

Instructions for 2023 Schedule A-02: Wisconsin Apportionment Percentage for Interstate Financial Institutions

Purpose of Schedule A-02

Financial institutions required to use apportionment must use the receipts factor prescribed in sec. Tax 2.49, Wisconsin Administrative Code.

Under sec. Tax 2.49, interest, dividends, gross receipts or net gains from sales of securities held for investment purposes, and other income from investment assets, may not be included in the receipts factor.

Line-by-Line Instructions

Share of Apportionment Factors

Partnerships, corporations, and tax-option (S) corporations must generally include their share of the numerator and denominator of the partnership's apportionment factors in the numerator and denominator of their apportionment factors. Include these amounts using the Wisconsin apportionment Schedules A-01 through A-11, as appropriate.

Line 1. Gross Interest and Other Fees from Loans Secured by Real Property – For the Wisconsin column, include gross interest, fees, points, charges, and penalties from loans secured by real property if the real property securing the loan is located in Wisconsin. If the real property securing the loan is located in Wisconsin and one or more other states or foreign countries, the gross interest, fees, points, charges, and penalties is divided among those states or foreign countries having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in proportion to the fair market value of the real property securing the loan located in each state or foreign country. The determination of whether the real property securing a loan is located in Wisconsin is made at the time the original agreement was made and for each subsequent taxable year.

For the Total Company column, include gross interest, fees, points, charges, and penalties from loans secured by real property everywhere.

Line 2. Gross Interest and Other Fees from Loans Secured by Tangible Personal Property – For the Wisconsin column, enter gross interest, fees, points, charges, and penalties from loans secured by tangible personal property if the tangible personal property securing the loan is located in Wisconsin. If the tangible personal property securing the loan is located in both Wisconsin and one or more other states or foreign countries, the gross interest, fees, points, charges, and penalties is divided among those states or foreign countries having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in proportion to the fair market value of the tangible personal property securing the loan located in each state or foreign country. The determination of whether the tangible personal property securing a loan is located in Wisconsin is made at the time the original agreement was made and for each subsequent taxable year.

For the Total Company column, enter gross interest, fees, points, charges, and penalties from loans everywhere.

Line 3. Gross Interest and Other Fees from Unsecured Loans – For the Wisconsin column, enter gross interest, fees, points, charges, and penalties from loans that are not secured by real or tangible personal property if the loan borrower is in Wisconsin.

For the Total Company column, enter gross interest, fees, points, charges, and penalties from loans made everywhere.

Line 4. Net Gains from Sales of Loans Secured by Real Property – For the Wisconsin column, enter the net gains, but not less than zero, from the sale of loans secured by real property located in Wisconsin. If the real property securing the loan is located in both Wisconsin and one or more other states or foreign countries, the net gain is divided among those states or foreign countries having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in proportion to the fair market value of the real property securing the loan located in each state or foreign country.

For the Total Company column, enter the net gains, but not less than zero, from the sale of loans secured by real property everywhere.

Line 5. Net Gains from Sales of Loans Secured by Tangible Personal Property – For the Wisconsin column, enter the net gains, but not less than zero, from the sale of loans secured by tangible personal property located in Wisconsin. If the tangible personal property securing the loan is located in both Wisconsin and one or more other states or foreign countries, the net gain is divided among those states or foreign countries having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in proportion to the fair market value of the tangible personal property securing the loan located in each state or foreign country.

For the Total Company column, enter the net gains, but not less than zero, from the sale of loans secured by tangible personal property everywhere.

Line 6. Net Gains from Sales of Unsecured Loans – For the Wisconsin column, enter the net gains, but not less than zero, from the sale of loans not secured by real or tangible personal property if the loan borrower is located in Wisconsin.

For the Total Company column, enter the net gains, but not less than zero, from the sale of loans not secured by real or tangible personal property everywhere.

Line 7. Gross Receipts from Credit Card Receivables – For the Wisconsin column, enter gross interest, fees, points, charges, and penalties from credit card receivables and gross receipts from annual fees and other fees charged to credit card holders if the billing address of the credit card holder is in Wisconsin.

For the Total Company column, enter gross interest, fees, points, charges, and penalties from credit card receivables and gross receipts from annual fees and other fees charged to credit card holders everywhere.

Line 8. Net Gains from Sales of Credit Card Receivables – For the Wisconsin column, enter the net gains, but not less than zero, from the sale of credit card receivables if the billing address of the credit card holder is in Wisconsin.

For the Total Company column, enter the net gains, but not less than zero, from the sale of credit card receivables everywhere.

Line 9. Credit Card Issuer's Reimbursement Fees – For the Wisconsin column, enter the taxpayer's credit card issuer's reimbursement fees if the billing address of the credit card holder is in Wisconsin.

For the Total Company column, enter the taxpayer's credit card issuer's reimbursement fees everywhere.

Line 10. Gross Receipts from Merchant Discount – For the Wisconsin column, enter gross receipts from merchant discount if the merchant's trade or business is located in Wisconsin. If the merchant's trade or business is located in and outside Wisconsin, the numerator includes only receipts from merchant discounts on sales made in Wisconsin. If the location of a sale cannot be determined, the numerator includes the merchant discount on the

sale if the merchant's commercial domicile is in Wisconsin. The receipts are computed net of any credit card holder charge backs but may not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its credit card holders.

For the Total Company column, enter gross receipts from merchant discount everywhere. The receipts are computed net of any credit card holder charge backs but may not be reduced by any interchange transaction fees or by any issuer's reimbursement fees paid to another for charges made by its credit card holders.

Line 11. Loan Servicing Fees – For the Wisconsin column, enter loan servicing fees derived from loans owned by the taxpayer or another person, including servicing participations, and secured by tangible personal property or real property located in Wisconsin. If the tangible personal property or real property securing the loan is located in both Wisconsin and one or more other states or foreign countries, the loan servicing fees are divided among those states or foreign countries having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in proportion to the fair market value of the tangible personal property or real property securing the loan located in each state or foreign country. If the location of the tangible personal property or real property securing the loan cannot be determined, the numerator includes the loan servicing fees if the loan borrower or guarantor of the loan is located in Wisconsin. Loan servicing fees derived from loans owned by the taxpayer or another person, including servicing participations, and not secured by real or tangible personal property are included in the Wisconsin column if the loan borrower or guarantor of the loan is located in Wisconsin.

For the Total Company column, enter loan service fees that are secured and unsecured by tangible personal property and real property located everywhere.

Line 12. Gross Receipts from Travelers Checks, Cashier's Checks, Certified Checks, and Money Orders – For the Wisconsin column, enter gross fees or other charges for issuing travelers, cashiers or certified checks, and money orders if purchased in Wisconsin.

For the Total Company column, enter gross fees or other charges for the issuance of traveler's checks, cashier's checks, certified checks, and money orders for the checks or money orders purchased everywhere.

Line 13. Gross Receipts from Automated Teller Machines and Safety Deposit Boxes – For the Wisconsin column, enter gross receipts from the usage of automated teller machines or rental of safety deposit boxes located in Wisconsin.

For the Total Company column, enter gross receipts from the usage of automated teller machines or rental of safety deposit boxes everywhere.

Line 14. Gross Receipts from Maintaining Accounts – For the Wisconsin column, enter gross receipts from the maintenance of accounts, including but not limited to service charges for maintaining accounts, overdraft charges, charges for copies of statements and checks, and fees for account reconciliation, if 1) the service is provided to an account holder that is not engaged in a trade or business, and the account holder's billing address is in Wisconsin, or 2) the service is provided to an account holder that is engaged in a trade or business, the account holder maintains a regular place of business in Wisconsin, and the service received relates to the business in Wisconsin. If the account holder receives the service in more than one state or the state in which the service is received cannot be determined, the service is received in Wisconsin if the account holder, in the regular course of the account holder's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the services are received in Wisconsin if the account holder's billing address is in Wisconsin.

For the Total Company column, enter gross receipts from the maintenance of accounts, including but not limited to service charges for maintaining accounts, overdraft charges, charges for copies of statements and checks, and fees for account reconciliation everywhere.

Line 15. Gross Receipts from Electronic Funds Transfer – For the Wisconsin column, enter electronic funds transfer fees if 1) the service is provided to a customer that is not engaged in a trade or business, and the customer's billing address is in Wisconsin, or 2) the service is provided to a customer that is engaged in a trade or business, the customer maintains a regular place of business in Wisconsin, and the service received relates to the business in Wisconsin. If the customer receives the service in more than one state or the state in which the service is received cannot be determined, the service is received in Wisconsin if the customer, in the regular course of the customer's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the services are received in Wisconsin if the customer's billing address is in Wisconsin.

For the Total Company column, enter electronic funds transfer fees from everywhere.

Line 16. Gross Receipts from Cash Management Services – For the Wisconsin column, enter the gross amount of any fees or charges generated from cash management services, including but not limited to lockbox services, depository transfer checks, and payables management, if the service is provided to a customer that is engaged in a trade or business, the customer maintains a regular place of business in Wisconsin, and the service received relates to the business in Wisconsin. If the customer receives the service in more than one state or the state in which the service is received cannot be determined, the service is received in Wisconsin if the customer, in the regular course of the customer's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the services are received in Wisconsin if the customer's billing address is in Wisconsin.

For the Total Company column, enter the gross amount of any fees or charges generated from cash management services, including but not limited to lockbox services, depository transfer checks, and payables management from everywhere.

Line 17. Gross Receipts from International Trade Services – For the Wisconsin column, enter the gross receipts from international trade services, including but not limited to letters of credit and bankers acceptance notes, if the service is provided to a customer that is engaged in a trade or business, the customer maintains a regular place of business in Wisconsin, and the service received relates to the business in Wisconsin. If the customer receives the service in more than one state or the state in which the service is received cannot be determined, the service is received in Wisconsin if the customer, in the regular course of the customer's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the services are received in Wisconsin if the customer's billing address is in Wisconsin.

For the Total Company column, enter the gross receipts from international trade services, including but not limited to letters of credit and banker's acceptance notes received everywhere.

Line 18. Gross Receipts from Data Processing Services and Document Imaging Services – For the Wisconsin column, enter the gross receipts from data processing services, document imaging services, and microfilming services if the service is provided to a customer that is engaged in a trade or business, the customer maintains a regular place of business in Wisconsin, and the service received relates to the business in Wisconsin. If the customer receives the service in more than one state or the state in which the service is received cannot be determined, the service is received in Wisconsin if the customer, in the regular course of the customer's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the services are received in Wisconsin if the customer's billing address is in Wisconsin.

For the Total Company column, enter the gross receipts from data processing services, document imaging services, and microfilming services received everywhere.

Line 19. Gross Receipts from Research Services – For the Wisconsin column, enter the gross receipts from research services if, 1) the service is provided to a customer that is not engaged in a trade or business, and the customer's billing address is in Wisconsin, or 2) the service is provided to a customer that is engaged in a trade or business, the customer maintains a regular place of business in Wisconsin, and the service received relates to the business in Wisconsin. If the customer receives the service in more than one state or the state in which the service is received cannot be determined, the service is received in Wisconsin if the customer, in the regular course of the customer's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the services are received in Wisconsin if the customer's billing address is in Wisconsin.

For the Total Company column, enter the gross receipts received from research services everywhere.

Line 20. Gross Receipts from Trust Services – For the Wisconsin column, enter the gross receipts from trust services if, 1) the service is provided to a customer that is not engaged in a trade or business, and the customer's billing address is in Wisconsin, or 2) the service is provided to a customer that is engaged in a trade or business, the customer maintains a regular place of business in Wisconsin, and the service received relates to the business in Wisconsin. If the customer receives the service in more than one state or the state in which the service is received cannot be determined, the service is received in Wisconsin if the customer, in the regular course of the customer's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the services are received in Wisconsin if the customer's billing address is in Wisconsin.

For the Total Company column, enter the gross receipts received from trust services everywhere.

Line 21. Gross Receipts from Investment Banking Services – For the Wisconsin column, enter the gross receipts, including commissions, management fees, or underwriting fees, earned from investment banking services if, 1) the issuer of the securities is not engaged in a trade or business, and the issuer's billing address is in Wisconsin, or 2) the issuer of the securities is engaged in a trade or business, the issuer of the securities maintains a regular place of business in Wisconsin, and the securities relate to that person's business in Wisconsin. If the securities relate to that person's regular place of business in more than one state, the receipts from the performance of the service are included in the numerator of the receipts factor according to the portion of the service received in Wisconsin. If the regular place of business to which the securities relate cannot be determined, the service is received in Wisconsin if the issuer of the securities, in the regular course of the issuer's business, ordered the service from an office in Wisconsin. If the ordering office cannot be determined, the service is received in Wisconsin if the issuer's billing address is in Wisconsin.

For the Total Company column, enter the gross receipts, including commissions, management fees, or underwriting fees, earned from investment banking services received everywhere.

Line 22. Gross Receipts from Brokerage Services – For the Wisconsin column, enter the fees, commissions, margin interest, and other gross receipts from security brokerage services if the customer's billing address is in Wisconsin. The Wisconsin column includes net gains, net of commissions, but not less than zero, from sales of trading assets if the customer's billing address is in Wisconsin. "Trading assets" include securities, commodities, and related financial instruments that a taxpayer acquires and holds for sale in its inventory account. The receipts factor does not include gross receipts or net gains from sales or other dispositions of investment assets.

For the Total Company column, enter the total fees, commissions, margin interest, and other gross receipts from security brokerage services received everywhere.

Line 23. Gross Receipts from Services Provided to Regulated Investment Companies – For the Wisconsin column, enter gross receipts and net gain described above from services provided to or on behalf of a regulated investment company, as defined in section [851](#) of the Internal Revenue Code (IRC). The regulated investment company is considered the purchaser or consumer of the services.

At the taxpayer's option, the portion of the gross receipts received from a regulated investment company from the sale of administration, distribution, or management services is included in the numerator of the receipts factor as described below. A taxpayer that makes this election must use this method to determine the receipts included in the numerator of the receipts factor from each regulated investment company for or on behalf of which it performs services and must compute the receipts from each regulated investment company separately. For purposes of this paragraph:

- “Administration services” include clerical, accounting, participant record keeping, transfer agency, bookkeeping, data processing, custodial, internal auditing, legal, and tax services provided for a regulated investment company but only if the provider of the services also provides, or is affiliated with a person that provides, distribution or management services to the regulated investment company.
- “Distribution services” include advertising, servicing investor accounts, marketing, or selling shares of the regulated investment company. In the case of advertising, servicing, or marketing shares, the services are performed by a person that is or, in the case of a closed end company, was either engaged in the service of selling the shares or affiliated with a person that is engaged in the service of selling the shares. In the case of an open end company, the service of selling shares is performed pursuant to a contract entered into under [15 USC 80a-15\(b\)](#).
- “Management services” include rendering investment advice directly or indirectly to a regulated investment company, determining when sales and purchases of securities are to be made on behalf of the regulated investment company, selling or purchasing securities constituting assets of a regulated investment company, and related activities, but only if the activities are performed pursuant to a contract with the regulated investment company entered into under [15 USC 80a-15\(a\)](#), for a person that has entered into the contract with the regulated investment company or for a person that is affiliated with a person that has entered into the contract with a regulated investment company.
- A person is affiliated with another person if each person is a member of the same affiliated group, as defined under section [1504](#) of the IRC without regard to sub. (b) of section 1504.
- Receipts received from a regulated investment company include amounts received directly or indirectly from the regulated investment company and amounts received from shareholders in the regulated investment company.

The Wisconsin column includes the sum of receipts determined by multiplying the gross receipts from the sale of administration, distribution, and management services provided to or on behalf of each separate regulated investment company by a fraction, computed as follows:

- The numerator of the fraction is the sum of the monthly percentages determined for each month of the regulated investment company's taxable year for federal income tax purposes, which taxable year ends within or at the same time as the taxpayer's taxable year but excluding any month during which the regulated investment company had no outstanding shares. The monthly percentage for each month is determined by dividing the number of shares in the regulated investment company that are owned on the last day of the month by shareholders whose domicile or commercial domicile is in Wisconsin by the total number of shares in the regulated investment company outstanding on that date.
- The denominator of the fraction is the number of monthly percentages.

For the Total Company column, enter the total gross receipts and net gain described above from services provided to or on behalf of a regulated investment company no matter where performed.

Line 24. Gross Receipts from Other Services – For the Wisconsin column, enter gross receipts from services that are not described above if the purchaser of the service received the benefit of the service in Wisconsin under any of the following circumstances:

The benefit of a service is received in Wisconsin if any of the following applies:

- The service relates to real property that is located in Wisconsin.
- The service relates to tangible personal property that is delivered directly or indirectly to customers in Wisconsin.
- The service is purchased by an individual who is physically present in Wisconsin at the time that the service is received.
- 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 are included in the numerator of the receipts factor according to the portion of the service received in Wisconsin.

For the Total Company column, enter gross receipts from services not described above received everywhere.

Line 25. Gross Receipts from the Sale, Lease, Rental or License of Real Property – For the Wisconsin column, enter gross receipts from the lease, rental, or licensing of real property owned by the taxpayer if the real property is located in Wisconsin and gross receipts from the sublease of real property if the real property is located in Wisconsin.

For the Total Company column, enter gross receipts from the lease, rental, or licensing of real property owned by the taxpayer and gross receipts from the sublease of real property located everywhere.

Line 26. Gross Receipts from the Sale, Lease, Rental or License of Tangible Personal Property – For the Wisconsin column, enter gross receipts from the lease, rental, or licensing of tangible personal property owned by the taxpayer and the sublease of tangible personal property if the property is located in Wisconsin during the entire period of lease, rental, licensing, sublease, or other use. If the property is used in and outside Wisconsin during the period of lease, rental, licensing, or sublease, gross receipts are included in the numerator of the receipts factor to the extent that the property is used in Wisconsin. The proportion of use in Wisconsin is determined by multiplying the gross receipts from the lease, rental, licensing, sublease, or other use of the property by a fraction having as a numerator the number of days the property is in Wisconsin while leased, rented, licensed, or subleased in the taxable year and having as a denominator the total number of days that the property is leased, rented, licensed, or subleased in all states having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in the taxable year.

Gross receipts from the lease, rental, or licensing of moving property, including motor vehicles, rolling stock, aircraft, vessels, or mobile equipment, owned by the taxpayer and the sublease of moving property are included in the numerator of the receipts factor to the extent that the property is used in Wisconsin. The proportion of use of moving property in Wisconsin is determined as follows:

- The proportion of use of a motor vehicle or rolling stock in Wisconsin is determined by multiplying the gross receipts from the lease, rental, licensing, or sublease of the motor vehicle or rolling stock by a fraction having as a numerator the number of miles traveled within Wisconsin by the motor vehicle or rolling stock while leased, rented, licensed, or subleased in the taxable year and having as a denominator the total number of miles traveled by the motor vehicle or rolling stock while leased, rented, licensed, or subleased in the taxable year.
- The proportion of use of an aircraft in Wisconsin is determined by multiplying the gross receipts from the lease, rental, licensing, or sublease of the aircraft by a fraction having as a numerator the number of takeoffs and landings of the aircraft in Wisconsin while leased, rented, licensed, or subleased in the taxable year and having as a denominator the total number of takeoffs and landings of the aircraft while leased, rented, licensed, or subleased in the taxable year.
- The proportion of use of a vessel or mobile equipment in Wisconsin is determined by multiplying the gross receipts from the lease, rental, licensing, or sublease of the vessel or mobile equipment by a fraction having as a numerator the number of days that the vessel or mobile equipment is in Wisconsin while leased, rented, licensed, or subleased in the taxable year and having as a denominator the total number of days that the vessel or mobile equipment is leased, rented, licensed, or subleased in the taxable year.
- If the taxpayer is unable to determine the use of moving property under subd. [2. a.](#), [b.](#), or [c.](#) while the property is leased, rented, licensed, or subleased in the taxable year, the moving property is conclusively deemed to be used in Wisconsin in which the property is located at the time that the lessee, renter, licensee, or sublessee takes possession of the property.

Line 27. Gross Receipts from Computer Software – For the Wisconsin column, enter gross receipts from the use of computer software if the purchaser or licensee uses the computer software at a location in Wisconsin. Computer software is used at a location in Wisconsin if the purchaser or licensee uses the computer software in the regular course of business operations in Wisconsin, for personal use in Wisconsin, or if the purchaser or licensee is an individual whose domicile is in Wisconsin. If the purchaser or licensee uses the computer software in more than one state, the gross receipts are divided among those states having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in proportion to the use of the computer software in those states. To determine computer software use in Wisconsin, the department may consider the number of users in each state where the computer software is used, the number of site licenses or workstations in Wisconsin, and any other factors that reflect the use of computer software in Wisconsin.

For the Total Company column, enter gross receipts from the use of computer software used everywhere.

Line 28. Gross Royalties and Other Gross Receipts from Intangibles Excluding Securities – For the Wisconsin column, enter gross royalties and other gross receipts received for the use of intangible property if the user, purchaser, or licensee uses the intangible property at a location in Wisconsin. Intangible property is used at a location in Wisconsin if the user, purchaser, or licensee uses the property in the operation of a trade or business at a location in Wisconsin, for personal use in Wisconsin, or if the user, purchaser, or licensee is an individual whose domicile is in Wisconsin. If the user, purchaser, or licensee uses the intangible property in more than one state, the gross royalties and other gross receipts from the sale or use of the intangible property shall be divided among those states having jurisdiction to impose an income tax or franchise tax measured by net income on the taxpayer in proportion to the use of the intangible property in those states. To determine intangible property use in Wisconsin, the department may consider the number of licensed sites in each state, the volume of property manufactured, produced, or sold at locations in Wisconsin, or any other factors that reflect the use of the intangible property in Wisconsin.

For the Total Company column, enter gross royalties and other gross receipts received for the use of intangible property no matter where used.

Line 29. Sales of Tangible Personal Property – For the Wisconsin column, enter gross receipts from the sales of tangible personal property, except sales to the federal government, if the property is delivered or shipped to a purchaser within Wisconsin regardless of the f.o.b. point or other conditions of the sales. Some situations in which property is considered to be delivered or shipped to a purchaser within Wisconsin are if:

- The property is picked up outside Wisconsin by a purchaser having a Wisconsin business location and the purchaser returns to Wisconsin with the property.
- The taxpayer, at the designation of the purchaser, or the purchaser delivers to or has the property shipped to a recipient other than the purchaser within Wisconsin.
- The shipment by either the taxpayer or the purchaser terminates in Wisconsin, even though the property is subsequently transferred by the purchaser to another state.
- The recipient is in Wisconsin, even though the property is ordered from outside Wisconsin.
- The property is being shipped by a seller or purchaser from one state to a consignee in another state and is diverted while enroute to a purchaser in Wisconsin, or the designee of a purchaser who is in Wisconsin.
- Sales to the federal government are in Wisconsin if the property is shipped from an office, store, warehouse, factory or other place of storage in Wisconsin and delivered to the federal government, including its agencies and instrumentalities, in Wisconsin regardless of the f.o.b. point or other conditions of sale. Only sales for which the federal government makes direct payment to the seller pursuant to the terms of its contract constitute sales to the federal government. Thus, sales by a subcontractor to the prime contractor, the party to the contract with the federal government, do not constitute sales to the federal government.
- Sales to the federal government are in Wisconsin if the property is shipped from an office, store, warehouse, factory or other place of storage in Wisconsin and delivered to the federal government, including its agencies and instrumentalities, outside Wisconsin and the taxpayer does not have nexus in the destination state.

For the Total Company column, enter the gross receipts from the sales of tangible personal property everywhere.

Line 30. Gross Receipts Apportioned to a State Where the Taxpayer Would not be Taxable Under P.L.86-272 – For the Wisconsin column, enter the throwback sales described below.

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 is not a “state.”

Nexus in General. To determine if a taxpayer has nexus in another state for purposes of computing throwback sales, apply the same rules 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.

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.

Line 32. Apportionment Percentage (Separate return filers and pass-through entities) – Divide Wisconsin column, line 31, by Total Company column, line 31, and multiply that amount by 100. **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 being filed (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 complete lines 33 through 38 to compute the "modified sales factor" that will determine their Wisconsin share of combined unitary income. .

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 being entered on lines 1 through 30.

Report the excluded intercompany sales on line 33. If these intercompany sales are already excluded from lines 1 through 30, do not enter any amounts on line 33.

Additional details about intercompany transactions involving pass-through entities are presented below and 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, 2023, 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 2023, L must subtract \$10,000 (= \$10,000 x (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 2023, L must subtract \$7,500 (= \$10,000 x (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, 2023, 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 2023, S must subtract \$4,000 (= \$20,000 x 20%) from its sales factor denominator and, if applicable, from its numerator. Similarly, T must subtract \$16,000 (= \$20,000 x 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 sales are included in the amount reported Form 6, Part II, line 6 for separately apportioned income, those sales are excluded from the numerator and denominator of the sales factor. Report the excluded amount of these sales on line 34.

However, if these excluded sales are entered on lines 1 through 30, 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 these receipts are already included on lines 1 through 30, 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, 2022, 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, 2023, 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 2022, 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 2022.

In 2023, Y must include its \$200 of gain on the sale to Z (= \$600 - \$400) in combined unitary income. Y must also include the sale \$600 in its sales factor denominator for 2023. Z must include its \$100 gain on the sale to Q (= \$700 - \$600) in combined unitary income for 2023. 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, has a number of resources to provide additional information and assistance, including:

- [Forms](#)
- [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
- 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 enacted as of the revised date: Chapter 71 Wis. Stats., and Chapter Tax 2, Wis. Adm. Code