



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-1656/3  
JK:jld&wlj:rs

DOA:.....Koskinen, BB0425 - Single sales factor apportionment for  
computer software, intellectual property, and services

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

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

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, for purposes of computing corporate income taxes and franchise taxes, a formula is used to attribute a portion of a corporation's income to this state. The formula has three factors: a sales factor, a property factor, and a payroll factor. The sales factor represents 50 percent of the formula and the property and payroll factors each represent 25 percent of the formula. Under current law, beginning on January 1, 2008, the sales factor will be the only factor used to attribute a portion of a corporation's income to this state. This bill modifies the sales factor to provide for the apportionment of income derived from the lease, rental, or licensing of real property and moving property, the use of computer software, and the sale or use of intangible property and services.

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

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

1           **SECTION 1.** 71.01 (1b) of the statutes is created to read:

2           71.01 (1b) For purposes of s. 71.04 (7) (df), (dg), and (dh), “commercial domicile”  
3 means the location from which a trade or business is principally managed and  
4 directed, based on any factors the department determines are appropriate, including  
5 the location where the greatest number of employees of the trade or business work,  
6 have their office or base of operations, or from which the employees are directed or  
7 controlled.

8           **SECTION 2.** 71.01 (1n) of the statutes is created to read:

9           71.01 (1n) For purposes of s. 71.04 (7) (df), (dg), and (dh), “domicile” means an  
10 individual’s true, fixed, and permanent home where the individual intends to remain  
11 permanently and indefinitely and to which, whenever absent, the individual intends  
12 to return, except that no individual may have more than one domicile at any time.

13           **SECTION 3.** 71.01 (8g) of the statutes is amended to read:

14           71.01 (8g) “Member” does not include a member of a limited liability company  
15 treated as a corporation under s. 71.22 (1) (1k).

16           **SECTION 4.** 71.01 (8m) of the statutes is amended to read:

17           71.01 (8m) “Partner” does not include a partner of a publicly traded  
18 partnership treated as a corporation under s. 71.22 (1) (1k).

19           **SECTION 5.** 71.01 (10g) of the statutes is created to read:

20           71.01 (10g) For purposes of s. 71.04 (7) (df), (dg), and (dh), “state” means a state  
21 of the United States, the District of Columbia, the commonwealth of Puerto Rico, or  
22 any territory or possession of the United States, unless the context requires that  
23 “state” means only the state of Wisconsin.

24           **SECTION 6.** 71.03 (1) of the statutes is amended to read:

1           71.03 (1) DEFINITION. In this section, “gross income” means all income, from  
2 whatever source derived and in whatever form realized, whether in money, property  
3 or services, which is not exempt from Wisconsin income taxes. “Gross income”  
4 includes, but is not limited to, the following items: compensation for services,  
5 including salaries, wages and fees, commissions and similar items; gross income  
6 derived from business; interest; rents; royalties; dividends; alimony and separate  
7 maintenance payments; annuities; income from life insurance and endowment  
8 contracts; pensions; income from discharge of indebtedness; distributive shares of  
9 partnership gross income except distributive shares of the income of publicly traded  
10 partnerships treated as corporations under s. 71.22 (1) (1k); distributive shares of  
11 limited liability company gross income except distributive shares of the income of  
12 limited liability companies treated as corporations under s. 71.22 (1) (1k); income in  
13 respect of a decedent; and income from an interest in an estate or trust. “Gross  
14 income” from a business or farm consists of the total gross receipts without reduction  
15 for cost of goods sold, expenses or any other amounts. The gross rental amounts  
16 received from rental properties are included in gross income without reduction for  
17 expenses or any other amounts. “Gross income” from the sale of securities, property  
18 or other assets consists of the gross selling price without reduction for the cost of the  
19 assets, expenses of sale or any other amounts. “Gross income” from an annuity,  
20 retirement plan or profit sharing plan consists of the gross amount received without  
21 reduction for the employee’s contribution to the annuity or plan.

22           **SECTION 7.** 71.04 (7) (d) of the statutes is repealed.

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

1           71.04 (7) (db) Gross receipts from the lease, rental, or licensing of real property  
2 owned by the taxpayer and the sublease of real property are in this state if the real  
3 property is located in this state.

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

5           71.04 (7) (dd) 1. Except as provided in subd. 2., gross receipts from the lease,  
6 rental, or licensing of tangible personal property owned by the taxpayer and the  
7 sublease of tangible personal property are in this state if the property is located in  
8 this state during the entire period of lease, rental, licensing, sublease, or other use.  
9 If the property is used in and outside this state during the period of lease, rental,  
10 licensing, or sublease, gross receipts are in this state to the extent that the property  
11 is used in this state. The proportion of use in this state is determined by multiplying  
12 the gross receipts from the lease, rental, licensing, sublease, or other use of the  
13 property by a fraction having as a numerator the amount of time the property was  
14 used in this state in the taxable year and having as a denominator the total time the  
15 property was used in all states having jurisdiction to impose an income tax on the  
16 taxpayer in the taxable year.

17           2. Gross receipts from the lease, rental, or licensing of moving property,  
18 including motor vehicles, rolling stock, aircraft, vessels, or mobile equipment, owned  
19 by the taxpayer and the sublease of moving property are in this state to the extent  
20 that the property is used in this state. The proportion of use of moving property in  
21 this state is determined as follows:

22           a. The proportion of use of a motor vehicle or rolling stock in this state is  
23 determined by multiplying the gross receipts from the lease, rental, licensing, or  
24 sublease of the motor vehicle or rolling stock by a fraction having as a numerator the  
25 number of miles traveled within this state by the motor vehicle or rolling stock while

1 leased, rented, licensed, or subleased in the taxable year and having as a  
2 denominator the total number of miles traveled by the motor vehicle or rolling stock  
3 while leased, rented, licensed, or subleased in the taxable year.

4 b. The proportion of use of an aircraft in this state is determined by multiplying  
5 the gross receipts from the lease, rental, licensing, or sublease of the aircraft by a  
6 fraction having as a numerator the number of takeoffs and landings of the aircraft  
7 in this state while leased, rented, licensed, or subleased in the taxable year and  
8 having as a denominator the total number of takeoffs and landings of the aircraft  
9 while leased, rented, licensed, or subleased in the taxable year.

10 c. The proportion of use of a vessel or mobile equipment in this state is  
11 determined by multiplying the gross receipts from the lease, rental, licensing, or  
12 sublease of the vessel or mobile equipment by a fraction having as a numerator the  
13 number of days that the vessel or mobile equipment is in this state while leased,  
14 rented, licensed, or subleased in the taxable year and having as a denominator the  
15 total number of days that the vessel or mobile equipment is leased, rented, licensed,  
16 or subleased in the taxable year.

17 d. If the taxpayer is unable to determine the use of moving property under subd.  
18 2. a., b., or c. while the property is leased, rented, licensed, or subleased in the taxable  
19 year, the moving property is conclusively deemed to be used in the state in which the  
20 property is located at the time that the lessee, renter, licensee, or sublessee takes  
21 possession of the property in the taxable year.

22 **SECTION 10.** 71.04 (7) (df) of the statutes is created to read:

23 71.04 (7) (df) 1. Gross receipts from the use of computer software are in this  
24 state if the purchaser or licensee uses the computer software at a location in this  
25 state.

1           2. Computer software is used at a location in this state if the purchaser or  
2 licensee uses the computer software in the regular course of business operations in  
3 this state, for personal use in this state, or if the purchaser or licensee is an individual  
4 whose domicile is in this state. If the purchaser or licensee uses the computer  
5 software in more than one state, the gross receipts shall be divided among those  
6 states having jurisdiction to impose an income tax on the taxpayer in proportion to  
7 the use of the computer software in those states. To determine computer software  
8 use in this state, the department may consider the number of users in each state  
9 where the computer software is used, the number of site licenses or workstations in  
10 this state, and any other factors that reflect the use of computer software in this  
11 state.

12           3. If the taxpayer is not subject to income tax in the state in which the gross  
13 receipts are considered received under this paragraph, but the taxpayer's  
14 commercial domicile is in this state, 50 percent of those gross receipts shall be  
15 included in the numerator of the sales factor.

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

17           71.04 (7) (dg) 1. Gross royalties and other gross receipts received for the sale  
18 or use of intangible property, including, but not limited to, patents, copyrights,  
19 trademarks, trade names, service names, franchises, licenses, plans, specifications,  
20 blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings,  
21 manuals, technical know-how, contracts, and customer lists, are in this state if the  
22 user, purchaser, or licensee uses the intangible property at a location in this state.

23           2. Intangible property is used at a location in this state if the user, purchaser,  
24 or licensee uses the property in the operation of a trade or business at a location in  
25 this state, for personal use in this state, or if the user, purchaser, or licensee is an

1 individual whose domicile is in this state. If the user, purchaser, or licensee uses the  
2 intangible property in more than one state, the gross royalties and other gross  
3 receipts from the sale or use of the intangible property shall be divided among those  
4 states having jurisdiction to impose an income tax on the taxpayer in proportion to  
5 the use of the intangible property in those states. To determine intangible property  
6 use in this state, the department may consider the number of licensed sites in each  
7 state, the volume of property manufactured, produced, or sold at locations in this  
8 state, or any other factors that reflect the use of the intangible property in this state.

9 3. If the taxpayer is not subject to income tax in the state in which the gross  
10 royalties or other gross receipts are considered received under this paragraph, but  
11 the taxpayer's commercial domicile is in this state, 50 percent of those gross royalties  
12 or other gross receipts shall be included in the numerator of the sales factor.

13 **SECTION 12.** 71.04 (7) (dh) of the statutes is created to read:

14 71.04 (7) (dh) 1. Gross receipts from services are in this state if the purchaser  
15 of the service received the benefit of the service in this state.

16 2. The benefit of a service is received in this state if any of the following applies:

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

18 b. The service relates to tangible personal property that is located in this state  
19 at the time that the service is received or tangible personal property that is delivered  
20 directly or indirectly to customers in this state.

21 c. The service is provided to an individual who is physically present in this state  
22 at the time that the service is received.

23 d. The service is provided to a person engaged in a trade or business in this state  
24 and relates to that person's business in this state.

1           3. If the purchaser of a service receives the benefit of a service in more than one  
2 state, the gross receipts from the performance of the service are included in the  
3 numerator of the sales factor according to the portion of the service received in this  
4 state.

5           4. If the taxpayer is not subject to income tax in the state in which the benefit  
6 of the service is received, the benefit of the service is received in this state to the  
7 extent that the taxpayer's employees or representatives performed services from a  
8 location in this state. Fifty percent of the taxpayer's receipts that are considered  
9 received in this state under this paragraph shall be included in the numerator of the  
10 sales factor.

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

12           71.04 (7) (dm) If the income from sales, other than sales of tangible personal  
13 property, properly assignable to this state cannot be ascertained with reasonable  
14 certainty by the methods under pars. (db), (dd), (df), (dg), and (dh), the department  
15 may promulgate rules that specify how the income shall be apportioned.

16           **SECTION 14.** 71.04 (7) (e) 12. of the statutes is created to read:

17           71.04 (7) (e) 12. Gross receipts from the sale, licensing, or use of intangible  
18 property in the ordinary course of the taxpayer's trade or business.

19           **SECTION 15.** 71.04 (7) (f) 5. of the statutes is amended to read:

20           71.04 (7) (f) 5. Proceeds Notwithstanding any other provision of this  
21 subsection, proceeds and gain or loss from the redemption of securities.

22           **SECTION 16.** 71.04 (7) (f) 7. of the statutes is amended to read:

23           71.04 (7) (f) 7. Gross receipts and gain or loss from the sale of intangible assets,  
24 except those under par. (e) 1. and 12.

25           **SECTION 17.** 71.04 (7) (f) 9. of the statutes is amended to read:

1           71.04 (7) (f) 9. Gross Notwithstanding any other provision of this subsection,  
2 gross receipts and gain or loss from the sale or exchange of securities.

3           **SECTION 18.** 71.07 (2dr) (a) of the statutes is amended to read:

4           71.07 (2dr) (a) *Credit.* Any person may credit against taxes otherwise due  
5 under this chapter an amount equal to 5% of the amount obtained by subtracting  
6 from the person's qualified research expenses, as defined in section 41 of the internal  
7 revenue code, except that "qualified research expenses" include only expenses  
8 incurred by the claimant in a development zone under subch. VI of ch. 560, except  
9 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the  
10 Internal Revenue Code and that election applies until the department permits its  
11 revocation and except that "qualified research expenses" do not include  
12 compensation used in computing the credit under sub. (2dj) nor research expenses  
13 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the  
14 person's base amount, as defined in section 41 (c) of the internal revenue code, in a  
15 development zone, except that gross receipts used in calculating the base amount  
16 means gross receipts from sales attributable to Wisconsin under s. 71.04 (7) (b) 1. and  
17 2. ~~and (d), (db), (dd), (df), (dg), (dh), and (dm)~~ and research expenses used in  
18 calculating the base amount include research expenses incurred before the claimant  
19 is certified for tax benefits under s. 560.765 (3), in a development zone, if the claimant  
20 submits with the claimant's return a copy of the claimant's certification for tax  
21 benefits under s. 560.765 (3) and a statement from the department of commerce  
22 verifying the claimant's qualified research expenses for research conducted  
23 exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit  
24 under this paragraph. The rules under sub. (2di) (f) and (g), as they apply to the

1 credit under that subsection, apply to claims under this paragraph. Section 41 (h)  
2 of the internal revenue code does not apply to the credit under this paragraph.

3 **SECTION 19.** 71.07 (3m) (a) 1. b. of the statutes is amended to read:

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

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

9 71.07 (10) CREDITS NOT ALLOWED. The credits under s. 71.28 (4) and (5) may not  
10 be claimed by partners, including partners of a publicly traded partnership treated  
11 as a corporation under s. 71.22 (~~1~~) (1k), members of a limited liability company,  
12 including members of a limited liability company treated as a corporation under s.  
13 77.22 (~~1~~) (1k), or shareholders of a tax-option corporation.

14 **SECTION 21.** 71.195 of the statutes is amended to read:

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

19 **SECTION 22.** 71.22 (1) of the statutes is renumbered 71.22 (1k).

20 **SECTION 23.** 71.22 (1g) of the statutes is created to read:

21 71.22 (1g) For purposes of s. 71.25 (9) (df), (dg), and (dh), “commercial domicile”  
22 means the location from which a trade or business is principally managed and  
23 directed, based on any factors the department determines are appropriate, including  
24 the location where the greatest number of employees of the trade or business work,

1 have their office or base of operations, or from which the employees are directed or  
2 controlled.

3 **SECTION 24.** 71.22 (1t) of the statutes is created to read:

4 71.22 (1t) For purposes of s. 71.25 (9) (df), (dg), and (dh), “domicile” means an  
5 individual’s true, fixed, and permanent home where the individual intends to remain  
6 permanently and indefinitely and to which, whenever absent, the individual intends  
7 to return, except that no individual may have more than one domicile at any time.

8 **SECTION 25.** 71.22 (6m) of the statutes is amended to read:

9 71.22 (6m) “Member” does not include a member of a limited liability company  
10 treated as a corporation under sub. (1) (1k).

11 **SECTION 26.** 71.22 (7m) of the statutes is amended to read:

12 71.22 (7m) “Partner” does not include a partner of a publicly traded  
13 partnership treated as a corporation under sub. (1) (1k).

14 **SECTION 27.** 71.22 (9g) of the statutes is created to read:

15 71.22 (9g) For purposes of s. 71.25 (9) (df), (dg), and (dh), “state” means a state  
16 of the United States, the District of Columbia, the commonwealth of Puerto Rico, or  
17 any territory or possession of the United States, unless the context requires that  
18 “state” means only the state of Wisconsin.

19 **SECTION 28.** 71.25 (9) (d) of the statutes is repealed.

20 **SECTION 29.** 71.25 (9) (db) of the statutes is created to read:

21 71.25 (9) (db) Gross receipts from the lease, rental, or licensing of real property  
22 owned by the taxpayer and the sublease of real property are in this state if the real  
23 property is located in this state.

24 **SECTION 30.** 71.25 (9) (dd) of the statutes is created to read:

1           71.25 (9) (dd) 1. Except as provided in subd. 2., gross receipts from the lease,  
2           rental, or licensing of tangible personal property owned by the taxpayer and the  
3           sublease of tangible personal property are in this state if the property is located in  
4           this state during the entire period of lease, rental, licensing, sublease, or other use.  
5           If the property is used in and outside this state during the period of lease, rental,  
6           licensing, or sublease, gross receipts are in this state to the extent that the property  
7           is used in this state. The proportion of use in this state is determined by multiplying  
8           the gross receipts from the lease, rental, licensing, sublease, or other use of the  
9           property by a fraction having as a numerator the amount of time the property was  
10          used in this state in the taxable year and having as a denominator the total time the  
11          property was used in all states having jurisdiction to impose an income tax on the  
12          taxpayer in the taxable year.

13           2. Gross receipts from the lease, rental, or licensing of moving property,  
14          including motor vehicles, rolling stock, aircraft, vessels, or mobile equipment, owned  
15          by the taxpayer and the sublease of moving property are in this state to the extent  
16          that the property is used in this state. The proportion of use of moving property in  
17          this state is determined as follows:

18           a. The proportion of use of a motor vehicle or rolling stock in this state is  
19          determined by multiplying the gross receipts from the lease, rental, licensing, or  
20          sublease of the motor vehicle or rolling stock by a fraction having as a numerator the  
21          number of miles traveled within this state by the motor vehicle or rolling stock while  
22          leased, rented, licensed, or subleased in the taxable year and having as a  
23          denominator the total number of miles traveled by the motor vehicle or rolling stock  
24          while leased, rented, licensed, or subleased in the taxable year.

1           b. The proportion of use of an aircraft in this state is determined by multiplying  
2 the gross receipts from the lease, rental, licensing, or sublease of the aircraft by a  
3 fraction having as a numerator the number of takeoffs and landings of the aircraft  
4 in this state while leased, rented, licensed, or subleased in the taxable year and  
5 having as a denominator the total number of takeoffs and landings of the aircraft  
6 while leased, rented, licensed, or subleased in the taxable year.

7           c. The proportion of use of a vessel or mobile equipment in this state is  
8 determined by multiplying the gross receipts from the lease, rental, licensing, or  
9 sublease of the vessel or mobile equipment by a fraction having as a numerator the  
10 number of days that the vessel or mobile equipment is in this state while leased,  
11 rented, licensed, or subleased in the taxable year and having as a denominator the  
12 total number of days that the vessel or mobile equipment is leased, rented, licensed,  
13 or subleased in the taxable year.

14           d. If the taxpayer is unable to determine the use of moving property under subd.  
15 2. a., b., or c. while the property is leased, rented, licensed, or subleased in the taxable  
16 year, the moving property is conclusively deemed to be used in the state in which the  
17 property is located at the time that the lessee, renter, licensee, or sublessee takes  
18 possession of the property in the taxable year.

19           **SECTION 31.** 71.25 (9) (df) of the statutes is created to read:

20           71.25 (9) (df) 1. Gross receipts from the use of computer software are in this  
21 state if the purchaser or licensee uses the computer software at a location in this  
22 state.

23           2. Computer software is used at a location in this state if the purchaser or  
24 licensee uses the computer software in the regular course of business operations in  
25 this state, for personal use in this state, or if the purchaser or licensee is an individual

1 whose domicile is in this state. If the purchaser or licensee uses the computer  
2 software in more than one state, the gross receipts shall be divided among those  
3 states having jurisdiction to impose an income tax on the taxpayer in proportion to  
4 the use of the computer software in those states. To determine computer software  
5 use in this state, the department may consider the number of users in each state  
6 where the computer software is used, the number of site licenses or workstations in  
7 this state, and any other factors that reflect the use of computer software in this  
8 state.

9 3. If the taxpayer is not subject to income tax in the state in which the gross  
10 receipts are considered received under this paragraph, but the taxpayer's  
11 commercial domicile is in this state, 50 percent of those gross receipts shall be  
12 included in the numerator of the sales factor.

13 **SECTION 32.** 71.25 (9) (dg) of the statutes is created to read:

14 71.25 (9) (dg) 1. Gross royalties and other gross receipts received for the sale  
15 or use of intangible property, including, but not limited to, patents, copyrights,  
16 trademarks, trade names, service names, franchises, licenses, plans, specifications,  
17 blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings,  
18 manuals, technical know-how, contracts, and customer lists, are in this state if the  
19 user, purchaser, or licensee uses the intangible property at a location in this state.

20 2. Intangible property is used at a location in this state if the user, purchaser,  
21 or licensee uses the property in the operation of a trade or business at a location in  
22 this state, for personal use in this state, or if the user, purchaser, or licensee is an  
23 individual whose domicile is in this state. If the user, purchaser, or licensee uses the  
24 intangible property in more than one state, the gross royalties and other gross  
25 receipts from the sale or use of the intangible property shall be divided among those

1 states having jurisdiction to impose an income tax on the taxpayer in proportion to  
2 the use of the intangible property in those states. To determine intangible property  
3 use in this state, the department may consider the number of licensed sites in each  
4 state, the volume of property manufactured, produced, or sold at locations in this  
5 state, or any other factors that reflect the use of the intangible property in this state.

6 3. If the taxpayer is not subject to income tax in the state in which the gross  
7 royalties or other gross receipts are considered received under this paragraph, but  
8 the taxpayer's commercial domicile is in this state, 50 percent of those gross royalties  
9 or other gross receipts shall be included in the numerator of the sales factor.

10 **SECTION 33.** 71.25 (9) (dh) of the statutes is created to read:

11 71.25 (9) (dh) 1. Gross receipts from services are in this state if the purchaser  
12 of the service received the benefit of the service in this state.

13 2. The benefit of a service is received in this state if any of the following applies:

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

15 b. The service relates to tangible personal property that is located in this state  
16 at the time that the service is received or tangible personal property that is delivered  
17 directly or indirectly to customers in this state.

18 c. The service is provided to an individual who is physically present in this state  
19 at the time that the service is received.

20 d. The service is provided to a person engaged in a trade or business in this state  
21 and relates to that person's business in this state.

22 3. If the purchaser of a service receives the benefit of a service in more than one  
23 state, the gross receipts from the performance of the service are included in the  
24 numerator of the sales factor according to the portion of the service received in this  
25 state.

1           4. If the taxpayer is not subject to income tax in the state in which the benefit  
2 of the service is received, the benefit of the service is received in this state to the  
3 extent that the taxpayer's employees or representatives performed services from a  
4 location in this state. Fifty percent of the taxpayer's receipts that are considered  
5 received in this state under this paragraph shall be included in the numerator of the  
6 sales factor.

7           **SECTION 34.** 71.25 (9) (dm) of the statutes is created to read:

8           71.25 (9) (dm) If the income from sales, other than sales of tangible personal  
9 property, properly assignable to this state cannot be ascertained with reasonable  
10 certainty by the methods under pars. (db), (dd), (df), (dg), and (dh), the department  
11 may promulgate rules that specify how the income shall be apportioned.

12           **SECTION 35.** 71.25 (9) (e) 12. of the statutes is created to read:

13           71.25 (9) (e) 12. Gross receipts from the sale, licensing, or use of intangible  
14 property in the ordinary course of the taxpayer's trade or business.

15           **SECTION 36.** 71.25 (9) (f) 5. of the statutes is amended to read:

16           71.25 (9) (f) 5. ~~Proceeds~~ Notwithstanding any other provision of this  
17 subsection, proceeds and gain or loss from the redemption of securities.

18           **SECTION 37.** 71.25 (9) (f) 7. of the statutes is amended to read:

19           71.25 (9) (f) 7. Gross receipts and gain or loss from the sale of intangible assets,  
20 except those under par. (e) 1. and 12.

21           **SECTION 38.** 71.25 (9) (f) 9. of the statutes is amended to read:

22           71.25 (9) (f) 9. ~~Gross~~ Notwithstanding any other provision of this subsection,  
23 gross receipts and gain or loss from the sale or exchange of securities.

24           **SECTION 39.** 71.28 (2m) (a) 1. b. of the statutes is amended to read:

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

5           **SECTION 40.** 71.28 (4) (a) of the statutes is amended to read:

6           71.28 (4) (a) *Credit.* Any corporation may credit against taxes otherwise due  
7 under this chapter an amount equal to 5% of the amount obtained by subtracting  
8 from the corporation’s qualified research expenses, as defined in section 41 of the  
9 internal revenue code, except that “qualified research expenses” includes only  
10 expenses incurred by the claimant, incurred for research conducted in this state for  
11 the taxable year, except that a taxpayer may elect the alternative computation under  
12 section 41 (c) (4) of the Internal Revenue Code and that election applies until the  
13 department permits its revocation and except that “qualified research expenses”  
14 does not include compensation used in computing the credit under subs. (1dj) and  
15 (1dx), the corporation’s base amount, as defined in section 41 (c) of the internal  
16 revenue code, except that gross receipts used in calculating the base amount means  
17 gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and  
18 (d), (db), (dd), (df), (dg), (dh), and (dm). Section 41 (h) of the internal revenue code  
19 does not apply to the credit under this paragraph.

20           **SECTION 41.** 71.28 (4) (am) 1. of the statutes is amended to read:

21           71.28 (4) (am) 1. In addition to the credit under par. (a), any corporation may  
22 credit against taxes otherwise due under this chapter an amount equal to 5% of the  
23 amount obtained by subtracting from the corporation’s qualified research expenses,  
24 as defined in section 41 of the internal revenue code, except that “qualified research  
25 expenses” include only expenses incurred by the claimant in a development zone

1 under subch. VI of ch. 560, except that a taxpayer may elect the alternative  
2 computation under section 41 (c) (4) of the Internal Revenue Code and that election  
3 applies until the department permits its revocation and except that “qualified  
4 research expenses” do not include compensation used in computing the credit under  
5 sub. (1dj) nor research expenses incurred before the claimant is certified for tax  
6 benefits under s. 560.765 (3), the corporation’s base amount, as defined in section 41  
7 (c) of the internal revenue code, in a development zone, except that gross receipts  
8 used in calculating the base amount means gross receipts from sales attributable to  
9 Wisconsin under s. 71.25 (9) (b) 1. and 2. ~~and (d), (db), (dd), (df), (dg), (dh), and (dm)~~  
10 and research expenses used in calculating the base amount include research  
11 expenses incurred before the claimant is certified for tax benefits under s. 560.765  
12 (3), in a development zone, if the claimant submits with the claimant’s return a copy  
13 of the claimant’s certification for tax benefits under s. 560.765 (3) and a statement  
14 from the department of commerce verifying the claimant’s qualified research  
15 expenses for research conducted exclusively in a development zone. The rules under  
16 s. 73.03 (35) apply to the credit under this subdivision. The rules under sub. (1di)  
17 (f) and (g) as they apply to the credit under that subsection apply to claims under this  
18 subdivision. Section 41 (h) of the internal revenue code does not apply to the credit  
19 under this subdivision.

20 **SECTION 42.** 71.28 (4) (i) of the statutes is amended to read:

21 71.28 (4) (i) *Nonclaimants.* The credits under this subsection may not be  
22 claimed by a partnership, except a publicly traded partnership treated as a  
23 corporation under s. 71.22 ~~(1)~~ (1k), limited liability company, except a limited  
24 liability company treated as a corporation under s. 71.22 ~~(1)~~ (1k), or tax-option

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

3 **SECTION 43.** 71.42 (3d) of the statutes is amended to read:

4 71.42 (3d) “Member” does not include a member of a limited liability company  
5 treated as a corporation under s. 71.22 (~~1~~) (1k).

6 **SECTION 44.** 71.42 (3h) of the statutes is amended to read:

7 71.42 (3h) “Partner” does not include a partner of a publicly traded partnership  
8 treated as a corporation under s. 71.22 (~~1~~) (1k).

9 **SECTION 45.** 71.47 (2m) (a) 1. b. of the statutes is amended to read:

10 71.47 (2m) (a) 1. b. For partnerships, except publicly traded partnerships  
11 treated as corporations under s. 71.22 (~~1~~) (1k), or limited liability companies, except  
12 limited liability companies treated as corporations under s. 71.22 (~~1~~) (1k), “claimant”  
13 means each individual partner or member.

14 **SECTION 46.** 71.47 (4) (a) of the statutes is amended to read:

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

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

4 **SECTION 47.** 71.47 (4) (am) of the statutes is amended to read:

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

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

8 **SECTION 48.** 71.47 (4) (i) of the statutes is amended to read:

9 71.47 (4) (i) *Nonclaimants.* The credits under this subsection may not be  
10 claimed by a partnership, except a publicly traded partnership treated as a  
11 corporation under s. 71.22 (~~1~~) (1k), limited liability company, except a limited  
12 liability company treated as a corporation under s. 71.22 (~~1~~) (1k), or tax-option  
13 corporation or by partners, including partners of a publicly traded partnership,  
14 members of a limited liability company or shareholders of a tax-option corporation.

15 **SECTION 49.** 71.58 (1) (c) of the statutes is amended to read:

16 71.58 (1) (c) For partnerships except publicly traded partnerships treated as  
17 corporations under s. 71.22 (~~1~~) (1k), “claimant” means each individual partner.

18 **SECTION 50.** 71.58 (1) (cm) of the statutes is amended to read:

19 71.58 (1) (cm) For limited liability companies, except limited liability  
20 companies treated as corporations under s. 71.22 (~~1~~) (1k), “claimant” means each  
21 individual member.

22 **SECTION 9341. Initial applicability; revenue.**

23 (1) **SINGLE SALES FACTOR APPORTIONMENT.** The treatment of sections 71.01 (1b),  
24 (1n), (8g), (8m), and (10g), 71.03 (1), 71.04 (7) (d), (db), (dd), (df), (dg), (dh), (dm), (e)  
25 12., and (f) 5., 7., and 9., 71.07 (2dr) (a), (3m) (a) 1. b., and (10), 71.195, 71.22 (1), (1g),

1 (1t), (6m), (7m), and (9g), 71.25 (9) (d), (db), (dd), (df), (dg), (dh), (dm), (e) 12., and (f)  
2 5., 7., and 9., 71.28 (2m) (a) 1. b. and (4) (a), (am) 1., and (i), 71.42 (3d) and (3h), 71.47  
3 (2m) (a) 1. b. and (4) (a), (am), and (i), and 71.58 (1) (c) and (cm) of the statutes first  
4 applies to taxable years beginning on January 1, 2005.

5 (END)