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TO: Members
Legislative Council Steering Committee for Personal Property Tax

FROM: Rick Olin, Fiscal Analyst

SUBJECT: General Information on the Property Tax on Personal Property

This memorandum provides general information on the treatment of personal property under the property tax system and the estimated impact of exempting personal property.

Current Law Treatment

State law provides that all property is subject to the property tax, unless specifically exempt. Property is divided into two broad categories, real estate and personal property. In general, the land, all permanent structures on the land, and all permanent land improvements are considered real estate. Land improvements include items such as retaining walls, private roads, fencing, culverts, dams, fixed piers, and yard lighting.

Items that can be removed from real estate without otherwise affecting the real estate are considered personal property. State law (s. 70.04) defines personal property as all goods, wares, merchandise, chattels, and effects, of any nature and description, having real or marketable value, and not included in the term real property. These distinctions between real estate and personal property may be unclear in some instances, and s. 70.04 has been amended on several occasions to specify a variety of items that are to be included as personal property. Some of these items are agricultural irrigation systems, light, heat, and power companies located entirely in a single municipality, and private railroads and bridges. In 2013 Wisconsin Act 20, the 2013-15 biennial budget act, "off-premises advertising signs" was added to this list.

State law requires assessors to segregate the items of taxable personal property into one of four separate categories. These include:

- furniture, fixtures, and equipment;
- machinery, tools, and patterns;
- boats and other watercraft; and
- all other personal property.

The categories are descriptive of the type of property each contains, except for "all other personal property." That category describes a variety of properties and contains all remaining personal property that is not specifically exempt under state law.

Most personal property is exempt from the property tax. In general, exemptions are extended under three state statutes. S. 70.111 of the statutes exempts 22 specific categories of personal property. Exemptions of 61 categories of property based on the property's ownership and/or use are extended through s. 70.11 of the statutes. Many of these exemptions apply both to real estate and personal property, such as the exemption for nonprofit hospitals. Other exemptions under s. 70.11 of the statutes extend only to real estate, while some extend only to personal property. Finally, s. 70.112 of the statutes exempts certain types of real estate and personal property from the property tax because the property is subject to another tax or fee, generally imposed in lieu of the property tax. For example, motor vehicle registration fees are in lieu of the property tax on automobiles, trucks, and related vehicles, and certain public utility property is subject to state taxation under Chapter 76, instead of general property taxes under Chapter 70. The attachment to this memorandum provides a comprehensive list of the current personal property tax exemptions.

Although there are multiple classifications and categories within the two types of taxable properties, the Wisconsin Constitution requires all property to be taxed the same, with few exceptions. As a result, all properties in the same taxing jurisdiction (municipality, county, school district, or technical college district) must be taxed at the same rate, and local assessors must value all taxable property on the basis of its market value (except agricultural land, which is valued based on its use). For real estate, this means the amount for which the property could be sold, and assessments of real estate are based on the many property sales that occur each year.

Unlike real estate, there are not active markets for buying and selling used machinery, equipment, and other items of personal property. Due to the absence of sales, assessments of personal property are based on cost. State law requires assessors to value personal property at its true cash value following the procedures enumerated by the Department of Revenue (DOR) in the Wisconsin Property Assessment Manual. Since it may be physically impossible for assessors to view all personal property, assessors utilize self-reporting forms completed by each property owner.

The form is called a "Statement of Personal Property," and is comprised of ten separate schedules, with each category of personal property reported on a separate schedule or schedules. The first schedule on the report is a summary of amounts from the other schedules. On the other schedules, the owner reports the property's original cost by year of acquisition and a declared or indexed value of the property, as of January 1. Declared values reflect the owner's opinion of true cash value. Indexed values are calculated by multiplying the property's original cost by a composite conversion factor based on age or year of acquisition. Each year, DOR develops the index factors, which reflect inflation and depreciation, and has them preprinted on the schedule. One of the schedules is for reporting the value of exempt computers, related equipment, and software. Although not subject to tax, these values are used to calculate state aid payments that hold local governments harmless from the effects of the exemption. Generally, assessors distribute the forms to property owners shortly before the January 1 assessment date, and owners are required to complete and return the forms prior to March 1.

The tax on personal property has been criticized as being costly to administer. Relative to the tax on real estate, taxpayers bear higher compliance costs under the personal property tax due to its self-reporting feature. However, the data required for the reporting form is information that businesses maintain for income tax or general business purposes. Also, computerization has reduced the cost of compliance.

For local governments, administrative costs related to the personal property tax are higher than the costs arising from the tax on real estate, on a relative basis, but local assessors have indicated that the costs are not excessive. Discovering personal property is more time consuming because personal property is movable and because of business turnover. Also, some businesses fail or refuse to complete the self-reporting form, in which case, the assessor must value the property based on other information. While local assessors indicate that there are fewer taxpayer appeals of personal property assessments than real estate assessments, a considerable amount of resources is dedicated to staffing informal taxpayer complaints. Most complaints are from businesses that do not understand that there is a tax on business personal property. Also, the personal property of some small businesses has minimal value that generates so little in taxes that the cost of administering the tax represents a significant percentage of the taxes collected.

Exemption of Personal Property

A common question regarding personal property relates to the fiscal impact of exempting personal property. For 2013, the equalized value of personal property totaled $11,788.3 million, or 2.5% of the statewide tax base. The 2013 values by statutory category were:

Category	Equalized Value	Percent of Total
Furniture, Fixtures, and Equipment	$5,057,562,400	42.9%
Machinery, Tools, and Patterns	4,390,916,200	37.3
Boats and Other Watercraft	15,577,100	0.1
All Other	2,324,228,200	19.7
Total Personal Property	$11,788,283,900	100.0%

For the 2013(14) property tax year, net taxes on personal property equaled an estimated $270.4 million, or 2.8% of total taxes. The estimated share of taxes exceeds the percent of tax base because personal property, as a whole, is located in areas with above-average tax rates.

Table 1 reports the estimated distribution of net taxes for 2013(14) under current law and assuming that personal property was exempt from taxation. Generally, exemptions cause taxes to be shifted from the property receiving the exemption to property that remains taxable, thereby causing tax rates to increase. However, the state forestry tax provides an exception to this rule, since the tax is levied at a statutorily established rate of 17 cents per $1,000 of value. Consequently, the loss of tax base would reduce state forestry tax collections, as well as the total tax levy, by an estimated $2.0 million. A statewide reduction in the incremental levy for tax increment districts (TIDs) would also occur, but the reduction is not estimated to be significant. For TIDs, the lost taxes on personal property would largely be offset by tax increases on other property due to higher tax rates.

Otherwise, the net taxes on real estate would increase by an estimated 3%. On a statewide basis, higher net taxes on commercial and manufacturing real estate would be more than offset by tax savings on personal property, and the share of net taxes on commercial property would decrease from 23.1% to 21.7%, and the share of net taxes on manufacturing property would fall from 4.0% to 3.2%. However, the share of net taxes borne by residential property would increase from an estimated 68.2% to 70.3%. Tax shifts for all types of property are reported in Table 1.

TABLE 1

Estimated Distribution of 2013(14) Net Property Taxes by Type of Taxpayer Under Current Law and Assuming the Exemption of Personal Property ($ in Millions)

	Current Law		Personal Property Exempt		
	Amount	Percent	Amount	Percent	Change
Residential	$6,512.8	68.2%	$6,706.3	70.3%	$193.5
Commercial	2,202.3	23.1	2,073.8	21.7	-128.5
Real Estate	2,021.6	21.2	2,073.8	21.7	52.2
Personal Property	180.7	1.9	0.0	0.0	-180.7
Manufacturing	383.0	4.0	305.6	3.2	-77.4
Real Estate	297.9	3.1	305.6	3.2	7.7
Personal Property	85.1	0.9	0.0	0.0	-85.1
Other	447.2	4.7	457.6	4.8	10.4
Agricultural Land and Other	236.7	2.5	244.4	2.6	7.7
Swamp, Waste, Forest, & Agricultural Forest	205.9	2.2	213.2	2.2	7.3
Other Personal Property	4.6	< 0.1	0.0	0.0	-4.6
State Total	$9,545.3	100.0%	$9,543.3	100.0%	-$2.0

Eliminating tax base would cause increases in property tax rates, and the 2013(14) statewide average gross tax rate of $22.69 per $1,000 of value would increase by 2.6% to an estimated $23.27 per $1,000 of value, or by $0.58. Table 2 reports the estimated 2013(14) tax bill on a median-valued home taxed at statewide average tax rates under current law and assuming the exemption of personal property. The net tax bill on the home would increase from $2,926 to $3,006, or by $80 (2.7%). An estimated increase of $86 in the gross tax bill would be partially offset by a $6 increase in school levy tax credits. The credit increase results because the credits now applied to personal property would be re-allocated to property that remains taxable.

TABLE 2

Estimated 2013(14) Property Tax Bills for a Median-Valued Home Based on Statewide Average Tax Rates Under Current Law and Assuming the Exemption of Personal Property

	Current Law	Personal Property Exempt	Change
Home Value	$147,989	$147,989	
Type of Tax			
School	$1,533	$1,573	$40
Municipal	833	854	21
County	657	674	17
Technical College	260	267	7
Other	59	60	1
Gross Tax	$3,342	$3,428	$86
School Levy Credit	-237	-243	-6
First Dollar Credit	-66	-66	0
Lottery & Gaming Credit	-113	-113	0
Net Tax Bill	$2,926	$3,006	$80
Percent Change in:			
Gross Tax			2.6%
Net Tax Bill			2.7%

The tax shifting portrayed in Table 1 and the tax increase for homeowners shown in Table 2 could be avoided if additional personal property tax exemptions are paired with an expansion of the current aid payment for computers and related property. In this case, rather than shifting the personal property taxes to other property types, the state would make annual payments to local governments (totaling $268 million based on 2013(14) values and rates) to compensate them for the lost tax base. However, this approach would require the continued reporting of the value of the personal property, as is currently done for exempt computer property.

Other Considerations

Economic theory suggests that certain public policy principles should guide the evaluation of tax treatments. One such principle is horizontal equity, which means that taxpayers, or properties, with similar characteristics should receive similar tax treatment. An argument made in support of most exemption proposals is that the property to be exempted is similar to another type of property that is already exempt. Consequently, some have argued that personal property of businesses should be exempted because personal property owned by individuals, such as household furnishings, as well as other types of business personal property, is already exempt.

This argument may not apply to all types of personal property because some items of personal property are more similar to taxable real estate, than to exempt personal property. These items include structures on leased or rented land, leasehold improvements to real property, and mobile homes. Still other items of personal property, such as billboards, possess some characteristics of exempt personal property and some characteristics of taxable real estate. An examination of these differences may be warranted before extending an across-the-board exemption to all types of personal property. Finally, some items of taxable property will continue to be similar to certain items of exempt property. The authorization of new tax exemptions based on this rationale invites the continuous erosion of tax base.

Another concern relates to a potential impact on state tax collections. As noted earlier, some property is exempt from general property taxes imposed under Chapter 70 of the statutes and, instead, is subject to a state ad valorem tax imposed under Chapter 76 of the statutes. The Chapter 76 tax applies to pipeline companies, municipal electric associations, conservation and regulation companies, telephone companies, railroads, and airlines. Each company's total value is estimated, and a portion of that value is allocated to Wisconsin and taxed at the statewide average property tax (Chapter 70) rate. A slightly different calculation is employed for telephone companies.

An argument could be made for exempting the personal property of Chapter 76 companies if the state exempts all personal property under Chapter 70. Article VIII, Section 1, of the Wisconsin Constitution requires the uniform taxation of property and reads, in part, "The rule of taxation shall be uniform." Known as the "uniformity clause," this provision was included in the original state constitution, and the clause has been amended five times. A constitutional amendment adopted in 1907-08 excludes certain taxes from the uniformity requirement, and subsequent court decisions have limited the uniformity requirement to ad valorem taxes. However, several circuit court decisions in the 1980s pertaining to state property tax credits held that tax treatments should be comparable between Chapters 70 and 76. While these decisions have no precedential value, they illustrate how the courts might resolve uniformity challenges to Chapter 76 taxes, if the state exempts all personal property under Chapter 70. A provision in state law [s. 76.07(2)] recognizes the relationship between Chapters 70 and 76:

> The value of the property of each of said companies for assessment shall be made on the same basis and for the same period of time, as near as may be, as the value of the general property of the state is ascertained and determined.

The Department of Revenue indicates that the amount of Chapter 76 ad valorem taxes attributable to personal property is not readily determinable but is believed to be significant. In 2012-13, Chapter 76 ad valorem taxes generated collections totaling $136.1 million -- $100.9 million for the general fund and $35.2 million for the transportation fund. For 2013-14, collections are estimated at $151.5 million -- $112.2 million for the general fund and $39.3 million for the transportation fund.

The preceding discussion is not a comprehensive listing of considerations relating to the exemption of personal property. Care should be taken to plan the transition from taxable to exempt status since each property tax year spans more than a single calendar year. Law changes affecting property taxes prompt changes in processes, forms, computer systems, vendor contracts, and training. The Department of Revenue and local assessors can provide valuable assistance in identifying other considerations.

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Attachment

ATTACHMENT

Personal Property Tax Exemptions

Within each of the statutory categories of personal property, more personal property is exempt under state law than is subject to tax. Exemptions for specific items of personal property are enumerated under s. 70.111 of the statutes. Also, some personal property is exempt under s. 70.11 of the statutes. The following table lists personal property exemptions by category.

	Authorization
Boats and Watercraft	
Watercraft employed in interstate traffic	s. 70.111 (3)
Watercraft laid up for repairs	s. 70.111 (3)
Pleasure watercraft used for recreational purposes	s. 70.111 (3)
Commercial fishing boats	s. 70.111 (3)
Charter sailboats	s. 70.111 (3)
Charter boats that are used for tours	s. 70.111 (3)
Charter sport fishing boats	s. 70.111 (3m)
Machinery, Tools & Patterns	
Machinery and specific processing equipment used in the production process in manufacturing tangible personal property	s. 70.11 (27)
Tools of a mechanic	s. 70.111 (9)
Garden machines and implements	s. 70.111 (9)
Farm, orchard and garden tools	s. 70.111 (9)
Machines used exclusively and directly in farming including auxiliary power generators, bale loaders, barn elevators, conveyors, feed elevators and augers, grain dryers and grinders, milk coolers, milking machines, silo unloaders and powered feeders	s. 70.111 (10)
Food and beverage vending machines	s. 70.111 (23)
Furniture, Fixtures and Equipment	
Equipment of the Wisconsin Veterans Home	s. 70.11 (3a)
Household furniture, equipment and furnishings	s. 70.111 (1)
Tractors used exclusively and directly in farming	s. 70.111 (10)
Milkhouse equipment	s. 70.111 (14)
Biogas, synthetic gas, solar, or wind energy systems	s. 70.111 (18)
Logging equipment	s. 70.111 (20)
Motion picture theatre equipment	s. 70.111 (24)
Digital broadcasting equipment	s. 70.111(25)
High density sequencing systems	s. 70.111(26)
Treatment plant and pollution abatement equipment	s. 70.11 (21)
Computers and related equipment	s. 70.11 (39)
Cash registers and fax machines	s. 70.11 (39m)
Equipment of snowmobile, ATV, and utility terrain vehicle clubs	s. 70.11 (45m)

	Authorization
Other Personal Property	
Personal property leased or subleased to school districts	s. 70.11 (2m)
Leasehold interests at Wisconsin veterans homes	s. 70.11 (3a)
Personal property of a student housing facility	s. 70.11 (3m)
Personal property of nonprofit hospitals	s. 70.11 (4m)
Personal property of industrial development agencies	s. 70.11 (26)
Perennial plants that produce an annual crop	s. 70.11 (30)
Property contained in the Bradley Center	s. 70.11 (31)
Property of nonprofit youth hockey associations	s. 70.11 (32)
Property contained in Miller Park	s. 70.11 (36)
Personal property of nonprofit youth baseball associations	s. 70.11 (46)
Items kept for personal use in a residence	s. 70.111 (1)
Farm poultry and farm animals	s. 70.111 (2)
Growing and harvested crops	s. 70.111 (4)
Seed, fertilizer and supplies for growing crops	s. 70.111 (4)
Trees growing for sale as Christmas trees	s. 70.111 (4)
Family supplies	s. 70.111 (5)
Feed used for feeding on a farm	s. 70.111 (6)
Horses, mules and wagons	s. 70.111 (7)
Cheese owned by manufacturers during aging	s. 70.111 (11)
Merchants' stock-in-trade (inventories)	s. 70.111 (17)
Manufacturers' materials and finished products	s. 70.111 (17)
Livestock	s. 70.111 (17)
Camping trailers, recreational mobile homes, and recreational vehicles	s. 70.111 (19)
Structures that provide shade for ginseng plants	s. 70.111 (21)
Personal property held for short-term rental (one month or less) and personal property (heavy equipment) rented for less than one year	s. 70.111 (22)

While the exemptions included under s. 70.111 pertain only to personal property, many of the exemptions enumerated under s. 70.11 of the statutes extend both to real estate and personal property, and are typically based on the property's ownership or use. For example, s. 70.11 (4) exempts both real and personal property since it applies to "property owned and used exclusively by educational institutions offering regular courses 6 months in the year." Similar language is used in the exemptions for property of:

- the state
- churches
- religious associations
- benevolent associations
- benevolent retirement homes
- benevolent low-income housing
- Health Insurance Risk-Sharing Plan Authority
- art and arts education centers
- free public library associations
- agricultural societies
- certain charitable organizations
- public art galleries
- farmers' temples
- nonprofit outdoor theaters
- Wisconsin Economic Development Corporation
- Fox River Navigational System Authority
- Olympic Ice Training Center
- nonprofit community theatre
- local governments
- women's clubs
- educational associations
- benevolent nursing homes
- fraternal societies
- fire companies
- labor temples
- nonprofit radio stations
- the University of Wisconsin Hospital and Clinics Authority
- nonprofit outdoor theatres
- Wisconsin Aerospace Authority
- local cultural arts district
- historical societies

Other personal property exemptions are extended because the property is subject to another tax or fee, generally imposed in lieu of the property tax. The following table lists these exemptions.

	Authorization
Money and intangible personal property	s. 70.112 (1)
Light, heat and power companies; conservation and regulation companies; pipeline companies; railroad companies; air carrier companies; car line companies; and electric cooperatives	s. 70.112 (4)(a)
Telephone company property used more than 50% in operating the company	s. 70.112 (4)(b)
Motor vehicles, motor bicycles, and snowmobiles	s. 70.112(5)
Aircraft	s. 70.112(6)
Mobile homes and manufactured homes subject to monthly municipal permit fees	s. 70.112 (7)