

DEPARTMENT OF REVENUE
CLEARINGHOUSE RULE NUMBER 14-077
SECTION 227.19(2) AND (3), STATS., REPORT

Basis and Purpose of the Proposed Rule

The department evaluated other methods of assigning gross receipts from the sale of trading assets to Wisconsin for purposes of computing the amount of income apportioned to Wisconsin for interstate brokers-dealers, investment advisers, investment companies, and underwriters. The revised method proposed by this rule order is the result of that evaluation.

Public Hearing, Comments, and Department Response

A public hearing was held on January 29, 2015. Jay Risch from the Wisconsin Bankers Association (WBA) and Paul Schultz from Robert W. Baird (Baird) appeared and provided testimony and written comments.

Mr. Risch indicated that the proposed rule would have a negative economic impact on members of WBA. To avoid any negative economic impact, as was the Department's stated goal, he suggested the department consider an election of apportionment methods. WBA provided additional written testimony from Rose Oswald Poels, President of WBA, citing Ohio and Pennsylvania as states that offer similar elections. Ms. Poels' written comments are attached. Mr. Schultz testified that Baird had no issues with the changes proposed by WBA and was supportive of any rule that provided for a market-based apportionment method. He also submitted written testimony, which is attached.

All testimony and written comments indicated support for an election for taxpayers to choose sourcing methodology for gross receipts from the sale of trading assets.

No other public comments to the proposed rule order were received.

Based on unanimous support from all persons that provided testimony and written comments, the department has modified the proposed rule order to provide an election for taxpayers to choose sourcing methodology for gross receipts from the sale of trading assets. Additionally, the election is irrevocable without department consent, which is how the election method in Ohio and Pennsylvania is crafted, and irrevocability provides state revenue certainty.

Response to Legislative Council Report

The Legislative Council reported no comments concerning the proposed rule order.

Regulatory Flexibility Analysis

The proposed rule order does not affect small businesses.