

2001 DRAFTING REQUEST

Bill

Received: 09/26/2000

Received By: jkreye

Wanted: Soon

Identical to LRB:

For: Administration-Budget 6-8593

By/Representing: Holden

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Alt. Drafters:

Subject: Tax - property

Extra Copies:

Pre Topic:

DOA:.....Holden -

Topic:

Property tax exemptions and income tax deductions for treatment plant and pollution abatement equipment

Instructions:

See Attached & 99-3307/2

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 09/27/2000	gilfokm 10/09/2000					State Tax
/1	jkreye 10/16/2000	gilfokm 10/16/2000	rschluet 10/10/2000		lrb docadmin 10/10/2000		State Tax
/2			martykr 10/17/2000		gretskl 10/17/2000		

FE Sent For:

<END>

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/?	jkreye 09/27/2000	gilfokm 10/09/2000					State Tax
/1		10-10/16 Kmg	rschluet 10/10/2000		lrb_docadmin 10/10/2000		

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Km 10/17 *RS* *Km 10/17*

<END>

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TAX - corp. inc. and prop.

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Topic:

and income tax deductions^{NS}

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1?	jkreye	1-10/9 [Signature]	[Signature] 10-10-00	[Signature] Km	10-10-00		

FE Sent For:

<END>

TOMMY G. THOMPSON
GOVERNOR

GEORGE LIGHTBOURN
SECRETARY



Division of Executive Budget and Finance
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1736
Fax (608) 267-0372
TTY (608) 267-9629

Date: September 25, 2000
To: Steve Miller, LRB
From: Kerry Holden, DOA *KH*
266-8593
Subject: DOR Statutory Language Requests

546

I'm forwarding statutory language changes submitted with its budget by the Department of Revenue that pertain to corporate income and franchise tax, sales and use tax, and utility and special taxes.

Corporate Income and Franchise Tax:

1. Clarify the treatment of corporations that are members of LLCs or partners of partnerships, taxed as corporations. See Attachment 1.

Sales and Use Tax:

2. Revise definition of tangible personal property for purposes of property affixed to real estate (trade fixtures). See Attachment 2.
3. Clarify property deemed to be tangible personal property for repair purposes. See Attachment 3.
4. Clarify definition of tangible personal property for information or data transferred in tangible form. See Attachment 4.
5. Provide exemption for construction materials sold to contractors for use in school projects. See Attachment 5.

Utility and Special Taxes:

6. Revisions to manufacturing assessment laws. See Attachment 6.
7. Classify multi-use telephone company buildings based on predominant use (instead of requiring multi-jurisdictional assessment). See Attachment 7.
8. ~~Clarify treatment exemption application. See Attachment 8.~~

Please feel free to call me if you have any questions or concerns. Thank you!

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF STATE AND LOCAL FINANCE
MANUFACTURING & TELCO ASSESSMENT BUREAU
JULY 8, 1999**

U8

TITLE: Eliminate Waste Treatment Exemption Application

SUMMARY OF RECOMMENDATION:

Eliminate the requirement that property owners of waste treatment plant and abatement equipment apply for the property tax exemption on this type of property. Under this change, only utilities and certain insurers would be required to apply for the exemption. In all other cases, the exemption would be granted automatically but reviewed in the next field audit of the owner's property.

DESCRIPTION OF CURRENT LAW:

Currently, a manufacturer must file an application with and receive approval from the Department of Revenue (Manufacturing and Telco Assessment Bureau) to get the waste treatment and abatement equipment property tax exemption. Then the manufacturer reports the property on the M-Forms submitted to the district offices, who compare the M-Form to a copy of the approved application. Central staff approves about 95% of the items requested. District office appraisers field-audit the property every five years to verify its use.

Each December the department mails about 2,000 applications to previous filers (as a cost of approximately \$750) and receives only 500 back. The department spends about 300 hours processing the applications. About 150 applications are from nonmanufacturers assessed locally that typically include straightforward items. The property tax approval serves as final approval for sales tax. The department grants 50 to 100 tentative sales tax approvals each year.

PROBLEM/OPPORTUNITY DEFINITION:

This proposal ties to the Department's Goals to increase customer satisfaction and to improve efficiency. It also ties to the strategy to meet customer needs.

One problem is the complexity of the current process that requires manufacturers to deal with two reporting forms, two due dates and two Bureau offices. These dual forms, due dates and duties are unneeded complexity for the department's Bureau of Manufacturing and Telco Assessment. This process is also inconsistent with and less efficient than the process used to administer the M&E exemption (which exempts much more value). The M&E exemption is administered through self-reported M-forms and cyclical 5-year field audits.

Another problem is that the department must make omitted assessments for up to five years if an appraiser finds waste treatment property erroneously reported as exempt M&E. If the converse occurred, (M&E reported as W.T.) there is no assessment, because there is no application requirement for M&E, only a use requirement. This seems inconsistent and unfair to manufacturers and five years of omitted tax bills can cause substantial financial pain.

Municipal assessors can easily exempt the straightforward items at nonmanufacturers. The department would continue to grant tentative sale tax approvals. The accuracy of exemption administration can be maintained by providing the department's district office with instruction and procedural manuals.

RECOMMENDATION:

Revise the law. The Bureau will measure actual savings through its time reporting system and dollar savings through budget status reports. Assessment accuracy will be monitored through annual pareto analyses of assessment errors and rework.

FISCAL/ADMINISTRATIVE IMPACT:

This proposal would save the department the time spent processing the 500 applications (300 hours) and \$750 annually in printing and mailing forms. It saves manufacturersthe time spent filing 500 applications annually.

Revising the M-forms to cover waste treatment property will take about 40 hours. Revising the Exempt M&E Opinion Request Form to cover waste treatment property will take about 20 hours. Revising Chapter 10 of the WPAM, procedural manuals for field audit and annual assessment, and revising the Interview Form, will take about 80 hours.

DRAFTING INSTRUCTIONS:

This proposal was included as one part of 1999 AB 726. Also see 1999 LRB 3307/2, attached.

EFFECTIVE DATE: January following passage of the legislation.

PERSON TO CONTACT: Charles E. Turner, Telephone 266-3845

1999 BILL

1 **AN ACT to repeal 70.11 (21) (e); and to amend 70.11 (21) (a), 70.11 (21) (c) and**
2 **(d), 70.11 (21) (f), 71.05 (11) (b), 73.01 (4) (a) and 73.01 (5) (a) of the statutes;**
3 **relating to: discontinuing the requirement that owners of treatment plant and**
4 **pollution abatement equipment, except utilities and certain insurers, apply for**
5 **their property tax exemptions.**

Analysis by the Legislative Reference Bureau

Under current law, all owners of treatment plant and pollution abatement equipment must apply for their property tax exemptions. Under this bill, only utilities and certain insurers will be required to do so.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 70.11 (21) (a) of the statutes is amended to read:

BILL

1 70.11 (21) (a) All property purchased or constructed as a waste treatment
2 facility used for the treatment of industrial wastes as defined in s. 281.01 (5) or air
3 contaminants as defined in s. 285.01 (1) but not for other wastes as defined in s
4 281.01 (7) and approved by the department of revenue for the purpose of abating or
5 eliminating pollution of surface waters, the air or waters of the state if that property
6 is not used to grow agricultural products for sale and, if the property's owner is taxed
7 under ch. 76, if the property is approved by the department of revenue. For the
8 purposes of this subsection "industrial waste" also includes wood chips, sawdust and
9 other wood residue from the paper and wood products manufacturing process that
10 can be used as fuel and would otherwise be considered superfluous, discarded or
11 fugitive material. The department of natural resources and department of health
12 and family services shall make recommendations upon request to the department of
13 revenue regarding such property. All property purchased or upon which
14 construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

15 SECTION 2. 70.11 (21) (c) and (d) of the statutes are amended to read:

16 70.11 (21) (c) A prerequisite to exemption under this subsection for owners who
17 are taxed under ch. 76 is the filing of a statement on forms prescribed by the
18 department of revenue with the department of revenue. This statement shall be filed
19 not later than January 15 of the year in which a new exemption is requested or in
20 which a waste treatment facility that has been granted an exemption is retired,
21 replaced, disposed of, moved to a new location or sold.

22 (d) The department of revenue shall allow an extension to ~~February 15; or, if~~
23 ~~the owner is subject to tax under ch. 76, to~~ a date determined by the department by
24 rule; ~~of the due date~~ for filing the report form required under par. (c) if a written

BILL

1 application for an extension, stating the reason for the request, is filed with the
2 department of revenue before January 15.

3 SECTION 3. 70.11 (21) (e) of the statutes is repealed.

4 SECTION 4. 70.11 (21) (f) of the statutes is amended to read:

5 70.11 (21) (f) If property about which a statement has been filed under par. (c)
6 is determined to be taxable, the owner may appeal that determination to the tax
7 appeals commission under s. 73.01 (5) (a), ~~except that assessments under s. 76.07~~
8 ~~shall be appealed under s. 76.08 and except that assessments under s. 70.995 (5)~~
9 ~~shall be appealed under s. 70.995 (8).~~

10 SECTION 5. 71.05 (11) (b) of the statutes is amended to read:

11 71.05 (11) (b) The cost of the following described property, less any federal
12 depreciation or amortization taken, may be deducted as a subtraction modification
13 or as subtraction modifications in the year or years in which paid or accrued,
14 dependent on the method of accounting employed: All property purchased or
15 constructed as a waste treatment facility utilized for the treatment of industrial
16 wastes as defined in s. 281.01 (5), or air contaminants as defined in s. 285.01 (1) but
17 not for other wastes as defined in s. 281.01 (7) ~~and approved by the department of~~
18 ~~revenue under s. 70.11 (21) (a) for the purpose of abating or eliminating pollution of~~
19 surface waters, the air or waters of the state and, if the property's owner is taxed
20 under ch. 76, if the property is approved by the department of revenue. In case of
21 such election, appropriate add modifications shall be made in subsequent years to
22 reverse federal depreciation or amortization or to correct gain or loss on disposition.
23 This paragraph is intended to apply only to depreciable property except that where
24 wastes are disposed of through a lagoon process, lagooning costs and the cost of land
25 containing such lagoons may be treated as depreciable property for purposes of this

BILL

1 paragraph. In no event may any amount in excess of cost be deducted. Paragraph
2 (a) applies to all property purchased prior to July 31, 1975, or purchased and
3 constructed in fulfillment of a written construction contract or formal written bid,
4 which contract was entered into or which bid was made prior to July 31, 1975.

5 **SECTION 6.** 73.01 (4) (a) of the statutes is amended to read:

6 ~~73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,~~
7 the commission shall be the final authority for the hearing and determination of all
8 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
9 ~~70.11 (21),~~ 70.38 (4) (a), 70.397, 70.64 and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss.
10 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,
11 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76 and 139.78, subch. XIV of ch.
12 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed
13 with the commission a stipulation signed by the department of revenue and the
14 adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal
15 of the department's position with respect to some or all of the issues raised in the
16 appeal, the commission shall enter an order affirming or modifying in whole or in
17 part, or canceling the assessment appealed from, or allowing in whole or in part or
18 denying the petitioner's refund claim, as the case may be, pursuant to and in
19 accordance with the stipulation filed. No responsibility shall devolve upon the
20 commission, respecting the signing of an order of dismissal as to any pending appeal
21 settled by the department without the approval of the commission.

22 **SECTION 7.** 73.01 (5) (a) of the statutes is amended to read:

23 73.01 (5) (a) Any person who is aggrieved by a determination of the state board
24 of assessors under s. 70.995 (8) ~~or by the department of revenue under s. 70.11 (21)~~
25 or who has filed a petition for redetermination with the department of revenue and

BILL

1 who is aggrieved by the redetermination of the department may, within 60 days of
2 the determination of the state board of assessors or of the department or, in all other
3 cases, within 60 days after the redetermination but not thereafter, file with the clerk
4 of the commission a petition for review of the action of the department and the
5 number of copies of the petition required by rule adopted by the commission. If a
6 municipality appeals, its appeal shall set forth that the appeal has been authorized
7 by an order or resolution of its governing body and the appeal shall be verified by a
8 member of that governing body as pleadings in courts of record are verified. The clerk
9 of the commission shall transmit one copy to the department of revenue and to each
10 party. In the case of appeals from manufacturing property assessments, the person
11 assessed shall be a party to a proceeding initiated by a municipality. At the time of
12 filing the petition, the petitioner shall pay to the commission a \$25 filing fee. The
13 commission shall deposit the fee in the general fund. Within 30 days after such
14 transmission the department, except for petitions objecting to manufacturing
15 property assessments, shall file with the clerk of the commission an original and the
16 number of copies of an answer to the petition required by rule adopted by the
17 commission and shall serve one copy on the petitioner or the petitioner's attorney or
18 agent. Within 30 days after service of the answer, the petitioner may file and serve
19 a reply in the same manner as the petition is filed. Any person entitled to be heard
20 by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91
21 may file a petition with the commission within the time and in the manner provided
22 for the filing of petitions in income or franchise tax cases. Such papers may be served
23 as a circuit court summons is served or by certified mail. For the purposes of this
24 subsection, a petition for review is considered timely filed if mailed by certified mail

BILL

1 in a properly addressed envelope, with postage duly prepaid, which envelope is
2 postmarked before midnight of the last day for filing.

3 **SECTION 9443. Effective dates; revenue.**

4 (1) WASTE TREATMENT EQUIPMENT. This act takes effect on January 1, 2001.

5 (END)



9/27

State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-05467

JK:

King

SOON

and income tax deductions

DOA:.....Holden - Property tax exemptions for treatment plant and pollution abatement equipment

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

M 9-27-00

www

AN ACT ^{DON'T GEN. CAT.} relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

(END)

[Handwritten mark]

1999 BILL

*and income tax deductions
related to the treatment
plant and pollution
abatement equipment*

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3 **relating to:** discontinuing the requirement that owners of treatment plant and
4 pollution abatement equipment, except utilities and certain insurers, apply for
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Under current law, all owners of treatment plant and pollution abatement equipment must apply for ~~their~~ property tax exemptions. Under this bill, only utilities and certain insurers ~~will be required to do so~~.

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and deductions*

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 3 contaminants₂ as defined in s. 285.01 (1)₂ but not for other wastes₂ as defined in s
 4 281.01 (7) and approved by the department of revenue₂ for the purpose of abating or
 5 eliminating pollution of surface waters, the air₂ or waters of the state if that property
 6 is not used to grow agricultural products for sale and, if the property's owner is taxed
 7 under ch. 76, if the property is approved by the department of revenue. For the
 8 purposes of this subsection₂ "industrial waste" also includes wood chips, sawdust₂ and
 9 other wood residue from the paper and wood products manufacturing process that
 10 can be used as fuel and would otherwise be considered superfluous, discarded₂ or
 11 fugitive material. The department of natural resources and department of health
 12 and family services shall make recommendations upon request to the department of
 13 revenue regarding such property. All property purchased or upon which
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 20 which a waste treatment facility that has been granted an exemption is retired,
 21 replaced, disposed of, moved to a new location₂ or sold.

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17 not for other wastes₃[✓] as defined in s. 281.01 (7) and approved by the department of
18 revenue under s. 70.11 (21) (a)₂[✓] for the purpose of abating or eliminating pollution of
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4 which contract was entered into or which bid was made prior to July 31, 1975.

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6 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
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12 71 and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed
13 with the commission a stipulation signed by the department of revenue and the
14 adverse party, under s. 73.03 (25), agreeing to an affirmance, modification or reversal
15 of the department's position with respect to some or all of the issues raised in the
16 appeal, the commission shall enter an order affirming or modifying in whole or in
17 part, or canceling the assessment appealed from, or allowing in whole or in part or
18 denying the petitioner's refund claim, as the case may be, pursuant to and in
19 accordance with the stipulation filed. No responsibility shall devolve upon the
20 commission, respecting the signing of an order of dismissal as to any pending appeal
21 settled by the department without the approval of the commission.

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23 73.01 (5) (a) Any person who is aggrieved by a determination of the state board
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25 or who has filed a petition for redetermination with the department of revenue and

BILL

1 who is aggrieved by the redetermination of the department may, within 60 days of
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4 of the commission a petition for review of the action of the department and the
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6 municipality appeals, its appeal shall set forth that the appeal has been authorized
7 by an order or resolution of its governing body and the appeal shall be verified by a
8 member of that governing body as pleadings in courts of record are verified. The clerk
9 of the commission shall transmit one copy to the department of revenue and to each
10 party. In the case of appeals from manufacturing property assessments, the person
11 assessed shall be a party to a proceeding initiated by a municipality. At the time of
12 filing the petition, the petitioner shall pay to the commission a \$25 filing fee. The
13 commission shall deposit the fee in the general fund. Within 30 days after such
14 transmission the department, except for petitions objecting to manufacturing
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16 number of copies of an answer to the petition required by rule adopted by the
17 commission and shall serve one copy on the petitioner or the petitioner's attorney or
18 agent. Within 30 days after service of the answer, the petitioner may file and serve
19 a reply in the same manner as the petition is filed. Any person entitled to be heard
20 by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48 or 76.91
21 may file a petition with the commission within the time and in the manner provided
22 for the filing of petitions in income or franchise tax cases. Such papers may be served
23 as a circuit court summons is served or by certified mail. For the purposes of this
24 subsection, a petition for review is considered timely filed if mailed by certified mail

BILL

~~1 in a properly addressed envelope, with postage duly prepaid, which envelope is
2 postmarked before midnight of the last day for filing.~~

SECTION 944⁴. Effective dates; revenue.

(1) WASTE TREATMENT EQUIPMENT. This act takes effect on January 1, 2001.

(END)

4
5
C.K.
Comp. A
of H. Dir.

The treatment of sections 70.11(21)(a), and (c) ²
71.05(11)(^b), and 73.01(4)(a) and (5)(a) of the
statute, (d), (e), and (f)

✓
INSERT A

INSERT A

Section #. 73.01 (4) (a) of the statutes is amended to read:

73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015, the commission shall be the final authority for the hearing and determination of all questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss. ~~70.11 (21)~~, 70.38 (4) (a), 70.397, 70.64^v, and 70.995 (8), s. 76.38 (12) (a), 1993 stats., ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555, 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.405^v, and 341.45, subch. XIV of ch. 71^v and subch. VII of ch. 77. Whenever with respect to a pending appeal there is filed with the commission a stipulation signed by the department of revenue and the adverse party, under s. 73.03 (25), or the department of transportation and the adverse party agreeing to an affirmance, modification^v or reversal of the department of revenue's or department of transportation's position with respect to some or all of the issues raised in the appeal, the commission shall enter an order affirming or modifying in whole or in part, or canceling the assessment appealed from, or allowing in whole or in part or denying the petitioner's refund claim, as the case may be, pursuant to and in accordance with the stipulation filed. No responsibility shall devolve upon the commission, respecting the signing of an order of dismissal as to any pending appeal settled by the department of revenue or the department of transportation without the approval of the commission.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1542m, 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 403; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 184, 213; 1995 a. 351; 1997 a. 27; 1999 a. 145.

INSERT A- cont

Section #. 73.01 (5) (a) of the statutes is amended to read:

73.01 (5) (a) Any person who is aggrieved by a determination of the state board of assessors under ~~s. 70.995 (8) or by the department of revenue under s. 70.11 (21)~~ or who has filed a petition for redetermination with the department of revenue and who is aggrieved by the redetermination of the department of revenue may, within 60 days of the determination of the state board of assessors or of the department of revenue or, in all other cases, within 60 days after the redetermination but not thereafter, file with the clerk of the commission a petition for review of the action of the department of revenue and the number of copies of the petition required by rule adopted by the commission. Any person who is aggrieved by a determination of the department of transportation under s. 341.405 or 341.45 may, within 30 days after the determination of the department of transportation, file with the clerk of the commission a petition for review of the action of the department of transportation and the number of copies of the petition required by rule adopted by the commission. If a municipality appeals, its appeal shall set forth that the appeal has been authorized by an order or resolution of its governing body and the appeal shall be verified by a member of that governing body as pleadings in courts of record are verified. The clerk of the commission shall transmit one copy to the department of revenue, or to the department of transportation, and to each party. In the case of appeals from manufacturing property assessments, the person assessed shall be a party to a proceeding initiated by a municipality. At the time of filing the petition, the petitioner shall pay to the commission a \$25 filing fee. The commission shall deposit the fee in the general fund. Within 30 days after such transmission the department of revenue, except for petitions objecting to manufacturing property assessments, or the department of transportation, shall file with the clerk of the commission an original and the number of copies of an answer to the petition required by rule adopted by the commission and shall serve one copy on the petitioner or the petitioner's attorney or agent. Within 30 days after service of the answer, the petitioner may file and serve a reply in the same manner as the petition is filed. Any person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or s. 76.39 (4) (c), 76.48[✓] or 76.91 may file a petition with the commission within

the time and in the manner provided for the filing of petitions in income or franchise tax cases. Such papers may be served as a circuit court summons is served or by certified mail. For the purposes of this subsection, a petition for review is considered timely filed if mailed by certified mail in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the last day for filing.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 177 s. 85; 1979 c. 221; 1981 c. 20, 317; 1983 a. 27, 277; 1985 a. 29 ss. 1403 to 1411, 3202 (56) (d); 1987 a. 27 ss. 1542m, 1543m, 3202 (47) (a); 1987 a. 142, 186, 198, 312, 399, 403; 1989 a. 31; 1989 a. 56 s. 259; 1989 a. 335; 1991 a. 39, 262, 315, 316; 1993 a. 184, 213; 1995 a. 351; 1997 a. 27; 1999 a. 145.



DOA:.....Holden – Property tax exemptions and income tax deductions for
treatment plant and pollution abatement equipment

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

10-16-00

SOON

1 AN ACT ^{DON'T GEN. CAT.} relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, all owners of treatment plant and pollution abatement equipment must apply for property tax exemptions and income tax deductions related to the treatment plant and pollution abatement equipment. Under this bill, only utilities and certain insurers must apply for those exemptions and deductions.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 70.11 (21) (a) of the statutes is amended to read:

3 70.11 (21) (a) All property purchased or constructed as a waste treatment
4 facility used for the treatment of industrial wastes, as defined in s. 281.01 (5), or air

1 contaminants, as defined in s. 285.01 (1), but not for other wastes, as defined in s
2 281.01 (7) ~~and approved by the department of revenue,~~ for the purpose of abating or
3 eliminating pollution of surface waters, the air, or waters of the state if that property
4 is not used to grow agricultural products for sale and, if the property's owner is taxed
5 under ch. 76, if the property is approved by the department of revenue. For the
6 purposes of this subsection, "industrial waste" also includes wood chips, sawdust,
7 and other wood residue from the paper and wood products manufacturing process
8 that can be used as fuel and would otherwise be considered superfluous, discarded,
9 or fugitive material. The department of natural resources and department of health
10 and family services shall make recommendations upon request to the department of
11 revenue regarding such property. All property purchased or upon which
12 construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

13 **SECTION 2.** 70.11 (21) (c) of the statutes is amended to read:

14 70.11 (21) (c) A prerequisite to exemption under this subsection for owners who
15 are taxed under ch. 76 is the filing of a statement on forms prescribed by the
16 department of revenue with the department of revenue. This statement shall be filed
17 not later than January 15 of the year in which a new exemption is requested or in
18 which a waste treatment facility that has been granted an exemption is retired,
19 replaced, disposed of, moved to a new location, or sold.

20 **SECTION 3.** 70.11 (21) (d) of the statutes is amended to read:

21 70.11 (21) (d) The department of revenue shall allow an extension to ~~February~~
22 ~~15; or, if the owner is subject to tax under ch. 76, to a date determined by the~~
23 ~~department by rule; of the due date for filing the report form required under par. (c)~~
24 if a written application for an extension, stating the reason for the request, is filed
25 with the department of revenue before January 15.

1 **SECTION 4.** 70.11 (21) (e) of the statutes is repealed.

2 **SECTION 5.** 70.11 (21) (f) of the statutes is amended to read:

3 70.11 (21) (f) If property about which a statement has been filed under par. (c)
4 is determined to be taxable, the owner may appeal that determination ~~to the tax~~
5 ~~appeals commission under s. 73.01 (5) (a), except that assessments under s. 76.07~~
6 ~~shall be appealed under s. 76.08 and except that assessments under s. 70.995 (5)~~
7 ~~shall be appealed under s. 70.995 (8).~~

8 **SECTION 6.** 71.05 (11) (b) of the statutes is amended to read:

9 71.05 (11) (b) The cost of the following described property, less any federal
10 depreciation or amortization taken, may be deducted as a subtraction modification
11 or as subtraction modifications in the year or years in which paid or accrued,
12 dependent on the method of accounting employed: All property purchased or
13 constructed as a waste treatment facility utilized for the treatment of industrial
14 wastes, as defined in s. 281.01 (5), or air contaminants, as defined in s. 285.01 (1),
15 but not for other wastes, as defined in s. 281.01 (7) ~~and approved by the department~~
16 ~~of revenue under s. 70.11 (21) (a),~~ for the purpose of abating or eliminating pollution
17 of surface waters, the air, or waters of the state and, if the property's owner is taxed
18 under ch. 76, if the property is approved by the department of revenue. In case of
19 such election, appropriate add modifications shall be made in subsequent years to
20 reverse federal depreciation or amortization or to correct gain or loss on disposition.
21 This paragraph is intended to apply only to depreciable property except that where
22 wastes are disposed of through a lagoon process, lagooning costs and the cost of land
23 containing such lagoons may be treated as depreciable property for purposes of this
24 paragraph. In no event may any amount in excess of cost be deducted. Paragraph
25 (a) applies to all property purchased prior to July 31, 1975, or purchased and

1 constructed in fulfillment of a written construction contract or formal written bid,
2 which contract was entered into or which bid was made prior to July 31, 1975.

3 **SECTION 7.** 73.01 (4) (a) of the statutes is amended to read:

4 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
5 the commission shall be the final authority for the hearing and determination of all
6 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
7 70.11 (21), 70.38 (4) (a), 70.397, 70.64, and 70.995 (8), s. 76.38 (12) (a), 1993 stats.,
8 ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,
9 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.405, and 341.45,
10 subch. XIV of ch. 71, and subch. VII of ch. 77. Whenever with respect to a pending
11 appeal there is filed with the commission a stipulation signed by the department of
12 revenue and the adverse party, under s. 73.03 (25), or the department of
13 transportation and the adverse party agreeing to an affirmance, modification, or
14 reversal of the department of revenue's or department of transportation's position
15 with respect to some or all of the issues raised in the appeal, the commission shall
16 enter an order affirming or modifying in whole or in part, or canceling the assessment
17 appealed from, or allowing in whole or in part or denying the petitioner's refund
18 claim, as the case may be, pursuant to and in accordance with the stipulation filed.
19 No responsibility shall devolve upon the commission, respecting the signing of an
20 order of dismissal as to any pending appeal settled by the department of revenue or
21 the department of transportation without the approval of the commission.

22 **SECTION 8.** 73.01 (5) (a) of the statutes is amended to read:

23 73.01 (5) (a) Any person who is aggrieved by a determination of the state board
24 of assessors under s. 70.995 (8) ~~or by the department of revenue under s. 70.11 (21)~~
25 or who has filed a petition for redetermination with the department of revenue and

1 who is aggrieved by the redetermination of the department of revenue may, within
2 60 days of the determination of the state board of assessors or of the department of
3 revenue or, in all other cases, within 60 days after the redetermination but not
4 thereafter, file with the clerk of the commission a petition for review of the action of
5 the department of revenue and the number of copies of the petition required by rule
6 adopted by the commission. Any person who is aggrieved by a determination of the
7 department of transportation under s. 341.405 or 341.45 may, within 30 days after
8 the determination of the department of transportation, file with the clerk of the
9 commission a petition for review of the action of the department of transportation
10 and the number of copies of the petition required by rule adopted by the commission.
11 If a municipality appeals, its appeal shall set forth that the appeal has been
12 authorized by an order or resolution of its governing body and the appeal shall be
13 verified by a member of that governing body as pleadings in courts of record are
14 verified. The clerk of the commission shall transmit one copy to the department of
15 revenue, or to the department of transportation, and to each party. In the case of
16 appeals from manufacturing property assessments, the person assessed shall be a
17 party to a proceeding initiated by a municipality. At the time of filing the petition,
18 the petitioner shall pay to the commission a \$25 filing fee. The commission shall
19 deposit the fee in the general fund. Within 30 days after such transmission the
20 department of revenue, except for petitions objecting to manufacturing property
21 assessments, or the department of transportation, shall file with the clerk of the
22 commission an original and the number of copies of an answer to the petition
23 required by rule adopted by the commission and shall serve one copy on the petitioner
24 or the petitioner's attorney or agent. Within 30 days after service of the answer, the
25 petitioner may file and serve a reply in the same manner as the petition is filed. Any

1 person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or
 2 s. 76.39 (4) (c), 76.48, or 76.91 may file a petition with the commission within the time
 3 and in the manner provided for the filing of petitions in income or franchise tax cases.
 4 Such papers may be served as a circuit court summons is served or by certified mail.
 5 For the purposes of this subsection, a petition for review is considered timely filed
 6 if mailed by certified mail in a properly addressed envelope, with postage duly
 7 prepaid, which envelope is postmarked before midnight of the last day for filing.

8 **SECTION 93.44. Effective dates; revenue.** *critical applicability*

9 (1) WASTE TREATMENT EQUIPMENT. The treatment of sections 70.11 (21) (a), (c),
 10 (d), (e), and (f), 71.05 (11) (b), and 73.01 (4) (a) and (5) (a) of the statutes ~~shall apply~~
 11 on January 1, ~~2001~~

12 (END)

first applies to taxable years beginning

of the year in which this subsection takes effect, except that if this subsection takes effect after July 1 the treatment of sections 70.11(21)(a), (c), (d), (e), and (f), 71.05(11)(b), and 73.01(4)(a) and (5)(a) of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect

File Comment

11



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-0546/2

JK:kmg:km

DOA:.....Holden – Property tax exemptions and income tax deductions for
treatment plant and pollution abatement equipment

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 **AN ACT ...; relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

PROPERTY TAXATION

Under current law, all owners of treatment plant and pollution abatement equipment must apply for property tax exemptions and income tax deductions related to the treatment plant and pollution abatement equipment. Under this bill, only utilities and certain insurers must apply for those exemptions and deductions.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 **SECTION 1.** 70.11 (21) (a) of the statutes is amended to read:

3 70.11 (21) (a) All property purchased or constructed as a waste treatment

4 facility used for the treatment of industrial wastes, as defined in s. 281.01 (5), or air

1 contaminants, as defined in s. 285.01 (1), but not for other wastes, as defined in s.
2 281.01 (7) ~~and approved by the department of revenue,~~ for the purpose of abating or
3 eliminating pollution of surface waters, the air, or waters of the state if that property
4 is not used to grow agricultural products for sale and, if the property's owner is taxed
5 under ch. 76, if the property is approved by the department of revenue. For the
6 purposes of this subsection, "industrial waste" also includes wood chips, sawdust,
7 and other wood residue from the paper and wood products manufacturing process
8 that can be used as fuel and would otherwise be considered superfluous, discarded,
9 or fugitive material. The department of natural resources and department of health
10 and family services shall make recommendations upon request to the department of
11 revenue regarding such property. All property purchased or upon which
12 construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

13 **SECTION 2.** 70.11 (21) (c) of the statutes is amended to read:

14 70.11 (21) (c) A prerequisite to exemption under this subsection for owners who
15 are taxed under ch. 76 is the filing of a statement on forms prescribed by the
16 department of revenue with the department of revenue. This statement shall be filed
17 not later than January 15 of the year in which a new exemption is requested or in
18 which a waste treatment facility that has been granted an exemption is retired,
19 replaccd, disposed of, moved to a new location, or sold.

20 **SECTION 3.** 70.11 (21) (d) of the statutes is amended to read:

21 70.11 (21) (d) The department of revenue shall allow an extension to ~~February~~
22 ~~15; or, if the owner is subject to tax under ch. 76,~~ to a date determined by the
23 department by rule; ~~of the due date for filing the report form required under par. (c)~~
24 if a written application for an extension, stating the reason for the request, is filed
25 with the department of revenue before January 15.

1 **SECTION 4.** 70.11 (21) (e) of the statutes is repealed.

2 **SECTION 5.** 70.11 (21) (f) of the statutes is amended to read:

3 70.11 (21) (f) If property about which a statement has been filed under par. (c)
4 is determined to be taxable, the owner may appeal that determination ~~to the tax~~
5 ~~appeals commission under s. 73.01 (5) (a), except that assessments under s. 76.07~~
6 ~~shall be appealed under s. 76.08 and except that assessments under s. 70.995 (5)~~
7 ~~shall be appealed under s. 70.995 (8).~~

8 **SECTION 6.** 71.05 (11) (b) of the statutes is amended to read:

9 71.05 (11) (b) The cost of the following described property, less any federal
10 depreciation or amortization taken, may be deducted as a subtraction modification
11 or as subtraction modifications in the year or years in which paid or accrued,
12 dependent on the method of accounting employed: All property purchased or
13 constructed as a waste treatment facility utilized for the treatment of industrial
14 wastes, as defined in s. 281.01 (5), or air contaminants, as defined in s. 285.01 (1),
15 but not for other wastes, as defined in s. 281.01 (7) ~~and approved by the department~~
16 ~~of revenue under s. 70.11 (21) (a),~~ for the purpose of abating or eliminating pollution
17 of surface waters, the air, or waters of the state and, if the property's owner is taxed
18 under ch. 76, if the property is approved by the department of revenue. In case of
19 such election, appropriate add modifications shall be made in subsequent years to
20 reverse federal depreciation or amortization or to correct gain or loss on disposition.
21 This paragraph is intended to apply only to depreciable property except that where
22 wastes are disposed of through a lagoon process, lagooning costs and the cost of land
23 containing such lagoons may be treated as depreciable property for purposes of this
24 paragraph. In no event may any amount in excess of cost be deducted. Paragraph
25 (a) applies to all property purchased prior to July 31, 1975, or purchased and

1 constructed in fulfillment of a written construction contract or formal written bid,
2 which contract was entered into or which bid was made prior to July 31, 1975.

3 **SECTION 7.** 73.01 (4) (a) of the statutes is amended to read:

4 73.01 (4) (a) Subject to the provisions for judicial review contained in s. 73.015,
5 the commission shall be the final authority for the hearing and determination of all
6 questions of law and fact arising under sub. (5) and s. 72.86 (4), 1985 stats., and ss.
7 ~~70.11 (21)~~, 70.38 (4) (a), 70.397, 70.64, and 70.995 (8), s. 76.38 (12) (a), 1993 stats.,
8 ss. 76.39 (4) (c), 76.48 (6), 76.91, 77.26 (3), 77.59 (6) (b), 78.01, 78.22, 78.40, 78.555,
9 139.02, 139.03, 139.06, 139.31, 139.315, 139.33, 139.76, 139.78, 341.405, and 341.45,
10 subch. XIV of ch. 71, and subch. VII of ch. 77. Whenever with respect to a pending
11 appeal there is filed with the commission a stipulation signed by the department of
12 revenue and the adverse party, under s. 73.03 (25), or the department of
13 transportation and the adverse party agreeing to an affirmance, modification, or
14 reversal of the department of revenue's or department of transportation's position
15 with respect to some or all of the issues raised in the appeal, the commission shall
16 enter an order affirming or modifying in whole or in part, or canceling the assessment
17 appealed from, or allowing in whole or in part or denying the petitioner's refund
18 claim, as the case may be, pursuant to and in accordance with the stipulation filed.
19 No responsibility shall devolve upon the commission, respecting the signing of an
20 order of dismissal as to any pending appeal settled by the department of revenue or
21 the department of transportation without the approval of the commission.

22 **SECTION 8.** 73.01 (5) (a) of the statutes is amended to read:

23 73.01 (5) (a) Any person who is aggrieved by a determination of the state board
24 of assessors under s. 70.995 (8) ~~or by the department of revenue under s. 70.11 (21)~~
25 or who has filed a petition for redetermination with the department of revenue and

1 who is aggrieved by the redetermination of the department of revenue may, within
2 60 days of the determination of the state board of assessors or of the department of
3 revenue or, in all other cases, within 60 days after the redetermination but not
4 thereafter, file with the clerk of the commission a petition for review of the action of
5 the department of revenue and the number of copies of the petition required by rule
6 adopted by the commission. Any person who is aggrieved by a determination of the
7 department of transportation under s. 341.405 or 341.45 may, within 30 days after
8 the determination of the department of transportation, file with the clerk of the
9 commission a petition for review of the action of the department of transportation
10 and the number of copies of the petition required by rule adopted by the commission.
11 If a municipality appeals, its appeal shall set forth that the appeal has been
12 authorized by an order or resolution of its governing body and the appeal shall be
13 verified by a member of that governing body as pleadings in courts of record are
14 verified. The clerk of the commission shall transmit one copy to the department of
15 revenue, or to the department of transportation, and to each party. In the case of
16 appeals from manufacturing property assessments, the person assessed shall be a
17 party to a proceeding initiated by a municipality. At the time of filing the petition,
18 the petitioner shall pay to the commission a \$25 filing fee. The commission shall
19 deposit the fee in the general fund. Within 30 days after such transmission the
20 department of revenue, except for petitions objecting to manufacturing property
21 assessments, or the department of transportation, shall file with the clerk of the
22 commission an original and the number of copies of an answer to the petition
23 required by rule adopted by the commission and shall serve one copy on the petitioner
24 or the petitioner's attorney or agent. Within 30 days after service of the answer, the
25 petitioner may file and serve a reply in the same manner as the petition is filed. Any

1 person entitled to be heard by the commission under s. 76.38 (12) (a), 1993 stats., or
2 s. 76.39 (4) (c), 76.48, or 76.91 may file a petition with the commission within the time
3 and in the manner provided for the filing of petitions in income or franchise tax cases.
4 Such papers may be served as a circuit court summons is served or by certified mail.
5 For the purposes of this subsection, a petition for review is considered timely filed
6 if mailed by certified mail in a properly addressed envelope, with postage duly
7 prepaid, which envelope is postmarked before midnight of the last day for filing.

8 **SECTION 9344. Initial applicability; revenue.**

9 (1) WASTE TREATMENT EQUIPMENT. The treatment of sections 70.11 (21) (a), (c),
10 (d), (e), and (f), 71.05 (11) (b), and 73.01 (4) (a) and (5) (a) of the statutes first applies
11 to taxable years beginning on January 1 of the year in which this subsection takes
12 effect, except that if this subsection takes effect after July 1 the treatment of sections
13 70.11 (21) (a), (c), (d), (e), and (f), 71.05 (11) (b), and 73.01 (4) (a) and (5) (a) of the
14 statutes first applies to taxable years beginning on January of the year following the
15 year in which this subsection takes effect.

16 (END)