



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2003 Senate Bill 197

**Senate Substitute
Amendment 1**

Memo published: June 17, 2003

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2003 Senate Bill 197 relates to single-factor sales apportionment of income for corporate income tax and franchise tax purposes, and granting rule-making authority.

SENATE BILL 197

Under *current law*, 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.

Under current law, 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.

Under the bill, the property value and payroll factors of the apportionment formula would be phased out and a single-factor sales apportionment formula would be implemented for taxable years beginning after December 31, 2007. Under the bill, for taxable year 2006, the apportionment formula would be composed of a sales factor representing 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 businesses would apportion their income to Wisconsin using a single-factor sales apportionment formula.

SECTIONS 7, 21, and 32 of the bill would allow a business to elect apportionment under the single-factor sales apportionment formula prior to taxable year 2008 if the business "has a net gain of

100 employees in this state.” The election would first be applicable to the taxable year in which the employees are hired, except that if the taxpayer does not retain “such employees” in this state for at least three consecutive taxable years, the taxpayer shall apportion its “remaining net income” according to the property/payroll/sales apportionment formula in effect for that taxable year.

A single-factor sales apportionment formula, as compared to the three factor formula under current law, would tend to reduce Wisconsin income taxes on multi-state businesses that have a substantial amount of property and payroll in this state. This is because, under a single-factor sales apportionment formula, the amount of property owned by a multi-state business in Wisconsin and the payroll of a multi-state business in Wisconsin would not be counted in the formula for purposes of apportioning total income to Wisconsin. Replacing the current three-factor formula with a single-factor sales apportionment formula would increase the tax on some multi-state businesses whose sales factors are greater than the average of the property and payroll factors under current law.

SENATE SUBSTITUTE AMENDMENT 1

Senate Substitute Amendment 1 to the bill is identical to the original bill, except that the substitute amendment *deletes* the provisions of the bill that would allow a business to elect apportionment under the single-factor sales apportionment formula prior to taxable year 2008 if the business “had a net gain of 100 employees in this state.” [See description of SECTIONS 7, 21, and 32 of the original bill, above.]

LEGISLATIVE HISTORY

Senate Substitute Amendment 1 was introduced by the Senate Committee on Economic Development, Job Creation and Housing on June 13, 2003. On that same date, that committee recommended adoption of the substitute amendment, by a vote of Ayes, 5; Noes, 0; and passage of the bill, as amended, on a vote of Ayes, 4; Noes, 1.

LR:jal;ksm