LANE POWELL

May 14, 2019 News

Eric Kodesch Quoted in Law360 Article 'Standoff Over, Ore. Sens. Give Final OK to Gross Receipts Tax, 2019'

Topics

Tax
Oregon Tax

Related People

Eric J. Kodesch
kodesche@lanepowell.com

Related Practices & Industries

Business
Tax

In the News

Eric Kodesch was quoted in a May 14 *Law360 Tax Authority* article titled "Standoff Over, Ore. Sens. Give Final OK to Gross Receipts Tax, 2019." The article discusses HB 3427 — passed by the Oregon Senate on May 13 after a political stalemate — which would impose a gross receipts tax on companies with more than $1 million in annual in-state sales.

Under the bill, businesses would be allowed a deduction of 35% of either the cost of their inputs, defined as the calculation of the cost of goods sold according to *Internal Revenue Code Section 471* (*IRC § 471*), or costs of employee compensation, excluding salaries of more than $500,000, whichever is greater.

The bill would also treat unitary groups differently for purposes of the corporate activity tax from the way groups currently are treated for the state's corporate excise tax, Eric Kodesch of Lane Powell PC told Law360.

The bill applies a common ownership threshold of more than 50% for unitary groups for the corporate activity tax, without regard to whether the member of the unitary group is a U.S. or non-U.S. corporation. The state's corporate excise tax, on the other hand, follows the federal water's edge limitation, which excludes non-U.S. corporations, and the federal 80% ownership threshold, he said.

"Right now, a 51%-owned corporation that is not in the federal consolidated return and is not in the Oregon consolidated return could be in the unitary group for purposes of the gross receipts tax," Kodesch said. He added that without the water's edge provisions, "An over-50%-owned foreign affiliate could be part of that unitary group."