

New Wisconsin Tax Legislation: Anticipated Apportionment Factors

You may have recently heard reports of Wisconsin Governor Jim Doyle unveiling his budget repair and economic stimulus package. The legislation is expected to be introduced in the Wisconsin Legislature this week. While legislation typically takes some time to go through the legislative process and be enacted into law, this legislation is anticipated to be signed into law in a matter of days, and possibly as early as the end of this week.

The tax changes in the Governor's package are anticipated to be significant in the areas of both sales/use tax and income/franchise tax. Although details of the legislation may change, it is anticipated that the changes to Wisconsin's state and local tax laws will include the following:

Adoption of Streamlined Sales Tax

- All prewritten computer software will be subject to Wisconsin sales and use taxes (in effect reversing the potential benefit of the recent Menasha Corp. decision relating to taxation of custom software)
- Certain digital personal property will be subject to Wisconsin sales and use taxes
- Previously-taxable home medical equipment may now qualify for exemption from Wisconsin sales and use taxes

Required Combined Reporting for Corporations

- Will be effective retroactive to 1/1/09
- May be used in calculating the corporation's 3/15/09 estimated tax payment
- Includes all members of combined group, which will be defined as 50% common ownership
- Ability to use pre-1/1/09 separate-company losses will be greatly diminished (so loss carryforwards will only be available for the entity with the loss)
- Post-1/1/09, if a company is acquired, losses attributable to that company's

POSTED:

Feb 15, 2009

RELATED PRACTICES:

[Tax](#)

<https://www.reinhartlaw.com/practices/tax>

RELATED PEOPLE:

[Kristina E. Somers](#)

<https://www.reinhartlaw.com/people/kristina-somers>



activities before acquisition will have to be maintained on a separate-company basis and cannot be used to offset the combined group's net income

- Both pre- and post-combined reporting, credits will have to be maintained on a separate-company basis.

Telecommunication Companies

- Apportionment factors may change

We will continue to monitor this quick-moving legislation. Please feel free to contact your attorney, me, or any other member of the [Reinhart State and Local Tax Team](#) regarding these developments.

These materials provide general information which does not constitute legal or tax advice and should not be relied upon as such. Particular facts or future developments in the law may affect the topic(s) addressed within these materials. Always consult with a lawyer about your particular circumstances before acting on any information presented in these materials because it may not be applicable to you or your situation. Providing these materials to you does not create an attorney/client relationship. You should not provide confidential information to us until Reinhart agrees to represent you.