Instructions for 2018 Form 6Y:
Wisconsin Subtraction Modification for Dividends

Purpose of Form 6Y

Combined groups complete Form 6Y to report the amount of dividends that may be subtracted from federal taxable income under the Wisconsin dividends received deduction. Combined groups also use Form 6Y to report the amount of intra-group dividends that may be eliminated from combined unitary income in cases where the Wisconsin dividends received deduction does not apply.

Enter the information for each member in a separate column. If there are more than three members, use additional Forms 6Y. For example, if there are seven members in the combined group, enter members one through three on Form 6Y (do not complete the combined total column yet). Next, enter members four through six on an additional Form 6Y (do not complete the combined total column yet). Finally, complete a new Form 6Y for the seventh and final member. Complete the combined total column on the last Form 6Y for all group members.

NOTE: Do not use Form 6Y to report dividends that are nontaxable for reasons other than the Wisconsin dividends received deduction or the elimination of intra-group dividends from combined unitary income. See the instructions for Form 6, Part II, line 4f, for reporting those dividends.

Below is an explanation of each type of dividend reportable on Form 6Y, followed by line-by-line instructions.

Wisconsin Dividends Received Deduction

The Wisconsin dividends received deduction is available to corporations that are separate entity filers as well as combined group filers. Under sec. 71.26(3)(j), Wis. Stats., a dividend is deductible for Wisconsin purposes if it meets the following requirements:

- It is paid on common stock, and
- The corporation receiving the dividend owned at least 70% of the total combined voting stock of the payer corporation for the entire taxable year.

If the payee corporation is in a combined group, it must own the stock of the payer corporation for the payee's entire taxable year that is included in the combined return.

For purposes of Form 6Y, the Wisconsin dividends received deduction under sec. 71.26(3)(j), Wis. Stats., is called the "70% ownership" dividend deduction.

Elimination of Dividends from Combined Unitary Income

The elimination of dividends from combined unitary income applies only to corporations that are in combined groups. Under sec. 71.255(4)(f), Wis. Stats., and s. Tax 2.61(6)(e), Wisconsin Administrative Code, a dividend paid between two members of the same combined group may be eliminated from the group's combined unitary income if it meets the following requirements:

- The dividend doesn't already qualify for the Wisconsin dividends received deduction under sec. 71.26(3)(j), Wis. Stats.
- The dividend was paid out of earnings and profits attributable to net income or loss that was included in the group's combined unitary income in the current taxable year or a prior taxable year
- The dividend does not exceed the payee's basis in the payer's stock

Transitional Rule. If the intra-group dividend was paid out of earnings and profits (E&P) that were generated in a taxable year beginning before January 1, 2009, the dividend may be eliminated from combined unitary income to the extent the net income that generated the E&P would have been included in combined unitary income under sec. 71.255, Wis. Stats., (the statute requiring combined reporting) if that section had been in effect in those years.

Computing Earnings and Profits. The following rules apply to the computation of E&P for purposes of the dividend elimination:

1. *LIFO Rule:* Dividends are treated as paid first out of current E&P. If the dividends paid exceed current E&P, then the dividends are treated as paid out of E&P accumulated in preceding years, beginning with the year closest to the current year.

2. *Pro Rata Rule:* With respect to an individual taxable year, dividends are treated as paid from all E&P earned in that taxable year on a pro rata basis according to the proportion of net income that was included in the combined unitary income for that taxable year.

3. *Tiering-up Rule:* The dividend payer's E&P are generally determined using the federal consolidated return regulations (Treas. Reg. §1.1502-33) as if the combined group is a federal consolidated group. This means that a combined group member's E&P are adjusted to reflect the undistributed E&P of any subsidiary that is a member of the same combined group. However, s. Tax 2.61(6)(g), Wisconsin Administrative Code, provides that a subsidiary's E&P can only be "tiered up" to its parent company to the extent it relates to income that was (or the case of E&P from taxable years before 2009, would have been), included in combined unitary income.

The following examples illustrate these rules:

Example 1:

Combined Group MN consists of Member M and Member N. The combined group was formed when Corporation M acquired 60% of Corporation N on June 1, 2017. Group MN uses a calendar year. During 2018, N paid a dividend to M of $500,000. N's current E&P for 2018, before accounting for the distribution to M, are $100,000. N's E&P attributable to its 2017 calendar year are $1,000,000, of which $50,000 (5% of the total) were earned while N was a member of Group MN. Assume N had no separate entity items while it was a member of Group MN. Also assume M did not deduct any foreign taxes attributable to the dividend and N has sufficient stock basis.

Applying the LIFO and pro rata rules, the amount of dividend that qualifies for elimination from Group MN's combined unitary income in 2018 is $120,000 (= $100,000 + (5% x $400,000)). Under the pro rata rule, 95%, or $380,000, of the dividend paid out of N's 2017 E&P is considered to be paid from pre-acquisition E&P.

Example 2:

Combined Group FGH consists of Member F, Member G, and Member H. F owns all the stock of G, and G owns of all the stock of H. Group FGH is on a calendar year. During the taxable year 2018, F has current year E&P of $300,000 and G has current year E&P of $500,000, both exclusive of any amounts attributed from subsidiaries. Assume F and G's E&P amounts are attributable entirely to items included in Group FGH's 2018 combined unitary income. H has current year E&P of $400,000. However, $50,000 of this amount is attributable to overseas operations, the income from which was not included in combined unitary income under the water's edge rules.

Assume none of the corporations made distributions in 2017. Under the tiering-up rule, G's total current year E&P are $850,000 (= $500,000 + ($400,000 - $50,000 attributed from F)), and F's current year E&P are $1,150,000 (= $300,000 + $850,000 attributed from H).

Line-by-Line Instructions

First, group the total dividends received by the corporation into amounts paid by each payer. If this is a combined return, group the dividends received by each member into amounts paid by each payer.

From the total amounts paid by each payer, identify the dividends that qualify for the "70% ownership" dividend deduction. If this is a combined group, identify any of the remaining dividends that would qualify for elimination from combined unitary income.

■ **Lines 1a through 1f. Qualifying Dividends –** On lines 1a to 1f, enter the aggregate totals of qualifying dividends based on the groupings described above. Each of these lines represents the total dividends paid from one payer corporation to one payee corporation during the entire taxable year. You do not need to report each dividend separately. Instructions for each field of lines 1a through 1f follow:

Name of Payer Corporation. Enter the name of the corporation that paid the dividends eligible for the subtraction.

Date Acquired by Payee. Enter the date on which the payee obtained the level of voting stock ownership indicated in the *Payee's Ownership of Payer* field described below.

Payee's Ownership of Payer. Check the appropriate line to indicate the payee's level of ownership of the payer's stock. The percentages shown represent the total ownership of the combined voting power of the payer's stock.

Dividends Received. Enter the dividends received by the payee from the payer to the extent they qualify for either the dividends received deduction or the elimination from combined unitary income.

CAUTION: If the payee owned more than 50%, but less than 70%, of the combined voting power of the payer's stock, you must determine how much of the dividends qualify to be eliminated from combined unitary income. You may only report the qualifying amount on lines 1a through 1f.

The following example illustrates how to complete Form 6Y in the case of a combined group:

Example of Lines 1a to 1f for a Combined Group: Combined Group ABC consists of Member A, Member B, and Member C and uses a calendar year. Member A has owned 60% of the voting stock of B since July 1, 2007 and 80% of the voting stock of C since January 15, 2006. During 2018, A received a total of $200,000 in dividends from B and $500,000 in dividends from C. No other corporations in the group received dividends. Member A determined that 25% of the dividend from B was paid out of E&P that wasn't attributable to combined unitary income. Therefore, only $150,000 (= 75% x $200,000) of the dividend from B qualifies for the elimination of dividends.

Group ABC would complete lines 1a and 1b as follows:

<u>Line 1a</u>

Name of Payer Corporation…………….…….Member B
Date Acquired by Payee…………………..….07/01/2007
Payee's Ownership of Payer..“> 50% but < 70%”
Dividends Received:………………………….$150,000

<u>Line 1b</u>

Name of Payer Corporation…..……….…….Member C
Date Acquired by Payee……………..…….01/15/2006
Payee's Ownership of Payer……….……....“> or =70%”
Dividends Received:……………….…..…….$500,000

Alternatively, the dividends from Member C could have been reported on line 1a and the dividends from Member B on line 1b.

■ **Line 1h. Additional Forms 6Y –** If the corporation has more qualifying dividends than can be reported on lines 1a to 1f, you must use lines 1a to 1f of an additional Schedule 6Y (or additional Schedules 6Y) to report the remaining qualifying dividends. Complete lines 1h through 4 only for the first Schedule 6Y.

Enter the information for each member in a separate column. If there are more than three members, use additional Forms 6Y. For example, if there are seven members in the combined group, enter members one through three on Form 6Y (do not complete the combined total column yet). Next, enter members four through six on an additional Form 6Y (do not complete the combined total column yet). Finally, complete a new Form 6Y for the seventh and final member. Complete the combined total column on the last Form 6Y for all group members.

■ **Line 3. Foreign Taxes –** On line 3, enter taxes paid to a foreign nation on dividends listed on lines 1a to 1f if you are claiming those foreign taxes as a deduction elsewhere on your return. You may be including them as a deduction in the federal taxable income you report on Form 6, or you may be claiming them as a subtraction from income on Form 6, Part II, line 4g.

Additional Information and Assistance

Web Resources. The Department of Revenue has a web page dedicated to combined reporting issues, including:

- Related forms and their instructions
- Common questions
- Publications on specific tax topics
- The *Wisconsin Tax Bulletin*
- A home page specifically for combined reporting topics
- Links to the Wisconsin Statutes and Administrative Code

For questions that do not relate to combined reporting, the web page also has a library of frequently asked questions on general business tax topics, available at: revenue.wi.gov/faqs/index.html

Contact Information. If you cannot find the answer to your question in the resources available on the Department of Revenue's web page, contact the Department using any of the following methods:

- E-mail your question to: DORFranchise@wisconsin.gov
- Call (608) 266-2772

  (Telephone help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529. These numbers are to be used only when calling with TTY equipment.)
- Send a fax to (608) 267-0834
- Write to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 3-107, PO Box 8906, Madison, WI 53708-8906