

6/26/99 5:00:21 PM

Page 1

1999 DRAFTING REQUEST**Assembly Amendment (AA-ASA1-AB133)**Received: **06/23/99**Received By: **jkreye**Wanted: **Soon**

Identical to LRB:

For: **Assembly Republican Caucus**By/Representing: **Kratochwill**This file may be shown to any legislator: **NO**Drafter: **jkreye**

May Contact:

Alt. Drafters:

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

Extra Copies:

Pre Topic:

ARC:.....Kratochwill - TP (1),

Topic:

Single-sales apportionment to apply to public utilities

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 06/23/99	ygeller 06/23/99		_____			
/1	jkreye 06/25/99	ygeller 06/25/99	mclark 06/24/99	_____	lrb_docadmin 06/24/99		
/2	jkreye 06/26/99	ygeller 06/26/99	ismith 06/25/99	_____	lrb_docadmin 06/26/99		
/3			jfrantze 06/26/99	_____	lrb_docadmin 06/26/99		

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/23/99

Received By: jkreye

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/2		<i>12/26/99 jlg</i> ysmith 06/25/99		_____	lrb_docadmin 06/26/99		

FE Sent For:

to 6/26 *to 6/26*
<END>

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/1		12/25 jlg	mclark 06/24/99	_____	lrb_docadmin 06/24/99		
FE Sent For:			IS 6/25	IS/JF 6/25			

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/?	jkreye	11 6/23 jlg MRC	6/23	MRC	Km		

FE Sent For:

<END>

J Jensen

Representative Jensen

TAX AND SPENDING MODIFICATIONS

General Fund Taxes

1. *Single-Sales Apportionment for Gas and Electric Utilities.* Provide that electric and gas utilities be included in the phase-in of the single-sales factor apportionment formula for tax years beginning on or after January 1, 2001. This provision would reduce state corporate income and franchise tax revenues by an estimated \$100,000 in 2000-01. When single-sales factor apportionment is fully phased in, revenues would be reduced by an estimated \$800,000, annually

1154
Under the Joint Finance Committee version of the bill, a single-sales factor apportionment formula under the state corporate income and franchise tax would be phased in over three years beginning with tax year 2001. For tax years beginning on or after January 1, 2001 and before January 1, 2002, the sales factor would equal 63% of the apportionment fraction and the property and payroll factors would each equal 18.5% of the fraction. For tax years beginning on or after January 1, 2002 and before January 1, 2003, the sales factor would equal 85% of the apportionment fraction and the property and payroll factors would each be 7.5% of the fraction. For tax years beginning on or after January 1, 2003, the apportionment fraction would be the sales factor. However, the current law formulas were maintained for apportioning the income of interstate public utilities (including electric and gas utilities), air carriers, motor carriers, railroad and sleeping car and carline companies and pipeline companies.

1156
~~2. *Sales and Use Tax Exemption for Food and Related Items Provided to Restaurant Employees at Work.* Provide a sales and use tax exemption for certain food and related items provided by restaurants to employees at work. Under current law, a restaurant owner is liable for the sales tax on: (a) food and beverages that are excluded from the general sales tax exemption for food when they are provided to restaurant employees at no charge at work; and (b) disposable products transferred with free food and beverages (napkins, straws and cups). However, a restaurant's purchases of the same items are exempt from the sales tax when they are to be resold to customers. The Department of Revenue (DOR) requires that restaurants determine the value of such items and remit the associated sales tax. Because the current provision is difficult to enforce, it is estimated that the exemption would have a minimal fiscal impact on sales tax collections.~~

1157
~~3. *Time-Share Properties.* Exempt sales of flex-time time-share property, including maintenance charges, from the sales tax and impose the real estate transfer fee on all sales of time-share property, effective on the first day of the second month beginning after publication of the bill. Under current law, sales of flex-time time-shares are subject to the sales tax and sales of fixed-time time-shares are subject to the real estate transfer fee. These provisions would specify that all sales~~



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb11547

JK:.....

JG

ARC:.....Kratochwill - TP (1), Single-sales apportionment to apply to public utilities

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 826, line 3: delete lines 3 ^{and} to 4 and substitute ^J "businesses except
3 ~~financial organizations, public utilities, telecommunications companies,~~ railroads,
4 sleeping car companies and car line companies there shall first". ⁹

5 2. Page 832, line 5: delete lines 5 ^{and} to 6 and substitute: ^X "71.04 (8) (title)
6 ~~RAILROADS, FINANCIAL ORGANIZATIONS AND PUBLIC UTILITIES TELECOMMUNICATIONS~~
7 COMPANIES. ^{OK Fix NO APS SMALL}

8 3. Page 832, line 13: after that line insert:

9 "SECTION 1682nb. 71.04 (8) (b) ^X of the statutes is amended to read:

1 71.04 (8) (b) "Public utility", as used in this section, means any business entity
 2 which owns or operates any plant, equipment, property, franchise, or license for the
 3 transmission of communications or the production, transmission, sale, delivery, or
 4 furnishing of electricity, water or steam, the rates of charges for goods or services of
 5 which have been established or approved by a federal, state or local government or
 6 governmental agency. "Public utility" also means any business entity providing
 7 service to the public and engaged in the transportation of goods and persons for hire,
 8 as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges
 9 for services have been established or approved by a federal, state or local government
 10 or governmental agency. This paragraph does not apply to taxable years beginning
 11 after December 31, 1999."

12 4. Page 832, line 16: delete the material beginning with "organizations" and
 13 ending with "utilities" on line 17 and substitute "organizations and public utilities
 14 telecommunications companies".

15 5. Page 832, line 21: after "(9d)" insert "and the net business income of public
 16 utilities shall be apportioned under s. ^{sub.} 170.04(4)".

17 6. Page 874, line 9: delete that line and substitute "businesses except
 18 ~~financial organizations, public utilities, telecommunications companies,~~ railroads,
 19 sleeping car ^{Fix}

20 7. Page 887, line 12: delete lines 12 ^{and} 13 and substitute: "71.25 (10) (title)
 21 RAILROADS, ~~FINANCIAL ORGANIZATIONS AND PUBLIC UTILITIES~~ TELECOMMUNICATIONS
 22 COMPANIES. ^{Fix NO caps small}

23 8. Page 887, line 20: after that line insert:
 24 "SECTION 1738nb. 71.25 (10) (b) ^X of the statutes is amended to read:



in 6-25-99

ARC:.....Kratochwill - TP (1), Single-sales apportionment to apply to public utilities

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON D-N

✓
INSERT
1-4

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 826, line 3: delete lines 3 and 4 and substitute "businesses except
3 ~~financial organizations, public utilities, telecommunications companies, railroads,~~
4 sleeping car companies and car line companies there shall first".

5 **2.** Page 832, line 5: delete lines 5 and 6 and substitute:
6 "71.04 (8) (title) RAILROADS, ^{also} FINANCIAL ORGANIZATIONS AND PUBLIC UTILITIES
7 TELECOMMUNICATIONS COMPANIES".

8 **3.** Page 832, line 13: after that line insert:
9 "SECTION 1682nb. 71.04 (8) (b) of the statutes is amended to read:

1 71.04 (8) (b) "Public utility", as used in this section, means any business entity
 2 which owns or operates any plant, equipment, property, franchise, or license for the
 3 transmission of communications or the production, transmission, sale, delivery, or
 4 furnishing of electricity, water or steam, the rates of charges for goods or services of
 5 which have been established or approved by a federal, state or local government or
 6 governmental agency. "Public utility" also means any business entity providing
 7 service to the public and engaged in the transportation of goods and persons for hire,
 8 as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges
 9 for services have been established or approved by a federal, state or local government
 10 or governmental agency. This paragraph does not apply to taxable years beginning
 11 after December 31, 1999. *gas and electric companies for*

12 4. Page 832, line 16: delete the material beginning with "organizations" and
 13 ending with "utilities" on line 17 and substitute "organizations and public utilities
 14 telecommunications companies".

15 5. Page 832, line 21: after "(9d)" insert "and the net business income of public
 16 utilities shall be apportioned under sub. (4)". *gas and electric companies*

17 6. Page 874, line 9: delete that line and substitute "businesses except financial
 18 organizations, public utilities, telecommunications companies, railroads, sleeping
 19 car". *plain*

20 7. Page 887, line 12: delete lines 12 and 13 and substitute:
 21 "71.25 (10) (title) RAILROADS, FINANCIAL ORGANIZATIONS AND PUBLIC UTILITIES
 22 TELECOMMUNICATIONS COMPANIES".

23 8. Page 887, line 20: after that line insert:
 24 "**SECTION 1738nb.** 71.25 (10) (b) of the statutes is amended to read:

INSERT 2-19 ✓

✓
 INSERT
 2-16

10
 15
 16

1 71.25 (10) (b) In this section, "public utility" means any business entity which
 2 owns or operates any plant, equipment, property, franchise, or license for the
 3 transmission of communications or the production, transmission, sale, delivery, or
 4 furnishing of electricity, water or steam the rates of charges for goods or services of
 5 which have been established or approved by a federal, state or local government or
 6 governmental agency. "Public utility" also means any business entity providing
 7 service to the public and engaged in the transportation of goods and persons for hire,
 8 as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges
 9 for services have been established or approved by a federal, state or local government
 10 or governmental agency. This paragraph does not apply to taxable years beginning
 11 after December 31, 1999. *gas and electric companies for*

12 **9.** Page 887, line 23: delete the material beginning with "organizations" and
 13 ending with "utilities" on line 24 and substitute "organizations and public utilities
 14 telecommunications companies".

15 **10.** Page 888, line 3: after "(9d)" insert "and the net business income of public
 16 utilities shall be apportioned under sub. (6)". *gas and electric companies*

17 **11.** Page 1614, line 8: on lines 8 and 10, delete "(a) and (c)" and substitute "(a),
 18 (b) and (c)".

(END)

#

Page 1614, line 9: delete *1* and substitute
 "71.23(2), 71.25(5)(a) and (a) 9, (6)(a), (am)"
 (intro.)

#

Page 1614, line 7: after "(a)," insert "(am),"

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1154/lins
JK:jl:mrc

Insert 1 - 4

1 **1.** Page 826, line 13: delete lines 13 to 16 and substitute:

2 “71.04 (4) (a) For taxable years beginning before January 1, 2001, an
3 apportionment fraction composed of a sales factor under sub. (7) representing 50%
4 of the fraction, a property factor under sub. (5) representing 25% of the fraction and
5 a payroll factor under sub. (6) representing 25% of the fraction.

6 **SECTION 1675bb.** 71.04 (4) (am) of the statutes is created to read:

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

Insert 2 - 16

11 **2.** Page 873, line 21: after that line insert:

12 “**SECTION 1722yd.** 71.23 (2) of the statutes is amended to read:

13 71.23 (2) **FRANCHISE TAX.** For the privilege of exercising its franchise or doing
14 business in this state in a corporate capacity, except as provided under sub. (3), every
15 domestic or foreign corporation, except corporations specified in s. 71.26 (1), and
16 every nuclear decommissioning trust or reserve fund shall annually pay a franchise
17 tax according to or measured by its entire Wisconsin net income of the preceding
18 taxable year at the rate set forth in s. 71.27 (2). In addition, except as provided in
19 sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this state and
20 a nuclear decommissioning trust or reserve fund that is terminated shall pay a
21 special franchise tax according to or measured by its entire Wisconsin net income for
22 the taxable year during which the corporation ceases doing business in this state or

1 the nuclear decommissioning trust or reserve fund is terminated at the rates under
2 s. 71.27 (2). Every corporation organized under the laws of this state or that derives
3 income from sources within this state or from activities that are attributable to this
4 state ✓ shall be deemed to be residing within this state for the purposes of this
5 franchise tax. All provisions of this chapter and ch. 73 relating to income taxation
6 of corporations shall apply to franchise taxes imposed under this subsection, unless
7 the context requires otherwise. The tax imposed by this subsection on national
8 banking associations shall be in lieu of all taxes imposed by this state on national
9 banking associations to the extent it is not permissible to tax such associations under
10 federal law.

11 SECTION 1722yf. 71.25 (5) (a) (intro.) ✓ of the statutes is amended to read:

12 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),
13 corporations engaged in business both within and without this state are subject to
14 apportionment. Income, gain or loss from the sources listed in this ✓ paragraph is
15 presumed apportionable. Apportionable income includes all income or loss of
16 corporations, other than nonapportionable income as specified in par. (b), including,
17 but not limited to, income, gain or loss from the following sources:

18 SECTION 1722ym. 71.25 (5) (a) 9. ✓ of the statutes is amended to read:

19 71.25 (5) (a) 9. Interest and dividends ✓ ~~if the operations of the payer are unitary~~
20 ~~with those of the payee, or if those operations are not unitary but the investment~~
21 ~~activity from which that income is derived is an integral part of a unitary business~~
22 ~~and the payer and payee are neither affiliates nor related as parent company and~~
23 ~~subsidiary. In this subdivision, "investment activity" includes decision making~~
24 ~~relating to the purchase and sale of stocks and other securities, investing surplus~~
25 ~~funds and the management and record keeping associated with corporate~~

1 ~~investments, not including activities of a broker or other agent in maintaining an~~
2 ~~investment portfolio.”.~~

Insert 2 - 19

3 **3.** Page 874, line 20: delete lines 20 to 23 and substitute:

4 “71.25 (6) (a) For taxable years beginning before [✓]January 1, 2001, an
5 apportionment fraction composed of a sales factor under sub. (9) representing [✓]50%
6 of the fraction, a property factor under sub. (7) representing 25% of the fraction and
7 a payroll factor under sub. (8) representing 25% of the fraction. [✓]

8 SECTION ¹⁷²⁹~~1675~~ ^{71.256}~~1675b. 71.04(2)~~ (am) [✓]of the statutes is created to read:

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

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

²
LRBb1154/1dn
JK:jlg:mrc

Please read this draft carefully to ensure that it is consistent with your intent. This draft includes the technical corrections that Ron Shanovich and I discussed.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us

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

LRBb1154/2dn
JK:jlgr:js

June 25, 1999

Please read this draft carefully to ensure that it is consistent with your intent. This draft includes the technical corrections that Ron Shanovich and I discussed.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: Joseph.Kreye@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1154/2
JK:jlgrjs

in 6-26-99

ARC:.....Kratochwill - TP (1), Single-sales apportionment to apply to public utilities

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

500N

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 826, line 13: delete lines 13 to 16 and substitute:

3 "71.04 (4) (a) For taxable years beginning before January 1, 2001, an
4 apportionment fraction composed of a sales factor under sub. (7) representing 50%
5 of the fraction, a property factor under sub. (5) representing 25% of the fraction and
6 a payroll factor under sub. (6) representing 25% of the fraction.

7 SECTION 1675bb. 71.04 (4) (am) of the statutes is created to read:

8 71.04 (4) (am) For taxable years beginning after December 31, 2000, and before
9 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 **2.** Page 832, line 13: after that line insert:

4 “SECTION 1682nb. 71.04 (8) (b) of the statutes is amended to read:

5 71.04 (8) (b) “Public utility”, as used in this section, means any business entity
6 which owns or operates any plant, equipment, property, franchise, or license for the
7 transmission of communications or the production, transmission, sale, delivery, or
8 furnishing of electricity, water or steam, the rates of charges for goods or services of
9 which have been established or approved by a federal, state or local government or
10 governmental agency. “Public utility” also means any business entity providing
11 service to the public and engaged in the transportation of goods and persons for hire,
12 as defined in s. 194.01 (4), regardless of whether or not the entity’s rates or charges
13 for services have been established or approved by a federal, state or local government
14 or governmental agency. This paragraph does not apply to gas and electric
15 companies for taxable years beginning after December 31, 1999.”

16 **3.** Page 832, line 21: after “(9d)” insert “and the net business income of gas and
17 electric companies shall be apportioned under sub. (4)”.”

18 **4.** Page 873, line 21: after that line insert:

19 “SECTION 1722yd. 71.23 (2) of the statutes is amended to read:

20 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise or doing
21 business in this state in a corporate capacity, except as provided under sub. (3), every
22 domestic or foreign corporation, except corporations specified in s. 71.26 (1), and
23 every nuclear decommissioning trust or reserve fund shall annually pay a franchise
24 tax according to or measured by its entire Wisconsin net income of the preceding

1 taxable year at the rate set forth in s. 71.27 (2). In addition, except as provided in
2 sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this state and
3 a nuclear decommissioning trust or reserve fund that is terminated shall pay a
4 special franchise tax according to or measured by its entire Wisconsin net income for
5 the taxable year during which the corporation ceases doing business in this state or
6 the nuclear decommissioning trust or reserve fund is terminated at the rates under
7 s. 71.27 (2). Every corporation organized under the laws of this state or that derives
8 income from sources within this state or from activities that are attributable to this
9 state shall be deemed to be residing within this state for the purposes of this
10 franchise tax. All provisions of this chapter and ch. 73 relating to income taxation
11 of corporations shall apply to franchise taxes imposed under this subsection, unless
12 the context requires otherwise. The tax imposed by this subsection on national
13 banking associations shall be in lieu of all taxes imposed by this state on national
14 banking associations to the extent it is not permissible to tax such associations under
15 federal law.

16 **SECTION 1722yf.** 71.25 (5) (a) (intro.) of the statutes is amended to read:

17 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),
18 corporations engaged in business both within and without this state are subject to
19 apportionment. Income, gain or loss from the sources listed in this paragraph is
20 presumed apportionable. Apportionable income includes all income or loss of
21 corporations, other than nonapportionable income as specified in par. (b), including,
22 but not limited to, income, gain or loss from the following sources:

23 **SECTION 1722ym.** 71.25 (5) (a) 9. of the statutes is amended to read:

24 71.25 (5) (a) 9. Interest and dividends ~~if the operations of the payer are unitary~~
25 ~~with those of the payee, or if those operations are not unitary but the investment~~

1 ~~activity from which that income is derived is an integral part of a unitary business~~
2 ~~and the payer and payee are neither affiliates nor related as parent company and~~
3 ~~subsidiary. In this subdivision, "investment activity" includes decision making~~
4 ~~relating to the purchase and sale of stocks and other securities, investing surplus~~
5 ~~funds and the management and record keeping associated with corporate~~
6 ~~investments, not including activities of a broker or other agent in maintaining an~~
7 ~~investment portfolio.~~

INSERT 4-7

8 **5.** Page 874, line 9: delete that line and substitute "businesses except financial
9 organizations, public utilities, telecommunications companies, railroads, sleeping
10 car".

11 **6.** Page 874, line 20: delete lines 20 to 23 and substitute:

12 "71.25 (6) (a) For taxable years beginning before January 1, 2001, an
13 apportionment fraction composed of a sales factor under sub. (9) representing 50%
14 of the fraction, a property factor under sub. (7) representing 25% of the fraction and
15 a payroll factor under sub. (8) representing 25% of the fraction.

16 **SECTION 1729bb.** 71.25 (6) (am) of the statutes is created to read:

17 71.25 (6) (am) For taxable years beginning after December 31, 2000, and before
18 January 1, 2002, an apportionment fraction composed of a sales factor under sub. (9)
19 representing 63% of the fraction, a property factor under sub. (7) representing 18.5%
20 of the fraction and a payroll factor under sub. (8) representing 18.5% of the fraction."

21 **7.** Page 887, line 20: after that line insert:

22 **"SECTION 1738nb.** 71.25 (10) (b) of the statutes is amended to read:

23 71.25 (10) (b) In this section, "public utility" means any business entity which
24 owns or operates any plant, equipment, property, franchise, or license for the

1 transmission of communications or the production, transmission, sale, delivery, or
2 furnishing of electricity, water or steam the rates of charges for goods or services of
3 which have been established or approved by a federal, state or local government or
4 governmental agency. "Public utility" also means any business entity providing
5 service to the public and engaged in the transportation of goods and persons for hire,
6 as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges
7 for services have been established or approved by a federal, state or local government
8 or governmental agency. This paragraph does not apply to gas and electric
9 companies for taxable years beginning after December 31, 1999."

10 **8.** Page 888, line 3: after "(9d)" insert "and the net business income of gas and
11 electric companies shall be apportioned under sub. (6)".

12 **9.** Page 1614, line 7: after "(a)," insert "(am),".

13 **10.** Page 1614, line 8: on lines 8 and 10, delete "(a) and (c)" and substitute "(a),
14 (b) and (c)".

15 **11.** Page 1614, line 9: delete "71.25 (6) (a)" and substitute "71.23 (2), 71.25 (5)
16 (a) (intro.) ~~and 9,~~ (6) (a), (am)".

17

(END)

and 10. ✓

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1154/2ins
JK:jl:ijs

Insert 4 - 7

1 SECTION 1722yn. 71.25 (5) (a) 10. of the statutes is amended to read:

2 71.25 (5) (a) 10. Sale of intangible assets ~~if the operations of the company in~~
3 ~~which the investment was made were unitary with those of the investing company,~~
4 ~~or if these operations were not unitary but the investment activity from which that~~
5 ~~gain or loss was derived is an integral part of a unitary business and the companies~~
6 ~~were neither affiliates nor related as parent company and subsidiary. In this~~
7 ~~subdivision, "investment activity" has the meaning given under subd. 9."~~



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1154/3
JK:jlg:jf

ARC:.....Kratochwill - TP (1), Single-sales apportionment to apply to public utilities

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 826, line 13: delete lines 13 to 16 and substitute:

3 "71.04 (4) (a) For taxable years beginning before January 1, 2001, an
4 apportionment fraction composed of a sales factor under sub. (7) representing 50%
5 of the fraction, a property factor under sub. (5) representing 25% of the fraction and
6 a payroll factor under sub. (6) representing 25% of the fraction.

7 **SECTION 1675bb.** 71.04 (4) (am) of the statutes is created to read:

8 71.04 (4) (am) For taxable years beginning after December 31, 2000, and before
9 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 **2.** Page 832, line 13: after that line insert:

4 **“SECTION 1682nb.** 71.04 (8) (b) of the statutes is amended to read:

5 71.04 (8) (b) “Public utility”, as used in this section, means any business entity
6 which owns or operates any plant, equipment, property, franchise, or license for the
7 transmission of communications or the production, transmission, sale, delivery, or
8 furnishing of electricity, water or steam, the rates of charges for goods or services of
9 which have been established or approved by a federal, state or local government or
10 governmental agency. “Public utility” also means any business entity providing
11 service to the public and engaged in the transportation of goods and persons for hire,
12 as defined in s. 194.01 (4), regardless of whether or not the entity’s rates or charges
13 for services have been established or approved by a federal, state or local government
14 or governmental agency. This paragraph does not apply to gas and electric
15 companies for taxable years beginning after December 31, 1999.”

16 **3.** Page 832, line 21: after “(9d)” insert “and the net business income of gas and
17 electric companies shall be apportioned under sub. (4)”.

18 **4.** Page 873, line 21: after that line insert:

19 **“SECTION 1722yd.** 71.23 (2) of the statutes is amended to read:

20 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise or doing
21 business in this state in a corporate capacity, except as provided under sub. (3), every
22 domestic or foreign corporation, except corporations specified in s. 71.26 (1), and
23 every nuclear decommissioning trust or reserve fund shall annually pay a franchise
24 tax according to or measured by its entire Wisconsin net income of the preceding

1 taxable year at the rate set forth in s. 71.27 (2). In addition, except as provided in
2 sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this state and
3 a nuclear decommissioning trust or reserve fund that is terminated shall pay a
4 special franchise tax according to or measured by its entire Wisconsin net income for
5 the taxable year during which the corporation ceases doing business in this state or
6 the nuclear decommissioning trust or reserve fund is terminated at the rates under
7 s. 71.27 (2). Every corporation organized under the laws of this state or that derives
8 income from sources within this state or from activities that are attributable to this
9 state shall be deemed to be residing within this state for the purposes of this
10 franchise tax. All provisions of this chapter and ch. 73 relating to income taxation
11 of corporations shall apply to franchise taxes imposed under this subsection, unless
12 the context requires otherwise. The tax imposed by this subsection on national
13 banking associations shall be in lieu of all taxes imposed by this state on national
14 banking associations to the extent it is not permissible to tax such associations under
15 federal law.

16 **SECTION 1722yf.** 71.25 (5) (a) (intro.) of the statutes is amended to read:

17 71.25 (5) (a) *Apportionable income.* (intro.) Except as provided in sub. (6),
18 corporations engaged in business both within and without this state are subject to
19 apportionment. Income, gain or loss from the sources listed in this paragraph is
20 presumed apportionable. Apportionable income includes all income or loss of
21 corporations, other than nonapportionable income as specified in par. (b), including,
22 but not limited to, income, gain or loss from the following sources:

23 **SECTION 1722ym.** 71.25 (5) (a) 9. of the statutes is amended to read:

24 71.25 (5) (a) 9. Interest and dividends ~~if the operations of the payer are unitary~~
25 ~~with those of the payee, or if these operations are not unitary but the investment~~

1 ~~activity from which that income is derived is an integral part of a unitary business~~
2 ~~and the payer and payee are neither affiliates nor related as parent company and~~
3 ~~subsidiary. In this subdivision, “investment activity” includes decision making~~
4 ~~relating to the purchase and sale of stocks and other securities, investing surplus~~
5 ~~funds and the management and record keeping associated with corporate~~
6 ~~investments, not including activities of a broker or other agent in maintaining an~~
7 ~~investment portfolio.~~

8 **SECTION 1722yn.** 71.25 (5) (a) 10. of the statutes is amended to read:

9 71.25 (5) (a) 10. Sale of intangible assets ~~if the operations of the company in~~
10 ~~which the investment was made were unitary with those of the investing company,~~
11 ~~or if those operations were not unitary but the investment activity from which that~~
12 ~~gain or loss was derived is an integral part of a unitary business and the companies~~
13 ~~were neither affiliates nor related as parent company and subsidiary. In this~~
14 ~~subdivision, “investment activity” has the meaning given under subd. 9.”.~~

15 **5.** Page 874, line 9: delete that line and substitute “businesses except financial
16 organizations, public utilities, telecommunications companies, railroads, sleeping
17 car”.

18 **6.** Page 874, line 20: delete lines 20 to 23 and substitute:

19 “71.25 (6) (a) For taxable years beginning before January 1, 2001, an
20 apportionment fraction composed of a sales factor under sub. (9) representing 50%
21 of the fraction, a property factor under sub. (7) representing 25% of the fraction and
22 a payroll factor under sub. (8) representing 25% of the fraction.

23 **SECTION 1729bb.** 71.25 (6) (am) of the statutes is created to read:

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

5 **7.** Page 887, line 20: after that line insert:

6 **“SECTION 1738nb.** 71.25 (10) (b) of the statutes is amended to read:

7 71.25 (10) (b) In this section, “public utility” means any business entity which
8 owns or operates any plant, equipment, property, franchise, or license for the
9 transmission of communications or the production, transmission, sale, delivery, or
10 furnishing of electricity, water or steam the rates of charges for goods or services of
11 which have been established or approved by a federal, state or local government or
12 governmental agency. “Public utility” also means any business entity providing
13 service to the public and engaged in the transportation of goods and persons for hire,
14 as defined in s. 194.01 (4), regardless of whether or not the entity’s rates or charges
15 for services have been established or approved by a federal, state or local government
16 or governmental agency. This paragraph does not apply to gas and electric
17 companies for taxable years beginning after December 31, 1999.”.

18 **8.** Page 888, line 3: after “(9d)” insert “and the net business income of gas and
19 electric companies shall be apportioned under sub. (6)”.

20 **9.** Page 1614, line 7: after “(a),” insert “(am),”.

21 **10.** Page 1614, line 8: on lines 8 and 10, delete “(a) and (c)” and substitute “(a),
22 (b) and (c)”.

