



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-1303/P2
EKL:emw

DOA:.....Quinn, BB0450 - Broker dealer apportionment

FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Broker-dealer apportionment factor

Under current law, multistate businesses must apportion their income to Wisconsin and the other state or states for income and franchise tax purposes. Current law requires that DOR promulgate rules for apportioning the income of specialized industries. A DOR rule provides that broker-dealers, investment advisers, investment companies, and underwriters apportion income using a single receipts factor. The rule also provides that, under certain circumstances, the factor's numerator includes the modified gross receipts from the sales of trading assets, unless DOR orders or allows modified net gains to be used instead. This bill amends the DOR rule to provide that the factor's numerator includes the modified net gains from the sales of trading assets, rather than modified gross receipts.

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

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

SECTION 1. Tax 2.495 (4) (d) (title) of the administrative code is amended to read:

Tax 2.495 (4) (d) (title) ~~Gross receipts~~ Net gains from trading assets.

SECTION 2. Tax 2.495 (4) (d) 1. of the administrative code is amended to read:

Tax 2.495 (4) (d) 1. Except as provided in subds. subd. 1m. and ~~2.~~, the numerator of the receipts factor includes ~~gross receipts~~ net gains, net of commissions, from sales of trading assets, if the day-to-day decisions regarding the trading assets occur at a location in this state. If the day-to-day decisions regarding the trading assets occur at locations both in and outside this state, the assets shall be considered to be located at the location where the trading policies and guidelines are established. It shall be rebuttably presumed that the location where the trading policies and guidelines are established is at the taxpayer's commercial domicile.

SECTION 3. Tax 2.495 (4) (d) 1m. of the administrative code is amended to read:

Tax 2.495 (4) (d) 1m. ~~Except as provided in subd. 2., at~~ At the election of the taxpayer, for taxable years beginning after December 31, 2014, the numerator of the receipts factor includes ~~gross receipts~~ net gains, net of commissions, from sales of trading assets if the customer's billing address is in this state. Once made, an election under this subdivision cannot be revoked without prior consent from the department. If a request to change an election has been approved by the department, the change becomes effective with the first taxable year ending on or after approval by the department.

SECTION 4. Tax 2.495 (4) (d) 2. of the administrative code is repealed.

SECTION 9337. Initial applicability; Revenue.

(1) **BROKER-DEALER APPORTIONMENT FACTOR.** The treatment of s. Tax 2.495 (4) (d) (title), 1., 1m., and 2. first applies to taxable years beginning after December 31, 2020.

SECTION 9437. Effective dates; Revenue.

(1) **BROKER-DEALER APPORTIONMENT FACTOR.** The treatment of s. Tax 2.495 (4) (d) (title), 1., 1m., and 2. takes effect as provided in s. 227.265.

(END)