

**1999 DRAFTING REQUEST**

**Senate Amendment (SA-SA1-SSA1-AB133)**

Received: **06/30/99**

Received By: **jkreye**

Wanted: **Today**

Identical to LRB:

For: **Senate Republican Caucus 6-0480**

By/Representing: **Seitz**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - corp. inc. and fran.**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Change single sales factor apportionment to reflect the changes made by ASA1

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 06/30/99	ygeller 06/30/99		_____			
/1			haugeca 06/30/99	_____	lrb_docadmin 06/30/99	lrb_docadmin 06/30/99	

FE Sent For:

<END>

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1?	jkreye	1/30 jlg	CH 6-30	omk 6-30 WS			

FE Sent For:

<END>

**Grant, Peter**

---

**From:** Seitz, Robert  
**Sent:** Wednesday, June 30, 1999 1:00 PM  
**To:** Miller, Steve  
**Cc:** Grant, Peter  
**Subject:** RE: SRC amendments

2-1570

Tax Amend. 1: General Fund Taxes: Delete income tax exclusion for mass transit fringe benefits. (Chvala Super Simple) (Sent to Drafters)

Tax Amend. 2: General fund Taxes: Delete corporate income and franchise tax-deduction for salaries paid to corporate officers and employees. (Chvala Super Simple) (Sent to Drafters)

Tax Amend. 3: General Fund Taxes: Delete corporate income and franchise tax-delete single sales factor apportionment. (Chvala Super Simple) (Sent to Drafters)

Tax Amend. 4: Recycling: Delete recycling program funding changes. Draft new amendment with Assembly language. (Chvala Super Simple) (Sent to Drafters)

Tax Amend. 5: Lottery: Delete all provisions that use GPR dollars to pay for lottery prizes. (Chvala Super Simple) (Sent to Drafters)

Tax Amend. 6: Income Tax: Adopt Assembly language for income tax deductions for political contributions. (Chvala Super Simple)

-----Original Message-----

**From:** Miller, Steve  
**Sent:** Wednesday, June 30, 1999 12:48 PM  
**To:** Seitz, Robert  
**Cc:** Grant, Peter; Dykman, Peter; Kuesel, Jeffery; Kennedy, Debora; Tradewell, Becky; Hubli, Scott  
**Subject:** RE: SRC amendments

Bob,

Please send a "cc" (e-mail) of all SRC amendment requests to Peter.Grant@legis.state.wi.us

It is better to send them as soon as you can, one or two at a time, rather than bundling them up.

Thanks  
Steve

1999

Date (time) needed

10-30-99

LRB b. 1570, 1

BUDGET AMENDMENT

VK: Jg:

See form AMENDMENTS — COMPONENTS & ITEMS.

SRL

S AMENDMENT TO S AMENDMENT 1 TO SENATE SUBSTITUTE AMENDMENT 1 TO 1999 ASSEMBLY BILL 133

D-N

At the locations indicated, amend the amdt as follows: (fill ONLY if "engrossed ..." or "as shown by ...")

#. Page 196, line 23: delete lines 23 and 24.

#. Page 197, line 2: delete lines 2 to 5 and substitute: insert 1-1

#. Page 199, line 10: delete that line.

#. Page 202, line 24: delete that line.

#. Page 203, line 16: delete that line.

#. Page 203, line 18: delete line 18 to 20 and substitute insert 1-2

8/1570/1

# Page 204, line 7: after that line insert:

✓ Insert 2-1

# Page 204, line 8: delete lines 8 and 9 and substitute:

Insert 2-2 ✓

# Page 204, line 21: after that line insert

✓ Insert 2-3

# Page 204, line 22: delete lines 22 and 23. ✓

# Page 207, line 1: delete lines 1 to 4. ✓

# Page 209, line 20: delete lines 20 and 21. ✓

# Page 547, line 15: delete that line and substitute:

1356d. ✓  
rr2 ↑ Page 1614, line 8: delete "(a) and (c)" and substitute "(a), (b) and (c)". ✓

↓  
1356e. ✓ Page 1614, line 9: delete "71.25(6)(a)" and substitute "71.23(2), 71.25(5)(a) (intro), 9. and 10., (b)(a), (am)". ✓

rr2 ↓  
1356f. ✓ Page 1614, line 10: delete "(a) and (c)" and substitute "(a), (b) and (c), 71.26(3) (L)". ✓

(end)

H/570 JK

ARC:.....Kratochwill - TP (1), Single-sales apportionment to apply to public utilities

FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

INSERT H1

1 ~~At the locations indicated, amend the substitute amendment as follows:~~

2 frzz "1w Page 826, line 13: delete lines 13 to 16 and substitute:

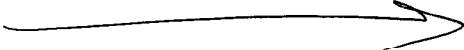
3 783d. "71.04 (4) (a) For taxable years beginning before January 1, 2001, an  
4 apportionment fraction composed of a sales factor under sub. (7) representing 50%  
5 of the fraction, a property factor under sub. (5) representing 25% of the fraction and  
6 a payroll factor under sub. (6) representing 25% of the fraction.

7 SECTION 1675bb. 71.04 (4) (am) of the statutes is created to read:

8 71.04 (4) (am) For taxable years beginning after December 31, 2000, and before  
9 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (7)

(INSERT 1-1)

1 representing 63% of the fraction, a property factor under sub. (5) representing 18.5%  
2 of the fraction and a payroll factor under sub. (6) representing 18.5% of the fraction.”

3 <sup>783e. 1B</sup> 2. Page 832, line 13: after that line insert: 

4 ~~SECTION 1682nb. 71.04 (8) (b) of the statutes is amended to read:~~

5 ~~71.04 (8) (b) "Public utility", as used in this section, means any business entity~~  
6 ~~which owns or operates any plant, equipment, property, franchise, or license for the~~  
7 ~~transmission of communications or the production, transmission, sale, delivery, or~~  
8 ~~furnishing of electricity, water or steam, the rates of charges for goods or services of~~  
9 ~~which have been established or approved by a federal, state or local government or~~  
10 ~~governmental agency. "Public utility" also means any business entity providing~~  
11 ~~service to the public and engaged in the transportation of goods and persons for hire,~~  
12 ~~as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges~~  
13 ~~for services have been established or approved by a federal, state or local government~~  
14 ~~or governmental agency. This paragraph does not apply to gas and electric~~  
15 ~~companies for taxable years beginning after December 31, 1999.~~

16 3. Page 832, line 21: after "(9d)" insert "and the net business income of gas and  
17 electric companies shall be apportioned under sub. (4)".

18 4. Page 873, line 21: after that line insert:

19 "SECTION 1722yd. 71.23 (2) of the statutes is amended to read:

20 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise or doing  
21 business in this state in a corporate capacity, except as provided under sub. (3), every  
22 domestic or foreign corporation, except corporations specified in s. 71.26 (1), and  
23 every nuclear decommissioning trust or reserve fund shall annually pay a franchise  
24 tax according to or measured by its entire Wisconsin net income of the preceding

INSERT 1-1  
CONT

1 decision. A final decision under this paragraph is not subject to further review under  
2 ch. 227."

3 ~~42. Page 241, line 9. delete lines 9 to 20 and substitute:~~

4 SECTION 1682nb. 71.04 (8) (b) of the statutes is amended to read:

5 71.04 (8) (b) 1. "Public utility", as used in this section, means any business  
6 entity which owns or operates any plant, equipment, property, franchise, or license  
7 for the transmission of communications or the production, transmission, sale,  
8 delivery, or furnishing of electricity, water or steam, the rates of charges for goods or  
9 services of which have been established or approved by a federal, state or local  
10 government or governmental agency.

11 2. "Public utility" also means, in this section, any business entity providing  
12 service to the public and engaged in the transportation of goods and persons for hire,  
13 as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges  
14 for services have been established or approved by a federal, state or local government  
15 or governmental agency."

16 ~~43. Page 241, line 21. delete lines 21 and 22 and substitute.~~

17 ~~599. Page 832, line 21: after "(9d)" insert "and the net income of public utilities,~~  
18 as defined in par. (b) 1., shall be apportioned under sub. (4)".

END OF INSERT 1-1

19 44. Page 250, line 6: after that line insert:

20 "606d. Page 854, line 11: after "gain" insert "and includes issuing credit, debit  
21 or travel and entertainment cards to customers in this state"."

22 45. Page 255, line 15: after that line insert:

23 "616m. Page 910, line 18: after that line insert:

24 "SECTION 1740n. 71.26 (3) (L) of the statutes is amended to read:



1 decision. A final decision under this paragraph is not subject to further review under  
2 ch. 227."

3 **42.** Page 241, line 9: delete lines 9 to 20 and substitute:

4 "SECTION 1682nb. 71.04 (8) (b) of the statutes is amended to read:

5 71.04 (8) (b) 1. "Public utility", as used in this section, means any business  
6 entity which owns or operates any plant, equipment, property, franchise, or license  
7 for the transmission of communications or the production, transmission, sale,  
8 delivery, or furnishing of electricity, water or steam, the rates of charges for goods or  
9 services of which have been established or approved by a federal, state or local  
10 government or governmental agency.

11 2. "Public utility" also means, in this section, any business entity providing  
12 service to the public and engaged in the transportation of goods and persons for hire,  
13 as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges  
14 for services have been established or approved by a federal, state or local government  
15 or governmental agency."."

16 **43.** Page 241, line 21: delete lines 21 and 22 and substitute:

17 "590. Page 832, line 21: after "(9d)" insert "and the net income of public utilities,  
18 as defined in par. (b) 1., shall be apportioned under sub. (4)"."

19 ~~**44.** Page 250, line 6: after that line insert:~~

20 ~~"606c Page 854, line 11: after "gain" insert "and includes issuing credit, debit  
21 or travel and entertainment cards to customers in this state".~~

22 **45.** Page 255, line 15: after that line insert:

23 "616m. Page 910, line 18: after that line insert:

24 "SECTION 1740n. 71.26 (3) (L) of the statutes is amended to read:

*INSERT 1-2*

1 representing 63% of the fraction, a property factor under sub. (5) representing 18.5%  
2 of the fraction and a payroll factor under sub. (6) representing 18.5% of the fraction.”.

3 **2.** Page 832, line 13: after that line insert:

4 “SECTION 1682nb. 71.04 (8) (b) of the statutes is amended to read:

5 71.04 (8) (b) “Public utility”, as used in this section, means any business entity  
6 which owns or operates any plant, equipment, property, franchise, or license for the  
7 transmission of communications or the production, transmission, sale, delivery, or  
8 furnishing of electricity, water or steam, the rates of charges for goods or services of  
9 which have been established or approved by a federal, state or local government or  
10 governmental agency. “Public utility” also means any business entity providing  
11 service to the public and engaged in the transportation of goods and persons for hire,  
12 as defined in s. 194.01 (4), regardless of whether or not the entity’s rates or charges  
13 for services have been established or approved by a federal, state or local government  
14 or governmental agency. This paragraph does not apply to gas and electric  
15 companies for taxable years beginning after December 31, 1999.”.

16 **3.** Page 832, line 21: after “(9d)” insert “and the net business income of gas and  
17 electric companies shall be apportioned under sub. (4)”.

18 ~~2~~ ~~4~~ Page 873, line 21: after that line insert:

19 = 760d.  
fc2

19 “SECTION 1722yd. 71.23 (2) of the statutes is amended to read:

20 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise or doing  
21 business in this state in a corporate capacity, except as provided under sub. (3), every  
22 domestic or foreign corporation, except corporations specified in s. 71.26 (1), and  
23 every nuclear decommissioning trust or reserve fund shall annually pay a franchise  
24 tax according to or measured by its entire Wisconsin net income of the preceding

INSERT 2-1

INS 2-1  
cont

(W) 2-1

1 taxable year at the rate set forth in s. 71.27 (2). In addition, except as provided in  
 2 sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this state and  
 3 a nuclear decommissioning trust or reserve fund that is terminated shall pay a  
 4 special franchise tax according to or measured by its entire Wisconsin net income for  
 5 the taxable year during which the corporation ceases doing business in this state or  
 6 the nuclear decommissioning trust or reserve fund is terminated at the rates under  
 7 s. 71.27 (2). Every corporation organized under the laws of this state or that derives  
 8 income from sources within this state or from activities that are attributable to this  
 9 state shall be deemed to be residing within this state for the purposes of this  
 10 franchise tax. All provisions of this chapter and ch. 73 relating to income taxation  
 11 of corporations shall apply to franchise taxes imposed under this subsection, unless  
 12 the context requires otherwise. The tax imposed by this subsection on national  
 13 banking associations shall be in lieu of all taxes imposed by this state on national  
 14 banking associations to the extent it is not permissible to tax such associations under  
 15 federal law.

16 SECTION 1722yf. 71.25 (5) (a) (intro.) of the statutes is amended to read:

17 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),  
 18 corporations engaged in business both within and without this state are subject to  
 19 apportionment. Income, gain or loss from the sources listed in this paragraph is  
 20 presumed apportionable. Apportionable income includes all income or loss of  
 21 corporations, other than nonapportionable income as specified in par. (b), including,  
 22 but not limited to, income, gain or loss from the following sources:

23 SECTION 1722ym. 71.25 (5) (a) 9. of the statutes is amended to read:

24 71.25 (5) (a) 9. Interest and dividends ~~if the operations of the payer are unitary~~  
 25 ~~with those of the payee, or if those operations are not unitary but the investment~~



INS 2-1  
cont

1 activity from which that income is derived is an integral part of a unitary business  
2 and the payer and payee are neither affiliates nor related as parent company and  
3 subsidiary. In this subdivision, "investment activity" includes decision making  
4 relating to the purchase and sale of stocks and other securities, investing surplus  
5 funds and the management and record keeping associated with corporate  
6 investments, not including activities of a broker or other agent in maintaining an  
7 investment portfolio.

8 SECTION 1722yn. 71.25 (5) (a) 10. of the statutes is amended to read:

9 71.25 (5) (a) 10. Sale of intangible assets if the operations of the company in  
10 which the investment was made were unitary with those of the investing company,  
11 or if those operations were not unitary but the investment activity from which that  
12 gain or loss was derived is an integral part of a unitary business and the companies  
13 were neither affiliates nor related as parent company and subsidiary. In this  
14 subdivision, "investment activity" has the meaning given under subd. 9." "✓

END OF INSERT 2-1

15 <sup>7602</sup> 5. Page 874, line 9: delete that line and substitute "businesses except financial  
16 organizations, public utilities, telecommunications companies, railroads, sleeping  
17 car".

18 <sup>7602</sup> 6. Page 874, line 20: delete lines 20 to 23 and substitute:

19 "71.25 (6) (a) For taxable years beginning before January 1, 2001, an  
20 apportionment fraction composed of a sales factor under sub. (9) representing 50%  
21 of the fraction, a property factor under sub. (7) representing 25% of the fraction and  
22 a payroll factor under sub. (8) representing 25% of the fraction.

23 SECTION 1729bb. 71.25 (6) (am) of the statutes is created to read:



INSERT-2-2

NS 2-2  
cont

1           71.25 (6) (am) For taxable years beginning after December 31, 2000, and before  
2 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (9)  
3 representing 63% of the fraction, a property factor under sub. (7) representing 18.5%  
4 of the fraction and a payroll factor under sub. (8) representing 18.5% of the fraction.”.

5           7. Page 887, line 20: after that line insert:

6           760g ~~7.~~ **SECTION 1738nb.** 71.25 (10) (b) of the statutes is amended to read:

7           71.25 (10) (b) In this section, “public utility” means any business entity which  
8 owns or operates any plant, equipment, property, franchise, or license for the  
9 transmission of communications or the production, transmission, sale, delivery, or  
10 furnishing of electricity, water or steam the rates of charges for goods or services of  
11 which have been established or approved by a federal, state or local government or  
12 governmental agency. “Public utility” also means any business entity providing  
13 service to the public and engaged in the transportation of goods and persons for hire,  
14 as defined in s. 194.01 (4), regardless of whether or not the entity’s rates or charges  
15 for services have been established or approved by a federal, state or local government  
16 or governmental agency. This paragraph does not apply to gas and electric  
17 companies for taxable years beginning after December 31, 1999.”.

18           8. Page 888, line 3: after “(9d)” insert “and the net business income of gas and  
19 electric companies shall be apportioned under sub. (6)”.

20           9. Page 1614, line 7: after “(a),” insert “(am),”.

21           10. Page 1614, line 8: on lines 8 and 10, delete “(a) and (c)” and substitute “(a),  
22 (b) and (c)”.

1999-2000 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBb1570/?ins

.....

INS 2-2 cont

1           71.25 (10) (b) 1. In this section, "public utility" means any business entity which  
2 owns or operates any plant, equipment, property, franchise, or license for the  
3 transmission of communications or the production, transmission, sale, delivery, or  
4 furnishing of electricity, water or steam the rates of charges for goods or services of  
5 which have been established or approved by a federal, state or local government or  
6 governmental agency. ✓  
7           "Public utility" 2. In this section, "public utility" also means any business entity ✓  
8 providing service to the public and engaged in the transportation of goods and  
9 persons for hire, as defined in s. 194.01 (4), regardless of whether or not the entity's  
10 rates or charges for services have been established or approved by a federal, state or  
11 local government or governmental agency." ❌





INSERT 2-3

= 763M. Page 910, line 18: after that line insert:  
SECTION 7140N. 71.26(3)(L) of the statutes is amended to read:

1 SECTION 71.26 (3) (L) Section 265 is excluded and replaced by the rule that any amount  
 2 otherwise deductible under this chapter that is directly or indirectly related to  
 3 income wholly exempt from taxes imposed by this chapter or to losses from the sale  
 4 or other disposition of assets the gain from which would be exempt under this  
 5 paragraph if the assets were sold or otherwise disposed of at a gain is not deductible.  
 6 In this paragraph, "wholly exempt income", for corporations subject to franchise or  
 7 income taxes, includes ~~amounts received from affiliated or subsidiary corporations~~  
 8 ~~for interest, dividends or capital gains that, because of the degree of common~~  
 9 ~~ownership, control or management between the payer and payee, are not subject to~~  
 10 taxes under this chapter. In this paragraph, "wholly exempt income", for  
 11 corporations subject to income taxation under this chapter, also includes interest on  
 12 obligations of the United States. In this paragraph, "wholly exempt income" does not  
 13 include income excludable, not recognized, exempt or deductible under specific  
 14 provisions of this chapter. If any expense or amount otherwise deductible is  
 15 indirectly related both to wholly exempt income or loss and to other income or loss,  
 16 a reasonable proportion of the expense or amount shall be allocated to each type of  
 17 income or loss, in light of all the facts and circumstances." ✓

end of insert 2-3

18 ~~46. Page 354, line 24: delete "privacy institutional" and substitute~~  
 19 ~~"independent".~~

20 ~~47. Page 355, line 1: delete "privacy institutional" and substitute~~  
 21 ~~"independent".~~

22 ~~48. Page 355, line 3: after "service" insert ", except if the department specifies~~  
 23 ~~by rule that the number of data elements included in the public use data file is too~~  
 24 ~~small to enable protection of patient confidentiality".~~



1570/1  
JK

D-N

W Please review this<sup>s</sup> draft carefully to ensure that it is<sup>is</sup> consistent with your intent.

This amendment reflect<sup>s</sup> the change<sup>s</sup> to single sale<sup>s</sup> factor apportionment as adopted by the assembly. ✓

JK

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb1570/1dn  
JK:jg:ch

June 30, 1999

Please review this draft carefully to ensure that it is consistent with your intent. This amendment reflects the changes to single sales factor apportionment as adopted by the assembly.

Joseph T. Kreye  
Legislative Attorney  
Phone: (608) 266-2263  
E-mail: [Joseph.Kreye@legis.state.wi.us](mailto:Joseph.Kreye@legis.state.wi.us)