

## Instructions for 2019 Schedule A-04: Wisconsin Apportionment Percentage for Interstate Telecommunications Companies

### Purpose of Schedule A-04

Interstate telecommunication companies required to use apportionment must use the factor prescribed in sec. Tax [2.502](#), Wisconsin Administrative Code.

### Line-by-Line Instructions

#### Property Factor (lines 1 through 14)

The numerator of the property factor (Wisconsin column) includes the average value of the real and tangible personal property owned or rented and used by the taxpayer in Wisconsin in the production of apportionable income during the tax period. The denominator (Total Company column) includes the average value of all of the real and tangible personal property located everywhere owned or rented and used by the taxpayer in the production of apportionable income during the tax period. Property in transit on the date or dates for determining its average value shall be considered to be at its destination, for purposes of computing the property factor. The value of mobile or movable property such as construction equipment, trucks, airplanes, or other equipment which is located within and without Wisconsin during the tax period is determined on the basis of the ratio of time used, serviced and stored within Wisconsin to total time used, serviced, and stored during the tax period. However, an automobile assigned to a traveling employee is included in the numerator of the factor if the employee's compensation is assigned to Wisconsin under the payroll factor.

*Owned property.* Property owned by the taxpayer is valued at its original cost for purposes of computing the property factor. As a general rule "original cost" is deemed to be the basis of the property for federal income tax purposes, prior to any adjustments, at the time of acquisition by the taxpayer and adjusted by subsequent capital additions or improvements to the property and partial disposition of the property, by reason of sale, exchange, abandonment or other means. If the original cost of property is unascertainable, the property shall be included in the factor at its fair market value as of the date of acquisition by the taxpayer. Any subsequent adjustments, other than depreciation or amortization, to net income which affect property, such as capitalizations of repairs and adjustments to inventory, shall also be included in the property factor. The original cost of depletable property such as mines, oil and gas wells and timber shall be reduced by any extraction to the extent that cost depletion has been allowed. Inventories shall be included in the factor in accordance with the valuation method used for Wisconsin income or franchise tax purposes. Property acquired by gift or inheritance shall be included in the factor at its basis for federal income tax purposes. Pollution abatement equipment or waste treatment facilities written off as an expense under s. [71.04 \(2b\)](#) and [\(2g\)](#), 1985-86 or prior years Stats., but still in use, shall be included at original cost.

*Rented property.* Property rented is valued at 8 times the net annual rental determined at arm's length for purposes of computing the property factor. Net annual rental is the annual rental paid or allocated by the department pursuant to s. [71.10 \(1\)](#), [71.30 \(2\)](#) or [71.80 \(1\) \(b\)](#), Stats., less any annual rental received from sub-rentals. In exceptional cases this definition of net annual rental may result in a negative value or clearly inaccurate valuation. In these exceptional instances, any other method which will properly reflect the net annual rental value may be required by the department or may be requested by the taxpayer; however, in no case may the net annual rental be less than an amount which bears the same ratio to the total annual rental paid by the taxpayer as the rental value of the part of the property used by the taxpayer in the production of apportionable income bears to the total rental value of the same rental property.

*Annual rental:*

- Is the amount paid as rental for the property for a 12-month period. Where property is rented for less than a 12-month period, the net rent paid for the actual period of rental constitutes the “annual rental” for the tax period. Where a taxpayer has rented property for a term of 12 or more months and the tax period for which the property factor is being computed covers a period of less than 12 months, such as may be due to a reorganization or change of accounting period, the net rent paid for the short tax period shall be annualized; however, if the rental term is for less than 12 months, the rent shall be adjusted accordingly.
- Is the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer or for its benefit for the use of the property and includes:
  - Any amount payable for the use of real or tangible personal property, or any part of the property, whether designated as a fixed sum of money or as a percentage of sales, profits, or otherwise.
  - Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items which are required to be paid by the terms of the lease or other arrangement, but does not include amounts paid as service charges, such as utilities or janitor services. If a payment includes rent and other charges unsegregated, such as rental charges for public warehouses, the amount of rent shall be determined by making a reasonable allocation between the rent and the other items.
- Does not include incidental day-to-day expenses such as hotel or motel accommodations, daily rental of automobiles or royalties based on extraction of natural resources, whether represented by delivery or purchase. For this purpose, a royalty includes an amount paid to a holder of an interest in real property which constitutes a sharing of current or future production of natural resources from the property, whether denominated as royalty, advanced royalty, rental, delay rental or otherwise.

*Leasehold improvements.* Leasehold improvements for purposes of the property factor are treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. The original cost of leasehold improvements shall be included in the factor.

*Construction in progress.* Property or equipment under construction during the tax period, except inventorable goods in process, is excluded from the factor until the property is actually used by the taxpayer in the regular course of its trade or business. If the property is partially used by the taxpayer in the regular course of its trade or business while under construction, the value of the property to the extent used is included in the property factor.

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

### **Payroll Factor (lines 15 through 20)**

The numerator of the payroll factor (Wisconsin column) includes the total amount paid in Wisconsin during the tax period by the taxpayer for compensation in the production of apportionable income and the denominator (Total Company column) includes the total compensation paid everywhere during the tax period by the taxpayer in the production of apportionable income. Compensation is paid in Wisconsin and included in the numerator if, as provided in ss. [71.04 \(6\) \(b\)](#) and [71.25 \(8\) \(b\)](#), Stats., one of the following applies:

- The individual's service is performed entirely within Wisconsin.

- The individual's service is performed within and without Wisconsin, but the service performed without Wisconsin is incidental to the individual's service within Wisconsin.
- A portion of the service is performed in Wisconsin and the base of operations of the individual is in Wisconsin.
- A portion of the service is performed in Wisconsin and, if there is no base of operations, the place from which the individual's service is directed or controlled is in Wisconsin.
- A portion of the service is performed within Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual's residence is in Wisconsin.
- The individual is neither a resident of nor performs services in Wisconsin but is directed or controlled from an office in Wisconsin and returns to Wisconsin periodically for business purposes and the state in which the individual resides does not have jurisdiction to impose income or franchise taxes on the employer.

*Services.* An individual is considered to be performing a service in Wisconsin during the year if the individual performs services in Wisconsin for at least 5 days during the year. The compensation of any one employee may not be split between 2 or more states during the year; however, this does not apply if the employee is transferred or changes positions during the year.

*Compensation.* Compensation includes:

- Wages, salaries, commissions and any other form of remuneration paid to employees for personal services including amounts contributed to a qualified cash or deferred arrangement under section [401](#) (k) of the Internal Revenue Code on behalf of employees who have elected to participate in the plan. However, matching contributions to the trust by an employer under section [401](#) (k) of the Internal Revenue Code are not included since the employees do not have a right to receive the matching contributions directly in cash.
- The value of board, rent, housing, lodging, and other benefits or services furnished to employees by the taxpayer in return for personal services, provided that these amounts constitute income to the recipient under the federal Internal Revenue Code for the year for which the payroll factor is computed. In the case of employees not subject to the federal Internal Revenue Code, such as citizens of foreign countries employed in foreign countries, the determination of whether the benefits or services constitute income to the employees shall be made as though the employees are subject to the federal Internal Revenue Code.
- Deductible management or service fees paid, or management or service fees allocated by the department under s. [71.10 \(1\)](#), [71.30 \(2\)](#) or [71.80 \(1\) \(b\)](#), Stats., to a related corporation, as defined in section [267](#) (f) (1) of the Internal Revenue Code, as consideration for the performance of personal services. As provided in s. [71.25 \(8\) \(d\)](#), Stats., the recipient of these fees may not include the compensation paid to its employees with respect to the personal services in either the numerator or denominator of its payroll factor and the situs of the fees is in Wisconsin if the services fulfill one of the requirements of par. [\(a\)](#). Except for these management or service fees, payments made to an independent contractor or any other person not properly classifiable as an employee are excluded.

*Excludable compensation.* Compensation paid to produce nonapportionable income or losses or income exempt from taxation under ch. [71](#), Stats., is not included in the numerator or denominator of the payroll factor.

### **Sales Factor (lines 21 through 29)**

**Items Includable in Sales Factor.** For purposes of the sales factor, sales include, but aren't limited to, the following items related to the production of apportionable income:

- Gross receipts from the sale of inventory.
- Gross receipts from the operation of farms, mines, and quarries.
- Gross receipts from the sale of scrap or by-products.
- Gross commissions.

- Gross receipts from personal and other services.
- Gross rents from real property or tangible personal property.
- Interest on trade accounts and trade notes receivable.
- A member's share of a limited liability company's gross receipts or a partner's share of a partnership's gross receipts.
- Gross management fees.
- Gross royalties from income producing activities.
- Gross franchise fees from income producing activities.

"Gross receipts" means gross sales less returns and allowances, plus service charges, freight, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes, including sales and use taxes, are included as part of the receipts if the taxes are passed on to the buyer or included as part of the selling price.

**Items Not Includable in Sales Factor.** Do not include any of the following items in the sales factor:

- Gross receipts and gain or loss from the sale of tangible business assets, except receipts from the sale of inventory, scrap, or by-products or from the operation of a farm, mine, or quarry.
- Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property.
- Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property isn't used in the production of business income.
- Royalties from nonbusiness real property or nonbusiness tangible personal property.
- Proceeds and gain or loss from the redemption of securities.
- Interest, except interest on trade accounts and trade notes receivable, and dividends.
- Gross receipts and gain or loss from the sale of intangible assets, except inventory.
- Dividends deductible in determining net income.
- Gross receipts and gain or loss from the sale of securities.
- Proceeds and gain or loss from the sale of receivables.
- Refunds, rebates, and recoveries of amounts previously expended or deducted.
- Foreign exchange gain or loss.
- Royalties and income from passive investments in patents, copyrights, trademarks, trade names, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, and technical know-how.
- Pari-mutuel wager winnings and purses.
- Other items not includable in apportionable income.

### **Throwback Sales**

A "throwback sale" is a taxpayer's sale of tangible personal property destined for a state where the taxpayer has no nexus. If a sale is a throwback sale, it is included in the numerator of the sales factor as a Wisconsin sale.

For purposes of determining throwback sales, a "state" is any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any United States territory or possession. A foreign country isn't a "state."

**Nexus in General.** To determine if a taxpayer has nexus in another state for purposes of computing throwback sales, you would generally use the same rules that are used to determine if a similarly situated taxpayer would be subject to Wisconsin franchise or income tax if it made the sale to Wisconsin from another state. However, if the Wisconsin Statutes provide a specific exemption from nexus, such as in sec. 71.23(3), Wis. Stats., do not apply that Wisconsin statutory exemption when you determine if there is nexus in the destination state.

A taxpayer engaged in the business of selling tangible personal property does not have nexus in any state where it is protected from taxation under federal Public Law 86-272 (P.L. 86-272). See sec. Tax 2.82, Wisconsin Administrative Code, for more details of P.L. 86-272 and a description of what constitutes nexus for Wisconsin franchise or income tax purposes. Also see sec. Tax 2.39(6)(b), Wisconsin Administrative Code, for more information about the relationship between nexus and throwback sales.

**Nexus and Throwback Sales for Combined Groups.** In a combined group, nexus is determined for the unitary business as a whole. Therefore, a combined group member's sales destined outside Wisconsin cannot be "thrown back" to Wisconsin if **any** member of the combined group has nexus relating to the unitary business in the destination state. The example below illustrates:

*Example:*

Corporation B has an office and inventory in Wisconsin, but when considered as a separate entity, it does not have any property or nexus-creating activity outside Wisconsin. However, Corporation B is in Combined Group BC, which consists of Corporations B and C. Corporation C has an office and retail store in Illinois, which are part of the same unitary business as B's Wisconsin office and inventory.

Assume that B sells a widget to a customer located in Illinois and ships it by common carrier to the customer's Illinois address. Corporation B should not include that sale in its sales factor numerator as a throwback sale. Since C has nexus in Illinois that relates to Combined Group BC's unitary business, B is also deemed to have nexus in Illinois.

See secs. Tax 2.61(7), and 2.82(5), Wisconsin Administrative Code, for further details of how nexus and throwback sales are determined for combined groups.

■ **Lines 21a and 21b. Tangible Personal Property Destined for Wisconsin** – Enter the amounts of Wisconsin destination sales. Gross receipts from the sales of tangible personal property, except sales to the federal government, are Wisconsin sales if the property is delivered or shipped to a purchaser in Wisconsin.

Wisconsin sales include sales of tangible personal property that are picked up by the purchaser, or the purchaser's agent, at the seller's out-of-state business location and immediately transported to the purchaser's Wisconsin business location.

Wisconsin sales do not generally include sales of tangible personal property picked up by the purchaser, or the purchaser's agent, at the seller's Wisconsin business location if the property is immediately transported to the purchaser's out-of-state business location. However, if the seller doesn't have nexus with the state where the purchaser's business is located, the sales are "thrown back" to Wisconsin.

■ **Line 22a. Sales to Federal Government in Wisconsin** – Enter the amount of sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, in Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin. Sales to federal government locations in Wisconsin, which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin, aren't Wisconsin sales.

■ **Line 22b. Throwback Sales to Federal Government** – Enter the amount of sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, outside Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and the seller doesn't have nexus in the destination state.

■ **Line 22c. Throwback Sales** – Enter the amount of sales, other than sales to the federal government, that are “thrown back” to Wisconsin. These are sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin to a state in which the seller doesn't have nexus.

■ **Line 23. Double Throwback Sales** – Enter the amount of “double throwback” sales. These are sales of tangible personal property, other than sales to the federal government, which were made by an office in Wisconsin but not shipped or delivered from Wisconsin, **if** the taxpayer doesn't have nexus in either the destination state or the state from which the property is shipped or delivered.

■ **Line 25. Other Apportionable Gross Receipts** – For both Wisconsin and the total company, enter the amount of other gross receipts of apportionable income that are includable in the sales factor. These gross receipts may include:

- Leases, rentals, or licensing of tangible personal property, including moving property.
- Sales, leases, rentals, or licensing of real property.
- Sales of intangible property.
- Royalties, licensing or allowing the use of intangible property.

In general, these gross receipts are in Wisconsin in proportion to the purchaser's use of or benefit from the property in Wisconsin. See sec. Tax 2.39(6)(c), (d), (h), and (i), Wisconsin Administrative Code, for further details on how to determine the amount of these other apportionable gross receipts in Wisconsin.

■ **Line 30. Apportionment Percentage (separate return filers and pass-through entities)** – Add lines 14, 20, and 29. **Fill all spaces to the right of the decimal point.** Round to the nearest ten-thousandth of a percent (for example, 12.3456%). See the instructions of the tax form you are filing (Form 1NPR, 2, 3, 4, 4T, 5S, or 6) for how to report and use this percentage.

### Conversion to Modified Sales Factor (combined return filers only)

Combined return filers complete lines 31 through 40 to compute the “modified sales factor” that will determine their Wisconsin share of combined unitary income.

■ **Line 31. Sales Factor Amounts** – Enter the total company sales for each line.

■ **Line 33. Intercompany Sales (Combined Group Members Only)** – Any sales made between members of the same combined group (“intercompany sales”), either directly or through interests in a pass-through entity, must be excluded from the amounts you entered on lines 31a through 31l.

Report the excluded amount of intercompany sales on line 33. If you already excluded these intercompany sales from the amounts you entered on lines 31a through 31l, do not enter any amounts on line 33.

Following are additional details about intercompany transactions that involve pass-through entities. For additional information, refer to sec. Tax 2.61(7)(e), Wisconsin Administrative Code.

**Sales to Pass-Through Entities Owned by Combined Group Members.** If a combined group member makes a sale to a pass-through entity which is more than 50 percent owned, directly or indirectly, by members of the combined group, the member must eliminate an amount equal to the gross receipts of the sale multiplied by the sum of all combined group members' interests in the pass-through entity as of the date of the sale. The examples below illustrate:

*Example 1:* Combined Group LM consists of Member L and Member M. L owns a 40% interest in Partnership P. M owns a 60% interest in Partnership P. On March 1, 2019, L sells a widget to Partnership P for \$10,000, and this sale is includable in Group LM's combined unitary income. In its computation of apportionment factors for 2019, L must subtract an amount of \$10,000 ( $= \$10,000 \times (40\% + 60\%)$ ) from its sales factor denominator and, if applicable, from its numerator.

*Example 2:* Assume the same facts as Example 1, except that Member L owns a 25% interest and M owns a 50% interest in Partnership P. In its computation of apportionment factors for 2019, L must subtract an amount of \$7,500 ( $= \$10,000 \times (25\% + 50\%)$ ) from its sales factor denominator and, if applicable, from its numerator.

**Sales by Pass-Through Entities Owned by Combined Group Members.** If a pass-through entity makes a sale to a combined group member and more than 50 percent of the pass-through entity is directly or indirectly owned by members of the combined group, each member with an interest in the pass-through entity must subtract from its sales factor numerator and denominator any amount that would otherwise be included attributable to the sale. The example below illustrates:

*Example:* Combined Group ST consists of Member S and Member T. S owns a 20% interest in Partnership R. T owns an 80% interest in Partnership R. On October 1, 2019, Partnership R sells a widget to S for \$20,000, and this sale is includable in Group ST's combined unitary income. In its computation of apportionment factors for 2019, S must subtract an amount of \$4,000 ( $= \$20,000 \times 20\%$ ) from its sales factor denominator and, if applicable, from its numerator. Similarly, T must subtract an amount of \$16,000 ( $= \$20,000 \times 80\%$ ) from its sales factor denominator and, if applicable, from its numerator.

■ **Line 34. Sales Excluded from Combined Unitary Income** (*Combined Group Members Only*) – If you reported an amount on Form 6, Part II, line 6 for separately apportioned income, you must exclude the sales attributable to that amount from the numerator and denominator of the sales factor, as applicable. Report the excluded amount of these sales on line 34. However, if you already excluded these sales from the amounts you entered on lines 31a through 31l, do not enter any amounts on line 34.

See the instructions to Form N, *Wisconsin Nonapportionable, Separately Accounted, and Separately Apportioned Income*, for further details on how to report and apportion separately apportioned income.

■ **Line 37. Sales Previously Deferred** (*Combined Group Members Only*) – If a combined group member made a sale to another member of the combined group in a prior taxable year and gain or loss on the transaction was deferred under the provisions of sec. 71.255(4)(g), Wis. Stats., the selling member must include the gross receipts from the sale in its sales factor in the year the gain or loss is recognized, to the extent those gross receipts are otherwise includable in the sales factor.

**NOTE:** Section 71.255(4)(g), Wis. Stats., provides that the intercompany deferral provisions of Treas. Reg. §1.1502-13 apply to a combined group similarly to how they apply to a consolidated group for federal purposes. See the instructions to Form 6, Part I, line 33, for details.

Report the gross receipts corresponding to any income recognized under sec. 71.255(4)(g), Wis. Stats., on line 37. If you already included these receipts in the amounts you entered on lines 31a through 31l, do not enter any amounts on line 37.

Under sec. Tax 2.61(7)(d), Wisconsin Administrative Code, special sourcing rules apply to amounts reported on line 37. If a combined group member sells an item or service to another combined group member and the purchaser subsequently resells it to a third party outside of the group, the situs of both sales is determined based on the situs of the sale from the purchasing member to the third party. Also, the purchasing member must exclude from its apportionment factors the amount the selling member already included attributable to that same item or service. The example below illustrates:

**Example:**

Combined Group YZ consists of Member Y and Member Z. Group YZ is on a calendar year. On December 30, 2018, Y sells a widget with a cost of \$400 to Z, for \$600. Y ships the widget to Z's warehouse in Wisconsin. On January 30, 2019, Z resells the widget to Q, an unrelated third party, for \$700. Z ships the widget to Q's headquarters in Illinois. Assume both the sale by Y and the sale by Z are includable in combined unitary income, and assume that Z has nexus in Illinois.

In 2018, Y did not recognize any gain on the sale to Z because the gain was deferred under the provisions of sec. 71.255(4)(g), Wis. Stats. Since the gain on the sale was not recognized, Y cannot include the \$600 sale in its apportionment factors for 2018.

In 2019, Y must include its \$200 of gain on the sale to Z (= \$600 - \$400) in combined unitary income. Y must also include the sale amount of \$600 in its sales factor denominator for 2019. Z must include its \$100 gain on the sale to Q (= \$700 - \$600) in combined unitary income for 2019. However, since \$600 of Z's sales price has already been included in Y's sales factor, Z may only include the remaining \$100 of the sale amount in its sales factor denominator. Neither Y nor Z include these amounts in their sales factor numerators since both sales are deemed to have a situs in Illinois where Group YZ has nexus.

## Additional Information and Assistance

### Web Resources

The Department of Revenue's web page, available at [revenue.wi.gov](http://revenue.wi.gov), has a number of resources to provide additional information and assistance, 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](#)

### 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](mailto: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

### Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 1, 2019: Chapter 71 Wis. Stats., and Chapter Tax 2, Wis. Adm. Code