

1999 DRAFTING REQUEST

Bill

Received: **01/17/99**

Received By: **smiller**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Holden**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Alt. Drafters:

Subject: **Tax - corp. inc. and fran.**

Extra Copies:

Topic:

DOA:.....Holden - Single sales factor for corporate income and franchise tax

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 01/20/99	ygeller 01/20/99		_____			State Tax
/1		jkreye 01/22/99 ygeller 01/22/99	jfrantze 01/20/99	_____	lrb_docadmin 01/20/99		State Tax
/2	jkreye 01/29/99	gilfokm 01/29/99	hhagen 01/25/99	_____	lrb_docadmin 01/25/99		State Tax
/3		ygeller 02/2/99	hhagen 01/29/99 ismith 01/30/99	_____	lrb_docadmin 01/30/99		State Tax
/4		gilfokm	hhagen	_____	lrb_docadmin		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typist</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/5			lpaasch 02/4/99	_____ _____	lrb_docadmin 02/4/99		

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/3		jgeller 02/2/99 <i>15-2-4-99</i>	hhagen 01/29/99 ismith 01/30/99	_____	lrb_docadmin 01/30/99		State Tax
/4			hhagen <i>24LP</i>	_____	lrb_docadmin <i>24LP</i> <i>hwh</i>		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typist</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			02/2/99	_____	02/2/99		

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/2	jkreye 01/29/99	gilfokm 01/29/99	hhagen 01/25/99	_____	lrb_docadmin 01/25/99		State Tax
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				# 15 2/2			

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/2		1/3-1-29 kmg	hhagen 01/25/99	_____	lrb_docadmin 01/25/99		
FE Sent For:			IS 1/30/99	IS/TP 1/30/99 <END>			

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/1		<i>1/2 1/22 jlg</i>	jfrantze 01/20/99 <i>1/1/99</i>	_____	lrb_docadmin 01/20/99		

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Instructions:

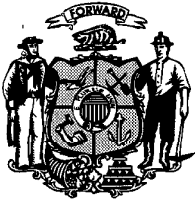
See Attached

Drafting History:

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1/?	jkreye	1/20 jg	2/1/20	2/1/20			

FE Sent For:

<END>



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
101 East Wilson Street, Madison, Wisconsin

Mailing Address:
Post Office Box 7864
Madison, WI 53707-7864



TOMMY G. THOMPSON
GOVERNOR
MARK D. BUGHER
SECRETARY

LRB 1837

JKVene

Date: January 16, 1999 **Priority:** High
To: Steve Miller
Legislative Reference Bureau
From: Kerry Holden, SBO, 6-8593
Subject: Draft for Governor's 1999-2001 Budget Bill - Single Sales Factor

Please draft for inclusion in the Governor's 1999-2001 budget bill statutory language that changes the apportionment formula for corporate franchise and income tax to include only sales. The current formula, included in s. 71.25(6), Wisconsin Statutes, apportions corporate income by payroll (25%), property (25%), and sales (50%).

While the effective date of the legislation will be January 1, 2000, the shift from the current system to a single sales factor apportionment will be phased in over a 3-year period. During the phase-in period, corporate income will be apportioned as follows:

- From 1/1/00 to 12/31/00, sales will account for 60% of the formula, payroll for 20%, and property for 20%.
- From 1/1/01 to 12/31/01, sales will account for 80% of the formula, payroll for 10%, and property for 10%.
- Beginning January 1, 2002, sales will account for ¹⁰⁰0% of the formula, payroll for ~~20%~~ [?], and property for [?]20%.

Please call me with any questions. Thank you.

1-29-99

1010am - spoke to Kerry

1837/2 - redraft is no longer
"stepped in"

("dialed down")

Kerry will speak to DOR this afternoon
re definition of intangible prop.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1837/1

JK:.....

JK

500N

DOA:.....Holden - Single sales factor for corporate income and franchise tax
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not gen

1

AN ACT ...; relating to: the budget ↓

Analysis by the Legislative Reference Bureau

TAXATION ✓

INCOME TAXATION ✓

Under current law, when computing corporate income taxes and franchise taxes, a formula is used to attribute a portion of a corporation's income to this state. The formula has three factors: a sales factor, a property factor and a payroll factor. The sales factor represents 50% of the formula and the property and payroll factors each represent 25% of the formula.

Under this bill, beginning on January 1, 2002, ✓ the sales factor will be the only factor used to attribute a portion of a corporation's income to this state. The property and payroll factors will be decreased, and eventually phased out, over the next two years as the sales factor is increased and becomes the only factor.

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:

Fix component

renumber 71.25 (6) (intro) and

1 SECTION 1. 71.25 (6) of the statutes is amended to read:

2 71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.

3 (Intro) Corporations engaged in business within and without the state shall be taxed only
4 on such income as is derived from business transacted and property located within
5 the state. The amount of such income attributable to Wisconsin may be determined
6 by an allocation and separate accounting thereof, when the business of such
7 corporation within the state is not an integral part of a unitary business, but the
8 department of revenue may permit an allocation and separate accounting in any case
9 in which it is satisfied that the use of such method will properly reflect the income
10 taxable by this state. In all cases in which allocation and separate accounting is not
11 permissible, the determination shall be made in the following manner: for all
12 businesses except financial organizations, public utilities, railroads, sleeping car
13 companies, car line companies and corporations or associations that are subject to
14 a tax on unrelated business income under s. 71.26 (1) (a) there shall first be deducted
15 from the total net income of the taxpayer the part thereof (less related expenses, if
16 any) that follows the situs of the property or the residence of the recipient. The
17 remaining net income shall be apportioned to Wisconsin by use of an apportionment
18 fraction composed of a sales factor under sub. (9) representing 50% of the fraction,
19 a property factor under sub. (7) representing 25% of the fraction and a payroll factor
20 under sub. (8) representing 25% of the fraction. the following:

21 SECTION 2. 71.25 (6) (a) of the statutes is created to read:

22 71.25 (6) (a) Beginning on January 1, 2000 and ending on December 31, 2000,
23 an apportionment fraction composed of a sales factor under sub. (9) representing 60%
24 of the fraction, a property factor under sub. (7) representing 20% of the fraction and
25 a payroll factor under sub. (8) representing 20% of the fraction.

1 SECTION 3. 71.25 (6) (b) of the statutes is created to read:

2 71.25 (6) (b) Beginning on January 1, 2001, and ending on December 31, 2001,
3 an apportionment fraction composed of a sales factor under sub. (9) representing 80%
4 of the fraction, a property factor under sub. (7) representing 10% of the fraction and
5 a payroll factor under sub. (8) representing 10% of the fraction.

6 SECTION 4. 71.25 (6) (c) of the statutes is created to read:

7 71.25 (6) (c) Beginning on January 1, 2002, an apportionment fraction
8 composed of the sales factor under sub. (9).

9 SECTION 9443. Effective dates; revenue.

10 (1) APPORTIONMENT FRACTION. The treatment of sections 71.25 (6) (a), (b) and
11 (c) of the statutes takes effect on the January 1 after publication.

12 (END)

of the statutes
have the
creation of
section
71.25

renumbering and amendment
of

Kreye, Joseph

prepare
1837 / 13

From: Holden, Kerry [Kerry.Holden@doa.state.wi.us]
Sent: Wednesday, January 20, 1999 1:59 PM
To: Kreye, Joseph
Subject: question re: assignment

Are you going to be doing the draft for single factor sales apportionment?
If so, I have some additional information from DOR regarding the needed changes and I would like to get them to the appropriate drafter.

Regardless, what is your phone number?

Kerry Holden
Tax, Finance & Local Government Team
State Budget Office
(608)266-8593

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF EXECUTIVE BUDGET AND FINANCE
DOA-5187 N(R06/95)

FACSIMILE COVER MESSAGE

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Location	Room Number	Telephone Number
LRB - Drafting	5 th Floor	6-2263
FROM (Sender)		Facsimile Telephone Number
Name	Number of Pages Including This Cover Sheet	(608) 267-0372
Location	5	Telephone Number
101 East Wilson Street, 10th Floor; Madison, WI 53702		266-8593

COMMENTS / INSTRUCTIONS

Joe-

Attached is some additional information I received today from DOR re: draft instructions for the single factor sales apportionment of corporate franchise and income tax. In addition to the phase-out instructions, this DOR document appears to provide other necessary changes.

I just received the electronic copy of LRB-1837/P1. I think I'll wait to send it along to DOR for review until the DOR changes are included in the draft.

Sorry for the confusing email about whether you were working on this draft. I received the /P1 right after I hit the "send" button.

Please call if you have any questions. Thanks!

Kerry

Wisconsin Department of Revenue
Division of Research and Analysis
Bureau of State Tax Policy

January 20, 1999

Part # Fax Note	7671	Date	1-20-99	# of Pages	4
To	Carrie Halden	From	P. W. L. L. L.		
Co./Dept.	DOA	Co.	DOA		
Phone #	6-8593	Phone #	6-7817		
Fax #	7-0372	Fax #			

TITLE: Apportionment of Corporate Income: Sales Factor Formula

DESCRIPTION OF CURRENT LAW AND PROBLEM

1. Single Sales Factor

Under current law, income of a multistate corporation is generally apportioned to the state by means of a three-factor formula using the ratio of its in-state property, payroll and sales to its property, payroll and sales everywhere. The sales factor is double-weighted in the formula so that the sales percentage attributable to the state accounts for 50% of the apportionment percentage.

The current three-factor formula creates a disincentive for certain corporations with significant out-of-state sales to locate or expand in Wisconsin. Neighboring states may offer a better tax climate for these businesses to locate or expand since under the current formula more income is subject to tax in Wisconsin than would be taxed in states with an apportionment formula based only on sales. Iowa and Illinois both apportion income based solely on the percentage of sales made in the state relative to sales made everywhere and Minnesota weights sales at 70% of the apportionment formula.

For example, a company with 100% of its property and payroll located in the state and 20% of its sales in the state would apportion 60% of its income to Wisconsin ($[100\% \times 25\%] + [100\% \times 25\%] + [20\% \times 50\%]$). If this company were located in either Iowa or Illinois with the same facts, it would apportion only 20% of its income to its home state under a single sales factor formula. If located in Minnesota, this company would apportion 44% of its income there ($[100\% \times 15\%] + [100\% \times 15\%] + [20\% \times 70\%]$).

Insurance companies subject to the income or franchise tax apportion income to the state based on a two-factor formula that averages the ratios of direct premiums written in the state with direct premiums written everywhere and payroll in the state with payroll everywhere.

Corporations that are financial institutions, interstate air and motor carriers, railroads, car line and sleeping car companies, public utilities and pipeline companies are subject to different apportionment formulas determined by rule.

2. Sales of Intangibles and Services

Currently, sales, other than sales of tangible personal property, are allocated to Wisconsin if the income-producing activity is performed in this state. If the income-producing activity is performed both in and outside Wisconsin, sales are divided between the states in proportion to the direct costs of performance incurred in each state.

This approach to allocating these sales of intangibles and services does not adequately describe transactions in today's service-oriented economy where services can be performed in one state without the service provider leaving the other state. The terms "income-producing activity" and "direct costs of performance" are not clearly defined, leading to confusion among taxpayers and more time spent auditing returns of taxpayers. In addition, it provides a disincentive for taxpayers to locate service-oriented businesses in Wisconsin.

RECOMMENDATION FOR ACTION

1. The Department recommends changing the current three-factor apportionment formula to a single factor formula based solely on the sales factor, phased in over a three-year period beginning with tax year 2000. Under this approach, the sales factor would be weighted at 60% in the first year of the phase-in, 80% in the second year and 100% in the third year. Similarly, the Department recommends changing the current two-factor formula for insurance companies to a single factor formula based solely on direct premiums written, phased in over three years. The apportionment formulas for other corporations that are set by rule (i.e., financial institutions, interstate air and motorcarriers, railroads, car lines and sleeping car companies, public utilities and pipeline companies would not be changed by this provision.
2. The Department also recommends amending the definition of the sales factor to more specifically describe what constitutes a Wisconsin sale of services and intangibles.

FISCAL/ADMINISTRATIVE IMPACT

Changing the general apportionment formula to a single factor sales formula would reduce corporate tax revenues by an estimated \$10.5 million in the first year, \$30.9 million in the second year and \$49.2 million annually thereafter.

Changing the apportionment formula for insurance companies would reduce tax revenues by approximately \$700,000 in the first year, \$3.1 million in the second year and \$3.1 million annually thereafter.

These estimates do not include the fiscal impact of changing the definition of the sales factor, which is unknown.

DRAFTING INSTRUCTIONS

1. Amend secs. 71.04(4), 71.25(6), and 71.45(3)(intro.), Stats., to reflect the phase-in of the single sales factor formula.
2. Repeal and recreate secs. 71.04(7)(d) and 71.25(d) Stats., to provide the following:

Sales, rents, royalties, and other income in connection with real property are attributed to the state in which the property is located. (dc)

Receipts from the lease or rental of tangible personal property, including finance leases and true leases, is attributed to the state in which the property is located. Receipts from the

under par. (a)
(d.g)

in lease or rental of moving property including, but not limited to, motor vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the numerator of the sales factor to the extent that the property is used in this state. The extent of use of moving property is *in this state* determined as follows:

- 1 (a) A motor vehicle is ~~used wholly in the state in which it is registered.~~
the
- 2 (b) The extent that rolling stock is used in this state is determined by multiplying the receipts from the lease or rental of the rolling stock by a fraction, the numerator of which is the miles traveled within this state by the leased or rented rolling stock and the denominator of which is the total miles traveled by the leased or rented rolling stock.
- 3 (c) The extent that an aircraft is used in this state is determined by multiplying the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this state and the denominator of which is the total number of landings of the aircraft.
- 4 (d) The extent that a vessel, mobile equipment, or other mobile property is used in the state is determined by multiplying the receipts from the lease or rental of the property by a fraction, the numerator of which is the number of days during the taxable year the property was in this state and the denominator of which is the total days in the taxable year that the property was rented or leased.

Royalties and other income received for the use of or for the privilege of using intangible property, including patents, know-how, formulas, designs, processes, patterns, copyrights, trade names, service names, trade marks, franchises, licenses, contracts, customer lists, or similar items are attributed to the state in which the property is used by the purchaser. If the property is used in more than one state, the royalties or other income shall be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the royalties or other income shall be excluded from both the numerator and the denominator of the sales factor. Intangible property is used in this state if the purchaser uses the property or rights in this state in the regular course of its business operations in this state, regardless of the location of the purchaser's customers.

(dN)

Sales of intangible property are made within the state in which the property is used by the purchaser. If the property is used in more than one state, the sales shall be apportioned to this state pro rata according to the portion of use in this state. If the portion of use in this state cannot be determined, the sale shall be excluded from both the numerator and the denominator of the sales factor. Intangible property is used in this state if the purchaser used the intangible property in the regular course of its business operations in this state.

(dR)

Receipts from the performance of services shall be attributed to the state where the customer received the benefit of the services. If the customer receives the benefit of the service in more than one state, the receipts are includable in the numerator of the sales factor in proportion to the extent the customer receives the benefit of the service in each state. If the state where the services are received cannot be determined, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. If the ordering office cannot be determined, the services shall be deemed to be received at the office of the customer to which the services are billed.

(dW)

3. Repeal sec. 71.25(5)(b)2, Stats.

4. Amend sec. 71.45(3m), Stats.. to reflect the phase-in of the single factor based on premiums

EFFECTIVE DATE OR INITIAL APPLICABILITY

For tax years beginning on or after January 1, 2000.

PERSONS TO CONTACT: Carol Held (608) 266-5464 or Pamela Walgren (608) 266-7817

PREPARED BY: Carol Held and Pamela Walgren

PW:ds

t:\bud\pw\apportionment.bud



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1837/1

JK/lej/f

SOON

stays

DOA:.....Holden - Single sales factor for corporate income and franchise tax

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

D-N

do not gen

1 AN ACT ...; relating to: the budget.

When computing income taxes and franchise taxes 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.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under current law, when computing corporate income taxes and franchise taxes, a formula is used to attribute a portion of a corporation's income to this state. The formula has three factors: a sales factor, a property factor and a payroll factor. The sales factor represents 50% of the formula and the property and payroll factors each represent 25% of the formula.

Under this bill, beginning on January 1, 2002, the sales factor will be the only factor used to attribute a portion of a corporation's income to this state. The property and payroll factors will be decreased, and eventually phased out, over the next three years as the sales factor is increased and becomes the only factor.

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:

Beginning on January 1, 2002, the premium's 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 the next three years. Analysis insert on next page.

ANALYSIS INSERT

91

The bill broadens the definition of "sales" as it relates to the sales factor used to apportion income ^{for tax purposes}. Receipts from the lease or rental of motor vehicles, rolling stock, aircraft and vessels used in this state are included in the sales factor. The sales factor also includes the royalties for the use of intangible property, the sales of intangible property and receipts from the performance of services.

(end analysis insert)

Insert 2-1 ✓

1 SECTION 1. 71.25 (6) of the statutes is renumbered 71.25 (6) (intro.) and
2 amended to read:

3 71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.
4 (intro.) Corporations engaged in business within and without the state shall be taxed
5 only on such income as is derived from business transacted and property located
6 within the state. The amount of such income attributable to Wisconsin may be
7 determined by an allocation and separate accounting thereof, when the business of
8 such corporation within the state is not an integral part of a unitary business, but
9 the department of revenue may permit an allocation and separate accounting in any
10 case in which it is satisfied that the use of such method will properly reflect the
11 income taxable by this state. In all cases in which allocation and separate accounting
12 is not permissible, the determination shall be made in the following manner: for all
13 businesses except financial organizations, public utilities, railroads, sleeping car
14 companies, car line companies and corporations or associations that are subject to
15 a tax on unrelated business income under s. 71.26 (1) (a) there shall first be deducted
16 from the total net income of the taxpayer the part thereof (less related expenses, if
17 any) that follows the situs of the property or the residence of the recipient. The
18 remaining net income shall be apportioned to Wisconsin by use of ~~an apportionment~~
19 ~~fraction composed of a sales factor under sub. (9) representing 50% of the fraction,~~
20 ~~a property factor under sub. (7) representing 25% of the fraction and a payroll factor~~
21 ~~under sub. (8) representing 25% of the fraction.~~ the following:

22 SECTION 2. 71.25 (6) (a) of the statutes is created to read:

23 71.25 (6) (a) ~~Beginning on January 1, 2000, and ending on December 31, 2000,~~
24 an apportionment fraction composed of a sales factor under sub. (9) representing 60%

For the taxable year

1 of the fraction, a property factor under sub. (7) representing 20% of the fraction and
2 a payroll factor under sub. (8) representing 20% of the fraction.

3 SECTION 3. 71.25 (6) (b) of the statutes is created to read:

4 71.25 (6) (b) ~~Beginning on January 1, 2001, and ending on December 31, 2001,~~
5 an apportionment fraction composed of a sales factor under sub. (9) representing 80%
6 of the fraction, a property factor under sub. (7) representing 10% of the fraction and
7 a payroll factor under sub. (8) representing 10% of the fraction.

8 SECTION 4. 71.25 (6) (c) of the statutes is created to read:

9 71.25 (6) (c) ~~Beginning on January 1, 2001,~~ an apportionment fraction
10 composed of the sales factor under sub. (9).

Insert 3-11 ✓

11 SECTION 9443. Effective dates; revenue.

12 (1) APPORTIONMENT FRACTION. The renumbering and amendment of section
13 71.25 (6) of the statutes and the creation of section 71.25 (6) (a), (b) and (c) of the
14 statutes take effect on the January 1 after publication.

(END)

keep

For the taxable year

For taxable year^s beginning after December 31, 2001, ✓

Insert 2 - 1

1 SECTION 1. 71.04 (4) ✓ of the statutes is renumbered 71.04 (4) (intro) and
2 amended to read:

3 71.04 (4) (intro.) ✓ NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA. ✓

4 Nonresident individuals and nonresident estates and trusts engaged in business
5 within and without the state shall be taxed only on such income as is derived from
6 business transacted and property located within the state. The amount of such
7 income attributable to Wisconsin may be determined by an allocation and separate
8 accounting thereof, when the business of such nonresident individual or nonresident
9 estate or trust within the state is not an integral part of a unitary business, but the
10 department of revenue may permit an allocation and separate accounting in any case
11 in which it is satisfied that the use of such method will properly reflect the income
12 taxable by this state. In all cases in which allocation and separate accounting is not
13 permissible, the determination shall be made in the following manner: for all
14 businesses except financial organizations, public utilities, railroads, sleeping car
15 companies and car line companies there shall first be deducted from the total net
16 income of the taxpayer the part thereof (less related expenses, if any) that follows the
17 situs of the property or the residence of the recipient. The remaining net income shall
18 be apportioned to Wisconsin by use of an apportionment fraction composed of a sales
19 factor representing 50% of the fraction, a property factor representing 25% of the
20 fraction and a payroll factor representing 25% of the fraction. ✓ the following:

21 SECTION 2. 71.04 (4) (a) ✓ of the statutes is created to read:

22 71.04 (4) (a) For the taxable year beginning on January 1, 2000, ✓ an
23 apportionment fraction composed of a sales factor under sub. ✓ (7) representing 60%

1 of the fraction, a property factor under sub. (5) representing 20% of the fraction and
2 a payroll factor under sub. (6) representing 20% of the fraction.

3 SECTION 3. 71.04 (4) (b) of the statutes is created to read:

4 71.04 (4) (b) For the taxable year beginning on January 1, 2001, an
5 apportionment fraction composed of a sales factor under sub. (7) representing 80%
6 of the fraction, a property factor under sub. (5) representing 10% of the fraction and
7 a payroll factor under sub. (6) representing 10% of the fraction.

8 SECTION 4. 71.04 (4) (c) of the statutes is created to read:

9 71.04 (4) (c) For taxable years beginning after December 31, 2001, an
10 apportionment fraction composed of the sales factor under sub. (7).

11 SECTION 5. 71.04 (7) (d) of the statutes is amended to read:

12 71.04 (7) (d) Sales, other than sales of tangible personal property, are in this
13 state if the income-producing activity is performed in this state. If the
14 income-producing activity is performed both in and outside this state the sales shall
15 be divided between those states having jurisdiction to tax such business in
16 proportion to the direct costs of performance incurred in each such state in rendering
17 this service. Services performed in states which do not have jurisdiction to tax the
18 business shall be deemed to have been performed in the state to which compensation
19 is allocated by sub. (6). This paragraph does not apply to taxable years beginning
20 after December 31, 1999. and the

21 SECTION 6. 71.04 (7) (dc) of the statutes is created to read:

22 71.04 (7) (dc) For taxable years beginning after December 31, 1999, sales,
23 rents, royalties, and other income from real property, receipts from the lease or rental
24 of tangible personal property, are attributed to the state in which the property is
25 located.

1 **SECTION 7.** 71.04 (7) (dg) [✓] of the statutes is created to read:

2 71.04 (7) (dg) For taxable years beginning after December 31, 1999, receipts
3 from the lease or rental of moving property, including but not limited to motor
4 vehicles, rolling stock, aircraft, vessels, or mobile equipment, are included in the
5 numerator of the sales factor under par. (a) [✓] to the extent that the property is used
6 in this state. The use of moving property in this state is determined as follows:

7 1. A motor vehicle is used in this state if it is registered in this state and used
8 wholly in this state.

9 2. The use of rolling stock in this state is determined by multiplying the receipts
10 from the lease or rental of the rolling stock by a fraction having as a numerator the
11 miles traveled within this state by the leased or rented rolling stock and having as
12 a denominator the total miles traveled by the leased or rented rolling stock.

13 3. The use of an aircraft [✓] in this state is determined by multiplying the receipts
14 from the lease or rental of the aircraft by a fraction having as a numerator the
15 number of landings of the aircraft in this state and having as a denominator the total
16 number of landings ^{anywhere} of the aircraft.

17 4. The use of a vessel, mobile equipment or other mobile property in this state
18 is determined by multiplying the receipts from the lease or rental of the property by
19 a fraction having as a numerator the number of days in the taxable year that the
20 vessel, mobile equipment or other mobile property was in this state and having as
21 a denominator the number of days in the taxable year that the vessel, mobile
22 equipment or other mobile property was rented or leased.

23 **SECTION 8.** 71.04 (7) (dn) [✓] of the statutes is created to read:

24 71.04 (7) (dn) 1. For taxable years beginning after December 31, 1999, royalties
25 and other income received for the use of intangible property are attributed to the

1 state where the purchaser uses the intangible property. If intangible property is used
 2 in more than one state, the royalties and other income received for the use of the
 3 intangible property shall be apportioned to this state according to the portion of ^{the intangible property's} use
 4 use in this state. If the portion of intangible property's use in this state cannot be
 5 determined, the royalties and other income received for the use of the intangible
 6 property shall be excluded from the numerator and the denominator of the sales
 7 factor under par. (a).[✓] Intangible property is used in this state if a purchaser uses the
 8 intangible property or uses the rights to intangible property in the regular course of
 9 the purchaser's business in this state, regardless of where the purchaser's customers
 10 are located.

11 2. For taxable years beginning after December 31, 1999, sales of intangible
 12 property are attributed to the state where a purchaser uses the intangible property.
 13 If intangible property is used in more than one state, the sales of the intangible
 14 property shall be apportioned to this state according to the portion of ^{the intangible property's} use in this
 15 state. If the portion of intangible property's use in this state cannot be determined,
 16 the sales of the intangible property shall be excluded from the numerator and the
 17 denominator of the sales factor under par. (a). Intangible property is used in this
 18 state if a purchaser uses the intangible property in the regular course of the
 19 purchaser's business in this state, regardless of where the purchaser's customers are
 20 located.

21 ^X
SECTION 9. 71.04 (7) (dr) of the statutes is created to read:

22 71.04 (7) (dr) For taxable years beginning after December 31, 1999, receipts
 23 from the performance of services are attributed to the state where the purchaser
 24 received the benefit of the services. If a purchaser receives the benefit of a service
 25 in more than one state, the receipts from the performance of the service are included

1 in the numerator of the sales factor under par. (a)✓ according to the portion of the
2 benefit of the service received in this state. If the state where a purchaser received
3 the benefit of a service cannot be determined, the benefit of a service is received in
4 the state where the purchaser, in the regular course of the purchaser's business,
5 ordercd the service. If the state where a purchaser ordered a service cannot be
6 determined, the benefit of the service is received in the state where the purchaser,
7 in the regular course of the purchaser's business, receives a bill for the service.

8 **SECTION 10.** 71.25 (5) (b) 2.✓ of the statutes is repealed.

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1837/lins
JK:jl:gjf

Insert 3 - 11

1 **SECTION 1.** 71.25 (9) (d)^X of the statutes is amended to read:

2 71.25 (9) (d) Sales, other than sales of tangible personal property, are in this
3 state if the income-producing activity is performed in this state. If the
4 income-producing activity is performed both in and outside this state the sales shall
5 be divided between those states having jurisdiction to tax such business in
6 proportion to the direct costs of performance incurred in each such state in rendering
7 this service. Services performed in states which do not have jurisdiction to tax the
8 business shall be deemed to have been performed in the state to which compensation
9 is allocated by sub. (8). This paragraph[✓] does not apply to taxable years beginning
10 after December 31, 1999.

11 **SECTION 2.** 71.25 (9) (dc)^X of the statutes is created to read:

12 71.25 (9) (dc) For taxable years beginning after December 31, 1999,[✓] sales,
13 rents, royalties, and other income from real property, and the receipts from the lease
14 or rental of tangible personal property are attributed to the state in which the
15 property is located.

16 **SECTION 3.** 71.25 (9) (dg)^X of the statutes is created to read:

17 71.25 (9) (dg) For taxable years beginning after December 31, 1999, receipts
18 from the lease or rental of moving property including but not limited to motor
19 vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the
20 numerator of the sales factor under par. (a)[✓] to the extent that the property is used
21 in this state. The use of moving property in this state is determined as follows:

22 1. A motor vehicle is used in this state if it is registered in this state and used
23 wholly in this state.

1 2. The use of rolling stock in this state is determined by multiplying the receipts
2 from the lease or rental of the rolling stock by a fraction having as a numerator the
3 miles traveled within this state by the leased or rented rolling stock and having as
4 a denominator the total miles traveled by the leased or rented rolling stock.

5 3. The use of an aircraft in this state is determined by multiplying the receipts
6 from the lease or rental of the aircraft by a fraction having as a numerator the
7 number of landings of the aircraft in this state and having as a denominator the total
8 number of landings anywhere of the aircraft.

9 4. The use of a vessel, mobile equipment or other mobile property in this state
10 is determined by multiplying the receipts from the lease or rental of the property by
11 a fraction having as a numerator the number of days in the taxable year that the
12 vessel, mobile equipment or other mobile property was in this state and having as
13 a denominator the number of days in the taxable year that the vessel, mobile
14 equipment or other mobile property was rented or leased.

15 **SECTION 4.** 71.25 (9) (dn)^x of the statutes is created to read:

16 71.25 (9) (dn) 1. For taxable years beginning after December 31, 1999, royalties
17 and other income received for the use of intangible property are attributed to the
18 state where the purchaser uses the intangible property. If intangible property is used
19 in more than one state, the royalties and other income received for the use of the
20 intangible property shall be apportioned to this state according to the portion of the
21 intangible property's use in this state. If the portion of intangible property's use in
22 this state cannot be determined, the royalties and other income received for the use
23 of intangible property shall be excluded from the numerator and the denominator of
24 the sales factor under par. (a)[✓]. Intangible property is used in this state if a purchaser
25 uses the intangible property or uses the rights to intangible property in the regular

1 course of the purchaser's business in this state, regardless of where the purchaser's
2 customers are located.

3 2. For taxable years beginning after December 31, 1999, sales of intangible
4 property are attributed to the state where a purchaser uses the intangible property.
5 If intangible property is used in more than one state, the sales of the intangible
6 property shall be apportioned to this state according to the portion of the intangible
7 property's use in this state. If the portion of intangible property's use in this state
8 cannot be determined, the sales of the intangible property shall be excluded from the
9 numerator and the denominator of the sales factor under par. (a).[✓] Intangible
10 property is used in this state if a purchaser uses the intangible property in the
11 regular course of the purchaser's business in this state, regardless of where the
12 purchaser's customers are located.

13 SECTION 5. 71.25 (9) (dr) [✓] of the statutes is created to read:

14 71.25 (9) (dr) For taxable years beginning after December 31, 1999, receipts
15 from the performance of services are attributed to the state where the purchaser
16 received the benefit of the services. If a purchaser receives the benefit of a service
17 in more than one state, the receipts from the performance of the service are included
18 in the numerator of the sales factor under par. (a) [✓] according to the portion of the
19 benefit of the service received in this state. If the state where a purchaser received
20 the benefit of a service cannot be determined, the benefit of a service is received in
21 the state where the purchaser, in the regular course of the purchaser's business,
22 ordered the service. If the state where a purchaser ordered a service cannot be
23 determined, the benefit of the service is received in the state where the purchaser,
24 in the regular course of the purchaser's business, receives a bill for the service.

25 SECTION 6. 71.28 (4) (a) [✓] of the statutes is amended to read:

SECTION #
RP; 71.25(9)(e) (title)
SEC.# RP; 71.25(9)(f) (title)
f

1 71.28 (4) (a) *Credit*. Any corporation may credit against taxes otherwise due
2 under this chapter an amount equal to 5% of the amount obtained by subtracting
3 from the corporation's qualified research expenses, as defined in section 41 of the
4 internal revenue code, except that "qualified research expenses" includes only
5 expenses incurred by the claimant, incurred for research conducted in this state for
6 the taxable year, except that a taxpayer may elect the alternative computation under
7 section 41 (c) (4) of the Internal Revenue Code and that election applies until the
8 department permits its revocation and except that "qualified research expenses"
9 does not include compensation used in computing the credit under subs. (1dj) and
10 (1dx), the corporation's base amount, as defined in section 41 (c) of the internal
11 revenue code, except that gross receipts used in calculating the base amount means
12 gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and~~,
13 (d), (dc), (dg), (dn) and (dr).[✓] Section 41 (h) of the internal revenue code does not apply
14 to the credit under this paragraph.

15 **SECTION 7.** 71.28 (4) (am) 1.[✓] of the statutes is amended to read:

16 71.28 (4) (am) *Development zone additional research credit*. 1. In addition to
17 the credit under par. (a), any corporation may credit against taxes otherwise due
18 under this chapter an amount equal to 5% of the amount obtained by subtracting
19 from the corporation's qualified research expenses, as defined in section 41 of the
20 internal revenue code, except that "qualified research expenses" include only
21 expenses incurred by the claimant in a development zone under subch. VI of ch. 560,
22 except that a taxpayer may elect the alternative computation under section 41 (c) (4)
23 of the Internal Revenue Code and that election applies until the department permits
24 its revocation and except that "qualified research expenses" do not include
25 compensation used in computing the credit under sub. (1dj) nor research expenses

1 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
 2 corporation's base amount, as defined in section 41 (c) of the internal revenue code,
 3 in a development zone, except that gross receipts used in calculating the base amount
 4 means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and
 5 2. ~~and~~ ² (d), (dc), (dg), (dn) and (dr) [✓] and research expenses used in calculating the base
 6 amount include research expenses incurred before the claimant is certified for tax
 7 benefits under s. 560.765 (3), in a development zone, if the claimant submits with the
 8 claimant's return a copy of the claimant's certification for tax benefits under s.
 9 560.765 (3) and a statement from the department of commerce verifying the
 10 claimant's qualified research expenses for research conducted exclusively in a
 11 development zone. The rules under s. 73.03 (35) apply to the credit under this
 12 subdivision. The rules under sub. (1d) (f) and (g) as they apply to the credit under
 13 that subsection apply to claims under this subdivision. Section 41 (h) of the internal
 14 revenue code does not apply to the credit under this subdivision.

15 **SECTION 8.** 71.45 (3) (intro.) [✓] of the statutes is amended to read:

16 71.45 (3) APPORTIONMENT. (intro.) ~~With~~ Except as provided in pars. (a) and (b), [✓] [✓]
 17 with respect to domestic insurers not engaged in the sale of life insurance but which,
 18 in the taxable year, have collected premiums written on subjects of insurance
 19 resident, located or to be performed outside this state, there shall be subtracted from
 20 the net income figure derived by application of sub. (2) (a) to arrive at Wisconsin
 21 income constituting the measure of the franchise tax an amount calculated by
 22 multiplying such adjusted federal taxable income by the arithmetic average of the
 23 following 2 percentages:

24 **SECTION 9.** 71.45 (3) (a) [✓] of the statutes is amended to read:

1 71.45 (3) (a) The percentage of total premiums written on all property and risks
 2 other than life insurance, wherever located during the taxable year, as reflects
 3 premiums written on insurance, other than life insurance, where the subject of
 4 insurance was resident, located or to be performed outside this state. For the taxable
 5 year beginning on January 1, 2000, the premiums percentage under this paragraph
 6 represents 60% of the arithmetic average of ^{the amounts under this} ~~this~~ paragraph and par. (b). For the
 7 taxable year beginning on January 1, 2001, the premiums percentage under this
 8 paragraph represents 80% of the arithmetic average of ^{the amounts under} ~~this~~ paragraph and par. (b).
 9 For taxable years beginning after December 31, 2001, the premiums percentage
 10 under this paragraph is the only percentage applied to the ~~formula~~ ^{apportionment calculations} in ~~the~~ ^(3M) ~~statute~~.

11 SECTION 10. 71.45 (3) (b) of the statutes is renumbered 71.45(3) (b) 1. ~~and~~ ^{added}

12 and amended to read:

13 71.45 (3) (b) 1. ^{plain} The percentage of total payroll, exclusive of life insurance ⁱⁿ
 14 payroll, paid everywhere in the taxable year as reflects such compensation paid
 15 outside this state. For the taxable year beginning on January 1, 2000, the payroll
 16 percentage under this paragraph represents 40% of the arithmetic average of ^{the amounts under} ~~this~~
 17 paragraph and par. (a). For the taxable year beginning on January 1, 2001, the
 18 payroll percentage under this paragraph represents 20% of the arithmetic average
 19 ^{the amounts under} ~~of this~~ paragraph and par. (a). The payroll percentage under this paragraph does not
 20 apply to the ~~formula~~ ^{this paragraph and} ~~under~~ ^(3M) ~~for~~ taxable years beginning after December 31,
 21 2001. ^{apportionment calculations} ^{under} ~~the~~ ^{sub} ~~statute~~

22 2. Compensation is paid outside this state if the individual's service is
 23 performed entirely outside this state; or the individual's service is performed both
 24 within and without this state, but the service performed within is incidental to the
 25 individual's service without this state; or some service is performed without this

1 state and the base of operations, or if there is no base of operations, the place from
2 which the service is directed or controlled is without this state, or the base of
3 operations or the place from which the service is directed or controlled is not in any
4 state in which some part of the service is performed, but the individual's residence
5 is outside this state.

6 SECTION 11. 71.45 (3m) ^X of the statutes is amended to read:

7 71.45 (3m) ARITHMETIC AVERAGE. The Except as provided in pars. (a) and (b),[✓]
8 the arithmetic average of the 2 percentages referred to in sub. (3) shall be applied to
9 the net income figure arrived at by the successive application of sub. (2) (a) and (b)
10 with respect to Wisconsin insurers to which sub. (2) (a) and (b) applies and which
11 have collected premiums written upon insurance, other than life insurance, where
12 the subject of such insurance was resident, located or to be performed outside this
13 state, to arrive at Wisconsin income constituting the measure of the franchise tax.

14 SECTION 12. 71.47 (4) (a) ^X of the statutes is amended to read:

15 71.47 (4) (a) *Credit*. Any corporation may credit against taxes otherwise due
16 under this chapter an amount equal to 5% of the amount obtained by subtracting
17 from the corporation's qualified research expenses, as defined in section 41 of the
18 internal revenue code, except that "qualified research expenses" includes only
19 expenses incurred by the claimant, incurred for research conducted in this state for
20 the taxable year, except that a taxpayer may elect the alternative computation under
21 section 41 (c) (4) of the Internal Revenue Code and that election applies until the
22 department permits its revocation and except that "qualified research expenses"
23 does not include compensation used in computing the credit under subs. (1dj) and
24 (1dx), the corporation's base amount, as defined in section 41 (c) of the internal
25 revenue code, except that gross receipts used in calculating the base amount means

1 gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and~~ ↓
2 (d), (dc), (dg), (dn) and (dr) ✓. Section 41 (h) of the internal revenue code does not apply
3 to the credit under this paragraph.

4 SECTION 13. 71.47 (4) (am) ✓ of the statutes is amended to read:

5 71.47 (4) (am) *Development zone additional research credit.* In addition to the
6 credit under par. (a), any corporation may credit against taxes otherwise due under
7 this chapter an amount equal to 5% of the amount obtained by subtracting from the
8 corporation's qualified research expenses, as defined in section 41 of the internal
9 revenue code, except that "qualified research expenses" include only expenses
10 incurred by the claimant in a development zone under subch. VI of ch. 560, except
11 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
12 Internal Revenue Code and that election applies until the department permits its
13 revocation and except that "qualified research expenses" do not include
14 compensation used in computing the credit under sub. (1dj) nor research expenses
15 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
16 corporation's base amount, as defined in section 41 (c) of the internal revenue code,
17 in a development zone, except that gross receipts used in calculating the base amount
18 means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and

19 2. ~~and~~ ✓ (d), (dc), (dg), (dn) and (dr) ✓ and research expenses used in calculating the base
20 amount include research expenses incurred before the claimant is certified for tax
21 benefits under s. 560.765 (3), in a development zone, if the claimant submits with the
22 claimant's return a copy of the claimant's certification for tax benefits under s.
23 560.765 (3) and a statement from the department of commerce verifying the
24 claimant's qualified research expenses for research conducted exclusively in a
25 development zone. The rules under s. 73.03 (35) apply to the credit under this

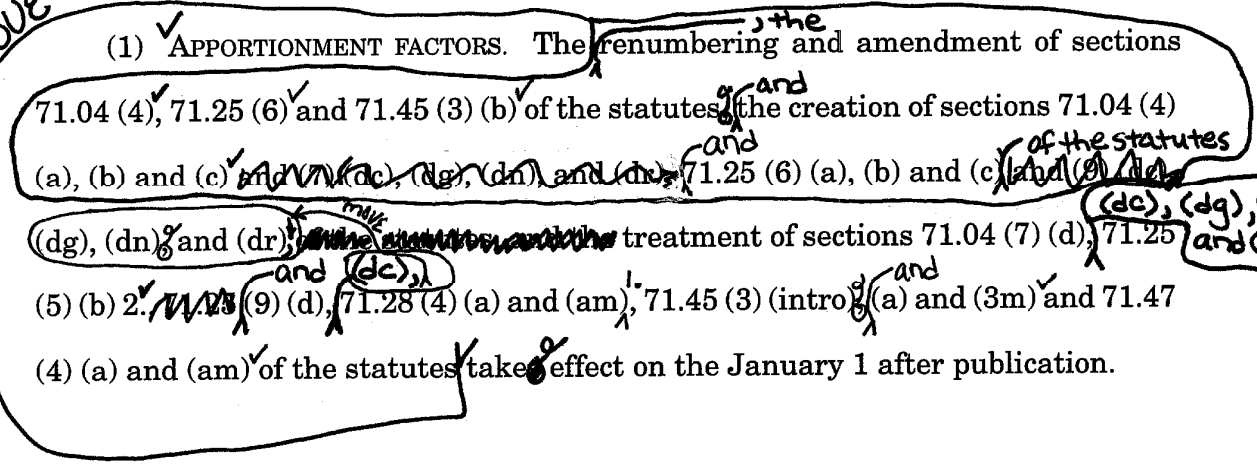
1 paragraph. The rules under sub. (1di) (f) and (g) as they apply to the credit under,
 2 that subsection apply to claims under this paragraph. Section 41 (h) of the internal
 3 revenue code does not apply to the credit under this paragraph. No credit may be
 4 claimed under this paragraph for taxable years that begin on January 1, 1998, or
 5 thereafter. Credits under this paragraph for taxable years that begin before January
 6 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or
 7 thereafter.

8 **SECTION 9443. Effective dates; revenue.**

9 (1) **APPORTIONMENT FACTORS.** The renumbering and amendment of sections
 10 71.04 (4), 71.25 (6) and 71.45 (3) (b) of the statutes, the creation of sections 71.04 (4)
 11 (a), (b) and (c) and (d), (e), (f), (g), (h) and (i), 71.25 (6) (a), (b) and (c) and (d),
 12 (e), (f) and (g), and (h), and the treatment of sections 71.04 (7) (d), 71.25
 13 (5) (b) 2, (9) (d), 71.28 (4) (a) and (am), 71.45 (3) (intro) (a) and (3m) and 71.47
 14 (4) (a) and (am) of the statutes take effect on the January 1 after publication.

WHO-
see me
if you
have
questions

MOVE



(dc), (dg), (dn)
and (dr)

of the statutes

and

and

and

and (dc)

and

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1837²Adn
JK:jlj:jf

illustrative

Kerry Holden

I have made the changes to this bill consistent with the instructions you forwarded from the department of revenue (DOR). However, I did not include the rather lengthy definition of "intangible property" that appears in the middle of page 3 of DOR's instructions. The definition of "intangible property" as including patents, know-how, and other examples of intellectual property, seems inconsistent with the use of the phrase "intangible property" in the subsequent paragraph which seems to refer to a ~~different type~~ of intangible property. Because "intangible property" generally means any property that has no intrinsic value but is representative of value, such as certificates of stocks, bonds, copyrights and franchises, (see Blacks Law Dictionary, 6th Ed., 1990) it probably isn't necessary to define "intangible property" in the bill, especially if it is confusing or may result in having the unintended effect of limiting the bill's application. If you have any questions, please do not hesitate to contact me.

*as
as well*

Joseph T. Kreye
Legislative Attorney
266-2263

other types^s

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1837/2dn
JK:jlg:hmh

Monday, January 25, 1999

Kerry Holden:

I have made the changes to this bill consistent with the instructions you forwarded from the department of revenue (DOR). However, I did not include the rather lengthy illustrative definition of "intangible property" that appears in the middle of page 3 of DOR's instructions. The definition of "intangible property" as including patents, know-how, and other examples of intellectual property, seems inconsistent with the use of the phrase "intangible property" in the subsequent paragraph which seems to refer to other types of intangible property as well. Because "intangible property" generally means any property that has no intrinsic value but is representative of value, such as certificates of stocks, bonds, copyrights and franchises, (see Blacks Law Dictionary, 6th Ed., 1990) it probably isn't necessary to define "intangible property" in the bill, especially if it is confusing or may result in having the unintended effect of limiting the bill's application. If you have any questions, please do not hesitate to contact me.

Joseph T. Kreye
Legislative Attorney
266-2263



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-1837/2
JK:jlg/hmh

3
E. King

SOON

DOA:.....Holden - Single sales factor for corporate income and franchise tax
FOR 1999-01 BUDGET -- NOT READY FOR INTRODUCTION

do not generate

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

2000

Under current law, when computing corporate income taxes and franchise taxes, a formula is used to attribute a portion of a corporation's income to this state. The formula has three factors: a sales factor, a property factor and a payroll factor. The sales factor represents 50% of the formula and the property and payroll factors each represent 25% of the formula. When computing income taxes and franchise taxes 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.

Under this bill, beginning on January 1, ~~2000~~, the sales factor will be the only factor used to attribute a portion of a corporation's income to this state. ~~The property and payroll factors will be decreased, and eventually phased out, over the next three years as the sales factor is increased and becomes the only factor. Beginning on January 1, 2002, 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 the next three years.~~

The bill broadens the definition of "sales" as it relates to the sales factor used to apportion income for tax purposes. Receipts from the lease or rental of motor vehicles, rolling stock, aircraft and vessels used in this state are included in the sales factor. The sales factor also includes the royalties for the use of intangible property, the sales of intangible property and receipts from the performance of services.

and

For the 1999-2000 session

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:

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SECTION 1. 71.04 (4) of the statutes is renumbered 71.04 (4) (intro) and amended to read:

71.04 (4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA. (intro.) Nonresident individuals and nonresident estates and trusts engaged in business within and without the state shall be taxed only on such income as is derived from business transacted and property located within the state. The amount of such income attributable to Wisconsin may be determined by an allocation and separate accounting thereof, when the business of such nonresident individual or nonresident estate or trust within the state is not an integral part of a unitary business, but the department of revenue may permit an allocation and separate accounting in any case in which it is satisfied that the use of such method will properly reflect the income taxable by this state. In all cases in which allocation and separate accounting is not permissible, the determination shall be made in the following manner: for all businesses except financial organizations, public utilities, railroads, sleeping car companies and car line companies there shall first be deducted from the total net income of the taxpayer the part thereof (less related expenses, if any) that follows the situs of the property or the residence of the recipient. The remaining net income shall be apportioned to Wisconsin by use of an apportionment fraction composed of a sales factor representing 50% of the fraction, a property factor representing 25% of the fraction and a payroll factor representing 25% of the fraction.

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Deputy 10/1/99, the

1 **SECTION 2.** 71.04 (4) (a) of the statutes is created to read:

2 71.04 (4) (a) For the taxable year beginning on January 1, 2000, an
3 apportionment fraction composed of a sales factor under sub. (7) representing 60%
4 of the fraction, a property factor under sub. (5) representing 20% of the fraction and
5 a payroll factor under sub. (6) representing 20% of the fraction.

6 **SECTION 3.** 71.04 (4) (b) of the statutes is created to read:

7 71.04 (4) (b) For the taxable year beginning on January 1, 2001, an
8 apportionment fraction composed of a sales factor under sub. (7) representing 80%
9 of the fraction, a property factor under sub. (5) representing 10% of the fraction and
10 a payroll factor under sub. (6) representing 10% of the fraction.

11 **SECTION 4.** 71.04 (4) (c) of the statutes is created to read:

12 71.04 (4) (c) For taxable years beginning after December 31, 2001, an
13 apportionment fraction composed of the sales factor under sub. (7).

14 **SECTION 5.** 71.04 (7) (d) of the statutes is amended to read:

15 71.04 (7) (d) Sales, other than sales of tangible personal property, are in this
16 state if the income-producing activity is performed in this state. If the
17 income-producing activity is performed both in and outside this state the sales shall
18 be divided between those states having jurisdiction to tax such business in
19 proportion to the direct costs of performance incurred in each such state in rendering
20 this service. Services performed in states which do not have jurisdiction to tax the
21 business shall be deemed to have been performed in the state to which compensation
22 is allocated by sub. (6). This paragraph does not apply to taxable years beginning
23 after December 31, 1999.

24 **SECTION 6.** 71.04 (7) (dc) of the statutes is created to read:

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1 71.04 (7) (dc) For taxable years beginning after December 31, 1999, sales,
2 rents, royalties, and other income from real property, and the receipts from the lease
3 or rental of tangible personal property, are attributed to the state in which the
4 property is located.

5 **SECTION 7.** 71.04 (7) (dg) of the statutes is created to read:

6 71.04 (7) (dg) For taxable years beginning after December 31, 1999, receipts
7 from the lease or rental of moving property including but not limited to motor
8 vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the
9 numerator of the sales factor under par. (a) to the extent that the property is used
10 in this state. The use of moving property in this state is determined as follows:

11 1. A motor vehicle is used in this state if it is registered in this state and used
12 wholly in this state.

13 2. The use of rolling stock in this state is determined by multiplying the receipts
14 from the lease or rental of the rolling stock by a fraction having as a numerator the
15 miles traveled within this state by the leased or rented rolling stock and having as
16 a denominator the total miles traveled by the leased or rented rolling stock.

17 3. The use of an aircraft in this state is determined by multiplying the receipts
18 from the lease or rental of the aircraft by a fraction having as a numerator the
19 number of landings of the aircraft in this state and having as a denominator the total
20 number of landings anywhere of the aircraft.

21 4. The use of a vessel, mobile equipment or other mobile property in this state
22 is determined by multiplying the receipts from the lease or rental of the property by
23 a fraction having as a numerator the number of days in the taxable year that the
24 vessel, mobile equipment or other mobile property was in this state and having as

1 a denominator the number of days in the taxable year that the vessel, mobile
2 equipment or other mobile property was rented or leased.

3 **SECTION 8.** 71.04 (7) (dn) of the statutes is created to read:

4 71.04 (7) (dn) 1. For taxable years beginning after December 31, 1999, royalties
5 and other income received for the use of intangible property are attributed to the
6 state where the purchaser uses the intangible property. If intangible property is used
7 in more than one state, the royalties and other income received for the use of the
8 intangible property shall be apportioned to this state according to the portion of the
9 intangible property's use in this state. If the portion of intangible property's use in
10 this state cannot be determined, the royalties and other income received for the use
11 of the intangible property shall be excluded from the numerator and the denominator
12 of the sales factor under par. (a). Intangible property is used in this state if a
13 purchaser uses the intangible property or uses the rights to intangible property in
14 the regular course of the purchaser's business in this state, regardless of where the
15 purchaser's customers are located.

16 2. For taxable years beginning after December 31, 1999, sales of intangible
17 property are attributed to the state where a purchaser uses the intangible property.
18 If intangible property is used in more than one state, the sales of the intangible
19 property shall be apportioned to this state according to the portion of the intangible
20 property's use in this state. If the portion of intangible property's use in this state
21 cannot be determined, the sales of the intangible property shall be excluded from the
22 numerator and the denominator of the sales factor under par. (a). Intangible
23 property is used in this state if a purchaser uses the intangible property in the
24 regular course of the purchaser's business in this state, regardless of where the
25 purchaser's customers are located.

1 **SECTION 9.** 71.04 (7) (dr) of the statutes is created to read:

2 71.04 (7) (dr) For taxable years beginning after December 31, 1999, receipts
3 from the performance of services are attributed to the state where the purchaser
4 received the benefit of the services. If a purchaser receives the benefit of a service
5 in more than one state, the receipts from the performance of the service are included
6 in the numerator of the sales factor under par. (a) according to the portion of the
7 benefit of the service received in this state. If the state where a purchaser received
8 the benefit of a service cannot be determined, the benefit of a service is received in
9 the state where the purchaser, in the regular course of the purchaser's business,
10 ordered the service. If the state where a purchaser ordered a service cannot be
11 determined, the benefit of the service is received in the state where the purchaser,
12 in the regular course of the purchaser's business, receives a bill for the service.

13 **SECTION 10.** 71.25 (5) (b) 2. of the statutes is repealed.

14 ~~**SECTION 11.** 71.25 (6) of the statutes is renumbered 71.25 (6) (intro.) and
15 amended to read:~~

16 ~~71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.
17 (intro.) Corporations engaged in business within and without the state shall be taxed
18 only on such income as is derived from business transacted and property located
19 within the state. The amount of such income attributable to Wisconsin may be
20 determined by an allocation and separate accounting thereof, when the business of
21 such corporation within the state is not an integral part of a unitary business, but
22 the department of revenue may permit an allocation and separate accounting in any
23 case in which it is satisfied that the use of such method will properly reflect the
24 income taxable by this state. In all cases in which allocation and separate accounting
25 is not permissible, the determination shall be made in the following manner: for all~~

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1 businesses except financial organizations, public utilities, railroads, sleeping car
2 companies, car line companies and corporations or associations that are subject to
3 a tax on unrelated business income under s. 71.26 (1) (a) there shall first be deducted
4 from the total net income of the taxpayer the part thereof (less related expenses, if
5 any) that follows the situs of the property or the residence of the recipient. The
6 remaining net income shall be apportioned to Wisconsin by use of an apportionment
7 ~~fraction composed of a sales factor under sub. (9) representing 50% of the fraction,~~
8 ~~a property factor under sub. (7) representing 25% of the fraction and a payroll factor~~
9 ~~under sub. (8) representing 25% of the fraction.~~

10 **SECTION 12.** 71.25 (6) (a) of the statutes is created to read:

11 71.25 (6) (a) For the taxable year beginning on January 1, 2000, an
12 apportionment fraction composed of a sales factor under sub. (9) representing 60%
13 of the fraction, a property factor under sub. (7) representing 20% of the fraction and
14 a payroll factor under sub. (8) representing 20% of the fraction.

15 **SECTION 13.** 71.25 (6) (b) of the statutes is created to read:

16 71.25 (6) (b) For the taxable year beginning on January 1, 2001, an
17 apportionment fraction composed of a sales factor under sub. (9) representing 80%
18 of the fraction, a property factor under sub. (7) representing 10% of the fraction and
19 a payroll factor under sub. (8) representing 10% of the fraction.

20 **SECTION 14.** 71.25 (6) (c) of the statutes is created to read:

21 71.25 (6) (c) For taxable years beginning after December 31, 2001, an
22 apportionment fraction composed of the sales factor under sub. (9).

23 **SECTION 15.** 71.25 (9) (d) of the statutes is amended to read:

24 71.25 (9) (d) Sales, other than sales of tangible personal property, are in this
25 state if the income-producing activity is performed in this state. If the

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1 income-producing activity is performed both in and outside this state the sales shall
2 be divided between those states having jurisdiction to tax such business in
3 proportion to the direct costs of performance incurred in each such state in rendering
4 this service. Services performed in states which do not have jurisdiction to tax the
5 business shall be deemed to have been performed in the state to which compensation
6 is allocated by sub. (8). This paragraph does not apply to taxable years beginning
7 after December 31, 1999.

8 **SECTION 16.** 71.25 (9) (dc) of the statutes is created to read:

9 71.25 (9) (dc) For taxable years beginning after December 31, 1999, sales,
10 rents, royalties, and other income from real property, and the receipts from the lease
11 or rental of tangible personal property are attributed to the state in which the
12 property is located.

13 **SECTION 17.** 71.25 (9) (dg) of the statutes is created to read:

14 71.25 (9) (dg) For taxable years beginning after December 31, 1999, receipts
15 from the lease or rental of moving property including but not limited to motor
16 vehicles, rolling stock, aircraft, vessels, or mobile equipment are included in the
17 numerator of the sales factor under par. (a) to the extent that the property is used
18 in this state. The use of moving property in this state is determined as follows:

19 1. A motor vehicle is used in this state if it is registered in this state and used
20 wholly in this state.

21 2. The use of rolling stock in this state is determined by multiplying the receipts
22 from the lease or rental of the rolling stock by a fraction having as a numerator the
23 miles traveled within this state by the leased or rented rolling stock and having as
24 a denominator the total miles traveled by the leased or rented rolling stock.

1 3. The use of an aircraft in this state is determined by multiplying the receipts
2 from the lease or rental of the aircraft by a fraction having as a numerator the
3 number of landings of the aircraft in this state and having as a denominator the total
4 number of landings anywhere of the aircraft.

5 4. The use of a vessel, mobile equipment or other mobile property in this state
6 is determined by multiplying the receipts from the lease or rental of the property by
7 a fraction having as a numerator the number of days in the taxable year that the
8 vessel, mobile equipment or other mobile property was in this state and having as
9 a denominator the number of days in the taxable year that the vessel, mobile
10 equipment or other mobile property was rented or leased.

11 **SECTION 18.** 71.25 (9) (dn) of the statutes is created to read:

12 71.25 (9) (dn) 1. For taxable years beginning after December 31, 1999, royalties
13 and other income received for the use of intangible property are attributed to the
14 state where the purchaser uses the intangible property. If intangible property is used
15 in more than one state, the royalties and other income received for the use of the
16 intangible property shall be apportioned to this state according to the portion of the
17 intangible property's use in this state. If the portion of intangible property's use in
18 this state cannot be determined, the royalties and other income received for the use
19 of intangible property shall be excluded from the numerator and the denominator of
20 the sales factor under par. (a). Intangible property is used in this state if a purchaser
21 uses the intangible property or uses the rights to intangible property in the regular
22 course of the purchaser's business in this state, regardless of where the purchaser's
23 customers are located.

24 2. For taxable years beginning after December 31, 1999, sales of intangible
25 property are attributed to the state where a purchaser uses the intangible property.

1 If intangible property is used in more than one state, the sales of the intangible
2 property shall be apportioned to this state according to the portion of the intangible
3 property's use in this state. If the portion of intangible property's use in this state
4 cannot be determined, the sales of the intangible property shall be excluded from the
5 numerator and the denominator of the sales factor under par. (a). Intangible
6 property is used in this state if a purchaser uses the intangible property in the
7 regular course of the purchaser's business in this state, regardless of where the
8 purchaser's customers are located.

9 **SECTION 19.** 71.25 (9) (dr) of the statutes is created to read:

10 71.25 (9) (dr) For taxable years beginning after December 31, 1999, receipts
11 from the performance of services are attributed to the state where the purchaser
12 received the benefit of the services. If a purchaser receives the benefit of a service
13 in more than one state, the receipts from the performance of the service are included
14 in the numerator of the sales factor under par. (a) according to the portion of the
15 benefit of the service received in this state. If the state where a purchaser received
16 the benefit of a service cannot be determined, the benefit of a service is received in
17 the state where the purchaser, in the regular course of the purchaser's business,
18 ordered the service. If the state where a purchaser ordered a service cannot be
19 determined, the benefit of the service is received in the state where the purchaser,
20 in the regular course of the purchaser's business, receives a bill for the service.

21 **SECTION 20.** 71.25 (9) (e) (title) of the statutes is repealed.

22 **SECTION 21.** 71.25 (9) (f) (title) of the statutes is repealed.

23 **SECTION 22.** 71.28 (4) (a) of the statutes is amended to read:

24 71.28 (4) (a) *Credit.* Any corporation may credit against taxes otherwise due
25 under this chapter an amount equal to 5% of the amount obtained by subtracting

1 from the corporation's qualified research expenses, as defined in section 41 of the
2 internal revenue code, except that "qualified research expenses" includes only
3 expenses incurred by the claimant, incurred for research conducted in this state for
4 the taxable year, except that a taxpayer may elect the alternative computation under
5 section 41 (c) (4) of the Internal Revenue Code and that election applies until the
6 department permits its revocation and except that "qualified research expenses"
7 does not include compensation used in computing the credit under subs. (1dj) and
8 (1dx), the corporation's base amount, as defined in section 41 (c) of the internal
9 revenue code, except that gross receipts used in calculating the base amount means
10 gross receipts from sales attributable to Wisconsin under s. 71.25(9)(b) 1. and 2. and,
11 (d), (dc), (dg), (dn) and (dr). Section 41 (h) of the internal revenue code does not apply
12 to the credit under this paragraph.

13 **SECTION 23.** 71.28 (4) (am) 1. of the statutes is amended to read:

14 71.28 (4) (am) *Development zone additional research credit.* 1. In addition to
15 the credit under par. (a), any corporation may credit against taxes otherwise due
16 under this chapter an amount equal to 5% of the amount obtained by subtracting
17 from the corporation's qualified research expenses, as defined in section 41 of the
18 internal revenue code, except that "qualified research expenses" include only
19 expenses incurred by the claimant in a development zone under subch. VI of ch. 560,
20 except that a taxpayer may elect the alternative computation under section 41 (c) (4)
21 of the Internal Revenue Code and that election applies until the department permits
22 its revocation and except that "qualified research expenses" do not include
23 compensation used in computing the credit under sub. (1dj) nor research expenses
24 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
25 corporation's base amount, as defined in section 41 (c) of the internal revenue code,

1 in a development zone, except that gross receipts used in calculating the base amount
2 means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and
3 2. ~~and, (d), (dc), (dg), (dn) and (dr)~~ and research expenses used in calculating the base
4 amount include research expenses incurred before the claimant is certified for tax
5 benefits under s. 560.765 (3), in a development zone, if the claimant submits with the
6 claimant's return a copy of the claimant's certification for tax benefits under s.
7 560.765 (3) and a statement from the department of commerce verifying the
8 claimant's qualified research expenses for research conducted exclusively in a
9 development zone. The rules under s. 73.03 (35) apply to the credit under this
10 subdivision. The rules under sub. (1di) (f) and (g) as they apply to the credit under
11 that subsection apply to claims under this subdivision. Section 41 (h) of the internal
12 revenue code does not apply to the credit under this subdivision.

13 **SECTION 24.** 71.45 (3) (intro.) of the statutes is amended to read:

14 71.45 (3) APPORTIONMENT. (intro.) ~~With~~ Except as provided in pars. (a) and (b),
15 with respect to domestic insurers not engaged in the sale of life insurance but which,
16 in the taxable year, have collected premiums written on subjects of insurance
17 resident, located or to be performed outside this state, there shall be subtracted from
18 the net income figure derived by application of sub. (2) (a) to arrive at Wisconsin
19 income constituting the measure of the franchise tax an amount calculated by
20 multiplying such adjusted federal taxable income by the arithmetic average of the
21 following 2 percentages:

22 **SECTION 25.** 71.45 (3) (a) of the statutes is amended to read:

23 71.45 (3) (a) The percentage of total premiums written on all property and risks
24 other than life insurance, wherever located during the taxable year, as reflects
25 premiums written on insurance, other than life insurance, where the subject of

1 insurance was resident, located or to be performed outside this state. ~~For the taxable~~
 2 ~~year beginning on January 1, 2000, the premiums percentage under this paragraph~~
 3 ~~represents 60% of the arithmetic average of the amounts under this paragraph and~~
 4 ~~par. (b). For the taxable year beginning on January 1, 2001, the premiums~~
 5 ~~percentage under this paragraph represents 80% of the arithmetic average of the~~
 6 ~~amounts under this paragraph and par. (b).~~ For taxable years beginning after
 7 December 31, ~~2000~~, the premiums percentage under this paragraph is the only
 8 percentage applied to the apportionment calculations in this paragraph and in sub.
 9 (3m).

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10 SECTION 26. 71.45 (3) (b) of the statutes is renumbered 71.45 (3) (b) 1. and
 11 amended to read:

12 71.45 (3) (b) 1. The percentage of total payroll, exclusive of life insurance
 13 payroll, paid everywhere in the taxable year as reflects such compensation paid
 14 outside this state. ~~For the taxable year beginning on January 1, 2000, the payroll~~
 15 ~~percentage under this paragraph represents 40% of the arithmetic average of the~~
 16 ~~amounts under this paragraph and par. (a). For the taxable year beginning on~~
 17 ~~January 1, 2001, the payroll percentage under this paragraph represents 20% of the~~
 18 ~~arithmetic average of the amounts under this paragraph and par. (a).~~ The payroll
 19 percentage under this paragraph does not apply to the apportionment calculations
 20 under this paragraph and under sub. (3m) for taxable years beginning after
 21 December 31, ~~2001~~.

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22 2. Compensation is paid outside this state if the individual's service is
 23 performed entirely outside this state; or the individual's service is performed both
 24 within and without this state, but the service performed within is incidental to the
 25 individual's service without this state; or some service is performed without this

1 state and the base of operations, or if there is no base of operations, the place from
2 which the service is directed or controlled is without this state, or the base of
3 operations or the place from which the service is directed or controlled is not in any
4 state in which some part of the service is performed, but the individual's residence
5 is outside this state.

6 **SECTION 27.** 71.45 (3m) of the statutes is amended to read:

7 71.45 (3m) ARITHMETIC AVERAGE. The Except as provided in pars. (a) and (b),
8 the arithmetic average of the 2 percentages referred to in sub. (3) shall be applied to
9 the net income figure arrived at by the successive application of sub. (2) (a) and (b)
10 with respect to Wisconsin insurers to which sub. (2) (a) and (b) applies and which
11 have collected premiums written upon insurance, other than life insurance, where
12 the subject of such insurance was resident, located or to be performed outside this
13 state, to arrive at Wisconsin income constituting the measure of the franchise tax.

14 **SECTION 28.** 71.47 (4) (a) of the statutes is amended to read:

15 71.47 (4) (a) *Credit.* Any corporation may credit against taxes otherwise due
16 under this chapter an amount equal to 5% of the amount obtained by subtracting
17 from the corporation's qualified research expenses, as defined in section 41 of the
18 internal revenue code, except that "qualified research expenses" includes only
19 expenses incurred by the claimant, incurred for research conducted in this state for
20 the taxable year, except that a taxpayer may elect the alternative computation under
21 section 41 (c) (4) of the Internal Revenue Code and that election applies until the
22 department permits its revocation and except that "qualified research expenses"
23 does not include compensation used in computing the credit under subs. (1dj) and
24 (1dx), the corporation's base amount, as defined in section 41 (c) of the internal
25 revenue code, except that gross receipts used in calculating the base amount means

1 gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and,~~
2 ~~(d), (dc), (dg), (dn) and (dr).~~ Section 41 (h) of the internal revenue code does not apply
3 to the credit under this paragraph.

4 **SECTION 29.** 71.47 (4) (am) of the statutes is amended to read:

5 71.47 (4) (am) *Development zone additional research credit.* In addition to the
6 credit under par. (a), any corporation may credit against taxes otherwise due under
7 this chapter an amount equal to 5% of the amount obtained by subtracting from the
8 corporation's qualified research expenses, as defined in section 41 of the internal
9 revenue code, except that "qualified research expenses" include only expenses
10 incurred by the claimant in a development zone under subch. VI of ch. 560, except
11 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
12 Internal Revenue Code and that election applies until the department permits its
13 revocation and except that "qualified research expenses" do not include
14 compensation used in computing the credit under sub. (1dj) nor research expenses
15 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
16 corporation's base amount, as defined in section 41 (c) of the internal revenue code,
17 in a development zone, except that gross receipts used in calculating the base amount
18 means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and
19 2. ~~and, (d), (dc), (dg), (dn) and (dr)~~ and research expenses used in calculating the base
20 amount include research expenses incurred before the claimant is certified for tax
21 benefits under s. 560.765 (3), in a development zone, if the claimant submits with the
22 claimant's return a copy of the claimant's certification for tax benefits under s.
23 560.765 (3) and a statement from the department of commerce verifying the
24 claimant's qualified research expenses for research conducted exclusively in a
25 development zone. The rules under s. 73.03 (35) apply to the credit under this

1 paragraph. The rules under sub. (1di) (f) and (g) as they apply to the credit under
 2 that subsection apply to claims under this paragraph. Section 41 (h) of the internal
 3 revenue code does not apply to the credit under this paragraph. No credit may be
 4 claimed under this paragraph for taxable years that begin on January 1, 1998, or
 5 thereafter. Credits under this paragraph for taxable years that begin before January
 6 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or
 7 thereafter.

8 **SECTION 9443. Effective dates; revenue.**

9 (1) APPORTIONMENT FACTORS. The treatment of sections ~~71.04~~ (7) (d), (dc), (dg),
 10 (dn) and (dr), 71.25 (5) (b) 2. ~~and~~ (9) (d), (dc), (dg), (dn) and (dr), 71.28 (4) (a) and (am)
 11 1., 71.45 (3) (intro) and (a) and (3m) and 71.47 (4) (a) and (am) of the statutes ~~the~~^{and}
 12 renumbering and amendment of section ~~71.04 (4) (a), (b) and (c) and 71.25 (6) (a), (b) and~~
 13 statutes ~~and the creation of sections 71.04 (4) (a), (b) and (c) and 71.25 (6) (a), (b) and~~
 14 ~~of the statutes~~ take effect on the January 1 after publication.

15 (END)

71.04(4), (5) (intro), (6) (intro)

7, (6), (7) (intro), (8) (intro), and

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

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Insert 2 - 1

1 SECTION 1. 71.04 (4) of the statutes is amended to read:

2 71.04 (4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA. Nonresident
3 individuals and nonresident estates and trusts engaged in business within and
4 without the state shall be taxed only on such income as is derived from business
5 transacted and property located within the state. The amount of such income
6 attributable to Wisconsin may be determined by an allocation and separate
7 accounting thereof, when the business of such nonresident individual or nonresident
8 estate or trust within the state is not an integral part of a unitary business, but the
9 department of revenue may permit an allocation and separate accounting in any case
10 in which it is satisfied that the use of such method will properly reflect the income
11 taxable by this state. In all cases in which allocation and separate accounting is not
12 permissible, the determination shall be made in the following manner: for all
13 businesses except financial organizations, public utilities, railroads, sleeping car
14 companies and car line companies there shall first be deducted from the total net
15 income of the taxpayer the part thereof (less related expenses, if any) that follows the
16 situs of the property or the residence of the recipient. The For taxable years ending
17 on or before December 31, 1999, the remaining net income shall be apportioned to
18 Wisconsin ^{this state} by use of an apportionment fraction composed of a sales factor
19 representing 50% of the fraction, a property factor representing 25% of the fraction
20 and a payroll factor representing 25% of the fraction. For taxable years beginning
21 on or after January 1, 2000, the remaining net income shall be apportioned to this
22 state by use of an apportionment fraction composed of the sales factor under sub. (7).

Insert 6 - 14

1 **SECTION 2.** 71.25 (6) of the statutes is amended to read:

2 **71.25 (6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA.**

3 Corporations engaged in business within and without the state shall be taxed only
4 on such income as is derived from business transacted and property located within
5 the state. The amount of such income attributable to Wisconsin may be determined
6 by an allocation and separate accounting thereof, when the business of such
7 corporation within the state is not an integral part of a unitary business, but the
8 department of revenue may permit an allocation and separate accounting in any case
9 in which it is satisfied that the use of such method will properly reflect the income
10 taxable by this state. In all cases in which allocation and separate accounting is not
11 permissible, the determination shall be made in the following manner: for all
12 businesses except financial organizations, public utilities, railroads, sleeping car
13 companies, car line companies and corporations or associations that are subject to
14 a tax on unrelated business income under s. 71.26 (1) (a) there shall first be deducted
15 from the total net income of the taxpayer the part thereof (less related expenses, if
16 any) that follows the situs of the property or the residence of the recipient. The For
17 taxable years ending on or before December 31, 1999, the remaining net income shall
18 be apportioned to ~~Wisconsin~~ ^{this state} by use of an apportionment fraction composed of a sales
19 factor under sub. (9) representing 50% of the fraction, a property factor under sub.
20 (7) representing 25% of the fraction and a payroll factor under sub. (8) representing
21 25% of the fraction. For taxable years beginning on or after January 1, 2000, the
22 remaining net income shall be apportioned to this state by use of an apportionment
23 fraction composed of the sales factor under sub. (7).

Insert 3 - 15



1 **SECTION 3.** 71.04 (5) (intro.) of the statutes is amended to read:

2 71.04 (5) **PROPERTY FACTOR.** (intro.) For purposes of sub. (4) and for taxable
3 years ending on or before December 31, 1999:

4 **SECTION 4.** 71.04 (6) (intro.) of the statutes is amended to read:

5 71.04 (6) **PAYROLL FACTOR.** (intro.) For purposes of sub. (4) and for taxable years
6 ending on or before December 31, 1999:

Insert 7 - 22

7 **SECTION 5.** 71.25 (7) (intro.) of the statutes is amended to read:

8 71.25 (7) **PROPERTY FACTOR.** (intro.) For purposes of sub. (5) and for taxable
9 years ending on or before December 31, 1999:

10 **SECTION 6.** 71.25 (8) (intro.) of the statutes is amended to read:

11 71.25 (8) **PAYROLL FACTOR.** (intro.) For purposes of sub. (5) and for taxable years
12 ending on or before December 31, 1999: