

CR 94-153

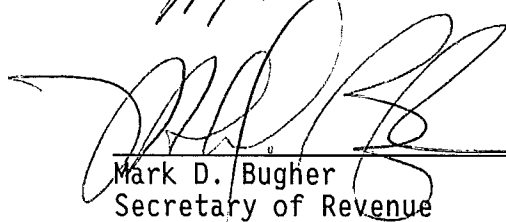
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

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 method of reporting income, was duly approved and adopted by this department on March 13, 1995.

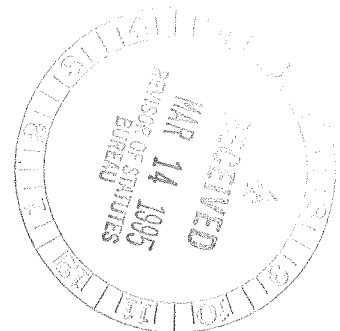
I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 13th day of March, 1995.

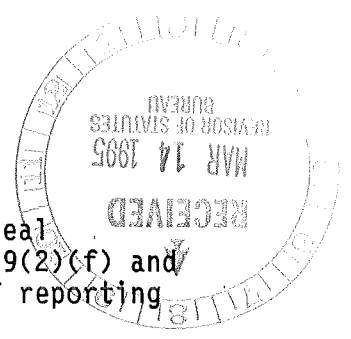


Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/62



ORDER OF THE DEPARTMENT OF REVENUE
REPEALING, RENUMBERING AND AMENDING RULES



The Wisconsin Department of Revenue adopts an order to: repeal Tax 2.39(6)(b)2.b; renumber Tax 2.39(6)(b)2.c; and amend Tax 2.39(2)(f) and (4)(c), (cm)2.a and (f), relating to the apportionment method of reporting income.

Analysis by the Department

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

Statutes interpreted: ss. 71.04(4), (5), (6), (7), (9), (10) and (11) and 71.25(5), (6), (7), (8), (9), (11) and (12), Stats.

SECTION 1. Tax 2.39(2)(f) and (4)(c), (cm)2.a and (f) are revised to conform grammar and punctuation to Legislative Council Rules Clearinghouse standards.

SECTIONS 2 and 3. Tax 2.39(6)(b)2.b is repealed and Tax 2.39(6)(b)2.c is renumbered Tax 2.39(6)(b)2.b, as a result of the Wisconsin Tax Appeals Commission's decision dated May 1, 1992, in Ladish Co., Inc. v. Wisconsin Department of Revenue.

In addition, examples at the end of Tax 2.39(2)(d), (5)(a)5 and (6)(b)1.a are revised to conform grammar and punctuation to Clearinghouse standards, and the note at the end of Tax 2.39(3)(a) is revised to reflect the creation of Tax 2.475, relating to apportionment for interstate railroads, sleeping car companies, and car line companies.

SECTION 1. Tax 2.39(2)(f) and (4)(c), (cm)2.a and (f) are amended to read:

Tax 2.39(2)(f) "State" means any state of the United States, the District of Columbia, the ~~Commonwealth~~ commonwealth of Puerto Rico, and any territory or possession of the United States. A foreign country is not a state.

(4)(c) Rented property. Property rented by the taxpayer is valued at 8 times the net annual rental determined at arm's length for purposes of computing the property factor. Net annual rental is the annual rental paid by the taxpayer, or allocated by the department pursuant to s. 71.10(1), 71.30(2) or 71.80(1)(b), Stats., less any annual rental received by the taxpayer from sub-rentals. In exceptional cases this definition of net annual rental may

result in a negative value or clearly inaccurate valuation. In these exceptional instances, any other method which will properly reflect the net annual rental value may be required by the department or may be requested by the taxpayer; however, in no case shall may the net annual rental be less than an amount which bears the same ratio to the total annual rental paid by the taxpayer as the rental value of the part of the property used by the taxpayer in the production of apportionable income bears to the total rental value of the same rental property.

(cm)2.a. Any amount payable for the use of real or tangible personal property, or any part of the property, whether designated as a fixed sum of money or as a percentage of sales, profits, or otherwise;

(f) Averaging property values. As a general rule the "average value" of property shall be determined by averaging the value at the beginning and ending of the tax period, but the department ~~of revenue~~ may require or the taxpayer may utilize the averaging of monthly values during the tax period if reasonably required to properly reflect the average value of the taxpayer's property. Averaging by monthly values shall generally be applied if substantial fluctuations in the values of the property exist during the tax period, or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

Note to Revisor: 1) In Examples 2) and 3) at the end of Tax 2.39(2)(d), the term "secretary of state," which appears twice in each of those Examples, should not be capitalized.

2) In Example 6) at the end of Tax 2.39(2)(d), change "doesn't" to "does not."

3) Change the Note at the end of Tax 2.39(3)(a) to read:

Note: See ss. Tax 2.46, 2.47, 2.475, 2.48, 2.49, 2.50 and 2.505 for special apportionment fractions of interstate air carriers, motor carriers, railroads, sleeping car companies, car line companies, pipelines, finance companies, public utilities and professional sports clubs.

4) In the Example at the end of Tax 2.39(5)(a)5, the word "headquartered" should be spelled correctly.

5) In the Example at the end of Tax 2.39(6)(b)1.a, the word "state" should not be capitalized.

SECTION 2. Tax 2.39(6)(b)2.b is repealed.

SECTION 3. Tax 2.39(6)(b)2.c is renumbered Tax 2.39(6)(b)2.b.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register 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: March 13, 1995

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

CKLEG/1375



ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
 TAX 2.39
 Amendment No. if Applicable

FISCAL ESTIMATE
 DOA-2048 (R10/92)

Subject

Rules Relating to the Corporate Tax Apportionment Method

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 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 _____
 - 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

Tax 2.39 is amended to clarify the situs of "throwback" sales and to conform grammar and punctuation to current Legislative Council Clearinghouse standards. The proposed changes would have no effect on state tax revenues.

Long-Range Fiscal Implications

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

Wisconsin Department of Revenue
 Joseph Malloy 266-7817

Authorized Signature/Telephone No.

Yeang-Eng Braun
 266-2700

Yeang-Eng Braun

Date

9/2/93

FISCAL ESTIMATE WORKSHEET

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

1993 Session

Detailed Estimate of Annual Fiscal Effect
 DOA-2047(R10/92)

LRB or Bill No./Adm. Rule No. Amendment No.
 TAX 2.39

Subject

Rules Relating to the Corporate Tax Apportionment Method

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	Increased Costs	Decreased Costs
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	\$ none	\$ _____

Agency/Prepared by: (Name & Phone No.) Wisconsin Department of Revenue Joseph Malloy 266-7817	Authorized Signature/Telephone No. Yeang-Eng Braun 266-2700 <i>Yeang Eng Braun</i>	Date 9/2/93
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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. Bugar
Secretary of Revenue

March 13, 1995

Gary L. Poulson
Assistant Revisor
131 West Wilson Street, Suite 800
Madison, WI 53703-3233

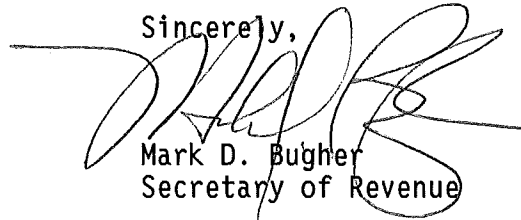
Re: Clearinghouse Rule 94-153

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 method of reporting income.

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

Sincerely,

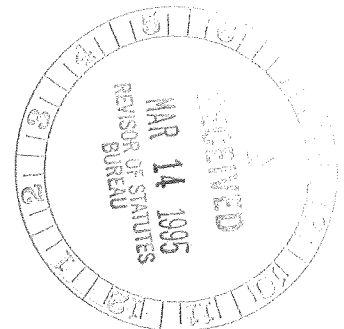


Mark D. Bugar
Secretary of Revenue

MDB:MPW:c11
CKRUL/59

Enclosure

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





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

March 13, 1995

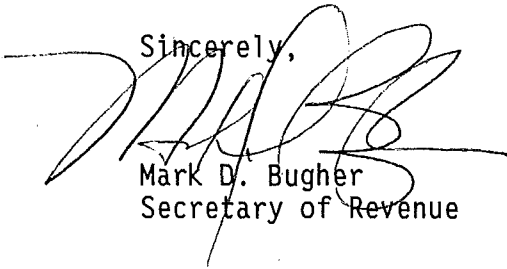
Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 94-153.

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

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/58

Enclosure

cc: Revisor of Statutes Bureau

