



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2003 Wisconsin Act 37 [2003 Senate Bill 197]	Single-Factor Sales Apportionment of Income
2003 Acts: www.legis.state.wi.us/2003/data/acts/	Act Memos: www.legis.state.wi.us/lc/act_memo/act_memo.htm

2003 Wisconsin Act 37 relates to single-factor sales apportionment of income for corporate income tax and franchise tax purposes and granting rule-making authority.

BACKGROUND

Currently, the income of a multi-state business that conducts a unitary business in part in Wisconsin is subject to formula apportionment for income tax purposes. Formula apportionment is used to determine how much of the business' total business income is allocated to Wisconsin and is subject to Wisconsin income taxation.

Currently, for most businesses, the apportionment formula consists of three factors. The first factor is the business' property value in Wisconsin divided by its total property value. The second factor is the business' payroll in Wisconsin divided by its total payroll. The third factor is the business' sales in Wisconsin divided by its total sales. The final apportionment ratio is determined by adding together the three factors, double weighting the sales factor, and dividing the aggregate sum by four.

For an *insurance company*, a formula with a premium factor and a payroll factor is used to attribute a portion of an insurance company's income to this state. Also, the income of a *public utility* is apportioned by rules established by the Department of Revenue (DOR), as is the income of a *financial organization*.

2003 WISCONSIN ACT 37

Under 2003 Wisconsin Act 37, the property value and payroll factors of the apportionment formula are phased out and a single-factor sales apportionment formula is implemented for taxable years beginning after December 31, 2005 for income of *corporations* and *electric or gas utilities*. Under the Act, for taxable year 2006, the apportionment formula would be composed of a sales factor representing

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents.

60% of the fraction, a property factor representing 20% of the fraction, and a payroll factor representing 20% of the fraction. For taxable year 2007, the apportionment formula would be composed of a sales factor representing 80% of the fraction, a property factor representing 10% of the fraction, and a payroll factor representing 10% of the fraction. Beginning in taxable year 2008, all multi-state corporations and electric and gas utilities would apportion their income to Wisconsin using a single-factor sales apportionment formula.

Under Act 37, for *insurance companies*, beginning on January 1, 2008, the premium factor will be the only factor used to attribute a portion of an insurance company's income to this state. The payroll factor will be decreased and eventually phased out over four years as the premium factor is increased.

Also, under Act 37, the income of a *financial organization* is apportioned for taxable years beginning after December 31, 2005 and before January 1, 2008, by multiplying that income by a fraction that includes a sales factor representing more than 50% of the apportionment fraction, as determined by DOR rules. For taxable years beginning after December 31, 2007, the income of a financial organization is apportioned by using a sales factor, as determined by DOR.

Finally, under Act 37, the income of *telecommunications companies, air carriers, and pipeline companies* is apportioned by rules established by DOR.

Effective Date: The Act takes effect on August 15, 2003. The new single-factor sales apportionment formula first applies to taxable years beginning after December 31, 2005.

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