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Corporate Income/Franchise Tax

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TABLE OF CONTENTS

Introduction ... 1

Theoretical Rationale for the Corporate Income Tax ... 1

Entities Subject to State Corporate Income/Franchise Tax ... 2
- State Jurisdictional Nexus ... 3
- Federal Restrictions on State Taxation of Corporations ... 3

Corporate Income/Franchise Tax Liability ... 4
- Total Income ... 4
- Deductions and Modifications to Income ... 5
- Allocation and Assignment of Income ... 6
- Insurance Companies ... 9
- Net Business Losses ... 11
- State Corporate Income/Franchise Tax Rate ... 12
- Economic Development Surcharge ... 12
- Nonrefundable Business Tax Credits ... 12
- Refundable Business Tax Credits ... 13
- Combined Reporting ... 14
- Comparative Examples ... 17

Pass-through Entity (PTE) Tax ... 21

Summary Data ... 23

State Corporate Tax Structures ... 25

Appendix 1 Jurisdictional Nexus under the Corporate Income/Franchise Tax ... 29

Appendix 2 Corporate Income/Franchise Tax Deductions and Other Adjustments to Income ... 31
- Other State Adjustments to Federal Provisions ... 41
- Related Entity Transactions ... 42

Appendix 3 Overview of Tax Year 2022 Corporate Tax Structures in Other States ... 44

Corporate Income/Franchise Tax

This paper provides general information regarding the Wisconsin corporate income/franchise tax for tax year 2022. Included in the paper are a general rationale for the tax, a description of the method by which the tax is applied to corporations, summary and comparative data about the tax, and an overview of corporate tax structures in other states. The Appendices provide additional detail regarding Wisconsin's taxing jurisdiction, corporate income/franchise tax deductions, and tax structures in other states.

Theoretical Rationale for the Corporate Income Tax

One theoretical rationale given for the corporate income tax is based on the view that a corporation is a legal entity with an existence of its own. A corporation can be a significant factor in economic and social decision-making, operated by professional management subject to little control by the average shareholder. Proponents of the corporate income tax believe that, as a separate entity with substantial earnings and economic power, the corporation is properly subject to a separate tax. In addition, proponents believe that, since a corporation can be viewed as a separate income earning entity, it is appropriate to tax a corporation's profits, especially when a substantial amount of the corporation's income is from the sale of goods and services to the state's residents.

Another rationale for the corporate income tax is that corporations receive benefits from their form of organization. These benefits include perpetual life, limited liability of shareholders, liquidity of ownership through marketability of shares, growth through retention of earnings, and possibilities of intercorporate affiliations. In addition, corporations derive benefits from certain governmental services which may reduce corporate costs, expand markets, and facilitate financial transactions. Proponents of the corporate income tax believe that it is reasonable that corporations pay for such benefits through the tax. However, critics argue that the general level of the corporate income tax paid is too high for the benefits received. Moreover, individual corporations receive similar benefits from their status but pay different amounts of taxes. To the extent the tax is for services provided by government, a general business tax or value-added tax would more closely relate to the cost of services that are provided.

Critics of the corporate income tax believe it depresses the overall level of business investment in the U.S. They argue that although corporations operate as distinct, decision-making units, corporations should not be subject to a distinct tax because, ultimately, corporate taxes are borne by natural persons. Since corporate profits are part of the income of shareholders, some view the corporate income tax as a tax on the income of shareholders. Under this view, the corporation has no independent taxpaying ability but should be seen as a "conduit" through which earnings pass on the way to the shareholders. Those who hold this view criticize the corporate income tax because corporate profits that are distributed are taxed twice--first at the corporate level under the corporate income tax and then under the individual income tax when they are distributed as dividends to shareholders. However, many economists believe that the corporate income tax is borne not only by shareholders but by consumers and employees as well. Regardless of the specific incidence, critics of the corporate income tax argue that it is not a tax on corporate income, but rather a tax on the income of shareholders, consumers, and employees.

A practical justification for the corporate income tax is that it safeguards the individual income tax. If the corporate income tax were abolished, retained earnings would no longer be taxed and individuals could simply leave their wealth within corporations where it would be sheltered from taxes until it was withdrawn. There have been proposals to "integrate" the individual and corporate income taxes to make the income tax more efficient and equitable. However, these proposals have not been adopted on either the federal or state level and would involve substantial administrative problems if enacted.

A final rationale for the corporate income tax is that it is a significant source of revenue for the federal and state governments. According to the Congressional Budget Office's January 2022 Budget and Economic Outlook report, the corporate income tax is the third largest source of federal revenue (after individual income and payroll taxes), accounting for 9.2% of federal revenue in federal fiscal year 2021. According to the U.S. Census Bureau's 2021 Annual Survey of State Government Tax Collections, approximately 7.1% ($90.2 billion) of all state and local government revenue came from corporate income taxes. Critics contend that the corporate tax is used because it is politically easier to increase taxes on corporations than to increase taxes on individuals.

Entities Subject to State Corporate Income/Franchise Tax

The Wisconsin Income Tax Act of 1911 enacted the nation's first workable income tax, which applied to all incomes, both individual and corporate, and to residents and nonresidents alike. The test for liability was the source of the income, rather than the residence of the taxpayer, with certain rules for allocating taxable income to the state based on the source of the income.

Today, Wisconsin has both a corporate income tax and a corporate franchise tax. The corporate franchise tax is imposed upon corporations for the privilege of doing business or exercising their franchise in the state in a corporate capacity. The corporate franchise tax is also imposed on corporations that buy or sell lottery prizes if the winning tickets were purchased in the state. The corporate income tax is imposed upon corporations which are not subject to the franchise tax and: (a) that own property in the state; (b) that derive income from sources within the state or from activities that are attributable to the state; or (c) if their business within the state consists exclusively of foreign commerce, interstate commerce, or both. As a result, companies having any intrastate business are subject to the franchise tax while those having only interstate business here are subject to the income tax. The basic difference between the corporate franchise and income taxes is that income from obligations of the U.S. government and its instrumentalities is subject to the franchise tax, but not the income tax. Typically, the corporate franchise tax is imposed on corporations subject to taxation in Wisconsin.

In general, all corporations over which Wisconsin has taxing jurisdiction are subject to the corporate income/franchise tax. However, there are certain types of corporations that are specifically exempt. These include municipal corporations, nonprofit corporations or associations (except those subject to the unrelated business income tax), cooperatives, most credit unions, most insurance companies (Wisconsin nonlife, nonmortgage guarantee companies, and the nonlife insurance business of Wisconsin life insurance companies are subject to the tax), banks under liquidation, and out-of-state businesses whose only activity in Wisconsin is disaster relief work.

The income of nonprofit cooperative sickness care associations, nonprofit service insurance corporations, and religious, educational, benevolent, and other nonprofit corporations that is derived from health maintenance organizations and

limited service health organizations is subject to the tax. In addition, tax-option corporations (S corporations) generally have corporate net income attributed to their shareholders who are taxed under the individual income tax. Similarly, business enterprises such as sole proprietorships, partnerships, and limited liability companies (LLCs) that are treated as partnerships for federal income tax purposes are not subject to the state corporate income/franchise tax but, rather, the net income of the business is taxed under the individual income tax. Partnerships and S corporations may elect to remit state taxes at the entity level, rather than including the income on the individual income tax forms of their owners.

State Jurisdictional Nexus

There are two circumstances which give Wisconsin taxing jurisdiction over corporations. First, corporations which are created and authorized to act in a corporate capacity (incorporated) under Wisconsin law or foreign corporations which are licensed to transact business in the state are subject to the Wisconsin corporate income/franchise tax. Such firms are subject to the tax whether or not they conduct business or own property in the state. However, even though a corporation is subject to the tax, it may not have a tax liability. Second, corporations which are organized under the laws of other states or foreign nations are generally subject to the tax if they exercise a franchise, conduct business, or own property within the state.

Under state law and administrative rules promulgated by the Department of Revenue (DOR), certain business activities are needed for a non-Wisconsin (foreign) firm to have "nexus" in Wisconsin and be subject to the state corporate income/franchise tax. In general, a foreign corporation is considered to have nexus with the state if the corporation engages in business activity in Wisconsin. Businesses activities that would create "nexus" include if a corporation: (a) owns or leases real or tangible personal property in the state; (b) has employees or representatives that engage in usual or frequent business activity in the state; (c) maintains an office or mobile store in the state; (d) performs contracts in the state; (e) sells real estate, services, or intangibles into the state; (f) regularly solicits business to state residents; (g) holds loans secured by Wisconsin property; or (h) has an interest in an LLC that does business in the state. The statutes provide certain exemptions from the nexus provisions, such as for foreign corporations whose only business activity involves certain printing or storage services or that only perform disaster relief work in the state. A detailed description of the business activities that create nexus can be found in Appendix 1.

Corporations that are members of a combined group must file a combined income/franchise tax return. For a combined group, nexus is determined for the unitary business as a whole. Therefore, if a member of a combined group has nexus with Wisconsin and that nexus is attributable to the combined group's unitary business, all members of the combined group have nexus in Wisconsin. The combined reporting requirements are described later in this paper.

Federal Restrictions on State Taxation of Corporations

Federal restrictions on state taxing powers are contained in the U.S. Constitution. The states have the power to levy taxes in accordance with their own laws, subject to the restrictions imposed principally by the due process clause of the 14th Amendment and the commerce clause. Under the due process clause, a minimal connection must exist between a corporation's activities and the taxing state, and the income attributed to the state for tax purposes must be rationally related to income-generating activities within the taxing state. Under the commerce clause, a state is prohibited from adopting a taxation scheme which discriminates against, or places undue burden on, interstate commerce.

In 1959, the Supreme Court held that the net

income of a corporation generated by interstate activities could be fairly apportioned among the states for tax purposes. Soon thereafter, the U.S. Congress enacted the Interstate Income Act of 1959 (Public Law 86-272) to limit the reach of state taxing power on interstate commerce. The Interstate Income Act enables a business to enter, or send representatives, into a state to solicit orders for goods without being subject to net income tax, so long as the corporation's only activities in the state are:

a. Solicitation, by employees, of orders for tangible personal property which are sent out-of-state for approval or rejection. The orders must be filled from a delivery point outside the state.

b. Solicitation activity by nonemployee independent contractors conducted through their own offices or businesses located in the state.

Public Law 86-272 does not apply to corporations which are organized (incorporated) under the laws of the taxing state or a foreign nation. The law also does not apply to corporations which sell services, real property, or intangible personal property in more than one state. For example, in *ASAP Cruises Inc. v. Wisconsin Department of Revenue*, the Tax Appeals Commission found that P.L. 86-272 did not apply to a Florida company contracting with independent travel consultants to sell travel services to customers inside and outside of Wisconsin because travel services are not tangible personal property. Thus, the business is subject to the franchise tax.

Corporate Income/Franchise Tax Liability

State law imposes a corporate income/franchise tax on Wisconsin net income. In general, a corporation determines state tax liability by computing gross or total income, subtracting deductions, apportioning the net income to the state (if necessary), adjusting for nonapportionable income and net operating losses (if applicable), applying the 7.9% state tax rate, and subtracting tax credits.

Generally, state definitions of income and deductions are referenced to federal law. For example, "net income" is defined as the gross income computed under the federal Internal Revenue Code (IRC), with certain modifications under state law. For corporate income tax purposes, state provisions are referenced to the IRC in effect on December 31, 2020, with numerous exceptions. The components used in the calculation of corporate income/franchise tax liability are outlined in the following sections.

Total Income

Determining federal gross income is the first step to determine Wisconsin net income. “Gross income” under the IRC is all income from whatever source derived, including gross income derived from business. For tax purposes, federal total income includes: (a) gross profit; (b) dividends; (c) interest; (d) rents; (e) royalties; (f) capital gains or losses; and (g) other income.

"Gross profit" is the net amount realized from sales (gross receipts less sales returns and allowances) minus the cost of goods sold. Cost of goods sold is an adjustment made to inventoried items to arrive at gross profit. The adjustment measures the cost of producing inventory or the cost of producing or acquiring property or merchandise for sale or resale. In general, the cost of goods sold is determined by adding related purchases and costs to the value of inventory at the beginning of the year and subtracting the value of inventory at the year's end. Businesses do not have to determine cost of goods sold if the sale of merchandise is not an income-producing factor for their business. In these instances, gross profits are the same as net receipts. Most businesses and professions that sell services rather than products can figure profits in

this manner.

Total income also includes income other than that generated from the sales of goods and services. The amount of a distribution representing a dividend is included in total income, subject to dividends received deductions for corporate recipients. A dividend is defined as any distribution made by a corporation out of its earnings or profits to its shareholders, whether in money or in property. Generally, all interest received or credited to the taxpayer is includable in gross income. (For federal income tax purposes, interest on U.S. obligations is defined as income, but interest on state and local obligations is excluded. However, interest on federal, state, and local obligations is taxable under the Wisconsin franchise tax. Also, with limited exceptions, state and local interest is taxable under the state corporate income tax.).

Gross rent received from property and gross royalties are also income. Expenses such as repairs, interest, taxes, and depreciation are not included in determining income, but rather factored in as deductions to calculate gross profit.

Profit from the sale or exchange of business property and other capital assets is taxable income. Combined groups compute net capital gain/loss for the group as a whole. Such profits are taxable if they are treated either as ordinary income or capital gains/loss. The gain or loss from the sale or exchange of a patent, invention, model, or design, or a secret formula or process generally is not considered a capital asset and is treated as ordinary income.

Finally, other types of business income, such as recoveries of bad debt adjustments due to a change in accounting, refunds of taxes deducted in prior years, and recapture of certain previously-claimed deductions, are included in gross income.

Deductions and Modifications to Income

Deductions are based on the proposition that certain components of income are not available for the taxpayer's own free use. For example, taxes are viewed as involuntary reductions in the amount of available income. In addition, deductions can affect taxpayer behavior and are sometimes used as incentives to encourage certain types of activities. For example, accelerated methods of depreciation are designed, in part, to encourage capital investment.

Since the corporate income/franchise tax is a tax on business, many of the deductions allowed are, in general, related to the expenses incurred in operating a business. In order to be deductible as a business expense, an expense must be an ordinary and necessary expense of the taxpayer's trade or business, paid or incurred during the taxable year in which it is deducted, and connected with the trade or business conducted by the taxpayer.

Definitions of deductions under the state corporate income/franchise tax are generally referenced to the federal IRC in effect on December 31, 2020. As a result, most corporate tax deductions conform with federal tax provisions. However, state law includes provisions that exclude or modify IRC definitions.

Most new modifications to existing federal deductions enacted since December 31, 2020, do not apply for state corporate income/franchise purposes unless state law is changed. However, the state will automatically pick up any federal changes regarding depletion and the IRC Section 179 election to expense depreciable assets.

The following deductions are provided to Wisconsin corporate tax filers to offset all or a portion of business expenses incurred in tax year 2022: (a) compensation of officers and employees; (b) repairs; (c) taxes; (d) interest; (e) charitable contributions; (f) depreciation; (g) amortization; (h) Section 179 election to expense depreciable assets; (i) bad debts; (j) rent; (k) depletion; (l) insurance; (m) advertising; and (n) other deductions. Certain expenses associated with related entity

transactions made primarily for tax avoidance purposes cannot be deducted.

Although the definitions of various forms of income are generally referenced to federal IRC provisions, Wisconsin law provides for certain modifications. Thus, corporations will report either additions to, or subtractions from, federal gross income in order to account for the differences in taxable income under state law.

For example, differences between the state and federal definitions of income or allowable methods of accounting for depreciation may result in a difference between the federal and Wisconsin basis of assets. If the federal adjusted basis is more than the state basis, then the corporation would need to make an addition to income to account for the difference when depreciating or selling an asset.

A corporation applies the deductions and makes the modifications described above to gross income to calculate the corporation's "income before apportionment." Detailed descriptions of these deductions and adjustments are presented in Appendix 2.

Allocation and Assignment of Income

For state tax purposes, specified rules and laws are used to allocate or assign income of a particular corporate taxpayer.

A corporation that conducts all of its business and owns property only in Wisconsin has all of its income subject to taxation in Wisconsin. Usually, such firms are incorporated in Wisconsin. These types of firms are often referred to as 100% Wisconsin firms, and they compute their taxes similar to how a Wisconsin resident does under the individual income tax.

A corporation which conducts its business operations and owns property or makes sales both within and outside of the state is subject to a different corporate income tax treatment than is a 100% Wisconsin firm. When states tax the income of corporations generated by activities carried on across state lines, they are required under the due process and commerce clauses of the U.S. Constitution to tax only income that is fairly attributable to activities carried on within the state. In order to meet this constitutional obligation, Wisconsin generally employs one of three methods of assigning income to the state--separate accounting, apportionment, or specific allocation.

Separate Accounting. Under Wisconsin law, a multijurisdictional corporation must use separate accounting when the corporation's business activities have income or loss from a nonunitary business. Separate accounting implies that the income and expenses of each specific business function or activity of a multijurisdictional corporation can be accounted for individually and independently. The corporation must determine the income attributable to Wisconsin using separate records of the sales, cost of sales, and expenses for the Wisconsin business. Transactions that occur between in-state and out-of-state businesses must be valued at "arms-length." DOR may permit separate accounting in any case (including for unitary corporations) in which it is satisfied that the use of the method will properly reflect the income that is taxable by the state. Currently, few multijurisdictional corporations in the state use separate accounting to determine their net tax liability.

Apportionment. Under apportionment, the corporation adds its total gross income from its in-state and out-of-state unitary activities, subtracts its deductions, and multiplies the amount of net income by its apportionment ratio or percentage as determined by the Wisconsin apportionment formula. The apportionment percentage is used to approximate how much of a corporation's income is generated by activities in Wisconsin.

Most multistate corporations, including multistate public utilities, apportion income to Wisconsin using single sales factor

apportionment. Statutory provisions and administrative rules govern the definitions and sourcing of sales that are included in the sales factor. For most types of multijurisdictional corporations, the sales factor is a percentage determined by dividing the total sales or receipts of the corporation in Wisconsin by the total sales or receipts of the corporation everywhere. In general, sales of tangible personal property are considered in the state if: (a) the property is delivered or shipped to a purchaser, other than the federal government, within the state; or (b) the property is shipped from a location in Wisconsin and delivered to the federal government within the state.

In addition, certain sales of personal property in states where a taxpayer has no nexus are known as "throwback sales," and include sales of property: (a) shipped from Wisconsin and delivered either to the federal government or another purchaser, and the taxpayer is not in the jurisdiction of the destination state for income tax purposes; or (b) from an office in Wisconsin to an out-of-state purchaser, that are not shipped or delivered from Wisconsin, if the taxpayer is not within the jurisdiction for income tax purposes of either the state from which the property originated or was delivered or shipped. Throwback sales are included in both the numerator and denominator of the apportionment formula.

State law specifies how income derived from services are apportioned to Wisconsin. A service is determined to be received in Wisconsin if any of the following apply: (a) the service relates to real property that is located in Wisconsin; (b) the service relates to tangible personal property that is delivered directly or indirectly to customers in the state; (c) the service is purchased by an individual who is physically present in Wisconsin at the time that the service is received; or (d) the service is provided to a person engaged in a trade or business in Wisconsin and relates to that person's business in Wisconsin. If the purchaser of a service receives the benefit of a service in more than one state, the gross receipts from the performance of the service received in this state are apportioned to Wisconsin.

Multistate financial organizations, including financial institutions, broker-dealers, investment advisers, investment companies, and underwriters, use an industry specific, single receipts apportionment factor. Multistate insurance companies use a single premiums apportionment factor. Professional sports clubs generally apportion income using a single sales apportionment factor, with certain modifications.

Broadcasters apportion income under the larger of two separate calculations. First, a broadcaster's gross receipts from advertising revenue are apportioned to Wisconsin only if the advertiser's commercial domicile is located in Wisconsin, and a broadcaster's gross royalties and other gross receipts from the use or license of intangible property are apportioned to Wisconsin only if the commercial domicile of the purchaser or licensee is in Wisconsin and that purchaser or licensee has a direct contractual relationship under which royalties and receipts are derived. Under the second calculation, a broadcaster apportions to Wisconsin 1% of its gross receipts nationwide from advertising and royalties and other gross receipts received for the use or license of intangible property. If the second calculation results in a larger amount of income apportioned to Wisconsin, the broadcaster apportions gross receipts as determined under the second calculation. However, a broadcaster is liable for no more than 40% more than the amount of gross receipts that would have been apportioned to the state if the broadcaster had used the first method of apportionment.

Multifactor apportionment provisions apply to certain industries. Interstate telecommunications companies apportion income using the arithmetic average of the percentages of payroll, property, and sales in Wisconsin to total company payroll, property, and sales, respectively. Exhibit 1 shows

Exhibit 1: Apportionment Factors Used by Certain Types of Multijurisdictional Corporations

Type of Corporation	Apportionment Factors
Interstate Telecommunications Company	1. Ratio of sales in Wisconsin to total sales everywhere.
	2. Ratio of property in Wisconsin to total property everywhere. (The property factor is generally the average value of real and tangible personal property owned or rented by the taxpayer.)
	3. Ratio of payroll in Wisconsin to total payroll everywhere. (The payroll factor is generally the total amount of compensation paid.)
Interstate Air Carrier*	1. Ratio of aircraft arrivals and departures in Wisconsin to total aircraft arrivals and departures.
	2. Ratio of revenue tons handled at airports in Wisconsin to total revenue tons handled.
	3. Ratio of originating revenue in Wisconsin to total originating revenue.
Interstate Motor Carrier	1. Ratio of gross receipts from carriage of persons or property, or both, first acquired for carriage in Wisconsin to total gross receipts from carriage of persons or property, or both, everywhere.
	2. Ratio of revenue ton miles of carriage in Wisconsin to total revenue ton miles of carriage. (Revenue ton miles means the movement of one ton of persons or property, or both, the distance of one mile. One person equals 200 pounds.)
Interstate Railroads	1. Ratio of gross receipts from carriage of property, or persons, or both, first acquired for carriage in Wisconsin to total gross receipts from carriage of property, or persons, or both, everywhere.
	2. Ratio of revenue ton miles of carriage in Wisconsin to revenue ton miles of carriage everywhere. (Revenue ton miles means the movement of one net ton of property, or persons, or both, the distance of one mile, for consideration. One person equals 150 pounds.)
Interstate Pipeline Company	1. Ratio of average net cost of real and tangible property owned and used in Wisconsin to produce apportionable income to total average net cost of such property owned and used everywhere.
	2. Ratio of traffic units (transportation for a distance of one mile of one barrel of oil, one gallon of gasoline, 1,000 cubic feet of natural or casinghead gas, or other appropriate measure of product) in Wisconsin to the total traffic units everywhere.
	3. Ratio of compensation paid to employees located in Wisconsin to total compensation paid to all employees to produce apportionable income.

*These apportionment factors also apply to interstate air freight forwarders affiliated with a direct air carrier.

certain industries subject to an arithmetic average of industry-specific, multifactor apportionment formulas to apportion income for Wisconsin tax purposes.

Allocation of Nonapportionable Income. Allocation of nonapportionable income traces the income to the state of its source and includes the income in that state's tax base. Generally, this method of assigning income is applied to income from property with the source of the income following the location of the property. Many states, for example, allocate the income from real and tangible personal property, such as rents from real estate and oil and mineral royalties, to the state where the underlying property is located. Income from

intangible property, such as dividends and interest, is often allocated to the taxpayer's commercial or legal domicile or to the state in which the intangible property is utilized.

Wisconsin law distinguishes nonapportionable income from apportionable income. In determining a corporation's tax liability, total corporate nonapportionable income or loss is removed from the total income of a unitary multistate corporation and the remaining income or loss is apportioned to the state. Nonapportionable income allocated to Wisconsin is then added to apportioned business income to determine Wisconsin net income.

Nonapportionable income is allocable directly to the state in which the nonbusiness property that produced the income, gain, or loss is located. For state income/franchise tax purposes, nonapportionable income includes income, gain, or loss from: (a) the sale of nonbusiness real property or nonbusiness tangible personal property; (b) rental of nonbusiness real property or nonbusiness tangible personal property; and (c) royalties from nonbusiness real property or nonbusiness tangible personal property. Expenses that are directly related to nonapportionable rents and royalties are offset against that income. Income from lottery prizes is nonapportionable income allocable to Wisconsin if the tickets were originally purchased in Wisconsin. For combined returns, the total aggregate net nonapportionable income of each member of a combined group is included in the unitary income of the group. Personal holding companies do not receive special treatment for Wisconsin. The intangible income of a personal holding company is apportionable income under the same standard that applies to corporations that are not personal holding companies.

The state statutes provide that income or loss from intangibles (interest, dividends, royalties from patents, and similar types of income) is generally apportionable business income which follows the situs of the business. However, interest, dividends, and capital gains may be exempt from state tax when the recipient and payor: (a) are not a unitary business; (b) are not related as a parent company and subsidiary or affiliates; and (c) have investment activity from which the income received is not an integral part of a unitary business or the transaction does not serve an operational function. Conversely, if the corporation has commercial or legal domicile in Wisconsin, this intangible income is treated as business income for state tax purposes.

Insurance Companies

Most insurance companies that conduct business in the state are generally exempt from the state corporate income/franchise tax and, instead, pay the state insurance premiums or gross investment tax. However, certain types of insurance companies are subject to the corporate franchise tax. Specifically, the state corporate income/franchise tax is imposed on most domestic nonlife insurance companies and on the nonlife insurance business of domestic life insurance companies. Insurers generally exempt from the state corporate income/franchise tax include:

a. Foreign insurance companies (companies not organized under Wisconsin law);

b. Domestic life insurance companies engaged exclusively in life insurance business. If a life insurance company engages in a business other than life insurance, the net income from the nonlife insurance business is subject to the state income/franchise tax while the state gross investment tax is imposed on its life insurance business;

c. Domestic insurers transacting mortgage guaranty insurance business;

d. Town mutual insurers organized under, or subject to, state law;

e. Insurers exempt from federal income taxation under the IRC; and

f. Certain corporations that are bona fide cooperatives operating without pecuniary profit to any shareholder or member, or operated on a cooperative plan pursuant to which they determine and distribute their proceeds in compliance with state law. However, the income of cooperative health care associations or service insurance corporations that is derived from a health maintenance organization or limited service health organization is subject to the franchise tax.

Under federal and state law, insurance companies, excluding life insurance companies, are generally exempt from the corporate income tax if their gross receipts for the tax year are $600,000 or less, and the premiums received exceed 50% of gross receipts. For mutual insurance companies, gross receipts cannot exceed $150,000 and premiums must exceed 35% of gross receipts. If net premiums written do not exceed an inflation adjusted amount of $2.45 million for tax year 2022, a company may elect to only have its taxable investment income taxed if certain diversification requirements are met. Life insurance companies are subject to the state gross investment tax, but not the state corporate income/franchise tax.

Insurers that derive income from the sale or purchase and subsequent sale or redemption of lottery prizes must pay state income/franchise tax on this income, if the winning ticket was purchased in Wisconsin.

When a corporation that is an insurance company determines its Wisconsin income, certain aspects of its tax liability are computed differently than for other corporations. In addition to the state adjustments to federal income made by corporations, there are further additions specific to insurance companies. Insurance companies must add the following to federal income: (a) loss carryforward, including any capital loss carryforward previously deducted for Wisconsin purposes, which was deducted in computing federal taxable income; (b) dividend income received during the tax year to the extent the dividends were deducted from, or not included in, federal taxable income; and (c) any deduction for discounting unpaid losses (customer claims). If an insurance company is a member of a combined group, these amounts must be included in the combined group's income. Insurance companies must also adjust net business losses to exclude the dividends received deduction.

Depending upon the type of insurance company involved, the adjusted federal taxable income amount might require further modifications before arriving at Wisconsin net taxable income. Domestic insurance companies not engaged in the sale of life insurance that have collected premiums written on property and risks located only in Wisconsin are not required to further modify this measure of income. For these insurance corporations, adjusted federal taxable income is Wisconsin net income before any offset for business loss carryforwards.

For domestic companies that sell both life and nonlife insurance, income from life insurance operations must be excluded from taxable income. Life insurance operations are excluded by multiplying adjusted federal taxable income by a percentage calculated by dividing the insurance company's net gain from operations other than life insurance by that company's total net gain from operations and excluding that amount from state taxable income. Net gain from operations other than life insurance includes: (a) net income, after dividends to policyholders and before federal and foreign income taxes, from property and casualty insurance; (b) net gain from operations, after dividends to policyholders, and before federal income taxes, from accident and health insurance; and (c) net realized capital gains or losses on investments from accident and health insurance operations.

Domestic insurance corporations that have received premiums written for insurance, other than life insurance, on property and risks located both in and outside of Wisconsin must allocate a portion of total adjusted federal income to the state based on a premiums factor, which is similar to the sales factor

used by other types of corporations to apportion income. For insurance other than life insurance, the premiums factor is the ratio of direct premiums written for insurance and assumed premiums written for reinsurance, other than life insurance, with respect to property and risks resident, located, or performed in the state, divided by the total of such premiums everywhere. The apportionment ratio (premiums factor) is applied to adjusted federal income to arrive at Wisconsin net income before any offset for business loss carryforwards. As noted, combined groups use a modified sales factor in apportioning income to the state. Insurance company premiums are treated like sales in the modified factor and are included in the modified factor in apportioning the combined group's unitary income to Wisconsin. If the insurance company is a member of a combined group, the company's share of combined unitary income is apportioned to the member insurance company based on the ratio of the company's combined unitary income to the group's combined unitary income.

"Direct premiums" is defined as direct premiums reported for the tax year on the annual statement required to be filed with the Office of the Commissioner of Insurance. "Assumed premiums" is defined as assumed reinsurance premiums from domestic insurance companies also reported for the tax year on the annual statement.

Under state law, the amount of tax that an insurance company pays under the state income/franchise tax cannot exceed 2% of gross Wisconsin premiums. This limitation does not apply to income from lottery prizes. Insurers that file under the income/franchise tax can claim the same tax credits as corporate filers, except that insurers cannot claim the manufacturing and agriculture tax credit or the electronics information technology manufacturing (EITM) zone tax credit.

Net Business Losses

State statutes provide separate treatment of a net business loss (NBL) under the corporate income/franchise tax and a net operating loss (NOL) under the individual income tax. Under state law, a net loss is generally defined as the excess of business expenses allowed as deductions in computing net income over the amount of income attributable to the operation of a trade or business in the state. Nonapportionable losses having situs in Wisconsin are included in a Wisconsin NBL; nonapportionable income having situs in the state is included in net business income.

NBLs are determined in a manner similar to the way taxable income is determined. The taxpayer starts with gross income and subtracts business expenses allowable as deductions. If expenses are greater than income, a net loss is generated. Under state tax provisions, net losses (if any) are used to offset state taxable income before the state tax rate is applied to net income.

Under both the state individual income tax and the corporate income/franchise tax, net losses can be carried forward and used to offset income for the following 20 years. Under the individual income tax, an NOL can also be carried back to offset net income in the two prior taxable years. However, state law does not allow for carrybacks of NBLs for corporations.

The treatment of losses under federal law differs significantly for losses beginning in tax year 2018. Prior to tax year 2018, net losses could generally be carried back for two years and carried forward for 20 years, similar to the treatment of an NOL under state law. However, beginning in tax year 2018, the Tax Cuts and Jobs Act of 2017 (TCJA) provides for substantially different treatment. First, the TCJA allows for indefinite carryforward of losses, but limits the deduction to 80% of taxable income (with certain exceptions). Further, the federal two-year carry back is repealed (the five-year carryback for certain farm-related losses was reduced from five years to two years).

Under the TCJA, as modified by the Coronavirus Aid, Relief, and Economic Security Act of

2020 (CARES), the American Rescue Plan Act of 2021 (ARPA), and the Inflation Reduction Act of 2022 (IRA), noncorporate taxpayers' excess losses are limited in tax years 2021 through 2028. Excess losses are defined as the aggregate deductions for business purposes that exceed the sum of the noncorporate taxpayer's gross income or gain plus either the inflation-adjusted amount of $540,000 for married, joint filers or $270,000 for other types of filers in tax year 2022. Any losses exceeding this amount may only be carried forward for subsequent tax years. The limitation does not apply to excess farm losses. Under CARES, starting in 2021, wages are not considered business income for purposes of computing an NOL, and thus losses incurred in a taxpayer's business do not offset wages received by the taxpayer.

Under the TCJA, NOLs of life insurance companies receive the same general treatment as other corporate filers. However, NOLs of property and casualty companies continue to allow two-year carrybacks and 20-year carryforwards offsetting 100% of taxable income.

After a corporation reduces the income apportioned to Wisconsin by any Wisconsin NBL carried forward from previous tax years, the resulting amount is the corporation's "Wisconsin net income."

State Corporate Income/Franchise Tax Rate

The state corporate income/franchise tax rate is 7.9% and is applied to all Wisconsin net income. The resulting amount is the corporation's "gross tax liability."

Economic Development Surcharge

Under 2011 Act 32, the state recycling surcharge was converted to the economic development surcharge. The economic development surcharge provides funding for economic development programs administered by the Wisconsin Economic Development Corporation (WEDC). DOR administers the surcharge.

The economic development surcharge is imposed on S corporations, C corporations, and domestic insurers that are required to file a corporate income/franchise tax return if they have at least $4 million in gross receipts from all activities (generally includes all sales, income, rents, and other receipts). Partnerships and individuals are exempt from the surcharge.

The economic development surcharge equals 3% of gross tax liability for C corporations (including insurance companies), or 0.2% of net business income for S corporations. The minimum surcharge is $25 and the maximum is $9,800. For combined groups, the surcharge is calculated for each member of the group.

Nonrefundable Business Tax Credits

A tax credit is an amount that is subtracted from the gross income tax liability of the taxpayer in a given year. In general, a tax credit differs from a deduction in that the credit is subtracted from the tax itself, resulting in a dollar-for-dollar reduction in the gross tax liability; whereas a deduction is subtracted from income, resulting in a reduction in the amount of income subject to tax. For nonrefundable credits, unused amounts generally can be carried forward and claimed in future years. In addition, for some credits, unused amounts may be sold or otherwise transferred to another taxpayer.

Rather than adopting federal tax credits for state purposes, Wisconsin provides its own corporate income tax credits for certain types of business income and expenditures.

In general, partnerships, LLCs, and S corporations cannot claim a tax credit, but eligibility for, and the amount of, the credit are based on the entity's share of eligible income or payment of eligible expenses, subject to any limit on the maximum aggregate amount of credits that a

single entity can claim. A partnership, LLC, or S corporation is required to compute the amount of the credit that each of its partners, members, or shareholders can claim and provide that information to them. In general, partners, members, and shareholders can claim the credit in proportion to their ownership interest.

Many of the corporate tax credits are intended to encourage businesses to locate, expand, and hire employees in Wisconsin, and require certification by WEDC. Other credits require certification by the Wisconsin Housing and Economic Development Authority or the Department of Agriculture, Trade, and Consumer Protection (WHEDA). For some of the credits, the amount claimed in a year, or in the aggregate, is capped.

The following nonrefundable tax credits are available under the state corporate income/franchise tax to be earned in tax year 2023. Detailed descriptions of the nonrefundable tax credits can be found in the Legislative Fiscal Bureau's Informational Paper entitled, "Business Tax Credits."

Manufacturing and Agriculture Credit. Equal to 7.5% of eligible production activities income from Wisconsin-based assets.

Nonrefundable Research Credit. Equal to 5.75% or 11.5% of certain research expenses. Up to 15% of the amount of research credit computed may be claimed as a refundable credit. The remaining portion of the credit is nonrefundable.

Early Stage Seed Investment Credits. Equal to 25% of investments made to a fund manager that the fund manager invests into a qualified new business venture (QNBV). Fund managers and QNBVs must be certified by WEDC.

Supplement to the Federal Historic Rehabilitation Credit. Equal to 20% of qualified rehabilitation expenditures for certified historic structures.

Community Rehabilitation Program Credit. Equal to 5% of the amount paid in a tax year to a community rehabilitation program to perform work for the claimant's business, pursuant to a contract. The maximum tax credit that can be claimed is $25,000 for each community rehabilitation program.

Wisconsin Insurance Security Fund (WISF) Assessment Credit. A credit may be claimed for 20% of the amount of the Wisconsin portion of assessments paid by certain insurers to the WISF. The credit can be claimed in each of the five calendar years following the year in which the assessment was paid.

Employee College Savings Account Contribution Credit. Contributions an employer pays into an employee's college savings account are eligible for a credit. The maximum amount of employer contribution that is eligible for the credit is equal to 25% of the maximum amount an individual employee may deduct for state income tax purposes.

Low-Income Housing Credit. WHEDA may certify a person to claim a tax credit through the program by issuing an allocation certification for a qualified housing development, if certain conditions are satisfied. The tax credit program is similar to the federal low-income housing tax credit.

Refundable Business Tax Credits

Some tax credits are refundable. When a refundable tax credit exceeds gross tax liability, the taxpayer may receive a payment for the excess credit amount, or may apply all or a portion of that amount to the following year's tax liability. The following refundable tax credits are available to be earned by corporate filers in tax year 2023, and are described in greater detail in the Legislative Fiscal Bureau's Information Paper entitled "Business Tax Credits."

EITM Zone Credit. The EITM zone tax credit program (Foxconn) provides a payroll tax credit

and a capital expenditure credit for businesses that begin operations in an EITM zone that are certified by WEDC. Under the current contract, the total EITM zone tax credits that can be earned is $80.0 million.

Enterprise Zone Credit. Tax benefits can be claimed by businesses that operate in enterprise zones established by WEDC based on jobs, payroll, job retention, training, capital expenditures, and purchases from Wisconsin vendors.

Business Development Credit. Tax benefits can be claimed by businesses certified by WEDC for a portion of wages paid to employees, training costs for employees, personal property investment, real property investment, and wages for employees performing corporate headquarters functions in Wisconsin.

Farmland Preservation Credit. Corporate owners of eligible farmland can receive a refundable tax credit under the farmland preservation program based on the number of qualifying acres of state farmland.

Refundable Research Credit. Equal to 5.75% or 11.5% of certain research expenses. Up to 15% of the amount of research credit computed can be claimed as a refundable credit.

Combined Reporting

Beginning in tax year 2009, corporations that are engaged in a unitary business with one or more other corporations are required to file a combined return. Specific provisions govern which corporations should file a combined return and the manner in which combined net tax liability is determined. The combined reporting requirements were enacted in 2009 Act 2. Prior to that legislation, Wisconsin used separate entity reporting, under which each corporation, including a member of an affiliated group of corporations, was taxed as a separate entity.

The following sections provide a general overview of state combined reporting laws.

Combined Groups. State law requires that a corporation use combined reporting if all of the following apply:

a. The corporation is a member of a commonly controlled group. A commonly controlled group generally means a group in which ownership of stock represents more than 50% of the voting power of each corporation.

b. The corporation is engaged in a unitary business with one or more other corporations in its commonly controlled group. Unitary business generally means a group of commonly controlled business entities whose operations are integrated and each company, division, or branch is dependent upon, and contributes to the operation of, the business as a whole.

c. The corporation is not excluded from the combined group under water's edge rules. In general, a company that is not organized under U.S. law whose income is generated and attributable to activity outside the U.S. is not required to be included in a combined group if the non-U.S. income represents more than 80% of its total business income. In addition, a corporation's income is not taxable under state law if that income is excluded from federal income taxes pursuant to a federal treaty.

Real estate investment trusts, regulated investment companies, real estate mortgage investment conduits, financial asset securitization investment trusts, and S corporations cannot be included in a combined group and must file separate returns. However, the income of these entities that is derived from the group's unitary business is included in the combined unitary income of the group to the extent it is included in, or distributed to, a corporation that is a group member.

Combined Unitary Income. The general process of computing a combined group's net tax liability begins with computing the combined unitary income of the group. Combined groups are required to aggregate and reconcile federal taxable income from the federal consolidated return or from federal separate returns. The group is required to make certain adjustments on the combined return related to intercompany transactions and limitations that apply to the combined group, capital losses, and charitable contributions.

Generally, intercompany transactions that are made to defer income, gain, or loss between members of a combined group are identified and excluded from the computation of unitary income in the same manner as prescribed for members of a consolidated group under federal law. Capital losses and gains are generally apportioned and shared between members of a combined group in the same manner as other income or losses. The limitation of the charitable contribution deduction applies to the combined group's aggregate taxable income as a whole (generally 10%).

Following these adjustments, the group computes the aggregate Wisconsin addition and subtraction modifications to federal taxable income to reflect the differences between state and federal law, as is generally required of all corporations. For transactions between group members where the payer's expense and the payee's expense are included in the combined unitary income of the group, addback modifications are not required.

After aggregate additions and subtractions are made to the combined group's income, the nonapportionable and separately apportionable income (income subject to water's edge rules, lottery prizes, separate entity income/loss) of each group member is subtracted. As previously noted, these amounts are generally allocated to the state where the property that produced the income, gain, or loss is located. Amounts that are allocable or apportionable to Wisconsin are included in the group's combined unitary income, following apportionment. For combined groups, nexus is determined for the unitary group as a whole. If one member of a group has nexus with the state, then the combined group as a whole has nexus. Consequently, the unitary nonappportionable and separately apportionable income of each combined group member is included in the combined net income of the group.

The combined unitary income of the group is apportioned to Wisconsin using an aggregate sales factor. The sales factor is calculated by dividing the aggregate of each member's sales into Wisconsin by the total sales of all corporate members, excluding sales receipts between members of the combined group. For purposes of determining the amount of throwback sales apportioned to Wisconsin from combined unitary income, no member of the combined group can be within the jurisdiction of the destination state of the sale. If a pass-through entity is directly or indirectly owned by a corporation in the combined group, the ratio of that corporation's distributive share of the pass-through entity's unitary business income is included in apportioning the combined group's income.

Combined groups that only do business in Wisconsin do not apportion aggregate income. Each member's net income subject to combination is determined on a separate entity basis and then adjusted (such as excluding any non-unitary income) to reflect the member's status as a combined group member. These incomes are added together to arrive at the group's combined unitary income.

Computation of Member's Income. After the combined group's unitary income has been apportioned to Wisconsin using the aggregate sales factor, certain member level data is computed. Specifically, each member separately: (a) determines its share of the group's tax liability, including tax attributable to separate entity items, such as non-unitary income or loss; (b) computes the member's economic development surcharge liability; (c) tracks the use of the member's NBLs

and credits; and (d) shares its research tax credits with other members of the group. These accounts are also aggregated and reported on the combined return.

The combined group member's share of the group's total Wisconsin income is apportioned to each member using the percentage calculated by dividing the member's sales in Wisconsin by the group's total sales. The group's unitary combined income is then multiplied by this percentage to determine the member's combined unitary income. Each member then calculates its tax liability separately starting with its share of combined unitary income.

A corporation that is a member of a combined group can have income that is required to be apportioned separately from the group's combined unitary income. This can occur when a member has income or loss that is excluded from combined unitary income under water's edge rules. Also, separate apportionment is used in cases where a combined group member has apportionable income or loss from a separate unitary business.

Individual combined group members that have a positive income amount can offset some income with NBL carryforwards. Combined group members may share all or a portion of their losses with other members under certain conditions. For NBLs incurred prior to tax year 2009, up to 5% of pre-2009 losses incurred by individual members can be shared among members of a combined group for 20 years. For business loss carryforwards incurred in tax year 2009 or in later years, such losses can generally be shared among group members provided that the loss is attributable to unitary income included in a combined report for the same combined group in which the member was, and still is, a member.

After a group member offsets its income with any NBL carryforwards, the individual corporation determines its gross tax by applying the 7.9% state corporate income/franchise tax rate to the resulting measure of income. The aggregate gross tax liability for all group members is included on the combined group's return.

The economic development surcharge is computed separately for each member of a combined group, based on the member's gross tax and gross receipts. In the same manner as determining nexus for income/franchise tax purposes, if one member of a combined group has nexus in Wisconsin for the surcharge, all members of that combined group have nexus. Consequently, the $4 million gross receipts threshold and the surcharge amount, subject to the $25 minimum and $9,800 maximum surcharge limits, are computed for each combined group member. The aggregate surcharge for all group members is reported on the combined return.

Tax credits are attributes of the separate corporation rather than of the combined group, and credits are computed separately for each corporation. A combined group member's nonrefundable credits, other than research credits, including carryforwards of those credits, may only be used by that member to offset tax liability on its own taxable income. Nonrefundable research credits may be shared under certain circumstances.

Combined Group Tax Liability. Corporate income/franchise tax liability of each group member that is computed separately must be aggregated and included on the group's combined return to determine the group's tax liability.

Refundable tax credits are computed separately for each combined group member. However, any refundable tax credits computed by each member are aggregated and used to offset the group's tax liability reported on the combined return. In general, any refundable amount not used to offset income is refunded to the group's designated agent.

Designated Agent. Each combined group is required to appoint a corporation as the "designated agent" for the group. The designated agent's

tax year must be the same as that of the combined group. The agent acts on behalf of all members of the combined group for matters that relate to the return, such as filing the return, corresponding with DOR, remitting taxes and receiving refunds or assessments from the Department on behalf of all members of the group, and participating in any investigation or hearing DOR might hold with regards to the combined return.

Comparative Examples

Exhibits 2 and 3 provide illustrations of how, in general, the tax liability of a single multijurisdictional corporation and a combined group of corporations compute net tax liability under Wisconsin law. Exhibit 2 shows the computation for a single multijurisdictional corporation. The individual firm computes total income, subtracts deductions, apportions income to Wisconsin using the sales factor, adjusts for nonapportionable income and NBL carryforwards, applies the tax rate, and subtracts tax credits to determine net tax liability.

Exhibit 3 provides an illustration of how net tax liability is computed for a combined group. Aggregate federal taxable income is determined for the group. Group level adjustments are made to the aggregate federal taxable income to reflect intercompany transactions, calculate net capital gain/loss and charitable contribution limits, and include Wisconsin additions and subtractions to federal income, including related entity adjustments, to arrive at the combined unitary income of the group. The Wisconsin share of the combined unitary income of the group is determined by applying the group's apportionment factor.

The net income and tax liability is then determined for each member. A member is allocated a portion of the group's combined Wisconsin income based on its proportion of the Wisconsin sales of the group. The member's income is modified to include nonapportionable income and is offset by NBL carryforwards to arrive at the member's taxable income. Excess sharable NBL carryforwards can be shared with other group members proportionate to each member's share of the group's Wisconsin taxable income. The state tax rate is applied to each member's taxable income to arrive at gross tax liability. Each member offsets nonrefundable tax credits against the gross tax liability to arrive at net tax liability.

The components of the net tax calculation for each member are aggregated and reported on the group's combined return. The group's aggregate net tax liability is offset by any refundable credits claimed by group members to arrive at total tax liability.

Exhibits 4 and 5 provide comparative examples of the net tax liability determined under separate entity and combined reporting for a unitary business consisting of a Wisconsin parent corporation, and three affiliated corporations, including a Wisconsin subsidiary, an Illinois subsidiary, and a Delaware subsidiary. Exhibit 4 illustrates how each corporation would determine its Wisconsin tax liability as a separate corporation, rather than as a member of a combined group. The Delaware corporation does not have nexus with Wisconsin and therefore would not pay state corporate income/franchise taxes. Also, the Wisconsin subsidiary corporation would receive a $5,000 payment of its refundable tax credit because its income is entirely offset by an NBL carryforward.

Exhibit 5 shows the calculation of tax liability for the same group of corporations using combined reporting. For purposes of the example, the intercompany transactions are assumed to be Wisconsin sales between the corporations. Consequently, these sales would be excluded from each member's sales apportionment factor, as well as from each member's income before apportionment. Note that combined unitary income is first determined on the group level, then each member determines its net income and tax liability. The components used to determine each member's

Exhibit 2: Computation of Wisconsin Tax Liability for a Single Multijurisdictional Corporation

1. **Determine Total Income**
   a. Gross Sales - Cost of Goods Sold = Gross Profit
   b. Gross Profit + Other Income or Loss (Dividends, Interest, etc.) = Total Income

2. **Determine Apportionable Income**
   a. Total Income - Deductions (Wages, Depreciation, Interest Paid, etc.) = Income Before Apportionment
   b. Income Before Apportionment - Total Nonapportionable Income = Total Apportionable Income

3. **Determine Wisconsin Net Income**
   a. Wisconsin Apportionment Ratio = [Sales by Wisconsin Destination ÷ Total Sales]
   b. Total Apportionable Income * Wisconsin Apportionment Ratio = Income Apportioned to Wisconsin
   c. Apportioned Income + Income Allocated to Wisconsin - Business Loss Carryforward = Wisconsin Net Income

4. **Determine Wisconsin Net Tax**
   a. Wisconsin Net Income * 7.9% = Gross Tax
   b. Gross Tax - Nonrefundable Tax Credits = Wisconsin Net Tax

5. **Determine Wisconsin Tax Liability**
   a. Wisconsin Net Tax - Refundable Tax Credits = Wisconsin Total Tax Liability

Exhibit 3: Computation of Wisconsin Net Liability for a Combined Group

1. **Determine Combined Unitary Income - Group Level**
   a. Aggregate Net Federal Income = Aggregate Federal Income - Aggregate Federal Deductions
   b. Aggregate Federal Taxable Income of Group + Adjustments:
      i. Defer Income, Expense, Gain or Loss on Transactions between Group Members
      ii. Calculate Aggregate Net Capital Gain/Loss, Including Sharable Loss Carryforwards, and Apply Capital Loss Limit to Aggregate Capital Gains/Losses
      iii. Calculate Aggregate Charitable Contribution Limitation
   c. Adjusted Aggregate Federal Taxable Income + Aggregate Wisconsin Additions to Income (State Taxes, Related Entity Expenses) - Aggregate Wisconsin Subtractions from Income (Foreign Dividend Gross Up, Dividends between Group Members, Related Entity Expenses) = Aggregate Group Income with Wisconsin Modifications
   d. Aggregate Group Income with Wisconsin Modifications - Nonapportionable and Separate Entity Income (Rents, Royalties, Water's Edge Income) = Aggregate Apportionable Group Income
   e. Aggregate Apportionable Group Income * Wisconsin Aggregate Apportionment Factor (Total Group Member Sales in Wisconsin ÷ Total Group Sales) = Wisconsin Combined Unitary Income

2. **Determine Each Member's Income and Tax**[1]
   a. Combined Unitary Income * Member's Apportionment Factor (Member's Sales in Wisconsin ÷ Total Group Sales) = Individual Member's Apportionable Income
   b. Member's Apportionable Income + Member's Separate Entity and Nonapportionable Income (Rents, Royalties) = Member's Income before NBL Carryforwards
   c. Member's Income before NBL Carryforward - NBL Carryforwards, Including Sharable NBL Carryforwards = Member's Wisconsin Net Income
   d. Member's Wisconsin Net Income * 7.9% = Member's Wisconsin Gross Tax
   e. Gross Tax - Nonrefundable Tax Credits = Member's Net Tax

3. **Determine Combined Group Aggregate Tax Liability**
   a. Aggregate Net Tax of Group Members - Refundable Tax Credits = Combined Group's Total Tax Liability

[1] Each member calculates net tax individually. Individual amounts are aggregated and reported on the combined return.

Exhibit 4: Example Calculation of Separate Entity Tax Liability for Wisconsin Parent and Three Subsidiaries

	WI Parent	WI Subsidiary	IL Subsidiary	DE Subsidiary
A. Taxable Income				
Income Before Apportionment	$4,000,000	$100,000	$500,000	$2,000,000
B. Apportionment Percentage				
Sales: Wisconsin	$5,000,000	$200,000	$1,000,000	$0
÷ Total	÷8,000,000	÷350,000	÷3,000,000	÷4,000,000
= Percent	62.50%	57.14%	33.33%	0%
C. Wisconsin Income Before Loss Carryforwards				
Income Before Apportionment	$4,000,000	$100,000	$500,000	$2,000,000
* Apportionment Percentage	* 0.625	* 0.5714	* 0.3333	* 0.0
= WI Income Before Business Loss Carryforward	$2,500,000	$57,140	$166,650	$0
D. NBL Carryforward				
Wisconsin Net Income	$2,500,000	$57,140	$166,650	$0
- NBL Carryforward	-0	-200,000	-0	-0
= WI Net Income	$2,500,000	-$142,860	$166,650	$0
E. Gross Tax Liability				
Wisconsin Net Income	$2,500,000	$0	$166,650	$0
* Tax Rate	* 0.079	* 0.079	* 0.079	* 0.079
= Gross Tax	$197,500	$0	$13,165	$0
F. Tax Credits				
Gross Tax Liability	$197,500	$0	$13,165	$0
- Nonrefundable Tax Credits	-10,000	-0	-0	-0
- Refundable Tax Credits	-0	-5,000[1]	-0	-0
= Total Tax Liability	$187,500	$0	$13,165	$0

Total Tax Liability Less Refundable Credits for All Corporations = $195,665

[1] Will receive $5,000 payment for refundable tax credits.

net tax liability, such as the member's nonapportionable income, are reported on the combined return. In the example, it is assumed that the NBL carryforward of the Wisconsin subsidiary is a sharable business loss carryforward, and that the corporation chooses to share the unused carryforward with the other members of the group. Those members use the aggregate loss carryforward proportionate to their share of the group's Wisconsin taxable income, after each member applies its NOL carryforwards. The net tax liability of each member is aggregated on the combined return, and refundable tax credits are applied to the group's net tax liability.

In the example, the group's net tax liability is lower using combined reporting than the sum of the individual corporations' tax liabilities calculated as separate entities. Factors such as the change in the method of calculating apportionable income, the apportionment factor for the group and its members, and the availability and use of sharable NBL carryforwards, could cause the net tax liability for a group of corporations to increase, decrease, or be essentially unaffected by the use of combined reporting. In Wisconsin, the required use of combined reporting has resulted in a net increase in aggregate corporate tax collections.

Exhibit 5: Example Calculation of Combined Group Tax Liability for Wisconsin Parent and Three Subsidiaries

	WI Parent	WI Subsidiary	IL Subsidiary	DE Subsidiary	Combined Group
A. Combined Unitary Income					
Income Before Apportionment	$4,000,000	$100,000	$500,000	$2,000,000	$6,600,000
- Income from Intercompany Transactions	-200,000	-50,000	-50,000	-100,000	-400,000
= Unitary Income	$3,800,000	$50,000	$450,000	$1,900,000	$6,200,000
B. Combined Group Apportionment Percentage [1]					
Sales: Wisconsin	$4,800,000	$150,000	$950,000	$0	$5,900,000
÷ Total	÷7,800,000	÷300,000	÷2,950,000	÷3,900,000	÷14,950,000
= Percent	61.54%	50.00%	32.20%	0%	39.46%
C. Combined Group Wisconsin Combined Unitary Income					
Combined Unitary Income					$6,200,000
* Combined Group WI Apportionment Percentage					* 39.46%
= Combined Group WI Income					$2,446,520
D. Members' Share of Wisconsin Combined Income					
Member's WI Sales	$4,800,000	$150,000	$950,000	$0	$5,900,000
÷ Group Total Sales	÷14,950,000	÷14,950,000	÷14,950,000	÷14,950,000	÷14,950,000
= Member Percentage Share	32.11%	1.00%	6.35%	0%	39.46%
* Combined Group Inc	*6,200,000	*6,200,000	*6,200,000	*6,200,000	*6,200,000
= Member WI Income Before NBL Carryforward	$1,990,820	$62,000	$393,700	$0	$2,446,520
E. Net Business Loss Carryforward [2]					
Member WI Income	$1,990,820	$62,000	$393,700	$0	$2,446,520
- Member Business Loss Carryforward	-0	-200,000	-0	-0	-200,000
= Income after NBL Carryforward	$1,990,820	-$138,000	$393,700	$0	$2,246,520
+ Sharable NBL Carryforward	+0	+138,000	+0	+0	+138,000
F. Allocation of NBL Carryforward					
= Member's Net Positive Income	$1,990,820	$0	$393,700	$0	$2,384,520
Member's Percentage Share of Net Positive Income	83.49%	0%	16.51%	0%	100.0%
* Sharable Loss Carryforward	*138,000	*0	*138,000	*0	
= Member's Sharable Loss Carryforward	-115,216	0	-22,784	0	-138,000
+ Member's Net Positive Income	+1,990,820	+0	+393,700	+0	+2,384,520
= Member's Taxable Income	$1,875,604	$0	$370,916	$0	$2,246,520
G. Gross Tax Liability					
Member's Taxable Income	$1,875,604	$0	$370,916	$0	$2,246,520
* Tax Rate (7.9%)	* 7.9%	0	* 7.9%	0	* 7.9%
= Gross Tax Liability	$148,173	$0	$29,302	$0	$177,475
H. Net Tax Liability					
Gross Tax Liability	$148,173	$0	$29,302	$0	$177,475
- Nonrefundable Tax Credits	-10,000	-0	-0	-0	-10,000
= Member Net Tax Liability	$138,173	$0	$29,302	$0	$167,475
I. Combined Group Wisconsin Net Tax Liability [3]					
Aggregate Member Net Tax Liabilities					$167,475
- Refundable Tax Credits	-$0	-$5,000	-$0	-$0	-5,000
= Group Total Tax Liability					$162,475 [4]

1 Intercompany sales are excluded from the apportionment factor.

2 For purposes of this example it is assumed that the unused business loss carryforwards of the Wisconsin subsidiary are sharable.

3 Refundable tax credits are applied against the entire group's tax liability.

4 This example shows that, compared to the total of individually calculated tax liabilities shown in Exhibit 4, the liability of the group is lower using combined reporting. Under combined reporting, some groups experience an aggregate tax increase, some experience a decrease, and some have no change in aggregate tax liability. However, in the aggregate, combined reporting increased corporate income tax revenues in Wisconsin.

Pass-Through Entity (PTE) Tax

Prior state law generally required pass-through entities to have the same tax classification for state tax purposes as for federal tax purposes. Provisions of 2017 Act 368 allow S corporations (beginning in tax year 2018) and partnerships (beginning in 2019) to elect, via persons holding more than 50% of the shares or capital and profits of a partnership, to be taxed at the entity level (reported under corporate tax collections) rather than generally requiring income to be passed through to their respective owners, members, or shareholders (reported under the individual income tax).

The PTE tax rate of 7.9% exceeds the top rate under the graduated individual income tax rates (7.65%). The aggregate effect of payment under the state's PTE tax results a larger increase reported under the corporate income/franchise tax than would have been collected under the individual income tax.

PTE filers may choose to pay the higher rate for several reasons. For example, a single owner starting up several single purpose entities may find it administratively convenient for each entity to file its own PTE tax return (especially if the entities have no profit to tax at the higher PTE tax rate). Also, the limitation that applies to individual filers that itemize deductions under federal law for state and local taxes may provide an economic incentive to pay the higher state tax in exchange for a larger federal tax benefit.

Limitation on Deductions for State and Local Tax. The TCJA limited the federal individual income tax itemized deduction for state and local taxes (the "SALT" deduction) to no more than $10,000 per year for tax years 2018 through 2025. Thus, under prior law, pass-through income of individuals was subject to state income tax, and the resulting tax was subject to the deduction limit for federal tax purposes. However, pursuant to Act 368 and guidance issued by the Internal Revenue Service (Notice 2020-75) in November of 2020, partnerships and S corporations may fully deduct their entity-level SALT payments without limitation.

If the value of the SALT deduction exceeds the increased cost of the higher state PTE tax rate, it makes economic sense for certain tax filers to consider paying at the entity level. For each dollar of tax liability an individual would have at the highest applicable federal individual income tax rate of 37%, the value of the SALT deduction equates to 2.92 percentage points of the state tax (37% federal tax rate multiplied by the 7.9% PTE tax rate on taxable income). Thus, an individual with a marginal state individual income tax rate of 7.65% or 5.30% may receive a sufficiently large federal tax benefit by filing at the entity level and paying the 7.9% PTE tax rate because the combined state and federal tax liability would be less than paying at the applicable state individual income tax rate. By contrast, an individual with a marginal tax rate of less than 5% would receive a larger aggregate tax benefit by paying the lower state tax, rather than paying the higher 7.9% entity-level tax rate and taking the federal deduction.

For example, Table 1 shows the total state and federal income tax liability for a hypothetical married-joint tax filer that owns a pass-through entity with $10 million of Wisconsin taxable income. As shown in Table 1, accounting for the value of the SALT deduction, the combined state/federal tax liability is lower under the PTE tax relative to current law, despite the higher 7.9% state tax rate. However, the combined tax liability would be slightly smaller under the hypothetical individual 5.0% top rate.

Tax benefits under current law (or changes in law) which lower the effective tax rate under the individual income tax may create an economic incentive for PTE filers to revoke their election and instead file under the individual income tax. For

Table 1: Example of State and Federal Tax Liability for Hypothetical Federal Married-Joint Filer with $10 Million of Wisconsin Taxable Income, Tax Year 2022

	Individual Income Tax		Entity-Level Tax
	Current Law	Hypothetical 5% top Rate	Current Law, Flat 7.9% Rate
State Tax			
Taxable Income	$10,000,000	$10,000,000	$10,000,000
X State Tax Rate	3.54% to 7.65%	3.54% to 5%	7.9%
= WI Tax Liability	$755,787	$ 499,692	$790,000
Federal Taxes			
Gross Taxable Income	$10,000,000	$10,000,000	$10,000,000
- SALT Deduction	10,000	10,000	790,000
= Taxable Income	$9,990,000	$9,990,000	$9,210,000
X Federal tax rate	10% to 37%	10% to 37%	10% to 37%
= FED tax liability	$3,630,849	$3,630,849	$3,342,249
Total Tax Liability	$4,386,636	$4,130,541	$4,132,249

* This example assumes that there are no applicable tax credits or NOLs that would otherwise effect the taxpayer's liability.

example, PTE filers under Table 1 could reduce their combined state and federal tax liability by electing to pay under the hypothetical 5.0% top rate (a difference of 2.9 percentage points). By doing so, state collections would decrease $290,308, but the tax filer's aggregate liability would only decrease by $1,708 (with federal tax liability increasing by $288,600).

Administration. By electing to be taxed at the entity level, the shareholders, partners, and members may not include in their Wisconsin adjusted gross income their proportionate share of all items of income, gain, loss, or deduction of the pass through entity. Instead, the entity pays tax on items that would otherwise be taxed as if this election was not made. The entity cannot claim an NOL or any tax credits, except for the credit for taxes paid to other states (TPOS), when computing income subject to the entity level tax. The adjusted basis of a partner's interest in the partnership and a shareholder's adjusted basis in the stock and indebtedness of an S corporation are determined as if an election had not been made.

Pursuant to 2021 Act 2, both S corporations and partnerships electing to be taxed at the entity level may claim the 30% or 60% exclusion on long-term capital gains (similar to the individual income tax). If capital losses exceed gains, up to $500 of those losses are allowed as a deduction against ordinary income, with the excess loss carried forward to be used in a later year. Provisions of 2021 Act 157 increase the limitation to $3,000 beginning in tax year 2023.

The election is made annually via the state tax return. Pass-through entities may opt in or out without penalty, including via an amended return, on or before the due date (or extended due date) of the tax return. Generally, S corporations and partnerships electing to pay tax at the entity level must file a return by the 15th day of the 3rd month following the close of its taxable year (which would be March 15 for calendar year filers).

Pass-through entities electing to pay the tax must make the quarterly estimated payments rather than their respective owners. Estimated tax payments made by partners, members, and shareholders cannot apply towards the amounts owed by pass-through entities (and vice versa).

DOR guidance clarifies that it will not transfer payments between an account of an individual and of a pass-through entity.

Electing pass-through entities are not required to make pass-through withholding tax payments for nonresident members, partners, or shareholders. However, if the PTE fails to pay the amount of taxes owed with respect to income as a result of the election, DOR may collect the amount owed from the owners based on their proportionate share of such income.

Summary Data

Table 2 shows corporate income/franchise tax collections (including PTE tax beginning in tax year 2018) and corporate tax collections as a percent of total general fund tax collections for fiscal years 2011-12 through 2021-22. The table indicates that corporate tax collections vary significantly from year to year. For example, annual growth rates ranged from -4.37% in 2016-17 to 59.23% in 2020-21.

Table 2: Wisconsin Corporate Tax Collections 2011-12 to 2021-22 ($ in Millions)

Fiscal Year*	Corporate Tax Collections	Percent Change	Corporate Tax As Percent of General Fund Collections
2011-12	$906.58	6.30%	6.71%
2012-13	925.38	2.07	6.57
2013-14	967.18	4.52	6.93
2014-15	1,004.93	3.90	6.91
2015-16	963.03	-4.17	6.38
2016-17	920.95	-4.37	5.93
2017-18	893.89	-2.94	5.54
2018-19	1,338.06	49.69	7.72
2019-20	1,607.87	20.16	9.17
2020-21	2,560.15	59.23	13.08
2021-22	2,960.02	11.62	14.41

* PTE tax payments are reported under corporate tax collections beginning in 2018-19.

Increased collections through 2014-15 reflect improved corporate profits (following the 2008-09 recession) and the implementation of combined reporting, which first took effect in tax year 2009. Corporate income/franchise tax collections declined over the next three fiscal years, as the manufacturing and agriculture tax credit phased in.

The sharp increase in corporate income/franchise tax collections after 2018-19 are due, in part, to expansion in the tax base caused by federal law changes under the TCJA, increased economic profits, and the entity-level tax. Revenue paid by entity level filers that had previously been collected as part of the individual income tax has shifted to, and is now reflected under, the corporate income/franchise tax. Based upon final payments made by partnerships for tax year 2021 and estimated payments collected from S corporations through June, 2022, it is estimated that pass through entity filers paid approximately $800 million in 2021-22. Accordingly, corporate tax collections as a share of total general fund tax revenues have grown substantially, from 5.5% in 2017-18 to 14.4% in 2021-22.

C Corporation Statistics. Table 3 presents tax year 2019 summary statistics for corporate filers, the most recent year for which aggregate

Table 3: Wisconsin Aggregate Statistics on State Corporate Tax Returns (Tax Year 2019)

Count -- All Returns	41,298
Count -- Taxpayers with Net Tax Liability	14,904
WI Net Income Before Carryforwards	$18,931,754,407
Loss Carryforwards Used	2,871,691,775
WI Net Income	16,060,062,632
WI Gross Tax Liability	1,268,744,948
Nonrefundable Credits Used	219,235,841
WI Net Tax	1,049,509,107
Economic Development Surcharge	17,428,789
Refundable Tax Credits	70,871,694

Source: Department of Revenue Aggregate Statistics

Table 4: Corporate Tax Liability by Net Income Class (Tax Year 2019)

Wisconsin Net Income	Number of Returns	% of Returns	Total Income	% of Total Income	Number of Taxpayers	Net Tax Liability	% of Net Tax Liability
Zero or Less	26,131	63.27%	$0	0.00%	179	$19,592	0.00%
Zero to $10,000	5,134	12.43	16,449,608	0.10	4,976	1,281,438	0.12
10,001 to 25,000	2,172	5.26	35,710,552	0.22	2,144	2,756,999	0.26
25,001 to 50,000	1,631	3.95	58,819,224	0.37	1,608	4,521,859	0.43
50,001 to 100,000	1,545	3.74	110,758,190	0.69	1,522	8,450,650	0.81
100,001 to 250,000	1,611	3.90	258,386,629	1.61	1,559	19,168,987	1.83
250,001 to 500,000	853	2.07	301,345,001	1.88	825	22,095,156	2.11
500,001 to 1,000,000	675	1.63	481,665,202	3.00	641	33,899,696	3.23
1,000,001 to 5,000,000	1,011	2.45	2,324,022,983	14.47	957	161,245,031	15.36
5,000,001 to 10,000,000	227	0.55	1,621,906,899	10.10	210	109,423,546	10.43
Over 10,000,000	308	0.75	10,850,998,344	67.57	283	686,646,153	65.43
Totals	41,298	100.00%	$16,060,062,632	100.00%	14,904	$1,049,509,107	100.00%

Source: Department of Revenue Aggregate Statistics

statistics are available, for: (a) the total number of returns filed; (b) the number of returns that had a net tax liability; (c) the income apportioned to Wisconsin before and after the use of loss carryforwards from previous years: (d) gross tax liability; (e) the amount of nonrefundable credits used; and (f) Wisconsin net tax liability for C corporations. Also included are the amount of economic development surcharge paid by, and the amount of re fundable tax credits paid to, corporate filers. The surcharge is a separate tax collected on a corporate tax return and is not included in calculating Wisconsin net tax. Refundable credits are not included in the calculation of Wisconsin net tax because the credits can be paid to taxpayers with no tax liability and are considered expenditures rather than reductions in tax revenue.

The distribution of corporate income tax liability by Wisconsin net income class for C corporations from tax year 2019 returns is illustrated in Table 4. The table shows that, although 41,298 corporations filed returns, only 14,904 taxpayers (36%) had a net tax liability. Corporations can have no tax liabilities because deductible expenses and loss carryforwards entirely offset income. In other cases, nonrefundable tax credits entirely offset tax liability. Table 4 also shows that a large proportion of the corporate income tax was from a relatively small number of returns. About 91.2% of corporate net tax liability was generated by 3.7% of the corporations and combined groups that filed tax returns.

Table 4 does not directly translate into taxes paid by size of corporation since, for example, a very large corporation which suffered a loss could have no taxable income in the year of the loss, or in succeeding years, if the loss was carried forward. Also, due to combined reporting, many of the returns reflect the tax liabilities of combined groups of corporations. Combined reports comprise 6,935 of the returns shown in Tables 3 and 4, although multiple business entities are reported on a single return. Note that a few returns shown in the zero income group have a net tax liability. This is because a small number of combined groups have zero income for the combined return, but have members with a net tax liability on nonapportionable income that is greater than the member's share of the group's current year NBL.

Because Tables 3 and 4 primarily show the net tax liability for corporations from tax year 2019, it differs from the total corporate collections shown for fiscal year 2019-20 in Table 2. The tables do not include corporate income/franchise taxes paid by S corporations nor payments from

Table 5: Wisconsin Aggregate Statistics on State PTE Tax Returns (Tax Year 2020)

	Partnership	S Corporation	Total
Count -- All Returns	2,020	4,180	6,200
Count -- Taxpayers with Net Tax Liability	1,873	3,974	5,847
WI Net Income	$1,339,685,075	$5,875,139,189	$7,214,824,264
WI Gross Tax Liability	105,835,121	464,135,996	569,971,117
Nonrefundable TPOS Used	1,474,783	37,541,361	39,016,144
WI Net Tax	104,360,338	426,594,635	530,954,973
Economic Development Surcharge	N/A	5,439,110	5,439,110

Source: Department of Revenue Aggregate Statistics

PTE filers. Tax year amounts do not include additional collections due to audit adjustments and delinquent collections. Finally, fiscal year collections include estimated payments for a more recent year than the tax year collections shown in Tables 2 and 3.

PTE Statistics. According to DOR, 4,180 S corporations (5% of all S corporations filing returns) elected to file under the PTE tax, remitting $426.6 million in tax year 2020. Less than 3% of all partnerships (2,020 partnerships) filing returns in tax year 2020 elected to pay the PTE tax, remitting $104.4 million. Almost half of PTE filers had a single shareholder.

Table 5 presents tax year 2020 summary statistics, the most recent year for which aggregate statistics are available, for: (a) the total number of returns filed; (b) the number of returns that had a net tax liability; (c) Wisconsin net income: (d) gross tax liability; (e) the amount of TPOS used (the only credit allowed for PTE filers); and (f) Wisconsin net tax liability for partnership and S corporation PTE filers. Also included are the amount of economic development surcharge paid by, and the amount of refundable tax credits paid to, S corporation PTE filers (partnerships do not pay the surcharge).

The distribution of PTE tax liability by Wisconsin net income class for S corporations and partnerships from tax year 2020 returns is illustrated in Table 6 and Table 7, respectively. Similar to C corporations, the table shows that a large proportion of the PTE tax is from a relatively small number of returns. PTE filers having incomes of $5.0 million or more comprised 1.5% of partnership PTE filer returns and 4.7% of S corporation filer returns, but accounted for 44.6% and 54.5%, respectively, of net PTE tax liability.

State Corporate Tax Structures

Appendix 3 shows each state's corporate tax rate(s), highest and lowest tax brackets, number of tax brackets, general state apportionment formula, number of tax years NOLs can be carried forward or backward, and whether a state requires unitary reporting for members of combined groups. A total of 44 states and the District of Columbia imposed a corporate income tax in 2022. Four of the states that do not impose a corporate income tax, Nevada, Ohio, Texas, and Washington, impose a gross receipts tax on businesses in lieu of a corporate income tax. Wyoming and South Dakota impose neither an income tax on corporate profits nor a gross receipts tax.

Including Wisconsin, 29 states and the District of Columbia impose a corporate income tax using a single, flat rate. For the other 15 states that impose a corporate income tax: (a) five states impose two different tax rate brackets (including Kansas,

Table 6: S Corporation PTE Tax Liability by Net Income Class (Tax Year 2020)

Net Income	Number of Returns	Percent of Returns	Total WI Income	% of WI Income	Total TPOS Used	Number of Taxpayers	Net Tax Liability	% of Net Tax Liability
Zero and under	201	4.81%	$0	0.00%	$0	0	$0	0.00%
0 to 10,000	237	5.67	758,992	0.01	74	236	59,890	0.01
10,001 to 25,000	142	3.40	2,373,924	0.04	850	141	185,672	0.04
25,001 to 50,000	165	3.95	6,103,249	0.10	1,131	165	481,025	0.11
50,001 to 100,000	269	6.44	20,211,773	0.34	11,928	269	1,584,800	0.37
100,001 to 250,000	660	15.79	113,985,641	1.94	34,375	660	8,970,497	2.10
250,001 to 500,000	780	18.66	282,300,593	4.81	213,195	778	22,031,424	5.16
500,001 to 1,000,000	759	18.16	536,409,698	9.13	868,596	759	41,507,768	9.73
1,000,001 to 5,000,000	771	18.44	1,564,815,280	26.63	4,198,799	771	119,421,612	27.99
5,000,001 to 10,000,000	96	2.30	663,991,716	11.30	5,216,067	96	47,239,280	11.07
Over 10,000,000	100	2.39	2,684,188,323	45.69	26,137,651	99	185,112,667	43.39
	4,180	100.00%	$5,875,139,189	100.00%	$36,682,666	3,974	$426,594,635	100.00%

Source: Department of Revenue Aggregate Statistics

Table 7: Partnership PTE Tax Liability Net Income Class (Tax Year 2020)

Net Income	Number of Returns	Percent of Returns	Total WI Income	% of WI Income	Total TPOS Used	Number of Taxpayers	Net Tax Liability	% of Net Tax Liability
Zero and under	146	7.23%	$0	0.00%	$0	0	$0	0.00%
0 to 10,000	135	6.68	547,053	0.04	0	134	43,216	0.04
10,001 to 25,000	84	4.16	1,454,304	0.11	0	84	114,887	0.11
25,001 to 50,000	144	7.13	5,408,535	0.40	3,279	144	423,997	0.41
50,001 to 100,000	251	12.43	18,455,316	1.38	3,525	251	1,454,458	1.39
100,001 to 250,000	453	22.43	75,385,687	5.63	30,743	453	5,924,731	5.68
250,001 to 500,000	342	16.93	120,676,335	9.01	49,392	342	9,484,046	9.09
500,001 to 1,000,000	251	12.43	175,005,707	13.06	175,050	251	13,650,396	13.08
1,000,001 to 5,000,000	184	9.11	347,803,449	25.96	734,248	184	26,742,224	25.62
5,000,001 to 10,000,000	18	0.89	125,990,796	9.40	417,001	18	9,536,273	9.14
Over 10,000,000	12	0.59	468,957,893	35.01	61,564	12	36,986,110	35.44
	2,020	100.00%	$1,339,685,075	100.00%	$1,474,802	1,873	$104,360,338	100.00%

Source: Department of Revenue Aggregate Statistics

which imposes a surcharge on taxable income exceeding $50,000); (b) five impose three brackets; (c) two impose four brackets; (d) Louisiana imposes five brackets; (e) Arkansas imposes six brackets, and (f) Alaska imposes 10 different tax brackets.

As shown in Appendix 3, statutory tax rates vary among the states. Some states impose a different tax rate on financial institutions, manufacturers, or other specific industries. The tax rates shown in Appendix 3 are the general rates and brackets imposed on corporate filers in that state. Some states require a minimum tax to be paid by each corporate filer (generally a nominal amount) or a minimum tax for each combined return filed in that state; however, these minimum dollar amounts are not included in Appendix 3.

Compared to Wisconsin, 12 states and the District of Columbia impose at least one tax rate higher than Wisconsin's 7.9% flat rate. New Jersey imposes an 11.5% corporate income tax rate on income greater than $1 million, which represents the highest state tax rate imposed on corporate filers. A total of 32 states impose corporate tax rates with the highest marginal rate (or flat rate) lower than Wisconsin, with North Carolina imposing the lowest statutory maximum tax rates at 2.5%.

Including Wisconsin, 31 states and the District of Columbia generally apportion taxable income using a single sales factor or single factor gross receipts formula. This includes Arizona (which allows taxpayers to elect a three factor formula with double-weighted sales or a single sales factor formula) and Mississippi (which provides different apportionment formulas based on the specific type of business and a single sales factor formula where no specific business formula is specified).

Seven states use a formula that apportions income allocated to the state based on an equally weighted ratio of property owned, sales made, and payroll earned in the state. This includes North Dakota, which provides an elective single sales factor formula. The six remaining states apportion income using a three-factor formula, but increase the weight given to the sales factor as compared to the corporation's property or payroll factors.

All states that impose a corporate income tax allow for losses incurred in the current tax year that exceed income in that year (NOLs) to be carried forward and used to offset income in future tax years. Including Wisconsin, 17 states allow NOLs to be carried forward for 20 years. Five states allow NOLs to be carried forward for 15 years. Five states allow NOLs to be carried forward for 10 years and Rhode Island allows losses to carry forward for five years. The remaining 17 states and the District of Columbia allow NOLs to carry forward indefinitely.

Prior to 2018, federal law permitted NOLs to be carried backward to offset taxable income in the two tax years preceding the year in which the loss occurred. Three states continue to allow for a similar carryback of two years to offset state income taxes, while three states allow a carryback of three years. The remaining 38 states (including Wisconsin) and the District of Columbia do not allow NOL carrybacks.

Appendix 3 also shows that 26 states (including Wisconsin) and the District of Columbia that impose a corporate income tax require certain corporations to file a combined return, generally for corporations that have at least 50% common ownership and are engaged in a unitary business. Both Mississippi and Virginia permit combined reporting, but do not require it. Tennessee requires combined reporting for certain companies, but not generally. Indiana allows taxpayers to petition to file a combined return. The remaining 14 states that impose a corporate income tax have not adopted combined reporting provisions and, instead, require each corporation having nexus in the state to file a separate return. Additionally, Ohio and Texas generally require combined reporting for corporations for purposes of those

states' gross receipts taxes.

Finally, Appendix 3 shows that 28 states with a corporate income/franchise tax, including Wisconsin, have enacted a PTE tax. This includes Connecticut, which is the sole state to adopt a mandatory PTE tax. In addition, Ohio, which imposes a gross receipts tax on businesses in lieu of a corporate income tax, also enacted a PTE tax effective tax year 2022.

APPENDIX 1

Jurisdictional Nexus Under the Corporate Income/Franchise Tax

DOR has promulgated administrative rules which describe, for non-Wisconsin firms, what type of business activities are needed to make such firms subject to the state's corporate income/franchise tax. Under those rules, a non-Wisconsin (foreign) corporation is generally considered to have "nexus" with Wisconsin and be subject to taxation if it has one or more of the following activities in the state:

a. Maintenance of any business location in Wisconsin, including any kind of office.

b. Ownership of real estate in Wisconsin.

c. To the extent permitted by federal law, ownership of tangible personal property in Wisconsin, including inventory held by a non-employee representative, whether or not used to fill orders for the owner's account.

d. Regular activity in Wisconsin by employees or representatives soliciting orders with authority to approve them.

e. Regular activity in Wisconsin by employees or representatives performing services related to the sale of tangible personal property.

f. Regular activity in Wisconsin by employees or representatives engaged in purchasing activities, credit investigations, collection of delinquent accounts, or conducting training or seminars for customer personnel in the operation, repair, or maintenance of the taxpayer's products.

g. To the extent permitted by federal law, leasing of tangible property in Wisconsin.

h. Licensing of intangible rights for use in Wisconsin.

i. Sales of items other than tangible personal property, such as real estate, services and intangibles in Wisconsin.

j. The performance of services in Wisconsin by employees or representatives, the services of which are unrelated to the sale of tangible personal property.

k. Engaging in substantial activities that help to establish and maintain a market in Wisconsin.

Additionally, the following activities constitute "nexus" if not prohibited by federal law: (a) issuing credit, debit, or travel and entertainment cards to customers in Wisconsin; (b) regularly selling products or services of any kind or nature to customers in the state that receive the product or service in Wisconsin; (c) regularly soliciting business from potential customers in the state; (d) regularly performing services outside the state for which benefits are received in the state; (e) regularly engaging in transactions with customers in the state that involve intangible property and result in receipts flowing to the taxpayer in the state; (f) holding loans secured by real or tangible personal property located in the state; (g) owning, directly or indirectly, a general or limited partnership that does business in Wisconsin, regardless of the percentage of ownership; and (h) owning, directly or indirectly, an interest in an LLC that does business in Wisconsin and is treated as a partnership for federal income tax purposes, regardless of the percentage of ownership.

If a corporation has nexus in Wisconsin for any part of its taxable year, it is considered to have nexus in Wisconsin for its entire taxable year regardless of whether the activity that created nexus took place throughout the year.

The statutes provide certain exemptions from the nexus provisions for non-Wisconsin corporations whose in-state activities are limited to certain printing or storage services in or on property in Wisconsin. Under these provisions, nexus is not established in any of the following situations:

a. The corporation stores tangible personal property, such as inventory or a stock of goods, in or on property in the state that is not owned by the corporation, and the property is delivered to another corporation in the state for manufacturing, fabricating, processing, or printing in the state.

b. The corporation stores, in or on property not owned by the corporation, finished goods that have been fabricated, processed, manufactured, or printed in the state, and the entire amount of such goods is shipped or delivered out-of-state by another corporation in the state.

c. The corporation is an out-of-state publisher that has finished publications printed and stored in this state, in or on property not owned by the publisher, whether or not the publications are subsequently sold or delivered in this state or shipped outside of it.

Similarly, nexus is not established if all of the following conditions are met:

a. The out-of-state corporation stores tangible personal property in the state on property not owned by the corporation;

b. The property is stored for 90 days or less;

c. The property is stored on another person's property in the state and is transferred to the person for manufacturing, processing, fabricating, or printing on the parcel of property in or on which it is stored; and

d. The assessed value of the parcel of property in or on which the tangible personal property is stored and manufactured was between $10 million and $11 million on January 1, 1999.

In addition, nexus is not established by an out-of-state corporation if: (a) its only activity is disaster relief work; (b) it is not organized under Wisconsin law; and (c) it was not doing business in the state during the three tax years preceding the disaster period in which a state of emergency was declared by the Governor. Disaster relief work means work, including repairing, renovating, installing, building, or performing other services or activities relating to infrastructure in Wisconsin that has been damaged, impaired, or destroyed in connection with a declared state of emergency.

APPENDIX 2

Corporate Income/Franchise Tax Deductions and Other Adjustments to Income

The following major deductions are allowed under the Wisconsin corporate income/franchise tax for tax year 2022.

Compensation of Officers. Treatment under state law for compensation of officers conforms to federal law as it existed prior to the TCJA. Under state law, salaries, wages, and other forms of remuneration to officers of the business are deductible expenses. However, a publicly-held corporation cannot deduct compensation in excess of $1.0 million per tax year that is paid or accrued to certain executives. The deduction limitation applies to: (a) compensation to the principal executive officer (or an individual acting in that capacity); and (b) any other employee having total compensation required to be reported to shareholders under SEC rules because the employee is among the four highest compensated officers in the tax year. Compensation subject to the limitation includes cash and noncash benefits paid for services except for certain specified types of remuneration, such as commission-based or performance-based compensation. The $1.0 million limit on deductible compensation is reduced by the amount of excess golden parachute payments that are not deductible under the IRC. The deduction is further limited to $500,000 for compensation paid to certain executives of: (1) financial institutions that accept money from the troubled asset recovery program; and (2) certain health insurance providers.

Under the TCJA, federal law provides that the limit on excess compensation includes remuneration paid on a commission basis and performance-based compensation. Further, an individual who is a covered employee remains a covered employee subject to the $1 million deduction limit with respect to compensation otherwise deductible in subsequent years, including years in which the individual is no longer employed by the corporation and in years after the employee has died. The TCJA also expanded the definition of a publicly held corporation to include all domestic publicly traded corporations, including large private C corporations or S corporations that are not publicly traded. The TCJA also expanded the definition of a covered employee to include the principal financial officer, in addition to the principal executive officer and the three most highly compensated officers (five covered employees). This includes any individual that holds the position of principal executive officer or principal financial officer at any time during the taxable year. As a result of these changes, under federal law, the number of covered employees may exceed five, and deferred compensation paid to a covered employee, or the beneficiary of a covered employee, is subject to the $1 million deduction limit. Effective for taxable years beginning after December 31, 2026, ARPA further expands "covered employees" to include the next five highest paid employees in each taxable year (such individuals are not included in future years unless they remain in the top five highest paid).

Salaries and Wages. A deduction is provided for a reasonable salary allowance or other compensation for services actually rendered by employees. Deductible forms of compensation (fixed salary, percentage of gross or net income, commissions, bonuses, and contributions to pensions or profit sharing plans) or methods of payment generally cannot be controlling, or paid in lieu of a dividend payment. To be deductible, the

compensation must be: (a) an ordinary and necessary expense; (b) reasonable in amount; (c) based on actual services rendered; and (d) actually paid or incurred. Amounts that are deducted from an employee's salary for federal payroll taxes are deducted as part of the employee's wages.

Repairs and Maintenance. A deduction is allowed for the cost of incidental repairs and maintenance, such as labor and supplies that do not add materially to the value of property or appreciably prolong its life, but rather keep the property in ordinarily efficient operating condition.

Taxes and Licenses. In general, taxes that are ordinary and necessary expenses paid or incurred in carrying on a trade or business are deductible. To be deductible, taxes must be directly attributable to the taxpayer's trade or business, or to property from which rents or royalties are derived. The expense must be a tax imposed by a government that is paid into the government treasury for public purposes. Charges for specific services or special purposes (user fees) are often not considered taxes and are not deductible as such. However, these charges might be deductible under another provision--for example, as business expenses.

Federal law generally allows a deduction for taxes paid by a corporation either separately or in connection with the acquisition of property that can be deducted either as a current year expense or depreciated over time. However, federal law does not permit deductions for the following taxes: (a) federal income taxes; (b) foreign or U.S. possession income taxes if a foreign tax credit is claimed; (c) taxes not imposed on the corporation; (d) taxes assessed against local benefits that increase the value of the assessed property, such as for paving; and (e) taxes deducted elsewhere on the return, such as sales and use taxes that are included under the cost of goods sold.

Under state law, the federal windfall profits tax and the environmental tax are not deductible. Foreign taxes are only deductible if the income on which the taxes are based is taxable in Wisconsin. State law further excludes from the deduction the following taxes paid to any state (including Wisconsin) or the District of Columbia: (a) value-added taxes; (b) single business taxes; or (c) taxes on or measured by net income, gross income, gross receipts, or capital stock. However, the net proceeds tax on metalliferous mining and the state gross receipts and ad valorem utility taxes and license fees are deductible.

Annual fees paid by a business to keep a business license are deductible if the license is required for the business's ordinary and necessary expenses. Licensing fees that do not extend beyond a 12-month period can be deducted in the year the expense was incurred, regardless of whether the fee covers two tax years. However, if the original cost of obtaining a business license required for doing business is for an indefinite period, the license fee is treated as a capital expenditure and may be deducted under federal depreciation or amortization provisions (discussed later in this appendix). Examples of such expenses would be for a payment made to obtain a liquor license or a cost incurred to practice law that is paid to a state bar association.

Interest. Treatment under state law for interest conforms to federal law in effect prior to the TCJA. Wisconsin law allows a deduction for interest on indebtedness incurred in the operation of a trade or business. Interest is defined as compensation for the use or forbearance of money. Only interest on actual indebtedness is deductible. There must be both a legal and an economic obligation for the debt. Certain types of interest, such as interest incurred for an obligation that is wholly exempt from tax or interest paid that is attributable to the underpayment of tax, cannot be deducted.

In most cases, the time when interest is deducted is determined by the taxpayer's method of accounting. Generally, the interest is deductible when it accrues or is paid in accordance with the

interest provisions of the loan. However, in certain cases, interest must be accounted for using specific rules.

Interest on debt must be capitalized if the debt is incurred, or continued, to finance the production of real or certain tangible personal property that is produced by the taxpayer and that has: (a) a long useful life [20 years]; (b) an estimated production period exceeding two years; or (c) an estimated production period exceeding one year and a cost exceeding $1.0 million.

Deductions claimed for interest payments to related entities must be added back to income under the state corporate income/franchise tax, if certain conditions are not met (these provisions are described in a subsequent section).

Under the TCJA, beginning in tax year 2018, the federal deduction for business interest differs substantially from state law. The federal deduction is limited to the sum of: (a) business interest income; (b) 30% of the taxpayer's adjusted taxable income; and (c) floor plan financing interest of the taxpayer for the taxable year. Any business interest not deductible may generally be carried forward indefinitely. The following entities are exempt from the deduction limit: (a) taxpayers with average gross receipts of less than $27 million (in tax year 2022) over the prior three taxable years; (b) certain regulated public utilities; (c) most businesses engaged in real property development, construction, rental, leasing, or brokerage activities; and (d) farming businesses, as well as certain agricultural or horticultural cooperatives.

State law has not adopted the TCJA limitations on business interest deductions.

Charitable Contributions. Ordinarily, a corporation can claim a limited deduction for charitable contributions made in cash or property to, or for the benefit of, a qualified organization. However, payments made to a charitable organization that are determined to be business expenses are deductible without regard to the percentage limits imposed on charitable contributions. To be a business expense, the payments must bear a direct relationship to the taxpayer's business, and be made with a reasonable expectation of a financial return commensurable with the amount of the donation.

If the payments made by the business are in fact charitable contributions (made with a charitable intent) they may not be deducted as business expenses. Instead, they are subject to percentage limitations. The total amount of the deduction claimed may not be more than 10% of taxable income. CARES temporarily increased the limitation to 25% for contributions made in 2020, and ARPA extended this through 2021. Charitable contributions in excess of the limit may not be deducted for the tax year, but may be carried over and used to offset income for the next five years, subject to the limit. For a corporation that is a qualified farmer or rancher, the deduction limit is increased to 100% of its taxable income. Special rules govern contributions of certain property to charitable organizations. For combined groups, the charitable contributions deduction limitation is computed so that it applies to the combined group as a whole.

Depreciation. The deduction for depreciation allows taxpayers to recover, over a period of years, the cost of capital assets used in a trade or business or for the production of income. The deduction is an allowance for the wear and tear, deterioration, or obsolescence of the property. Depreciable property is generally tangible and either real or personal property. Land is not depreciable. In certain cases, intangible property may be depreciated. To be depreciable, the property must have a determinable life of more than one year, and it must decline in value through use or the passage of time. Only property used in a trade or business or held for the production of income is eligible for a depreciation deduction.

For tangible assets, depreciation applies to only that part of the property that is subject to wear and tear, to decay or decline from natural causes, or to exhaustion and obsolescence. The property must also be of a relatively permanent nature with a useful life of over one year.

Intangible assets may be depreciated or amortized if it is known from experience or other factors that the assets will be of use in the business or in the production of income for only a limited period of time and if that time period can be estimated with reasonable accuracy. Examples of depreciable intangibles are patents, copyrights, and computer software. Intangible assets cannot be depreciated under an accelerated method but, rather, must be depreciated using a reasonable method, usually the straight-line method. However, the cost of many intangibles can be amortized over 15 years.

In order to claim depreciation on any property, the taxpayer must have a capital interest in it. Generally, the owner of the depreciable property may claim the deduction. However, the right to deduct depreciation is not predicated solely upon ownership of the legal title, but also upon investment in the property.

The amount to be recovered by depreciation is the cost or other appropriate basis of the property. The life over which the depreciable basis of property is recovered depends upon the type of asset that is depreciated and the system of depreciation that is used.

The Modified Accelerated Cost Recovery System (MACRS) rules of depreciation apply to most tangible property placed in service after 1986. Generally, the Accelerated Cost Recovery System (ACRS) of depreciation applies to property placed in service after 1980 and before 1987.

Property, other than MACRS and ACRS property (generally property placed in service prior to 1980), must be depreciated using general depreciation rules. Under the general rules, the basis to be recovered through depreciation must be charged off over the life of the property using recognized methods of depreciation, including the straight-line, declining balance, and sum-of-the-years-digits methods. MACRS and ACRS property is recovered using statutory percentages that are annually applied to the depreciable basis of the property over a specified recovery period.

Under the pre-1980 depreciation rules, three particular methods of depreciation are generally authorized:

The straight-line method. The straight-line method involves writing off the cost or other applicable basis of the property in equal annual amounts over the established life of the property.

The declining-balance method. Under declining-balance methods, depreciation is greatest in the first year and smaller in each succeeding year. Each year, the depreciable basis of the property is reduced by a certain amount and the associated rate of depreciation is applied to the resulting balance in each of the remaining years of the property's life. For example, under the 200% or double declining-balance method, assets are depreciated at twice the straight-line rate. Generally, the taxpayer is allowed to switch to the straight-line method when it becomes advantageous.

Sum-of-the-years-digits method. To use this method, the taxpayer must first compute the sum of each of the digits comprising the asset's life. For example, for an asset with a depreciable life of four years, the numbers 4, 3, 2, and 1 are summed to a total of 10. In the first year, $4/10^{ths}$ of the depreciable basis is written off. In succeeding years, $3/10^{ths}$, $2/10^{ths}$, and $1/10^{th}$ of the depreciable basis, respectively, is written off until the entire basis of the asset, minus salvage value, is recovered.

Since the early 2000s, the federal government has enacted a number of first-year bonus

depreciation deductions that were intended to encourage business investment and stimulate the national economy. The American Taxpayer Relief Act of 2012 extended 50% bonus depreciation to 2013 for most types of property or to 2014 for certain property with longer production periods and aircraft. The basis of the property and the depreciation allowances in the year the property is placed in service and in later years are adjusted to reflect the additional first year depreciation reduction. The federal bonus depreciation provisions were scheduled to expire in tax year 2014 for most types of property.

Due to the potential impact on state revenues, the Legislature chose not to conform to the federal bonus depreciation provisions from 2002 through 2013. Instead, the Legislature included provisions in 2001 Act 109 that referenced state amortization and depreciation provisions to the federal IRC in effect on December 31, 2000. The Act 109 provision remained in effect until it was modified in 2013 Act 20.

Under 2013 Act 20, the treatment of depreciation was revised to be consistent with federal law in effect on January 1, 2014, for property placed into service on or after that date. For property placed into service before that date, the taxpayer must consolidate the difference between the federal tax basis in the property and the state tax basis into a single asset account that may be amortized over five years (tax years 2014 through 2018).

The Tax Increase Prevention Act of 2014 extended 50% bonus depreciation to 2014, or 2015 for certain aircraft and property with longer production periods. Under this legislation, the federal bonus depreciation deduction was scheduled to terminate for most property in tax year 2015 and for all property in 2016. On December 18, 2015, the Protecting Americans from Tax Hikes Act of 2015 took effect, which extended 50% bonus depreciation through calendar year 2017 to be phased down over a multiyear period. However, the TCJA increased first-year bonus depreciation from 50% to 100% for qualified property acquired after September 27, 2017, through 2022, with a scheduled phasedown to 80% in 2023, 60% in 2024, 40% in 2025, 20% in 2026, and with repeal thereafter. Further, the TCJA expanded bonus depreciation to include qualified film, television, and live theatrical productions, and to the purchase of used qualified property purchased at an arms-length transaction (rather than only new qualified property).

State law has not adopted the temporary federal provisions for 50% or 100% bonus depreciation. Because the state depreciation provisions refer to the IRC in effect on January 1, 2014, the 100% bonus depreciation provision is not available to state taxpayers.

Under current state law, tangible depreciable property is generally subject to MACRS, which consists of two systems that determine how a taxpayer depreciates property. The most commonly used system is called the General Depreciation System. There is also an Alternative Depreciation System (ADS), which must be used for certain types of property, such as property used predominantly outside the U.S. Taxpayers also can elect to use ADS. The main difference between the two systems is that ADS usually provides for a longer period of depreciation and uses only the straight-line method. Any asset required to be depreciated using ADS is not eligible for bonus depreciation. Although most property placed in service after 1986 is depreciated under MACRS, some types of property are excluded from MACRS treatment, including certain public utility property, intangible assets, and motion picture films, video tapes, and sound recordings (which may be depreciated under the sum-of-the-digits method).

Under MACRS, the cost of property is recovered by using accelerated methods of cost recovery and statutory recovery periods and conventions. The deduction is computed by first determining the MACRS basis of the property.

Each item of eligible property is then assigned to a specific class, and each class establishes a recovery period over which the cost of the property is recouped, using the applicable depreciation method and convention. Depreciation tables may be used by multiplying the basis of the assets by the applicable percentage for the applicable year of the recovery period. Alternatively, the deduction can be calculated using the appropriate method, recovery period, and convention. Deductions can be claimed for used property, and the cost recovery methods and periods are the same as those used to depreciate new property.

Specifically, the cost of eligible property is recovered over a 3-, 5-, 7-, 10-, 15-, 20-, 25-, 27.5-, or 39-year period depending upon the type of property involved. Depreciation methods are prescribed for each MACRS class. Generally, personal property is assigned to the three-year class, the five-year class, the seven-year class, or the 10-year class. Real property is assigned to the remaining classes based on the type of property involved.

Property included in the three-year, five-year, seven-year, and 10-year classes is depreciated using the double declining balance method, switching to the straight-line method at a time which maximizes the depreciation allowance. However, agricultural property used in farming in these classes and placed in service after 2017 may be depreciated using either the 150% declining balance method or the double declining balance method.

Property included in the 15-year and 20-year classes is depreciated using the 150% declining balance method, again switching to the straight-line method at a time which maximizes the depreciation allowance. Fifteen-year property includes certain land improvements, municipal waste treatment plants, retail motor fuel outlets, and electric transmission property. Qualified improvement property is also defined as 15-year property (and has an ADS recovery period of 20 years).

Twenty-year property includes certain multipurpose farm buildings and initial clearing and grading land improvements for electric utility transmission and distribution plants. Twenty-five year property is generally water utility property and depreciated using the straight-line method.

Residential rental property is depreciated over 27.5 years, and nonresidential real property not included in other classes is depreciated over 39 years, both using the straight-line method. However, under ADS, residential rental property is depreciated over a 30-year period for certain taxpayers which elect out of the interest deduction limitation.

Section 179 Election to Expense Depreciable Assets. Under Section 179 of the IRC, a taxpayer may elect to treat all or a portion of the cost of purchasing qualifying property used in the active conduct of a trade or business, up to a limit, as a deductible business expense rather than as a capital expenditure. Such an expense or cost is deductible in the year in which the property is placed in service. The basis of the property is reduced by the amount of this deduction. The deduction is generally available to all corporate and individual taxpayers, but is not available to trusts or estates. The amount claimed as a deduction is referred to as a Section 179 expense allowance.

Qualifying property is:

a. Tangible personal property, such as machinery, equipment, and property used predominantly to furnish lodging, or off-the-shelf computer software;

b. Other tangible property (except buildings and their structural components) used as: (1) an integral part of manufacturing, production, or extraction or of furnishing transportation, communications, electricity, water, or sewage

disposal services; (2) a research facility used in connection with any of these activities; or (3) a facility used in connection with such activities for the bulk storage of tangible commodities;

c. Single purpose agricultural property (livestock or horticultural structures);

d. Storage facilities (except buildings and their structural components) used in connection with distributing petroleum or any primary product of petroleum; and

e. Qualified real property, including qualified improvement property (certain improvements made by the taxpayer to an interior portion of a nonresidential building which do not include enlargement, elevators and escalators, and the internal structural framework) and the following improvements to preexisting nonresidential real property: roofs, fire protection, alarm systems, security systems, and heating, ventilation and air-conditioning property. Restaurant property and retail improvement property are not qualified improvement property for the purposes of claiming a Section 179 expense allowance.

The federal Section 179 deduction is the cost of qualifying property, up to a maximum limit of $1,080,000 in tax year 2022, and is adjusted for inflation annually thereafter. The deduction for a claimant is subject to a total investment limit of $2,700,000 for property placed in service in tax year 2022. The investment limit is also adjusted for inflation. For investments made in excess of the total investment limit, any additional investment results in a dollar-for-dollar phase-out of the deduction. As a result, the deduction is no longer available for investments exceeding $3,780,000 ($1,080,000 plus $2,700,000). For example, if a taxpayer purchased $3,000,000 of eligible property under Section 179 in 2022, the maximum deduction that could be taken by the taxpayer would be $780,000 ($1,080,000 limit minus $300,000, which is the amount the investment exceeded $2,700,000).

In addition to the phase-out provisions for investments above the limit, the amount eligible to be expensed in a year may not exceed the taxable income of the taxpayer that is derived from the active conduct of a trade or business for that year. Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding years and deducted, subject to the total investment and taxable income limits.

Special rules apply for vehicles. For example, the maximum cost that can be expensed for sports utility vehicles under Section 179 is $27,000 in tax year 2022 (any adjusted basis in excess of $27,000 may be depreciated under MACRS).

Under 2013 Act 20, the Wisconsin Section 179 provisions were federalized beginning in tax year 2014. For tax year 2022, Wisconsin taxpayers may elect to deduct under state law (if so elected under federal law) up to $1,080,000 of the cost of qualifying property, rather than taking depreciation deductions over a specified recovery period. Any amount that is not allowed as a Section 179 deduction because of the taxable income limitation may be carried forward to succeeding years and deducted, subject to the total investment and taxable income limits in that year.

Any future federal law changes to the Section 179 deduction will automatically be adopted under state law. For example, the state automatically adopted the IRA provisions which increased the benefits and changed the requirements for utilizing the Section 179 energy efficient commercial buildings tax deduction (allowing taxpayers to deduct up to $5 per square foot for certain eligible properties).

Amortization. Amortization provisions allow a taxpayer to annually deduct a portion of certain capital expenses that are not ordinarily deductible. Generally, these expenses are not otherwise deductible because: (a) they relate to assets that are not depreciable because the assets have

unlimited or indefinite life; or (b) they pertain to organizational or investigative expenses that were incurred before the taxpayer went into business. The deduction for amortization is similar to the straight-line method of depreciation in that a taxpayer is allowed to recover the capital costs through an annual deduction over a fixed period of time.

Generally, the capital expenses which are amortized are deducted in equal monthly amounts over the amortization period. The amortization period depends upon the type of asset that is acquired. Expenses which may be amortized include: (a) the cost of certain computer software; (b) the cost of certified pollution control facilities; (c) certain bond premiums; (d) research and experimental expenditures; (e) the cost of acquiring a lease; (f) qualified forestation and reforestation costs; (g) business start-up expenditures; and (h) certain organizational expenditures.

In addition, the capitalized costs of "amortizable Section 197 intangibles" can be amortized over 15 years. Generally, Section 197 intangibles are eligible for the amortization deduction if acquired after August, 1993, and held in connection with a trade or business, or in an activity engaged in for the production of income. The following assets are Section 197 intangibles: (a) goodwill; (b) going concern value; (c) workforce in place; (d) business information base; (e) patents, copyrights, formulas, and similar items; (f) customer-based intangibles; (g) supplier-based intangibles; (h) licenses, permits, and other government granted rights; (i) covenants not to compete; (j) franchises, trademarks, and trade names; and (k) contracts for use, or term interest in, a Section 197 intangible.

Under the TCJA, for taxable years beginning after December 31, 2021, research and experimental expenditures must be capitalized and amortized ratably over a five-year period rather than immediately expensed in the year the expenses were incurred. Expenditures attributable to research conducted outside of the United States must be capitalized and amortized ratably over a period of 15 years. The TCJA also expanded the definition of research or experimental expenditures to include expenditures for software development, as well as depreciation and depletion allowances for property other than land that is depreciated or depleted in connection with research or experimentation.

State law has not adopted these provisions of the TCJA.

Bad Debts. A deduction is allowed for business or nonbusiness debt that becomes worthless. The debt must arise from a debtor-creditor relationship based upon a valid and enforceable obligation to pay a fixed or determinable sum of money. Generally a debt is worthless when the creditor who has made a reasonable effort to collect the debt no longer has a chance to be repaid. Bad debts are characterized as business or nonbusiness debts, with each type of debt having its own rules for deductibility.

A bad debt is deductible as a business bad debt if the creation of the debt was proximately related to the taxpayer's trade or business. In addition, the dominant motive for the creation of the debt must be to benefit the taxpayer's trade or business. The bad debts of a corporation are considered business bad debts. To deduct a bad debt, the taxpayer must have previously included the amount in income, or loaned out cash.

Nonbusiness debt is a debt other than: (a) a debt created or acquired in connection with the taxpayer's trade or business; or (b) a loss from the worthlessness of a debt that is incurred in the taxpayer's trade or business. Transactions not entered into for profit are treated as nonbusiness debts. If a nonbusiness debt becomes worthless, it is deductible only as a short-term capital loss, and only in the year the debt becomes totally worthless.

Rent. Rent expenses are deductible as business expenses if they are incurred as a condition

to the continued use or possession of property used in a trade or business, and the taxpayer has not taken or is not taking title or has no equity in the property. The amount of rent claimed can be a fixed sum, or can be based upon a percentage of profits, a percentage of gross sales, or a combination of these. A deduction is allowed where the amount of rent is fixed in an arm's-length transaction without a tax-avoidance motive. In general, rental expenses are deductible in the year they are accrued or paid. However, in certain cases, such as where advance payments are made by a cash-basis taxpayer, special rules for determining the deduction apply. Royalties are deductible as business expenses under rules that are similar to those governing the deductibility of rent paid for business or income-producing purposes.

Rent payments to related entities must be added back to income if certain conditions are not met. These provisions are described in a subsequent section.

Depletion. A deduction for depletion is allowed in determining the income derived from the sale of natural resources; it returns to the owner or operator (extractor) the capital investment on a pro rata basis over the productive life of such resources. Depletion is the exhaustion of natural resources by the process of mining, quarrying, drilling, and felling. The depletion deduction, in effect, represents the reduction in the content of the reserves from which the resource is taken. The taxpayer must have an economic interest (capital investment) in the mineral deposit or timber in order to claim the deduction.

Methods for computing depletion are cost depletion or percentage depletion. Although a taxpayer must generally use the depletion method that produces the greatest deduction each year, the allowance for percentage depletion has historically been preferred over cost depletion since percentage depletion may be claimed even though the total deductions exceed the cost basis of the resource. However, unless the taxpayer is an independent producer or royalty owner, percentage depletion generally cannot be used for oil and gas wells.

Wisconsin taxpayers may claim the depletion deduction using either the cost depletion method or the percentage depletion method. In addition, a taxpayer may use cost depletion in one year or percentage depletion in another year on the same property and must choose the larger deduction for that year. Any future federal law changes regarding the deduction for depletion will be automatically adopted for state tax purposes.

A prerequisite to calculating cost depletion is determination of the property's adjusted basis. A mineral property's basis is the taxpayer's capital investment in the property that may be recovered tax free during the period of production. Basis is the initial cost of the property adjusted for capital expenditures and allowable depletion, for the purpose of determining gain or loss upon a sale or exchange of the property. To calculate cost depletion, the taxpayer must: (a) determine the amount of basis of the mineral property for the tax year; (b) divide that amount by the number of units of mineral remaining at the end of the year to be recovered from the property (including units recovered but not sold) plus the number of units sold within the tax year; and (c) multiply the depletion unit, so determined, by the number of units of mineral sold within the tax year. The resulting amount determines the cost depletion deduction for the year. Each year the basis of the property is reduced by the amount of depletion deducted for that year. The remaining basis is used in computing cost depletion for the following year.

For property eligible for percentage depletion, federal statutes prescribe specified percentages, which vary from 5% to over 22%, that are used for each type of natural resource. To calculate percentage depletion, the taxpayer must know: (a) the applicable percentage rate; (b) the taxpayer's gross income from the natural resource property; and (c) the taxpayer's taxable income from the

property computed without the depletion deduction. The deduction is then determined by multiplying the percentage specified for the particular natural resource by the taxpayer's gross income from the resource property for the year. The deduction is taken on the taxpayer's income tax return in the year of sale of the natural resource product rather than in the year of production.

Insurance. The cost of insurance can generally be deducted as a business expense if it is an ordinary and necessary expense paid or incurred in carrying on a trade or business. The deduction is usually allowed on a current basis, according to the taxpayer's method of accounting. However, in certain cases, such as where direct and indirect costs for certain production and retail activities are capitalized, a taxpayer may have to capitalize certain insurance costs.

Generally, insurance premiums paid that insure against a business's potential liability or unexpected losses, employee-related insurance premiums for health care, unemployment insurance or workers' compensation, and life insurance premiums that cover corporate officers and employees for services rendered by the officers or employees (provided the employer-paid premium does not exceed $50,000) are deductible. Most payments made to a reserve fund set up for self-insurance are not deductible. However, payments made from a reserve fund are deductible. Also, premiums paid on insurance purchased to secure a loan are not deductible.

Advertising. Advertising expenses that are reasonable in amount and related to the business activities in which the taxpayer is engaged are deductible. Advertising costs that generate future benefits beyond the current year may be treated as a capital expense and must be capitalized. The taxpayer is free to choose the advertising that best serves the taxpayer's purpose; however, the burden of proving the deductibility of advertising expenses is on the taxpayer.

Tax Treatment of Certain Temporary Financial Assistance Programs. ARPA and the Considerated Appropriations Act of 2021 (CAA) provided that benefits received from certain Covid-relief financial assistance programs are not considered income for federal tax purposes and that no otherwise deductible business expenses, paid via the proceeds of these programs should be denied a deduction on the basis of the income exclusion. For tax year 2022, this includes the paycheck protection, shuttered venue grants, and restaurant revitalization programs. Further, the CAA provided that distributions to PTE owners are tax neutral in that forgiveness of indebtedness and other financial assistance is treated as an increase in a partner's or shareholder's basis in their ownership interest. Provisions of 2021 Act 1 and Act 156 conformed to these provisions. Act 1 also provided similar tax treatment for grants made under the state ethnic minority emergency grant initiative and other state programs funded by federal coronavirus relief fund monies (such as "We're All In" small business grants and supplemental child care grants).

Other Deductions. Most contributions to retirement plans and certain contributions to employee benefit plans are deductible under federal and state law. Furthermore, ordinary and necessary business expenses related to the operation of a trade or business and not deducted elsewhere can be deducted under a general miscellaneous category. Prior to tax year 2018, miscellaneous business expenses under state and federal law generally included: (a) 50% of food and beverages provided to employees and 100% if excluded from the gross income of the employee as a de minimis fringe benefit; (b) 50% of entertainment expenses that are directly related to a taxpayer's active trade or business; (c) certain start-up expenses; (d) the cost of materials and supplies used in business operations; (e) legal and professional fees; and (f) expenditures for incidental repairs, maintenance, and improvements that are not capital expenditures.

The TCJA repealed the deduction for entertainment expenses beginning in tax year 2018. Further, the TCJA extended the 50% limit to expenses for food and beverages provided for the convenience of the employer through certain eating facilities for amounts incurred and paid after December 31, 2017, and eliminated the deduction for such expenses paid or incurred after December 31, 2025. The CAA temporarily allows the full deduction of food or beverages provided by a restaurant between January 1, 2021, and December 31, 2022. Wisconsin has not adopted these provisions and still allows a 100% deduction for certain meals provided by employers and a 50% deduction for entertainment, amusement, and recreation expenses.

Other State Adjustments to Federal Provisions

As noted, state corporate income/franchise tax provisions are generally referenced to the IRC as amended to December 31, 2020, with a number of exceptions. Although state income and deductions are primarily referenced to federal law, there are a number of modifications specified under the state corporate income/franchise tax law that must be made to reflect differences in the state treatment of certain items. Major examples of these types of adjustments include:

a. Certain types of interest income that are exempt from tax under federal law are taxable under Wisconsin law.

b. The federal deduction for taxes paid is modified so that: (1) foreign taxes are not deductible, unless the income on which the taxes are based is taxable; (2) Wisconsin utility gross receipts and ad valorem taxes and license fees are deductible; and (3) the state net proceeds tax on mining of metallic minerals is deductible. Also, state taxes and the taxes of the District of Columbia that are value-added taxes, single business taxes, or taxes on, or measured by, all or a portion of net income, gross income, gross receipts, or capital stock are not deductible. The federal windfall profits tax and the environmental tax are not deductible.

c. As described previously, state law treatment of operating losses differs substantially from federal law. Net losses can be carried forward and used to offset income for the following 20 years.

d. Under federal law, a corporation may deduct all or a portion of dividends it receives from another corporation. In general, the deductible share is 50% if the corporation receiving the dividend owns less than 20% of the paying corporation, 65% if the receiving corporation owns between 20% and 80% of the paying corporation, or 100% if the receiving corporation owns more than 80% of the paying corporation (also, domestic firms may deduct 100% of certain foreign dividends). Under Wisconsin law, instead of federal dividends received provisions, corporations may deduct all dividends received from a corporation paid on its common stock if the corporation receiving the dividends owns, directly or indirectly, for its entire tax year, at least 70% of the total combined voting stock of the payor corporation. "Dividends received" excludes taxes on dividends paid to a foreign nation and claimed as a deduction. The dividends received deduction is available to corporations that are separate entity filers, and to combined group filers. A 2020 court case, *Wisconsin Department of Revenue v. Deere & Company,* found that the state dividends received deduction also applies to entities treated as a corporation for tax purposes under federal law. A federal dividends paid deduction for certain preferred stock of public utilities is excluded from state law.

e. State law does not follow federal law governing controlled foreign corporations. As a result, Subpart F income is not includable in the computation of Wisconsin net income. Subpart F income is undistributed income from controlled foreign corporations which is required to be included in the federal net income of the U.S. shareholders of such corporations. Any actual income

received from a controlled foreign corporation, such as dividends or interest, is included in the computation of Wisconsin net income, provided the income is not wholly exempt income. In addition, ARPA repealed a certain worldwide interest expense apportionment election which may reduce the foreign income of U.S. group members that would have taken effect for ten years after 2020 (made via a 2022 tax return). Wisconsin does not conform to the ARPA provision.

f. State law conforms to previous federal law, which provided a deduction for FDIC premiums paid without limit. Beginning in tax year 2018, taxpayers under federal law may deduct 100% of FDIC premiums only if such assets are less than $10 billion. Taxpayers with total consolidated assets of $50 billion or more may not deduct FDIC premiums. The applicable percentage of the federal deduction is prorated for taxpayers with assets of between $10 billion and $50 billion.

g. The TCJA repealed special rules that apply to the accrual of interest for original issue discount debt instruments (other than mortgage servicing contracts) that have an applicable financial statement. Under federal law, the change in accounting for such debt instruments must be taken into account ratable over six taxable years. State law has not adopted these provisions of the TCJA.

h. Expenses incurred to move a business outside of Wisconsin are not deductible for state tax purposes.

The Legislature generally must modify state law to adopt future changes to federal law, except that any future changes to the federal deductions permitted under IRC Section 179 or for the depletion of natural resources will automatically be adopted for state tax purposes. Examples of federal tax law changes enacted after December, 2020, include:

a. The IRA imposed a 15% alternative minimum corporate tax on adjusted financial statement income (book profits) exceeding $1.0 billion for tax years beginning after December 31, 2022. Further, the IRA imposed a 1% excise tax on the repurchase of corporate stock by publically traded U.S. corporations. State law has not adopted either provision.

b. ARPA provided for a Covid-relief restaurant revitalization grant program, as well as an exclusion from income for grant proceeds and a deduction for otherwise deductible business expenses paid with the grants. Pursuant to 2021 Act 156, state law adopted both the exclusion from income and the deduction.

c. The Infrastructure Investment and Jobs Act provides a special rule for water and sewerage disposal utilities, effective for tax years beginning after December 31, 2020, such that any amount of money or other property received from any person (whether or not a shareholder) by a regulated public utility which provides water or sewerage disposal services generally qualifies as a contribution to capital, rather than gross income, if certain requirements are met. State law has not adopted this provision.

Related Entity Transactions

Wisconsin taxpayers are required to add back to income certain expenses for payments to related entities. Specifically, rental expenses, interest expenses, intangible expenses, and management fees deducted or excluded under the IRC have to be added back if they are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities. These added back expenses may then be subtracted if certain conditions are met.

An expense may not be deductible if certain factors indicate that the primary purpose of the

transaction is tax avoidance. Examples of such factors include, but are not limited to: (a) there was no actual transfer of funds from the taxpayer to the related entity, or the funds were substantially returned to the taxpayer; or (b) if the transaction was entered into on the advice of a tax advisor, the advisor's fee was determined by reference to the tax savings.

"Intangible expenses" subject to the add-back provisions include: (a) royalty, patent, technical, copyright, and licensing fees; (b) costs related to the acquisition, use, or disposition of intangible property (such as financial instruments, patents, and trademarks); and (c) losses related to factoring transactions or discounting transactions.

In general, a "related entity" is an entity that is at least 50% owned by the taxpayer, an entity related to the taxpayer, or an entity owned by certain family members of the taxpayer.

A deduction is allowed for rent, interest, intangible expenses, and management fees that are added back if certain conditions apply indicating that the transaction had a legitimate business purpose other than tax avoidance. If a deduction for rental, interest, intangible expenses, and management fees is denied to a taxpayer because the expenses were paid to a related entity, and the conditions to deduct the expenses were not satisfied, then such amounts are not included in the income of the related entity for state tax purposes. This provision is intended to prevent double-taxation.

Wisconsin law provides that the Secretary of Revenue (or designee) may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among two or more organizations, trades, or businesses that are owned or controlled directly or indirectly by the same interests if the Secretary determines that such an action is necessary: (a) in order to prevent evasion of taxes; or (b) to clearly reflect the income of any such organization, trade, or business. State law specifies that this authority is in addition to the related entity provisions. Also, a nonstatutory provision provided that the related entity provisions would have no effect on any bank settlement agreements that DOR has entered into with banks and other financial institutions regarding their investment subsidiaries.

Taxpayers and tax advisors are required to report certain types of transactions that may indicate the existence of tax shelters. Penalties are imposed for engaging in, and failure to report on, such activities.

APPENDIX 3

Overview of Tax Year 2022 Corporate Tax Structures in Other States

State	General Tax Rate	Tax Brackets Lowest	Tax Brackets Highest	Number of Brackets	General Method of Apportionment	Net Operating Loss Carryforward	Net Operating Loss Carryback	Require Combined Reporting	Pass-through Entity Tax
Alabama	6.5%	----Flat Rate----		1	Single Sales	15 years	0 years	No	Yes
Alaska	0 - 9.4	$25,000	$222,000	10	3-Factor	indefinitely	0	Yes	**
Arizona	4.9	----Flat Rate----		1	Single Sales or Double Weighted Sales	20	0	Yes	Yes
Arkansas	1.0 - 5.3	3,000	100,001	6	Single Sales	10	0	No	Yes
California	8.84 (a)	----Flat Rate----		1	Single Sales	20	0	Yes	Yes
Colorado	4.55	----Flat Rate----		1	Single Sales	20	0	Yes	Yes
Connecticut	7.5 (b)	----Flat Rate----		1	Single Factor Gross Receipts	20	0	Yes	Yes (u)
Delaware	8.7	----Flat Rate----		1	Single Sales	indefinitely	0	No	No
Dist. of Columbia	8.25	----Flat Rate----		1	Single Sales	indefinitely	0	Yes	No
Florida	5.5 (c)	----Flat Rate----		1	Double Weighted Sales	indefinitely	0	No	**
Georgia	5.75 (d)	----Flat Rate----		1	Single Sales	indefinitely	0	No	Yes
Hawaii	4.4 - 6.4	25,000	100,001	3	3-Factor	indefinitely	0	Yes	No
Idaho	6.0 (e)	----Flat Rate----		1	Single Sales	20	2	Yes	Yes
Illinois	9.5 (f)	----Flat Rate----		1	Single Sales	20	0	Yes	Yes
Indiana	4.9	----Flat Rate----		1	Single Sales	20	0	No*	No
Iowa	5.5 - 9.8 (g)	25,000	250,001	3	Single Sales	20	0	No	No
Kansas	4.0 - 7.0 (h)	0	50,000	2	3-Factor	indefinitely	3	Yes	Yes
Kentucky	5.0 (i)	----Flat Rate----		1	Single Factor Receipts	indefinitely	0	Yes	No
Louisiana	3.5 - 7.5	25,000	200,001	5	Single Sales	indefinitely	0	No	Yes
Maine	3.5 - 8.93	350,000	3,500,000	4	Single Sales	indefinitely	0	Yes	No
Maryland	8.25	----Flat Rate----		1	Single Sales	indefinitely	0	No	Yes
Massachusetts	8.0 (j)	----Flat Rate----		1	Double Weighted Sales	20	0	Yes	Yes
Michigan	6.0	----Flat Rate----		1	Single Sales	10	0	Yes	Yes
Minnesota	9.8 (k)	----Flat Rate----		1	Single Sales	15	0	Yes	Yes
Mississippi	0.0 - 5.0	5,000	10,001	3	Single Sales/Other (r)	20	2	No*	Yes
Missouri	4.0	----Flat Rate----		1	Single Sales	20	2	No	Yes
Montana	6.75 (l)	----Flat Rate----		1	3-Factor	10	3	Yes	No
Nebraska	5.58 - 7.5 (m)	100,000		2	Single Sales	20	0	Yes	No
New Hampshire	7.6 (n)	----Flat Rate----		1	Double Weighted Sales (s)	10	0	Yes	**
New Jersey	6.5 - 11.5 (o)	50,000	1,000,000	4	Single Sales	20	0	Yes	Yes
New Mexico	4.8 - 5.9	0	500,000	2	3-Factor	20	0	Yes	Yes
New York	6.5 - 7.25 (p)	50,000	1,000,000	2	Single Receipts	20	3	Yes	Yes (v)
North Carolina	2.5	----Flat Rate----		1	Single Sales	15	0	No	Yes
North Dakota	1.41 - 4.31 (q)	25,000	50,001	3	3-Factor or Single Sales	indefinitely	0	Yes	No
Oklahoma	4.0	----Flat Rate----		1	3-Factor (t)	indefinitely	0	No	Yes

State	General Tax Rate	Tax Brackets Lowest	Tax Brackets Highest	Number of Brackets	General Method of Apportionment	Net Operating Loss Carryfoward	Net Operating Loss Carryback	Required Combined Reporting	Pass-through Entity Tax
Oregon	6.6% - 7.6%	$0	$1 million	2	Single Sales	15 years	0 years	No (z)	Yes
Pennsylvania	9.99 (w)	----Flat Rate----		1	Single Sales	20	0	No	No
Rhode Island	7.0	----Flat Rate----		1	Single Sales	5	0	Yes	Yes
South Carolina	5.0	----Flat Rate----		1	Single Sales	indefinitely	0	No	Yes
Tennessee	6.5	----Flat Rate----		1	Triple Weighted Sales	15	0	No*	**
Utah	4.85	----Flat Rate----			Single Sales	indefinitely	0	Yes	Yes
Vermont	6.0 - 8.5	10,000	25,000	3	Double Weighted Sales (y)	10	0	Yes	No
Virginia	6.0	----Flat Rate----		1	Double Weighted Sales	indefinitely	0	No*	Yes
West Virginia	6.5	----Flat Rate----		1	Single Sales	indefinitely	0	Yes	No
Wisconsin	7.9 (x)	----Flat Rate----		1	Single Sales	20	0	Yes	Yes

Source: Compiled using information from the Wisconsin Department of Revenue, CCH Multi-state Corporate Income Tax Guide, and Federation of Tax Administrators

* Combined reporting permitted, but not required. Indiana allows taxpayers to petition to file a combined return. Tennessee requires combined reporting in certain cases for certain corporate groups.
** No owner-level personal income tax on pass-through income.

(a) The rate for financial corporations and banks that are not S corporations is 10.84% in California.
(b) Connecticut's tax is the greater of the 7.5% tax on net income, a 0.31% tax on capital stock and surplus (maximum tax of $1 million), or $250 (the minimum tax). A 10% surcharge on tax liability for businesses having gross proceeds exceeding $100 million expires as of January 1, 2023.
(c) An exemption of $50,000 is allowed.
(d) Georgia's tax rate is set to increase to 6% on January 1, 2026.
(e) After January 2, 2023, Idaho's tax rate decreases to 5.8%.
(f) The Illinois rate of 9.5% is the sum of a corporate income tax rate of 7.0% plus a replacement tax of 2.5%.
(g) For tax year 2023, Iowa's corporate rate phases down to 5.5% for income less than (or equal to) $100,000 and 8.4% for $100,001 or more.
(h) In addition to the 4% flat rate, Kansas levies a 3.0% surtax on taxable income exceeding $50,000. Banks pay a privilege tax of 2.25% of net income, and a surtax of 2.125% (2.25% for savings and loans, trust companies, and certain federally chartered savings banks) on net income in excess of $25,000.
(i) The Kentucky minimum limited liability entity tax is $175.
(j) Business and manufacturing corporations in Massachusetts pay an additional tax of $2.60 per $1,000 on either taxable tangible property or taxable net worth allocable to the state (for intangible property corporations).
(k) In addition, Minnesota levies a 5.8% tentative minimum tax on alternative minimum taxable income, as well as a surtax of up to $10,480.
(l) Montana levies a 7% tax on taxpayers using water's edge combination. Taxpayers with gross sales in Montana of $100,000 or less may pay an alternative tax of 0.5% on such sales, instead of net income tax.
(m) Nebraska's corporate tax rate on incomes of more than $100,000 decreases to 7.25% in tax year 2023, 6.5% in tax year 2024, 6.24% in tax year 2025, 6.0% in tax year 2026 and 5.84% for subsequent years.
(n) New Hampshire's 7.6% business profits tax is imposed on both corporations and unincorporated associations with gross income over $92,000. In addition, New Hampshire levies a business enterprise tax of 0.55% on the enterprise base (total compensation, interest and dividends paid) for businesses with gross receipts (or base) over $250,000.
(o) In New Jersey, small businesses with annual entire net income under $100,000 pay a tax rate of 7.5%; businesses with income under $50,000 pay 6.5%. A temporary surcharge in effect from 2020 to 2023 increases the rate to 11.5% for businesses with income over $1.0 million.
(p) New York's general business corporate rate is shown. Certain qualified New York manufacturers pay 0%.
(q) North Dakota imposes a 3.5% surtax for filers electing to use the water's edge method to apportion income.
(r) Mississippi provides different apportionment formulas based on specific type of business. A single sales factor formula is required if no specific business formula is specified.
(s) New Hampshire adopted single sales apportionment effective for taxable years ending on or after December 31, 2022.
(t) Corporations meeting certain Oklahoma investment criteria may double-weight the sales factor.
(u) In Connecticut, pass-through tax is mandatory. Partners, owners, and shareholders are entitled to a tax credit against taxes imposed on the pass-through entity.
(v) New York adopted a pass-through entity tax effective for tax year 2021. Effective for tax year 2023, New York City has adopted a pass-through entity tax for city income tax purposes.
(w) Pennsylvania's tax rate phases down each year, until reaching 4.99% in tax year 2031.
(x) For businesses that derive income from manufacturing or agriculture activities in Wisconsin, the effective corporate income/franchise tax rate is 0.4% due to the 7.5% manufacturing and agriculture credit.
(y) Vermont adopted single sales apportionment effective for tax year 2023.
(z) Oregon requires consolidated returns for certain unitary members filing a federal consolidated return.