

1999 ASSEMBLY BILL 74

February 2, 1999 – Introduced by Representatives ZIEGELBAUER, PLALE, GOETSCH, GROTHMAN, F. LASEE, SYKORA, RYBA, SERATTI and POWERS, cosponsored by Senator WELCH. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to repeal** 71.25 (7) and (8); and **to amend** 71.25 (6) and 71.25 (9) (d) of
2 the statutes; **relating to:** changing the formula for apportioning income to this
3 state in computing corporate income taxes and franchise taxes.

Analysis by the Legislative Reference Bureau

In computing corporate income taxes and franchise taxes, a formula is used to attribute a portion of the corporation's income to this state. The formula has three factors: a sales factor, a payroll factor and a property factor. The sales factor is weighted double. Under this bill, the sales factor will be the only factor used.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

4 **SECTION 1.** 71.25 (6) of the statutes is amended to read:
5 71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.
6 Corporations engaged in business within and without the state shall be taxed only

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1 on such income as is derived from business transacted and property located within
2 the state. The amount of such income attributable to Wisconsin may be determined
3 by an allocation and separate accounting thereof, when the business of such
4 corporation within the state is not an integral part of a unitary business, but the
5 department of revenue may permit an allocation and separate accounting in any case
6 in which it is satisfied that the use of such method will properly reflect the income
7 taxable by this state. In all cases in which allocation and separate accounting is not
8 permissible, the determination shall be made in the following manner: for all
9 businesses except financial organizations, public utilities, railroads, sleeping car
10 companies, car line companies and corporations or associations that are subject to
11 a tax on unrelated business income under s. 71.26 (1) (a) there shall first be deducted
12 from the total net income of the taxpayer the part thereof (less related expenses, if
13 any) that follows the situs of the property or the residence of the recipient. The
14 remaining net income shall be apportioned to Wisconsin by use of an apportionment
15 fraction composed of a the sales factor under sub. (9) ~~representing 50% of the fraction,~~
16 ~~a property factor under sub. (7) representing 25% of the fraction and a payroll factor~~
17 ~~under sub. (8) representing 25% of the fraction.~~

18 **SECTION 2.** 71.25 (7) and (8) of the statutes are repealed.

19 **SECTION 3.** 71.25 (9) (d) of the statutes is amended to read:

20 71.25 **(9)** (d) Sales, other than sales of tangible personal property, are in this
21 state if the income-producing activity is performed in this state. If the
22 income-producing activity is performed both in and outside this state the sales shall
23 be divided between those states having jurisdiction to tax such business in
24 proportion to the direct costs of performance incurred in each such state in rendering
25 this service. Services performed in states which do not have jurisdiction to tax the

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1 business shall be deemed to have been performed in the state to which compensation
2 is would be allocated by sub. (8), 1997 stats.

3 **SECTION 4. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1 of the year in
5 which this subsection takes effect, except that if this subsection takes effect after
6 July 31 this act first applies to taxable years beginning on January 1 of the year
7 following the year in which this subsection takes effect.

8 (END)