

TITLE X.

Taxation.

CHAPTER 70.

GENERAL PROPERTY TAXES.

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70.01 General property taxes; upon whom levied. Taxes shall be levied, under the provisions of this chapter, upon all general property in this state except such as is exempted therefrom. Real estate taxes shall be deemed to be levied when the tax roll on which they are extended has been delivered to the local treasurer with his warrant for collection. When so levied such taxes shall be a lien upon the property against which they are assessed, superior to all other liens, effective as of May 1 in the year when levied, except in the case of special assessments of benefits for local improvements where the lien of such assessments shall be in force from the time as provided in section 62.16 (7) (c),

and except that such special assessments in cities of the first class shall be in force as provided by the charter or general laws applicable to such cities. [1933 c. 349 s. 3; 1943 c. 277]

70.02 Definition general property. General property is all the taxable real and personal property defined in sections 70.03 and 70.04 except that which is taxed under the provisions of chapters 76 and 77. [1933 c. 349 s. 3]

70.03 Definition real property. The terms "real property," "real estate" and "land," when used in this title, shall include not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto. [1933 c. 349 s. 2, 4; 1933 c. 444]

70.04 Definition personal property. The term "personal property," as used in this title, shall include all goods, wares, merchandise, chattels, and effects, of any nature or description, having any real or marketable value, and not included in the term "real property," as above defined.

(1) Personal property shall also include toll bridges; private railroads and bridges; saw logs, timber and lumber, either upon land or afloat; steamboats, ships and other vessels, whether at home or abroad; ferry boats, including the franchise for running the same; ice cut and stored for use, sale or shipment, and entire property of companies defined in subsections (3), (7) and (8) of section 76.02, located entirely within one taxation district.

(2) The improvements on all lands situated in this state which shall have been entered under the provisions of the act of congress entitled "An act to secure homesteads to actual settlers on the public domain," approved May twentieth, one thousand eight hundred and sixty-two, and which shall be actually occupied and improved by the person so entering the same or his heirs, shall be subject to taxation, and such improvements shall be assessed as personal property. All taxes levied thereon shall be collected out of the personal property of the occupant of such lands and in no other manner. [1933 c. 349 s. 2, 4; 1935 c. 414]

70.045 Taxation district. The term "taxation district" is used in this chapter to designate a municipality, either the town, village or city, in which general property taxes are levied and collected. [1935 c. 414]

70.05 Valuation of property; assessors in cities and villages. (1) The assessment of general property for taxation in all the towns, cities and villages of this state shall be made according to the provisions of this chapter unless otherwise specifically provided. If no provisions be otherwise made therefor, there shall be elected at the annual spring election one assessor for each taxation district.

(2) The governing body of any city or village may provide for the selection of one or more assistant assessors to assist the assessor in the discharge of his duties. [1933 c. 349 s. 2, 4; 1935 c. 414; 1943 c. 66]

70.055 Assessment emergency; expert help. Whenever the governing body of any town, village or city shall determine that an emergency exists in the assessment of the property of the taxation district and shall deem it necessary, after consultation with and approval by the department of taxation, to employ expert or additional clerical or other help to aid in making an assessment in order that such assessment may be equitably made in compliance with law, such governing body shall have the power to employ such necessary help as may be approved by the department of taxation and at such compensation as shall be likewise approved. When so appointed such expert help, together with the assessor, shall act together as an assessment board in exercising the powers and duties of the assessor during such employment, and the concurrence of a majority of such board shall be necessary to determine any matter upon which they are required to act. When a single expert is employed the governing body may designate an employe of the state department of taxation to serve as a member of such board. [1933 c. 349 s. 2; 1935 c. 414; 1943 c. 20; 1947 c. 388]

Note: By virtue of the reference in 70.055, the purposes of construing and applying Stats. 1945, to the provisions in 70.05, Stats. 70.055 notwithstanding the repeal by ch. 66, 1941, respecting an assessment board and laws of 1943, of such provisions in said 70.05, its functioning, they remain in force for 35 Atty. Gen. 362.

70.06 Assessment, where made; Milwaukee districts; assessors; appointment, removal. (1) In cities of the first class the tax commissioner shall perform such duties in relation to the assessment of property for taxation as may be prescribed by the common council, and the assessment rolls of the city shall be made as the council shall direct.

(2) In all cities of the first class, whether organized under general or special charter, the tax commissioner shall divide such city into districts for assessment purposes and fix the boundary lines thereof to be approved by the common council. For the purpose of determining situs of personal property for assessment and taxation, the boundaries of such districts may be disregarded. The tax commissioner, with the approval of the common coun-

oil, may redistrict the city or so much thereof as he deems necessary or he may create additional assessment districts. Said tax commissioner shall appoint one assessor for each district who shall be a resident of the city of Milwaukee and hold office in accordance with the civil service laws applicable to such city, except in so far as the same is modified by subsection (3). The assessors shall devote their entire time and attention to the duties of their office and shall not actively engage in any other occupation.

(3) Every assessor appointed as provided in subsection (2) shall be subject to removal from office for the causes mentioned in section 17.14, and in addition thereto for neglect of duties, incompetency, drunkenness or intentional insubordination in the manner provided by subsection (4).

(4) Whenever the tax commissioner ascertains or has good reason to believe that any assessor is guilty of any of the causes for removal mentioned in subsection (3) he may immediately suspend such assessor, and the tax commissioner shall thereupon within ten days make complaint to the presiding judge of the circuit court for the removal of such assessor, and the matters shall be brought on for immediate hearing. The city attorney shall attend and prosecute such proceedings for removal. Unless such complaint is filed by the said tax commissioner within said time, said assessor so suspended shall ipso facto be reinstated without further proceedings. Nothing herein contained, however, shall affect the removal of assessors in the manner and for the causes as provided in section 17.14. [1933 c. 349 s. 2, 3, 4; 1943 c. 114]

70.07 Functions of board of assessors in Milwaukee. (1) In all cities of the first class the several assessors shall deliver their respective assessment rolls to, and file the same with the tax commissioner on the last Monday of June in each year, or as soon as practicable thereafter.

(2) The said tax commissioner shall give notice of publication in the official papers of said city, for ten days, that on a day therein named for each assessment district, the assessment roll for said assessment district will be open for examination by the taxable inhabitants thereof. On the last Monday of June the tax commissioner shall call together all of the assessors, and said tax commissioner together with such assessors shall constitute an assessment board.

(3) To the end that all valuations throughout the city shall be made on a uniform basis, such board of assessors, under the direction and supervision of the tax commissioner, shall compare the valuations so secured, making all necessary corrections and all other just and necessary changes to arrive at the true value of property within the city.

(4) The concurrence of a majority of such board of assessors shall be necessary to determine any matter upon which they are required to act. No notice need be given to the owners of the property assessed of any such corrections or changes in the assessment roll which are made prior to the day fixed in the notice mentioned in subsection (2) as the day on which said assessment roll is to be open for examination, but any changes made thereafter and before the assessment roll shall have been delivered to the board of review can only be made upon notice as required in subsection (3) of section 70.47.

(5) The tax commissioner may provide for such committees of the board of assessors, as he may think best, to make investigations and perform such other duties as may be prescribed by the said tax commissioner. The tax commissioner shall be chairman of the board of assessors, and he shall appoint the members of the various committees, to which he may designate himself, any assessor or other officer or employe in his department to act as chairman.

(6) After all corrections and changes shall have been made, the tax commissioner shall submit the corrected assessment rolls to the board of review. Until the board of review shall have finally corrected the assessment rolls and returned the same to the tax commissioner, he may appoint committees of the board of assessors to investigate any objections to the amount or valuation of any real or personal property which shall have been filed with him. The committees so appointed shall report their investigation and recommendations to the board of review and any member of any such committee shall be a competent witness in any hearing before such board of review. [1933 c. 313 s. 1; 1933 c. 349 s. 2]

70.08 Assessment district. The term "assessment district" is used to designate any subdivision of territory, whether the whole or any part of any municipality, in which by law a separate assessment of taxable property is made by an assessor or assessors elected or appointed therefor. [1933 c. 349 s. 2]

70.09 Blanks for officers. The department of taxation shall prescribe and furnish to the several county clerks, forms for the assessment rolls, tax rolls, blanks and returns required for the assessment and collection of taxes. Every county clerk shall, at the expense of the county, annually procure to be prepared according to such prescribed forms

and furnish to each assessor in the county, in due season for use, an assessment roll, and to each city, village and town clerk a tax roll, and all other books, blanks and papers necessary to be used by such assessors, city, town and village clerks and treasurers, in the discharge of their duties. In the event the department of taxation shall fail to prescribe such forms, the county clerk shall supply such assessment rolls, tax rolls and other blanks and necessary papers as are now in current use in such cities, villages and towns, and if he fails to supply the same, as herein provided, the clerk of any such city, village or town shall procure the same, and the cost thereof shall be a charge against the county. [1933 c. 349 s. 2; 1943 c. 20]

70.10 Assessment, when made. The assessor shall begin as soon as practicable after the April election, if he is elected at such election, otherwise as soon as practicable after January first to assess all the real and personal property as of the close of the first day of May in each year. Except in cities of the first class, such assessment shall be finally completed before the first Monday in July. All real property conveyed to any county or any city by gift, purchase, tax deed or power of eminent domain before the first Monday in July shall not be included in such assessment. [1933 c. 331; 1933 c. 349 s. 2; 1939 c. 528]

Note: Where village assessor ceases to be inhabitant of village, vacancy is thereby created in his office under 17.03 (4) but his assessment as de facto officer is valid. Under 70.52 clerk upon receiving assessment roll may add omitted real estate and if he fails to do this such omitted property may be entered once additionally on next year's tax roll under 70.44. 26 Atty. Gen. 432.

Where section of land, according to gov-

ernment survey, contains 640 acres "more or less" and on subsequent conveyances by metes and bounds it develops that area actually comprises 647.17 acres, present owners may be taxed on basis of actual acreage and assessor is not bound by government survey. 27 Atty. Gen. 449.

Lands purchased by United States subsequent to May 1 are subject to taxes assessed and levied for that year. 30 Atty. Gen. 255.

70.11 Property exempt from taxation. The property in this section described is exempt from taxation, to wit:

(1) That owned exclusively by this state except lands contracted to be sold by the state and except state lands hereinafter provided; but lands purchased by counties at tax sales shall be exempt only in the cases provided in section 75.32. No real estate belonging to or held in trust for the state which is exempt from taxation shall be subject to special taxes or assessments for local improvements, any different or inconsistent provision in any city charter notwithstanding. Whenever at the time of the conveyance of any land to the state or as a consideration thereof, the state or any person, firm or corporation holding such land for the state leases or creates any beneficial interest equivalent to a lease of such land or a part thereof to or for the grantor, the exemption provided in this subsection shall not apply to such land or part thereof during the term of such lease or interest, unless such land or part thereof is used for public purposes; except that this provision shall not apply to any property already acquired or for acquisition of which negotiations were pending on July 29, 1933, and which shall be acquired prior to October 1, 1933, nor to any property acquired from any municipal corporation.

(2) Lands owned or occupied free of rental exclusively by any county, city, village, town, school district, free public library, sewerage district or commission, sanitary or water district or commission, or any public board or commission of this state and lands in this state belonging to cities of any other state used for public parks.

(3) Any and all lands occupied or held exclusively for public parks, boulevards or pleasure drives by any city or village, and the personal property used by such city or village for the upkeep and maintenance thereof, and lands used for public parks or monument grounds belonging to any military organization and not used for gain. Any certificate or certificates of sale of such lands for unpaid taxes held by any county, may be canceled by a majority of the county board thereof upon application therefor by the county, village or military organization having possession of such lands.

(4) Personal property owned by any educational institution having a regular curriculum and offering courses for at least six months in the year, or by any religious, scientific, literary, or benevolent association, women's clubs or incorporated historical societies, or by fraternal societies, orders or associations operating under the lodge system, except university, college and high school fraternities and sororities, which is used exclusively for the purposes of such association, and the real property necessary for the location and convenience of the buildings of such institution or association and embracing the same, not exceeding ten acres; provided, such real or personal property is not leased or otherwise used for pecuniary profit; and the lands reserved for grounds of a chartered college or university, not exceeding eighty acres; and parsonages, whether of local churches or districts, and whether occupied by the pastor permanently or rented for his benefit, and the real estate of incorporated historical societies not exceeding ten acres in extent. The occasional leasing of such building to similar organizations for literary, educational or benevolent purposes where all income derived therefrom is used for upkeep or maintenance, or

the leasing of such parsonages, shall not render them liable to taxation. The leasing of land or buildings by a university, college or school, for university, school, educational or charitable purposes, shall not render them liable to taxation, provided that all income derived therefrom be used for the upkeep and maintenance thereof, or by the lessor for university, school, educational or charitable purposes. The endowment funds and real and personal estate of any public library association, organized under the laws of this state, which, or the income of which, shall be used or invested for the purposes of such association. The endowment funds and the real and personal estate of any corporation formed solely to encourage the fine arts, organized under the laws of this state, without capital stock, and paying no dividends or pecuniary profits to its members. Such real and personal estate comprised under any endowment or trust, or such proportion of the true value of such real or personal estate, as under the terms of such endowment or trust is specifically held for the benefit of the state historical society of Wisconsin organized under the act of the legislature, approved on the fourth day of March, one thousand eight hundred fifty-three.

(4a) Where personal property and real property necessary for the location and convenience of buildings and embracing the same, not exceeding ten acres, owned by scientific societies, or fraternal societies, orders or associations, operating under the lodge system, except university, college and high school fraternities and sororities; and the personal property and real property of turner societies, is used in part for exempt purposes and in part for pecuniary profit, then the same shall be assessed for taxation at such percentage of the full market value of said real and personal property as shall fairly measure and represent the extent of such use for pecuniary profit. In determining the amount of such assessment, the term "pecuniary profit" as used in this subsection is hereby defined as the use of any portion of said premises or facilities by nonmembers, for which use compensation is received, or its use by members for purposes outside of the objects of such organization, and the space so used, the period of such use, and all other factors tending to measure the extent thereof, shall be considered in fixing the amount of such assessment. The exemption granted by subsections (4) and (18) of this section shall not relieve said premises from sale as provided by law for the nonpayment of any taxes lawfully levied thereon under the provisions of this subsection.

(5) Property owned and used exclusively by any state or county agricultural society, or by any corporation or association formed under the laws of this state for the encouragement of industry by agricultural and industrial fairs and exhibitions, necessary for fairgrounds, or for exhibition and sale of agricultural and dairy stock, products and property, while used exclusively for that purpose, not exceeding eighty acres; provided, that such corporations or associations may permit such fairgrounds or other property to be used for celebrations or as places of amusement.

(6) Fire engines and other implements used for extinguishing fires, owned or used by any organized fire company, and the buildings and necessary ground connected therewith owned by such company, and used exclusively for its proper purposes.

(7) The property of Indians who are not citizens, except lands held by them by purchase.

(8) Lands owned by any cemetery association used exclusively as public burial grounds and tombs and monuments to the dead therein; including lands adjoining such burial grounds, and greenhouses and other buildings and outbuildings thereon, owned and occupied exclusively by such cemetery association for cemetery purposes; all articles of personal property owned by any cemetery association necessarily used in the care and management of such burial grounds, and all funds exclusively devoted to such purposes; all flowers and ornamental plants and shrubs raised for the decoration of such burial grounds, and which may be sold in the manner and for the purposes mentioned in section 157.09; also all property held by donation, bequest or in trust for cemetery associations under the provisions of sections 157.05 and 157.11.

(9) Pensions receivable from the United States.

(10) All moneys or debts due or to become due to any person and all stocks and bonds, including bonds issued by any county, town, city, village, school district, or other political subdivision of this state; not otherwise specially provided for.

(11) Wearing apparel, personal ornaments and jewelry habitually worn not exceeding in value seven hundred fifty dollars, family portraits, private libraries, not exceeding in value two hundred dollars, kitchen and other household furniture and furnishings, one piano, radio or phonographs, organ or melodeon and other musical instruments, and also growing crops including nursery stock and trees growing for sale as such, including ginseng and other medicinal plants.

(12) (a) The tools of a mechanic kept and used in his trade and farm, orchard and garden machinery implements and tools, actually used in the operation of any farm, orchard or garden, or any new farm machinery, horse or power drawn, stocked and owned by a retailer, for farm use.

(b) One bicycle used by the owner in his business or for pleasure, not including any machine propelled in whole or in part by any mechanical agency.

(c) One sewing machine kept for the use of the owner or his family.

(d) Firearms kept for the use of the owner not exceeding in value twenty-five dollars.

(f) Poultry not exceeding in value twenty-five dollars.

(g) And all farm animals and fur-bearing animals born after the thirty-first day of December next preceding the day of assessment.

(h) One watch carried by the owner.

(i) One boat, launch or vessel, not exceeding forty feet in length, operated by its owner and used exclusively for fishing purposes in Lake Winnebago and in the outlying waters of the state, together with all nets, hooks, reels and other fishing apparatus used in connection with such boat.

(j) All horses, mules, wagons, carriages, sleighs, harnesses.

(13) Provisions and fuel provided by the head of a family to sustain its members for six months; but no person paying board shall be deemed a member of a family.

(14) All the personal property of all insurance companies that now are or shall be organized or doing business in this state, except personal property of any life insurance company owned by it and used on any farm.

(15) All the real and personal property of any children's institution licensed for the care of dependent, neglected or delinquent children under sections 48.35 to 48.42 while the same is actually used for such purposes, and the real estate of the Home of the Friendless in the city of Milwaukee, not exceeding one lot, while the same is actually used for such home.

(16) The armory owned by any regiment, battalion or company of the Wisconsin national guard and used for military purposes by such organization; but such property shall be subject to local assessments for the improvement of streets or sidewalks, or for the construction and repair of sewers or drains.

(17) The property of any corporation or association formed under the laws of this state, used exclusively for the purpose of manufacturing oxide of zinc or metallic zinc from native ores of the state, shall be exempt from taxation for a period of three years.

(18) All of the real and personal property of the turner societies which are or may be incorporated under the laws of this state, which is used exclusively for educational purposes, is hereby exempted from taxation.

(19) All real and personal property of any public art gallery or of any corporation created without capital stock for the sole purpose of maintaining, regulating and managing a public art gallery in this state shall be exempt from taxation; provided, that the public shall have access to such art gallery free of charge not less than three days in each week.

(20) The property of all telephone companies and of persons, associations or corporations engaged in the business of transmitting messages by telephone or the renting, letting or keeping of telephones, wires, batteries or apparatus for that purpose except real estate not used in carrying on their business.

(21) All the property of trust or annuity corporations organized under chapter 86, statutes of 1921, except real estate owned by them.

(22) All the property of corporations organized under chapter 180 for the guaranty of title.

(23) All the property of every kind actually used in operating any plank or toll road.

(24) So much of any bridge across the St. Croix or Mississippi rivers, together with the necessary highways and approaches thereto as lies in this state and is open to the general public for highway purposes, whether toll be charged thereon or not, owned exclusively by any county, city, village or town in this state or in the state of Minnesota, or owned jointly by any county, city, village or town, together with any other county, city, village or town in either of said states, shall be exempt from taxation.

(25) (a) Lands not exceeding 40 acres with the buildings thereon owned by the state association of Young Men's Christian Associations or Young Women's Christian Associations not being within the limit of any incorporated city or village, organized under the laws of this state for moral, religious and educational purposes and used by it exclusively for holding summer training camps or assemblies for moral, religious and educational purposes. Where such property is used in part for exempt purposes and in part

for pecuniary profit, then the same shall be assessed for taxation at such percentage of the full market value of said real and personal property as shall fairly measure and represent the extent of such use for pecuniary profit. In determining the amount of such assessment, the term "pecuniary profit" as used in this subsection is hereby defined as the use of any portion of said premises or facilities for purposes not directly included within the objects of such organization, and the space so used, the period of such use, and all other factors tending to measure the extent thereof, shall be considered in fixing the amount of such assessment. The use of "pecuniary profits" derived from such use of all or a portion of such premises for the purposes of said organization; or for the payment for real or personal property of such associations or the upkeep and maintenance thereof, shall not create an exemption in favor of such property. The occasional renting of such halls or buildings for public purposes shall not render them taxable, provided that all income derived therefrom be used for the upkeep and maintenance thereof.

(b) The benefits of this subsection shall cease to be enjoyed by such association if it shall at any time appear that a dividend has been declared on its stock, or that a division of profits has been made in any manner among all or any of its members.

(25c) All real property not exceeding 30 acres and the personal property situated therein, of any Bible camp conducted by a religious nonprofit corporation organized under the laws of this state, so long as the property is used for religious purposes and not for pecuniary profit of any individual.

(25d) All real property not exceeding 40 acres situated in the town of Three Lakes, Oneida county, and the personal property situated therein, owned by the Northern Wisconsin Lutheran Bible Camp, a religious corporation organized under the laws of this state, so long as the property is used for religious purposes and not for the pecuniary profit of any individual.

(25n) All real and personal property owned by the Norris Foundation, a charitable organization, organized and existing under the laws of the state of Wisconsin, which is used for the purposes of said organization provided no pecuniary profit results to any individual owner or member thereof.

(26) All real property, not exceeding three hundred and twenty acres, and personal property of any religious corporation, society, institute or body, which is actually used and occupied for a home for feeble-minded, so long as said property is actually so used.

(27) All real property, not exceeding twenty acres, of the Ebenezer congregation of the Moravian church of the town of Watertown, the income from which is used exclusively for religious purposes, so long as said property is actually so used.

(28) All memorial halls and the real estate upon which the same are located, owned and occupied by any organization of United States war veterans organized pursuant to act of congress and domesticated in this state pursuant to chapter 180 or 188, containing permanent memorial tablets with the names of former residents of any given town, city or county, who lost their lives in the military or naval service of the state or the United States in any war inscribed thereon, and all buildings erected, purchased or maintained by any county, city, town or village as memorials under section 45.05 or section 45.055. The renting of such halls or buildings for public purposes shall not render them taxable, provided that all income derived therefrom be used for the upkeep and maintenance thereof. Where such hall or building is used in part for exempt purposes and in part for pecuniary profit, it shall be assessed for taxation to the extent of such use for pecuniary profit as provided in subsection (4a).

(29) All real and personal property of any community house district organized under the provisions of section 43.51.

(30) Improvements, not exceeding five hundred dollars in value, on real estate, not exceeding forty acres nor less than twenty acres, which shall hereafter be acquired for, and actually devoted to, agricultural purposes, by a bona fide settler occupying such real estate as a homestead, shall be exempt from taxation for a period of five years from the commencement of such occupation; provided, that such real estate at the time of such acquisition is entirely uncleared and unimproved.

(31) Property owned and used exclusively by any labor organization or by any corporation or association formed under the laws of this state, whose members consist of workmen associated according to crafts, trades or occupations, or their authorized representatives or associations composed of members of different crafts, trades or occupations; provided, no pecuniary profit results to any individual member.

(33) Property owned and used exclusively for social and educational purposes and for meetings by any organization, corporation or association formed under the laws of this state, whose members consist wholly of farmers; provided, no pecuniary profit results to any individual member.

(35) Every automobile, motor truck, motor delivery wagon, passenger automobile bus, motor cycle, or other similar motor vehicle, or trailer or semitrailer used in connection therewith.

(36) All real and personal property owned by the Boy Scouts of America, the Girl Scouts or Camp Fire Girls or by any person as trustee for the Boy Scouts of America, the Girl Scouts or Camp Fire Girls which is used for the purposes of these organizations, provided no pecuniary profit results to any individual owner or member thereof.

(37) Merchandise placed in storage in the original package in a commercial storage warehouse or on a public wharf shall while so in storage be considered in transit and not subject to taxation.

(38) All vessels, boats, barges or other water craft belonging to inhabitants of states other than Wisconsin and laid up for repairs in Wisconsin ports.

(40) (a) Any wood lot or wood lots forming an integral, even though detached part, of a regularly operated farm, and not exceeding one-fifth of the total area of such farm, and any portion of a regularly operated farm, the slopes of which portion have a gradient of more than 30 per cent, if for one year immediately preceding May 1 of the year in which the assessment is made, the owner or operator of such farm has not permitted such wood lot or wood lots to be cultivated, mowed, grazed or burned, and if the owner or operator of such farm has made a reasonable effort to reforest such wood lot or wood lots and, in the case of slopes, to protect and promote the growth of such grass, shrubs or trees as will tend to prevent erosion thereon, and if such wood lot or wood lots are separated from the farm of which they are a part by a fence consisting of 3 barbed wires supported by posts spaced not more than one rod apart.

(b) All claims for wood lot or slope exemptions shall be in the form of a sworn statement by the applicant submitted to the assessor setting forth the total number of acres in his farm, the number of acres of wood lot, the number of acres of slope and the other facts upon which he bases his claim for exemption. No claim for exemption shall be granted unless the assessor shall file with the town clerk the claimant's statement together with his own sworn statement to the effect that he has personally inspected the lands for which exemption is claimed and that the claim meets with all the requirements of paragraph (a). The assessor who is paid a salary for his services as assessor shall receive in addition to all other compensation provided by law, a fee of 50 cents for each claim for exemption he shall investigate, except that his fee shall not be more than 50 cents for inspecting any farm for which both a wood lot and slope exemption are claimed. Assessors who receive a per diem for their services shall not receive an additional fee for any claim for exemption he may investigate.

(c) The state department of taxation shall furnish appropriate forms to carry out the provisions of this subsection to the clerk of each county who shall distribute them to the town assessors not later than April 15 of each year. Such forms shall have printed upon them the provisions of this subsection.

(41) Natural uncured cheese not over two months old if owned by the manufacturer.

(42) All hay, grain and other feed raised on farms for the purpose of feeding live stock thereon and which is not kept for sale.

(43) All real and personal property owned by or held in trust for any nonprofit organization and used for the purposes of preserving the native wild plant or animal life, or Indian mounds or other works of ancient man, or geological or geographical formations of scientific interest, or such part thereof as shall be held or used for such purpose, provided that such property is open to the public subject to reasonable restrictions and no pecuniary profit results from the use or holding or otherwise from any real or personal property herein exempted to any individual owner or member thereof or any associate of any owner or member. The exemption afforded by this subsection shall not be granted unless and until the county board of the county in which such property is located has approved thereof.

(44) All the property of volunteer firemen associations duly organized under chapter 213.

(47) Veterans' housing improvements on property of a housing authority made pursuant to sections 66.39 and 66.40 (which improvements are declared to be public property by section 66.39 (9)) as long as same remain under the jurisdiction of such housing authority or of bondholders who have proceeded under section 66.40 (13) to (20) or 66.39 (8). Provided, however, the municipality in which a veterans' housing project is located may fix a sum to be paid annually for the services, improvements and facilities furnished to such project by such municipality, which sum shall not exceed the amount of the tax which would be assessable against such improvements if they were not exempt from tax. [1931 c. 68, 153, 247, 302, 365, 465; 1931 c. 476 s. 4, 4a; 1933 c. 270; 1933 c. 307 s. 1; 1933 c. 470 s. 1; 1933 c. 471; 1935 c. 27, 56, 97, 208, 243, 304, 486, 534; 43.08 (2);

1937 c. 79, 129, 394; 1939 c. 266, 288, 414, 430; 1941 c. 86, 120, 128, 140, 188, 218, 274; 1943 c. 59, 85, 265; 1943 c. 552 s. 16; 1943 c. 573; 1945 c. 27, 91, 301, 386, 387, 522; 1947 c. 182, 353, 354, 362, 417, 489, 493, 531, 534, 614]

Note: Subsection (35) exempts only motor vehicles and trailers theretofore taxable as "general property" under this chapter, not those taxable as "special property" under chapter 76, the rule that all presumptions are against exemption from taxation, which must be clear and express and should not be extended by implication, being applicable were there ambiguity by reason of terms used. *Milwaukee E. R. & L. Co. v. Tax Commission*, 207 W 523, 242 NW 312.

The use of its property by a university student newspaper for nonexempt purposes from which it derived twenty per cent, and ten and seven-tenths per cent of its income for 1928 and 1929, respectively, was not incidental or negligible, so as to permit exemption of such property from taxes. *Cardinal P. Co. v. Madison*, 208 W 517, 243 NW 325.

Statute exempting armory from taxation requires both that armory be owned by regiment, battalion, or company of national guard, and that it be used for military purposes. *Armory R. Co. v. Olsen*, 210 W 281, 246 NW 513.

A vendee in possession under a land contract obligating the vendee to pay the purchase money is the "owner" of the property, within (4), exempting from taxation property "owned" by lodges. *Ritchie v. Green Bay*, 215 W 433, 254 NW 113.

Power company's deed, executed before assessment date of tract to Boy Scout organization for camping purposes, reserving right of reentry if used for other purposes and right to future repurchase, held to convey title and to exempt property from taxation, notwithstanding provisions for reentry and repurchase, which were conditions subsequent and did not affect title. *Town of Wolf River v. Wisconsin Michigan P. Co.*, 217 W 518, 259 NW 710.

The exemption in (41) applies to general property taxes for 1935 and all subsequent years (1935 c. 243).

Lodge members' use of first floor of lodge building for recreational purposes without pecuniary profit after expiration of lease thereof for retail store purposes, for which it remained suitable, did not destroy exemption of building from taxation; such use not being "outside of the objects" of lodge. (70.11 (4), (4a), Stats. 1935). *Trustees of Clinton Lodge v. Rock County*, 224 W 163, 272 NW 5.

A sanitarium for mental diseases which charged fees above cost for its services, and whose income exceeded its expenses, was not exempt from taxation as an educational institution or as a scientific, literary or benevolent association, notwithstanding it was a nonstock, nonprofit corporation. *Rogers Memorial Sanitarium v. Town of Summit*, 228 W 507, 279 NW 623.

A tuberculosis sanatorium, owned and operated by a nonstock, nonprofit religious corporation formed by and limited in its membership to the sisters of a religious order, staffed by sisters who performed all manner of services except medical and received no compensation whatsoever for their services, and accepting patients unable to pay for examination or treatment, as well as those able to pay, none being rejected for inability to pay, was exempt from property taxation as a "benevolent association" within 70.11 (4). [*St. Joseph's Hospital Assn. v. Ashland County*, 96 W 636, applied; *Rogers Memorial Sanitarium v. Summit*, 228 W 507, distinguished.] *Order of the Sisters of St. Joseph v. Plover*, 239 W 278, 1 (2d) NW 173.

For a hospital corporation to be exempt from property taxation under 70.11 (4), it must appear that such corporation is a "benevolent association," that the personal property is used exclusively for the purposes of such association, and that the real and personal property are not used for pecuniary profit. No single test will automatically determine when a hospital corporation is a "benevolent association," but the facts of

each case must be regarded as a whole and the substance of the scheme of operation as it exists must be examined. A hospital, incorporated by doctors and maintained primarily for their greater convenience and profit in the practice of their profession, they treating their private patients therein, and receiving free office space as well as the use of the hospital facilities and one meal a day, is not exempt from property taxation as a "benevolent association," etc., although the hospital itself may not make a profit, and cares for county patients, comprising about 30 per cent of the total, at a contract price less than cost, and the doctors make donations to the hospital, and are not paid any salaries for their services as medical directors thereof nor for operations they perform on county patients. *Prairie du Chien Sanitarium Co. v. Prairie du Chien*, 242 W 262, 7 NW (2d) 832.

Where a physician, owning a hospital, organized a nonstock, nonprofit corporation to which he conveyed the property for a nominal consideration, but the sole members of the corporation were such physician and his wife and a friend, and the corporate organization was so arranged that the power to control the property was in such physician, and the hospital, managed by him, was conducted primarily for his benefit in the practice of his profession, rather than for charitable purposes, the hospital corporation did not qualify for property exemption from taxation as a "benevolent association." *Riverview Hospital v. Tomahawk*, 243 W 581, 11 NW (2d) 188.

A lot and building of a Catholic local society, a nonstock, nonprofit corporation, organized for charitable purposes, affiliated with a Catholic religious and charitable national association, and engaged in receiving gifts of clothing, furniture and other discarded articles, and distributing the same to poor persons so far as in demand, are exempt from taxation, within (4), although the society requires distributees to pay for articles so far as able, and sells surplus articles, and derives a substantial cash income therefrom, the net proceeds of such sales, however, being used to buy for distribution articles not contributed for which poor persons have need. *St. Vincent de Paul Society v. Dane County*, 246 W 208, 16 NW (2d) 811.

"A Legion Clubhouse" corporation, incorporated under the general incorporation law, 180.01 et seq., and an American Legion Post, incorporated under 188.08, are entirely separate and distinct corporate entities, although they have identity of membership and the assets of the former may pass to the latter on dissolution of the former, and hence real estate owned by the clubhouse corporation is not exempt from taxation, within 70.11 (28), Stats. 1945, as property owned and occupied by the "American Legion." *Legion Clubhouse, Inc. v. Madison*, 248 W 380, 21 NW (2d) 668.

Exemption from taxation must be clear and express, and all presumptions are against exemption, which should not be extended by implication. The legislature, in creating the compensation rating and inspection bureau (ch. 205, Stats.) of which bureau insurance companies are members, created an entity which is authorized to hold property, and personal property owned and used by the bureau in its place of business is not exempt from taxation, within (14), as personal property "of insurance companies" organized or doing business in this state. *State ex rel. Wis. C. R. & I. Bur. v. Milwaukee*, 249 W 71, 23 NW (2d) 501.

Machinery and equipment of the reconstruction finance corporation were owned "exclusively" by the United States, within the meaning of (1a), [repealed 1947 c. 182] although leased to a third party with an option to the latter to purchase at the termination of the lease. *State ex rel. Reconstruction Finance Corp. v. Sanlader*, 250 W 481, 27 NW (2d) 447.

Land jointly owned by churches and used by them as playground is not exempt from taxation under (4) or (25) (a). 20 Atty. Gen. 282.

Under (15) all real and personal property of any orphan home is exempt from taxation. 20 Atty. Gen. 685.

Whether Y. M. C. A. is taxable is question of fact. 21 Atty. Gen. 74.

Land owned by American Legion is exempt from taxation only if "occupied free of rental exclusively by county, city, village, town," for a public park or other municipal purpose. 21 Atty. Gen. 542.

Aid association is not entitled to partial exemption from taxation under (4a), in absence of proof that it is operating as a fraternal society, under lodge systems. 21 Atty. Gen. 1026.

Nonstock hospital corporation whose articles of organization provide for no dividends or pecuniary profits to members and which excludes no one because of poverty is "benevolent association" under (4) and exempt from taxation. 22 Atty. Gen. 749.

Subsection (4) exempts property used to provide vacation accommodations for deserving working women. 24 Atty. Gen. 506.

College of Divine Savior of St. Nazianz is chartered college, within (4). 25 Atty. Gen. 56.

Under land contract, where title has not passed from county, land is exempt under (2). 25 Atty. Gen. 659.

Toll bridge owned and operated by city is not subject to local taxation although part thereof is located in adjoining town. 26 Atty. Gen. 47.

Owner of land abutting highway or street has title to center of highway or street adjacent to his property subject to easement acquired by public for purposes of travel, and portion over which state purchases such right-of-way does not thereby become tax exempt. 26 Atty. Gen. 271.

Where church employs two pastors, owns one parsonage, occupied by one pastor, and rents another parsonage to house second pastor both parsonages are exempt from taxation. 27 Atty. Gen. 430.

So-called "application to purchase" whereby individual promises to make certain payments in return for which regents of university of Wisconsin agree to convey certain land constitutes contract for sale of land. Such lands are contracted to be sold by state and are not exempt from taxation under (1). 27 Atty. Gen. 480.

Personal property owned by federal government on real estate used for coast guard purposes, located within township, is exempt from taxation, and local authorities are not authorized to assess it. 27 Atty. Gen. 508.

Theater building constructed by lessee under ninety-nine year lease upon property owned by village, lease being silent with respect to ownership other than default provision that upon default buildings, fixtures and improvements "shall be and become the property of said lessor" is property owned by village where lessee has no attributes of ownership and is exempt from taxation under (2). 27 Atty. Gen. 551.

Only those trailers principal or primary use of which, when used, is in connection with use of motor vehicle are exempt from taxation under 70.11 (35). Taxability or nontaxability under chapter 85 does not affect assessment under chapter 70. If trailer is so affixed to land as to become part thereof, it is real estate and assessable as such under 70.12. If not so affixed to land, it is personal property and assessable as such under 70.13 unless principal or primary use is use in connection with motor vehicle. 27 Atty. Gen. 558.

Residences situated upon seminary grounds and occupied rent free by instructors are exempt under (4). 27 Atty. Gen. 693.

(15) is applicable to Minnesota church organization or corporation owning orphanage property in Wisconsin and conducting orphanage institution upon said property. 28 Atty. Gen. 154.

Chicken hatchery is exempt under (12) (a) if primary use is use in operation of farm and commercial use, if any, is merely

incidental thereto. Such hatchery is not exempt if commercial use is primary and farming use incidental. 28 Atty. Gen. 302.

Boats not over 40 feet long owned and operated by commercial fishermen in Lake Superior which on occasions are used for hire to take persons out deep-lake fishing or trolling are not exempt under (12) (i). 28 Atty. Gen. 304.

Cement mixers mounted upon motor trucks are not exempt under (35). Freezing units incorporated in large refrigerator trucks used to transport meat are exempt under (35). 29 Atty. Gen. 17.

Sale of wood products from wood lot does not defeat exemption under (40), Stats. 1939, unless so extensive as to destroy character as wood lot or constitute failure to make reasonable effort to reforest slope lands. 29 Atty. Gen. 19.

Whether privately owned Wisconsin lands which are purchased by United States government and conveyed with restrictions as to alienation to individual Stockbridge Indians who are no longer wards of federal government are tax exempt as constituting instrumentalities of federal government under 25 USCA 412a is question that should be passed upon by courts and, in absence of any adjudication upon question, tax authorities should assess and tax such lands. 29 Atty. Gen. 120.

Dwelling of officer of Salvation Army not ordained as minister is not exempt as parsonage under (4). 29 Atty. Gen. 250.

Title to lands which have formed bed of artificial lake for more than 20 years does not pass from original private owners to state in trust, and such lands are subject to tax assessment. 30 Atty. Gen. 135.

Exemption from taxation under (8) is applicable to cemetery corporations organized under ch. 180 as well as to those organized under ch. 157. Burial grounds are exempt from taxation whether lots therein be owned by corporation or whether corporation has sold them to individuals for burial purposes. 30 Atty. Gen. 358.

Brooder equipment kept and used on farm in connection with hatching and raising chickens for sale from eggs produced on farm, where no custom hatching is done, is exempt from taxation by (12) (a). 31 Atty. Gen. 21.

Where federal government filed declaration of taking under 40 USCA sec 258a, prior to May 1, 1942, real estate acquired by it was not assessable for 1942 taxes. Personal property used in constructing ordnance works upon real estate owned by United States government but over which state had not surrendered exclusive jurisdiction under provisions of secs 1.02 and 1.03, Wis. Stats., is taxable by state under 70.11 (1), Stats. 1941. Neither location nor use is sufficient to exempt property from taxation. 31 Atty. Gen. 281.

Property of Federal Public Housing Authority is not subject to taxation in Wisconsin regardless of provisions of 70.11 (1), Stats. 1943. 32 Atty. Gen. 259.

Land acquired by counties, towns, cities or villages for airport purposes is exempt from taxation under (2). It is immaterial that such real estate may be located in another municipality or that it is not immediately used for the purpose for which it is acquired. 33 Atty. Gen. 101.

Local assessment of fractional part of building owned by telephone company not recognized by tax commission since decisions of supreme court cited in opinion. 15 Atty. Gen. 320 no longer followed. Test under (20) is that of principal and incidental use. If principal use of building is utility use, the entire building is exempt from local assessment and taxation. If principal use is non-utility use, the entire building is assessable and taxable locally. 35 Atty. Gen. 479.

That title to property acquired by Federal Public Housing Authority for housing project was held by governmental instrumentality rather than the government itself did not affect the property's exemption from local taxation. United States v. City of Milwaukee, 140 F (2d) 286. [Certiorari denied]

70.115 Taxation of real estate held by the annuity and investment board. All real estate owned or held by any of the funds invested by the annuity and investment board (other than the constitutional trust funds) shall be assessed and taxed in the same manner as privately owned real estate. Such taxes shall be paid out of the fund to which the lands belong or for whose benefit they are held. If such taxes are not paid, the real estate shall be subject to tax sale as are privately owned lands. [1933 c. 307 s. 2]

70.116 Taxation of university agricultural trust fund properties. All agricultural lands owned or held by the board of regents of the university of Wisconsin except those used for experimental purposes shall be subject only to the tax levied for school purposes the same as other real estate. If such taxes are not paid, the real estate shall be subject to tax sale as are privately owned lands. [1939 c. 433]

70.117 Taxation of certain agricultural land owned by the state. Notwithstanding any provision of section 70.11, all agricultural land owned by the state and operated by the state department of public welfare in connection with state curative, penal and correctional institutions under its supervision shall be subject to any tax levied for school purposes the same as other real estate. If such taxes are not paid, the real estate shall be subject to tax sale as are privately owned lands. [1945 c. 398]

Note: The words "agricultural land" as they appear in this section include improvements on the land as well as the soil itself. Land owned by the state, used exclusively for buildings and grounds of the various state curative, penal and correctional institutions under supervision of the state department of public welfare, is not subject to any tax levied for school purposes as provided by this section. 36 Atty. Gen. 82.

70.12 Real property, where assessed. All real property not expressly exempt from taxation shall be entered upon the assessment roll in the assessment district where it lies.

Note: Intake pipe extending into Lake Michigan from pumping house located on shore is taxable where pumping house is located. 27 Atty. Gen. 185.

70.13 Where personal property assessed. (1) All personal property shall be assessed in the assessment district where the same is located or customarily kept except as otherwise specifically provided. Personal property in transit within the state on the first day of May shall be assessed in the district in which the same is intended to be kept or located, and personal property having no fixed location shall be assessed in the district where the owner or the person in charge or possession thereof resides, except as provided in subsection (5) of this section.

(2) Saw logs or timber in transit, which are to be sawed or manufactured in any mill in this state, shall be deemed located and shall be assessed in the district in which such mill is located. Saw logs or timber shall be deemed in transit when the same are being transported either by water or rail, but when such logs or timber are banked, decked, piled or otherwise temporarily stored for transportation in any district, they shall be deemed located, and shall be assessed in such district.

(3) On or before the tenth day of May in each year the owner of such logs or timber shall furnish the assessor of the district in which such mill is located a verified statement of the amount, character and value of all such logs and timber in transit on the first day of May preceding, and to the assessor of the district in which any such logs and timber were located on the first day of May preceding, he shall furnish a like verified statement of the amount, character and value thereof. Any assessment made in accordance with such statement shall be valid and binding on the owner notwithstanding any subsequent change as to the place where the same may be sawed or manufactured. If the owner of such logs or timber shall fail or refuse to furnish the statement herein provided for, or shall intentionally make a false statement, he shall be subject to the penalties prescribed by section 70.36.

(5) As between school districts, the location of personal property for taxation shall be determined by the same rules as between assessment districts; provided, that whenever the owner or occupant shall reside upon any contiguous tracts or parcels of land which shall lie in two or more assessment districts, then the farm implements, live stock, and farm products of such owner or occupant used, kept, or being upon such contiguous tracts or parcels of land, shall be assessed in the assessment district where such personal property is customarily kept.

(6) No change of location or sale of any personal property after the first day of May in any year shall affect the assessment made in such year. [1943 c. 363]

Note: The words "customarily kept," within this section fixing the situs for taxation of a specific class of personal property, refer to personalty which is moved from place to place, but brought back at regular intervals to a given place for a time of non-use, and are not synonymous with "customarily used." Boats stored six months of each year on the owner's land within a municipality, were "customarily kept" there. Wisconsin T. Co. v. Williams Bay, 207 W 265, 240 NW 136. Tax levied on road construction machinery kept within municipality by nonresident owner and stored therein for considerable period is valid tax under (1). 25 Atty. Gen. 581. Since the repeal of 70.13 (4), Stats. 1941, saw logs, timber, railroad ties and telegraph poles owned by nonresidents of this state

that are decked, piled or otherwise temporarily stored in assessment district during April but which on May 1 no longer are located in state are subjected to assessment and taxation. 32 Atty. Gen. 189.

70.14 Incorporated companies. The residence of an incorporated company, for the purposes of the preceding section, shall be held to be in the assessment district where the principal office or place of business of such company shall be.

70.15 Assessment of vessels. (1) That in consideration of an annual payment into the treasury of any town, village or city where such property is assessable by the owner of any steam vessel, barge, boat or other water craft, owned within this state, or hailing from any port thereof, and employed regularly in interstate traffic of a sum equal to one cent per net ton of the registered tonnage thereof, said steam vessel, barge, boat or other water craft shall be and the same is hereby made exempt from further taxation, either state or municipal.

(2) The owner of any steam vessel, barge, boat or other water craft, hailing from any port of this state, "and so employed regularly in interstate traffic," desiring to comply with the terms of this section, shall annually, on or before the first day of May, file with the clerk of such town, village or city a verified statement, in writing, containing the name, port of hail, tonnage and name of owner of such steam vessel, barge, boat or other water craft, and shall thereupon pay into the said treasury of such town, village or city a sum equal to one cent per net ton of the registered tonnage of said vessel, and the treasurer shall thereupon issue his receipt therefor. All vessels, boats or other water craft not regularly employed in interstate traffic and all private yachts or pleasure boats belonging to inhabitants of this state, whether at home or abroad, shall be taxed as personal property.

70.16 Leaf tobacco. Leaf tobacco, whether in the hands of the grower or dealer, shall be listed and valued by the assessor of the assessment district where the same is located on May first of the year in which the assessment is to be made, and no tobacco then located in this state shall be considered in transit unless it has actually been started on its journey or has been delivered and consigned to a common carrier for shipment. Any assessor who shall knowingly fail to list and value according to law any and all leaf tobacco located in his district on May first of the year of making his assessment shall be punished as provided in section 348.29.

70.17 Lands, to whom assessed; buildings on exempt lands. Real property shall be entered in the name of the owner, if known to the assessor, otherwise to the occupant thereof if ascertainable, and otherwise without any name. The person holding the contract or certificate of sale of any real property contracted to be sold by the state, but not conveyed, shall be deemed the owner for such purpose. The undivided real estate of any deceased person may be entered to the heirs of such person without designating them by name. The real estate of an incorporated company shall be entered in the same manner as that of an individual. Improvements on leased lands may be assessed either as real property or personal property. [1933 c. 349 s. 2, 3; 1933 c. 444]

Note: Statutes were not violated by assessing as a single unit a property comprising land owned by a railroad company and a leasehold therein and a building thereon owned by a warehouse company; as against the contention that the real estate proper should have been separately assessed to the railroad company and that the improvements thereon should have been separately assessed to the warehouse company. Milwaukee v. Chicago, M., St. P. & P. R. Co., 223 W 73, 269 NW 688.

The entry of a parcel of unoccupied land on the assessment roll in the name of a bank, whereas the recorded legal title was in the bank as trustee, did not invalidate the as-

essment or a tax deed subsequently issued on the basis of such assessment. It is not necessary that land be described in the same language on the assessment roll and the certificate of tax sale or the tax deed, if each description is in itself sufficient. Doherty v. Rice, 240 W 389, 3 (2d) NW 734.

Action of debt will lie for collection of unpaid taxes on real property of public service corporation and for collection of unpaid real property taxes on buildings on lands under lease or permit. 21 Atty. Gen. 102.

Tax certificate issued upon assessment to one person of adjoining lots owned in severalty by two or more individuals is invalid. 22 Atty. Gen. 669.

70.174 Improvements on government-owned land. Improvements made by any person on land within this state owned by the United States may be assessed either as real or personal property to the person making the same, if ascertainable, and otherwise to the occupant thereof or the person receiving benefits therefrom. [1935 c. 372]

70.175 School tax on county land. (1) Real estate not exceeding one acre in area, together with the improvements thereon, otherwise exempt, owned by a county and from which the county receives income, in the form of rentals or otherwise, from persons occupying such premises shall be subject to the tax levied for school purposes in the same manner as other real estate; provided that the persons occupying such premises have a child or children attending or legally entitled to attend the public school in the school district in which the property is located.

(2) Such taxes shall be paid by the county in the same manner as other real estate taxes are paid; upon receipt of such taxes the local treasurer shall pay the same to the treasurer of the school district in which the property is located. [1935 c. 33]

70.18 Personal property, to whom assessed. (1) Personal property shall be assessed to the owner thereof, except that when it shall be in the charge or possession of some person other than the owner or person beneficially entitled thereto in the capacity of parent, guardian, husband, agent, lessee, occupant, mortgagee, pledgee, executor, administrator, trustee, assignee, receiver, or other representative capacity, it shall be assessed to the person so in charge or possession of the same. Telegraph and telephone poles, posts, railroad ties, lumber and all other manufactured forest products shall be deemed to be in the charge or possession of the person in occupancy or possession of the premises upon which the same shall be stored or piled, and the same shall be assessed to such person, unless the owner or some other person residing in the same assessment district, shall be actually and actively in charge and possession thereof, in which case it shall be assessed to such resident owner or other person so in actual charge or possession; but nothing contained in this clause shall affect or change the rules prescribed in section 70.13 respecting the district in which such property shall be assessed.

(2) Goods, wares and merchandise in storage in a commercial storage warehouse or on a public wharf, except as provided in subsection (37) of section 70.11, shall be assessed to the owner thereof and not to the warehouse or public wharf, if the owner of the warehouse or public wharf furnishes to the assessor:

- (a) A complete inventory of all goods, wares and merchandise stored in the warehouse;
- (b) The names and addresses of the owners of such goods, wares and merchandise, and the value thereof.

(3) Upon the receipt of such information relating to goods, wares and merchandise owned in some other assessment district from that in which the warehouse is located, the assessor shall promptly transmit the same to the assessor of the proper assessment district. Such assessor shall thereupon assess the goods, wares and merchandise to the owners thereof. [1939 c. 414]

Note: Property in possession of city as vendee under contract by which vendor retains title until purchase price is paid is not subject to taxation. 22 Atty. Gen. 989, 1034.

70.19 Assessment, how made; liability and rights of representative. (1) When personal property shall be assessed to some person in charge or possession thereof other than the owner or person beneficially entitled thereto as hereinbefore provided, the assessment thereof, shall be entered upon the assessment roll separately from the same person's assessment of his own personal property, adding to his name upon such roll words briefly indicating that such assessment is made to him as the person in charge or possession thereof as occupant or possessor of the premises on which such property is stored or piled or as the husband, agent, lessee, occupant, mortgagee, pledgee, executor, administrator, trustee, assignee, receiver or other representative of the owner or person beneficially entitled thereto; but a failure to enter such assessment separately or to indicate the representative capacity or other relationship of the person assessed shall not affect the validity of the assessment.

(2) The person so assessed shall be personally liable for the tax thereon. He shall have a personal right of action against the owner or person beneficially entitled to such property for the amount of such taxes and shall have a lien therefor upon such property with the rights and remedies for the preservation and enforcement of such lien provided in sections 289.45 and 289.48, and shall be entitled to retain possession of such property until the owner or person beneficially entitled thereto shall have paid the tax thereon or shall have reimbursed the person assessed for such tax if paid by him. Such lien and right of possession shall relate back and exist from the time as of which such assessment is made, but may be released and discharged by giving to the person assessed such undertaking or other indemnity as he may accept or by giving to him a bond in such amount and with such sureties as shall be directed and approved by the county judge of the county in which such property is assessed, upon eight days' notice to the person assessed, which bond shall be conditioned to hold and keep the person against whom such assessment is made free and harmless from any and all costs, expense, liability or damage by reason of such assessment.

70.20 Owner's liability when personalty assessed to another; action to collect. (1) When personal property shall be assessed to some person in charge or possession thereof, other than the owner, such owner as well as the person so in charge or possession shall be liable for the taxes levied pursuant to such assessment; and the liability of such owner may be enforced in a personal action as for a debt. Such action may be brought in the name of the town, city or village in which such assessment was made, if commenced before the time fixed by law for the return of delinquent taxes, by direction of the

treasurer or tax collector of such town, city or village. If commenced after such a return, it shall be brought in the name of the county or other municipality to the treasurer or other officer of which such return shall be made, by direction of such treasurer or other officer. Such action may be brought in any court of this state having jurisdiction of the amount involved and in which jurisdiction may be obtained of the person of such owner or by attachment of the property of such owner.

(2) The remedy of attachment may be allowed in such action upon filing an affidavit of the officer by whose direction such action shall be brought, showing the assessment of such property in the assessment district, the amount of tax levied pursuant thereto, that the defendant was the owner of such property at the time as of which the assessment thereof was made, and that such tax remains unpaid in whole or in part, and the amount remaining unpaid. The proceedings in such actions and for enforcement of the judgment obtained therein shall be the same as in ordinary actions for debt as near as may be, but no property shall be exempt from attachment or execution issued upon a judgment against the defendant in such action.

(3) The assessment and tax rolls in which such assessment and tax shall be entered shall be prima facie evidence of such assessment and tax and of the justice and regularity thereof; and the same, with proof of the ownership of such property by the defendant at the time as of which the assessment was made and of the nonpayment of such tax, shall be sufficient to establish the liability of the defendant. Such liability shall not be affected and such action shall not be defeated by any omission or irregularity in the assessment or tax proceedings not affecting the substantial justice and equity of the tax. The provisions of this section shall not impair or affect the remedies given by other provisions of law for the collection or enforcement of such tax against the person to whom the property was assessed.

Note: It is not duty of district attorney to represent towns, cities and villages in ac-

tions started under this section. 27 Atty. Gen. 175.

70.205 [Renumbered section 70.18 sub. (2) and (3) by 1929 c. 452 s. 2]

70.21 Partnership; estates in hands of executor; personal property, how assessed. The personal property of a partnership may be assessed in the names of the persons composing such partnership, so far as known or in the firm name or title under which the partnership business is conducted, and each partner shall be liable for the taxes levied thereon. Undistributed personal property belonging to the estate of a person deceased shall be assessed to the executor or administrator if one shall have been appointed and qualified, on the first day of May in the year in which the assessment is made, otherwise it may be assessed to the estate of such deceased person, and the tax thereon shall be paid by the executor or administrator if one be thereafter appointed, otherwise by the person or persons in possession of such property at the time of the assessment.

70.22 Personal property being administered, how assessed. (1) In case one or more of two or more executors of the will or administrators or trustees of the estate of a decedent, whose domicile at the time of his decease was in this state, shall not be residents within the state, the taxable personal property belonging to such estate shall be assessed to the executors, administrators or trustees residing in this state. In case there shall be two or more executors, administrators or trustees of the same estate residing in this state, but in different assessment districts, the assessment of such personal property shall be in the name of all such executors, administrators or trustees. In case the executor, administrator, trustee, or all of them if more than one, shall not reside in this state, such property may be assessed in the name of such executors or administrators or in the name of such estate.

(2) The taxes imposed pursuant to such assessment may be enforced as a claim against the estate, upon presentation of such claim by the treasurer of such district to the court in which the proceedings for the probate of such estate are pending, and upon due proof such court shall allow and order the same to be paid; and before the allowance of the final account of a nonresident executor, administrator or trustee the court shall ascertain whether there are or will be any taxes remaining unpaid or to be paid on account of personal property belonging to the estate, and shall make such order or direction as may be necessary to provide for the payment thereof. The foregoing provisions shall not impair or affect any remedy given by other provisions of law for the collection or enforcement of taxes upon personal property assessed to executors, administrators or trustees.

70.23 Duties of assessors; unincorporated villages. (1) The assessor shall enter upon the assessment roll opposite to the name of the person to whom assessed, if any, as before provided in regular order as to lots and blocks, sections and parts of sections (except that so much as is within the limits of an incorporated village or unincorporated village the limits of which have been designated by the town board, shall be assessed in one

part of the roll from the best information he can obtain), a correct and pertinent description of each parcel of real property in the assessment district not exempt from taxation and the number of acres in each tract containing more than one acre.

(2) When two or more lots or tracts owned by the same person are deemed by the assessor so improved or occupied with buildings as to be practically incapable of separate valuation, they may be entered as one parcel. Whenever any tract, parcel or lot of land shall have been surveyed and platted and a plat thereof recorded according to law, the assessor shall designate the several lots and subdivisions of such platted ground as they are fixed and designated by such plat.

70.24 Public lands and land mortgaged to state. The secretary of state shall annually, before the first day of May, make and transmit to the county clerk of each county an abstract containing a correct and full statement and description of all public lands sold and not patented by the state, and of all lands mortgaged to the state lying in his county; and immediately on receipt thereof the county clerk shall make and transmit to the clerk of each town or city in the county a list from said abstract of such lands lying in such town or city, if any. Every assessor shall enter on the assessment roll, in a separate column, under distinct headings, a list of all such public and mortgaged lands, and the same shall be assessed and taxed in the same manner as other lands, without regard to any balance of purchase money or loans remaining unpaid on the same.

70.25 Lands, described on rolls. In all assessments and tax rolls, and in all advertisements, certificates, papers, conveyances or proceedings for the assessment and collection of taxes, and proceedings founded thereon, as well heretofore as hereafter, any descriptions of land which shall indicate the land intended with ordinary and reasonable certainty and which would be sufficient between grantor and grantee in an ordinary conveyance shall be sufficient; nor shall any description of land according to the United States survey be deemed insufficient by reason of the omission of the word quarter or the figures or signs representing it in connection with the words or initial letters indicating any legal subdivision of lands according to government survey. Where a more complete description may not be practicable and the deed or a mortgage describing any piece of real property is recorded in the office of the register of deeds for the county, a description stating the volume and page where recorded, and the section, village or city where the property is situated, shall be sufficient. Where a more complete description may not be practicable, and the piece of property is described in any certificate, order, or judgment of a court of record in the county, a description stating the volume and page of the court record where recorded, and the section, village, or city where the property is situated, shall be sufficient. [1945 c. 28; 1947 c. 314]

Note: A description in a deed of land in LaFayette county reading "Township One (1), Range Two (2)" was sufficient notwithstanding the failure to designate in which direction the range was from the principal meridian. All townships in LaFayette county are north of the base line and all ranges are east of the principal meridian. Tregloan v. Hayden, 229 W 500, 232 NW 698.

Description of property as "lot 24, block 1, Edgewater plat," where such plat does not have any block designation, does not render tax certificate invalid if surplusage creates no confusion with reference to other property, property being otherwise adequately described. 22 Atty. Gen. 669.

Description of buildings assessed as real estate located on leased land merely as "Soo Line Leases—improvements on leased R. R. lands, city of Marshfield" is insufficient and assessments thereon are void by reason thereof. 28 Atty. Gen. 231.

70.26 Platting lands for assessment; county clerk may order. (1) Whenever any congressional subdivision of land of forty acres or less or any government fractional lot situated outside the limits of any incorporated city is owned by two or more persons in severalty, and the description of one or more of the different parts or parcels thereof cannot, in the judgment of the county clerk, be made sufficiently certain and accurate for the purposes of assessment and taxation without noting the metes and bounds of the same, said county clerk shall notify such owners and proprietors by mail or personally, and if any of such owners and proprietors are nonresidents of the county and their residence is unknown, by publication of such notice once a week for three successive weeks in any newspaper published in the county where such lands are situated, that they are required to make or cause to be made, certified, acknowledged and recorded a plat thereof in the manner and subject to all the conditions of law mentioned in sections 236.04, 236.05 and 236.06.

(2) If such owners or proprietors, whether so notified or not, fail or neglect to execute and file for record such plat for thirty days after the issuance of said notice the county clerk shall cause such plat to be made and filed for record, and for such purpose may cause to be done all necessary surveying and make and sign all the certificates and acknowledgments in said sections mentioned to be made, signed by the owners; but in lieu of the statement by the owners required in section 236.05 said clerk shall annex a statement to the plat, giving the names of the owners of record of the several subdivisions

and his certificate that such plat has been executed by him by reason of the failure of the owners or proprietors so named to do so.

(3) In any such plat so made by the county clerk no subdivision shall be recognized or marked thereon unless the same shall appear of record in the office of the register of deeds, and no street, alley, lane or roadway or dedication to public or special use shall be marked thereon unless the same shall be reserved or provided for in some conveyance of record. Said clerk shall file said plat for record, and when so filed for record it shall have the same effect for all purposes as if executed, acknowledged and recorded by the owners or proprietors themselves.

(4) The actual and necessary costs and expenses of such replat, surveying and recording shall be paid out of the county treasury, after having been audited by the county board, and shall be added to the next county tax apportioned to the town wherein such plat is located and collected therewith. Such costs and expenses may be charged by the town to the land so replatted.

(4a) Before the first day of May in each year the county clerk shall notify the town clerks of the making and recording during the preceding year of any such plats affecting land in their several towns.

(5) In counties having a population of two hundred and fifty thousand or more, the powers and duties herein provided, except as to the publication of notice, shall be exercised by the county board upon request of the town or village board or boards affected, without limitation as to the area of land which may be included in any plat; provided, that the cost and expenses of such plats shall be paid by the county. In any plat made subject to the provisions of this subsection, the placing of stones or stakes as required by section 236.16 of the [1933] statutes may be omitted. [1939 c. 21]

70.27 Assessor's plat. (1) **IN CITIES AND VILLAGES.** (a) Whenever any area of land situated within the limits of any city or village is owned by 2 or more persons in severalty and the description of one or more of the different parts or parcels thereof cannot, in the judgment of the common council or board, be made sufficiently certain and accurate for the purposes of assessment and taxation without noting the metes and bounds of the same, said council or board may cause to be made a plat of such area. The plat shall plainly define the boundary of and designate each parcel of land thereon and shall enable a surveyor to locate the same. Such plat shall be certified to by the person making the same, approved by the council or board, acknowledged by the city clerk and mayor or the village clerk and president and recorded in the office of the register of deeds of the county in which said city or village is located. Said plat shall be called "Assessor's Plat."

(b) For purposes of assessment, taxation and conveyance, it shall be deemed a sufficient description of any land as it appears on said plat, and any such description in any conveyance shall be as effective to pass the title to the land therein described as it would be if the same premises had been described by metes and bounds. Said plat or record thereof shall be received in evidence in all courts and places as correctly describing the several pieces of land therein designated.

(c) Amendments may be made to the plat at any time by the council or board by recording with the register of deeds a plat of the area affected by such amendment, authenticated in the same manner as the original plat. It shall not be necessary to refer to any amendment of the plat, but all assessments or instruments wherein any tract of land is described as being in the assessor's plat shall be construed to mean the assessor's plat of lands with its amendments as it stood at the date of making such assessment or instrument, or such plats may be identified by number.

(d) The actual cost, or any portion thereof, of preparing and recording such assessor's plat may by a three-fourths vote of the governing body of such municipality be charged as a special assessment to the property benefited thereby in the manner provided by section 62.16 (6).

(2) **OUTSIDE OF CITIES AND VILLAGES, COUNTY BOARD OR TOWN BOARD MAY ORDER.** Whenever any subdivision of land situated within any town or towns outside the limits of any incorporated city or village is owned by 2 or more persons in severalty and the description of one or more of the different parts or parcels thereof cannot in the judgment of the county board or town board be made sufficiently certain and accurate for the purposes of assessment and taxation without the metes and bounds of the same, the said county board or town board may cause to be made a plat of said subdivision or any part thereof. The plat shall plainly define the boundary of and designate each parcel of land thereon with sufficient certainty to enable a surveyor to locate the same. Such plat shall be certified by the person making the same, approved by the county board if authorized by it or by the town board if authorized by it and acknowledged by the county clerk of the county in which said land is situated and recorded in the office of the register of deeds of the county in which said town or towns are located. Said plat shall be called "Assessor's

Plat". For purposes of assessment, taxation and conveyance, it shall be deemed a sufficient description of any land as it appears on said plat, and any such description in any conveyance shall be as effective to pass the title to the land therein described as it would be if the same premises had been described by metes and bounds. Said plat or record thereof shall be received in evidence in all courts and places as correctly describing the several pieces of land therein designated. Amendments may be made to the plat at any time by the county board or town board by recording with the register of deeds a plat, authenticated in the same manner as the original plat. It shall not be necessary to refer to any amendment of the plat, but all assessments or instruments wherein any tract of land is described as being in the assessor's plat shall be construed to mean the assessor's plat of lands with its amendments as it stood at the date of making such assessment or instrument. The actual and necessary costs and expenses of such replat, surveying and recording shall be paid out of the county treasury after having been audited by the county board, if the plat is authorized by the county board, but in case any such replat is authorized by a town board, the actual and necessary costs shall be paid out of the town treasury after having been audited by the town board. [1933 c. 187 s. 4; 1935 c. 421 s. 3; 1939 c. 21; 1943 c. 211, 240; 1945 c. 134; 1947 c. 78]

Note: Assessor's plat prepared under 70.27 in 59.53, but no charge may be made for such (1) should be indexed in general index described in 59.52 and in record index described in 59.57 (10). 32 Atty. Gen. 173.

70.28 Assessment as one parcel. No assessment of real property which has been or shall be made shall be held invalid or irregular for the reason that several lots, tracts or parcels of land have been assessed and valued together as one parcel and not separately, where the same are contiguous and owned by the same person at the time of such assessment.

70.29 Personalty; how entered. The assessor shall place in one distinct and continuous part of the assessment roll all the names of persons assessed for personal property, with a statement of such property in each village in his assessment district, and foot up the valuation thereof separately; otherwise he shall arrange all names of persons assessed for personal property on his roll alphabetically so far as he conveniently can. He shall also place upon the assessment roll, in a separate column and opposite the name of each person assessed for personal property, the number of the school district in which such personal property is subject to taxation.

70.30 Aggregate values. Every assessor shall ascertain and set down in separate columns prepared for that purpose on the assessment roll and opposite to the names of all persons assessed for personal property the number and value of the following named items of personal property assessed to such person, which shall constitute the assessed valuation of the several items of property therein described, to wit:

- (1) The number and value of horses, mules and asses of all ages.
- (2) The number and value of neat cattle of all ages.
- (3) The number and value of sheep and lambs.
- (4) The number and value of swine.
- (5) The number and value of wagons, carriages and sleighs.
- (6) The value of merchants' stock.
- (7) The value of manufacturers' stock.
- (8) The value of logs, timber, lumber, ties, poles and posts, not manufacturers' stock.
- (9) The number and value of steam and other vessels.
- (10) The value of the property and franchises of companies defined in subsections (3), (7) and (8) of section 76.02 whose property is located wholly within the taxation district.
- (11) The value of leaf tobacco.
- (13) The value of all other personal property except such as is exempt from taxation.
- (14) The number and value of ornaments, jewelry and precious stones.
- (15) Total, the value of all personal property. [1931 c. 22 s. 1; 1935 c. 414]

70.31 [Repealed by 1927 c. 396 s. 1]

70.32 Real estate, how valued. (1) Real property shall be valued by the assessor from actual view or from the best information that the assessor can practicably obtain, at the full value which could ordinarily be obtained therefor at private sale. In determining the value the assessor shall consider, as to each piece, its advantage or disadvantage of location, quality of soil, quantity of standing timber, water privileges, mines, minerals, quarries, or other valuable deposits known to be available therein, and their value. But the fact that the extent and value of minerals or other valuable deposits in any parcel of land are unascertained shall not preclude the assessor from affixing to such parcel the value which could ordinarily be obtained therefor at private sale.

(2) The assessor, having fixed a value, shall enter the same opposite the proper tract or lot in the assessment roll, following the instructions prescribed therein. In cities and

villages, he shall segregate into the following classes on the basis of use and set down separately in proper columns the values of the land, exclusive of improvements, and the improvements in each class:

- A. Residential,
- B. Mercantile,
- C. Manufacturing,
- D. Agricultural.

In towns, he shall segregate into the following classes on the basis of use and set down separately in proper columns the acreage and the value of the parts of land, exclusive of improvements, and the improvements which fall within each class:

- D. Agricultural,
- E. Marsh, cut-over, or waste,
- F. Timber,

A. Residential, including also mercantile and manufacturing.

(3) In determining the value of lands used for agricultural purposes there shall not be considered the element of enhancement of such value by reason of clearing such lands of stumps, stones or growing timber for a period of three years following any such clearing completed before January 1, 1935. [1931 c. 427 s. 1, 2; 1933 c. 423]

Note: The assessor's valuation is prima facie correct and will not be set aside in the absence of evidence showing it is incorrect. The owner's income tax return and its report to stockholders is competent evidence as an admission by the owner as to the value of the property. *Worthington P. & M. Corp. v. Cudahy*, 205 W 227, 237 NW 140.

In determining the sale value the board could properly consider as admissions the taxpayer's prospectus, book value, appraisals procured by the taxpayer, and the amount of insurance carried; and account was properly taken of the cost, depreciation, replacement value, earnings, industrial conditions, and sales of other paper mill and pulp wood properties. *State ex rel. Flambeau P. Co. v. Windus*, 208 W 583, 243 NW 216.

If there is any competent credible evidence to sustain the valuations placed upon property by assessing officers, the assessment must be sustained by court, since court cannot weigh the testimony to determine where the preponderance lies. *Rahr Malting Co. v. Manitowoc*, 225 W 401, 274 NW 291.

Evidence that real estate was sold immediately after its assessment for materially less than the assessor's valuation, although unimpeached and uncontradicted, did not so clearly establish "the full value which could ordinarily be obtained therefor at private sale," as to demonstrate the incorrectness of the assessor's judgment (in the absence of a showing that the sale was made under circumstances which lead to the conclusion that the price paid was that which ordinarily could be obtained at private sale) and hence the board of review did not commit jurisdictional error in allowing the

assessment to stand. *State ex rel. Collins v. Brown*, 225 W 593, 275 NW 455.

Real estate must be assessed for the purpose of taxation at its fair market value, and the market value is the price which the property will sell for on negotiations resulting in a sale between an owner willing but not obligated to sell and a willing buyer not obligated to buy. In proceedings attacking the assessment, the assessor's valuation must be taken as presumptively correct, but this presumption must give way to undisputed evidence establishing a different value. *State ex rel. Hennessey v. Milwaukee*, 241 W 548, 6 NW (2d) 718.

Where the record before the court shows that the assessor or the board of review excluded from consideration evidence entitled to consideration, or if the assessor based his valuation on improper considerations or went on a false assumption or theory in determining the amount, or gave to facts considered unwarranted effect or drew from them unwarranted conclusions, the assessment will be set aside. *State ex rel. Kenosha Office Bldg. Co. v. Herrmann*, 245 W 253, 14 NW (2d) 157.

Real estate must be assessed at its fair market value, and the market value is what the property will sell for on negotiations resulting in a sale between an owner willing but not obliged to sell and a willing buyer not obliged to buy. *State ex rel. Farmers & M. State Bank v. Schanke*, 247 W 182, 19 NW (2d) 264.

Where ownership of surface of lands and ownership of minerals underneath are in different persons, these interests should not be separately assessed for tax purposes, with exceptions noted in 70.33. 25 Atty. Gen. 630.

70.33 Valuation and assessment of lead and zinc bearing lands. (1) For purposes of assessment and taxation lands containing deposits of lead or zinc shall be valued in the following manner, to wit: The value of each parcel of such land, exclusive of its mineral content, shall first be determined and to this there shall be added, in lieu of the value of such mineral content, one-fifth of the gross amount of sales of any ore, mineral or deposit extracted from such land at any time and sold during the preceding calendar year. Nothing herein shall be construed to exempt from taxation the buildings, machinery, mills, equipment, stores, supplies or other personal property of any person, copartnership, corporation, association or company engaged in mining or extracting such deposits.

(2) On or before the first day of April of each year, every owner of such land, and every person, copartnership, corporation, association or company engaged in mining or extracting such deposits shall furnish to the assessor of incomes of the district in which such land is situated a verified statement or return giving a correct description of each such parcel of land, the name of the owner thereof, the amount of sales or purchases of all ore, minerals and deposits mined or extracted therefrom at any time and sold during the preceding calendar year, and such other facts and information as may be necessary to enforce the provisions of this act. In the discretion of the assessor of incomes, similar reports may be required from every person, copartnership, association, corporation or company, engaged in purchasing such ore, minerals or deposits.

(3) On or before the first day of June of each year, the assessor of incomes shall determine the gross amount of sales of such ore, minerals or deposits from each parcel of land subject to this act; and shall certify the same to the assessor of each district in which such land is situated. On the basis of such sales and in the manner hereinbefore prescribed, the valuation of each such parcel of such land shall be computed by the assessor, entered on the assessment roll, and after the examination and review provided by section 70.47 shall be taxed as other property in the same district is taxed.

70.34 Personalty. All articles of personal property shall, as far as practicable, be valued by the assessor upon actual view at their true cash value; and after arriving at the total valuation of all articles of personal property which he shall be able to discover as belonging to any person, if he have reason to believe that such person has other personal property or any other thing of value liable to taxation, he shall add to such aggregate valuation of personal property an amount which, in his judgment, will render such aggregate valuation a just and equitable valuation of all the personal property liable to taxation belonging to such person.

Note: In assessing personal property which is never offered for sale, the valuation should be the price which it would probably bring if offered for sale. *State ex rel. International Business Machines Corp. v. Board of Review of City of Fond du Lac, 231 W 303, 285 NW 784.* In assessment of merchandise under this section according to true cash value, consideration should be given to state and federal excise taxes already paid and which will be included in final retail price; but where such taxes are paid only by ultimate purchaser and are not included in price to him, such taxes form no part of true cash value of commodity while in hands of manufacturer, wholesaler or retailer. 27 Atty. Gen. 362.

70.35 Taxpayer examined under oath or to submit return. (1) To determine the amount and value of any personal property for which any person, firm or corporation should be assessed, any assessor may examine such person or the managing agent or officer of any firm or corporation under oath as to all such items of personal property and the taxable value thereof as defined in section 70.34. In the alternative the assessor may require such person, firm or corporation to submit a return of such personal property and of the taxable value thereof. There shall be annexed to such return the declaration of such person or of the managing agent or officer of such firm or corporation that the statements therein contained are true.

(2) Such return shall be made on a form prescribed by the assessor, with the approval of the state commissioner of taxation, which form shall provide for a statement in summary schedules of the value of merchants' stock, manufacturers' stock, machinery tools and patterns, furniture, fixtures and equipment, and such other classes of personal property as are not by law exempt. No person, firm or corporation shall be required to take a detailed physical inventory for the purpose of making the return required by this section.

(3) Each return shall state the class of property and the value thereof as of May 1 as provided in section 70.10 and shall be filed with the assessor on or before May 25 of the year in which such return is received from such assessor. The assessor, for good cause, may allow a reasonable extension of time for filing such return. All returns filed under this section shall be the confidential records of the assessor's office, except that such returns shall be available for use before the board of review hereinafter provided. No return required under this section shall be controlling on the assessor in any respect in the assessment of any property.

(4) Any person, firm or corporation who refuses to so testify or who fails, neglects or refuses to make and file the return of personal property required by this section shall be denied any right of abatement by the board of review on account of the assessment of such personal property unless such person, firm or corporation shall make such return to such board of review together with a statement of the reasons for the failure to make and file the return in the manner and form required by this section.

(5) In the event that the assessor or the board of review should desire further evidence they may call upon other persons as witnesses to give evidence under oath as to the items and value of the personal property of any such person, firm or corporation.

(6) The return required by this section shall not be demanded by the assessor from any farmer, or from any firm or corporation assessed under chapter 76 or from any person, firm or corporation whose personal property is not used for the production of income in industry, trade, commerce or professional practice.

(7) If any subsection or paragraph of this section or its application to any person or circumstance shall be held unconstitutional, such decision shall not affect the constitutionality of any other subsection or paragraph, or its application to other persons or circumstances.

(8) This section shall not be applicable to farm products as defined by section 93.01 (10) when owned and possessed by the original producer. [1945 c. 419; 1947 c. 231]

70.36 False statement; duty of district attorney. (1) Any person, firm or corporation in this state owning or holding personal property of any nature or description, individually or as agent, trustee, guardian, administrator, executor, assignee or receiver or other representative capacity, which property is subject to assessment, who shall intentionally make a false statement to the assessor of his assessment district or to the board of review thereof with respect to such property, or who shall omit any property from any return required to be made under section 70.35, with the intent of avoiding the payment of the just and proportionate taxes thereon, shall forfeit the sum of \$10 for every \$100 or major fraction thereof so withheld from the knowledge of such assessor or board of review.

(2) It is hereby made the duty of the district attorney of any county, upon complaint made to him by the assessor or by a member of the board of review of the assessment district in which it is alleged that property has been so withheld from the knowledge of such assessor or board of review, or not included in any return required by section 70.35, to investigate the case forthwith and bring an action in the name of the state against the person, firm or corporation so complained of. All forfeitures collected under the provisions of this section shall be paid into the treasury of the taxation district in which such property had its situs for taxation.

(3) The word assessor whenever used in sections 70.35 and 70.36 shall, in cities of the first class, be deemed to refer also to the tax commissioner of any such city. [1945 c. 419]

70.37 to 70.39 [Repealed by 1927 c. 396 s. 1]

70.40 Exemption, banks, trust companies. The taxation of the income of state banks, national banks and trust companies shall be in lieu of all taxes upon the capital, surplus, property and assets of such banks, except that no real estate owned by any such bank or trust company or constituting the whole or any part of its capital, surplus or assets shall be exempt from taxation; and excepting further that no tangible personal property owned by any such bank or company shall be exempt from taxation unless such personal property be furniture, fixtures and equipment used in the banking offices of such bank or trust company. [1935 c. 267]

Note: Amendment of 70.40 by ch. 267, laws of 1935, made no change in respect to the taxation of bank safety deposit boxes, vaults, vault doors, safes, counters, cages, grillwork, burglar alarm systems and similar items. If under the law of fixtures they are part of the realty they are included in the assessment thereof, and it is only when they are not that 70.40 exempts them. 35 Atty. Gen. 270.

70.404, 70.405 [Repealed by 1927 c. 396 s. 1]

70.41 Occupation tax on grain storage. (1) **GRAIN TAX.** Every person, copartnership, association, company or corporation operating a grain elevator or warehouse in this state, except elevators and warehouses on farms for the storage of grain raised by the owner thereof, shall on or before December fifteenth of each year pay an annual occupation tax of a sum equal to one-half mill per bushel upon all wheat and flax and one-fourth mill per bushel upon all other grain received in or handled by such elevator or warehouse during the preceding year ending April thirtieth; and such grain shall be exempt from all taxation, either state or municipal.

(2) **STATEMENT FOR ASSESSMENT OF GRAIN STORAGE.** Every such person, copartnership, association, company or corporation, operating a grain elevator or warehouse within the state except elevators and warehouses on farms for the storage of grain raised by the owner thereof, shall on May first of each year furnish to the assessor of the town, city or village within which such grain elevator or warehouse is situated, a full and true list or statement of all grain specifying the respective amounts and different kinds thereof received in or handled by such elevator or warehouse during the year immediately preceding May first of such year in which such list or statement is so to be made. Any such operator of an elevator or warehouse who shall fail or refuse to furnish such list or statement or who shall knowingly make or furnish a false or incorrect list or statement, shall be punished by a fine not exceeding one thousand dollars.

(3) **ASSESSMENT AND COLLECTION OF TAX ON GRAIN STORAGE.** The tax herein provided for shall be separately assessed to the person, copartnership, company, association or corporation chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by such assessor to the town, village or city clerk and shall be entered by said clerk on the tax roll. Such tax shall be paid and collected in the same manner as taxes on personal property are paid and collected in the taxing district where such elevator or warehouse is situated, and when paid may be credited to or offset against income taxes in the same manner as personal property taxes are credited or offset as provided in section 71.21 [Stats. 1923].

(4) **FAILURE TO SUBMIT CORRECT STATEMENT FOR GRAIN STORAGE ASSESSMENT.** If the assessor or board of review shall have reason to believe that the list or statement made by

any person, copartnership, association, company or corporation is incorrect, or when any such person, copartnership, association, company or corporation has failed or refused to furnish a list or statement as required by law, the assessor or board of review shall place on the assessment roll such taxes against such person, copartnership, association, company or corporation as he or they shall deem true and just, and in case such change or assessment is made by the assessor, the assessor shall give written notice of the amount of such assessment at least six days before the first or some adjourned meeting of the board of review; in case such change or assessment is made by the board of review, notice shall be given in time to allow such person, copartnership, association, company or corporation to appear and be heard before the board of review in relation to said assessment; said notice may be served in the manner provided in section 70.35.

(5) TAXATION STATUTES APPLICABLE TO GRAIN STORAGE TAXATION. All laws not in conflict with the provisions of this act relating to the assessment, collection and payment of personal property taxes, the correction of errors in assessment and tax rolls, shall apply to the tax herein imposed.

70.415 Occupational tax on scrap iron. (1) Every person, copartnership, association, company or corporation, operating a scrap iron or scrap steel dock in this state, other than a dock used solely in connection with an industry and handling no scrap iron or scrap steel except that utilized by such industry or other than a municipally owned or operated dock, shall on or before the fifteenth day of December of each year pay an annual occupational tax of a sum equal to three and one-half cents per ton upon all scrap iron or scrap steel, handled by or over such scrap iron or scrap steel dock, during the preceding year ending April thirtieth, and such scrap iron or scrap steel shall be exempt from all other taxation, either state or municipal.

(2) Every such person, copartnership, association, company or corporation, operating a scrap iron or scrap steel dock within the state, other than a dock used solely in connection with an industry and handling no scrap iron or scrap steel except that utilized by such industry, shall on the first day of May of each year furnish to the assessor of the town, city or village within which such scrap iron or scrap steel industry is situated, a full and true list or statement of all scrap iron or scrap steel, specifying the respective amounts and different kinds thereof, received in or on, or handled by or over such scrap iron or scrap steel dock during the year immediately preceding the first day of May of such year in which such list or statement is so to be made. Any such operator of a scrap iron or scrap steel dock who shall fail or refuse to furnish such list or statement or who shall knowingly make or furnish a false or incorrect list or statement, shall be punished by a fine not exceeding one thousand dollars.

(3) The tax herein provided for shall be separately assessed to the person, copartnership, company, association or corporation chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by such assessor to the town, village or city clerk and shall be entered by said clerk on the tax roll. Such tax shall be paid and collected in the same manner as taxes on personal property are paid and collected in the taxing district where such scrap iron or scrap steel dock is situated, and the entire proceeds of said tax shall be retained by the municipality wherein such scrap iron or scrap steel dock is situated.

(4) If the assessor or board of review shall have reason to believe that the list or statement made by any person, copartnership, association, company or corporation is incorrect, or when any such person, copartnership, association, company or corporation has failed or refused to furnish a list or statement as required by law, the assessor or board of review shall place on the assessment roll such taxes against such person, copartnership, association, company or corporation as he or they shall deem true and just, and in case such change or assessment is made by the assessor, the assessor shall give written notice of the amount of such assessment at least six days before the first or some adjourned meeting of the board of review; in case such change or assessment is made by the board of review, notice shall be given in time to allow such person, copartnership, association, company or corporation to appear and be heard before the board of review in relation to said assessment; said notice may be served in the manner provided in section 70.35.

(5) All laws not in conflict with the provisions of this section relating to the assessment, collection and payment of personal property taxes, the correction of errors in assessment and tax rolls, shall apply to the tax herein imposed. [1939 c. 465]

70.42 Occupation tax on coal. (1) Every person, copartnership, association, company or corporation, operating a coal dock in this state, other than a dock used solely in connection with an industry and handling no coal except that consumed by such industry, shall on or before December fifteenth of each year pay an annual occupation tax of a

sum equal to one and one-half cents per ton upon all bituminous coal, coke and briquettes, and two cents per ton upon all anthracite coal, coke and briquettes handled by or over such coal dock, during the preceding year ending April thirtieth; and such coal shall be exempt from all taxation, either state or municipal.

(2) Every such person, copartnership, association, company or corporation, operating a coal dock within the state, other than a dock used solely in connection with an industry and handling no coal except that consumed by such industry, shall on May first of each year furnish to the assessor of the town, city or village within which such coal dock is situated, a full and true list or statement of all coal, specifying the respective amounts and different kinds thereof, received in or on, or handled by or over such coal dock during the year immediately preceding May first of such year in which such list or statement is so to be made. Any such operator of a coal dock who shall fail or refuse to furnish such list or statement or who shall knowingly make or furnish a false or incorrect list or statement, shall be punished by a fine not exceeding one thousand dollars.

(3) The tax herein provided for shall be separately assessed to the person, copartnership, company, association or corporation chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by such assessor to the town, village or city clerk and shall be entered by said clerk on the tax roll. Such tax shall be paid and collected in the same manner as taxes on personal property are paid and collected in the taxing district where such coal dock is situated, and when paid may be credited to or offset against income taxes in the same manner as personal property taxes are credited or offset as provided in section 71.21 [Stats. 1923]. Taxes collected under the provisions of this section shall be divided as follows, to wit: Ten per cent to the state, twenty per cent to the county, and seventy per cent to the town, city or village in which such taxes are collected, which shall be remitted and accounted for in the same manner as the state and county taxes collected from property are remitted and paid.

(4) If the assessor or board of review shall have reason to believe that the list or statement made by any person, copartnership, association, company or corporation is incorrect, or when any such person, copartnership, association, company or corporation has failed or refused to furnish a list or statement as required by law, the assessor or board of review shall place on the assessment roll such taxes against such person, copartnership, association, company or corporation as he or they shall deem true and just, and in case such change or assessment is made by the assessor, the assessor shall give written notice of the amount of such assessment at least six days before the first or some adjourned meeting of the board of review; in case such change or assessment is made by the board of review, notice shall be given in time to allow such person, copartnership, association, company or corporation to appear and be heard before the board of review in relation to said assessment; said notice may be served in the manner provided in section 70.35.

(5) All laws not in conflict with the provisions of this act relating to the assessment, collection and payment of personal property taxes, the correction of errors in assessment and tax rolls, shall apply to the tax herein imposed. [1933 c. 172]

Note: The repeal of the right to offset personal property taxes against income taxes did not repeal the statute granting the right to offset occupation taxes in the same manner as personal property taxes were offset. A statute which refers to and adopts the provisions of another statute is not repealed by the subsequent repeal of the statute adopted. *Milwaukee County v. Milwaukee W. F. Co.*, 204 W 107, 235 NW 545. Coal passing over a dock in Wisconsin on which the dock operator had paid an occupational tax, and which coal was on the dock on May 1, 1939, separately piled and owned but held in storage by the dock company, was not subject to personal property tax. (*State ex rel. Consolidated Coal Co. v. Arnold*, 186 W 609, applied.) *Stott Briquet Co. v. Superior*, 237 W 451, 297 NW 354. Occupation taxes assessed in any year may be offset only against income taxes assessed in following year; such rule applies in case of additional income tax assessments. 20 Atty. Gen. 573. Under (1) coal stored on dock is exempt from personal property tax only while it is still in transit. 27 Atty. Gen. 456.

70.423 Occupation tax on beekeepers. (1) There is imposed an annual occupational tax on every person, firm or corporation owning one or more colonies of bees of 25 cents for the first colony and 10 cents for each colony in excess of one, in his possession or under his control. A colony of bees shall consist of live queen or queen cell or cells, brood and adult bees, along with bottom board, cover, and one or more hive bodies with not less than 8 frames of comb. Bees and all bee equipment shall be exempt from all property taxes.

(2) The occupational tax herein provided for shall be assessed to the owner or person in possession of such bees by the assessor. He shall enter on the assessment roll the name of the person to whom assessed and the number of colonies. The clerk of the taxation district shall compute the tax and enter it on the tax roll. Such tax shall be collected in the same manner as taxes on personal property are collected. Fifty per cent of the tax shall be retained by the taxation district in which the bees are kept, and the balance shall be accounted for and paid to the state treasurer, in the same manner as state taxes on

property are paid. The moneys so collected or which have been collected which are returned to the state treasurer shall be used by the state department of agriculture for the regulation and inspection of apiaries, and the payment of indemnity as provided in section 94.765.

(3) At the request of the state department of agriculture, the clerk of the taxation district shall furnish said department a list of the names and addresses of the beekeepers in his taxation district.

(4) All laws not in conflict with the provisions of this section relating to the assessment, collection and payment of personal property taxes, the correction of errors in assessment and tax rolls, shall apply to the tax herein imposed.

(5) Any official charged with a duty under this section who shall fail to perform that duty shall be guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars or by imprisonment in the county jail not to exceed sixty days or by both such fine and imprisonment. [1933 c. 470 s. 9; 1935 c. 347; 1947 c. 32]

70.425 Occupational tax on owners of domestic mink. (1) There is imposed an annual occupational tax on every person, firm or corporation owning or operating any domestic mink farm, computed on the basis of \$5 for each such farm, which tax shall be in addition to all other taxes.

(2) The occupational tax herein provided for shall be assessed to the owner or person in possession of such mink by the assessor. He shall enter on the assessment roll the name of the person to whom assessed and the number of farms in his district. The clerk of the taxation district shall compute the tax and enter it on the tax roll. Such a tax shall be collected in the same manner as taxes on personal property are collected. The money so collected shall be paid into the state treasury and there credited to the conservation fund.

(3) At the request of the conservation commission the clerk of the taxation district shall furnish said commission a list of the names and addresses of the domestic mink farmers in his taxation district.

(4) All provisions of law not in conflict with the provisions of this section relating to the assessment, collection and payment of personal property taxes, the correction of errors in assessment and tax rolls, shall apply to the tax herein imposed. [1939 c. 480; 1945 c. 563; 1947 c. 294]

70.43 Correction of errors by assessors. If any assessor shall discover that any error was made in any assessment roll during the preceding year, by which the valuation of any real or personal estate subject to taxation was increased or reduced from the true assessed valuation thereof, he shall correct such error by adding to or subtracting from, as the case may be, the valuation of such property on his assessment roll as fixed by him, the amount omitted from or added to the true assessed valuation in consequence of such error and make a marginal note of such correction, and the result shall be taken as the true valuation of such property for the latter year and a final correction of such error.

70.44 Assessment; property omitted. Real or personal property omitted from assessment in any of the 5 next previous years unless previously reassessed for the same year or years, shall be entered once additionally for each previous year of such omission, designating each such additional entry as omitted for the year 19.. (giving year of omission) and affixing a just valuation to each entry for a former year as the same should then have been assessed according to his best judgment, and taxes shall be apportioned, and collected on the tax roll for such entry. [1943 c. 118]

Note: Property improperly listed as "ex-empt" by assessor can thereafter be reassessed for three next previous years as omitted property. *Armory R. Co. v. Olsen*, 210 W 281, 246 NW 513.

Lands omitted from assessment by city on mistaken theory that they were no longer within corporate limits of city may be assessed by city as omitted property next year. Assessment of such lands by town to which they were thought to be annexed was illegal. Remedy, if any, of landowners who paid illegal tax to town is under 74.73. 20 Atty. Gen. 771.

Lands omitted from assessment by town on mistaken theory that land was owned by

federal government may be assessed as omitted property next year. 24 Atty. Gen. 541.

Taxable lands inadvertently omitted from 1934 tax roll should be placed upon later assessment roll. Assuming proper assessment under this section, lien for 1934 taxes attaches as of August, 1934. Sovereignty of federal government does not destroy state's right to collect tax lawfully levied and justly owing and due. 25 Atty. Gen. 145.

Property omitted from tax roll under this section when returned on tax roll should be taxed at rate prevailing during year of its omission. 27 Atty. Gen. 355.

70.45 Return and examination of rolls. When the assessment roll or rolls shall have been completed in cities of the first class the same shall be delivered to the tax commissioner, and in all other cities to the city clerk, who shall thereupon give notice by publication in the official paper of the city that on a certain day or days therein named said assessment roll or rolls will be open for examination by the taxable inhabitants, which said notice may assign a day or days certain for each ward, where there are separate assessment rolls for such wards, for the inspection of such rolls. On such examination the tax

commissioner, assessor or assessors may make such changes as may be necessary to perfect the assessment roll or rolls, and after the corrections are made the said roll or rolls shall be submitted by the tax commissioner or city clerk to the board of review. [1943 c. 193]

70.46 Boards of review; members; organization. (1) The supervisors and clerk of each town, the mayor, clerk and such other officer or officers, other than assessors, as the common council of each city shall by ordinance determine, the president, clerk and such other officer or officers, other than the assessor, as the board of trustees of each village shall by ordinance determine, shall constitute a board of review for such town, city or village. In cities of the first class the board of review shall and in all other cities, it may by ordinance in lieu of the foregoing consist of 5 residents of said city, none of whom shall occupy any public office or be publicly employed. Said members shall be appointed by the mayor of said city with the approval of the common council and shall hold office as members of said board for 5 years and until their successors are appointed and qualified, the first appointments to be for 1, 2, 3, 4 and 5 years respectively. In cities the common council shall fix, by ordinance, the salaries of the members of the board of review.

(1a) Whenever the duties of assessor are performed by one of the officers named to the board of review by subsection (1) then the governing body shall by ordinance designate another officer to serve on the board instead of the officer who performs the duties of assessor.

(2) Such board shall meet annually on the second Monday of July at the town hall in towns and the village hall in villages. If there is no town or village hall it shall meet at the clerk's office or in towns it may meet at the place where the last annual town meeting was held. In cities the board shall meet on the second Monday of July in each year at the council chamber, or in cities of the first class in some other place designated by the tax commissioner of such cities. A majority shall constitute a quorum.

(3) Notice of the time and place of meeting shall be posted up by such clerk in at least three public places in each town, village, or city, or ward thereof, at least four days prior to such meeting.

(4) The town, city, or village clerk and in cities of the first class the tax commissioner on such board of review shall be clerk thereof and shall keep an accurate record of all its proceedings. The board may adjourn from day to day or from time to time until its business is completed; provided that, if an adjournment be had for more than one day, a written notice shall be posted on the outer door of the place of meeting, stating to what time said meeting is adjourned.

(5) The members of such board, except members who are full time employes or officers of the town, village or city, shall receive such compensation as shall be fixed by resolution or ordinance of the town board, village board or common council.

(6) After the assessors shall have laid before the board of review their assessment roll of real estate with the sworn statements and valuations of personal property as provided by section 70.47, the board of review shall remain in session one day from 10 a. m. until 4 p. m., except for a one hour recess for lunch, for taxpayers to appear and examine such assessment roll, sworn statements, and valuations and be heard in relation thereto; and upon reasonable cause being shown therefor, shall hold at least one adjourned session upon a subsequent day, and said board shall be presumed to be in session each day until final adjournment is made unless adjournment is made to a particular date.

(7) The provisions of this section shall not be so construed as to alter, repeal, amend, or modify the provisions of any city or village charter relating to the cases herein provided for. [1931 c. 427 s. 3; 1933 c. 313 s. 1; 1939 c. 528; 1941 c. 92, 97; 1943 c. 193; 1947 c. 388]

Note: The notice required of the time to notify persons against whom assessments and place of meeting of the board of review are made of the time of meeting of the is the notice posted by the clerk pursuant board. *Amnicon v. Kimmes*, 249 W 321, 24 to (3), and it is not the duty of the assessor NW (2d) 592.

70.47 Duties and powers of board; proceedings. (1) The assessors shall lay before the board of review their assessment roll of the real property and all the sworn statements made by others and valuations made by them of personal property. The board shall, under their official oaths, carefully review and examine said roll and statement and all valuations of real and personal property, and shall correct any errors in description of property or otherwise; and for that purpose they are hereby required to hear and examine any person or persons upon oath, who shall appear before them in relation to the assessment of any property upon said roll or in relation to any property omitted therein; and if it appear that any property has been valued by the assessor too high or too low, they shall increase or lessen the same to the true valuation according to the rules for valuing property prescribed in this chapter.

(2) Any person who thinks the aggregate valuation of his personal property by the assessor too high, may appear and state to the board under oath the true aggregate valuation of all personal property upon which he is liable to taxation, and if the board shall be satisfied of the truth of such statement they shall take the valuation so fixed by him as the true aggregate valuation of his personal property. The board of review shall, when satisfied from the evidence taken that the assessor's valuation is too high or too low, lower or raise the same accordingly, whether the person assessed appear before them or not. The board may also place upon the roll any property they may know to be omitted, and assess the same to the person to whom in right it should be assessed.

(3) But they shall not raise any assessment nor assess any property not already on the roll unless the person assessed, if a resident of the town, city, or village, or if a nonresident, his agent, if there be one resident therein, or if neither, the possessor of the property assessed, if any, shall have been duly notified of such intention in time to appear and be heard before the board in relation thereto; provided, the residence of such owner, agent or possessor be known to any member of said board.

(4) Any person claiming any correction of the assessment may call witnesses to support the same, or to show that any property on the roll is assessed too high, or too low; and the attendance of witnesses and the production of books, inventories, schedules, papers, or documents may be compelled by subpoena issued by a justice of the peace or the clerk of the board.

(5) The clerk shall keep a careful record of all changes made and valuations determined on by the board, and shall reduce to writing and preserve the examination and statements of every person and witness taken by the board.

(6) No person shall be allowed in any action or proceeding to question the amount or valuation of personal property assessed to him unless in person or by agent he shall have first presented his objections thereto before the board of review of the district in which such assessment was made and in good faith presented evidence to such board in support of such objections and made full disclosure before said board, under oath, of all his personal property liable to assessment in such district and the value thereof, except when prevented from making such presentation and disclosure by omission of duty on the part of the assessor or of such board.

(7) In cities of the first class all objections to the amount or valuation of real or personal property shall be first made in writing and filed with the tax commissioner on or before the third Monday in July. No person shall be allowed in any action or proceeding to question the amount or valuation of real or personal property in the assessment rolls of such city unless objections shall have been so filed. If such objections shall have been investigated by a committee of the board of assessors as provided in subsection (6) of section 70.07, the board of review may adopt the recommendation of such committee unless the objector shall request or the board shall order a hearing. At least two days' notice of the time fixed for such hearing shall be given to the objector or his attorney and to the city attorney of such city. The provisions of the statutes relating to boards of review not inconsistent with this subsection shall be applicable to proceedings before the boards of review of such cities, and the changes, corrections and determinations made by such board acting within its powers shall be prima facie correct. Appeal from such determination shall be to the circuit court and shall be placed at the head of the circuit court calendar for an early hearing. [1933 c. 313 s. 2]

Note: That the testimony before the board of review expressed the witnesses' opinion of the sale or market value of the property and that no testimony was introduced by the taxing authorities in contradiction, does not necessarily rule the case in favor of the property owner since the value placed by the assessor on the property is presumptively correct. State ex rel. North Shore D. Co. v. Axtell, 216 W 153, 256 NW 622.

Subsection (1) does not require the taxpayer who had previously offered evidence before the board as to the value of assessed property, be given notice thereafter, of the reception by the board of the testimony which raised a question of fact as to the correctness of the testimony previously offered by the taxpayer. The statute, so construed, does not offend against the due process requirement of the constitution. State ex rel. Kappa Sigma Building Ass'n v. Bareis, 226 W 229, 276 NW 317.

It is not the province of the court, in a certiorari proceeding to review an assess-

ment of property for taxation, to pass on the weight of conflicting testimony, the board of review being charged with that duty. State ex rel. First & L. Nat. Bank v. Board of Review, 237 W 306, 296 NW 614.

Arbitrary conduct of the board of review,—a refusal to accede to the taxpayer the right to contest an assessment, treating him as an interloper improperly taking the board's time and troubling it by bringing his claim of an excessive assessment before it, predetermining from whatever cause or consideration to uphold the assessment before the taxpayer has presented his evidence or his reasons in support of his claim,—is sufficient, when clearly appearing, to justify the trial court in vacating the assessment. State ex rel. Kenosha Office Bldg. Co. v. Herrmann, 245 W 253, 14 NW (2d) 157.

Where at least a part of personal property assessed against a taxpayer by a town was assessable against him, and he did not appear before the board of review, and was not prevented from appearing by any omission of duty on the part of the assessor or

the board, he was precluded by (6) from against him by the town. *Amnicon v. Kimmes*, 249 W 321, 24 NW (2d) 592. later questioning either the amount or the value of the personal property assessed

70.48 Assessor to attend board of review. The assessor shall attend without order or subpoena all hearings before the board of review and under oath submit to examination and fully disclose to said board such information as he may have touching his assessment and any other matters pertinent to the inquiry being made and shall receive the same compensation for such attendance as is allowed to the members of said board. The clerk shall make all corrections to the assessment roll ordered by the board of review, including all changes in the valuation of real property. When any valuation of real property is changed he shall enter the valuation fixed by the board in red ink in the proper class above the figures of the assessor, and the figures of the assessor shall be crossed out with red ink. The clerk shall also enter upon the assessment roll, in the proper place, the names of all persons found liable to taxation on personal property by the board of review, setting opposite such names respectively the aggregate valuation of such property, after deducting exemptions and making such corrections as the board may have ordered. All changes in valuation of personal property made by the board of review shall be made in the same manner as provided for changes in real estate. [1931 c. 427 s. 3]

70.49 Affidavit of assessor. The assessor or assessors shall annex to the assessment roll, when completed, his or their affidavits, to be made and certified substantially in the following form, viz.:

STATE OF WISCONSIN, }
 County. } ss.

We, and, assessors for the of in said county, do solemnly swear that the annexed assessment roll contains, as we verily believe, a complete and perfect entry and list of all real property liable to assessment for the present year in said, the name of each person therein owning or having in charge personal property liable to taxation; a correct description of the separate parcels of real property assessed; that we have, as far as practicable, valued each parcel of real estate from an actual view of such parcel (but in towns exceeding one hundred and eight square miles this clause shall be "that we have valued each parcel of real estate from actual view, or from the best information we could practicably obtain, and all improved lands from actual view"); that we have, as far as practicable, personally viewed and inspected each article of personal property assessed by us; that the valuation of real property as set down in said roll is as determined by us or as corrected by the board of review; that the valuation of personal property in said roll is as fixed by us or as finally fixed by the board of review; that each and every valuation of the property made by us is the just and equitable value thereof, as we verily believe.

Read to the affiant and subscribed and sworn to before me this day of, 19..

The value of all items of real and personal property entered in the assessment roll to which such affidavit is attached by the assessor making the assessment shall, in all actions and proceedings involving such values, be presumptive evidence of the full market value thereof.

No assessor shall be allowed in any court or place, by his oath or testimony, to contradict or impeach any affidavit or certificate made or signed by him as such assessor. [1931 c. 427 s. 3]

Note: The provision in 70.49 that the value of all items of real and personal property entered in the assessment roll to which the assessor's affidavit is attached, shall, in all actions and proceedings involving "such values," be presumptive evidence of the full market value thereof, makes the assessed value presumptive only in cases where that value is under attack, and such provision has no application to a proceeding in the county court to determine the value of property for inheritance tax purposes. *Estate of Ryerson*, 239 W 120, 300 NW 782.

70.50 Delivery of roll. Except in cities of the first class the assessor shall, on or before the first Monday in July, deliver the assessment roll so completed and all the sworn statements and valuations of personal property to the clerk of the town, city or village, who shall file and preserve the same in his office. [1939 c. 528]

70.51 Assessment review and tax roll in Milwaukee. (1) The board of review in all cities of the first class whether organized under general or special charter, after they shall have examined, corrected and completed the assessment roll of said city and not later than the first Monday in November, shall deliver the same to the tax commissioner, who shall thereupon reexamine and perfect the same and make out therefrom a complete tax roll in the manner and form provided by law. All laws applicable to any such city relating to the making of such tax rolls shall apply to the making of the tax roll by said tax commissioner, except that the work of making said rolls shall be performed by the assessors

and such other employes in the tax commissioner's office as the tax commissioner shall designate. After the completion of said tax roll in the manner provided by law, the tax commissioner shall annex a warrant in the form prescribed by law and signed by him and deliver the tax roll and warrant to the city treasurer of such city on the third Monday of December in each year.

(1a) In the event the board of review shall not have completed its work within the time limited by the first Monday in November, it shall nevertheless deliver the assessment roll to the tax commissioner as therein required, and the tax commissioner shall thereupon perfect the same as though the board of review had fully completed its work thereon; provided, that in any case wherein the board of review shall alter the assessment after the first Monday of November and before the treasurer shall be required to make his return of delinquent taxes, the assessment roll and the tax roll may be corrected accordingly in the manner provided in section 70.73 (2), except that the consent of the treasurer shall not be required. In the event that the board of review shall not have completed its review of the assessment roll by the date on which the treasurer is required to make his return of delinquent taxes any corrections in the assessment roll by the board of review made after such date shall be reflected by the assessor in the following year in the manner provided by section 70.43.

(2) The county clerk of any county in which there shall be a city of the first class shall deliver his certificates of apportionment of taxes and statement of the names of persons in said city subject to an income tax to the tax commissioner instead of the city clerk of such city. [1943 c. 153]

70.52 Clerks to examine and correct rolls. Upon receiving such assessment roll the said clerk shall carefully examine it. He shall correct all double assessments, imperfect descriptions and other errors apparent upon the face of the roll, and strike off all parcels of real property not liable to taxation. He shall add to the roll any parcel of real or personal property omitted by the assessors and immediately notify them thereof; and such assessors shall forthwith view and value the same and certify such valuation to said clerk, who shall enter it upon the roll, and such valuation shall be final. To enable such clerk to properly correct defective descriptions he may call to his aid, when necessary, the county surveyor, whose fees for the services rendered shall be paid by the town, city or village.

70.53 Statement of assessment. Upon the correction and completion of the assessment roll as provided in the preceding section, the clerks shall prepare and, on or before the second Monday in August, transmit to the department of taxation, to the supervisor of assessment, and to the county clerk a detailed statement of the aggregate of each of the several items of taxable property specified in section 70.30, and a detailed statement of each of the several classes of real estate, entering land and improvements separately, as prescribed in subsection (2) of section 70.32. Every county clerk shall, at the expense of the county, annually procure and furnish to each town, city and village clerks blanks for such statements, the form of which shall be prescribed by the department of taxation. [1931 c. 427 s. 3; 1943 c. 20]

70.54 Abstracts for department of taxation. Each county clerk, after the receipt of such statement, shall make an abstract of the same and transmit it to the department of taxation on or before the thirty-first day of December. [1943 c. 20]

70.55 Special messenger. Whenever any town, city or village clerk shall have failed to transmit any such statement within the time fixed as aforesaid, the county clerk or the department of taxation shall send a messenger therefor, who shall be paid and the expenses charged back as provided in section 68.09 or in subsection (6) of section 73.03, respectively; and whenever any county clerk shall have failed to transmit any such abstract, within the time fixed as aforesaid, the department of taxation may send a messenger therefor, who shall be paid and the expenses therefor charged back to the county. [1931 c. 427 s. 3; 1943 c. 20]

70.555 Provisions directory. The directions herein given for the assessing of lands and personal property and levying and collecting taxes shall be deemed directory only, and no error or informality in the proceedings of any of the officers intrusted with the same, not affecting the substantial justice of the tax, shall vitiate or in anywise affect the validity of such tax or assessment.

Note: Methods of correcting errors in tax assessment and tax certificates discussed. 26 Atty. Gen. 149.

70.56 Lost roll. (1) **NEW ASSESSMENT.** Whenever the assessment roll of any assessment district shall be lost or destroyed before the second Monday of November in any year and before the tax roll therefrom has been completed the assessor of such district shall immediately prepare a new roll and as soon thereafter as practicable make a new assessment of the property in his district. If the board of review for such district shall

have adjourned without day before such new assessment is completed such board shall again meet at a time fixed by the clerk of the town, city or village, not later than the fourth Monday in November, and like proceedings shall be had, as near as may be, in reference to such new assessment and assessment roll as in case of other assessments, and such clerk shall give notice of the time and place of such meeting of the board of review as is provided in section 70.46. Such new assessment and assessment roll shall be deemed the assessment and assessment roll of such assessment district to all intents and purposes. In case the assessor shall fail to make such new assessment or the board of review shall fail to meet and review the same, or any assessment roll is lost or destroyed after the second Monday in November in any year and before the tax roll therefrom is completed, or both the assessment roll and tax roll are lost or destroyed, then the county clerk shall make out and deliver a tax roll in the manner and with like effect as provided in section 70.71.

(2) **SAME.** Whenever a tax roll in any town, city or village shall be lost or destroyed before it has been returned by the treasurer or sheriff holding the same, a new roll shall be prepared in like manner and with like warrant as the first, and delivered to such treasurer or sheriff, who shall complete the collection of the taxes and return such new tax roll in the manner provided for the original tax roll.

70.57 Assessment of counties by department of taxation. (1) The department of taxation before the fifteenth day of September of each year shall complete the valuation of the property of each county of the state. From all the sources of information accessible to it the department shall determine and assess the value of all property subject to general property taxation in each county. It shall set down in a list of all the counties, and opposite to the name of each county, the valuation thereof so determined by it, which shall be the full value according to its best judgment. The list so prepared shall be certified by the commissioner of taxation as the assessment of the several counties of the state made by the department, and be delivered to the director of budget and accounts. In any case where the department, through mistake or inadvertence, has assessed to any county a greater or less valuation for any year than should have been assessed to such county, it shall correct such error by adding to or subtracting from (as the case may be) the valuation of such county as determined by it at the next succeeding county assessment, the amount omitted from or added to the true valuation of such county in the former county assessment in consequence of such error, and the result shall be taken as the full value of such county for the latter year and a final correction of such error.

(2) The department shall have the power to make such rules, orders and regulations for making and filing complaints by counties, the attendance of witnesses, the production of books, records and papers and the mode of procedure as may be deemed necessary, not inconsistent with the laws of the state.

(3) The department shall have authority to direct that the fees for the attendance of witnesses and officers and other expenses for evidence shall be paid by the county making complaint to the department which is determined adversely to such county, as justice may require, and when such costs and fees are so directed to be paid by any county the amount thereof shall be certified to the director of budget and accounts, and in turn certified by him to the secretary of state, and by the latter apportioned to such county with the state taxes and be levied and collected upon the property of said county with said state taxes. [1931 c. 427 s. 3; 1939 c. 412; 1943 c. 20; 1947 c. 472]

70.575 State assessment, time. The department, not later than the first day of November in each year, shall total the assessments of counties made by the department of taxation pursuant to section 70.57, and such total shall be known as the state assessment and shall be the full market value of all general property of the state liable to state, county and local taxes in the then present year. The department shall enter upon its records such state assessment. [1931 c. 427 s. 3; 1931 c. 483 s. 3, 5; 1933 c. 349 s. 2; 1943 c. 20]

70.58 Forestation state tax. (2) There is levied an annual tax of two-tenths of one mill for each dollar of the assessed valuation of the property of the state as determined by the department of taxation pursuant to section 70.57, for the purpose of acquiring, preserving and developing the forests of the state, the proceeds of such tax to be paid into the conservation fund. But such mill tax shall not be levied in any year in which the legislature has provided funds for the purposes specified in this section, equal to or in excess of the amount which such mill tax would produce. [1931 c. 4 s. 2; 1931 c. 67 s. 165, 165a; 1931 c. 416 s. 2; 1931 c. 455 s. 1; 1933 c. 403; 1937 c. 332; 1943 c. 20]

Note: Forestation tax collected pursuant to 70.58 (2) is state tax within meaning of 74.57 (2). 26 Atty. Gen. 85.

70.59 [Repealed by 1933 c. 403]

70.59 [Repealed by 1945 c. 505]

70.60 Apportionment of state tax. The director of budget and accounts shall compute the state tax chargeable against each county basing such computation upon the valu-

ation of the taxable property of the county as determined by the department of taxation pursuant to section 70.57. On or before the fourth Monday of October in each year the secretary of state, upon information which the director of budget and accounts shall timely furnish, shall certify to the county clerk of each county the amount of the taxes apportioned to and levied upon his county, and all special charges which he is required by law to make in any year to any such county to be collected with the state tax. He shall then charge to each county the whole amount of such taxes and charges, and the same shall be paid into the state treasury as provided by law. [1931 c. 4 s. 2; 1943 c. 20; 1943 c. 275 s. 29; 1947 c. 472]

70.61 Assessment of taxation districts. The county clerk of each county shall annually, before the second Tuesday of November, prepare a statement of the latest statistics of population and such other statistical information as he may have, and lay the same, together with the statements received during the year from the several town, city and village clerks in pursuance of section 70.53, before the county board at their annual meeting in November. The county board shall, at such meeting, carefully examine all such statements and determine and assess the value of all the taxable property in each town, city and village which collects taxes independently in their county. They shall set down in a list of the towns, cities, and such villages, opposite the name of each, the value thereof so determined by them, which shall be the full value according to their best judgment. The list so prepared shall be certified to by the chairman and clerk of said board as the taxation district assessment made by said board, and said clerk shall file the same in his office and record it in a book therefor. [1931 c. 427 s. 3]

70.62 County tax rate. (1) COUNTY BOARD TO DETERMINE. The county board shall also, at such meeting, determine by resolution the amount of taxes to be levied in their county for the year, and also any taxes for post-war planning under section 59.08 (53), and also the amount to be raised by tax in each town, village and city for the support of common schools for the ensuing year, in accordance with the provisions of section 59.075; and by separate resolution adopted by majority of the members of the board not prohibited from voting thereon by section 39.01, determine the amount of tax to be levied to pay the compensation and allowances of the county superintendents of schools and designate therein the cities exempt from taxation therefor.

(2) MAXIMUM. The total amount of county taxes assessed, levied and carried out against the taxable property of any county in any one year shall not exceed in the whole one per centum of the total valuation of said county for the current year as fixed by the department of taxation; provided that such limitation shall not apply to any taxes levied to pay the principal and interest upon any valid bonds or notes of the county now outstanding or hereafter issued; and provided further that in counties having a population of 250,000 or more such limitation shall not apply to any taxes levied pursuant to section 59.083 of the statutes to provide for the exercise of the powers and functions relating to the consolidation of municipal services in such counties.

(3) OMITTED TAX. Whenever the county board of any county shall fail to apportion against any town, city or village thereof in any year any state, county or school tax or any part thereof properly chargeable thereto, such county board shall, in any succeeding year, apportion such taxes against such town, city or village and add the proper amount thereof to the amount of the current annual tax then apportioned thereto. [1933 c. 100, 177; 1935 c. 89, 450; 1939 c. 513 s. 24; 1943 c. 20; 1945 c. 418]

Note: Sec. 4 of ch. 418, laws of 1945 declares: "Section 3 of this act is emergency legislation and the amendment made thereby to section 70.62 (1) of the statutes shall expire one tax levy year after the termination of the present wars between the United States and her enemies as proclaimed by the Congress or President."

Statute limiting leviable county taxes does not affect taxes previously levied to meet principal and interest of county bonds. Tax which must be levied to meet principal and interest thereof is irrevocable and is material to be considered only to determine amount of additional tax leviable under statute fixing one per cent limitation. All taxes levied, plus taxes previously levied to pay indebtedness, cannot exceed one per cent. *Oconto County v. Townsend*, 210 W 35, 246 NW 410.

In determining whether county taxes levied by a county exceeded the one per cent limitation imposed by (2), an item levied to pay a duly authorized temporary loan was to be excluded as being within

the proviso excepting from such limitation taxes levied to pay principal and interest on valid bonds or notes. *McDonald v. Black River Falls*, 246 W 172, 16 NW (2d) 410.

Adoption by county board of report of budget committee amounts to resolution levying county taxes if report shows separate amounts required to be levied to meet budget. 21 Atty. Gen. 54.

Tax levied for maintenance of county superintendent's office is regular county tax and as such is payable either in cash or in delinquent tax certificates. 23 Atty. Gen. 496.

County tax maximum of one per cent should be computed on valuation for current and not preceding year as provided by 70.62 (2) of 1935 statutes. 25 Atty. Gen. 179.

Amounts certified by industrial commission to secretary of state under 49.03 (8a), to be collected from county, must be included in computing one per centum county tax limitation under 70.62 (2). Amounts certified by board of control to secretary of state under 46.10 (2), to be collected from

county, must be included in such computation. Taxes for soldiers' relief levied under 45.10, taxes of two mills or less levied for highway purposes under 83.06 and judgments placed upon tax roll under 66.09, should be excluded. 27 Atty. Gen. 335.

70.63 Apportionment of county taxes. (1) BY COUNTY CLERK. The county clerk shall apportion the county tax, including the tax for the support of common schools as provided for in section 59.075, and the whole amount of state taxes and charges levied upon his county, as certified by the secretary of state, among the several towns, cities and villages of the county, according and in proportion to the valuation thereof as determined by the county board; and shall carry out in the record book aforesaid, opposite to the name of each in separate columns, the amount of state taxes and charges and the amount of county taxes so apportioned thereto, and the amount of all other special taxes or charges apportioned or ordered, or which he is required by any law to make in any year to any such town, city or village, to be collected with such annual taxes; and within ten days after the assessment of values by the county board he shall certify to the clerk of, and charge to each town, city and village, excepting in cities of the first class, the amount of each and all such taxes so apportioned to and levied upon the same, and shall, at the same time, file with the county treasurer a certified copy of the apportionment so certified by him to each town, village and city clerk.

(2) CITY OF FIRST CLASS. The county clerk shall certify in a similar manner to the tax commissioner of each city of the first class located within the limits of the county.

(3) UNPAID TAXES. Each county clerk shall also, at the time of certifying such taxes, return to the clerk of each town, city and such village, excepting cities of the first class, a list of all the tracts of land therein upon which the taxes for the preceding year remain unpaid.

(4) CITY OF FIRST CLASS. The county clerk shall make returns in a similar manner to the tax commissioner of each city of the first class located within the limits of the county. [1931 c. 427 s. 3]

70.64 Review of county assessment. (1) BY DEPARTMENT OF TAXATION. The assessment and determination of the relative value of taxable general property in the several taxation districts of any county, made by the county board under the provisions of section 70.61, may be reviewed, and a redetermination of the value of such property may be made, by the department of taxation upon appeal to said department by any taxation district in such county. The filing of such appeal in the offices of the department of taxation by any one or more taxation districts shall impose upon the department of taxation the duty, under the powers conferred upon it by subsection (1) of section 73.03, to review the taxation district assessment complained of and, if, in its judgment upon full investigation, the department shall find such assessment to be unequal and discriminatory, to correct such assessment to bring it into substantial compliance with law and such duty shall not be impaired or set aside by any action, subsequent to such filing, by any one or more of the taxation districts taking the appeal. Such appeal shall be taken and such review and redetermination shall be made in the manner provided in subsections (2) to (12), and under such rules and regulations governing the procedure therein, not inconsistent with law, as may be prescribed by said department.

(2) AUTHORIZATION OF APPEALS. To authorize such appeal an order or resolution directing the same to be taken shall be adopted by the governing body of the taxation-district taking such appeal at a lawful meeting of such governing body. When an appeal shall have been authorized the prosecution thereof shall be in charge of the chairman, mayor or president of the taxation-district taking the appeal unless otherwise directed by the governing body. The officers or committee in charge of such appeal may employ attorneys to conduct the same. After authorizing an appeal as provided above, any two or more taxation-districts in the same county may join in taking and prosecuting such appeal.

(3) FORM OF APPEAL. To accomplish such appeal there shall be filed in the office of the county clerk, within four months after the date of making the taxation-district assessment by the county board, a declaration in writing which shall set forth:

(a) That the taxation-district, naming the same, appeals to the department of taxation from the taxation-district assessment made by the county board under the provisions of said section 70.61, specifying the date of such assessment.

(b) Whether such appeal is for the purpose of obtaining a review and redetermination of the assessment of all the taxation-districts of the county or of particular districts only, therein specified.

(c) Whether review and redetermination is desired as to real estate, or as to personal property, or both.

(d) That such appeal has been authorized by an order or resolution of the governing body of the taxation district in whose behalf such appeal is taken.

(e) A plain and concise statement, without unnecessary repetition, of the facts constituting the grievance sought to be remedied upon such appeal.

(f) The declaration shall be verified by a member of the governing body of the taxation-district authorizing such appeal, in the manner that pleadings in courts of record may be verified. When two or more taxation-districts join in taking such appeal the verification may be made by the proper officer of any one of them.

(4) RETURN. Upon the filing of such declaration, the county clerk without delay shall prepare a certified copy thereof, together with a certified copy of the taxation district assessment of the county board from which such appeal is taken and of the record of the proceedings of the board in relation thereto and a complete list of the members of the county board and the post-office address of each, and transmit such copies to the department of taxation. Upon receipt of such copies the department of taxation shall make an order stating that such appeal has been taken, naming the taxation district or taxation districts in whose behalf the same is taken, and fixing a time and place for a preliminary hearing upon such appeal. The department of taxation shall transmit copy of such order to the county clerk and a like copy to the clerk of each taxation district in the county.

(5) APPEARANCES; ATTORNEYS. Not later than the time fixed for such preliminary hearing, unless such time be enlarged by order of the department of taxation, any town, city or village may cause an appearance to be entered in its behalf before said department in support of such appeal and uniting with the appellant for the relief demanded; and by verified petition or statement showing grounds therefor may apply for other or further review and redetermination than that demanded in the declaration on such appeal. Within the like time any town, city or village in such county may in like manner have its appearance entered in opposition to such appeal and to the relief demanded. Such appearances shall be authorized in the manner for authorizing an appeal as provided in subsection (2). When so authorized the interests of the town, city or village authorizing the same shall be in the charge of the chairman, mayor or president thereof unless otherwise directed by the body authorizing such appearance; and attorneys may be employed in that behalf. In such appearances any two or more of the towns, cities and villages of said county may join if united in support of or in opposition to such appeal.

(6) HEARING AND DETERMINATION. The hearing may be adjourned, in the discretion of the person holding the same, as often and to such times and places as may be necessary in order to determine the facts. In addition to receiving at such hearing testimony offered by the taxation districts, sworn statements may be presented by any district within such reasonable time thereafter as the person holding the hearing may determine. The department may also consider in the final determination of the issue all the facts and data in the possession of the department bearing upon the value of the taxable general property in any or all of the taxation districts of the county. If satisfied that no substantial injustice has been done in the taxation district assessment appealed from, the department in its discretion may dismiss such appeal. If satisfied that substantial injustice has been done in the taxation district assessment, the department shall determine to revalue any or all of the taxation districts in the county, which it may deem necessary, in a manner which in its judgment is best calculated to secure substantial justice. Such hearings may be held by the commissioner of taxation, the head of the division of taxation of general and special property, or any employe of said division specifically authorized by the division head.

(7) RE-EQUALIZATION. The department shall then proceed to redetermine the value of the taxable general property in such of the taxation districts in the county as it may deem necessary. It shall have authority in its discretion to include in such redetermination other taxation districts than first determined upon and may include all of the taxation districts in said county, if at any time during the progress of its investigations or revaluations it shall be satisfied that such course is necessary in order to accomplish substantial justice and to secure relative equality as between all the taxation districts in such county. It shall make careful investigation of the value of taxable general property in the several taxation districts to which such review and redetermination shall extend, in any manner which in its judgment is best calculated to obtain the fair, full value of such property. For that purpose the department may employ such experts and other assistants as may be necessary, and fix their compensation. In making such investigations the commission and all persons employed therein by the department shall have and possess all the power and authority possessed by assessors so far as applicable, including authority to administer oaths and to examine property owners and witnesses under oath as to the quantity and value of the property subject to assessment belonging to any person or within any taxation district to which the investigation shall extend.

(8) LOCAL HEARINGS, HOW HAD. The department shall have authority in its discretion at any time before its final determination to appoint a time and place within such county at which it will hear evidence and arguments relevant to the matters under consideration

upon such appeal. The time to be devoted to such hearings may be limited as the department in its discretion shall direct. At least 10 days before the time fixed for such hearings, the department shall cause notice thereof to be mailed to the county clerk and to the attorney or other representative of each town, city and village in whose behalf an appearance has been entered in the matter of such appeal.

(9) **SUBPOENAS; CONTEMPT; PERJURY.** The department of taxation may take testimony. Witnesses summoned at the instance of said department shall be compensated at the rates provided by law for witnesses in courts of record, the same to be audited and paid the same as other claims against the state, upon the certificate of said department. If any property owner or other person shall make any false statement to said department or to any person employed by it upon any matter under investigation he shall be subject to all the forfeitures and penalties imposed by law for false statements to assessors and boards of review.

(10) **DECISION.** The department of taxation shall make its determination upon such appeal without unreasonable delay and shall file a copy thereof in the office of the county clerk. In such determination the department shall set forth the relative value of the taxable general property in each town, city and village of such county as found by them, and what sum, if any, shall be added to or deducted from the aggregate value of taxable property in each such taxation district as fixed in the determination of the county board from which such appeal was taken in order to produce a relatively just and equitable taxation district assessment. Such determination shall be final and conclusive.

(11) **EFFECT OF DECISION.** The determination of the department of taxation shall not affect the validity of taxes apportioned in accordance with the taxation district assessment from which such appeal was taken; but if it shall be determined upon such appeal that such taxation district assessment is relatively unequal, such inequality shall be remedied and compensated in the apportionment of state and county taxes in such county next following the determination of said department in the following manner: Each town, city and village whose valuation in such taxation district assessment was determined by said department to be relatively too high shall be credited a sum equal to the amount of taxes charged to it upon such unequal assessment in excess of the amount equitably chargeable thereto according to the determination of the department of taxation; and each town, city and village whose valuation in such taxation district assessment was determined by said department to be relatively too low shall be charged, in addition to all other taxes, a sum equal to the difference between the amount charged thereto upon such unequal assessment and the amount which should have been charged thereto according to the determination of the department of taxation. The department of taxation shall aid the county clerk in making proper computations.

(12) **EXPENSES; APPORTIONMENT.** The department of taxation shall transmit to the county clerk with its determination on such appeal a statement of all expenses incurred therein by or at the instance of the department, which shall include the actual expenses of the commissioner of taxation and regular employes of the department, the compensation and actual expenses of all other persons employed by it and the fees of officers employed and witnesses summoned at its instance. A duplicate of such statement shall be filed in the office of the director of budget and accounts. Such expenses shall be audited upon the certificate of the department, and paid out of the state treasury, in the first instance, as other claims against the state are audited and paid. The amount of such expenses, shall be a special charge against such county and shall be included in the next apportionment and certification of state taxes and charges, and collected from such county, as other special charges are certified and collected. Unless otherwise directed by the department in its determination upon such appeal, the county clerk, in the next apportionment of state and county taxes, shall apportion the amount of such special charges to and among the towns, cities and villages in such county whose relative valuations were increased in the determination of the department in proportion to the amount of such increase in each of them respectively. The apportionment of such expenses shall be set forth in the determination of the department. The amount so apportioned to each such town, city and village shall be charged upon its tax roll and shall be collected and paid over to the county treasurer as other state taxes and special charges are collected and paid. [1931 c. 427 s. 3; 1933 c. 208; 1935 c. 414; 1939 c. 412; 1943 c. 20; 1945 c. 34; 1947 c. 472]

70.65 Tax roll. (1) From the assessment roll when so corrected, the clerk of the taxation district shall make out in a book to be called a tax roll, a complete list of all the taxable real property therein arranged, except as herein directed in regular order as to lots and blocks and sections and parts of sections, by the proper corrected descriptions and having entered opposite in separate columns the name of the person to whom assessed before, and the valuation thereof, ascertained as aforesaid, after such description, and also a complete alphabetical list of all persons in his town having any taxable personal prop-

erty, with the aggregate valuation of such property ascertained as aforesaid, and the number of the school district in which it is subject to taxation set opposite in separate columns. Whenever the property situate in an incorporated village or unincorporated village, the limits of which have been designated by the town board is embraced in a town tax roll the list of the real property and of persons taxable for personal property as aforesaid shall be entered in a continuous part of the roll and the valuations be separately footed. Public lands sold and not patented and lands mortgaged to the state shall be separately entered under a proper heading.

(2) Whenever the common council or other governing body of any city, town or village in this state shall direct, the aggregate amount of state, county and local taxes shall be carried in a single column in the tax roll opposite the parcel or tract of land against which the tax is levied, or, in case of personal property, in a single column opposite the name of the person, firm or corporation against whom the said tax is levied. Each tax bill or receipt shall show the purpose for which such taxes are to be used, giving the percentage for state, county and local taxes. [1935 c. 414]

Note: Tax receipt distribution statement (3) local, (4) school and (5) other taxes, must under 74.08 (1), Stats. 1945, give the and do so separately, notwithstanding 70.65 proportion or ratio for each of the five (2), Stats. 1945, specifies only "state, county kinds of taxes, namely, (1) state, (2) county, and local taxes." 36 Atty. Gen. 131.

70.66 Calculation and statement of taxes. (1) BY TOWN AND VILLAGE CLERKS. Upon receipt of the certificate of the apportionment from the county clerk each town and village clerk in counties containing a population of more than three hundred thousand shall, upon a uniform percentage, calculate and carry out in one item opposite to each valuation in the tax roll the amount required to be raised upon such valuation to realize in his town the whole amount of state, county, school and other taxes so certified, together with such town and other local taxes, except taxes to pay judgments, as are to be levied uniformly upon all the taxable property in the town; and all other taxes, if any, including taxes to pay judgments, in separate columns opposite the valuation of the property to be charged.

(2) UNPAID TAX FOR PREVIOUS YEAR. Under the head of "taxes unpaid for previous year" he shall enter opposite each tract of land so returned to him as aforesaid by the county clerk the year for which such tax remains unpaid. He shall enter upon said roll a statement showing the several amounts of taxes levied upon said town or any part thereof and for what purpose; provided, in case the board of supervisors of any county shall so order, said town clerk shall calculate and carry out in separate items the several amounts of taxes as are to be levied uniformly upon all the taxable property of the town in separate columns on such roll, the form of which may be prescribed by such county board.

(3) SEVERAL TAXES TO BE SEPARATELY STATED IN ROLL. Upon receipt of the certificate of apportionment from the county clerk, each town and village clerk, located in counties having a population of less than three hundred thousand, shall separately calculate and carry out opposite to each valuation in the tax roll the amount required to be raised upon such valuation, for state taxes, county taxes, school district taxes, town or village taxes and all other taxes, if any, including taxes to pay judgments. Said several amounts shall be entered in the tax roll in separate columns showing the purpose for which each amount is to be raised in such form as shall be prescribed by the tax commission. Under the head "taxes unpaid for previous year" he shall enter opposite each tract of land so returned as aforesaid by the county clerk the year for which such tax remains unpaid.

(4) SPECIAL ASSESSMENT. All special assessments shall be carried out on the tax roll in a separate column or columns opposite the lots or tracts upon which the same may be a lien, and the treasurer shall have the same authority with reference thereto as if the amount of such lien was a general tax.

70.67 Municipal treasurer's bond; substitute for. (1) The treasurer of each town, city or village shall, unless exempted under subsection (2), execute and deliver to the county treasurer a bond, with sureties, to be approved, in case of a town treasurer, by the chairman of the town, and in case of a city or village treasurer by the county treasurer, conditioned for the faithful performance of the duties of his office and that he will account for and pay over according to law all state and county taxes which shall come into his hands. If such bond is executed, or the condition thereof guaranteed by personal sureties, the amount of the bonds shall be double the amount of state and county taxes apportioned to the town, village or city, provided that the amount of such bond shall not exceed the sum of \$500,000. When such bond is executed, or the condition thereof guaranteed, solely by a surety company as provided in section 204.07, such bond shall be in a sum equal to the amount of such state and county taxes, provided that the amount of such bond shall not exceed the sum of \$250,000. The county treasurer shall give to

said town, city or village treasurer a receipt for said bond, and file and safely keep said bond in his office.

(2) The treasurer of any municipality shall not be required to give such bond if the governing body thereof shall by ordinance obligate such municipality to pay, in case the treasurer thereof shall fail so to do, all state and county taxes required by law to be paid by such treasurer to the county treasurer. Such governing body is authorized to so obligate such municipality. If the governing body of the municipality has adopted an ordinance as specified in this subsection, it may demand from its treasurer, in addition to the official bond required of all municipal treasurers, a fidelity or surety bond in an amount and upon such terms as may be determined by the governing body. Such bond shall run to the town or village board or the city council, as the case may be, and shall be delivered to the clerk of the municipality. A certified copy of such ordinance filed with the county treasurer shall be accepted by him in lieu of the bond required by subsection (1). Such ordinance shall remain in effect until a certified copy of its repeal shall be filed with the county clerk. The official bond executed pursuant to section 19.01, required of municipal treasurers, shall extend to and include the liability incurred by any town, city or village whose governing board shall adopt and certify to the county treasurer an ordinance in accordance with this subsection. [1935 c. 521; 1937 c. 185; 1941 c. 38, 114; 1943 c. 217; 1945 c. 11, 505; 1947 c. 240]

70.68 Warrant; delivery of roll; collection of taxes. (1) **WARRANT; CLERK TO ATTACH.** The town, city or village clerk shall attach to the tax roll a warrant substantially in the following form:

THE STATE OF WISCONSIN to, treasurer of the town, city or village of , in the county of

You are hereby commanded to collect from each of the persons and corporations named in the annexed tax roll, and from the owners or occupants named of the real estate described therein, the taxes set down opposite to their respective names, and to the several parcels of land therein described at the time or times as provided by law, which amount in total to the sum of , and in case any person or corporation upon whom any such sum or tax is imposed shall refuse or neglect to pay the same, you may levy and collect the same by distress and sale of the goods and chattels of the person or corporation so taxed.

Given under my hand this day of , 19., Clerk, town, city or village of

(1m) **WARRANT IN MILWAUKEE.** In any city authorized by its charter to sell land for nonpayment of city taxes, the warrant attached to the city tax roll shall be in the form prescribed by such charter, and a warrant substantially in the form provided in subsection (1) modified to conform to such charter and the provisions of law applicable to such city in the collection of county and state taxes, shall be attached to the duplicate county tax roll.

(2) **CLERK TO DELIVER TAX ROLL.** The clerk shall deliver the tax roll, with said warrant annexed, to the treasurer, if he shall have duly qualified as such, on or before the third Monday in December, and charge him with the town and local taxes therein.

(3) [Repealed by 1933 c. 426, effective Oct. 1, 1941]

(4) **NOTICE OF TIME FOR PAYMENT.** In cities of the second, third and fourth classes on receipt of such tax roll the treasurer shall give one week's notice thereof in the official paper. Such notice shall specify how and when taxes must be paid. In cities authorized by charter to sell land for nonpayment of city taxes, the city treasurer shall give notice of collection of taxes in such form and manner as is provided in said charter.

(5) **COLLECTION OF TAXES.** (a) *By treasurer, except in cities of first class.* On the expiration of the time specified the treasurer shall proceed to enforce the collection of such taxes in the manner provided by law; provided, that in cities of the first class however organized he shall issue his warrant, directed to the chief of police of the city, requiring him, within a time specified therein to collect all state, county, city, school and other taxes due on personal property as shall then remain unpaid, and the chief of police receiving such warrant shall possess all the powers given by law to town treasurers for the collection of such taxes, and be subject to the liabilities and entitled to the same fees as town treasurers in such cases, but such fees shall be turned over to the city treasurer and become a part of the general fund.

(b) *Bond of chief of police.* Before the treasurer shall sign his warrant to the chief of police such chief of police shall give a bond to the city, in such sum and with such sureties as the council may prescribe, for the payment to the city treasurer of all taxes by him collected or received by virtue of such warrant.

(c) *Return of tax warrant.* Within the time required by these statutes in the case of town treasurers for the return to the county treasurers of the delinquent taxes on personal

and real property, the said chief of police, in cities of the first class, shall return his warrant for the collection of taxes of personal property to the treasurer.

(d) *Collection by police department.* The governing body of any city or village may by ordinance provide for the collection of delinquent taxes by the police department in the manner provided by this subsection. [1933 c. 426 s. 1, 2, 3; 1935 c. 79, 456; 1937 c. 323; 1939 c. 107, 385; 1943 c. 133]

70.69 Delivery of roll before treasurer qualifies. If the tax roll shall have been delivered to the treasurer before qualification it shall be recalled from him and delivered to a treasurer appointed and qualified according to law; if it cannot be obtained the clerk shall make a new one, in the same manner, directed to the treasurer so appointed and qualified, upon which he shall collect only the balance of taxes then remaining unpaid, and shall demand and sue for such as were collected upon the original roll from the person so collecting the same.

70.70 Delivery to sheriff. If the treasurer-elect shall fail to qualify as such or to file his bond with the county treasurer, in the manner and within the time prescribed, and the board shall fail to appoint a treasurer, or the person so appointed shall so fail to qualify and give such bond and deliver a receipt therefor by the third Monday in December, the clerk shall deliver the tax roll and warrant to the sheriff of the county, or if the same cannot be obtained in the case mentioned in the last preceding section, a new roll and warrant, made as aforesaid, and the sheriff shall execute to the county treasurer a like bond as required of the treasurer, and by himself or deputy shall make like collections and returns, and shall, unless he receives a fixed salary for all services, be entitled to collect for his services in cities one per cent, and in towns and villages two per cent upon all taxes paid on or before January thirty-first, and on all taxes collected by him after said date, in cities four per cent, and in towns and villages five per cent, said fees to be computed and added to the amounts as specified on the tax roll, and he shall be responsible to the same extent as treasurers appointed by boards, for all taxes so handed over to him for collection; and for the purpose of collecting the same he shall be vested with all the powers conferred upon the treasurer.

70.71 Proceedings if roll not made. (1) Whenever any town, city or village clerk shall neglect or refuse to make and deliver the tax roll and warrant within the time required by law the county clerk shall, at any time after such neglect or refusal, demand and summarily obtain the assessment roll for such year, and make, in the same manner as required of the town clerk, a tax roll for such town, city or village and the like warrant thereto, and deliver the same to the sheriff of the county for collection, who shall give a like bond and have the power and proceed as directed in section 70.70, in the case there provided, to execute such warrant.

(2) If the assessment roll cannot be obtained the county clerk may use a copy thereof if obtainable. If he can obtain neither original nor copy he shall make out, to the best of his ability, a tax roll from the last assessment or tax roll on file in his office or in the office of the county treasurer, which shall then be taken and deemed conclusively the legal tax roll of such town for all purposes whatever. For all such services the county clerk shall be allowed by the county board and paid from the county treasury a reasonable compensation, which shall be charged to the town in the next apportionment of taxes.

70.72 Clerical help on reassessment. Whenever a reassessment or reassessments of taxes shall hereafter be ordered in any town, the town board of such town may employ such additional clerical help for the purpose of preparing the tax rolls upon such reassessment as in its judgment shall be necessary.

70.73 Correction of tax roll. (1) **BEFORE DELIVERY.** Whenever it shall be discovered by any town, village or city clerk or treasurer that any parcel of land has been erroneously described on the tax roll he shall correct such description, and when he shall discover that personal property has been assessed to the wrong person, or two or more parcels of land belonging to different individuals or corporations have been erroneously assessed together on his tax roll, he shall notify the assessor and all parties interested, if residents of the county, by notice in writing to appear at the clerk's office at some time, not less than five days thereafter, to correct the assessment roll, at which time and place the assessment roll shall be corrected by entering the names of the persons liable to assessment thereon, both as to real and personal property, describing each parcel of land and giving its proper valuation to each parcel separately owned; but the valuation so given to separate tracts of real estate shall not together exceed nor be less than the valuation given to the same property when the several parcels were assessed together. Such valuation of parcels of land or correction of names of persons assessed with personal property may be made at any time before the tax roll and warrant shall be returned to the county

treasurer for the year in which such tax is levied. Such valuation or correction of names, when so made, shall be held just and correct and be final and conclusive.

(2) **AFTER DELIVERY.** Whenever after delivery of the tax roll to the treasurer it shall be discovered that any city, town or village clerk in making out the tax roll has made a mistake therein in entering the description of any real or personal property, or the name of the owner or person to whom assessed, or in computing or carrying out the amount of the tax, the clerk with the consent of the treasurer at any time before the treasurer is required to make his return of delinquent taxes, may correct the name of the taxpayer, the description of property or errors in computing or carrying out the tax to correspond to the entry which should have been made on the tax roll before delivery to the treasurer. If any such corrections shall produce a change in the total amount of taxes entered in the tax roll, the clerk shall make corresponding corrections in the warrant annexed to such roll. The clerk shall enter a marginal note opposite each correction, stating when made, which shall be signed by the clerk and treasurer.

(3) **NOTICE OF CORRECTION.** When the assessment roll shall have been so corrected the clerk shall enter a marginal note on the roll stating when the correction was made by the assessor; and if the taxes shall have been extended against the property previously the clerk shall correct the tax roll in the same manner that the assessment roll was corrected, and extend against each tract the proper amount of tax to be collected.

70.74 Lien of reassessed tax. (1) Whenever any tax or assessment or any part thereof levied on real estate, whether heretofore or hereafter levied, shall have been set aside or determined to be illegal or void or the collection thereof prevented by the judgment of a court or the action of the county board; or whenever any town, city or village treasurer shall have been prevented by injunction from collecting or returning as delinquent any such tax or assessment in consequence of any irregularity or error in any of the proceedings in the assessment of such real estate, the levy of such tax or the proceedings for its collection, or of any erroneous or imperfect description of such real estate, or of any omission to comply with any form or step required by law, or of the affixing of a revenue stamp to the tax certificate, and including the amount thereof in the same, or the including of any illegal addition with the lawful tax, or for any other cause, then, if the real estate was properly taxable or assessable, if it be not a proper case to collect by a resale of the land, such tax, or so much thereof as shall not have been collected and as may be taxable or assessable thereto may be reassessed or relieved upon such real estate at any time within 3 years after such judgment or such action of the county board or the dissolution of such injunction; and the proper town board, village board, board of trustees or common council shall make an order directing the same to be reassessed upon such real estate, and the clerk shall insert the same in the tax roll, opposite such real estate, in a separate column, as an additional tax, and the same shall be collected as a part of the tax for the year when so placed on the roll. Any such school district tax shall be so reassessed and relieved on the order of the town board; but the provisions of this section shall not be construed as conflicting with, limiting or in any way affecting the reassessment provided for in sections 75.54 and 75.55. The lien of any tax reassessed as provided in this section shall attach to the land as of the date when such tax as originally levied became a lien and shall continue and constitute the lien of any tax sale certificate issued upon the sale of such lands for such reassessed tax. Such lien shall be superior to the lien of any tax sale certificate issued upon the sale of such land dated after the date of the lien of such reassessed tax but prior to the date of the tax sale certificate issued upon the sale of such land for such reassessed tax.

(2) Whenever any tax or assessment or any part thereof levied on real estate shall have been set aside or determined to be illegal or void or the collection thereof prevented by the judgment of a court or the action of the county board and such tax or assessment shall not be justly reassessable, the county board may order such tax or assessment to be charged back to the respective town, city or village wherein such lands are situated in the next apportionment of county taxes, provided that the amount so charged back shall not include any tax or assessment the illegality of which is solely attributable to erroneous action by the county or its officers. [1945 c. 81; 1947 c. 314]

Note: On certiorari to review a decision of the board of review on an assessment of real estate for property taxation, it is no function of the trial court to make an assessment of the property, or to order an assessment to be entered on the assessment or tax roll at any fixed sum, but the sole function of the court is to set aside the assessment if it finds on the undisputed evi-

dence before the board that the assessment has not been fixed on the statutory basis. State ex rel. Kenosha Office Bldg. Co. v. Herrmann, 245 W 253, 14 NW (2d) 157.

Amount charged back and reassessed under this section, Stats. 1937, is tax presented to county for credit. 26 Atty. Gen. 593.

70.75 Reassessments. (1) **REASSESSMENTS, HOW MADE.** Whenever it shall satisfactorily appear to the department of taxation upon written complaint made by the owner or

owners, or their legal representatives, of taxable property in any taxation district, other than an assessment district within the corporate limits of any city of the first class, the aggregate assessed valuation of which is not less than 5 per cent of the assessed valuation of all of the property in such district, according to the assessment sought to be corrected and upon full investigation, that the assessment of property in such taxation district is not in substantial compliance with law and that the interest of the public will be promoted by a reassessment thereof, said department shall have authority in its discretion to order a reassessment of all or of any part of the taxable property in such district to be made by one or more persons to be appointed for that purpose by said department. The filing in the office of the department of the application for such reassessment, signed by the required number of taxpayers or their legal representatives, shall impose upon the department of taxation the duty, under the powers conferred by subsection (1) of section 73.03, to review the assessment complained of and, if, in its judgment upon full investigation, it shall find such assessment not in substantial compliance with law and that public interest will be promoted by a reassessment, to correct such assessment by a reassessment as herein provided and such duty shall not be impaired or set aside by any action, subsequent to such filing, of any one or more taxpayers represented in the application. As a part of its investigation of the assessment complained of, the department of taxation shall hold a hearing at some convenient place within or near the taxation district which is sought to be reassessed. At such hearing testimony may be offered as to the inequality or equality of the assessment, whether or not the public interest will be promoted by a reassessment and as to such other matters as may be desired by the department. Notice of such hearing specifying the time and place thereof shall be mailed to the clerk of the taxation district and the first signer of the application for reassessment, not less than 8 days before the time fixed for such hearing. The order directing such reassessment and naming the person or persons appointed to make the same shall be filed in the office of the department, and a duplicate thereof shall be filed with the clerk of such taxation district. A copy of such order shall be transmitted to the supervisor of assessments of the county in which such district is located and to each of the persons appointed to make such reassessment and to serve on the board for the review thereof, which shall be legal notice to such persons respectively, of their appointment.

(2) PERSONS APPOINTED TO REASSESS, POWERS AND DUTIES. The person or persons so appointed to make such reassessment, without delay, shall severally take and subscribe an oath or affirmation to support the constitution of the United States and of the state of Wisconsin and faithfully to perform the duties imposed upon him in respect to such reassessment to the best of his ability, and shall file the same with the department of taxation. Thereupon such person or persons shall proceed with diligence to make a reassessment of all the taxable property in such district. For that purpose he or they shall have all the power and authority given by law to assessors in such district and shall perform all the duties and be subject to all restrictions and penalties imposed by law upon such assessors. He or they shall have access to all public records and files which may be needful or serviceable in the performance of said duties, and while engaged therein shall be entitled to have custody and possession of the roll containing the original assessment in such district and all property and other statements and memoranda relating thereto. A blank assessment roll and all property statements and other blank forms needful for the purposes of such reassessment shall be furnished by the county clerk at the expense of the county upon the application of the assessor of incomes.

(3) SPECIAL SUPERVISION INSTEAD OF REASSESSMENT. Whenever the department shall determine, after the hearing provided for in subsection (1) that the assessment complained of was not made in substantial compliance with law but that the interests of all the taxpayers of such district will best be promoted by special supervision of succeeding assessments to the end that the assessment of such district shall thereafter be lawfully made, it may proceed as follows: It may designate some person or persons in the employ of the department or appoint some other qualified person or persons to assist the local assessor in making the assessments to be thereafter made in such district. Such person or persons so appointed may give all or such part of their time to such supervision as, in the judgment of the department, shall be necessary to complete such assessment in substantial compliance with the law, and in performing such task shall have all the powers given by law to any person or persons designated to make a reassessment and together with the assessor shall constitute an assessment board as defined in section 70.055. The cost of making such special supervision shall be borne by the taxation district and paid in the manner provided for upon a reassessment of such district; provided that in case the supervision is made by an employe of the department and not more than 10 days is consumed in such work, the department may in its discretion make no charge for such services. [1933 c. 313 s. 1; 1935 c. 414; 1943 c. 20; 1947 c. 388]

Note: Tax commission may modify or amend order under this section to provide for supervision instead of reassessment previously ordered. 28 Atty. Gen. 467.

70.76 Board of correction. (1) **NOTICE, PROOF.** In the order for such reassessment the department of taxation shall designate 3 persons to serve as a board for the correction and review of such reassessment. As soon as practicable the person or persons making such reassessment shall inform the clerk of such district of a date on which such reassessment will be ready for the consideration of such board, which information shall be given in time to enable such clerk to give the notice hereinafter required. The clerk shall thereupon give notice that such board will meet on such date at the place provided by law for the meeting of the regular board of review of such district, specifying such place. He shall record such notice in the record book of proceedings of the board of review of such district after first recording therein the order for such reassessment; he shall post such notice in 3 conspicuous public places in said district and shall also serve a copy of such notice upon each of the persons named to act as such board and upon the assessor of incomes if such reassessment be not made by him, which posting and service shall be at least one week before the day designated for such meeting; provided, that in case of the failure or refusal of such clerk to give and serve the notice aforesaid in the manner herein prescribed within 5 days after he shall have been requested to do so by the person or persons making such reassessment the assessor of incomes in and for such district may give and serve such notice with like force and effect as if given and served by the clerk. Such service may be by personal delivery to the person to be served or by leaving such copy at his usual place of abode or by mailing the same in a sealed envelope postpaid and directed to such person at his post-office address. A memorandum stating the time and place of such posting and the time and manner of such service shall be entered by the clerk in the record aforesaid. Such memorandum, authenticated by the signature of the clerk shall be presumptive evidence of the facts therein stated; and the fact, time, and manner of such posting and service may be proved by any person having knowledge of the facts even though no entry of such memorandum be made.

(2) **HEARING.** The persons designated to serve as a board to review such reassessment shall attend at the time and place specified in such notice. A majority of such persons shall constitute a quorum. Before proceeding in such review they shall be sworn by the clerk or by some other person authorized by law to administer oaths, to faithfully and impartially perform their duties in respect to such reassessment. The clerk of such district shall attend and serve as the clerk of such board at all its sessions and shall perform all the duties required of such clerks at meeting of the regular board of review of such district, except that he shall have no voice in the determinations of such board.

(3) **EVIDENCE.** The person or persons making such reassessment shall attend such meeting, shall lay before such board the roll containing the reassessment of property made by him or them and all property statements, affidavits, and other memoranda in relation thereto, shall furnish the board all information in his or their possession which may be useful in the work of such board, and may give testimony of any facts within his or their knowledge pertinent to any matter under the consideration of such board. [1943 c. 20]

70.77 Proceedings; inspection. (1) Such board shall carefully examine and consider such reassessment roll and all statements and other information accompanying the same or given in relation thereto. They shall review and correct such reassessment in like manner as the regular board of review of such district is required to review assessments therein and for that purpose they may adjourn from time to time and shall otherwise have and exercise all the power and authority given by law to boards of review and shall be subject to all the rules and restrictions imposed upon such boards. Any owner of taxable property in such district shall have the right to examine such reassessment and shall have all the rights and privileges before such board in respect to such reassessment that are given by law in respect to any assessment of property in such district.

70.78 Affidavit; filing. Upon the completion of the work of such board and the incorporation in such reassessment roll of any corrections and changes ordered by such board, the person or persons making such reassessment shall make and annex to such roll an affidavit conforming as nearly as may be to the affidavit required by law to be annexed to assessment rolls in such district. Such reassessment roll when completed shall be filed in the office of the clerk of such district and shall take the place of the original assessment made in such district for said year for all purposes and shall be prima facie evidence of the facts therein stated and of the regularity of all the proceedings culminating therein.

70.79 Power of assessor. If such reassessment shall be made by any person other than the assessor of incomes of the county in which such district shall be located the assessor of incomes shall have all the authority in respect thereto that is possessed by him in respect to other assessments in his county and, in such case, he shall render what assist-

ance he can practicably to the person or persons making such reassessment and to the board which shall review the same, the meeting of which board shall be attended by him. The district attorney of the county in which such reassessment shall be made shall render any legal assistance which may be required in relation thereto or the review thereof upon the request of the assessor of incomes.

70.80 Compensation; fees. The person or persons making such reassessment and the persons serving upon the board for review thereof shall receive such compensation for their services and expenses as may be designated by the department of taxation in the order directing such reassessment. Any witness directed to be summoned by such board shall be entitled to fees for travel and attendance at the rates allowed by law to witnesses in the circuit court, but shall not be entitled to such fees prior to his attendance and the giving of his testimony. Assessors of incomes may be appointed to make reassessments, but in no case shall an assessor of incomes be appointed to reassess a district when the complaint was made or the proceedings instituted by him. [1943 c. 20]

70.81 Statement of expenses. Upon completion of the review of such reassessment, each person entitled to compensation for services in respect thereto as provided in section 70.80 shall make out a statement of his claim therefor against the state of Wisconsin and execute a voucher for the payment thereof upon blank forms to be furnished by the department of taxation. Such statement shall show the number of days for which compensation is claimed, the rate per day, the character of the service, the total amount claimed, the address of the claimant, and, in case of witnesses, the number of miles traveled, which statement shall be verified by the affidavit of the claimant or of some person having knowledge of the facts. Each such claim shall be approved, if correct, by a member of such board and by the assessor of incomes. A memorandum of all such claims, showing the number of days and character of service and amount due to each person, shall be entered at the foot of the record of the proceedings of such board. [1943 c. 20]

70.82 Review of claims; payment. The statements and vouchers mentioned in section 70.81 shall be promptly transmitted by the assessor of incomes to the department of taxation, which shall have authority to review the same and determine the number of days to be allowed. After such review and determination and after procuring any needed corrections therein said department shall indorse their approval of such statements and file the same and such vouchers in the office of the director of budget and accounts. Such claims shall thereupon be audited by the director of budget and accounts and paid out of the state treasury in like manner that other claims against the state are audited and paid. The amount so paid shall constitute an indebtedness of the district in which such reassessment was made to the state of Wisconsin, and such indebtedness with interest thereon at 6 per cent per annum shall be a special charge upon such district to be certified to and collected from such district in the then next levy and certification of state taxes and special charges, in like manner that other indebtedness of cities, towns and villages to the state are certified and collected. [1943 c. 20; 1947 c. 472]

70.83 Deputies; neglect; reassessment. If any person appointed or required to perform any duty under sections 70.75 and 70.76 shall be unable or neglect to do so, his place may be filled by appointment by said department. If any person required to perform any duty under sections 70.75 to 70.84 shall wilfully neglect or refuse to do so, he shall forfeit to the state not less than \$50 nor more than \$250. In the appointment of persons to perform services under sections 70.75 to 70.84 the department of taxation shall not be required to select any of such persons from the residents of the district in which the reassessment is to be made. It shall not be necessary for the said department to wait until the assessment in any district is completed before making an order for reassessment therein under the provisions of sections 70.75 to 70.84; but it shall be entitled to make such order whenever it shall be satisfied from the work already done upon such assessment that when completed it will not be in substantial compliance with law. [1943 c. 20]

70.84 Inequalities may be corrected in subsequent year. If any such reassessment cannot be completed in time to take the place of the original assessment made in such district for said year, the clerk of the district shall levy and apportion the taxes for that year upon the basis of the original assessment roll, and when the reassessment is completed the inequalities in the taxes levied under the original assessment shall be remedied and compensated in the levy and apportionment of taxes in such district next following the completion of said reassessment in the following manner: Each tract of real estate, and, as to personal property, each taxpayer, whose tax shall be determined by such reassessment to have been relatively too high, shall be credited a sum equal to the amount of taxes charged on the original assessment in excess of the amount which would have been charged had such reassessment been made in time; and each tract of real estate, and, as

to personal property, each taxpayer, whose tax shall be determined by such reassessment to have been relatively too low, shall be charged, in addition to all other taxes, a sum equal to the difference between the amount of taxes charged upon such unequal original assessment and the amount which would have been charged had such reassessment been made in time. The department of taxation, or its authorized agent, shall at any time have access to all assessment and tax rolls herein referred to for the purpose of assisting the local clerk and in order that the results of the reassessment may be carried into effect. [1943 c. 20]

70.85 Revaluation. Whenever it shall appear to the satisfaction of the department of taxation, on a written complaint filed with the department of taxation within 20 days after the adjournment of the board of review for any taxation district, that the assessment of one or more descriptions or classes of property in such taxation district, the aggregate assessment of which does not exceed 10 per cent of the assessment of all property therein, is radically out of proportion to the general average of the assessment of all other property in such district and the same can be satisfactorily corrected without a reassessment of the entire district, the department of taxation may in its discretion revalue such property and equalize the assessment without the intervention of a board of review, at any time before November first, of the year in which such assessment is made. The valuation so fixed by said department shall be final, unless modified or set aside by a decision of the court on the ground that such reassessment is excessive or irregular, and shall be substituted for the original valuation in the assessment and tax rolls and taxes computed and paid thereon accordingly. But no assessment shall be raised unless on the written complaint of 3 or more taxpayers and the party to whom the property is assessed shall have been duly notified of such intention in time to appear and be heard before or file his objections with the department in relation thereto. [1933 c. 313 s. 1; 1935 c. 414; 1943 c. 20]

Note: On appeal from a judgment for a taxpayer in an action against a municipality under 74.73 (1) and (2), not maintainable because of the conclusiveness of the valuation fixed by the department of taxation, the proceedings cannot be treated as amended so as to challenge the action of the department under 70.85. *Burling v. Green Lake*, 248 W 103, 20 NW (2d) 717. *Highlander Co. v. Dodgeville*, 249 W 502, 25 NW (2d) 76.

The appearance of the taxpayer before

70.86 Descriptions, simplified system. The common council or other governing body of any city in this state may at its option adopt a simplified system of describing real property in either the assessment roll or the tax roll or in both the assessment roll and tax roll of such city, and may likewise from time to time amend or change such simplified system.

Note: System of describing real estate in assessment and tax rolls whereby numbers only are entered as descriptions in rolls is of doubtful validity. 21 Atty. Gen. 92.

70.87 [Repealed by 1935 c. 414]