

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-ASA1-AB133)**

Received: 10/01/1999

Received By: jkreye

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Shanovich**

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:**

LFB:.....Shanovich -

**Topic:**

Treatment of corporate partners and LLC members and severability

**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 10/01/1999	jgeller 10/01/1999		_____			
/1	jkreye 10/04/1999	wjackson 10/04/1999	mclark 10/02/1999	_____	lrb_docadmin 10/02/1999		
/2			hhagen 10/04/1999	_____	lrb_docadmin 10/04/1999		

FE Sent For:

<END>

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/?	jkreye 10/01/1999	ygeller 10/01/1999		_____			
/1		1/2 WLj 10/4	mclark 10/02/1999	_____	lrb_docadmin 10/02/1999		

dl 10/4 @/fm 10/4

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1?	jkreye	1 10/1 jg	MRC 10/2	MRC/FS 10/2			

FE Sent For:

<END>

WFO -  
Fix request  
sheet

1999 - 2000 LEGISLATURE

TODAY

LRBb1902/2

✓K.....  
Jlg + wLj

LFB:.....Shanovich - treatment of corporate partners and LLC members and severability

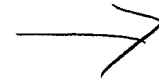
FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

**ASSEMBLY AMENDMENT ,**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 1999 ASSEMBLY BILL 133**

in 10-1-99



1

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

2

(END)

**ASSEMBLY AMENDMENT  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 133**

✓ and includes issuing credit,  
debit or travel and  
entertainment cards to  
customers in this state

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

2 1. Page 854, line 11: after "gain" insert "that is apportionable as income,  
3 including unitary and operational income, that is taxable in this state".

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

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

6 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),  
7 corporations engaged in business both within and without this state are subject to  
8 apportionment. Income gain or loss from the sources listed in this paragraph is  
9 presumed apportionable as income, including unitary and operational income, that  
10 is taxable in this state. Apportionable income includes all income or loss of  
11 corporations, other than nonapportionable income as specified in par. (b), including,  
12 but not limited to, income, gain or loss from the following sources:"

INSERT 1-12

1

3. Page 1614, line 9: after "71.25" insert "(5) (a) (intro).".

2

(END)

(intro.)

# page 1599, line 22: delete that line  
and substitute 71.22 (1b), 71.23 (1), 71.25 (5) (a),  
and (15), 71.26 (3) (L), 71.43 (1) and 71.45 (6) of  
the statutes first applied.

**ASSEMBLY AMENDMENT ,  
TO ASSEMBLY AMENDMENT 2,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 133**

Insert HR

1 At the locations indicated, amend the amendment as follows.

2 1. Page 255, line 15: after that line insert:

3 ~~Page 910~~ Page 910, line 18: after that line insert:

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

5 71.26 (3) (L) Section 265 is excluded and replaced by the rule that any amount  
6 otherwise deductible under this chapter that is directly or indirectly related to  
7 income wholly exempt from taxes imposed by this chapter or to losses from the sale  
8 or other disposition of assets the gain from which would be exempt under this  
9 paragraph if the assets were sold or otherwise disposed of at a gain is not deductible.  
10 In this paragraph, "wholly exempt income", for corporations subject to franchise or  
11 income taxes, includes amounts received from affiliated or subsidiary corporations



INS 1-12  
CONT

LRBb15157  
JK:lgj

1 for interest, dividends or capital gains that, because of the degree of common  
 2 ownership, control or management between the payor and payee, are not subject to  
 3 taxes under this chapter. In this paragraph, "wholly exempt income", for  
 4 corporations subject to income taxation under this chapter, also includes interest on  
 5 obligations of the United States. In this paragraph, "wholly exempt income" does not  
 6 include income excludable, not recognized, exempt or deductible under specific  
 7 provisions of this chapter. If any expense or amount otherwise deductible is  
 8 indirectly related both to wholly exempt income or loss and to other income or loss,  
 9 a reasonable proportion of the expense or amount shall be allocated to each type of  
 10 income or loss, in light of all the facts and circumstances." ~~///~~ (end ins)

- 11 **2.** Page 608, line 13: delete lines 13 and 14 and substitute:  
 12 "1232j. Page 1614, line 8: delete "(a) and (c)" and substitute "(a), (b) and (c)".  
 13 **3.** Page 608, line 16: after that line insert:  
 14 "1233m. Page 1614, line 10: delete "(a) and (c)" and substitute "(a), (b) and (c),  
 15 71.26 (3) (L)".  
 16

(END)

end of insert 1-12



ANALYSIS OF LEGISLATION BY IS&E DIVISION

To: Sherrie Gates-Hendrix  
From: Clay Seth

Date Sent: 9/30/99

Assigned to Carol Held Date 9/30/99

Due Date: 10/4/99

IMPORTANT: COMPLETE CLEARLY AND LEGIBLY SO OTHERS CAN READ AND UNDERSTAND YOUR COMMENTS. USE BACKSIDE IF NECESSARY.

1. Bill # LCB 1863 // - Amendment to Budget Bill

2. Type Taxes Affected:

- a)  Income
- b)  Corp. Franchise
- c)  Sales/Use
- d)  Withholding
- e)  Homestead Credit
- f)  Farmland Credit
- g)  Estate
- h)  Cigarettes
- i)  Beer
- j)  Intoxicating Liquor
- k)  Fuel
- l)  Other

3. Description of Bill: (BRIEFLY describe the subject matter of the bill and the change.)

The amendments are intended to be a substitute for the language "subject to constitutional limitations" that was recommended by the department.

4. Any statutory language problems:  Yes  No

(If yes, describe problems and indicate suggested corrective language. Example of problem: The bill language is unclear, does not fully accomplish the desired result, or has undesirable side effects)

- 1. p. 854, line 10: insert "business" after "transacts"
- 2. see bill draft for change. The language proposed is unclear and does not produce the desired result. Using "unitary and operational" suggests both conditions must be met. Since the franchise tax is not a tax on income, we should be referring to income with a taxable presence in the state.

5. Any effective date problems (including transitional problems):

Yes  No

If yes, describe problem and suggested effective date or transitional language needed.)

Prepared by:

Carol Held

9/30/99

Name

Date

Reviewed by:

C. Seth

9/30/99

Div. Administration

Date

LRB 1863/1

As a result of my proposed changes, the amendment would read as follows:

1. Page 854, line 11: after "gain" insert "if the income from that entity is unitary or operational income of the taxpayer or any direct or indirect affiliate of the taxpayer or has a taxable presence in this state".

MON 09:35 FAX 608 266 5718

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2011



State of Wisconsin  
1999 - 2000 LEGISLATURE

APPROPRIATION  
K POWERS CONCERN  
LEB1863/1  
JK-wljf  
- Dec 21, 2001

**ASSEMBLY AMENDMENT,  
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 133**

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

2 1. Page 854, line 11: after "gain" insert <sup>if the income from that entity is</sup> ~~that is apportionable as income,~~  
3 <sup>of</sup> ~~including unitary and operational income,~~ <sup>of the taxpayer or any direct or indirect</sup> ~~that is taxable in this state".~~ <sup>affiliate of the taxpayer or has a</sup>  
4 <sup>presence</sup>

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

5 "SECTION 1722yd. 71.25 (5) (a) (Intro.) of the statutes is amended to read:

6 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),  
7 corporations engaged in business both within and without this state are subject to  
8 apportionment. ~~Income gain or loss from the sources listed in this paragraph is~~  
9 ~~presumed apportionable as income, including unitary and operational income,~~ <sup>or</sup> ~~that~~ <sup>or either 1726</sup>  
10 <sup>has a presence</sup> ~~is taxable in this state.~~ Apportionable income includes all income or loss of  
11 corporations, other than nonapportionable income as specified in par. (b), including,  
12 but not limited to, income, gain or loss from the following sources:"

MON 09:38 FAX 808 288 5718

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012

1999 - 2000 Legislature

- 2 -

LRBb1863/1  
JK-wlj:cf

1

3. Page 1614, line 9: after "71.25" insert "(5) (a) (Intro.),"

2

(END)



LFB:.....Shanovich – Treatment of corporate partners and LLC members and severability

**ASSEMBLY AMENDMENT ,**

**TO ASSEMBLY SUBSTITUTE AMENDMENT 1,**

**TO 1999 ASSEMBLY BILL 133**

in 10-4-99

*delete that line and substitute: "state for pecuniary gain, if the income from the partnership or company is unitary or operational income of the taxpayer or a direct or indirect affiliate of the taxpayer or if such income has a taxable presence in this state."*

WFO: Please fix component.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10

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

1. Page 854, line 11: after "gain" insert "that is apportionable as income, including unitary and operational income, that is taxable in this state and includes issuing credit, debit or travel and entertainment cards to customers in this state"

2. Page 873, line 21: after that line insert:

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

71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6), corporations engaged in business both within and without this state are subject to apportionment. Income gain or loss from the sources listed in this paragraph is presumed apportionable as income, including unitary <sup>or</sup> operational income, that

or other income

has a presence
①
~~is taxable in this state.~~ Apportionable income includes all income or loss of
   
 2 corporations, other than nonapportionable income as specified in par. (b), including,
   
 3 but not limited to, income, gain or loss from the following sources:”

4       **3.** Page 910, line 18: after that line insert:

5       “**SECTION 1740n.** 71.26 (3) (L) of the statutes is amended to read:

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





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1902/2  
JK:jlg&wlj:hmh

LFB:.....Shanovich – Treatment of corporate partners and LLC members and severability

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

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

2 **1.** Page 854, line 11: delete that line and substitute “state for pecuniary gain,  
3 if the income from the partnership or company is unitary or operational income of  
4 the taxpayer or a direct or indirect affiliate of the taxpayer or if such income has a  
5 taxable presence in this state.”

6 **2.** Page 873, line 21: after that line insert:

7 “SECTION 1722yd. 71.25 (5) (a) (intro.) of the statutes is amended to read:

8 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),  
9 corporations engaged in business both within and without this state are subject to



1     apportionment. Income gain or loss from the sources listed in this paragraph is  
2     presumed apportionable as unitary or operational income or other income that has  
3     a taxable presence in this state. Apportionable income includes all income or loss of  
4     corporations, other than nonapportionable income as specified in par. (b), including,  
5     but not limited to, income, gain or loss from the following sources:".

6             **3.** Page 910, line 18: after that line insert:

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

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

