- 39 ORS 316.037(2); ORS 316.117.
- 40 See OAR 150-316.117-(A)(11); OAR 150-316.048.
- 41 This article does not discuss deductions in depth. However, as it is particularly relevant for Sara, it is noted here that Oregon allows a full-year nonresident or part-year resident to deduct moving expenses paid in order to work in Oregon. OAR 150-316.127(3)(a).
- 42 OAR 150316.127-(A)(1)(a), -(A)(3)(e), and (A)(3)(f). Compensation for personal services provided by a nonresident outside Oregon is not Oregon-source income *unless* such services are "connected with the management or conduct of a business" in Oregon (i.e., compensation paid by an Oregon company to an individual who manages the company from another state). OAR 150-316.127-(A)(1)(b).
- 43 The OARs provide several methods to determine the portion of a nonresident individual's wages that are attributable to services performed in Oregon. Alternative methods apply for nonresident individuals who (a) earn commissions on sales made, (b) sometimes work in and outside of Oregon on the same day, (c) accrue income based on mileage or (d) accrue income on some other basis. OAR 150-316.127-(A)(3).
- 44 OAR 150316.127(A)(3)(d)(A).
- 45 150316.127(A)(3)(d)(B).
- 46 ORS 316.127(2)(a); OAR 150-316.127-(C)(2), -(D)(2)(a).
- 47 OAR 150316.127-(D)(1)(a), (D)(2)(b), and -(D)(2)(c).
- 48 *Crystal*, 19 Or. Tax at 545-46.