

Income/Franchise:

Wisconsin Bulletin Explains Apportionment for Interstate Brokers-Dealers, Investment Advisers, Investment Companies

Wisconsin Tax Bulletin (No. 222), Wis. Dept. of Rev. (7/23). The Wisconsin Department of Revenue (Department) issued a bulletin summarizing some recent state tax law changes [see S.B. 70 (Act 19), signed by gov. 7/5/23, for details on some of these tax law changes], including revisions to how a brokerage house, investment adviser, investment company, or underwriter that is engaged in business both in and outside of Wisconsin must apportion its apportionable income. Specifically, the Department summarizes a new rule providing that, in certain instances, the Department cannot order or permit the substitution of net gains for gross receipts in the receipts factor if the use of gross receipts results in substantial distortion of the taxpayer's receipts factor. That is, under the new law, the Department cannot substitute net gains if any taxpayer who, before January 1, 2023, elected to source its sales of trading assets using the customer billing address method defined in Wis. Adm. Code, sec. Tax 2.495(4)(d)1m., if the taxpayer has not revoked that election, and who, for any taxable year beginning after December 31, 2021, determines its receipts factor under Wis. Adm. Code, sec. Tax 2.495(4) by using the average of the receipts factor determined by using (a) gross receipts, net of commissions, and (b) net gain, net of commissions, from sales of trading assets for the taxable year, with all other components of the receipts factor under Wis. Adm. Code, sec. Tax 2.495(4) remaining the same. According to the Department, any such taxpayer may compute its receipts factor under this new rule using that averaging method, and the Department cannot require any taxpayer who elected before January 1, 2023, to use the customer billing address method for sourcing sales of trading assets, if the taxpayer has not revoked that election, to use any other method of determining its receipts factor under Wis. Adm. Code, sec. Tax 2.495(4). Please contact us with any questions.

URL: <https://www.revenue.wi.gov/WisconsinTaxBulletin/222-07-23-WTB.pdf>

URL: <https://docs.legis.wisconsin.gov/2023/proposals/sb70>

— Scott Bender (Milwaukee)
Principal
Deloitte Tax LLP
sbender@deloitte.com

Michael Gordon (Milwaukee)
Senior Manager
Deloitte Tax LLP
michagordon@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.