



6-15-99

LFB:.....Shanovich (RR) – Phase in single sales factor apportionment and adopt recommendations regarding moving property, insurance companies and financial institutions

FOR 1999-01 BUDGET – NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

RUSH

By
L.P.M.



The location of the taxpayer's trade or business at which the greatest number of the taxpayer's employees work or are regularly connected, as of the last day of the taxable year, is rebuttably presumed to be the taxpayer's commercial domicile.

1 At the locations indicated, amend the bill as follows:

2 1. Page 837, line 3: after that line insert:

3 "SECTION 1673g. 71.01 (1g) of the statutes is created to read:

4 71.01 (1g) "Commercial domicile" means the location of a trade or business
5 from which the trade or business is principally managed in the United States,
6 regardless of whether the trade or business is organized under the laws of a foreign
7 country, the commonwealth of Puerto Rico or any territory or possession of the
8 United States.

9 SECTION 1673m. 71.01 (5r) of the statutes is created to read:

1 71.01 (5r) “Intangible property” includes patents, copyrights, trademarks,
2 trade names, service names, service marks, logos, franchises, licenses, plans,
3 specifications, blueprints, processes, techniques, formulas, designs, layouts,
4 patterns, drawings, manuals, customer lists, contracts, technical know-how and
5 trade secrets. “Intangible property” does not include securities.

6 **SECTION 1673p.** 71.01 (8g) of the statutes is amended to read:

7 71.01 (8g) “Member” does not include a member of a limited liability company
8 treated as a corporation under s. 71.22 (1) (1g).

9 **SECTION 1673r.** 71.01 (8m) of the statutes is amended to read:

10 71.01 (8m) “Partner” does not include a partner of a publicly traded
11 partnership treated as a corporation under s. 71.22 (1) (1g).”.

12 **2.** Page 837, line 13: after that line insert:

13 “**SECTION 1674m.** 71.03 (1) of the statutes is amended to read:

14 71.03 (1) DEFINITION. In this section, “gross income” means all income, from
15 whatever source derived and in whatever form realized, whether in money, property
16 or services, which is not exempt from Wisconsin income taxes. “Gross income”
17 includes, but is not limited to, the following items: compensation for services,
18 including salaries, wages and fees, commissions and similar items; gross income
19 derived from business; interest; rents; royalties; dividends; alimony and separate
20 maintenance payments; annuities; income from life insurance and endowment
21 contracts; pensions; income from discharge of indebtedness; distributive shares of
22 partnership gross income except distributive shares of the income of publicly traded
23 partnerships treated as corporations under s. 71.22 (1) (1g); distributive shares of
24 limited liability company gross income except distributive shares of the income of

1 limited liability companies treated as corporations under s. 71.22 (1) (1g); income in
2 respect of a decedent; and income from an interest in an estate or trust. “Gross
3 income” from a business or farm consists of the total gross receipts without reduction
4 for cost of goods sold, expenses or any other amounts. The gross rental amounts
5 received from rental properties are included in gross income without reduction for
6 expenses or any other amounts. “Gross income” from the sale of securities, property
7 or other assets consists of the gross selling price without reduction for the cost of the
8 assets, expenses of sale or any other amounts. “Gross income” from an annuity,
9 retirement plan or profit sharing plan consists of the gross amount received without
10 reduction for the employe’s contribution to the annuity or plan.”.

11 **3.** Page 837, line 14: after “is” insert “renumbered 71.04 (4) (intro) and”.

12 **4.** Page 837, line 15: after “FORMULA.” insert “(intro.)”.

13 **5.** Page 838, line 1: delete “financial organizations” and substitute “financial
14 organizations telecommunications companies”.

15 **6.** Page 838, line 4: delete the material beginning with “For” and ending with
16 “(7).” on line 10 and substitute “Except as provided under s. 71.25 (9d) and (9g), the
17 remaining net income shall be apportioned to Wisconsin this state by use of an
18 apportionment fraction composed of a sales factor representing 50% of the fraction,
19 a property factor representing 25% of the fraction and a payroll factor representing
20 25% of the fraction. the following:”.

21 **7.** Page 838, line 10: after that line insert:

22 “**SECTION 1675b.** 71.04 (4) (a) of the statutes is created to read:

23 71.04 (4) (a) For taxable years beginning after December 31, 2000, and before
24 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (7)

1 representing 63% of the fraction, a property factor under sub. (5) representing 18.5%
2 of the fraction and a payroll factor under sub. (6) representing 18.5% of the fraction.

3 **SECTION 1675c.** 71.04 (4) (b) of the statutes is created to read:

4 71.04 (4) (b) For taxable years beginning after December 31, 2001, and before
5 January 1, 2003, an apportionment fraction composed of a sales factor under sub. (7)
6 representing 85% of the fraction, a property factor under sub. (5) representing 7.5%
7 of the fraction and a payroll factor under sub. (6) representing 7.5% of the fraction.

8 **SECTION 1675d.** 71.04 (4) (c) of the statutes is created to read:

9 71.04 (4) (c) For taxable years beginning after December 31, 2002, an
10 apportionment fraction composed of the sales factor under sub. (7).”.

11 **8.** Page 838, line 13: on lines 13 and 16, delete “2000” and substitute “2003”.

12 **9.** Page 839, line 14: delete the material beginning with that line and ending
13 with page 841, line 14, and substitute:

14 “1. The use of a motor vehicle or rolling stock in this state is determined by
15 multiplying the gross receipts from the lease or rental of the motor vehicle or rolling
16 stock by a fraction having as a numerator the number of miles traveled within this
17 state by the motor vehicle or rolling stock while leased or rented in the taxable year
18 and having as a denominator the total number of miles traveled by the motor vehicle
19 or rolling stock while leased or rented in the taxable year.

20 2. The use of an aircraft in this state is determined by multiplying the gross
21 receipts from the lease or rental of the aircraft by a fraction having as a numerator
22 the number of landings of the aircraft in this state while leased or rented in the
23 taxable year and having as a denominator the total number of landings of the aircraft
24 while leased or rented in the taxable year.

1 3. The use of a vessel or mobile equipment in this state is determined by
2 multiplying the gross receipts from the lease or rental of the vessel or mobile
3 equipment by a fraction having as a numerator the number of days that the vessel
4 or mobile equipment is in this state while leased or rented in the taxable year and
5 having as a denominator the total number of days that the vessel or mobile
6 equipment is leased or rented in the taxable year.

7 4. If the taxpayer does not know the location of moving property while such
8 property is leased or rented in the taxable year, the moving property is used in the
9 state in which such property is located at the time the lessee or renter takes
10 possession of the property.

11 **SECTION 1681.** 71.04 (7) (dn) of the statutes is created to read:

12 71.04 (7) (dn) For taxable years beginning after December 31, 1999, gross
13 royalties and gross income received for the use of intangible property are attributed
14 to this state if any of the following occurs:

15 1. The purchaser of intangible property uses the intangible property in the
16 production, fabrication or manufacturing of a product that is sold to a customer who
17 is located in this state.

18 2. The purchaser of intangible property uses the intangible property in the
19 printing or publication of materials that are sold to a customer who is located in this
20 state.

21 3. The purchaser of intangible property uses the intangible property in the
22 operation of a trade or business at a location in this state.

23 4. The purchaser of intangible property is billed for the purchase of the
24 intangible property at a location in this state.

1 5. The taxpayer is not subject to income tax in the state in which the intangible
2 property is used but the taxpayer's commercial domicile is in this state.

3 **SECTION 1682.** 71.04 (7) (dr) of the statutes is created to read:

4 71.04 (7) (dr) 1. For taxable years beginning after December 31, 1999, receipts
5 from a service are attributed to the state where the purchaser of the service received
6 the benefit of the service. The benefit of a service is received in this state if any of
7 the following applies:

8 a. The service relates to real property that is located in this state.

9 b. The service relates to tangible personal property that is located in this state
10 at the time that the service is received.

11 c. The service is provided to a person who is located in this state.

12 d. The service is provided to a person doing business in this state.

13 e. The service is performed at a location in this state.

14 2. If the purchaser of a service receives the benefit of a service in more than one
15 state, the receipts from the performance of the service are included in the numerator
16 of the sales factor under par. (a) according to the portion of the service received in this
17 state. If the state where a purchaser received the benefit of a service cannot be
18 determined, the benefit of a service is received in the state where the purchaser, in
19 the regular course of the purchaser's business, ordered the service. If the state where
20 a purchaser ordered a service cannot be determined, the benefit of the service is
21 received in the state where the purchaser, in the regular course of the purchaser's
22 business, receives a bill for the service.

23 3. If the taxpayer is not subject to income tax in the state in which the benefit
24 of the service is received, the benefit of the service is received in this state to the

1 extent that the taxpayer's employes or representatives performed services from a
2 location in this state.

3 **SECTION 1682b.** 71.04 (7) (ds) of the statutes is created to read:

4 71.04 (7) (ds) 1. For taxable years beginning after December 31, 1999, the gate
5 receipts from professional sporting events are attributed to the state in which the
6 taxpayer's sports facility is located. Gate receipts include the taxpayer's in-state
7 gate receipts and the taxpayer's share of out-of-state gate receipts.

8 2. For taxable years beginning after December 31, 1999, radio and television
9 receipts received by the taxpayer from a professional sports association contract with
10 a communications network are attributed to this state in proportion to the number
11 of events held in this state in which the taxpayer's team is a participant and that are
12 related to the contract compared to the total number of events in which the
13 taxpayer's team is a participant and that are related to the contract.

14 **SECTION 1682c.** 71.04 (7) (dt) of the statutes is created to read:

15 71.04 (7) (dt) 1. For taxable years beginning after December 31, 1999, the gross
16 receipts from radio and television broadcasting, including advertising revenue, are
17 attributed to this state in proportion to the audience in this state as compared to the
18 total audience.

19 2. For taxable years beginning after December 31, 1999, the gross receipts from
20 newspapers and magazines, including advertising revenue, are attributed to this
21 state in proportion to the circulation in this state as compared to the total circulation.

22 **SECTION 1682d.** 71.04 (7) (dw) of the statutes is created to read:

23 71.04 (7) (dw) 1. Except as provided in subds. 2. and 3., if a person doing
24 business in this state and outside this state owns a business that is subject to
25 apportionment under sub. (4) or s. 71.25 (6) and a business that is subject to

1 apportionment under sub. (8), the person shall apportion income as provided under
2 sub. (4) or s. 71.25 (6).

3 2. A person who has filed a tax return and who has reported income on the
4 return as apportioned under subd. 1 may request permission from the department
5 to use an alternative apportionment method in the next taxable year, if the person
6 receives at least 50% of the person's total gross receipts in a taxable year from a
7 business described under sub. (8) (c). If the department grants permission to a
8 person to use an alternative apportionment method under this subdivision, the
9 person may not use the alternative method, and shall apportion income under subd.
10 1., if the person receives less than 50% of the person's total gross receipts in a taxable
11 year from a business described under sub. (8) (c).

12 3. The department may require that a person who is subject to apportionment
13 under this subsection use an alternative apportionment method to accurately reflect
14 income that is attributable to this state.

15 **SECTION 1682m.** 71.04 (8) (title) of the statutes is amended to read:

16 71.04 (8) (title) RAILROADS, ~~FINANCIAL ORGANIZATIONS~~ TELECOMMUNICATIONS
17 COMPANIES AND PUBLIC UTILITIES.

18 **SECTION 1682p.** 71.04 (8) (c) of the statutes is amended to read:

19 71.04 (8) (c) The net business income of railroads, sleeping car companies, car
20 line companies, financial organizations, telecommunications companies and public
21 utilities requiring apportionment shall be apportioned pursuant to rules of the
22 department of revenue, but the income taxed is limited to the income derived from
23 business transacted and property located within the state. For taxable years
24 beginning after December 31, 1999, the net business income of financial
25 organizations shall be apportioned under s. 71.25 (9d).

insert 8-17 ✓

1 **SECTION 1682r.** 71.04 (10) of the statutes is amended to read:

2 **71.04 (10) DEPARTMENT MAY WAIVE FACTOR.** Where, in the case of any nonresident
3 individual or nonresident estate or trust engaged in business within and without the
4 state of Wisconsin and required to apportion its income as provided in this section,
5 it shall be shown to the satisfaction of the department of revenue that the use of any
6 one of the 3 factors provided under sub. (4) gives an unreasonable or inequitable final
7 average ratio because of the fact that such nonresident individual or nonresident
8 estate or trust does not employ, to any appreciable extent in its trade or business in
9 producing the income taxed, the factors made use of in obtaining such ratio, this
10 factor may, with the approval of the department of revenue, be omitted in obtaining
11 the final average ratio which is to be applied to the remaining net income. This
12 subsection does not apply to taxable years beginning after December 31, 2002.”

13 **10.** Page 854, line 14: after that line insert:

14 **“SECTION 1710d.** 71.07 (3m) (a) 1. b. of the statutes is amended to read:

15 **71.07 (3m) (a) 1. b.** For partnerships except publicly traded partnerships
16 treated as corporations under s. 71.22 ~~(1)~~ **(1g)**, or limited liability companies, except
17 limited liability companies treated as corporations under s. 71.22 ~~(1)~~ **(1g)**, “claimant”
18 means each individual partner or member.”

19 **11.** Page 856, line 2: after that line insert:

20 **“SECTION 1719d.** 71.07 (10) of the statutes is amended to read:

21 **71.07 (10) CREDITS NOT ALLOWED.** The credits under s. 71.28 (4) and (5) may not
22 be claimed by partners, including partners of a publicly traded partnership treated
23 as a corporation under s. 71.22 ~~(1)~~ **(1g)**, members of a limited liability company,

1 including members of a limited liability company treated as a corporation under s.
2 77.22 ~~(4)~~ (1g), or shareholders of a tax-option corporation.”.

3 **12.** Page 856, line 24: after that line insert:

4 “SECTION 1722d. 71.195 of the statutes is amended to read:

5 **71.195 Definition.** In this subchapter, “partnership” includes limited liability
6 companies and other entities that are treated as partnerships under the Internal
7 Revenue Code, and “partnership” does not include publicly traded partnerships
8 treated as corporations under s. 71.22 ~~(4)~~ (1g).

9 **SECTION 1722g.** 71.22 (1) of the statutes is renumbered 71.22 (1g).

10 **SECTION 1722h.** 71.22 (1d) of the statutes is created to read:

11 71.22 (1d) “Commercial domicile” means the location of a trade or business
12 from which the trade or business is principally managed in the United States,
13 regardless of whether the trade or business is organized under the laws of a foreign
14 country, the commonwealth of Puerto Rico or any territory or possession of the
15 United States.

16 **SECTION 1722m.** 71.22 (3g) of the statutes is created to read:

17 71.22 (3g) “Intangible property” includes patents, copyrights, trademarks,
18 trade names, service names, service marks, logos, franchises, licenses, plans,
19 specifications, blueprints, processes, techniques, formulas, designs, layouts,
20 patterns, drawings, manuals, customer lists, contracts, technical know-how and
21 trade secrets. “Intangible property” does not include securities.”

22 **13.** Page 858, line 7: after “is” insert “renumbered 71.25 (6) (intro) and”.

23 **14.** Page 858, line 8: after “FORMULA” insert “(intro.)”.

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The location of the taxpayer's trade or business at which the greatest number of the taxpayer's employees work or are present as of the last day of the taxable year, is rebuttably presumed to be the taxpayer's commercial domicile.

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15. Page 858, line 22: delete the material beginning with "or the" and ending with "(9)." on page 859, line 4, and substitute "or the residence of the recipient."

~~Except as provide in subs. (9d) and (9g), the remaining net income shall be apportioned to Wisconsin this state by use of an apportionment fraction composed of a sales factor under sub. (9) representing 50% of the fraction, a property factor under sub. (7) representing 25% of the fraction and a payroll factor under sub. (8) representing 25% of the fraction. the following:"~~

16. Page 859, line 4: after that line insert:

SECTION 1729b. 71.25 (6) (a) of the statutes is created to read:

71.25 (6) (a) For taxable years beginning after December 31, 2000, and before January 1, 2002, an apportionment fraction composed of a sales factor under sub. (9) representing 63% of the fraction, a property factor under sub. (7) representing 18.5% of the fraction and a payroll factor under sub. (8) representing 18.5% of the fraction.

SECTION 1729c. 71.25 (6) (b) of the statutes is created to read:

71.25 (6) (b) For taxable years beginning after December 31, 2001, and before January 1, 2003, an apportionment fraction composed of a sales factor under sub. (9) representing 85% of the fraction, a property factor under sub. (7) representing 7.5% of the fraction and a payroll factor under sub. (8) representing 7.5% of the fraction.

SECTION 1729d. 71.25 (6) (c) of the statutes is created to read:

71.25 (6) (c) For taxable years beginning after December 31, 2002, an apportionment fraction composed of the sales factor under sub. (9)."

17. Page 859, line 7: on lines 7 and 10, delete "2000" and substitute "2003".

18. Page 860, line 7: delete the material beginning with that line and ending with page 862, line 7, and substitute:

1 “1. The use of a motor vehicle or rolling stock in this state is determined by
2 multiplying the gross receipts from the lease or rental of the motor vehicle or rolling
3 stock by a fraction having as a numerator the number of miles traveled within this
4 state by the motor vehicle or rolling stock while leased or rented in the taxable year
5 and having as a denominator the total number of miles traveled by the motor vehicle
6 or rolling stock while leased or rented in the taxable year.

7 2. The use of an aircraft in this state is determined by multiplying the gross
8 receipts from the lease or rental of the aircraft by a fraction having as a numerator
9 the number of landings of the aircraft in this state while leased or rented in the
10 taxable year and having as a denominator the total number of landings of the aircraft
11 while leased or rented in the taxable year.

12 3. The use of a vessel or mobile equipment in this state is determined by
13 multiplying the gross receipts from the lease or rental of the vessel or mobile
14 equipment by a fraction having as a numerator the number of days that the vessel
15 or mobile equipment is in this state while leased or rented in the taxable year and
16 having as a denominator the total number of days that the vessel or mobile
17 equipment is leased or rented in the taxable year.

18 4. If the taxpayer does not know the location of moving property while such
19 property is leased or rented in the taxable year, the moving property is used in the
20 state in which such property is located at the time the lessee or renter takes
21 possession of the property.

22 **SECTION 1735.** 71.25 (9) (dn) of the statutes is created to read:

23 71.25 (9) (dn) For taxable years beginning after December 31, 1999, gross
24 royalties and gross income received for the use of intangible property are attributed
25 to this state if any of the following applies:

1 1. The purchaser of intangible property uses the intangible property in the
2 production, fabrication or manufacturing of a product that is sold to a customer who
3 is located in this state.

4 2. The purchaser of intangible property uses the intangible property in the
5 printing or publication of materials that are sold to a customer who is located in this
6 state.

7 3. The purchaser of intangible property uses the intangible property in the
8 operation of a trade or business at a location in this state.

9 4. The purchaser of intangible property is billed for the purchase of the
10 intangible property at a location in this state.

11 5. The taxpayer is not subject to income tax in the state in which the intangible
12 property is used but the taxpayer's commercial domicile is in this state.

13 **SECTION 1736.** 71.25 (9) (dr) of the statutes is created to read:

14 71.25 (9) (dr) 1. For taxable years beginning after December 31, 1999, receipts
15 from a service are attributed to the state where the purchaser of the service received
16 the benefit of the service. The benefit of a service is received in this state if any of
17 the following applies:

18 a. The service relates to real property that is located in this state.

19 b. The service relates to tangible personal property that is located in this state
20 at the time that the service is received.

21 c. The service is provided to a person who is located in this state.

22 d. The service is provided to a person doing business in this state.

23 e. The service is performed at a location in this state.

24 2. If the purchaser of a service receives the benefit of a service in more than one
25 state, the receipts from the performance of the service are included in the numerator

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

8 3. If the taxpayer is not subject to income tax in the state in which the benefit
9 of the service is received, the benefit of the service is received in this state to the
10 extent that the taxpayer's employes or representatives performed services from a
11 location in this state.

12 **SECTION 1736b.** 71.25 (9) (ds) of the statutes is created to read:

13 71.25 (9) (ds) 1. For taxable years beginning after December 31, 1999, the gate
14 receipts from professional sporting events are attributed to the state in which the
15 taxpayer's sports facility is located. Gate receipts include the taxpayer's in-state
16 gate receipts and the taxpayer's share of out-of-state gate receipts.

17 2. For taxable years beginning after December 31, 1999, radio and television
18 receipts received by the taxpayer from a professional sports association contract with
19 a communications network are attributed to this state in proportion to the number
20 of events held in this state in which the taxpayer's team is a participant and that are
21 related to the contract compared to the total number of events in which the
22 taxpayer's team is a participant and that are related to the contract.

23 **SECTION 1736c.** 71.25 (9) (dt) of the statutes is created to read:

24 71.25 (9) (dt) 1. For taxable years beginning after December 31, 1999, the gross
25 receipts from radio and television broadcasting, including advertising revenue, are

1 attributed to this state in proportion to the audience in this state as compared to the
2 total audience.

3 2. For taxable years beginning after December 31, 1999, the gross receipts from
4 newspapers and magazines, including advertising revenue, are attributed to this
5 state in proportion to the circulation in this state as compared to the total circulation.

6 **SECTION 1736d.** 71.25 (9) (dw) of the statutes is created to read:

7 71.25 (9) (dw) 1. Except as provided in subds. 2. and 3., if a person doing
8 business in this state and outside this state owns a business that is subject to
9 apportionment under sub. (6) or s. 71.04 (4) and a business that is a subject to
10 apportionment under sub. (10), the person shall apportion income as provided under
11 sub. (6) or s. 71.04 (4).

12 2. A person who has filed a tax return and who has reported income on the
13 return as apportioned under subd. 1 may request permission from the department
14 to use an alternative apportionment method in the next taxable year, if the person
15 receives at least 50% of the person's total gross receipts in a taxable year from a
16 business described under sub. (10) (c). If the department grants permission to a
17 person to use an alternative apportionment method under this subdivision, the
18 person may not use the alternative method, and shall apportion income under subd.
19 1., if the person receives less than 50% of the person's total gross receipts in a taxable
20 year from a business described under sub. (10) (c).

21 3. The department may require that a person who is subject to apportionment
22 under this subsection use an alternative apportionment method to accurately reflect
23 income that is attributable to this state.”

24 **19.** Page 862, line 9: after that line insert:

1 **“SECTION 1738g.** 71.25 (9d) of the statutes is created to read:

2 **71.25 (9d) FINANCIAL ORGANIZATIONS.** (a) *Definitions.* In this subsection:

3 1. “Billing address” means the address to which a taxpayer under this
4 subsection sends a notice, statement or bill to the taxpayer’s customer.

5 2. “Credit card” includes a debit card and a travel and entertainment card.

6 3. “Credit card reimbursement fee” means the fee that a taxpayer receives from
7 a merchant’s bank because a person to whom the taxpayer has issued a credit card
8 has paid for merchandise or services sold by the merchant with the credit card.

9 4. “Financial organization” means a bank; a savings bank; a bank holding
10 company; a savings and loan association; a trust company; a credit union, except a
11 credit union that is exempt from taxes under s. 71.26 (1) (a); a production credit
12 association; or an agency or branch of a foreign depository; whether chartered under
13 the laws of this state, another state or territory, the laws of the United States or the
14 laws of a foreign county. “Financial organization” includes a corporation that derives
15 at least 50% of its total gross income from finance leases, including direct finance
16 leases and leverage leases as defined by rule, and a corporation that derives at least
17 50% of its total gross income from an activity that a financial organization performs,
18 except that “financial organization” does not include an insurance company that is
19 taxable under s. 71.43 or a real estate broker, securities dealer or broker–dealer that
20 is taxable under s. 71.26.

21 5. “Loan” means any extension of credit or creation of debt that results from
22 direct negotiations between the taxpayer under this subsection and the taxpayer’s
23 customer; the purchase, in whole or in part, of an extension of credit; and
24 participations, syndications and leases that are considered loans for federal income
25 tax purposes. “Loan” does not include loans under section 595 of the Internal

1 Revenue Code; futures or forward contracts; options; notional principal contracts;
2 credit card receivables; purchased credit card relationships; noninterest bearing
3 balances that are due from depository institutions; cash items in the process of
4 collection; federal funds sold; securities; assets held in a trading account; and
5 interest in any mortgage-backed or assets-backed security.

6 6. “Merchant discount” means a fee or discount that is charged to a merchant
7 for accepting a credit card as payment for merchandise or services that are sold to
8 the credit card holder.

9 7. “State” means a state of the United States, the District of Columbia, the
10 commonwealth of Puerto Rico or a territory or possession of the United States.

11 8. “Taxpayer” means a financial organization that is subject to apportionment
12 under this subsection.

13 (b) *Apportionment.* For taxable years beginning after December 31, 1999, a
14 financial organization that does business in this state and outside this state shall
15 apportion its net business income as provided in this subsection. A taxpayer that is
16 subject to this subsection shall apportion its nonbusiness income under sub. (5) (b)
17 and shall deduct the net business income that follows the situs of its property from
18 its total net business income. The taxpayer’s remaining net business income shall
19 be apportioned to this state by multiplying the remaining net business income by an
20 apportionment fraction that has as a numerator the gross receipts of the taxpayer
21 in this state during the taxable year and that has a denominator the taxpayer’s total
22 gross receipts during the taxable year. The following sources of a taxpayer’s business
23 income are subject to apportionment:

1 1. ‘Gross receipts from the lease of real property.’ Gross receipts from the lease,
2 rental or sublease of real property owned by the taxpayer shall be apportioned under
3 sub. (9) (dc).

4 2. ‘Gross receipts from the lease of tangible personal property.’ Gross receipts
5 from the lease, rental or sublease of tangible personal property owned by the
6 taxpayer shall be apportioned under sub. (9) (dc) and (dg).

7 3. ‘Gross interest from loans secured by real property.’ The numerator of the
8 apportionment fraction includes gross interest, fees or penalties from loans that are
9 secured by real property if the real property is located in this state at the time the
10 loan is secured and if the value of the real property represents at least 50% of the
11 aggregate value of the collateral that is used to secure the loan. If the real property
12 that is used to secure a loan is located in this state and in another state or a foreign
13 country, the gross interest, fees or penalties from the loan are included in the
14 numerator of the apportionment fraction, if at least 50% of the fair market value of
15 the real property is located within this state or if the loan borrower is located in this
16 state.

17 4. ‘Gross interest from loans.’ The numerator of the apportionment fraction
18 includes gross interest, fees or penalties from loans that are not secured by real
19 property, if the loan borrower is located in this state.

20 5. ‘Sale of loans.’ The numerator of the apportionment fraction includes income
21 from the sale of loans and income under section 1286 of the Internal Revenue Code.
22 The income that is included in the numerator is determined as follows:

23 a. The gross receipts from the sale of loans secured by real property is
24 multiplied by a fraction that has as a numerator the amount included in the

1 numerator under subd. 3 and that has as a denominator the total amount of interest,
2 fees and penalties from loans that are secured by real property.

3 b. The net gains from the sale of loans that are not secured by real property is
4 multiplied by a fraction that has as a numerator the amount included in the
5 numerator under subd. 4. and that has as a denominator the total amount of interest,
6 fees and penalties from loans that are not secured by real property.

7 6. 'Credit card receivables.' The numerator of the apportionment fraction
8 includes gross interest, fees or penalties from credit card receivables and gross
9 receipts from fees charged to credit card holders, if the billing address of the credit
10 card holder is in this state.

11 7. 'Gross receipts from the sale of credit card receivables.' The numerator of
12 the apportionment fraction includes gross receipts from the sale of credit card
13 receivables, multiplied by a fraction that has as a numerator the amount included
14 in the numerator under subd. 6. and that has as a denominator the total amount of
15 interest, fees and penalties that are charged to credit card holders.

16 8. 'Credit card reimbursement fees.' The numerator of the apportionment
17 fraction includes credit card reimbursement fees, multiplied by a fraction that has
18 as a numerator the amount included in the numerator under subd. 6. and that has
19 as a denominator the total amount of interest, fees and penalties that are charged
20 to credit card holders.

21 9. 'Gross receipts from a merchant discount.' The numerator of the
22 apportionment fraction includes gross receipts from a merchant discount if the
23 merchant's business is principally managed from a location in this state. The gross
24 receipts from a merchant discount shall not include credit card holder charge backs.

1 The amount of gross receipts from a merchant discount shall not be reduced by
2 interchange transaction fees or by a credit card reimbursement fee.

3 10. 'Loan servicing fees.' a. The numerator of the apportionment fraction
4 includes loan servicing fees derived from loans that are secured by real property,
5 multiplied by a fraction that has as a numerator the amount included in the
6 numerator under subd. 3. and that has as a denominator the total amount of interest,
7 fees and penalties from loans that are secured by real property. The numerator of
8 the apportionment fraction also includes loan servicing fees derived from loans that
9 are not secured by real property, multiplied by a fraction that has as a numerator the
10 amount included in the numerator under subd. 4. and that has as a denominator the
11 total amount of interest, fees and penalties from loans that are not secured by real
12 property.

13 b. If the taxpayer receives loan servicing fees for servicing a loan, the
14 numerator of the apportionment fraction shall include such fees if the borrower of
15 the loan is located in this state.

16 11. 'Gross income from investment banking services.' The numerator of the
17 apportionment fraction includes gross income, including commissions, management
18 fees or underwriting fees, earned from investment banking services if the purchaser
19 of the services is located in this state.

20 12. 'Gross receipts from other services.' The gross receipts from services that
21 are not described under subsd. 1. to 11. shall be apportioned under sub. (9) (dr).

22 13. 'Other sales.' Sales under sub. (9) that are not apportioned under this
23 subsection shall be apportioned under sub. (9).

24 (c) *Receipts not taxed.* Fifty percent of the gross receipts of the taxpayer that
25 are apportioned under this subsection to a state in which the taxpayer is not taxable

1 is included in the numerator of the apportionment fraction under par. (b), if the
2 taxpayer's commercial domicile is in this state.

3 **SECTION 1738k.** 71.25 (9g) of the statutes is created to read:

4 **71.25 (9g) BROKERS AND UNDERWRITERS.** (a) *Definitions.* In this subsection:

5 1. "Billing address" has the meaning given in sub. (9d) (a) 1.

6 2. "Brokerage commission" includes sales fees on agency or principal
7 transactions.

8 3. "Broker-dealer" means a person who does business as a broker of securities
9 or commodities. "Broker-dealer" does not include a sales agent; a bank, savings
10 institution or trust company that enters a securities or commodities transaction as
11 an agent; an executor, guardian or conservator who enters a securities or commodities
12 transaction as an agent for another; or a person who purchases or sells the person's
13 own securities or commodities.

14 4. "Taxpayer" means a broker or an underwriter who is subject to
15 apportionment under this subsection.

16 5. "Underwriter" means a person who guarantees to provide a definite sum of
17 money by a definite date to a corporate or government entity in exchange for
18 securities; who markets a corporate or government security offering to the public; or
19 who buys a security offering for a specified price and sells the security offering to the
20 public.

21 (b) *Apportionment.* For taxable years beginning after December 31, 1999, a
22 broker or an underwriter who does business in this state and outside this state shall
23 apportion its net business income as provided under this subsection. A taxpayer that
24 is subject to this subsection shall apportion its nonbusiness income under sub. (5) (b)
25 and shall deduct the net business income that follows the situs of its property from

1 its total net business income. The taxpayer's remaining net business income shall
2 be apportioned to this state by multiplying the remaining net business income by an
3 apportionment fraction that has as a numerator the gross receipts of the taxpayer
4 in this state during the taxable year and that has a denominator the taxpayer's total
5 gross receipts during the taxable year. The following sources of a taxpayer's business
6 income are subject to apportionment:

7 1. 'Security brokerage services.' The numerator of the apportionment fraction
8 includes gross brokerage commissions and total margin interest paid on behalf of
9 brokerage accounts owned by customers, if the billing address of the customer is in
10 this state.

11 2. 'Underwriting services.' The numerator of the apportionment fraction
12 includes gross income, including commissions, management fees or underwriting
13 fees, earned from underwriting services if the purchaser of the services is located in
14 this state.

15 3. 'Other services.' The numerator of the apportionment fraction includes gross
16 income, including commissions or management fees, earned from providing
17 investment research, management services or financial services to a customer, if the
18 customer's billing address is in this state.

19 4. 'Other sales.' Sales under sub. (9) ^{Fifty percent of} that are not apportioned under this
20 subsection shall be apportioned under sub. (9).

21 (c) *Receipts not taxed.* ~~The~~ gross receipts of the taxpayer that are apportioned
22 under this subsection to a state in which the taxpayer is not taxable are included in
23 the numerator of the apportionment fraction under par. (b), if the taxpayer's
24 commercial domicile is in this state.

25 **SECTION 1738m.** 71.25 (10) (title) of the statutes is amended to read:

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71.25 (10) (title) RAILROADS, ~~FINANCIAL ORGANIZATIONS~~ TELECOMMUNICATIONS

COMPANIES AND PUBLIC UTILITIES.

SECTION 1738p. 71.25 (10) (c) of the statutes is amended to read:

71.25 (10) (c) The net business income of railroads, sleeping car companies, car line companies, financial organizations, telecommunications companies and public utilities requiring apportionment shall be apportioned pursuant to rules of the department of revenue, but the income taxed is limited to the income derived from business transacted and property located within the state. For taxable years beginning after December 31, 1999, the net business income of financial organizations shall be apportioned under sub. (9d).

SECTION 1738r. 71.25 (11) of the statutes is amended to read:

71.25 (11) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any corporation engaged in business within and without the state of Wisconsin and required to apportion its income as provided in sub. (6), it shall be shown to the satisfaction of the department of revenue that the use of any one of the 3 factors provided in sub. (6) gives an unreasonable or inequitable final average ratio because of the fact that such corporation does not employ, to any appreciable extent in its trade or business in producing the income taxed, the factors made use of in obtaining such ratio, this factor may, with the approval of the department of revenue, be omitted in obtaining the final average ratio which is to be applied to the remaining net income. This subsection does not apply to taxable years beginning after December 31, 2002.

20. Page 877, line 22: after that line insert:

SECTION 1744b. 71.28 (2m) (a) 1. b. of the statutes is amended to read:

1 71.28 (2m) (a) 1. b. For partnerships, except publicly traded partnerships
2 treated as corporations under s. 71.22 (1) (1g), or limited liability companies, except
3 limited liability companies treated as corporations under s. 71.22 (1) (1g), “claimant”
4 means each individual partner or member.”.

5 **21.** Page 878, line 13: delete the material beginning with that line and ending
6 with page 879, line 12 and substitute:

7 “**SECTION 1746d.** 71.28 (4) (i) of the statutes is amended to read:

8 71.28 (4) (i) *Nonclaimants.* The credits under this subsection may not be
9 claimed by a partnership, except a publicly traded partnership treated as a
10 corporation under s. 71.22 (1) (1g), limited liability company, except a limited liability
11 company treated as a corporation under s. 71.22 (1) (1g), or tax-option corporation
12 or by partners, including partners of a publicly traded partnership, members of a
13 limited liability company or shareholders of a tax-option corporation.”.

14 **22.** Page 880, line 1: delete lines 1 to 17 and substitute:

15 “**SECTION 1750.** 71.45 (3) (intro.) of the statutes is amended to read:

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

1 **SECTION 1751.** 71.45 (3) (a) of the statutes is amended to read:

2 71.45 (3) (a) The Subject to par. (c), the percentage determined by dividing the
3 sum of total direct premiums written on all property and risks for insurance other
4 than life insurance, on subjects of insurance resident, located or to be performed in
5 this state, and assumed premiums written for reinsurance, other than life insurance,
6 with respect to all property and risks resident, located or to be performed in this
7 state, by the sum of direct premiums written for insurance on all property and risks,
8 other than life insurance, wherever located during the taxable year, as reflects, and
9 assumed premiums written on insurance for reinsurance on all property and risks,
10 other than life insurance, where the subject of insurance was resident, located or to
11 be performed outside this state wherever located. In this paragraph, “direct
12 premiums” means direct premiums as reported for the taxable year on an annual
13 statement that is filed by the insurer with the commissioner of insurance. In this
14 paragraph, “assumed premiums” means assumed reinsurance premiums from
15 domestic insurance companies as reported for the taxable year on an annual
16 statement that is filed by the commissioner of insurance.”.

17 **23.** Page 880, line 20: delete lines 20 to 24 and substitute:

18 “71.45 (3) (b) 1. The Subject to par. (c), the percentage of determined by dividing
19 the payroll, exclusive of life insurance payroll, paid in this state in the taxable year
20 by total payroll, exclusive of life insurance payroll, paid everywhere in the taxable
21 year as reflects such compensation paid outside this state.”.

22 **24.** Page 881, line 9: after that line insert:

23 **“SECTION 1752d.** 71.45 (3) (c) of the statutes is created to read:

1 71.45 (3) (c) 1. For taxable years beginning after December 31, 2000, and before
2 January 1, 2002, the percentage under par. (a) represents 63% of the average of the
3 amounts under pars. (a) and (b) 1.

4 2. For taxable years beginning after December 31, 2001, and before January
5 1, 2003, the percentage under par. (a) represents 85% of the average of the amounts
6 under pars. (a) and (b) 1.

7 3. For taxable years beginning after December 31, 2002, a domestic insurer
8 that is subject to apportionment under this subsection shall multiply the net income
9 figure derived by application of sub. (2) by the percentage under par. (a) to determine
10 Wisconsin income for purposes of the franchise tax.”.

11 **25.** Page 881, line 11: delete “pars. (a) and (b)” and substitute “sub. (3) (c)”.

12 **26.** Page 882, line 8: after that line insert:

13 “**SECTION 1757b.** 71.47 (2m) (a) 1. b. of the statutes is amended to read:

14 71.47 (2m) (a) 1. b. For partnerships, except publicly traded partnerships
15 treated as corporations under s. 71.22 (1) (1g), or limited liability companies, except
16 limited liability companies treated as corporations under s. 71.22 (1) (1g), “claimant”
17 means each individual partner or member.”.

18 **27.** Page 882, line 24: delete the material beginning with that line and ending
19 with page 884, line 3, and substitute:

20 “**SECTION 1759d.** 71.47 (4) (i) of the statutes is amended to read:

21 71.47 (4) (i) *Nonclaimants.* The credits under this subsection may not be
22 claimed by a partnership, except a publicly traded partnership treated as a
23 corporation under s. 71.22 (1) (1g), limited liability company, except a limited liability
24 company treated as a corporation under s. 71.22 (1) (1g), or tax-option corporation

1 or by partners, including partners of a publicly traded partnership, members of a
2 limited liability company or shareholders of a tax-option corporation.”.

3 **28.** Page 885, line 10: after that line insert:

4 “SECTION 1764q. 71.58 (1) (c) of the statutes is amended to read:

5 71.58 (1) (c) For partnerships except publicly traded partnerships treated as
6 corporations under s. 71.22 (1) (1g), “claimant” means each individual partner.

7 **SECTION 1764s.** 71.58 (1) (cm) of the statutes is amended to read:

8 71.58 (1) (cm) For limited liability companies, except limited liability
9 companies treated as corporations under s. 71.22 (1) (1g), “claimant” means each
10 individual member.”.

and (8) (title), (a) and (c),

11 **29.** Page 1477, line 7: delete lines 7 to 11 and substitute:

12 “(7to) APPORTIONMENT FACTORS. The treatment of sections 71.01 (1g), (8g), (8m)
13 and (5r), 71.03 (1), 71.04 (4) (a), (b) and (c), (5) (intro.), (6) (intro.) *and* (7) (d), (dc), (dg),
14 (dn), (dr), (ds), (dt) and (dw), 71.07 (3m) (a) 1. b. and (10), 71.195, 71.22 (1), (1d) and
15 (3g), 71.25 (6) (a), (b) and (c), (7) (intro.), (8) (intro.) ~~and~~ (9) (d), (dc), (dg), (dn), (dr),
16 (ds), (dt) and (dw), 71.28 (2m) (a) 1. b. and (4) (a), (am) 1. and (i), 71.45 (3) (intro.),
17 (a) and (c) and (3m), 71.47 (2m) (a) 1. b. and (4) (a), (am) and (i) and 71.58 (1) (c) and
18 (cm) of the statutes and the renumbering and amendment of sections 71.04 (4), 71.25
19 (6) and 71.45 (3) (b) of the statutes take effect on the January 1 after publication.”.

(END)

and (10) (title), (a) and (c),

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0678/4ins
JK:kg:kjf

Insert 8 - 17 ✓

1 **SECTION 1682n.** 71.04 (8) (a) of the statutes is amended to read:

2 71.04 (8) (a) "Financial organization", as used in this section, means any bank,
3 trust company, savings bank, industrial bank, land bank, safe deposit company,
4 private banker, savings and loan association, credit union, cooperative bank, small
5 loan company, sales finance company, investment company, brokerage house,
6 underwriter or any type of insurance company. This paragraph does not apply to
7 taxable years beginning after December 31, 1999.

Insert 23 - 2 ✓

8 **SECTION 1738n.** 71.25 (10) (a) of the statutes is amended to read:

9 71.25 (10) (a) In this section, "financial organization" means any bank, trust
10 company, savings bank, industrial bank, land bank, safe deposit company, private
11 banker, savings and loan association, credit union, cooperative bank, small loan
12 company, sales finance company, investment company, brokerage house,
13 underwriter or any type of insurance company. This paragraph does not apply to
14 taxable years beginning after December 31, 1999.



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb0678/5
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LFB:.....Shanovich (RR) – Phase in single sales factor apportionment and adopt recommendations regarding moving property, insurance companies and financial institutions

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 837, line 3: after that line insert:

3 **“SECTION 1673g.** 71.01 (1g) of the statutes is created to read:

4 71.01 (1g) “Commercial domicile” means the location of a trade or business
5 from which the trade or business is principally managed in the United States,
6 regardless of whether the trade or business is organized under the laws of a foreign
7 country, the commonwealth of Puerto Rico or any territory or possession of the
8 United States. The location of the taxpayer’s trade or business at which the greatest
9 number of the taxpayer’s employes work or are regularly connected, as of the last day
10 of the taxable year, is rebuttably presumed to be the taxpayer’s commercial domicile.

1 **SECTION 1673m.** 71.01 (5r) of the statutes is created to read:

2 71.01 (5r) “Intangible property” includes patents, copyrights, trademarks,
3 trade names, service names, service marks, logos, franchises, licenses, plans,
4 specifications, blueprints, processes, techniques, formulas, designs, layouts,
5 patterns, drawings, manuals, customer lists, contracts, technical know-how and
6 trade secrets. “Intangible property” does not include securities.

7 **SECTION 1673p.** 71.01 (8g) of the statutes is amended to read:

8 71.01 (8g) “Member” does not include a member of a limited liability company
9 treated as a corporation under s. 71.22 (~~1~~) (1g).

10 **SECTION 1673r.** 71.01 (8m) of the statutes is amended to read:

11 71.01 (8m) “Partner” does not include a partner of a publicly traded
12 partnership treated as a corporation under s. 71.22 (~~1~~) (1g).”.

13 **2.** Page 837, line 13: after that line insert:

14 “**SECTION 1674m.** 71.03 (1) of the statutes is amended to read:

15 71.03 (1) DEFINITION. In this section, “gross income” means all income, from
16 whatever source derived and in whatever form realized, whether in money, property
17 or services, which is not exempt from Wisconsin income taxes. “Gross income”
18 includes, but is not limited to, the following items: compensation for services,
19 including salaries, wages and fees, commissions and similar items; gross income
20 derived from business; interest; rents; royalties; dividends; alimony and separate
21 maintenance payments; annuities; income from life insurance and endowment
22 contracts; pensions; income from discharge of indebtedness; distributive shares of
23 partnership gross income except distributive shares of the income of publicly traded
24 partnerships treated as corporations under s. 71.22 (~~1~~) (1g); distributive shares of

1 limited liability company gross income except distributive shares of the income of
2 limited liability companies treated as corporations under s. 71.22 (1) (1g); income in
3 respect of a decedent; and income from an interest in an estate or trust. “Gross
4 income” from a business or farm consists of the total gross receipts without reduction
5 for cost of goods sold, expenses or any other amounts. The gross rental amounts
6 received from rental properties are included in gross income without reduction for
7 expenses or any other amounts. “Gross income” from the sale of securities, property
8 or other assets consists of the gross selling price without reduction for the cost of the
9 assets, expenses of sale or any other amounts. “Gross income” from an annuity,
10 retirement plan or profit sharing plan consists of the gross amount received without
11 reduction for the employee’s contribution to the annuity or plan.”.

12 **3.** Page 837, line 14: after “is” insert “renumbered 71.04 (4) (intro) and”.

13 **4.** Page 837, line 15: after “FORMULA.” insert “(intro.)”.

14 **5.** Page 838, line 1: delete “financial organizations” and substitute “financial
15 organizations telecommunications companies”.

16 **6.** Page 838, line 4: delete the material beginning with “For” and ending with
17 “(7).” on line 10 and substitute “Except as provided under s. 71.25 (9d) and (9g), the
18 remaining net income shall be apportioned to Wisconsin this state by use of an
19 apportionment fraction composed of a sales factor representing 50% of the fraction,
20 a property factor representing 25% of the fraction and a payroll factor representing
21 25% of the fraction. the following:”.

22 **7.** Page 838, line 10: after that line insert:

23 “**SECTION 1675b.** 71.04 (4) (a) of the statutes is created to read:

1 71.04 (4) (a) For taxable years beginning after December 31, 2000, and before
2 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (7)
3 representing 63% of the fraction, a property factor under sub. (5) representing 18.5%
4 of the fraction and a payroll factor under sub. (6) representing 18.5% of the fraction.

5 **SECTION 1675c.** 71.04 (4) (b) of the statutes is created to read:

6 71.04 (4) (b) For taxable years beginning after December 31, 2001, and before
7 January 1, 2003, an apportionment fraction composed of a sales factor under sub. (7)
8 representing 85% of the fraction, a property factor under sub. (5) representing 7.5%
9 of the fraction and a payroll factor under sub. (6) representing 7.5% of the fraction.

10 **SECTION 1675d.** 71.04 (4) (c) of the statutes is created to read:

11 71.04 (4) (c) For taxable years beginning after December 31, 2002, an
12 apportionment fraction composed of the sales factor under sub. (7).”.

13 **8.** Page 838, line 13: on lines 13 and 16, delete “2000” and substitute “2003”.

14 **9.** Page 839, line 14: delete the material beginning with that line and ending
15 with page 841, line 14, and substitute:

16 “1. The use of a motor vehicle or rolling stock in this state is determined by
17 multiplying the gross receipts from the lease or rental of the motor vehicle or rolling
18 stock by a fraction having as a numerator the number of miles traveled within this
19 state by the motor vehicle or rolling stock while leased or rented in the taxable year
20 and having as a denominator the total number of miles traveled by the motor vehicle
21 or rolling stock while leased or rented in the taxable year.

22 2. The use of an aircraft in this state is determined by multiplying the gross
23 receipts from the lease or rental of the aircraft by a fraction having as a numerator
24 the number of landings of the aircraft in this state while leased or rented in the

1 taxable year and having as a denominator the total number of landings of the aircraft
2 while leased or rented in the taxable year.

3 3. The use of a vessel or mobile equipment in this state is determined by
4 multiplying the gross receipts from the lease or rental of the vessel or mobile
5 equipment by a fraction having as a numerator the number of days that the vessel
6 or mobile equipment is in this state while leased or rented in the taxable year and
7 having as a denominator the total number of days that the vessel or mobile
8 equipment is leased or rented in the taxable year.

9 4. If the taxpayer does not know the location of moving property while such
10 property is leased or rented in the taxable year, the moving property is used in the
11 state in which such property is located at the time the lessee or renter takes
12 possession of the property.

13 **SECTION 1681.** 71.04 (7) (dn) of the statutes is created to read:

14 71.04 (7) (dn) For taxable years beginning after December 31, 1999, gross
15 royalties and gross income received for the use of intangible property are attributed
16 to this state if any of the following occurs:

17 1. The purchaser of intangible property uses the intangible property in the
18 production, fabrication or manufacturing of a product that is sold to a customer who
19 is located in this state.

20 2. The purchaser of intangible property uses the intangible property in the
21 printing or publication of materials that are sold to a customer who is located in this
22 state.

23 3. The purchaser of intangible property uses the intangible property in the
24 operation of a trade or business at a location in this state.

1 4. The purchaser of intangible property is billed for the purchase of the
2 intangible property at a location in this state.

3 5. The taxpayer is not subject to income tax in the state in which the intangible
4 property is used but the taxpayer's commercial domicile is in this state.

5 **SECTION 1682.** 71.04 (7) (dr) of the statutes is created to read:

6 71.04 (7) (dr) 1. For taxable years beginning after December 31, 1999, receipts
7 from a service are attributed to the state where the purchaser of the service received
8 the benefit of the service. The benefit of a service is received in this state if any of
9 the following applies:

10 a. The service relates to real property that is located in this state.

11 b. The service relates to tangible personal property that is located in this state
12 at the time that the service is received.

13 c. The service is provided to a person who is located in this state.

14 d. The service is provided to a person doing business in this state.

15 e. The service is performed at a location in this state.

16 2. If the purchaser of a service receives the benefit of a service in more than one
17 state, the receipts from the performance of the service are included in the numerator
18 of the sales factor under par. (a) according to the portion of the service received in this
19 state. If the state where a purchaser received the benefit of a service cannot be
20 determined, the benefit of a service is received in the state where the purchaser, in
21 the regular course of the purchaser's business, ordered the service. If the state where
22 a purchaser ordered a service cannot be determined, the benefit of the service is
23 received in the state where the purchaser, in the regular course of the purchaser's
24 business, receives a bill for the service.

1 3. If the taxpayer is not subject to income tax in the state in which the benefit
2 of the service is received, the benefit of the service is received in this state to the
3 extent that the taxpayer's employes or representatives performed services from a
4 location in this state.

5 **SECTION 1682b.** 71.04 (7) (ds) of the statutes is created to read:

6 71.04 (7) (ds) 1. For taxable years beginning after December 31, 1999, the gate
7 receipts from professional sporting events are attributed to the state in which the
8 taxpayer's sports facility is located. Gate receipts include the taxpayer's in-state
9 gate receipts and the taxpayer's share of out-of-state gate receipts.

10 2. For taxable years beginning after December 31, 1999, radio and television
11 receipts received by the taxpayer from a professional sports association contract with
12 a communications network are attributed to this state in proportion to the number
13 of events held in this state in which the taxpayer's team is a participant and that are
14 related to the contract compared to the total number of events in which the
15 taxpayer's team is a participant and that are related to the contract.

16 **SECTION 1682c.** 71.04 (7) (dt) of the statutes is created to read:

17 71.04 (7) (dt) 1. For taxable years beginning after December 31, 1999, the gross
18 receipts from radio and television broadcasting, including advertising revenue, are
19 attributed to this state in proportion to the audience in this state as compared to the
20 total audience.

21 2. For taxable years beginning after December 31, 1999, the gross receipts from
22 newspapers and magazines, including advertising revenue, are attributed to this
23 state in proportion to the circulation in this state as compared to the total circulation.

24 **SECTION 1682d.** 71.04 (7) (dw) of the statutes is created to read:

1 71.04 (7) (dw) 1. Except as provided in subs. 2. and 3., if a person doing
2 business in this state and outside this state owns a business that is subject to
3 apportionment under sub. (4) or s. 71.25 (6) and a business that is subject to
4 apportionment under sub. (8), the person shall apportion income as provided under
5 sub. (4) or s. 71.25 (6).

6 2. A person who has filed a tax return and who has reported income on the
7 return as apportioned under subd. 1 may request permission from the department
8 to use an alternative apportionment method in the next taxable year, if the person
9 receives at least 50% of the person's total gross receipts in a taxable year from a
10 business described under sub. (8) (c). If the department grants permission to a
11 person to use an alternative apportionment method under this subdivision, the
12 person may not use the alternative method, and shall apportion income under subd.
13 1., if the person receives less than 50% of the person's total gross receipts in a taxable
14 year from a business described under sub. (8) (c).

15 3. The department may require that a person who is subject to apportionment
16 under this subsection use an alternative apportionment method to accurately reflect
17 income that is attributable to this state.

18 **SECTION 1682m.** 71.04 (8) (title) of the statutes is amended to read:

19 71.04 (8) (title) RAILROADS, ~~FINANCIAL ORGANIZATIONS~~ TELECOMMUNICATIONS
20 COMPANIES AND PUBLIC UTILITIES.

21 **SECTION 1682n.** 71.04 (8) (a) of the statutes is amended to read:

22 71.04 (8) (a) "Financial organization", as used in this section, means any bank,
23 trust company, savings bank, industrial bank, land bank, safe deposit company,
24 private banker, savings and loan association, credit union, cooperative bank, small
25 loan company, sales finance company, investment company, brokerage house,

1 underwriter or any type of insurance company. This paragraph does not apply to
2 taxable years beginning after December 31, 1999.

3 **SECTION 1682p.** 71.04 (8) (c) of the statutes is amended to read:

4 71.04 (8) (c) The net business income of railroads, sleeping car companies, car
5 line companies, financial organizations, telecommunications companies and public
6 utilities requiring apportionment shall be apportioned pursuant to rules of the
7 department of revenue, but the income taxed is limited to the income derived from
8 business transacted and property located within the state. For taxable years
9 beginning after December 31, 1999, the net business income of financial
10 organizations shall be apportioned under s. 71.25 (9d).

11 **SECTION 1682r.** 71.04 (10) of the statutes is amended to read:

12 71.04 (10) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any nonresident
13 individual or nonresident estate or trust engaged in business within and without the
14 state of Wisconsin and required to apportion its income as provided in this section,
15 it shall be shown to the satisfaction of the department of revenue that the use of any
16 one of the 3 factors provided under sub. (4) gives an unreasonable or inequitable final
17 average ratio because of the fact that such nonresident individual or nonresident
18 estate or trust does not employ, to any appreciable extent in its trade or business in
19 producing the income taxed, the factors made use of in obtaining such ratio, this
20 factor may, with the approval of the department of revenue, be omitted in obtaining
21 the final average ratio which is to be applied to the remaining net income. This
22 subsection does not apply to taxable years beginning after December 31, 2002.”.

23 **10.** Page 854, line 14: after that line insert:

24 **“SECTION 1710d.** 71.07 (3m) (a) 1. b. of the statutes is amended to read:

1 71.07 (3m) (a) 1. b. For partnerships except publicly traded partnerships
2 treated as corporations under s. 71.22 ~~(1)~~ (1g), or limited liability companies, except
3 limited liability companies treated as corporations under s. 71.22 ~~(1)~~ (1g), “claimant”
4 means each individual partner or member.”.

5 **11.** Page 856, line 2: after that line insert:

6 “**SECTION 1719d.** 71.07 (10) of the statutes is amended to read:

7 71.07 (10) CREDITS NOT ALLOWED. The credits under s. 71.28 (4) and (5) may not
8 be claimed by partners, including partners of a publicly traded partnership treated
9 as a corporation under s. 71.22 ~~(1)~~ (1g), members of a limited liability company,
10 including members of a limited liability company treated as a corporation under s.
11 77.22 ~~(1)~~ (1g), or shareholders of a tax-option corporation.”.

12 **12.** Page 856, line 24: after that line insert:

13 “**SECTION 1722d.** 71.195 of the statutes is amended to read:

14 **71.195 Definition.** In this subchapter, “partnership” includes limited liability
15 companies and other entities that are treated as partnerships under the Internal
16 Revenue Code, and “partnership” does not include publicly traded partnerships
17 treated as corporations under s. 71.22 ~~(1)~~ (1g).

18 **SECTION 1722g.** 71.22 (1) of the statutes is renumbered 71.22 (1g).

19 **SECTION 1722h.** 71.22 (1d) of the statutes is created to read:

20 71.22 (1d) “Commercial domicile” means the location of a trade or business
21 from which the trade or business is principally managed in the United States,
22 regardless of whether the trade or business is organized under the laws of a foreign
23 country, the commonwealth of Puerto Rico or any territory or possession of the
24 United States. The location of the taxpayer’s trade or business at which the greatest

1 number of the taxpayer's employes work or are regularly connected, as of the last day
2 of the taxable year, is rebuttably presumed to be the taxpayer's commercial domicile.

3 **SECTION 1722m.** 71.22 (3g) of the statutes is created to read:

4 71.22 (3g) "Intangible property" includes patents, copyrights, trademarks,
5 trade names, service names, service marks, logos, franchises, licenscs, plans,
6 specifications, blueprints, processes, techniques, formulas, designs, layouts,
7 patterns, drawings, manuals, customer lists, contracts, technical know-how and
8 trade secrets. "Intangible property" does not include securities."

9 **13.** Page 858, line 7: after "is" insert "renumbered 71.25 (6) (intro) and".

10 **14.** Page 858, line 8: after "FORMULA." insert "(intro.)".

11 **15.** Page 858, line 22: delete the material beginning with "or the" and ending
12 with "(9)." on page 859, line 4, and substitute "~~or the residence of the recipient. The~~
13 Except as provide in subs. (9d) and (9g), the remaining net income shall be
14 apportioned to Wisconsin this state by use of an apportionment fraction composed
15 of a sales factor under sub. (9) representing 50% of the fraction, a property factor
16 under sub. (7) representing 25% of the fraction and a payroll factor under sub. (8)
17 representing 25% of the fraction. the following:".

18 **16.** Page 859, line 4: after that line insert:

19 "SECTION 1729b. 71.25 (6) (a) of the statutes is created to read:

20 71.25 (6) (a) For taxable years beginning after December 31, 2000, and before
21 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (9)
22 representing 63% of the fraction, a property factor under sub. (7) representing 18.5%
23 of the fraction and a payroll factor under sub. (8) representing 18.5% of the fraction.

24 **SECTION 1729c.** 71.25 (6) (b) of the statutes is created to read:

1 71.25 (6) (b) For taxable years beginning after December 31, 2001, and before
2 January 1, 2003, an apportionment fraction composed of a sales factor under sub. (9)
3 representing 85% of the fraction, a property factor under sub. (7) representing 7.5%
4 of the fraction and a payroll factor under sub. (8) representing 7.5% of the fraction.

5 **SECTION 1729d.** 71.25 (6) (c) of the statutes is created to read:

6 71.25 (6) (c) For taxable years beginning after December 31, 2002, an
7 apportionment fraction composed of the sales factor under sub. (9).”.

8 **17.** Page 859, line 7: on lines 7 and 10, delete “2000” and substitute “2003”.

9 **18.** Page 860, line 7: delete the material beginning with that line and ending
10 with page 862, line 7, and substitute:

11 “1. The use of a motor vehicle or rolling stock in this state is determined by
12 multiplying the gross receipts from the lease or rental of the motor vehicle or rolling
13 stock by a fraction having as a numerator the number of miles traveled within this
14 state by the motor vehicle or rolling stock while leased or rented in the taxable year
15 and having as a denominator the total number of miles traveled by the motor vehicle
16 or rolling stock while leased or rented in the taxable year.

17 2. The use of an aircraft in this state is determined by multiplying the gross
18 receipts from the lease or rental of the aircraft by a fraction having as a numerator
19 the number of landings of the aircraft in this state while leased or rented in the
20 taxable year and having as a denominator the total number of landings of the aircraft
21 while leased or rented in the taxable year.

22 3. The use of a vessel or mobile equipment in this state is determined by
23 multiplying the gross receipts from the lease or rental of the vessel or mobile
24 equipment by a fraction having as a numerator the number of days that the vessel

1 or mobile equipment is in this state while leased or rented in the taxable year and
2 having as a denominator the total number of days that the vessel or mobile
3 equipment is leased or rented in the taxable year.

4 4. If the taxpayer does not know the location of moving property while such
5 property is leased or rented in the taxable year, the moving property is used in the
6 state in which such property is located at the time the lessee or renter takes
7 possession of the property.

8 **SECTION 1735.** 71.25 (9) (dn) of the statutes is created to read:

9 71.25 (9) (dn) For taxable years beginning after December 31, 1999, gross
10 royalties and gross income received for the use of intangible property are attributed
11 to this state if any of the following applies:

12 1. The purchaser of intangible property uses the intangible property in the
13 production, fabrication or manufacturing of a product that is sold to a customer who
14 is located in this state.

15 2. The purchaser of intangible property uses the intangible property in the
16 printing or publication of materials that are sold to a customer who is located in this
17 state.

18 3. The purchaser of intangible property uses the intangible property in the
19 operation of a trade or business at a location in this state.

20 4. The purchaser of intangible property is billed for the purchase of the
21 intangible property at a location in this state.

22 5. The taxpayer is not subject to income tax in the state in which the intangible
23 property is used but the taxpayer's commercial domicile is in this state.

24 **SECTION 1736.** 71.25 (9) (dr) of the statutes is created to read:

1 71.25 (9) (dr) 1. For taxable years beginning after December 31, 1999, receipts
2 from a service are attributed to the state where the purchaser of the service received
3 the benefit of the service. The benefit of a service is received in this state if any of
4 the following applies:

5 a. The service relates to real property that is located in this state.

6 b. The service relates to tangible personal property that is located in this state
7 at the time that the service is received.

8 c. The service is provided to a person who is located in this state.

9 d. The service is provided to a person doing business in this state.

10 e. The service is performed at a location in this state.

11 2. If the purchaser of a service receives the benefit of a service in more than one
12 state, the receipts from the performance of the service are included in the numerator
13 of the sales factor under par. (a) according to the portion of the service received in this
14 state. If the state where a purchaser received the benefit of a service cannot be
15 determined, the benefit of a service is received in the state where the purchaser, in
16 the regular course of the purchaser's business, ordered the service. If the state where
17 a purchaser ordered a service cannot be determined, the benefit of the service is
18 received in the state where the purchaser, in the regular course of the purchaser's
19 business, receives a bill for the service.

20 3. If the taxpayer is not subject to income tax in the state in which the benefit
21 of the service is received, the benefit of the service is received in this state to the
22 extent that the taxpayer's employes or representatives performed services from a
23 location in this state.

24 **SECTION 1736b.** 71.25 (9) (ds) of the statutes is created to read:

1 71.25 (9) (ds) 1. For taxable years beginning after December 31, 1999, the gate
2 receipts from professional sporting events are attributed to the state in which the
3 taxpayer's sports facility is located. Gate receipts include the taxpayer's in-state
4 gate receipts and the taxpayer's share of out-of-state gate receipts.

5 2. For taxable years beginning after December 31, 1999, radio and television
6 receipts received by the taxpayer from a professional sports association contract with
7 a communications network are attributed to this state in proportion to the number
8 of events held in this state in which the taxpayer's team is a participant and that are
9 related to the contract compared to the total number of events in which the
10 taxpayer's team is a participant and that are related to the contract.

11 **SECTION 1736c.** 71.25 (9) (dt) of the statutes is created to read:

12 71.25 (9) (dt) 1. For taxable years beginning after December 31, 1999, the gross
13 receipts from radio and television broadcasting, including advertising revenue, are
14 attributed to this state in proportion to the audience in this state as compared to the
15 total audience.

16 2. For taxable years beginning after December 31, 1999, the gross receipts from
17 newspapers and magazines, including advertising revenue, are attributed to this
18 state in proportion to the circulation in this state as compared to the total circulation.

19 **SECTION 1736d.** 71.25 (9) (dw) of the statutes is created to read:

20 71.25 (9) (dw) 1. Except as provided in subds. 2. and 3., if a person doing
21 business in this state and outside this state owns a business that is subject to
22 apportionment under sub. (6) or s. 71.04 (4) and a business that is a subject to
23 apportionment under sub. (10), the person shall apportion income as provided under
24 sub. (6) or s. 71.04 (4).

1 2. A person who has filed a tax return and who has reported income on the
2 return as apportioned under subd. 1 may request permission from the department
3 to use an alternative apportionment method in the next taxable year, if the person
4 receives at least 50% of the person's total gross receipts in a taxable year from a
5 business described under sub. (10) (c). If the department grants permission to a
6 person to use an alternative apportionment method under this subdivision, the
7 person may not use the alternative method, and shall apportion income under subd.
8 1., if the person receives less than 50% of the person's total gross receipts in a taxable
9 year from a business described under sub. (10) (c).

10 3. The department may require that a person who is subject to apportionment
11 under this subsection use an alternative apportionment method to accurately reflect
12 income that is attributable to this state.”.

13 **19.** Page 862, line 9: after that line insert:

14 “**SECTION 1738g.** 71.25 (9d) of the statutes is created to read:

15 71.25 (9d) FINANCIAL ORGANIZATIONS. (a) *Definitions.* In this subsection:

16 1. “Billing address” means the address to which a taxpayer under this
17 subsection sends a notice, statement or bill to the taxpayer's customer.

18 2. “Credit card” includes a debit card and a travel and entertainment card.

19 3. “Credit card reimbursement fee” means the fee that a taxpayer receives from
20 a merchant's bank because a person to whom the taxpayer has issued a credit card
21 has paid for merchandise or services sold by the merchant with the credit card.

22 4. “Financial organization” means a bank; a savings bank; a bank holding
23 company; a savings and loan association; a trust company; a credit union, except a
24 credit union that is exempt from taxes under s. 71.26 (1) (a); a production credit

1 association; or an agency or branch of a foreign depository; whether chartered under
2 the laws of this state, another state or territory, the laws of the United States or the
3 laws of a foreign county. “Financial organization” includes a corporation that derives
4 at least 50% of its total gross income from finance leases, including direct finance
5 leases and leverage leases as defined by rule, and a corporation that derives at least
6 50% of its total gross income from an activity that a financial organization performs,
7 except that “financial organization” does not include an insurance company that is
8 taxable under s. 71.43 or a real estate broker, securities dealer or broker–dealer that
9 is taxable under s. 71.26.

10 5. “Loan” means any extension of credit or creation of debt that results from
11 direct negotiations between the taxpayer under this subsection and the taxpayer’s
12 customer; the purchase, in whole or in part, of an extension of credit; and
13 participations, syndications and leases that are considered loans for federal income
14 tax purposes. “Loan” does not include loans under section 595 of the Internal
15 Revenue Code; futures or forward contracts; options; notional principal contracts;
16 credit card receivables; purchased credit card relationships; noninterest bearing
17 balances that are due from depository institutions; cash items in the process of
18 collection; federal funds sold; securities; assets held in a trading account; and
19 interest in any mortgage–backed or assets–backed security.

20 6. “Merchant discount” means a fee or discount that is charged to a merchant
21 for accepting a credit card as payment for merchandise or services that are sold to
22 the credit card holder.

23 7. “State” means a state of the United States, the District of Columbia, the
24 commonwealth of Puerto Rico or a territory or possession of the United States.

1 8. “Taxpayer” means a financial organization that is subject to apportionment
2 under this subsection.

3 (b) *Apportionment.* For taxable years beginning after December 31, 1999, a
4 financial organization that does business in this state and outside this state shall
5 apportion its net business income as provided in this subsection. A taxpayer that is
6 subject to this subsection shall apportion its nonbusiness income under sub. (5) (b)
7 and shall deduct the net business income that follows the situs of its property from
8 its total net business income. The taxpayer’s remaining net business income shall
9 be apportioned to this state by multiplying the remaining net business income by an
10 apportionment fraction that has as a numerator the gross receipts of the taxpayer
11 in this state during the taxable year and that has a denominator the taxpayer’s total
12 gross receipts during the taxable year. The following sources of a taxpayer’s business
13 income are subject to apportionment:

14 1. ‘Gross receipts from the lease of real property.’ Gross receipts from the lease,
15 rental or sublease of real property owned by the taxpayer shall be apportioned under
16 sub. (9) (dc).

17 2. ‘Gross receipts from the lease of tangible personal property.’ Gross receipts
18 from the lease, rental or sublease of tangible personal property owned by the
19 taxpayer shall be apportioned under sub. (9) (dc) and (dg).

20 3. ‘Gross interest from loans secured by real property.’ The numerator of the
21 apportionment fraction includes gross interest, fees or penalties from loans that are
22 secured by real property if the real property is located in this state at the time the
23 loan is secured and if the value of the real property represents at least 50% of the
24 aggregate value of the collateral that is used to secure the loan. If the real property
25 that is used to secure a loan is located in this state and in another state or a foreign

1 country, the gross interest, fees or penalties from the loan are included in the
2 numerator of the apportionment fraction, if at least 50% of the fair market value of
3 the real property is located within this state or if the loan borrower is located in this
4 state.

5 4. 'Gross interest from loans.' The numerator of the apportionment fraction
6 includes gross interest, fees or penalties from loans that are not secured by real
7 property, if the loan borrower is located in this state.

8 5. 'Sale of loans.' The numerator of the apportionment fraction includes income
9 from the sale of loans and income under section 1286 of the Internal Revenue Code.
10 The income that is included in the numerator is determined as follows:

11 a. The gross receipts from the sale of loans secured by real property is
12 multiplied by a fraction that has as a numerator the amount included in the
13 numerator under subd. 3 and that has as a denominator the total amount of interest,
14 fees and penalties from loans that are secured by real property.

15 b. The net gains from the sale of loans that are not secured by real property is
16 multiplied by a fraction that has as a numerator the amount included in the
17 numerator under subd. 4. and that has as a denominator the total amount of interest,
18 fees and penalties from loans that are not secured by real property.

19 6. 'Credit card receivables.' The numerator of the apportionment fraction
20 includes gross interest, fees or penalties from credit card receivables and gross
21 receipts from fees charged to credit card holders, if the billing address of the credit
22 card holder is in this state.

23 7. 'Gross receipts from the sale of credit card receivables.' The numerator of
24 the apportionment fraction includes gross receipts from the sale of credit card
25 receivables, multiplied by a fraction that has as a numerator the amount included

1 in the numerator under subd. 6. and that has as a denominator the total amount of
2 interest, fees and penalties that are charged to credit card holders.

3 8. 'Credit card reimbursement fees.' The numerator of the apportionment
4 fraction includes credit card reimbursement fees, multiplied by a fraction that has
5 as a numerator the amount included in the numerator under subd. 6. and that has
6 as a denominator the total amount of interest, fees and penalties that are charged
7 to credit card holders.

8 9. 'Gross receipts from a merchant discount.' The numerator of the
9 apportionment fraction includes gross receipts from a merchant discount if the
10 merchant's business is principally managed from a location in this state. The gross
11 receipts from a merchant discount shall not include credit card holder charge backs.
12 The amount of gross receipts from a merchant discount shall not be reduced by
13 interchange transaction fees or by a credit card reimbursement fee.

14 10. 'Loan servicing fees.' a. The numerator of the apportionment fraction
15 includes loan servicing fees derived from loans that are secured by real property,
16 multiplied by a fraction that has as a numerator the amount included in the
17 numerator under subd. 3. and that has as a denominator the total amount of interest,
18 fees and penalties from loans that are secured by real property. The numerator of
19 the apportionment fraction also includes loan servicing fees derived from loans that
20 are not secured by real property, multiplied by a fraction that has as a numerator the
21 amount included in the numerator under subd. 4. and that has as a denominator the
22 total amount of interest, fees and penalties from loans that are not secured by real
23 property.

1 b. If the taxpayer receives loan servicing fees for servicing a loan, the
2 numerator of the apportionment fraction shall include such fees if the borrower of
3 the loan is located in this state.

4 11. ‘Gross income from investment banking services.’ The numerator of the
5 apportionment fraction includes gross income, including commissions, management
6 fees or underwriting fees, earned from investment banking services if the purchaser
7 of the services is located in this state.

8 12. ‘Gross receipts from other services.’ The gross receipts from services that
9 are not described under subds. 1. to 11. shall be apportioned under sub. (9) (dr).

10 13. ‘Other sales.’ Sales under sub. (9) that are not apportioned under this
11 subsection shall be apportioned under sub. (9).

12 (c) *Receipts not taxed.* Fifty percent of the gross receipts of the taxpayer that
13 are apportioned under this subsection to a state in which the taxpayer is not taxable
14 is included in the numerator of the apportionment fraction under par. (b), if the
15 taxpayer’s commercial domicile is in this state.

16 **SECTION 1738k.** 71.25 (9g) of the statutes is created to read:

17 **71.25 (9g) BROKERS AND UNDERWRITERS.** (a) *Definitions.* In this subsection:

18 1. “Billing address” has the meaning given in sub. (9d) (a) 1.

19 2. “Brokerage commission” includes sales fees on agency or principal
20 transactions.

21 3. “Broker–dealer” means a person who does business as a broker of securities
22 or commodities. “Broker–dealer” does not include a sales agent; a bank, savings
23 institution or trust company that enters a securities or commodities transaction as
24 an agent; a executor, guardian or conservator who enters a securities or commodities

1 transaction as an agent for another; or a person who purchases or sells the person's
2 own securities or commodities.

3 4. "Taxpayer" means a broker or an underwriter who is subject to
4 apportionment under this subsection.

5 5. "Underwriter" means a person who guarantees to provide a definite sum of
6 money by a definite date to a corporate or government entity in exchange for
7 securities; who markets a corporate or government security offering to the public; or
8 who buys a security offering for a specified price and sells the security offering to the
9 public.

10 (b) *Apportionment.* For taxable years beginning after December 31, 1999, a
11 broker or an underwriter who does business in this state and outside this state shall
12 apportion its net business income as provided under this subsection. A taxpayer that
13 is subject to this subsection shall apportion its nonbusiness income under sub. (5) (b)
14 and shall deduct the net business income that follows the situs of its property from
15 its total net business income. The taxpayer's remaining net business income shall
16 be apportioned to this state by multiplying the remaining net business income by an
17 apportionment fraction that has as a numerator the gross receipts of the taxpayer
18 in this state during the taxable year and that has a denominator the taxpayer's total
19 gross receipts during the taxable year. The following sources of a taxpayer's business
20 income are subject to apportionment:

21 1. 'Security brokerage services.' The numerator of the apportionment fraction
22 includes gross brokerage commissions and total margin interest paid on behalf of
23 brokerage accounts owned by customers, if the billing address of the customer is in
24 this state.

1 2. ‘Underwriting services.’ The numerator of the apportionment fraction
2 includes gross income, including commissions, management fees or underwriting
3 fees, earned from underwriting services if the purchaser of the services is located in
4 this state.

5 3. ‘Other services.’ The numerator of the apportionment fraction includes gross
6 income, including commissions or management fees, earned from providing
7 investment research, management services or financial services to a customer, if the
8 customer’s billing address is in this state.

9 4. ‘Other sales.’ Sales under sub. (9) that are not apportioned under this
10 subsection shall be apportioned under sub. (9).

11 (c) *Receipts not taxed.* Fifty percent of the gross receipts of the taxpayer that
12 are apportioned under this subsection to a state in which the taxpayer is not taxable
13 are included in the numerator of the apportionment fraction under par. (b), if the
14 taxpayer’s commercial domicile is in this state.

15 **SECTION 1738m.** 71.25 (10) (title) of the statutes is amended to read:

16 71.25 (10) (title) RAILROADS, ~~FINANCIAL ORGANIZATIONS~~ TELECOMMUNICATIONS
17 COMPANIES AND PUBLIC UTILITIES.

18 **SECTION 1738n.** 71.25 (10) (a) of the statutes is amended to read:

19 71.25 (10) (a) In this section, “financial organization” means any bank, trust
20 company, savings bank, industrial bank, land bank, safe deposit company, private
21 banker, savings and loan association, credit union, cooperative bank, small loan
22 company, sales finance company, investment company, brokerage house,
23 underwriter or any type of insurance company. This paragraph does not apply to
24 taxable years beginning after December 31, 1999.

25 **SECTION 1738p.** 71.25 (10) (c) of the statutes is amended to read:

1 71.25 (10) (c) The net business income of railroads, sleeping car companies, car
2 line companies, financial organizations, telecommunications companies and public
3 utilities requiring apportionment shall be apportioned pursuant to rules of the
4 department of revenue, but the income taxed is limited to the income derived from
5 business transacted and property located within the state. For taxable years
6 beginning after December 31, 1999, the net business income of financial
7 organizations shall be apportioned under sub. (9d).

8 **SECTION 1738r.** 71.25 (11) of the statutes is amended to read:

9 71.25 (11) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any corporation
10 engaged in business within and without the state of Wisconsin and required to
11 apportion its income as provided in sub. (6), it shall be shown to the satisfaction of
12 the department of revenue that the use of any one of the 3 factors provided in sub.
13 (6) gives an unreasonable or inequitable final average ratio because of the fact that
14 such corporation does not employ, to any appreciable extent in its trade or business
15 in producing the income taxed, the factors made use of in obtaining such ratio, this
16 factor may, with the approval of the department of revenue, be omitted in obtaining
17 the final average ratio which is to be applied to the remaining net income. This
18 subsection does not apply to taxable years beginning after December 31, 2002.”

19 **20.** Page 877, line 22: after that line insert:

20 **“SECTION 1744b.** 71.28 (2m) (a) 1. b. of the statutes is amended to read:

21 71.28 (2m) (a) 1. b. For partnerships, except publicly traded partnerships
22 treated as corporations under s. 71.22 (1) (1g), or limited liability companies, except
23 limited liability companies treated as corporations under s. 71.22 (1) (1g), “claimant”
24 means each individual partner or member.”

1 **21.** Page 878, line 13: delete the material beginning with that line and ending
2 with page 879, line 12 and substitute:

3 “**SECTION 1746d.** 71.28 (4) (i) of the statutes is amended to read:

4 71.28 (4) (i) *Nonclaimants.* The credits under this subsection may not be
5 claimed by a partnership, except a publicly traded partnership treated as a
6 corporation under s. 71.22 (1) (1g), limited liability company, except a limited liability
7 company treated as a corporation under s. 71.22 (1) (1g), or tax-option corporation
8 or by partners, including partners of a publicly traded partnership, members of a
9 limited liability company or shareholders of a tax-option corporation.”.

10 **22.** Page 880, line 1: delete lines 1 to 17 and substitute:

11 “**SECTION 1750.** 71.45 (3) (intro.) of the statutes is amended to read:

12 71.45 (3) APPORTIONMENT. (intro.) ~~With respect~~ Except as provided in par. (c),
13 to determine Wisconsin income for purposes of the franchise tax, domestic insurers
14 ~~not engaged in the sale of life insurance but which that,~~ in the taxable year, have
15 ~~collected~~ received premiums, ~~other than life insurance premiums,~~ written on
16 ~~subjects of~~ for insurance on property or risks resident, located or to be performed
17 outside this state, ~~there shall be subtracted from~~ multiply the net income figure
18 derived by application of sub. (2) (a) ~~to arrive at Wisconsin income constituting the~~
19 ~~measure of the franchise tax an amount calculated by multiplying such adjusted~~
20 ~~federal taxable income~~ by the arithmetic average of the following 2 percentages:

21 **SECTION 1751.** 71.45 (3) (a) of the statutes is amended to read:

22 71.45 (3) (a) ~~The~~ Subject to par. (c), the percentage determined by dividing the
23 sum of total direct premiums written on ~~all property and risks for insurance~~ other
24 than life insurance, on subjects of insurance resident, located or to be performed in

1 this state, and assumed premiums written for reinsurance, other than life insurance,
2 with respect to all property and risks resident, located or to be performed in this
3 state, by the sum of direct premiums written for insurance on all property and risks,
4 other than life insurance, wherever located during the taxable year, as reflects, and
5 assumed premiums written on insurance for reinsurance on all property and risks,
6 other than life insurance, where the subject of insurance was resident, located or to
7 be performed outside this state wherever located. In this paragraph, “direct
8 premiums” means direct premiums as reported for the taxable year on an annual
9 statement that is filed by the insurer with the commissioner of insurance. In this
10 paragraph, “assumed premiums” means assumed reinsurance premiums from
11 domestic insurance companies as reported for the taxable year on an annual
12 statement that is filed by the commissioner of insurance.”.

13 **23.** Page 880, line 20: delete lines 20 to 24 and substitute:

14 “71.45 (3) (b) 1. The Subject to par. (c), the percentage of determined by dividing
15 the payroll, exclusive of life insurance payroll, paid in this state in the taxable year
16 by total payroll, exclusive of life insurance payroll, paid everywhere in the taxable
17 year as reflects such compensation paid outside this state.”.

18 **24.** Page 881, line 9: after that line insert:

19 **“SECTION 1752d.** 71.45 (3) (c) of the statutes is created to read:

20 71.45 (3) (c) 1. For taxable years beginning after December 31, 2000, and before
21 January 1, 2002, the percentage under par. (a) represents 63% of the average of the
22 amounts under pars. (a) and (b) 1.

1 2. For taxable years beginning after December 31, 2001, and before January
2 1, 2003, the percentage under par. (a) represents 85% of the average of the amounts
3 under pars. (a) and (b) 1.

4 3. For taxable years beginning after December 31, 2002, a domestic insurer
5 that is subject to apportionment under this subsection shall multiply the net income
6 figure derived by application of sub. (2) by the percentage under par. (a) to determine
7 Wisconsin income for purposes of the franchise tax.”.

8 **25.** Page 881, line 11: delete “pars. (a) and (b)” and substitute “sub. (3) (c)”.

9 **26.** Page 882, line 8: after that line insert:

10 “**SECTION 1757b.** 71.47 (2m) (a) 1. b. of the statutes is amended to read:

11 71.47 (2m) (a) 1. b. For partnerships, except publicly traded partnerships
12 treated as corporations under s. 71.22 (~~1~~) (1g), or limited liability companies, except
13 limited liability companies treated as corporations under s. 71.22 (~~1~~) (1g), “claimant”
14 means each individual partner or member.”.

15 **27.** Page 882, line 24: delete the material beginning with that line and ending
16 with page 884, line 3, and substitute:

17 “**SECTION 1759d.** 71.47 (4) (i) of the statutes is amended to read:

18 71.47 (4) (i) *Nonclaimants.* The credits under this subsection may not be
19 claimed by a partnership, except a publicly traded partnership treated as a
20 corporation under s. 71.22 (~~1~~) (1g), limited liability company, except a limited liability
21 company treated as a corporation under s. 71.22 (~~1~~) (1g), or tax-option corporation
22 or by partners, including partners of a publicly traded partnership, members of a
23 limited liability company or shareholders of a tax-option corporation.”.

24 **28.** Page 885, line 10: after that line insert:

1 **SECTION 1764q.** 71.58 (1) (c) of the statutes is amended to read:

2 71.58 (1) (c) For partnerships except publicly traded partnerships treated as
3 corporations under s. 71.22 ~~(1)~~ (1g), “claimant” means each individual partner.

4 **SECTION 1764s.** 71.58 (1) (cm) of the statutes is amended to read:

5 71.58 (1) (cm) For limited liability companies, except limited liability
6 companies treated as corporations under s. 71.22 ~~(1)~~ (1g), “claimant” means each
7 individual member.”

8 **29.** Page 1477, line 7: delete lines 7 to 11 and substitute:

9 “(7to) APPORTIONMENT FACTORS. The treatment of sections 71.01 (1g), (8g), (8m)
10 and (5r), 71.03 (1), 71.04 (4) (a), (b) and (c), (5) (intro.), (6) (intro.), (7) (d), (dc), (dg),
11 (dn), (dr), (ds), (dt) and (dw) and (8) (title), (a) and (c), 71.07 (3m) (a) 1. b. and (10),
12 71.195, 71.22 (1), (1d) and (3g), 71.25 (6) (a), (b) and (c), (7) (intro.), (8) (intro.), (9) (d),
13 (dc), (dg), (dn), (dr), (ds), (dt) and (dw) and (10) (title), (a) and (c), 71.28 (2m) (a) 1. b.
14 and (4) (a), (am) 1. and (i), 71.45 (3) (intro.), (a) and (c) and (3m), 71.47 (2m) (a) 1. b.
15 and (4) (a), (am) and (i) and 71.58 (1) (c) and (cm) of the statutes and the renumbering
16 and amendment of sections 71.04 (4), 71.25 (6) and 71.45 (3) (b) of the statutes take
17 effect on the January 1 after publication.”

18

(END)