

(Gov) Agency: General Fund Taxes -- Single Factor Apportionment Formula

Recommendations:

Paper #111:

Comments: Wisconsin currently uses a formula that includes three factors -- Wisconsin property value, payroll and sales -- to determine taxable income for multi-state corporations. The governor proposes moving to a single factor -- sales. Most neighboring states use or are phasing in a single-factor system.

The argument is that Wisconsin's current three-factor formula creates a disincentive for businesses that require large investments in tangible property and payroll to locate in this state. However, according to Fiscal Bureau (Point 17), two states that have used single factor the longest, Iowa and Nebraska, have not had relatively greater increases in investment than surrounding states.

The change would have no effect on the taxes paid by corporations whose operations are entirely within the state. But it would have a big impact on state finances. In fact, the governor's \$70 million cost estimate was low by \$41 million. Fully implementing the governor's plan would cost \$116 million.

One option is to phase-in implementation. Most states that have done this have phased it in. Alternatives 2 and 3 provide phase in options.

Alternative 2 slows the pace to reduce the impact on this budget, producing a \$10 million gain over the governor's budget (as opposed to a \$41 million loss over the governor's \$70 million estimate)

Alternative 3 slows the pace and excludes public utilities, telecommunications, transportation and pipeline companies, producing a \$56.6 million gain over the governor's budget.

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Joint Committee on Finance

Paper #111

Corporate Income and Franchise Tax -- Single-Sales Factor Apportionment Formula (General Fund Taxes -- Individual and Corporate Income Taxes)

[LFB 1999-01 Budget Summary: Page 28, #9]

CURRENT LAW

Under Wisconsin law, formula apportionment is used to determine taxable income in Wisconsin if a corporation's Wisconsin activities are an integral part of a unitary business which operates both within and outside of the state. The apportionment ratio is the end result of the application of the Wisconsin apportionment formula to a particular corporation. For most corporations, the apportionment ratio or fraction is determined by dividing the corporation's property value, payroll and sales in Wisconsin by the corporation's total property value, payroll and sales, respectively. The apportionment ratio is determined by adding three fractions (referred to as the three factors of the formula)--the corporation's property in Wisconsin divided by its total property, the corporation's payroll in Wisconsin divided by its total payroll and the corporation's sales in Wisconsin divided by its total sales--double weighting the sales factor, and dividing the aggregate sum by four.

GOVERNOR

Require the income of corporations and nonresident individuals and estates and trusts engaged in business within and outside of Wisconsin to be apportioned to the state using a single-sales factor apportionment formula. Similarly, insurance companies that are subject to the state corporate franchise tax and that collect premiums on property and risks inside and outside of the state would apportion income based on a single premiums factor. Use of property and payroll factors to apportion income would be eliminated. These provisions would be effective for tax years beginning on January 1, 2000. Use of a single-sales factor apportionment formula would reduce corporate income and franchise tax revenues by an estimated \$24,600,000 in 1999-00 and \$50,000,000 in 2000-01.

DISCUSSION POINTS

1. The state corporate income tax was first introduced in Wisconsin in 1911 and over the next ten years, seven more states--Connecticut, Virginia, Missouri, Montana, New York, Massachusetts, and North Dakota--enacted the tax. Currently, 45 states have a corporate income tax; Nevada, Texas, South Dakota, Washington and Wyoming do not have a corporate income tax. Since the tax was first imposed, one of the more difficult problems in administering the tax has been allocating a portion of the income of a corporation doing businesses in several states to a particular state for tax purposes. Initially, most states used separate accounting to allocate corporate income. However, because of the difficulty in determining income from intercompany transactions and attributing expenses to specific activities in individual states, most states adopted apportionment formulas to allocate multistate corporate income.

2. The earliest state apportionment formulas used only a single factor, usually property. However, by the 1930s the most widely used formula was one that originated in Massachusetts and consisted of three factors: property, payroll and sales (or gross receipts). There were wide variations in the way states defined these factors. For many years, states continued to use the three-factor formula with each factor evenly weighted. The standard approach was to use the formula adopted by the Uniform Division of Income for Tax Purposes Act (UDITPA) in 1957. The formula was a political compromise between manufacturing states in the east and the market states in the west. In addition, states adopted special apportionment formulas to apply to businesses, such as banking, financial services and insurance, for which the traditional three-factor formula was not well suited. Over time, however, most states modified the standard three-factor formula to double-weight the sales factor. More recently, some states have begun to use a single-sales factor apportionment formula, at least for some industries.

3. Table 1 shows the apportionment formulas that are generally applied to corporations in the states. The table shows that 23 states use a double-weighted sales factor and another eight states give greater weight to sales. Currently, Iowa and Nebraska use a single-sales apportionment formula. Illinois and Michigan are phasing in single factor formulas. Connecticut allows use of a single-sales factor apportionment formula for financial service companies and corporations deriving income from businesses other than the manufacture, sale or use of tangible property. South Carolina permits companies other than manufacturers or dealers in tangible personal property to use a single-sales factor apportionment formula. Massachusetts permits defense contractors to use a single-sales factor formula. Mississippi permits retailers, wholesalers and service companies to use such a formula. Missouri offers businesses the option of using a single-sales factor formula or an equally weighted three-factor formula. Colorado and Kansas offer taxpayers the option of using the standard three-factor formula or a two-factor formula that weights sales and property equally. Minnesota, New Hampshire and Ohio use apportionment formulas that give additional weight to the sales factor that differs from double-weighting.

TABLE 1

State Apportionment Formulas
January 1, 1999

Alabama	3 Factor	Montana	3 Factor
Alaska	3 Factor	Nebraska	Sales
Arizona	Double wtd. sales	Nevada	No State Income Tax
Arkansas	Double wtd. sales	New Hampshire	42.8% sales, 28.6% Property & Payroll
California	Double wtd. sales	New Jersey	Double wtd. sales
Colorado	3 Factor/Sales & Property	New Mexico	3 Factor/2 wtd. sales
Connecticut	Double wtd. sales/Sales	New York	Double wtd. sales
Delaware	3 Factor	North Carolina	Double wtd. sales
Florida	Double wtd. sales	North Dakota	3 Factor
Georgia	Double wtd sales	Ohio	60% Sales, 20% Property & Payroll
Hawaii	3 Factor	Oklahoma	3 Factor
Idaho	Double wtd. sales	Oregon	Double wtd. sales
Illinois (1)	66.7 Sales, 16.6% Property & Payroll	Pennsylvania	Double wtd. sales
Indiana	Double wtd. sales	Rhode Island	3 Factor
Iowa	Sales	South Carolina	Double wtd. sales/Sales
Kansas	3 Factor/Sales & Property	South Dakota	No State Income Tax
Kentucky	Double wtd. sales	Tennessee	Double wtd. sales
Louisiana	Double wtd. sales	Texas	No State Income Tax
Maine	Double wtd. sales	Utah	3 Factor
Maryland	Double wtd. sales	Vermont	3 Factor
Massachusetts	Double wtd. sales	Virginia (3)	3 factor/double wtd. sales
Michigan (2)	Single Business Tax apportioned 90% sales, 5% prop., and 5% payroll	Washington	No State Income Tax
Minnesota	70% sales, 15% property and payroll	West Virginia	Double wtd. sales
Mississippi	Accounting/3 Factor	Wisconsin	Double wtd. sales
Missouri	3 Factor/sales	Wyoming	No State Income Tax

Source: Compiled by Federation of Tax Administrators (FTA) and other sources.

Note: Formulas listed are for general manufacturing businesses. Some industries have special apportionment formulas that may differ from the reported formulas.

(1) Phasing-in a 100% sales factor formula for tax years ending after 12/31/00.

(2) Apportionment formula weights will revert to 70% sales and 15% for payroll and property, if the amended capital acquisition deduction is not in effect.

(3) Double weighted sales factor effective 2000.

4. In order for a state to impose a tax on a corporation engaged in interstate commerce, the tax must meet the tests of both the Commerce and Due Process Clauses of the U.S. Constitution. The U.S. Supreme Court has ruled (Complete Auto Transit Inc. v Brady, 1977) that a state tax meets the requirements of the Commerce Clause if: (a) the taxed activity is sufficiently connected with the taxing state to justify a tax; (b) the tax is fairly related to benefits provided by the state; (c) the tax does not discriminate against interstate commerce; and (d) the tax is fairly apportioned. Similarly, the Court stated in Mobil Oil Corp. v. Commissioner of Taxes of Vermont (1980) that the Due Process Clause imposes two limitations on a state's exercise of jurisdiction over a nonresident taxpayer: (a) the taxpayer must have minimum contacts with the taxing state; and (b) there must be

a rational relationship between the income attributed to the state and the intrastate value of the enterprise. These principles lend support to the use of apportionment formulas to allocate the income of multistate firms.

5. The U.S. Supreme Court has generally upheld formula apportionment as an appropriate way to allocate the income of a multistate corporation to a particular state. In Butler Brothers v McColgan (1942), the Court ruled that California's three-factor apportionment formula based on property, payroll and sales was "fairly calculated" to assign to the taxing state that portion of net income "reasonably attributable" to the business done there. The Supreme Court has indicated that the three-factor apportionment formula has become "something of a benchmark against which other apportionment formulas are judged" (Container Corp. of America v Franchise Tax Board, 1983). However, the Court has approved many different apportionment methods and has declined to mandate a uniform method in all states. The Court has recognized that the lack of uniformity in apportionment practices of the states creates a risk of overlapping taxes on interstate commerce, but has insisted that Congress should decide whether there is an overriding national interest in uniformity, and if so what the rules should be. For example, in Moorman Mfg. Co. v Bair, (1978), the Court upheld Iowa's single-sales factor formula against challenges under the Due Process and Commerce Clauses. The Court found that the formula method of computing taxable income is employed as a rough approximation of a corporation's income that is reasonably related to a taxpayer's activities conducted within the taxing state.

6. In order to use an apportionment formula to compute tax liability, the taxpayer's activities within and outside the state must be part of a unitary business. If the activities are separate and discrete, the income from the in-state activities can be determined by separate accounting and the formula method is neither necessary nor appropriate. In addition, apportionable income needs to be determined. Formula apportionment spreads the income of the corporation over all the states where the principal business activity occurs. Therefore, only income which bears reasonably close connection to the central business should be included income that is apportioned. If the business has income from property or activities only remotely connected with the central business, it may be more appropriate to allocate the income specifically to the situs of the property or the activity that produced it.

7. Wisconsin generally employs one of three methods of assigning income to the state--separate accounting, formula apportionment or specific allocation.

Separate Accounting. Under separate accounting, a geographic or functional area of a single, multistate corporation is treated separately from the rest of the business activities of the corporation. Net income is computed as if the activities of the corporation were confined to that geographic or functional area. Separate accounting implies that both the income and expenses of each specific function or activity of a multijurisdictional corporation can be accounted for individually and independently. Under Wisconsin law, a multijurisdictional corporation may use separate accounting when the corporation's business activities in the state are not an integral part of a unitary business. Generally, a unitary business exists when the corporation's in-state activities are dependent upon, or contributory to, the operations outside of Wisconsin. Currently, few multijurisdictional corporations in the state use separate accounting to determine their net tax

liability.

Formula Apportionment. Under the formula apportionment method of assigning corporate income, a formula is employed for dividing the income of a multistate corporation among the states in which its business is conducted. States have developed apportionment formulas as a rough means of attributing a reasonable share of the income tax base of a multistate unitary business to the taxing state. Under Wisconsin law, formula apportionment is used if a corporation's Wisconsin activities are an integral part of a unitary business which operates both within and outside of the state.

Specific Allocation. Specific allocation traces income to the state of its supposed source and includes the income in that state's tax base. Generally, this method of assigning income is applied to income from property with the source of the income generally following the location of the property. Wisconsin law distinguishes nonapportionable income from apportionable income. In determining a corporation's tax liability, total corporate nonapportionable income or loss is removed from the total income of a unitary multistate corporation and the remaining income or loss is apportioned to the state. Nonapportionable income allocated to Wisconsin is then added to apportioned business income to determine Wisconsin net income. Nonapportionable income is allocable directly to the state in which the nonbusiness property that produced the income, gain or loss is located. For state income and franchise tax purposes, nonapportionable income includes income, gain or loss from: (a) the sale of nonbusiness real property or nonbusiness tangible personal property; (b) rental of nonbusiness real property or nonbusiness tangible personal property; or (c) royalties from nonbusiness real property or nonbusiness tangible personal property.

8. Most multistate or multinational corporations use the state apportionment formula to allocate income to Wisconsin for tax purposes. In these cases, the corporation adds its total gross income from its in-state and out-of-state unitary activities, subtracts its deductions, and multiplies the amount of net income by its apportionment ratio as determined by the Wisconsin apportionment formula. The apportionment ratio is used to approximate how much of a corporation's total net income is generated by activities in Wisconsin. Figure I provides an illustration of the Wisconsin apportionment formula under current law.

FIGURE I

**Computation of Apportionment Percentage
Under the Current Wisconsin Apportionment Formula**

$$\text{Apportionment Percentage} = \left[\frac{\text{Property in WI}}{\text{Total Property}} + \frac{\text{Payroll In WI}}{\text{Total Payroll}} + 2 \frac{\text{Sales by WI Destination}}{\text{Total Sales}} \right] + 4$$

9. The property factor of the apportionment formula is the ratio of the average value of real and tangible personal property owned or rented and used by the taxpayer in Wisconsin to that for the company as a whole. Tangible property includes land, buildings, machinery and equipment, inventories, furniture and fixtures and other tangible personal property actually owned and used in producing apportionable income.

10. The payroll factor is the ratio of the total amount of compensation paid by the company in the state to the total compensation paid by the company. Compensation includes wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

11. The sales factor is the ratio of the total sales of the taxpayer in the state to total sales everywhere. Sales are generally all gross receipts from the course of the taxpayer's regular trade or business operations which produce apportionable business income. For the sales factor, sales of tangible personal property are generally considered to be in Wisconsin if the property is delivered or shipped to a purchaser within Wisconsin or if the property is shipped from Wisconsin and the taxpayer is not subject to the taxing jurisdiction of the state of destination. The latter type of sales are "throwbacks" and single-weighted in the apportionment formula. In addition, sales of tangible personal property from an office in the state, but shipped from an out-of-state supplier to an out-of-state customer are considered throwback sales if neither the supplier nor the customer are subject to the taxing jurisdiction of the states in which they are located. Sales to the federal government are only considered to be in Wisconsin if they are shipped from a location within the state and are delivered to the federal government at a location within the state or if they are "throwback" sales. Federal throwback sales are single-weighted in the apportionment formula. Sales other than the sales of tangible personal property are usually considered to be in Wisconsin if the income-producing activity is performed wholly in Wisconsin. Generally, sales of intangible assets are excluded from the sales factor. Sales which produce nonapportionable income are also excluded from the sales factor.

12. Interstate air carriers, motor carriers, pipeline companies, taxable insurance companies and financial organizations are required to use different apportionment formulas to determine Wisconsin net taxable income. These corporations must use special apportionment factors in order to attribute income to their Wisconsin business activities.

13. Instituting a single-sales factor would have no effect on the taxes paid by corporations whose business property, operations and income are entirely in Wisconsin, because these corporations do not use an apportionment formula to determine tax liability. Most corporate taxpayers do not apportion income and, as a result, most businesses in Wisconsin would not directly benefit from a change to single-sales factor apportionment. However, if the change in the apportionment formula decreases total corporate income and franchise taxes, then 100% Wisconsin corporations would pay a larger proportionate share of the remaining total collections.

14. Although most corporations operating in Wisconsin are not multistate or multinational firms, substantially more taxes are paid by firms that apportion income. Table 2 shows the distribution of net income and tax liability for corporations that apportion income compared to the totals for all corporations. The data is from 1997 corporate aggregate statistics and shows that

multijurisdictional firms represented about 20% of all corporate taxpayers but paid \$390.9 million or 69% of total corporate income taxes.

TABLE 2

**Distribution of Net Income and Tax Liability
Multistate Corporations**

Net Income Class	Multistate Corporations			All Corporations		
	Net Income	Net Tax	Corporations	Net Income	Net Tax	Corporations
Zero or Less	0	0	13,043	0	0	76,174
0 -- 10,000	\$7,550,098	\$590,429	2,729	\$33,655,425	\$2,612,577	11,248
10,000 -- 25,000	13,148,729	1,031,778	797	70,429,584	5,455,354	4,257
25,000 -- 50,000	25,967,075	1,971,896	714	124,951,889	9,583,937	3,433
50,000 -- 100,000	50,584,901	3,894,826	705	212,319,868	16,202,111	3,034
100,000 -- 250,000	110,926,711	8,513,371	700	307,192,444	23,281,385	1,990
250,000 -- 500,000	159,925,976	11,768,693	458	346,832,885	25,669,787	986
500,000 -- 1,000,000	244,032,338	18,156,838	346	466,079,793	35,058,336	663
1,000,000 -- 5,000,000	1,167,406,380	82,010,036	512	1,723,475,603	124,531,455	808
5,000,000 -- 10,000,000	869,264,076	60,339,074	125	1,067,248,604	75,898,973	153
10,000,000 +	<u>2,992,008,888</u>	<u>202,624,808</u>	<u>95</u>	<u>3,540,380,507</u>	<u>245,468,669</u>	<u>107</u>
Total	\$5,640,815,172	\$390,901,749	20,224	\$7,892,566,602	\$563,762,584	102,853

Source: Department of Revenue, 1997 Aggregate Statistics

15. Compared with the current three-factor formula, the single-sales factor apportionment formula would increase the tax on some multijurisdictional corporations and decrease it on others. The exact pattern of the effects depends on the mathematical relationship between the sales factor and the property and payroll factors. Specifically, corporations whose sales factors are less than the average of their property and payroll factors would benefit from a move to a single-sales factor apportionment formula; corporations whose sales factors are greater than the average of their property and payroll factors would be disadvantaged. Data developed by the Department of Revenue from 1996 corporate aggregate statistics indicates that the total decrease in tax liability of \$70.9 million from switching to a single-sales factor apportionment formula would have been \$70.9 million. However, 3,997 firms would have experienced an aggregate tax increase of \$42.6 million (\$10,658 average); while 2,426 would have experienced a total tax decrease of \$113.5 million (\$46,784).

16. Replacing the current three-factor formula with a single-sales factor apportionment factor would reduce taxes on corporations that have a substantial amount of their production activities in the state. The single-sales factor would reduce the tax impact on multistate businesses that place jobs and capital in a state by giving them lower tax bills than would occur under the three-factor method of apportionment. On a more specific level, Wisconsin's current three-factor formula creates a disincentive for businesses that require large investments in tangible property and payroll to locate in the state, when compared with the surrounding states. Iowa uses a single-sales apportionment factor and Illinois and Michigan are phasing in such formulas. Minnesota attributes a

70% weight to the sales factor. All of these apportionment formulas place a relatively lower income tax burden on property and payroll than Wisconsin's. Because of these impacts, converting to a single-sales factor is viewed as a means of generating economic growth. A 1999 study conducted by four economists from the University of Chicago and UW-Milwaukee for the Wisconsin Manufacturers and Commerce estimated that switching to a single-sales factor apportionment formula in Wisconsin would have the long run effect of increasing the number of manufacturing jobs by about 2.9% or 18,000 jobs. Nonmanufacturing employment would increase 2.4% or by 49,000 new jobs. Also, \$51 million in additional tax revenue would be generated. The study was based on experiences of other states that modified their apportionment formulae between 1978 and 1995 and controlled for other factors that could affect employment.

17. A business that sells a substantial amount of its products and also has some business operations in-state would have less incentive for keeping those operations here under single-sales factor apportionment. Moreover, there would be an incentive for many firms that sell tangible personal property in the state to reduce in-state operations solely to the solicitation of orders to be protected from taxation under federal law relating to corporate nexus (Public Law 86-272). This, in turn, would make it even less likely that the business would locate property or production personnel in the state. In addition, there are a number of elements in a state's tax code that are equally or more important in determining the relative tax burden on businesses in different states. For example, both Illinois and Minnesota require multistate corporations to use combined reporting in determining state tax liability. For many firms, this method imposes a greater tax burden than the type of apportionment formula used. Finally, the two states that have used single-sales factor apportionment the longest, Iowa and Nebraska, have not had relatively greater increases in investment than surrounding states. These states have not become regional manufacturing centers.

18. As noted, the single-sales factor apportionment provisions would be effective for tax years beginning on January 1, 2000 and were initially estimated by the administration to reduce corporate income and franchise tax revenues by \$24.6 million in 1999-00 and \$50.0 million in 2000-01. However, since the bill was introduced, the Department of Revenue (DOR) has developed data using 1996 corporate income and franchise tax returns. Based on simulations using that data and the 1996 corporate sample as currently developed, the Department estimates that converting to a single-sales factor apportionment formula would decrease state corporate franchise tax revenues by \$36 million in 1999-00 and \$80 million in 2000-01.

19. Most states that have implemented a single-sales factor apportionment formula have phased it in over a number of years by annually increasing the weight of the sales factor and decreasing the weights of the other factors until the sales factor equals 100%. For example, Illinois is phasing in the conversion according to the following schedule: 1998--Sales Factor = 66.67%; Payroll and Property Factors--16.6%; 1999--Sales Factor = 83.33%, Payroll and Property Factors--8.35%; and 2000--Sales Factor = 100%. As an alternative, the Committee could choose to adopt this schedule to phase in the single-sales apportionment formula beginning in tax year 2000. As a result, the weights for the corporate apportionment formula factors in 2000 would be: Property--16.65%; Payroll--16.65%; and Sales--66.7%. The single-sales factor apportionment formula would be fully phased in for tax years beginning on January 1, 2002. Compared to current law, this alternative would reduce state tax revenues by an estimated \$19.9 million in 1999-00 and \$44.3

million in 2000-01.

20. The Department of Revenue has developed a number of statutory provisions not included in the bill that it believes would be necessary to implement a single-sales factor apportionment formula. These provisions include: (a) further specifying the treatment of certain moving property that is leased or rented; (b) specifically defining intangible property to be included as sales and attributing sales to where the property is used; (c) attributing receipts from services to where the purchaser receives benefit; (d) specifying the apportionment formula and defining the premiums factor for insurance companies; (e) conforming the apportionment formulas to single-sales factor apportionment for specialized industries including financial institutions, air carriers, motor carriers, railroads and sleeping car companies, professional sports clubs and pipeline companies to single-sales factor apportionment; (f) specifying specialized formulas for broker-dealers and underwriters, broadcasting and publishing, telecommunications services and diversified businesses; (g) defining "doing business in the state"; and (h) defining commercial domicile. The specific provisions recommended by DOR are shown in the Appendix.

21. The Department of Revenue has recently proposed to further modify the single-sales factor provisions included in the bill. Specifically, the Department has proposed phasing in the single-sales factor apportionment formula beginning in tax year 2001, with the sales factor at 65% for 2001, 80% for 2002 and 100% in 2003. The Department has also recommended not adopting a single-sales factor apportionment formula for public utilities, telecommunications, transportation and pipeline companies. If these changes were adopted, state corporate income and franchise tax revenues would be reduced by an estimated \$18 million in 2000-01 compared to current law.

ALTERNATIVES

1. Approve the Governor's recommendation to require, effective for tax years beginning on January 1, 2000, the income of corporations and nonresident individuals and estates and trusts engaged in business within and outside of Wisconsin to be apportioned to the state using a single-sales factor apportionment formula. Require insurance companies that are subject to the state corporate franchise tax and that collect premiums on property and risks inside and outside of the state to apportion income based on a single premiums factor. Reestimate the total reduction in corporate income and franchise tax revenues to be \$36 million in 1999-00 and \$80 million in 2000-01.

<u>Alternative 1</u>	<u>GPR</u>
1999-01 REVENUE (Change to Bill)	- \$41,400,000

2. Modify the Governor's recommendation to phase-in the single-sales apportionment formula over three years beginning with tax year 2000 by increasing the sales factor each year and decreasing the payroll and property factors equally. Increase the sales factor as follows: tax year 2000-66.7%; tax year 2001--83.3%; and tax year 2002--100%.

Alternative 2	GPR
1999-01 REVENUE (Change to Bill)	\$10,400,000

3. Modify the Governor's recommendation to phase-in the single-sales apportionment formula over three years, beginning with tax year 2001 by increasing the sales factor each year and decreasing the payroll and property factors equally. Increase the sales factor as follows: tax year 2001 - 65%; tax year 2002 - 85%; and tax year 2003 - 100%. In addition, do not apply the single-sales apportionment formula to public utilities, telecommunications, transportation and pipeline companies.

Alternative 3	GPR
1999-01 REVENUE (Change to Bill)	\$56,600,000

4. Approve the statutory provisions recommended by DOR
5. Maintain current law.

Alternative 5	GPR
1999-01 REVENUE (Change to Bill)	\$74,600,000

Prepared by: Ron Shanovich

APPENDIX I

Comparison of Sales Apportionment Factor Provisions

Current Law	AB 133	DOR Amendment
<p>Definition of Sales. "Sales" includes, but is not limited to, the following items related to the production of business income:</p> <ul style="list-style-type: none"> a. Gross receipts from the sale of inventory. b. Gross receipts from the operation of farms, mines and quarries. c. Gross receipts from the sale of scrap or by-products. d. Gross commissions. e. Gross receipts from personal and other services. f. Gross rents from real property or tangible personal property. g. Interest on trade accounts and trade notes receivable. h. A partner's share of the partnership's gross receipts or a member's share of the limited liability company's gross receipts. i. Gross management fees. j. Gross royalties from income-producing activities. k. Gross franchise fees from income-producing activities. <p>The following items are among those that are not included in "sales."</p> <ul style="list-style-type: none"> a. Gross receipts and gain or loss from the sale of tangible business assets, with certain exceptions. b. Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property. c. Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property is not used in the production of business income. d. Royalties from nonbusiness real property or nonbusiness tangible personal property. e. Proceeds and gain or loss from the redemption of securities. f. Interest, with certain exceptions, and dividends. g. Gross receipts and gain or loss from the sale of intangible assets, with certain exceptions. h. Dividends deductible by corporations in determining net income. 	<p>Expand definition to include: (a) sales, rents, royalties and other income from real property; (b) receipts from the lease or rental of tangible personal property; (c) royalties and other income received from the use of intangible property; (d) sales of intangible property; and (e) receipts from lease or rental of moving property including motor vehicles rolling stock, aircraft vessels and mobile equipment.</p>	<p>Limit receipts from intangible property that are includable in the sales factor to gross income from the use of patents, copyrights, trademarks, trade names, service names, service marks, logos, franchises, licenses, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, customer lists, contracts, technical know-how, trade secrets and other proprietary materials. Exclude income relating to stocks, bonds or other securities.</p>

Current Law	AB 133	DOR Amendment
<p>i. Gross receipts and gain or loss from the sale of securities. j. Proceeds and gain or loss from the sale of receivables. k. Refunds, rebates and recoveries of amounts previously expended or deducted. L. Other items not includable in apportionable income. m. Foreign exchange gain or loss. n. Royalties and income from passive investments in the property. o. Pari-mutuel wager winnings or purses.</p>		
Sourcing Rules		
<p>Tangible Personal Property. Gross receipts from the sales of tangible personal property, except sales to the federal government, are in Wisconsin if the property is delivered or shipped to a purchaser within Wisconsin regardless of the f.o.b. point or other conditions of the sales.</p> <p>Rental, Lease of Tangible Personal Property. Gross receipts from the rental, lease, licensing the use of or other use of tangible personal property are assigned to Wisconsin if the property is within Wisconsin during the entire period of rental, lease, license or other use. If the property is within and without Wisconsin during the period of rental, gross receipts attributable to Wisconsin are based upon the ratio of the time the property was used in Wisconsin to the total time the property was used in all states having jurisdiction to tax the business.</p>	<p>Same as current law.</p>	<p>Same as current law.</p>
<p>Lease or Rental of Mobile Property. If mobile property such as automobiles and trailers is within and without Wisconsin during the period of rental, gross receipts are attributed to the situs where the property is customarily kept or garaged or, for property that is not customarily kept at any location, gross receipts shall be attributed to the situs where the property first comes into the lessee's possession.</p>	<p>Receipts from the lease or rental of moving property including but not limited to motor vehicles, rolling stock, aircraft, vessels or mobile equipment would be included in the numerator of the sales factor to the extent the property was used in Wisconsin. The use of moving property in the state would be determined as follows:</p> <p>a. A motor vehicle would be used in Wisconsin if it was registered in the state and used wholly in the state.</p> <p>b. The use of rolling stock in Wisconsin would be</p>	<p>a. The use of a motor vehicle in this state would be determined by multiplying the gross receipts from the lease or rental of the motor vehicle by a fraction with the numerator the miles traveled within this state during the lease or rental period in the taxable year and the denominator the total miles traveled during the lease or rental period in the taxable year by the leased or rented motor vehicle. If the physical location of the property during the lease or rental period was unknown or unascertainable by the taxpayer, the motor vehicle is used in the state in which the property was located at the time the</p>

Current Law

AB 133

determined by multiplying the receipts from the lease or rental of the rolling stock by the following fraction: miles traveled in Wisconsin by the leased or rented rolling stock divided by total miles traveled by the rolling stock.

c. The use of an aircraft in Wisconsin would be determined by multiplying the receipts from the lease or rental of the aircraft by the following fraction: the number of landings of the aircraft in Wisconsin divided by the total number of landings of the aircraft anywhere.

d. The use of a vessel, mobile equipment or other mobile property in Wisconsin would be determined by multiplying the receipts from the lease or rental of the property by the following fraction: the number of days in the tax year that the vessel, mobile equipment or other mobile property was in Wisconsin, divided by the number of days in the tax year that the vessel, mobile equipment or other mobile property was rented or leased.

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lessee or renter obtained possession.

b. The use of rolling stock in this state would be determined by multiplying the gross receipts from the lease or rental of the rolling stock by a fraction with the numerator the miles traveled within this state during the lease or rental period in the taxable year by the leased or rented rolling stock and the denominator the total miles traveled during the lease or rental period in the taxable year by the leased or rented rolling stock. If the physical location of the property during the lease or rental period was unknown or unascertainable by the taxpayer, the rolling stock is used in the state in which the property was located at the time the lessee or renter obtained possession.

c. The use of an aircraft in this state would be determined by multiplying the gross receipts from the lease or rental of the aircraft by a fraction with the numerator the number of landings of the aircraft in this state during the lease or rental period in the taxable year and the denominator the total number of landings anywhere during the lease or rental period in the taxable year. If the physical location of the property during the lease or rental period was unknown or unascertainable by the taxpayer, the aircraft is used in the state in which the property was located at the time the lessee or renter obtained possession.

d. The use of a vessel, mobile equipment or other mobile property in this state would be determined by multiplying the gross receipts from the lease or rental of the property by a fraction with the numerator the number of days during the lease or rental period in the taxable year that the vessel, mobile equipment or other mobile property was in this state and the denominator the number of days during the lease or rental period in the taxable year that the vessel, mobile equipment or other mobile property was rented or leased. If the physical location of the property during the lease or rental period was unknown or unascertainable by the taxpayer, the vessel, mobile equipment or other mobile property is used in the state in which the property was located at the time the

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<p>Other Property - Generally and Intangibles. Receipts from sales, other than sales of tangible personal property, are in Wisconsin if the income producing activity is performed wholly within Wisconsin. If the income producing activity is performed partly within and partly without Wisconsin, receipts shall be assigned to Wisconsin based upon the ratio of direct costs of performing the services in Wisconsin to the direct costs of performing the services in all states having jurisdiction to tax the business.</p> <p>"Income producing activity" means the act or acts directly engaged in by the taxpayer for the ultimate purpose of obtaining gains or profit. The activity does not include activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. Accordingly, the income producing activity includes but is not limited to the following: (a) the rendering of personal services by employees or the utilization of tangible and intangible property by the taxpayer in performing a service; (b) the sale, rental, leasing, licensing the use of or other use of real property; (c) the rental, leasing, licensing the use of or other use of tangible personal property; and (d) the sale, licensing the use of or other use of intangible personal property such as patents, copyrights, trademarks, trade names, etc.</p>	<p>Royalties and other income received for the use of intangible property would be attributed to the state where the purchaser used the intangible property. Similarly, sales of intangible property would also be attributed to the state where the purchaser used the intangible property. If the intangible property was used in more than one state, the royalties and other income received for the use of the intangible property or the sales of the intangible property would be apportioned to the state according to the portion of the intangible property's use in Wisconsin. If this could not be determined, the royalties and other income would be excluded from the numerator and the denominator of the sales factor. Intangible property would be treated as used in Wisconsin if a purchaser used the intangible property or the rights to the intangible property in the regular course of the purchaser's business in Wisconsin, regardless of where the purchaser's customers were located.</p>	<p>lessee or renter obtained possession.</p> <p>Gross royalties and other gross income received for the use of patents, copyrights, trademarks, trade names, service names, service marks, logos, franchises, licenses, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, customer lists, contracts, technical know-how, trade secrets, other proprietary materials or similar intangible property would be attributed to Wisconsin if any of the following occur:</p> <ol style="list-style-type: none"> The purchaser uses the intangible property in the production, fabrication, manufacturing or other processing of a product that is sold to a customer located in this state. If the location of the purchaser's customers is unknown or unascertainable by the taxpayer, the receipts are attributable to this state if the purchaser uses the intangible property in the production, fabrication, manufacturing or other processing of a product in this state. The purchaser uses the intangible property in the printing or other publication of materials that are sold or delivered to a customer located in this state. If the location of the purchaser's customers is unknown or unascertainable by the taxpayer, the receipts are attributable to this state if the purchaser uses the intangible property in the printing or other publication of materials in this state. The purchaser uses the intangible property in the operation of a trade or business at a location in this state. The purchaser uses the intangible property in the operation of a trade or business at locations within and without the state. The gross royalties and other gross income received for the use of the intangible property would be apportioned to this state according to the portion of the intangible property's use in this state The taxpayer is unable to determine where the purchaser

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<p>Real Property. Gross receipts from the sale, lease, rental or other use of real property are in Wisconsin if the real property is located in Wisconsin.</p> <p>Services. Gross receipts from the performance of personal services are attributable to Wisconsin if the services are performed entirely in Wisconsin. If the services are performed partly within and partly without Wisconsin, gross receipts shall be attributable to Wisconsin based upon the ratio which compensation and other direct costs of performing the services in Wisconsin to total compensation and other direct costs of performing the services in all states having jurisdiction to tax the business during the taxable year. Where services are performed in a state which does not have jurisdiction to tax the business, gross receipts are attributed to Wisconsin if the compensation related to performing the services is allocated to Wisconsin.</p>	<p>No change.</p> <p>Receipts from the performance of services would be attributed to the state where the purchaser received the benefit of the services. If the purchaser received the benefit of a service in more than one state, the receipts from the performance of the service would be included in the numerator of the sales factor according to the portion of the benefit of the service received in Wisconsin. If the state where the purchaser received the benefit could not be determined, the benefit of a service would be treated as being received in the state where the purchaser, in the regular course of the purchaser's business, ordered the service. In cases where the state in which a purchaser ordered the service could not be determined, the benefit of the service would be received in the state where the purchaser, in the regular course of business, received a bill for the service.</p>	<p>uses the intangible property but the purchaser's billing address is in this state.</p> <p>f. The taxpayer is not within the jurisdiction, for income tax purposes, of the state in which the intangible property is used but the taxpayer's commercial domicile is in this state.</p> <p>No change</p> <p>Include AB 133 provision and define where purchaser received benefit of services as follows:</p> <p>a. If the service directly relates to or benefits specific real property, the benefit of the service is received where the real property is located.</p> <p>b. If the service directly relates to or benefits specific tangible personal property, the benefit of the service is received where that property is located at the time the service is received.</p> <p>c. If the service is represented by tangible personal property that is forwarded to the purchaser, the benefit of the service is received where the purchaser receives the tangible personal property.</p> <p>d. If the service is provided to a person wholly doing business in this state, the benefit of the service is received in this state.</p> <p>e. If the service is provided to a person at a location within this state, the benefit of the service is received in this state.</p> <p>f. If the service is provided to a person engaged in business in and outside this state, the benefit of the service is received in this state to the extent that the gross receipts are based on the purchaser's sales in this state.</p> <p>g. If the taxpayer is not within the jurisdiction, for income tax purposes, of the state in which the benefit of the service is received, the benefit of the service is received in this state to</p>

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		the extent that the taxpayer's employees or representatives performed the service from a location in this state.
Apportionment Formula		
<p>Insurance Companies. Domestic insurance corporations that are not engaged in the sale of life insurance but that have collected premiums written on property and risks located both in and outside of Wisconsin must allocate a portion of total adjusted federal income to the state. The allocation is accomplished by computing the average of: (a) the ratio of the company's payroll paid outside the state to total payroll paid everywhere; and (b) the ratio of the company's premiums written on property and risks located outside the state to total premiums written on property and risks located everywhere. The average ratio is then applied to adjusted federal income. This amount is subtracted from total adjusted federal income to arrive at Wisconsin net income before any offset for business loss carryforwards</p>	<p>Ratio of premiums written on all property and risks located outside the state to total premiums written on property and risks located everywhere.</p>	<p>For taxable years beginning after December 31, 1999, to arrive at Wisconsin income domestic insurers that have received premiums, other than life insurance premiums, written for insurance on property or risks resident, located or to be performed outside this state during the taxable year would multiply net income by a fraction, the numerator of which is the sum of direct premiums written for insurance, other than life insurance, on subjects of insurance resident, located or to be performed in this state and assumed premiums written for reinsurance, other than life insurance, in respect to properties and risks resident, located or to be performed in this state, and the denominator of which is the sum of direct premiums on all property and risks, other than life insurance, wherever located plus assumed premiums written for reinsurance in respect to properties and risks, other than life insurance, wherever located.</p> <p>Direct premiums written would mean direct premiums written as reported for taxable year on the annual statement filed by the company with the Commissioner of Insurance.</p> <p>Assumed premiums written for reinsurance, other than life insurance, in respect to property and risks resident, located or to be performed in this state would mean assumed reinsurance premiums from domestic insurance companies are reported for the taxable year on the annual statement filed by the company with the Commissioner of Insurance.</p>
<p>Interstate Financial Institutions. Financial Institutions include any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, brokerage house, underwriter or any type of insurance company.</p>	<p>No specific provision.</p>	<p>Financial Institutions would include any bank, bank holding company, national bank, national bank association, savings association, federal savings bank, thrift institutions, branch of foreign depositors, credit union, product credit association, corporation or business that derives more than 50% of total gross income from finance leases, any entity that derives more than 50% of its gross income from activity that other entities defined as financial institutions perform.</p>

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<p>The apportionment factor includes:</p> <p>a. Ratio of gross receipts in Wisconsin to total gross receipts. "Gross receipts" include all business income, such as interest and finance charges, associated with the lending of money in the normal course of business. Gains from sales of assets, charges to a related corporation for personal services of employees and miscellaneous income are excluded. Gross receipts are assigned to Wisconsin if the transaction producing the income was principally negotiated in Wisconsin.</p> <p>b. Ratio of compensation paid to employees located in Wisconsin to total compensation paid to employees everywhere. Compensation paid includes deductible management or service fees paid to a related corporation for the performance of personal services.</p> <p>"Gross receipts" includes all business income associated with the lending of money in the normal course of business such as interest, discounts, finance charges or fees and service charges or fees. Gains from sales of assets, charges to a related corporation for personal services of employees and miscellaneous income are not includeable in "gross receipts" for the purpose of computing this factor. "Gross receipts" will be assigned as income to this state if the transaction producing the income was principally negotiated in this state.</p>		<p>Net income would be apportioned to Wisconsin by use of an apportionment fraction, the numerator of which is the receipts of the taxpayer in this state during the taxable year and the denominator of which is the receipts of the taxpayer within and without this state during the taxable year. The method of calculating receipts for purposes of the denominator shall be the same as the method used in determining receipts for purposes of the numerator.</p> <p>Gross receipts would include gross receipts from the lease of real property gross receipts from the lease of tangible personal property, gross interest from loans secured by real property, gross interest from loans not secured by real property, net gains from the sale of loans, gross receipts from credit card receivables, net gains from the sale of credit card issuers reimbursement fees, receipts from merchant discount loan servicing fees, gross receipts from investment banking services, gross receipts from other services including overdraft charges, account service charges, automated teller machine transaction fees, debit card transaction fees, electronic funds transfer fees, safety deposit rental fees, cashiers check fees, certified check fees, payables management, letters of credit, bankers acceptance notes, microfilming services and other receipts,</p>
<p>Stock Brokerage Firms No specific provision.</p>	<p>No specific provision.</p>	<p>Broker-dealer would be a person engaged in the business of effecting transactions in securities, commodities and related financial instruments for the account of other or for the person's own account.</p> <p>An underwriter would be a person who guarantees to furnish a definite sum of money by a definite date to a corporate or government entity in return for an issue of bonds or stock or</p>

Current Law	AB 133	DOR Amendment
<p>Interstate Air Carrier. Net income is apportioned by the following factors:</p> <ul style="list-style-type: none"> a. Ratio of aircraft arrivals and departures in state to total aircraft arrivals and departures. b. Ratio of revenue tons handled at airports in state to total revenue tons handled. c. Ratio of originating revenue in state to total originating revenue. 	<p>No specific provision.</p>	<p>who handles the marketing of a corporate or government security offering to the public.</p> <p>Net income would be apportioned to Wisconsin by use of an apportionment fraction, the numerator would be the receipts of the taxpayer in this state during the taxable year and the denominator the receipts of the taxpayer within and without this state during the taxable year.</p> <p>Gross receipts would include gross brokerage commissions and total margin interest paid on behalf of brokerage accounts, gross commissions, gross management or underwriting fees or other gross income earned in performing underwriting activities on behalf of the issuer of the securities, gross commissions, gross management fees or other gross income earned in providing investment research, management services and advice and other financial services and other related receipts.</p>
		<p>Receipts from the transportation of passengers and property would be apportioned to this state on the basis of the arithmetic average of the following 2 factors:</p> <ul style="list-style-type: none"> a. The ratio of the taxpayer's originating revenue within this state for the taxable year to the total originating revenue within and without this state for the same period. b. The ratio of the revenue tons handled by the taxpayer at airports within this state during the taxable year to the total revenue tons handled at airports within and without this state during the same period. <p>Originating revenue would mean the gross receipts from the transportation of revenue passengers and revenue property first received by the carrier either as originating or connecting traffic at an airport.</p> <p>Revenue tons would mean the weight in tons of revenue passengers and revenue property that either originated or was discharged by a carrier at an airport.</p>

Current Law	AB 133	DOR Amendment
<p>Interstate Motor Carriers Net income is apportioned by the following factors:</p> <p>a. Ratio of gross receipts from carriage of property first acquired for carriage in Wisconsin to total gross receipts from carriage of property.</p> <p>b. Ratio of ton miles of carriage in Wisconsin to total ton miles of carriage.</p>	<p>No specific provision.</p>	<p>Receipts from the carriage of persons and property would be apportioned to this state on the basis of the arithmetical average of the following factors:</p> <p>a. The ratio of the taxpayer's originating revenue within this state for the taxable year to the total originating revenue within and without this state for the same period.</p> <p>b. The ratio of ton miles of carriage within this state during the taxable year to ton miles of carriage within and without this state during the same period.</p> <p>Originating revenue would mean the gross receipts from the carriage of persons and property first acquired for carriage by the carrier. Ton mile would mean the movement of one ton of persons or property the distance of one mile.</p>
<p>Interstate Railroads and Sleeping Car Companies Net income is apportioned by the following factors:</p> <p>a. Ratio of gross receipts from carriage of property or persons or both, first acquired for carriage in Wisconsin to total gross receipts from carriage of property or persons, or both, everywhere.</p> <p>b. Ratio of revenue ton miles of carriage in Wisconsin to revenue ton miles of carriage everywhere.</p>	<p>No specific provision.</p>	<p>Receipts from the carriage of persons and property would be apportioned to this state on the basis of the arithmetical average of the following factors:</p> <p>a. The ratio of the taxpayer's originating revenue within this state for the taxable year to the total originating revenue within and without this state for the same period.</p> <p>b. The ratio of revenue ton miles of carriage within this state during the taxable year to revenue ton miles of carriage within and without this state during the same period.</p> <p>Originating revenue would mean gross receipts received for the carriage of persons or property net of interline payments made to other railroads as a result of the interchange of carriage between and among railroads. It would include interline payments received from other railroads. Revenue ton mile would mean the movement of one ton of persons or property the distance of one mile for consideration.</p>
<p>Interstate Pipeline Companies Net income is apportioned by the following factors:</p> <p>a. Ratio of average value of real and tangible property owned</p>	<p>No specific provision.</p>	<p>Receipts from the transportation of product would be apportioned to this state based on the ratio of the taxpayer's traffic units within this state for the taxable year to the total traffic units within and without this state for the same period.</p>

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<p>and used in Wisconsin to produce apportionable income to the average value of such property used everywhere.</p> <p>b. Ratio of traffic units (e.g., barrel miles, cubic foot miles or other appropriate measure of product movement) in Wisconsin to the total of such units everywhere.</p> <p>c. Ratio of compensation paid to employees located in the state to total compensation paid to all employees.</p>	<p>No specific provision.</p>	<p>Traffic unit would mean the transportation for a distance of one mile one barrel of oil, one gallon of gasoline or one thousand cubic feet of natural or casinghead gas, or other appropriate measure of product. It would include both intracompany transmission miles and transmission to customers</p>
<p>Professional Sports Clubs. The income of professional sports clubs engaged in income producing activities both inside and outside Wisconsin during the year is apportioned to Wisconsin using an apportionment fraction composed of a property factor representing 25% of the fraction, a payroll factor representing 25% of the fraction and a sales factor representing 50% of the fraction.</p> <p>a. The property factor is a fraction as defined for other corporations. Owned or rented real and tangible personal property is included in the factor. Minor equipment, such as uniforms, and playing and practice equipment, are not included in the factor.</p> <p>b. Payroll Factor. The payroll factor is a fraction as defined for other corporations. Bonuses and payments shall be included in the payroll factor on a prorated basis in accordance with Internal Revenue Service Rulings. Compensation paid for optioned players shall be included in the factor only if paid directly to the player by the taxpayer.</p> <p>c. Sales Factor. The sales factor is a fraction as defined for other corporations and is included in the factor in accordance with statutory provisions and the following rules:</p> <ul style="list-style-type: none"> Gate Receipts. Gate receipts include all receipts from games played at the taxpayers' home facility plus any gate receipts received from games played away from the taxpayer's home facility. The numerator of the sales fraction for taxpayers whose home facility is outside Wisconsin includes the percentage of gate receipts 	<p>Net income would be apportioned by the following factors:</p> <p>a. Gate receipts. Gate receipts would include all receipts from games played at the taxpayer's home facility plus any gate receipts received from games played away from the taxpayer's home facility. The numerator of the receipts factor for taxpayers whose home facility is in this state would include all gate receipts from games played in its home facility. The numerator of the receipts factor for taxpayers whose home facility is outside this state would include the percentage of gate receipts received from games played in this state.</p> <p>b. Radio and television receipts. Radio and television receipts received by the taxpayer as its proportionate share from a league or association contract with the major communications networks would be in the state in proportion to the number of games played in this state to total games played by the taxpayer covered by the contract during the season. Local television and radio receipts would be in this state if the games would be played in this state.</p>	<p>Net income would be apportioned by the following factors:</p> <p>a. Gate receipts. Gate receipts would include all receipts from games played at the taxpayer's home facility plus any gate receipts received from games played away from the taxpayer's home facility. The numerator of the receipts factor for taxpayers whose home facility is in this state would include all gate receipts from games played in its home facility. The numerator of the receipts factor for taxpayers whose home facility is outside this state would include the percentage of gate receipts received from games played in this state.</p> <p>b. Radio and television receipts. Radio and television receipts received by the taxpayer as its proportionate share from a league or association contract with the major communications networks would be in the state in proportion to the number of games played in this state to total games played by the taxpayer covered by the contract during the season. Local television and radio receipts would be in this state if the games would be played in this state.</p>
<ul style="list-style-type: none"> Gate Receipts. Gate receipts include all receipts from games played at the taxpayers' home facility plus any gate receipts received from games played away from the taxpayer's home facility. The numerator of the sales fraction for taxpayers whose home facility is outside Wisconsin includes the percentage of gate receipts 		

Current Law	AB 133	DOR Amendment
<p>received from games played in Wisconsin.</p> <ul style="list-style-type: none"> • Radio and Television Receipts. Radio and television receipts received by the taxpayer as its proportionate share from a league or association contract with the major communications networks are in Wisconsin in proportion to the number of games played in Wisconsin to total games played by the taxpayers covered by the contract during the season. Local televisions and radio receipts are in Wisconsin if the games are played in Wisconsin. • Concession Income and Miscellaneous Income. Concession income is in Wisconsin if the concession is operated within Wisconsin. Miscellaneous income such as parking lot income, advertising income, and other similar income if the activity is conducted within Wisconsin. • Player Contracts, Franchises, etc. Income from player contract transactions, franchise fees, and other similar sources shall be excluded. 		
<p>Broadcasting and Publishing. No specific provision.</p>	<p>No specific provision.</p>	<p>Net income would be apportioned as follows:</p> <p>Gross receipts, including advertising revenues from television and radio broadcasting within and without the state, would be attributed to the numerator of the receipts factor based on the ratio of the audience within this state to the audience everywhere. Gross receipts, including advertising revenues, from newspapers and magazines would be attributed to the numerator of the receipts factor based on the ratio of circulation within this state to circulation everywhere.</p>
<p>Telecommunications Services. No specific provision.</p>	<p>No specific provision.</p>	<p>Telecommunications service would mean providing telecommunications, including services provided by telecommunication service resellers, for a charge and including telephone service, telegraph service, paging service, personal communications services and mobile or cellular telephone service, but not including electronic information service or Internet access service. Telecommunications would</p>

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mean the electronic transmission of voice, data, image and other information through the use of any medium such as wires, cables, electromagnetic waves, light waves, or any combination of those or similar media now in existence or that might be devised, but telecommunications would not include the information content of any such transmission.

The following gross sales and receipts from telecommunication service other than interstate or international private telecommunications service would be included in the numerator of the receipts factor.

a. Gross receipts derived from charges for providing telephone access from a location within this state. Access would mean that a call can be made or received from a point within this state. Such charges include a monthly subscriber fee billed with reference to equipment located in this state.

b. Gross receipts derived from charges for unlimited calling privileges if the charges are billed by reference to equipment located in this state.

c. Gross receipts derived from charges for individual toll calls that originate and terminate in this state.

d. Gross receipts derived from charges for individual toll calls that either originate or terminate in this state and are billed by reference to a customer or equipment located in this state.

e. Gross receipts derived from any other charges if the charges are not includable in another state's sales factor numerator under that state's law or the taxpayer is not within the jurisdiction, for income tax purposes, of the state to which the call would be assigned and the customer's billing address in the state.

Private telecommunications service would mean a dedicated telephone service that entitled the subscriber to the exclusive or priority use of a telecommunications channel or groups of communications channels from one or more channel termination points to another channel termination point.

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		<p>Communications channel would mean a communications path, which can be one-way or two-way, depending on the channel, between two or more points. The path may be designed for the transmission of signals representing human speech, digital or analog data, facsimile or images. Channel termination point would mean the point at which information can enter or leave the telecommunications network.</p> <p>The following gross receipts derived from providing interstate and international private telephone communications services would be included in the numerator of the receipts factor.</p> <p>a. If the segment of the interstate or international channel between each termination point is separately billed, 100% of the charge imposed at each termination point in this state and for service in this state between those points would be includable in the numerator of the sales factor. In addition, 50% of the charge imposed for service between a channel termination point outside this state and a point inside the state would be included in the numerator of the sales factor. Termination points shall be measured by the nearest termination point inside the state to the first termination point outside the state.</p> <p>b. If each segment of the interstate or international channel was not separately billed, the numerator of the sales factor would be the same portion of the interstate or international channel charge that the number of channel termination points within this state bears to the total number of channel termination points within and without this state.</p>
<p>Treatment of Diversified Businesses No specific provision.</p>	<p>No specific provision.</p>	<p>Any person engaged in business within and without the state that has more than one trade or business, would determine the receipts from each trade or business using the applicable receipts formula, combine the receipts from all trades or businesses and multiply the result times the net income or loss from all trades or businesses to arrive at the net income or loss attributable to this state.</p>

DEFINITIONS

<p>Definition of "doing business in the state". Out-of-state corporations that own a passive interest in an in-state partnership in Wisconsin are not taxable solely because of that ownership interest. Out-of-state corporations that own a managing interest in an in-state partnership are taxable because of the managing interest.</p>	<p>No specific provision.</p>	<p>Doing business in this state would mean actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. A corporation that directly or indirectly owns a general or limited partnership interest in a partnership that does business in this state, regardless of the percentage of ownership, or that directly or indirectly owns an interest in a limited liability company that does business in this state, regardless of the percentage of ownership, is doing business in this state in a corporate capacity, subject to constitutional limitations. A corporation that issues credit, debit, travel, entertainment or similar charge cards to customers located in this state is doing business in this state.</p>
<p>Commercial Domicile No specific provision.</p>	<p>No specific provisions.</p>	<p>Commercial domicile would mean either of the following:</p> <ol style="list-style-type: none"> The headquarters of the trade or business, from which the trade or business is principally managed and directed. If a taxpayer is organized under the laws of a foreign country, the commonwealth of Puerto Rico or any territory or possession of the United States, "commercial domicile" would be deemed to be the state of the United States or the District of Columbia from which the taxpayer's trade or business in the United States is principally managed and directed. It would be presumed, subject to rebuttal, that the location from which the taxpayer's trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the greatest number of employees are regularly connected or out of which they are working, irrespective of where the services of the employees are performed, as of the last day of the taxable year.