

CR 92-36

CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

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JUL 9 1992
9:20
Revisor of Statutes
Bureau

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to the apportionment of incomes of interstate railroads, sleeping car companies, and car line companies was duly approved and adopted by this department on July 7, 1992 .

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 7th day of July, 1992.



Mark D. Bugher
Secretary of Revenue

MDB:MPW:eem
CKLEG/977

9-1-92

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ORDER OF THE DEPARTMENT OF REVENUE CREATING RULES

The Wisconsin Department of Revenue adopts an order to create Tax 2.475 relating to the apportionment of net business incomes of interstate railroads, sleeping car companies and car line companies.

Analysis by the Department of Revenue

Statutory authority: s. 71.80(1)(c), Stats.

Statutes interpreted: ss. 71.04(8)(c) and 71.25(10)(c), Stats.

SECTION 1. Tax 2.475, relating to the apportionment of income of interstate railroads, sleeping car companies and car line companies, is created because of the amendment to s. 71.26(1)(a), Stats., by 1991 Wisconsin Act 39 which imposes a franchise or income tax on these entities for taxable years beginning on or after January 1, 1991. This rule provides a procedure for these entities that are doing business within and without Wisconsin to apportion or allocate their income to Wisconsin.

SECTION 1. Tax 2.475 is created to read:

Tax 2.475 APPORTIONMENT OF NET BUSINESS INCOMES OF INTERSTATE RAILROADS, SLEEPING CAR COMPANIES AND CAR LINE COMPANIES. (ss. 71.04(8)(c) and 71.25(10)(c), Stats.) (1) DEFINITIONS. In this section:

(a) "Gross receipts from carriage" means gross receipts received for the carriage of property or persons net of interline payments made to other railroads as a result of the interchange of carriage between and among railroads. Gross receipts from carriage includes interline payments received from other railroads.

(b) "Revenue ton mile" means the movement of one net ton of property or persons, or both, the distance of one mile, for consideration. For carriage of persons, each person shall be considered the equivalent of 150 pounds, and the average weight of the contents of head end cars, or "baggage cars," is considered to be 4 tons.

(2) INTERSTATE RAILROADS AND SLEEPING CAR COMPANIES. With respect to the imposition of Wisconsin franchise or income tax measured by or on net income for taxable years beginning on or after January 1, 1991, the income of a railroad or sleeping car company operating within and without Wisconsin shall be apportioned to Wisconsin on the basis of the arithmetical average of the following 2 factors:

(a) The ratio of the gross receipts from carriage of property or persons, or both, first acquired for carriage in Wisconsin to the total gross receipts from carriage of property or persons, or both, everywhere.

(b) The ratio of revenue ton miles of carriage in Wisconsin to revenue ton miles of carriage everywhere.

(3) SUBSTITUTION OF FACTORS. Whenever gross receipts data is not available the department may authorize or direct substitution of a similar factor, such as gross tonnage, and whenever revenue ton mile data is not available the department may similarly authorize substitution of a similar factor, such as revenue miles.

(4) CAR LINE COMPANIES. With respect to the imposition of Wisconsin franchise or income tax measured by or on net income for taxable years beginning on or after January 1, 1991, the income of a car line company operating within and without Wisconsin shall be allocated or apportioned to Wisconsin as provided in s. 71.04(4) or 71.25(6) and s. Tax 2.39.

Note: Section 71.26(1)(a), Stats., was amended by 1991 Wisconsin Act 39, effective for taxable years beginning on or after January 1, 1991. For taxable years beginning before January 1, 1991, railroads, sleeping car companies and car line companies were exempt from Wisconsin franchise and income taxation.

The rule contained in this order shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

Dated: July 7, 1992

DEPARTMENT OF REVENUE
By: [Signature]
Mark D. Bugher
Secretary of Revenue

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FISCAL ESTIMATE

DOA-2048 (R11/90)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

Subject

Apportionment Formula for Railroads, Sleeping Cars and Car Line Companies

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

- Increase Costs - May be possible to Absorb Within Agency's Budget Yes No
- Decrease Costs

Local: No local government costs

- 1. Increase Costs
 - Permissive Mandatory
- 2. Decrease Costs
 - Permissive Mandatory

- 3. Increase Revenues
 - Permissive Mandatory
- 4. Decrease Revenues
 - Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
 - School Districts VTAE Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

1991 Wisconsin Act 39 imposed the corporate income/franchise tax on railroads, sleeping car companies and car line companies, for tax years beginning on or after January 1, 1991. This rule provides a procedure for these entities to apportion their net business income to Wisconsin. It has no fiscal effect.

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Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue
Eng Braun, 266-5773

Authorized Signature/Telephone No. 266-2700

Margaret M. Derus

Date

12/12/91

FISCAL ESTIMATE WORKSHEET

1991 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Tax Rule 2.475

Subject

Apportionment Formula for Railroads, Sleeping Cars and Car Line Companies

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		(FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$	\$ -
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
III. State Revenues-			
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ _____ \$ _____

NET CHANGE IN REVENUES \$ _____ \$ _____

Agency/Prepared by: (Name & Phone No.)
 Wisconsin Department of Revenue
 Eng Braun, 266-5773

Authorized Signature/Telephone No. 266-2700

Margaret M. DeWitt

Date

12/12/91

FISCAL ESTIMATE

DOA-2048 (R11/90)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

Subject

Apportionment Formula for Railroads, Sleeping Cars and Car Line Companies

Fiscal Effect

State: No State Fiscal Effect

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- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____
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Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

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Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue
Eng Braun, 266-5773

Authorized Signature/Telephone No. 266-2700

Margaret M. Derus

Margaret M. Derus

Date

12/12/91

FISCAL ESTIMATE WORKSHEET

1991 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 DOA-2047(R11/90) CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Tax Rule 2.475	Amendment No.
---	---------------

Subject

Apportionment Formula for Railroads, Sleeping Cars and Car Line Companies

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
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A. State Costs by Category		
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Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$	\$ -
B. State Costs by Source of Funds		
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues- Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ _____ \$ _____

NET CHANGE IN REVENUES \$ _____ \$ _____

Agency/Prepared by: (Name & Phone No.)
 Wisconsin Department of Revenue
 Eng Braun, 266-5773

Authorized Signature/Telephone No. 266-2700

Margaret M. Dennis

Date

12/12/91



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

July 8, 1992

Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

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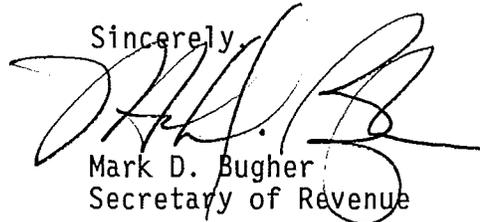
Revisor of Statutes
Bureau

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 92-36.

These materials are filed with you pursuant to s. 227.20, Stats.

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:MPW:eem
CKLEG/975

Enclosure

cc: Revisor of Statutes



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

July 8, 1992

Gary L. Poulson
Assistant Revisor
2nd Floor
119 Martin Luther King, Jr. Blvd.
Madison, WI 53703

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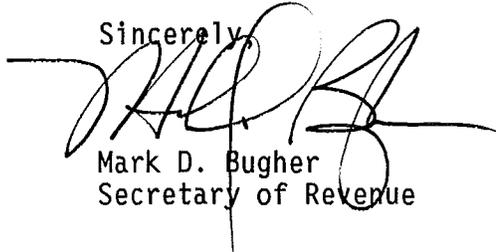
Re: Clearinghouse Rule 92-36

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to the apportionment of incomes of interstate railroads, sleeping car companies, and car line companies.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:MPW:eem
CKLEG/976

Enclosure

cc: Douglas J. LaFollette, Secretary of State
Commerce Clearing House, Inc.
Research Institute of America, Inc.