

*October 1983 Spec. Sess.*  
**Assembly Bill 3**

Date of enactment: **November 10, 1983**  
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**1983 Wisconsin Act 89**

AN ACT *to amend* 71.01 (1) and (2); and *to create* 71.01 (2m) of the statutes, *relating to* limiting this state's jurisdiction to tax foreign corporations.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 71.01 (1) and (2) of the statutes are amended to read:

71.01 (1) **PERSONAL INCOME TAX.** For the purpose of raising revenue for the state and the counties, cities, villages and towns, there shall be assessed, levied, collected and paid a tax on all net incomes as hereinafter provided, by every natural person residing within the state or by his or her personal representative in case of death, and trusts administered within the state; by every nonresident natural person and trust of this state, upon such income as is derived from property located or business transacted within the state, and also by every nonresident natural person upon such income as is derived from the performance of personal services within the state; and by every corporation not subject to the franchise tax under sub. (2), which owns property within this state or whose business within this state during the taxable year, except as provided under sub. (2m), consists exclusively of foreign commerce, interstate commerce, or both; except as hereinafter exempted. Every natural person domiciled in the state shall be deemed to be residing within the state for the purposes of determining liability for income taxes and surtaxes. This section shall not be construed to prevent or affect the correction of errors or omissions in the assessments of income for former years under s. 71.11 (16) and (20).

(2) **FRANCHISE TAX ON CORPORATIONS.** For the privilege of exercising its franchise or doing business in this state in a corporate capacity, except as provided under sub. (2m), every domestic or foreign corporation, except corporations specified in sub. (3), shall annually pay a franchise tax according to or measured by its entire net income of the

preceding income year at the rates set forth in s. 71.09 (2m). Every corporation organized under the laws of this state shall be deemed to be residing within this state for the purposes of this franchise tax. All provisions of chs. 71 and 73 relating to net income taxation of corporations shall apply to franchise taxes imposed under this subsection, unless the context requires otherwise. The tax imposed by this subsection on national banking associations shall be in lieu of all taxes imposed by this state on national banking associations to the extent it is not permissible to tax such associations under federal law. The tax imposed by this subsection on insurance companies subject to taxation under this chapter, except societies, organizations or corporations under ch. 613 operating by virtue of s. 148.03, 447.13, 449.15, 450.13 or 613.80, shall be based on net income computed under sub. (4), and no other provision of this chapter relating to computation of taxable income for other corporations shall apply to such insurance companies. All other provisions of this chapter shall apply to insurance companies subject to taxation under this chapter unless the context clearly requires otherwise. The tax imposed upon societies, organizations or corporations under ch. 613 operating by virtue of s. 148.03, 447.13, 449.15, 450.13 or 613.80, shall be upon such net income as is determined by application to such companies of those provisions of the internal revenue code applicable to mutual insurance companies, other than life insurance companies or mutual marine insurance companies, having total receipts over \$500,000 subject to any applicable addition or subtraction as provided in sub. (4) (a).

SECTION 2. 71.01 (2m) of the statutes is created to read:

71.01 (2m) **ACTIVITIES THAT DO NOT CREATE NEXUS.** A foreign corporation may do business, exercise its franchise and own property in this state to the limited extent referred to in the following activities, in addition to those activities permitted under P.L. 86-272, without subjecting itself to the imposition of the income or franchise tax under sub. (1) and (2):

(a) The storage for any length of time in this state in or on property owned by a person other than the foreign corporation of its tangible personal property and the delivery of its tangible personal property to another person in this state when such storage and delivery is for fabricating, processing, manufacturing or printing by that other person in this state.

(b) The storage for any length of time in this state in or on property owned by a person other than the foreign corporation, and the shipment or delivery outside this state by another person in this state, of the entire amount of the foreign corporation's tangible personal property fabricated, processed, manufactured or printed in this state.

(c) If the foreign corporation is a publisher, the purchase from a printer of a printing service or of tangible personal property printed in this state for the publisher and the storage of the printed material for any length of time in this state in or on property owned by a person other than the publisher, whether or not the tangible personal property is subsequently resold or delivered in this state or shipped or delivered outside this state.

SECTION 2m. **Legislative council study.** The legislative council is requested to conduct a study and make recommendations concerning this state's jurisdiction to tax foreign corporations as it relates to out-of-state publishers, regarding job creation and general tax policy.

SECTION 3. **Initial applicability.** This act first applies to taxable year 1983.