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CHAPTER 70

GENERAL PROPERTY TAXES

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70.01 General property taxes; upon whom levied. Taxes shall be levied, under this chapter, upon all general property in this state except property that is exempt from taxation. Real estate taxes and personal property taxes are deemed to be levied when the tax roll in which they are included has been delivered to the local treasurer under s. 74.03. When so levied such taxes are a lien upon the property against which they are charged. That lien is superior to all other liens, except a lien under s. 292.31 (8) (i) or 292.81, and is effective as of January 1 in the year when the taxes are levied. Liens of special assessments of benefits for local improvements shall be in force as provided by the charter or general laws applicable to the cities that make the special assessments. In this chapter, unless the context requires otherwise, references to "this chapter" do not include ss. 70.37 to 70.395.

History: 1977 c. 29 s. 1646 (3); 1977 c. 31, 203; 1987 a. 378; 1993 a. 453; 1995 a. 227; 1997 a. 27.

The enactment of this chapter did not supersede the Milwaukee city charter, which exempts from taxation property leased by the city. Milwaukee v. Shoup Voting Machine Corp. 54 Wis. 2d 549, 196 N.W.2d 694 (1972).

Property held in trust by the federal government for the Menominee tribe and tribal members is not subject to state taxation. 66 Atty. Gen. 290.

70.02 Definition of general property. General property is all the taxable real and personal property defined in ss. 70.03 and 70.04 except that which is taxed under ss. 70.37 to 70.395 and ch.

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76 and subchs. I and VI of ch. 77. General property includes manufacturing property subject to s. 70.995, but assessment of that property shall be made according to s. 70.995.

History: 1973 c. 90; 1977 c. 31; 1979 c. 221; 1985 a. 29 s. 3202 (39) (c).

70.03 Definition of real property. "Real property", "real estate" and "land", when used in chs. 70 to 76, 78 and 79, include not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto, except that for the purpose of time−share property, as defined in s. 707.02 (32), real property does not include recurrent exclusive use and occupancy on a periodic basis or other rights, including, but not limited to, membership rights, vacation services and club memberships.

History: 1979 c. 89; 1983 a. 432; 1987 a. 399; 1993 a. 308; 1995 a. 225.

Income that is attributable to land, rather than personal to the owner, is inextricably intertwined with the land and is transferable to future owners. This income may be included in the land's assessment because it appertains to the land. Income from managing separate off−site property may be inextricably intertwined with land and subject to assessment if the income is generated primarily on the assessed property itself. ABKA Ltd. v. Fontana−On−Geneva−Lake, 231 Wis. 2d 328, 603 N.W.2d 217 (1999), 98−0851.

70.04 Definition of personal property. The term "personal property", as used in chs. 70 to 79, 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 defined in s. 70.03.

(1) Personal property also includes 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; beginning May 1, 1974, manufacturing machinery and equipment as defined in s. 70.11 (27), and entire property of companies defined in s. 76.28 (1), located entirely within one taxation district.

(2) The term "personal property", as used in chs. 70 to 79, shall also include irrigation implements used by a farmer, including pumps, power units to drive the pumps, transmission units, sprinkler devices and sectional piping.

History: 1973 c. 90; 1973 c. 336 s. 36; 1979 c. 89; 1983 a. 27 s. 2202 (45); 1995 a. 225.

Billboard permits are real property, as defined in s. 70.03. The income attributable to the permit is properly included in the real property tax assessment, not the personal property tax assessment of the billboard. Any value attributable to the billboard permits is not inextricably intertwined with the structure of the billboards. The primary value of the permits is unrelated to the structures; rather, the primary value of the permits appertains to the location of the underlying real estate. Adams Outdoor Advertising, Ltd. v. City of Madison, 2006 WI 104, 294 Wis. 2d 441, 717 N.W.2d 803, 05−0508.

70.043 Mobile homes and manufactured homes. (1) A mobile home, as defined in s. 101.91 (10), or a manufactured home, as defined in s. 101.91 (2), is an improvement to real property if it is connected to utilities and is set upon a foundation upon land which is owned by the mobile home or manufactured home owner. In this section, a mobile home or manufactured home is "set upon a foundation" if it is off its wheels and is set upon some other support.

(2) A mobile home, as defined in s. 101.91 (10), or a manufactured home, as defined in s. 101.91 (2), is personal property if the land upon which it is located is not owned by the mobile home or manufactured home owner or if the mobile home or manufactured home is not set upon a foundation or connected to utilities.

History: 1983 a. 342; 1985 a. 332 s. 253; 1999 a. 150 s. 672; 2007 a. 11.

Under sub. (1), a mobile home is an improvement to real property if the home is resting for more than a temporary time, in whole or in part, on some means of support other than its wheels. Ahrens v. Town of Fulton, 2002 WI 29, 251 Wis. 2d 135, 641 N.W.2d 423, 99−2466.

70.045 Taxation district defined. Except as provided in s. 70.114 (1) (e), in this chapter, "taxation district" means a town, village or city in which general property taxes are levied and collected.

History: 1989 a. 336; 1991 a. 39 s. 3714.

70.05 Valuation of property; assessors in cities, towns 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 this chapter unless otherwise specifically provided. There shall be elected at the spring election one assessor for each taxation district not subject to assessment by a county assessor under s. 70.99 if election of the assessor is provided. Commencing with the 1977 elections and appointments made on and after January 1, 1977, no person may assume the office of town, village, city or county assessor unless certified by the department of revenue under s. 73.09 as qualified to perform the functions of the office of assessor. If a person who has not been so certified is elected to the office, the office shall be vacant and the appointing authority shall fill the vacancy from a list of persons so certified by the department of revenue.

(2) The governing body of any town, city or village not subject to assessment by a county assessor under s. 70.99 may provide for the selection of one or more assistant assessors to assist the assessor in the discharge of the assessor's duties.

(3) The assessment of property of manufacturing establishments subject to assessment under s. 70.995 shall be made according to that section.

(4) All assessment personnel, including personnel of a county assessor system under s. 70.99, appointed under this section on or after January 1, 1977, shall have passed an examination and have been certified by the department of revenue as qualified for performing the functions of the office.

(4m) A taxation district assessor may not enter upon a person's real property for purposes of conducting an assessment under this chapter more than once in each year, except that an assessor may enter upon a person's real property for purposes of conducting an assessment under this chapter more often if the property owner consents. A property owner may deny entry to an assessor if the owner has given prior notice to the assessor that the assessor may not enter the property without the property owner's permission. Each taxation district assessor shall create and maintain a database identifying all such property owners in the taxation district.

(5) (a) In this subsection:

1. "Assessed value" means with respect to each taxation district the total values established under ss. 70.32 and 70.34, but excluding manufacturing property subject to assessment under s. 70.995.

1m. "Class of property" means residential under s. 70.32 (2) (a) 1.; commercial under s. 70.32 (2) (a) 2.; personal property; or the sum of undeveloped under s. 70.32 (2) (a) 5., agricultural forest under s. 70.32 (2) (a) 5m.; productive forest land under s. 70.32 (2) (a) 6. and other under s. 70.32 (2) (a) 7.

2. "Full value" means with respect to each taxation district the total value of property as determined under s. 70.57 (1), but excluding manufacturing property subject to assessment under s. 70.995.

3. "Major class of property" means any class of property that includes more than 5% of the full value of the taxation district.

(b) Each taxation district shall assess property at full value at least once in every 5−year period. Before a city, village, or town assessor conducts a revaluation of property under this paragraph, the city, village, or town shall publish a notice on its municipal Web site that a revaluation will occur and the approximate dates of the property revaluation. The notice shall also describe the authority of an assessor, under ss. 943.13 and 943.15, to enter land. If a municipality does not have a Web site, it shall post the required information in at least 3 public places within the city, village, or town.

(c) Annually beginning in 1992, the department of revenue shall determine the ratio of the assessed value to the full value of all taxable general property and of each major class of property of

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each taxation district and publish its findings in the report required under s. 73.06 (5).

(d) If the department of revenue determines that the assessed value of each major class of property of a taxation district, including 1st class cities, has not been established within 10% of the full value of the same major class of property during the same year at least once during the 4−year period consisting of the current year and the 3 preceding years, the department shall notify the clerk of the taxation district of its intention to proceed under par. (f) if the taxation district's assessed value of each major class of property for the subsequent year is not within 10% of the full value of the same major class of property. The department's notice shall be in writing and mailed to the clerk of the taxation district on or before November 1 of the year of the determination.

(f) If, in the year after the notice under par. (d), the department of revenue determines that the assessed value of each major class of property of a taxation district, including 1st class cities, has not been established within 10% of the full value of the same major class of property, the department shall notify the clerk of the taxation district in writing on or before November 1 of the year of determination that the district's assessment staff is required to participate in the program under s. 73.08 during the next year.

(g) If, in both the year in which a taxation district's assessment staff participates in the program under s. 73.08 and in the next year, the department of revenue determines that the assessed value of each major class of property is not within 10% of the full value of the same major class of property, the department shall order special supervision under s. 70.75 (3) for that taxation district for the succeeding year's assessment. That order shall be in writing and shall be mailed to the clerk of the taxation district on or before November 1 of the year of the determination.

History: 1973 c. 90; 1975 c. 39, 199; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1985 a. 332 s. 108; 1987 a. 399; 1989 a. 56; 1991 a. 39, 316; 1995 a. 27, 212; 2003 a. 33; 2009 a. 68.

Compliance with the requirement of sub. (5) that property be assessed at fair value at least once every 5 years is not a substitute for compliance with the uniformity clause and the requirement of s. 70.32 (1) that the property be valued using the best evidence available. Noah's Ark Family Park v. Village of Lake Delton, 210 Wis. 2d 301, 565 N.W.2d 230 (Ct. App. 1997), 96−1074. Affirmed. 216 Wis. 2d 387, 573 N.W.2d 852 (1998), 96−1074.

70.055 Expert assessment help. If the governing body of any town, village or city not subject to assessment by a county assessor under s. 70.99 determines that it is in the public interest to employ expert help to aid in making an assessment in order that the assessment may be equitably made in compliance with law, the governing body may employ such necessary help from persons currently certified by the department of revenue as expert appraisers. If the help so employed is the department of revenue, the department shall designate the persons in its employ responsible for the assessment. If the emergency help so employed is a corporation the corporation shall designate the persons in its employ responsible for the assessment.

(1) CERTIFICATION REQUIREMENTS. An applicant for certification as an expert appraiser shall submit satisfactory evidence to the department of revenue as follows:

(a) That the applicant has acquired a thorough knowledge of appraisal techniques and general property assessment standards.

(b) That through examination given by the department of revenue he or she has demonstrated to the department that he or she possesses the necessary qualifications for certification of assessors as described in s. 73.09.

(3) STANDARD SPECIFICATIONS. (a) The department of revenue shall prescribe standard specifications relating to assessment work performed by expert appraisers other than the department of revenue. No contract for expert help may be approved by the department of revenue unless the contract is submitted on standard contract forms prescribed by the department. If the department of revenue acts as the expert help it shall perform the assessment duties in accordance with the standard specifications.

(4) DUTIES. When appointed, expert help, together with the assessor, shall act together as an assessment board in exercising the powers and duties of the assessor during this employment, and the concurrence of a majority of the board is necessary to determine any matter upon which they are required to act. All persons appointed or designated as emergency help shall file the official oath under s. 19.01.

(5) DEPARTMENT OF REVENUE COSTS. All costs of the department of revenue in connection with assessment under this section shall be borne by the taxation district. These receipts shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts shall be certified on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

History: 1971 c. 40; 1973 c. 90; 1975 c. 39, 199; 1977 c. 29; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1991 a. 316.

70.06 Assessments, where made; first class city districts; assessors; appointment, removal. (1) In cities of the 1st class the assessment of property for taxation shall be under the direction of the city commissioner of assessments, who shall perform such duties in relation thereto as are prescribed by the common council, and the assessment rolls of the city shall be made as the council directs, except where such city of the 1st class is under the jurisdiction of a county assessor under s. 70.99. Manufacturing property subject to s. 70.995 shall be assessed according to that section.

(2) The commissioner of assessments may, with the approval of the common council, appoint one chief assessor, one or more supervising assessors and supervising assessor assistants, one or more property appraisers, and other expert technical personnel that the commissioner of assessments considers to be necessary in order that all valuations throughout the city are uniformly made in accordance with the law. The chief assessor, supervising assessors, and supervising assessor assistants shall exercise the direction and supervision over assessment procedure and shall perform the duties in relation to the assessment of property that the commissioner of assessments determines. Together with the chief assessor and the assessment analysis manager, they shall be members of the board of assessors and shall hold office in the same manner as assessors. Certification of the assessment roll shall be limited to the members of the board of assessors.

(3m) No person may assume the office of commissioner of assessments, chief assessor, assessment analysis manager, systems and administration supervisor, title records supervisor, supervising assessor, supervising assessor assistant, or property appraiser appointed under sub. (2), unless certified by the department of revenue under s. 73.09 as qualified to perform the functions of the office of assessor. If a person who has not been so certified is appointed to the office, the office shall be vacant and the appointing authority shall fill the vacancy from a list of persons so certified by the department of revenue.

(5) This section shall not apply to a city of the 1st class after it has come under a county assessor system.

History: 1973 c. 90; 1975 c. 39, 199; 1977 c. 203; 1979 c. 95 ss. 1, 4; 1979 c. 110, 221, 355; 1981 c. 37; 1983 a. 192; 1985 a. 29, 332; 1987 a. 87; 1991 a. 156; 2001 a. 103.

70.07 Functions of board of assessors in first class cities. (1) In all 1st class cities the several assessors shall make their assessments available to the commissioner of assessments on or before the 2nd Monday in May in each year.

(2) The commissioner of assessments shall publish a class 3 notice, under ch. 985, that on the days named, the assessments for the city will be open for examination by the taxable inhabitants of the city. On the 2nd Monday of May the commissioner of assessments shall call together all of the assessors, and the other members of the board of assessors as provided in s. 70.06 (2), and they together with the commissioner of assessments 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 commissioner of assessments, 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; and the commissioner of assessments may direct that all objections to valuations filed under s. 70.47 (16) shall be investigated by such board.

(4) The concurrence of a majority of such board of assessors shall be necessary to determine any matter upon which the commissioner of assessments requires it to act. No notice need be given to the owners of the property assessed of any corrections or changes in assessments which are made prior to the day or days fixed in the notice mentioned in sub. (2) on which said assessments are to be open for examination, but any changes made thereafter and before the assessment roll is delivered to the board of review can only be made upon notice by first class mail to the person assessed if a resident of the city or, if a nonresident, the agent of the person assessed if there is one resident therein or, if neither, the possessor of the property assessed if any, if the residence of such owner, agent or possessor is known to any member of said board of assessors.

(5) The commissioner of assessments may provide for such committees of the board of assessors, as the commissioner of assessments may think best, to make investigations including the investigations mentioned in sub. (3) and perform such other duties as are prescribed by the commissioner of assessments. The commissioner of assessments shall be chairperson of the board of assessors, and may appoint as a member or chairperson of the various committees, himself or herself, any assessor or other officer or employee in the commissioner's department.

(6) The board of assessors shall remain in session until all corrections and changes have been made, including all those resulting from investigations by committees of objections to valuations filed with the commissioner of assessments as provided in this subsection, after which the commissioner of assessments shall prepare the assessment rolls as corrected by the board of assessors and submit them to the board of review not later than the 2nd Monday in October. The person assessed, having been notified of the determination of the board of assessors as required in sub. (4), shall be deemed to have accepted the determination unless the person notifies the commissioner of assessments in writing, within 15 days from the date that the notice of determination was issued under sub. (4), of the desire to present testimony before the board of review. After the board of review has met, the commissioner of assessments may appoint committees of the board of assessors to investigate any objections to the amount or valuation of any real or personal property which have been filed with the commissioner of assessments. The committees may at the direction of the commissioner of assessments 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 the board of review.

(7) This section shall not apply to a city of the 1st class after it has come under a county assessor system.

History: 1973 c. 90; 1977 c. 29 s. 1647 (8), (16); 1977 c. 273; 1979 c. 34 s. 2102 (46) (b); 1979 c. 95 ss. 2, 4; 1979 c. 176; 1983 a. 192, 220; 1991 a. 156, 316; 2001 a. 103; 2005 a. 49.

70.075 Functions of board of assessors in cities of the 2nd class. (1) In cities of the 2nd class the common council may by ordinance provide that objections to property tax assessments shall be processed through a board of assessors. In such cases, the city assessor shall publish a class 3 notice, under ch. 985, that on the days named in the notice, the assessments for the city will be open for examination by the taxable inhabitants of the city. On the 2nd Monday of May the city assessor shall call together all of the members of the board of assessors as created in sub. (2) and they, together with the city assessors, shall constitute an assessment board.

(2) In cities of the 2nd class which have elected to have a board of assessors, the board shall have at least 3 members and no more than 7 members, and shall consist of the city assessor, assistant assessors, appraisers or other expert technical personnel appointed by the city assessor and approved by the common council.

(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 city assessor, 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. The city assessor may direct that all objections to valuations filed with the city assessor in writing, in the manner provided in s. 70.47 (13), shall be investigated by the board.

(4) The concurrence of a majority of the board of assessors is necessary to determine any matter upon which the city assessor requires it to act. No notice need be given to the owners of the property assessed of any corrections or changes in assessments which are made prior to the day or days fixed in the notice specified under sub. (1) on which the assessments are to be open for examination, but any changes made thereafter and before the assessment roll is delivered to the board of review can only be made upon notice by 1st class mail to the person assessed if a resident of the city or, if a nonresident, an agent if there is one resident in the city or, if neither, the possessor of the property assessed if any, if the residence of the owner, agent or possessor is known to any member of the board of assessors.

(5) The city assessor may provide for committees of the board of assessors to make investigations including the investigations mentioned in sub. (3) and perform such other duties as may be prescribed. The city assessor shall chair the board of assessors, and may appoint as a member or chairperson of the various committees, himself or herself, an assistant assessor, or other officer or employee in the office of the city assessor.

(6) The board of assessors shall remain in session until all corrections and changes have been made, including all those resulting from investigations by committees of objections to valuations filed with the city assessor as provided in this section, after which the city assessor shall prepare the assessment rolls as corrected by the board of assessors and submit them to the board of review not later than the last Monday in July. A person assessed who has been notified of the determination of the board of assessors as required in sub. (4) is deemed to have accepted such determination unless the person notifies the city assessor in writing, within 15 days from the date that the notice of determination was issued under sub. (4), of a desire to present testimony before the board of review. After the board of review meets, the city assessor may appoint committees of the board of assessors to investigate any objections to the amount or valuation of any real or personal property which are referred to the city assessor by the board of review. The committees so appointed may at the city assessor's direction 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 the board of review.

(7) This section does not apply to a city of the 2nd class if it is contained within a county which adopts a county assessor system under s. 70.99.

History: 1977 c. 29; 1981 c. 20; 2005 a. 49.

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 except that in cities of the first class such districts may be referred to as administrative districts.

70.09 Official real property lister; forms for officers. (1) LISTER, COUNTY BOARDS MAY PROVIDE FOR. Any county board

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may appoint a county real property lister and may appropriate funds for the operation of the department of such lister.

(2) DUTIES OF LISTER. The county board may delegate any of the following duties to the lister:

(a) To prepare and maintain accurate ownership and description information for all parcels of real property in the county. That information may include the following:

1. Parcel numbers.

2. The owner's name and an accurate legal description as shown on the latest records of the office of the register of deeds.

3. The owner's mailing address.

4. The number of acres in the parcel if it contains more than one acre.

5. School district and special purpose district codes.

(b) To provide information on parcels of real property in the county for the use of taxation district assessors, city, village and town clerks and treasurers and county offices and any other persons requiring that information.

(c) To serve as the coordinator between the county and the taxation districts in the county for assessment and taxation purposes.

(d) To provide computer services related to assessment and taxation for the assessors, clerks and treasurers of the taxation districts in the county, including but not limited to data entry for the assessment roll, notice of assessments, summary reports, tax roll and tax bills.

(3) BASIC TAX FORMS. (a) The department of revenue shall prescribe basic uniform forms of assessment rolls, tax rolls, tax bills, tax receipts, tax roll settlement sheets and all other forms required for the assessment and collection of general property taxes throughout the state, and shall furnish each county designee a sample of the uniform forms.

(c) If any county has reason to use forms for assessment and collection of taxes in addition to those prescribed under par. (a), the county real property lister and treasurer jointly may prescribe such additional forms for use in their county, upon approval of the department of revenue.

(d) Each county designee who requires the forms prescribed in pars. (a) and (c) shall procure them at county expense and shall furnish such forms to the assessors, clerks and treasurers of the taxation districts within the county, as needed in the discharge of their duties.

History: 1977 c. 142; 1983 a. 275; 1985 a. 12 ss. 2, 3, 13; 1991 a. 204; 1995 a. 225.

70.095 Assessment roll; time−share property. For the purpose of time−share property, as defined in s. 707.02 (32), a time−share instrument, as defined in s. 707.02 (28), shall provide a method for allocating real property taxes among the time−share owners, as defined in s. 707.02 (31), and a method for giving notice of an assessment and the amount of property tax to the owners. Only one entry shall be made on the assessment roll for each building unit within the time−share property, which entry shall consist of the cumulative real property value of all time−share interests in the unit.

History: 1983 a. 432; 1985 a. 188 s. 16; 1987 a. 399.

70.10 Assessment, when made, exemption. The assessor shall assess all real and personal property as of the close of January 1 of each year. Except in cities of the 1st class and 2nd class cities that have a board of assessors under s. 70.075, the assessment shall be finally completed before the first Monday in April. All real property conveyed by condemnation or in any other manner to the state, any county, city, village or town by gift, purchase, tax deed or power of eminent domain before January 2 in such year shall not be included in the assessment. Assessment of manufacturing property subject to s. 70.995 shall be made according to that section.

History: 1973 c. 90; 1977 c. 29; 1981 c. 20.

70.105 Assessment freeze. (1) LEGISLATIVE DECLARATION. It is hereby declared that in municipalities in the state, owners of real property from time to time are required to convey the same to public bodies either under threat of condemnation or because of condemnation proceedings. Property conveyed under such circumstances is designed to be used for a public purpose. Because of the circumstances attending such transfer, property owners frequently find that they must purchase on the open market property similar to that which was conveyed and frequently the property so purchased requires greater financial obligations on the part of the owner. In order to minimize the impact of the economic readjustment which results from conveyance of property either under threat of condemnation or through condemnation proceedings, it is deemed reasonable to provide an assessment freeze made applicable to the new property acquired by the owners under the conditions here enumerated.

(2) DEFINITIONS. As used in this section, unless the context clearly indicates otherwise:

(a) "Assessment freeze" means the assessment placed upon the real property, both land and improvements, by the taxing authorities in the year immediately preceding the conveyance of such property under threat of condemnation or by virtue of condemnation proceedings to a public body, and which shall include a redevelopment or housing authority, expressway board or commission, or municipal utility. The assessed valuation so determined shall be the assessment of the new property required to replace such conveyed property, subject, however, to the conditions hereinafter set forth.

(b) "Condemnation" means condemnation of property as undertaken under ch. 32 or under any other applicable provisions of law.

(c) "New property" means the property which is acquired by the owner to replace the property which has been conveyed under threat of condemnation or through condemnation proceedings.

(d) "Property" means the real estate plus fixtures attached to the real estate and which together form the basis for the assessment of real property.

(e) "Threat of condemnation" means acquisition of the owner's property which a public entity, including a redevelopment or housing authority, or expressway board or commission, or municipal utility acquires for a public purpose.

(3) ORDINANCE PROVIDING AN ASSESSMENT FREEZE. The local legislative body of any municipality may by ordinance provide for the granting of an assessment freeze on property acquired by the owner for the purpose of replacing other property which had belonged to such owner and which was either conveyed by such owner under threat of condemnation or which was condemned for the benefit of a public entity to be used for public purposes, provided the newly acquired property shall be devoted by such owner to the same general purposes as was the property conveyed under threat of condemnation or through condemnation procedure. The ordinance so adopted shall specify conditions which must be satisfied in order to obtain the assessment freeze. The following conditions shall be embodied in such ordinance:

(a) The owner of the property shall establish that he or she was the owner in fee thereof which was acquired either under threat of condemnation or by condemnation by a public body and for any of the following purposes:

1. A public expressway, street or highway;

2. A redevelopment project approved under s. 66.1333, or a housing project approved under s. 66.1201;

3. Any other public improvement which has been approved by the local legislative body.

(b) The property conveyed as set forth in par. (a) and the new property acquired shall both be located in the same municipality.

(c) The owner of such property shall be either a person, firm, corporation, partnership, limited liability company or association, and such ownership must be in substance rather than as to form.

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(d) The owner of the property conveyed under threat of condemnation or by condemnation shall have been the owner of such property for at least 5 years prior to such conveyance.

(e) The property, which is acquired by the owner and for which an assessment freeze is sought, shall be used for the same general purposes as was the property conveyed or transferred either under threat of condemnation or by condemnation.

(f) The land acquired by the owner and for which an assessment freeze is sought shall not be less than 30,000 square feet in area or in the alternative, the improvements or structures located on the land shall not be less than 200,000 cubic feet in volume. The period of the assessment freeze shall not exceed 5 years from the year in which it is first granted. The maximum amount of the assessment freeze allowed shall not be greater than 50 percent of the assessment of the property acquired and for which an assessment freeze is sought that would have been made by the assessor or the commissioner of taxation, as the case may be, had no assessment freeze been granted. In no event shall the assessment under such assessment freeze be less than the amount of the assessment of the property conveyed under threat of condemnation or by condemnation.

(g) The assessment freeze granted shall terminate in the first year of assessment following conveyance of said real property by the owner.

(h) Such other conditions may be set forth in the ordinance as the local legislative body determines.

(i) The improvements on the land acquired by the owner shall be new or the aggregate amount of such improvements made to existing structures shall be in excess of the assessment on the improvements on the real estate which was conveyed by the owner under threat of condemnation or by condemnation.

(j) In applying the provisions of this section real property functionally related to the real property conveyed under threat of condemnation or by condemnation shall be deemed an integral part of the property conveyed for the purposes of determining the assessment freeze.

(k) This section shall be applicable independent of whether the real property is conveyed under threat of condemnation or condemnation or whether an easement is granted for the purposes set forth in par. (a) 3. in lieu of condemnation.

(4) FINDINGS AND CERTIFICATION. The local assessor or the commissioner of assessments in such municipality shall, upon application by an owner seeking an assessment freeze, make a thorough investigation to ascertain whether such application meets the requirements of the ordinance enacted by the local legislative body. The assessor or commissioner of assessments, as the case may be, shall make findings to demonstrate that such application complies with the ordinance and shall submit a certification together with the assessor's or commissioner's findings to the local legislative body for approval. If the local legislative body determines from the commissioner of assessments' certification that an assessment freeze shall operate, the local legislative body shall by resolution provide for such assessment freeze. The local legislative body shall specify the period when such assessment freeze shall commence to operate and when new construction or remodeling of existing structures is required, shall specify the time within which such construction or remodeling shall be completed and the commencement date of the assessment freeze.

History: 1991 a. 156, 316; 1993 a. 112; 1999 a. 150 s. 672; 2009 a. 177.

70.109 Presumption of taxability. Exemptions under this chapter shall be strictly construed in every instance with a presumption that the property in question is taxable, and the burden of proof is on the person who claims the exemption.

History: 1997 a. 237.

Exemption from payment of taxes is an act of legislative grace; the party seeking the exemption bears the burden of proving entitlement. Exemptions are only allowed to the extent the plain language of a statute permits. For tax exemptions to be valid they must be clear and express, and not extended by implication. In construing tax exemptions, courts apply a strict but reasonable construction resolving any doubts regarding the exemption in favor of taxability. United Rentals, Inc. v. City of Madison, 2007 WI App 131, 302 Wis. 2d 245, 733 N.W.2d 322, 05−1440.

70.11 Property exempted from taxation. The property described in this section is exempted from general property taxes if the property is exempt under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; if the property was taxable for the previous year, the use, occupancy or ownership of the property changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes or if the property did not exist in the previous year and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes. Except as provided in subs. (3m) (c), (4) (b), (4a) (f), and (4d), leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property, or both, and, except for residential housing, if the lessee would be exempt from taxation under this chapter if it owned the property. Any lessor who claims that leased property is exempt from taxation under this chapter shall, upon request by the tax assessor, provide records relating to the lessor's use of the income from the leased property. Property exempted from general property taxes is:

(1) PROPERTY OF THE STATE. Property owned by this state except land contracted to be sold by the state. This exemption shall not apply to land conveyed after September, 1933, to this state or for its benefit while the grantor or others for the grantor's benefit are permitted to occupy the land or part thereof in consideration for the conveyance; nor shall it apply to land devised to the state or for its benefit while another person is permitted by the will to occupy the land or part thereof. This exemption shall not apply to any property acquired by the department of veterans affairs under s. 45.32 (5) and (7) or to the property of insurers undergoing rehabilitation or liquidation under ch. 645. Property exempt under this subsection includes general property owned by the state and leased to a private, nonprofit corporation that operates an Olympic ice training center, regardless of the use of the leasehold income.

(2) MUNICIPAL PROPERTY AND PROPERTY OF CERTAIN DISTRICTS, EXCEPTION. Property owned by any county, city, village, town, school district, technical college district, public inland lake protection and rehabilitation district, metropolitan sewerage district, municipal water district created under s. 198.22, joint local water authority created under s. 66.0823, long−term care district under s. 46.2895 or town sanitary district; lands belonging to cities of any other state used for public parks; land tax−deeded to any county or city before January 2; but any residence located upon property owned by the county for park purposes that is rented out by the county for a nonpark purpose shall not be exempt from taxation. Except as to land acquired under s. 59.84 (2) (d), this exemption shall not apply to land conveyed after August 17, 1961, to any such governmental unit or for its benefit while the grantor or others for his or her benefit are permitted to occupy the land or part thereof in consideration for the conveyance. Leasing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable.

(2m) PROPERTY LEASED OR SUBLEASED TO SCHOOL DISTRICTS. All of the property that is owned or leased by a corporation, organization or association that is exempt from federal income taxation under section 501 (c) (3) of the Internal Revenue Code if all of that property is leased or subleased to a school district for no or nominal consideration for use by an educational institution that offers regular courses for 6 months in a year.

(3) COLLEGES AND UNIVERSITIES. (a) Grounds of any incorporated college or university, not exceeding 80 acres.

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(b) The fact that college or university officers, faculty members, teachers, students or employees live on the grounds does not render them taxable. In addition to the exemption of leased property specified in the introductory phrase of this section, a university or college may also lease property for educational or charitable purposes without making it taxable if it uses the income derived from the lease for charitable purposes.

(c) All buildings, equipment and leasehold interests in lands described in s. 36.06, 1971 stats., and s. 37.02 (3), 1971 stats.

(3a) BUILDINGS AT THE WISCONSIN VETERANS HOMES. All buildings, equipment and leasehold interests in lands described in s. 45.03 (5).

(3m) STUDENT HOUSING FACILITIES. (a) All real and personal property of a housing facility for which all of the following applies:

1. The facility is owned by a nonprofit organization.

2. At least 90 percent of the facility's residents are students enrolled at the University of Wisconsin−Madison and the facility houses no more than 300 such students.

3. The facility offers support services and outreach programs to its residents, the public or private institution of higher education at which the student residents are enrolled, and the public.

(b) If a nonprofit organization owns more than one housing facility, as described under par. (a), the exemption applies to only one facility, at one location.

(c) Leasing a part of the property described in this subsection does not render it taxable if the lessor uses the leasehold income only for the following:

1. Maintenance of the leased property.

2. Construction debt retirement of the leased property.

3. The purposes for which the exemption under section 501 (c) (3) of the Internal Revenue Code is granted to the nonprofit organization that owns the facility.

(4) EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS; HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES. (a) Property owned and used exclusively by educational institutions offering regular courses 6 months in the year; or by churches or religious, educational or benevolent associations, or by a nonprofit entity that is operated as a facility that is licensed, certified, or registered under ch. 50, including benevolent nursing homes but not including an organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that offers a health maintenance organization or a limited service health organization and not including property owned by any nonstock, nonprofit corporation which services guaranteed student loans for others or on its own account, and also including property owned and used for housing for pastors and their ordained assistants, members of religious orders and communities, and ordained teachers, whether or not contiguous to and a part of other property owned and used by such associations or churches, and also including property described under par. (b); or by women's clubs; or by domestic, incorporated historical societies; or by domestic, incorporated, free public library associations; or by fraternal societies operating under the lodge system (except university, college and high school fraternities and sororities), but not exceeding 10 acres of land necessary for location and convenience of buildings while such property is not used for profit. Property owned by churches or religious associations necessary for location and convenience of buildings, used for educational purposes and not for profit, shall not be subject to the 10−acre limitation but shall be subject to a 30−acre limitation. Property that is exempt from taxation under this subsection and is leased remains exempt from taxation only if, in addition to the requirements specified in the introductory phrase of this section, the lessee does not discriminate on the basis of race.

(b) 1. Leasing a part of property described in par. (a) that is owned and operated by a nonprofit organization as a facility that is licensed, certified, or registered under ch. 50, as residential housing, does not render the property taxable, regardless of how the lessor uses the leasehold income.

2. Leasing a part of property described in par. (a) that is occupied by one or more individuals with permanent disabilities for whom evidence is available that demonstrates that such individuals meet the medical definition of permanent disability used to determine eligibility for programs administered by the federal social security administration, as residential housing, does not render the property taxable, regardless of how the lessor uses the leasehold income.

(4a) BENEVOLENT LOW−INCOME HOUSING. (a) Property owned by a nonprofit entity that is a benevolent association and used as low−income housing, including all common areas of a low−income housing project. Property used for a low−income housing project, including other low−income housing projects under common control with such project, and exempt under this subsection may not exceed 30 acres necessary for the location and convenience of buildings or 10 contiguous acres in any one municipality.

(b) For purposes of this subsection, "low−income housing" means any housing project described in sub. (4b) or any residential unit within a low−income housing project that is occupied by a low−income or very low−income person or is vacant and is only available to such persons.

(c) For purposes of this subsection, "low−income housing project" means a residential housing project for which all of the following apply:

1. At least 75 percent of the residential units are occupied by low−income or very low−income persons or are vacant and available only to low−income or very low−income persons.

2. At least one of the following applies:

a. At least 20 percent of the residential units are rented to persons who are very low−income persons or are vacant and are only available to such persons.

b. At least 40 percent of the residential units are rented to persons whose income does not exceed 120 percent of the very low−income limit or are vacant and only available to such persons.

(d) For purposes of this subsection, low−income persons and very low−income persons shall be determined in accordance with the income limits published by the federal department of housing and urban development for low−income and very low−income families under the National Housing Act of 1937.

(e) For purposes of this subsection, all properties included within the same federal department of housing and urban development contract or within the same federal department of agriculture, rural development, contract are considered to be one low−income housing project.

(f) Leasing property that is exempt from taxation under this subsection or sub. (4b) as low−income housing does not render it taxable, regardless of how the leasehold income is used.

(g) 1. Annually, no later than March 1, each person who owns a low−income housing project shall file with the assessor of the taxation district in which the project is located a statement that specifies which units were occupied on January 1 of that year by persons whose income satisfied the income limit requirements under par. (b), as certified by the property owner to the appropriate federal or state agency, and a copy of the federal department of housing and urban development contract or federal department of agriculture, rural development, contract, if applicable.

2. The format and distribution of statements under this paragraph shall be governed by s. 70.09 (3).

3. If the statement required under this paragraph is not received on or before March 1, the taxation district assessor shall send the property owner a notice, by certified mail to the owner's

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last−known address of record, stating that failure to file a statement is subject to the penalties under subd. 5.

4. In addition to the statement under subd. 1., the taxation district assessor may require that a property owner submit other information to prove that the person's property qualifies as low−income housing that is exempt from taxation under this subsection.

5. A person who fails to file a statement within 30 days after notification under subd. 3. shall forfeit $10 for each succeeding day on which the form is not received by the taxation district assessor, but not more than $500.

(4b) HOUSING PROJECTS FINANCED BY HOUSING AND ECONOMIC DEVELOPMENT AUTHORITY. All property of a housing project that satisfies all of the following:

(a) It is owned by a corporation, organization, or association described in section 501 (c) (3) of the Internal Revenue Code that is exempt from taxation under section 501 (a) of the Internal Revenue Code.

(b) It is financed by the Housing and Economic Development Authority under s. 234.03 (13).

(c) The Housing and Economic Development Authority holds a first−lien mortgage security interest on it.

(d) It is in existence on January 1, 2008.

(4d) BENEVOLENT RETIREMENT HOMES FOR THE AGED. Property that is owned by a nonprofit entity that is a benevolent association and used as a retirement home for the aged, but not exceeding 30 acres of land necessary for the location and convenience of buildings, while such property is not used for profit, if the fair market value of the individual dwelling unit, as determined by the assessor for the taxation district in which the property is located, is less than 130 percent of the average equalized value under s. 70.57 of improved parcels of residential property located in the county in which the retirement home for the aged is located in the previous year, as determined by the assessor of the taxation district in which the property is located based on the sum of the average per parcel equalized value of residential land and the average per parcel equalized value of residential improvements, as determined by the department of revenue. For purposes of determining the fair market value of an individual dwelling unit under this subsection, the value of any common area is excluded. The common area of a retirement home for the aged is exempt from general property taxes if 50 percent or more of the home's individual dwelling units are exempt from general property taxes under this subsection. If less than 50 percent of the home's individual dwelling units are exempt from general property taxes under this subsection, the common area of the retirement home for the aged is subject to general property taxes. Leasing a part of property used as a retirement home for the aged, as described in this subsection, does not render it taxable, regardless of how the leasehold income is used.

(4g) REAL PROPERTY HELD FOR REHABILITATION OR FUTURE CONSTRUCTION AND LATER SALE TO LOW−INCOME PERSONS. Real property owned by a nonprofit organization if all of the following requirements are fulfilled:

(a) The nonprofit organization holds the property for the purpose of rehabilitating an existing structure or constructing a new structure on the property for sale to low−income persons for use as a personal residence.

(b) The nonprofit organization offers low−income persons loans to purchase the property for which no interest is charged.

(c) The nonprofit organization requires prospective purchasers to participate in the rehabilitation or construction of the property.

(d) The nonprofit organization acquired the property within 3 years before the assessment date.

(4m) NONPROFIT HOSPITALS. (a) Real property owned and used and personal property used exclusively for the purposes of any hospital of 10 beds or more devoted primarily to the diagnosis, treatment or care of the sick, injured, or disabled, which hospital is owned and operated by a corporation, voluntary association, foundation or trust, except an organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that offers a health maintenance organization or a limited service health organization, no part of the net earnings of which inures to the benefit of any shareholder, member, director or officer, and which hospital is not operated principally for the benefit of or principally as an adjunct of the private practice of a doctor or group of doctors. This exemption does not apply to property used for commercial purposes, as a health and fitness center or as a doctor's office. The exemption for residential property shall be limited to dormitories of 12 or more units which house student nurses enrolled in a state accredited school of nursing affiliated with the hospital.

(b) Real property leased by and used exclusively for the purposes of any hospital that has 10 beds or more, is devoted primarily to the diagnosis, treatment or care of the sick, injured or disabled and is owned and operated by a corporation, voluntary association, foundation or trust, except an organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that offers a health maintenance organization or a limited service health organization, no part of the net earnings of which inures to the benefit of any shareholder, member, director or officer and is not operated principally for the benefit of or principally as an adjunct to the private practice of a doctor or group of doctors. This exemption applies only to real property leased from a nonprofit organization or nonprofit hospital that is exempt from taxation under this chapter and that uses the income derived from the lease only for maintenance of the leased property or construction debt retirement of the leased property or both. This exemption does not apply to property used for commercial purposes, as a health and fitness center or as a doctor's office.

(c) In this subsection, "health and fitness center" means an establishment the primary purpose of which is to provide recreational services or facilities that are purported to assist patrons in physical exercise, in weight control or in figure development, including but not limited to a health and fitness center, studio, salon or club. In this subsection, "health and fitness center" does not include a facility the primary purpose of which is to provide services or facilities that are primarily a part of a course of rehabilitation or therapy prescribed by a physician or physical therapist to treat a physical injury or dysfunction and that are aimed primarily at patients of the hospital or an affiliated entity and not at the general public and that is located within the physical confines of a hospital.

(5) AGRICULTURAL FAIRS. Property owned and used exclusively by any state or county agricultural society, or by any other domestic corporation formed to encourage agricultural and industrial fairs and exhibitions and necessary for fairgrounds or for exhibition and sale of agricultural and dairy property, not exceeding 80 acres. The use of such property for celebrations or as places of amusement shall not render it taxable.

(6) FIRE COMPANIES. Property of any fire company used exclusively for its purposes.

(7) LAND OF MILITARY ORGANIZATIONS. Land owned by military organizations and used for armories, public parks or monument grounds but not used for private gain.

(9) MEMORIALS. 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 the laws of this state, containing permanent memorial tablets with the names of former residents of any given town, village, city or county who lost their lives in the military or naval service of the state or the

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United States in any war inscribed thereon, and all personal property owned by such organizations, and all buildings erected, purchased or maintained by any county, city, town or village as memorials under s. 45.72. 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 s. 70.1105 (1).

(10m) LIONS FOUNDATION CAMPS FOR CHILDREN WITH VISUAL IMPAIRMENTS. Lands not exceeding 40 acres and the buildings thereon owned by the Wisconsin Lions Foundation and used as camps for children with visual impairments, so long as the property is used for such purposes and not for pecuniary profit of any individual.

(11) BIBLE CAMPS. 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.

(12) CERTAIN CHARITABLE ORGANIZATIONS. (a) Property owned by units which are organized in this state of the following organizations: the Salvation Army; Goodwill Industries, not exceeding 10 acres of property in any municipality; the Boy Scouts of America; the Boys' Clubs of America; the Girl Scouts or Camp Fire Girls; the Young Men's Christian Association, not exceeding 40 acres for property that is located outside the limit of any incorporated city or village and not exceeding 10 acres for property that is located inside the limit of any incorporated city or village; the Young Women's Christian Association, not exceeding 40 acres for property that is located outside the limit of any incorporated city or village and not exceeding 10 acres for property that is located inside the limit of any incorporated city or village; or any person as trustee for them of property used for the purposes of those organizations, provided no pecuniary profit results to any individual owner or member.

(b) Real property not exceeding 40 acres and the personal property located thereon owned by units which are not organized in this state of the organizations listed in par. (a). No such unit which is not organized in this state may claim an exemption for more than a total of 80 rods of shoreline on lakes, rivers and streams.

(13) CEMETERIES. Land owned by cemetery authorities, as defined in s. 157.061 (2), and used exclusively as public burial grounds and tombs and monuments therein, and privately owned burial lots; land adjoining such burial grounds, owned and occupied exclusively by the cemetery authority for cemetery purposes; personal property owned by any cemetery authority and necessary for the care and management of burial grounds; burial sites and contiguous lands which are cataloged under s. 157.70 (2) (a).

(13m) ARCHAEOLOGICAL SITES. Archaeological sites and contiguous lands identified under s. 44.02 (23) if the property is subject to a permanent easement, covenant or similar restriction running with the land and if that easement, covenant or restriction is held by the state historical society or by an entity approved by the state historical society and protects the archaeological features of the property.

(14) ART GALLERIES. Property of any public art gallery, if used exclusively for art exhibits and for art teaching, if public access to such gallery is free not less than 3 days in each week.

(15) MANURE STORAGE FACILITIES. Any manure storage facility used by a farmer. This exemption shall apply whether the facility is deemed personal property or is so affixed to the realty as to be classified as real estate.

(15m) SECONDARY CONTAINMENT STRUCTURES. Secondary containment structures used to prevent leakage of liquid fertilizer or pesticides.

(16) LABOR TEMPLES. Property owned and used exclusively by any labor organization or by any domestic corporation whose members are 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 member.

(17) FARMERS' TEMPLES. Property owned and used exclusively for social and educational purposes and for meetings by any corporation, all of whose members are farmers; provided no pecuniary profit results to any member.

(18) HOUSING. Property of housing authorities exempt from taxation under s. 66.1201 (22).

(19) INSTITUTIONS AND CENTERS FOR DEPENDENT CHILDREN AND PERSONS WHO HAVE DEVELOPMENTAL DISABILITIES. The property of any residential care center for children and youth that is licensed under s. 48.60 for the care of dependent or neglected children or delinquent juveniles if that property is used for that purpose and the property of any nonprofit institution that is subject to examination under s. 46.03 (5) and that has a full−time population of at least 150 individuals who have developmental disabilities, as defined in s. 51.01 (5), if that property is used for that purpose.

(20) PROPERTY HELD IN TRUST IN PUBLIC INTEREST. Property that is owned by, or held in trust for, a nonprofit organization, if all of the following requirements are fulfilled:

(a) The property is used to preserve native wild plant or native wild animal life, Indian mounds or other works of ancient persons or geological or geographical formations of scientific interest.

(b) The property is open to the public subject to reasonable restrictions.

(c) No pecuniary profit accrues to any owner or member of the organization or to any associate of any such owner or member from the use or holding of the property.

(d) The county board of the county where the property is located has not determined that the property is not owned by, or held in trust for, a nonprofit organization and has not determined that at least one of the requirements under pars. (a) to (c) has not been fulfilled.

(21) TREATMENT PLANT AND POLLUTION ABATEMENT EQUIPMENT. (ab) In this subsection:

1. "Air contaminants" has the meaning given in s. 285.01 (1).

2. "Industrial waste" means waste resulting from any process of industry, trade, or business, or the development of any natural resource, that has no monetary or market value, except as provided in subd. 3. b., and that would otherwise be considered superfluous, discarded, or fugitive material. "Industrial waste" does not include other wastes, as defined in s. 281.01 (7).

3. "Used exclusively" means to the exclusion of all other uses except any of the following:

a. For other use not exceeding 5 percent of total use.

b. To produce heat or steam for a manufacturing process, if the fuel consists of either 95 percent or more industrial waste that would otherwise be considered superfluous, discarded, or fugitive material or 50 percent or more of wood chips, sawdust, or other wood residue from the paper and wood products manufacturing process, if the wood chips, sawdust, or other wood residue would otherwise be considered superfluous, discarded, or fugitive material.

(am) All property purchased or constructed as a waste treatment facility used exclusively and directly to remove, store, or cause a physical or chemical change in industrial waste or air contaminants for the purpose of abating or eliminating pollution of surface waters, the air, or waters of the state if that property is not used to grow agricultural products for sale and, if the property's owner is taxed under ch. 76, if the property is approved by the department of revenue. The department of natural resources and department of health services shall make recommendations upon

request to the department of revenue regarding such property. All property purchased or upon which construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

(b) The books and records of owners of property covered by this subsection shall be open to examination by representatives of the department of natural resources, department of health services and department of revenue.

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

(d) The department of revenue shall allow an extension to a date determined by the department by rule for filing the report form required under par. (c) if a written application for an extension, stating the reason for the request, is filed with the department of revenue before January 15.

(f) If property about which a statement has been filed under par. (c) is determined to be taxable, the owner may appeal that determination under s. 76.08.

Cross−reference: See also s. Tax 12.40, Wis. adm. code.

(22) CAMPS FOR PERSONS WITH DISABILITIES. Lands not exceeding 10 acres and the buildings thereon owned by the Wisconsin Easter Seal Society for Crippled Children and Adults, Incorporated, and known as Camp Wawbeek, used for camps for children and adults with orthopedic impairments and not to exceed 371 acres of wooded and meadowland adjacent thereto used in connection therewith, excluding a caretaker's home and 10 acres of land in connection therewith, so long as the property is used solely for such purposes and not for pecuniary profit of any individual.

(25) NONPROFIT MEDICAL RESEARCH FOUNDATIONS. Property owned and operated by a corporation, voluntary association, foundation or trust, no part of the net earnings of which inure to the benefit of any shareholder, member, director or officer thereof, which property is used exclusively for the purposes of: medical and surgical research the knowledge derived from which is applied to the cures, prevention, relief and therapy of human diseases; providing instruction for practicing physicians and surgeons, promoting education, training, skill and investigative ability of physicians, scientists and individuals engaged in work in the basic sciences which bear on medicine and surgery; or providing diagnostic facilities and treatment for deserving destitute individuals not eligible for assistance from charitable or governmental institutions. Such corporation, voluntary association, foundation or trust must have received a certificate under section 501 (c) (3) of the internal revenue code as a nonprofit organization exempt for income tax purposes.

(26) PROPERTY OF INDUSTRIAL DEVELOPMENT AGENCIES. All real and personal property owned by an industrial development agency formed under s. 59.57 (2). Any such property subject to contract of sale or lease shall be taxed as personal property to the vendee or lessee thereof.

(27) MANUFACTURING MACHINERY AND SPECIFIC PROCESSING EQUIPMENT. (a) In this subsection:

1. "Building" means any structure used for sheltering people, machinery, animals or plants; storing property; or working, office, parking, sales or display space.

2. "Machinery" means a structure or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means, but "machinery" does not include a building.

3. "Manufacturing" means engaging in an activity classified as manufacturing under s. 70.995.

4. "Power wiring" means bus duct, secondary service wiring or other wiring that is used exclusively to provide electrical service to production machines that are exempt under par. (b). "Power wiring" does not include transformers.

5. "Production process" means the manufacturing activities beginning with conveyance of raw materials from plant inventory to a work point of the same plant and ending with conveyance of the finished product to the place of first storage on the plant premises, including conveyance of work in process directly from one manufacturing operation to another in the same plant, including the holding for 3 days or less of work in process to ensure the uninterrupted flow of all or part of the production process and including quality control activities during the time period specified in this subdivision but excluding storage, machine repair and maintenance, research and development, plant communication, advertising, marketing, plant engineering, plant housekeeping and employee safety and fire prevention activities; and excluding generating, transmitting, transforming and furnishing electric current for light or heat; generating and furnishing steam; supplying hot water for heat, power or manufacturing; and generating and furnishing gas for lighting or fuel or both.

6. "Specific processing equipment" means containers for chemical action, mixing or temporary holding of work in process to ensure the uninterrupted flow of all or part of the production process, process piping, tools, implements and quality control equipment.

6m. "Storage" means the holding or safekeeping of raw materials or components before introduction into the production process; the holding, safekeeping or preservation of work in process or of components outside the production process; and the holding or safekeeping of finished products or of components after completion of the production process; whether or not any natural processes occur during that holding, safekeeping or preservation; but "storage" does not include the holding for 3 days or less of work in process to ensure the uninterrupted flow of all or part of the production process.

7. "Used directly" means used so as to cause a physical or chemical change in raw materials or to cause a movement of raw materials, work in process or finished products.

8. "Used exclusively" means to the exclusion of all other uses except for other use not exceeding 5% of total use.

(b) Machinery and specific processing equipment; and repair parts, replacement machines, safety attachments and special foundations for that machinery and equipment; that are used exclusively and directly in the production process in manufacturing tangible personal property, regardless of their attachment to real property, but not including buildings. The exemption under this paragraph shall be strictly construed.

(28) HUMANE SOCIETIES. Property owned and operated by a humane society organized primarily for the care and shelter of homeless, stray or abused animals, on a nonprofit basis, no part of the net income of which inures to the benefit of any member, officer or shareholder, if the property is used exclusively for the primary purposes of the humane society.

(29) NONPROFIT RADIO STATIONS. Property owned by a radio station that is exempt from taxation under section 501 of the internal revenue code as amended to December 31, 1980, if the property is used for the purposes for which the exemption was granted.

(29m) NONPROFIT THEATERS. All of the property owned or leased by a corporation, organization or association exempt from taxation under section 501 (c) (3) of the internal revenue code, if all of the property is used for the purposes for which the exemption was granted, the property includes one or more buildings listed on the national register of historic places, the property includes one or more theaters for performing theater arts which have a total seating capacity of not less than 800 persons and the corporation, organization or association operates the theater or theaters.

(29p) NONPROFIT OUTDOOR THEATERS. All the property owned or leased by an organization that is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code, as confirmed by

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a determination letter issued by the Internal Revenue Service no later than July 31, 1969, if all of the property is used for the purposes for which the exemption was granted, the property includes one or more outdoor theaters for performing theater arts which have a total seating capacity of not less than 400 persons, and the organization operates the theater or theaters.

(30) CROPS. All perennial plants that produce an annual crop.

(31) SPORTS AND ENTERTAINMENT FACILITIES. Real and personal property consisting of or contained in a sports and entertainment facility, including related or auxiliary structures, constructed by a nonprofit corporation for the purpose of donation to the state or to an instrumentality of the state, if the state indicates by legislative or executive action that it will accept the facility. This exemption shall apply during construction and operation if the facility is owned by a nonprofit corporation, the state or an instrumentality of the state.

(31m) RAILROAD HISTORICAL SOCIETIES. Right−of−way and rolling stock owned by railroad historical societies.

(32) NONPROFIT YOUTH HOCKEY ASSOCIATIONS. Land not exceeding 13 acres, the buildings on that land and personal property if the land is owned or leased by and the buildings and personal property are owned by, and all the property is used exclusively for the purposes of, a nonprofit youth hockey association, except that the exemption under this subsection does not apply to the property of a nonprofit youth hockey association if any of its property was funded in whole or in part by industrial revenue bonds unless that association's facilities were placed in operation after January 1, 1988. Leasing all or a portion of the property does not render that property taxable if all of the leasehold income is used for maintenance of the leased property.

(33) CAMPS FOR MENTALLY OR PHYSICALLY DISABLED PERSONS. Land, not exceeding 50 acres, and the buildings on that land used as a residential campground exclusively for mentally or physically disabled persons and their families as long as the property is used for that purpose and not for the pecuniary profit of any individual.

(34) HISTORIC PROPERTIES. (a) Real property all of which fulfills all of the following requirements:

1. Is listed on the national register of historic places in Wisconsin or the state register of historic places.

2. Is a public building, as defined in s. 101.01 (12).

3. Is owned or leased by an organization that is exempt from taxation under section 501 of the internal revenue code as amended to December 31, 1986.

4. Is used for civic, governmental, cultural or educational purposes.

5. Is subject to an easement, covenant or similar restriction running with the land that is held by or approved by the state historical society or by an entity approved by the state historical society, that protects the historic features of the property and that will remain effective for at least 20 years after January 1, 1989.

(35) CULTURAL AND ARCHITECTURAL LANDMARKS. Property described in s. 234.935 (1), 1997 stats.

(36) PROFESSIONAL SPORTS AND ENTERTAINMENT HOME STADIUMS. (a) Property consisting of or contained in a sports and entertainment home stadium, except a football stadium as defined in s. 229.821 (6); including but not limited to parking lots, garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, and other functionally related or auxiliary facilities and structures; including those facilities and structures while they are being built; constructed by, leased to or primarily used by a professional athletic team that is a member of a league that includes teams that have home stadiums in other states, and the land on which that stadium and those structures and facilities are located. Leasing or subleasing the property; regardless of the lessee, the sublessee and the use of the leasehold income; does not render the property taxable.

(b) Property consisting of or contained in a football stadium, as defined in s. 229.821 (6), and related facilities and structures, including those facilities and structures while they are being built or constructed, primarily used by a professional football team described in s. 229.823, and the land, including parking lots, on which that stadium and those facilities and structures are located. Related facilities and structures are limited to improvements that share common structural supports with the stadium or are physically attached to the stadium. Using the property for garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, or other functionally related or auxiliary facilities does not render the property taxable. Leasing or subleasing the property; regardless of the lessee, the sublessee and the use of the leasehold income; does not render the property taxable.

(37) LOCAL EXPOSITION DISTRICT. The property of a local exposition district under subch. II of ch. 229.

(38) UNIVERSITY OF WISCONSIN HOSPITALS AND CLINICS AUTHORITY. Notwithstanding the provisions of s. 70.11 (intro.) that relate to leased property, all property owned by the University of Wisconsin Hospitals and Clinics Authority and all property leased to the University of Wisconsin Hospitals and Clinics Authority that is owned by the state, provided that use of the property is primarily related to the purposes of the authority.

(38m) WISCONSIN AEROSPACE AUTHORITY. Notwithstanding the provisions of s. 70.11 (intro.) that relate to leased property or that impose other limitations, all property owned or leased by the Wisconsin Aerospace Authority, provided that use of the property is primarily related to the purposes of the authority.

(38r) ECONOMIC DEVELOPMENT CORPORATION. All property owned by the Wisconsin Economic Development Corporation, provided that use of the property is primarily related to the purposes of the Wisconsin Economic Development Corporation.

(39) COMPUTERS. If the owner of the property fulfills the requirements under s. 70.35, mainframe computers, minicomputers, personal computers, networked personal computers, servers, terminals, monitors, disk drives, electronic peripheral equipment, tape drives, printers, basic operational programs, systems software, and prewritten software. The exemption under this subsection does not apply to custom software, fax machines, copiers, equipment with embedded computerized components or telephone systems, including equipment that is used to provide telecommunications services, as defined in s. 76.80 (3). For the purposes of s. 79.095, the exemption under this subsection does not apply to property that is otherwise exempt under this chapter.

(39m) If the owner of the property fulfills the requirements under s. 70.35, cash registers and fax machines, excluding fax machines that are also copiers.

(40) LOCAL CULTURAL ARTS DISTRICT. Property of a local cultural arts district under subch. V of ch. 229, except any of the following:

(a) Property that is not a part of the physical structure of a cultural arts facility, as defined under s. 229.841 (5), if that property is used for a retail business or a restaurant, unless the retail business or restaurant is operated by the local cultural arts district or by a corporation, organization or association described in section 501 (c) 3 of the Internal Revenue Code that is exempt from taxation under section 501 (a) of the Internal Revenue Code.

(b) A parking lot or parking structure that is not used to support the operation of a cultural arts facility, as defined under s. 229.841 (5).

(41) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY. All property owned by the Fox River Navigational System Authority, provided that use of the property is primarily related to the purposes of the authority.

(41m) HEALTH INSURANCE RISK−SHARING PLAN AUTHORITY. All property owned by the Health Insurance Risk−Sharing Plan

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Authority, provided that use of the property is primarily related to the purposes of the authority.

(42) HUB FACILITY. (a) In this subsection:

1. "Air carrier company" means any person engaged in the business of transportation in aircraft of persons or property for hire on regularly scheduled flights. In this subdivision, "aircraft" has the meaning given in s. 76.02 (1).

2. "Hub facility" means any of the following:

a. A facility at an airport from which an air carrier company operated at least 45 common carrier departing flights each weekday in the prior year and from which it transported passengers to at least 15 nonstop destinations, as defined by rule by the department of revenue, or transported cargo to nonstop destinations, as defined by rule by the department of revenue.

b. An airport or any combination of airports in this state from which an air carrier company cumulatively operated at least 20 common carrier departing flights each weekday in the prior year, if the air carrier company's headquarters, as defined by rule by the department of revenue, is in this state.

(b) Property owned by an air carrier company that operates a hub facility in this state, if the property is used in the operation of the air carrier company.

(43) ART AND ARTS EDUCATION CENTERS. All of the property owned or leased by a corporation, organization, or association that is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code, if the property satisfies the following conditions:

(a) It is used for the purposes for which the exemption under section 501 (c) (3) of the Internal Revenue Code is granted to the corporation, organization, or association that owns or leases the property.

(b) It includes one or more buildings that are owned or leased by the corporation, organization, or association and that are located within, or are surrounded by, a municipal park.

(c) It includes one or more theaters for the performing arts that are operated by the corporation, organization, or association and the seating capacity of the theater or theaters is not less than 600 persons.

(d) It includes facilities that are used for arts education.

(44) OLYMPIC ICE TRAINING CENTER. Beginning with the first assessment year in which the property would not otherwise be exempt from taxation under sub. (1), property owned by a nonprofit corporation that operates an Olympic Ice Training Center on land purchased from the state, if the property is located or primarily used at the center. Property that is exempt under this subsection includes property leased to a nonprofit entity, regardless of the use of the leasehold income, and up to 6,000 square feet of property leased to a for−profit entity, regardless of the use of the leasehold income.

(45) NONPROFIT COMMUNITY THEATER. All property owned or leased by a corporation, organization, or association that is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code, if the property satisfies the following conditions:

(a) It is used for the purposes for which the exemption under section 501 (c) (3) of the Internal Revenue Code is granted to the corporation, organization, or association that owns or leases the property.

(b) It is located on land that the property owner owned prior to March 25, 2010, or on land donated by a local business owner or by a municipality.

(c) It is located on land that is within 20 miles of the Mississippi River.

(d) It is located on a parcel of land that is at least one−fourth of an acre, but no larger than 2 acres.

(e) It includes one or more theaters for the performing arts that are operated by the corporation, organization, or association and the seating capacity of the theater or theaters is not less than 450 persons.

(f) It includes facilities that are used for arts education.

(45m) SNOWMOBILE, ALL−TERRAIN VEHICLE, AND UTILITY TERRAIN VEHICLE CLUBS. Trail groomers owned by a snowmobile club, an all−terrain vehicle club, or a utility terrain vehicle club that is exempt from taxation under section 501 (c) (3), (4), or (7) of the Internal Revenue Code.

History: 1971 c. 152, 154, 312; 1973 c. 90; 1973 c. 333 s. 201m; 1973 c. 335 s. 13; 1975 c. 39; 1975 c. 94 s. 91 (10); 1975 c. 199; 1977 c. 29 ss. 745m, 1646 (3), 1647 (5), (7); 1977 c. 83 s. 26; 1977 c. 273, 282, 391, 418, 447; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221, 225; 1979 c. 310 s. 12; 1981 c. 20; 1983 a. 27 ss. 1177, 1178, 1179f; 1983 a. 189 s. 329 (16); 1983 a. 201, 327; 1985 a. 26, 29, 316, 332; 1987 a. 10, 27, 395, 399; 1987 a. 403 s. 256; 1989 a. 25, 31, 307; 1991 a. 37, 39, 269; 1993 a. 263, 307, 399, 490; 1995 a. 27 ss. 3344 to 3348m, 9126 (19); 1995 a. 201, 227, 247, 366; 1997 a. 27, 35, 134, 147, 164, 184, 237; 1999 a. 9, 32, 63, 65; 1999 a. 150 ss. 624, 672; 1999 a. 167, 185; 2001 a. 16, 38, 59, 103; 2003 a. 195, 291; 2005 a. 4, 22, 70, 74, 335; 2007 a. 19; 2007 a. 20 ss. 1932 to 1934f, 9121 (6) (a); 2009 a. 28, 152, 155; 2011 a. 7, 10, 32, 208; 2011 a. 260 s. 80.

Cross−reference: For other exemptions from property taxation, see s. 1.04, U.S. sites; s. 70.112, specially taxed property; s. 70.41, stored grain; s. 70.42, coal docks; s. 70.421, petroleum; s. 76.23, utilities.

A building used as a residence by various missionaries for rest and recreation falls within the housing exemption under sub. (4) [now sub. (4) (a)]. Evangelical Alliance Mission v. Williams Bay, 54 Wis. 2d 187, 194 N.W.2d 646 (1972).

Voting machines leased by a city with an option to purchase are city property and exempt. Milwaukee v. Shoup Voting Machine Corp. 54 Wis. 2d 549, 196 N.W.2d 694 (1972).

An educational institution under sub. (4) [now sub. (4) (a)] must be substantially and primarily devoted to educational purposes, the determination of which requires a careful analysis of the property's use. National Foundation v. Brookfield, 65 Wis. 2d 263, 222 N.W.2d 608 (1974).

"Owned" under sub. (2) cannot be equated with paper title only. When a corporate lessee was the beneficial and true owner of improvements made to a structure, the lessee was the owner for personal property assessment purposes. State ex rel. Mitchell Aero v. Bd. of Review, 74 Wis. 2d 268, 246 N.W.2d 521 (1976).

"Used exclusively" under sub. (4m) means to physically employ the tangible characteristics of the property. Although medical equipment was leased commercially, it was "used exclusively" for hospital purposes and was exempt. First National Leasing Corp. v. Madison, 81 Wis. 2d 205, 260 N.W.2d 251 (1977).

Religious persons whose housing is exempt under sub. (4) [now sub. (4) (a)] include only those who have official leadership roles in the activities of the congregation. Midtown Church of Christ v. City of Racine, 83 Wis. 2d 72, 264 N.W.2d 281 (1978).

Indicia of true and beneficial ownership of leased property under sub. (1) are discussed. Gebhardt v. City of West Allis, 89 Wis. 2d 103, 278 N.W.2d 465 (1979).

The residence of a hospital chaplain was exempt under sub. (4) [now sub. (4) (a)] as housing for a pastor and under sub. (4m) because it was reasonably necessary for the hospital to have a priest located near the hospital to serve the spiritual needs of its patients and staff. Sisters of St. Mary v. City of Madison, 89 Wis. 2d 372, 278 N.W.2d 814 (1979).

To qualify as an educational association under sub. (4) [now sub. (4) (a)], an organization must be devoted to "traditional" educational activities, which must include traditional charitable objectives and which must benefit the public directly and lessen the burden of government in some way. International Foundation v. City of Brookfield, 95 Wis. 2d 444, 290 N.W.2d 720 (Ct. App. 1980).

A "function or use" test, rather than a "physical appearance" test, was applied to determine whether building−like structures were eligible for the machinery and equipment exemption under sub. (27). Ladish Malting Co. v. DOR, 98 Wis. 2d 496, 297 N.W.2d 56 (Ct. App. 1980).

An organization that practices racial discrimination may not be granted preferential tax treatment. State ex rel. Palleon v. Musolf, 117 Wis. 2d 469, 345 N.W.2d 73 (Ct. App. 1984); affirmed 120 Wis. 2d 545, 356 N.W.2d 487 (1984).

Under an "integrated plant test" for classifying property directly used in manufacturing, graving docks were exempt under sub. (27). The exemption was not destroyed by incidental use of the dock for a nonexempt purpose. Manitowoc Co., Inc. v. Sturgeon Bay, 122 Wis. 2d 406, 362 N.W.2d 432 (Ct. App. 1984).

Sub. (4) [now sub. (4) (a)] is constitutional. Evangelical Lutheran Synod v. Prairie du Chien, 125 Wis. 2d 541, 373 N.W.2d 78 (Ct. App. 1985).

Property leased by an institution for the care of dependent children was not exempt under sub. (19). Chileda Institute, Inc. v. La Crosse, 125 Wis. 2d 554, 373 N.W.2d 43 (Ct. App. 1985).

A day care center devoted primarily to educational purposes was exempt under sub. (4) [now sub. (4) (a)]. Janesville Community Day Care v. Spoden, 126 Wis. 2d 231, 376 N.W.2d 78 (Ct. App. 1985).

Property exempted under sub. (21) (a) need not have a "primary purpose" of eliminating pollution. Owens−Illinois v. Town of Bradley, 132 Wis. 2d 310, 392 N.W.2d 104 (Ct. App. 1986).

The burden of proving exempt status is on the taxpayer. Waushara County v. Graf, 166 Wis. 2d 442, 480 N.W.2d 16 (1992).

Non−adjoining property may constitute "grounds" of a college or university under sub. (3) (a). Indiana University v. Town of Rhine, 170 Wis. 2d 293, 488 N.W.2d 128 (Ct. App. 1992).

A lease provision between a county−lessor and a lessee that the lessee was responsible for taxes was not determinative of the taxability of buildings constructed on the leased premises. The county, as beneficial owner of the property, was exempt from taxation. City of Franklin v. Crystal Ridge, 180 Wis. 2d 561, 509 N.W.2d 730 (1994).

A benevolent association under sub. (4) [now sub. (4) (a)] is not required to provide free services or to be affordable by all in the community and may pay its officers reasonable compensation for their services. Friendship Village Milwaukee v. Milwaukee, 181 Wis. 2d 207, 511 N.W.2d 345 (Ct. App. 1993).

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The legislature may not delegate the power to grant tax exemptions to a county board. UW−LaCrosse Foundation v. Town of Washington, 182 Wis. 2d 490, 513 N.W.2d 417 (Ct. App. 1994).

The determination of "land necessary for location and convenience of buildings" under sub. (4) [now sub. (4) (a)] is discussed. Friendship Village v. Milwaukee, 194 Wis. 2d 787, 535 N.W.2d 111 (Ct. App. 1995).

A youth soccer association failed to establish that it was substantially and primarily devoted to educational purposes. Although its program had educational elements, it was not entitled to tax exempt status as an educational association. Kickers of Wisconsin, Inc. v. Milwaukee, 197 Wis. 2d 675, 541 N.W.2d 193 (Ct. App. 1995).

No notice of claim under s. 893.80 is ever required on a claim arising from a county board determination under sub. (20) (d). Little Sissabagama Lake Shore Owners Assoc. v. Town of Edgewater, 208 Wis. 2d 259, 559 N.W.2d 914 (Ct. App. 1997), 96−1800.

Whether a clinic building is a "doctor's office" under is sub. (4m) is not dependent on whether or not it is operated as part of a for profit practice owned by physicians or as a nonprofit corporation. A clinic operated by a nonprofit corporation that contains offices for doctors, provides outpatient care only, and is open for regular business hours is a "doctors office." St. Clare Hospital v. City of Monroe, 209 Wis. 2d 364, 563 N.W.2d 170 (Ct. App. 1997), 96−0732.

The exemption under sub. (13m) will not be applied to reduce the value of a remaining taxable property not a part of the exempt archeological site. Wrase v. City of Neenah, 220 Wis. 2d 166, 582 N.W.2d 457 (Ct. App. 1998), 97−3457.

The exclusivity requirement under sub. (4) [now sub. (4) (a)] does not prohibit occasional commercial use. The question is how consequential the use is compared to the total use of the property. The party seeking the exemption must present more than "recollections" and "observations" of use. Deutsches Land, Inc. v. City of Glendale, 225 Wis. 2d 70, 591 N.W.2d 583 (1999), 96−2489.

The sub. (4) [now sub. (4) (a)] exemption of up to 10 acres of land is tied to and follows from the exemption of buildings. It does not allow for the exemption of buildings necessary for the use of the land. Deutsches Land, Inc. v. City of Glendale, 225 Wis. 2d 70, 591 N.W.2d 583 (1999), 96−2489.

Section 70.11 (intro.), and not s. 70.1105, applies if an exempt organization leases part of its property to a for−profit entity. Section 70.1105 applies when the exempt organization engages in for−profit activities. However the methodology for determining exemptions under each is the same. Deutsches Land, Inc. v. City of Glendale, 225 Wis. 2d 70, 591 N.W.2d 583 (1999), 96−2489.

Revisions to subs. (4) [now sub. (4) (a)] and (4m) by 1995 Act 27 were constitutional. Group Health Cooperative of Eau Claire v. DOR, 229 Wis. 2d 846, 601 N.W.2d 1 (Ct. App. 1999), 98−1264.

Property that on the assessment date was wholly vacant and unoccupied, and on which no construction had commenced, was not being readied for a benevolent use and was properly determined as not being used exclusively for benevolent purposes under sub. (4). Group Health Cooperative of Eau Claire v. DOR, 229 Wis. 2d 846, 601 N.W.2d 1 (Ct. App. 1999), 98−1264.

In applying the exempt lessee condition in the section introduction, a housing authority that subsidized low−income tenant's rent payments to a benevolent organization property owner cannot be found to be the tenant, which as a governmental entity would be entitled to property tax exemption. Under the established legal definition of lessee, the lessees are the low−income individuals to whom the benevolent organization rents. Columbus Park Housing Corp. v. City of Kenosha, 2003 WI 143, 267 Wis. 2d 59, 671 N.W.2d 633, 02−0699.

The standard under *Sisters of Saint Mary* that properties that are "reasonably necessary" to the operation of an exempt use are also exempt is restricted to hospitals subject to sub. (4m). UW Medical Foundation, Inc. v. City of Madison, 2003 WI App 204, 267 Wis. 2d 504, 671 N.W.2d 292, 02−1473.

Benevolent ownership of property is not enough to satisfy sub. (4) [now sub. (4) (a)]; benevolent use is also required. A property owner must detail its use of the property so that tax assessors know what type of activities, if any, are occurring on the property. Unsupported opinion testimony and generalized assertions about the purportedly benevolent use will not suffice. UW Medical Foundation, Inc. v. City of Madison, 2003 WI App 204, 267 Wis. 2d 504, 671 N.W.2d 292, 02−1473.

All provision of medical care is not "benevolent" merely because it makes the recipients better members of society by improving their physical and mental condition. A benevolent foundation that charged market rates for medical services, advertised extensively to promote them, and typically forbore collecting for its services only when accounts were deemed uncollectible was not engaged in a benevolent us of its clinic properties. UW Medical Foundation, Inc. v. City of Madison, 2003 WI App 204, 267 Wis. 2d 504, 671 N.W.2d 292, 02−1473.

For a claim under sub. (25) to survive summary judgment, the property owner must establish in the summary judgment record that there is, at a minimum, a factual dispute that the main purpose to which the properties were primarily devoted was one or more of medical research, physician education, or care for destitute individuals. UW Medical Foundation, Inc. v. City of Madison, 2003 WI App 204, 267 Wis. 2d 504, 671 N.W.2d 292, 02−1473.

"Commercial purposes" as used in sub. (4m) are those through which profits are made. Even if the property is reasonably necessary to the primary and secondary purposes of the hospital, a strict but reasonable construction of sub. (4m) indicates that property fails to qualify for the exemption if it nevertheless is used for a commercial purpose. FH Healthcare Development, Inc. v. City of Wauwatosa, 2004 WI App 182, 276 Wis. 2d 243, 687 N.W.2d 532, 03−2999.

A hospital seeking tax−exempt status for property under sub. (4m) (a) has the burden of showing a benefit to the functioning of the hospital, but no burden of showing that the benefit is not otherwise available. Assuming, without deciding, that partial exemptions are allowed, the portion of a hospital's child care center attributable to use by hospital employees is tax exempt. Whether the portion attributable to children whose parents are not hospital employees is exempt depends on whether the childrens' parents are reasonably necessary to the efficient functioning of the hospital as an organization. Saint Joseph's Hospital of Marshfield, Inc. v. City of Marshfield, 2004 WI App 187, 276 Wis. 2d 574, 688 N.W.2d 658, 03−1006.

The portion of sub. (12) (a) exempting from taxation property owned by Young Men's Christian Associations is constitutional. Lake Country Racquet and Athletic Club, Inc. v. Morgan, 2006 WI App 25, 289 Wis. 2d 498, 710 N.W.2d 701, 04−3061.

Sub. (42) is constitutional. Northwest Airlines, Inc. v. Department of Revenue, 2006 WI 88, 293 Wis. 2d 202, 717 N.W.2d 280, 04−0319.

Retaining legal title to land does not guarantee that a municipality will remain the owner of property for tax exemption purposes. Taxation or exemption depends not upon legal title but on the status of the owner of the beneficial interest in the property. "Owned" in sub. (2) means beneficial ownership, not mere technical title. Milwaukee Regional Medical Center v. City of Wauwatosa, 2007 WI 101, 304 Wis. 2d 53, 735 N.W.2d 156, 05−1160.

To qualify for a property tax exemption under sub. (4) [now sub. (4) (a)], a property owner must pass the following 5−part test: 1) the owner must be an educational association; 2) the property at issue must be owned and used exclusively for the purposes of the association; 3) the property must be less than 10 acres; 4) the property must be necessary for location and convenience of the buildings; and 5) the property must not be used for profit. An educational association must be a nonprofit organization substantially and primarily devoted to educational purposes and to traditional educational activities. Milwaukee Regional Medical Center v. City of Wauwatosa, 2007 WI 101, 304 Wis. 2d 53, 735 N.W.2d 156, 05−1160.

The tax commission reasonably relied on nontechnical dictionary definitions of the computer−related terms in sub. (39). The commission aptly noted that the terms at issue "are within the common lexicon, familiar to most people" and that the statute had a "more colloquial than technical tone." Based on these observations, the commission reasonably concluded that the computer terms at issue are not technical, and reasonably applied the general rule of construing the language in accord with its common and approved usage. Xerox Corporation v. DOR, 2009 WI App 113, 321 Wis. 2d 181, 772 N.W.2d 677, 772 N.W.2d 677, 07−2884.

The tax commission's conclusion that, to be exempt under sub. (39), a device must be an exempt item under sub. (39) and not merely contain an exempt item was reasonable. Xerox Corporation v. DOR, 2009 WI App 113, 321 Wis. 2d 181, 772 N.W.2d 677, 07−2884.

An exemption under sub. (4) depends on: 1) whether the residence is owned and used exclusively by the church; and 2) whether it is housing for any of 4 listed categories of persons, namely, pastors, ordained assistants, members of religious orders and communities, or ordained teachers. The exemption applies to a limited group who are members of a religious group and integral to the functioning of the church. It is not enough under sub. (4) or *Midtown* that a custodian's employment serves the church or is integral to the functioning of the church. The person must serve a religious leadership purpose. Wauwatosa Avenue United Methodist Church v. City of Wauwatosa, 2009 WI App 171, 321 Wis. 2d 796, 776 N.W.2d 280, 09−0202.

In applying the sub. (4m) (a) exemption for nonprofit hospitals, when an off−site facility is engaged in the primary purpose of a parent hospital the court examines only whether the off−site facility is "used exclusively for the purposes of" that hospital. When the circuit court determined that an outpatient clinic effectively served as a department of the larger parent hospital, the outpatient clinic was used exclusively for the purposes of a hospital and therefore qualified for the exemption under sub. (4m) (a). Covenant Healthcare System, Inc. v. City of Wauwatosa, 2011 WI 80, 336 Wis. 2d 522, 800 N.W.2d 906, 09−1469.

The determination of whether property is used as a "doctor's office" under sub. (4m) (a) ultimately turns on the facts of each case. Factors to be considered are discussed. That a clinic does not provide inpatient services, and that most patients are seen by physicians at the clinic by appointment during regular business hours is not determinative of a "doctor's office." Covenant Healthcare System, Inc. v. City of Wauwatosa, 2011 WI 80, 336 Wis. 2d 522, 800 N.W.2d 906, 09−1469.

In the context of not−for−profit entities, the definition of "commercial purposes" in sub. (4m) (a) is not limited to those purposes that generate profits. The more appropriate definition of commercial for the purposes of the not−for−profit hospital exemption is having profit as the primary aim. Not−for−profit entities may operate in such a fashion that generates revenues in excess of expenses. Covenant Healthcare System, Inc. v. City of Wauwatosa, 2011 WI 80, 336 Wis. 2d 522, 800 N.W.2d 906, 09−1469.

Under the sub. (4m) (a) exemption of hospital property from taxation if "no part of the net earnings . . . inures to the benefit of any shareholder, member, director or officer . . .," the term "member" does not include not−for−profit entities. Covenant Healthcare System, Inc. v. City of Wauwatosa, 2011 WI 80, 336 Wis. 2d 522, 800 N.W.2d 906, 09−1469.

The property tax exemption for pollution control facilities provided in sub. (21) (a) applies to pollution control facilities incorporated into new plants to be constructed, in addition to those installed to abate or eliminate existing pollution sources. 60 Atty. Gen. 154.

Preferential tax treatment may not be given to any organization that discriminates on the basis of race. Pitts v. Dept. of Revenue, 333 F. Supp. 662.

Tax exemption and religious freedom. 54 MLR 385.

What is Benevolence? Clarifying Wisconsin's Real Property Tax Exemption for Benevolent Organizations and the Argument for the "Retirement" of the Exemption for High−End Senior−Housing Complexes. Jaynes. 2006 WLR 1434.

70.1105 Taxed in part. (1) Property that is exempt under s. 70.11 and that is used in part in a trade or business for which the owner of the property is subject to taxation under sections 511 to 515 of the internal revenue code, as defined in s. 71.22 (4m), shall be assessed for taxation at that portion of the fair market value of the property that is attributable to the part of the property that is used in the unrelated trade or business. This section does not apply to property that is leased by an exempt organization to another person or to property that is exempt under s. 70.11 (34).

(2) Property, excluding land, that is owned or leased by a corporation that provides services pursuant to 15 USC 79 to a light, heat, and power company, as defined under s. 76.28 (1) (e), that is subject to taxation under s. 76.28 and that is affiliated with the corporation shall be assessed for taxation at the portion of the fair

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market value of the property that is not used to provide such services.

History: 1997 a. 35 s. 243; 2001 a. 16.

Section 70.11 (intro.), and not s. 70.1105, applies if an exempt organization leases part of its property to a for−profit entity. Section 70.1105 applies if the exempt organization engages in for−profit activities. However the methodology for determining exemptions under each is the same. Deutsches Land, Inc. v. City of Glendale, 225 Wis. 2d 70, 591 N.W.2d 583 (1999), 96−2489.

70.111 Personal property exempted from taxation. The property described in this section is exempted from general property taxes:

(1) JEWELRY, HOUSEHOLD FURNISHINGS AND APPAREL. Personal ornaments and jewelry, family portraits, private libraries, musical instruments other than pianos, radio equipment, household furniture, equipment and furnishings, apparel, motor bicycles, bicycles, and firearms if such items are kept for personal use by the owner and pianos if they are located in a residence.

(2) ANIMALS. Farm poultry, farm animals, bees and bee equipment and fur−bearing animals under 4 months of age and the hides and pelts of all farm and fur−bearing animals in the hands of the grower.

(3) BOATS. Watercraft employed regularly in interstate traffic, watercraft laid up for repairs, all pleasure watercraft used for recreational purposes, commercial fishing boats and equipment that is used by commercial fishing boats, charter sailboats and charter boats, other than sailboats, that are used for tours.

(3m) CHARTER SPORT FISHING BOATS. Motorboats, and the equipment used on them, which are regularly employed in carrying persons for hire for sport fishing in and upon the outlying waters, as defined in s. 29.001 (63), and the rivers and tributaries specified in s. 29.2285 (2) (a) 1. and 2. if the owner and all operators are licensed under s. 29.512 or under s. 29.514 or both and by the U.S. coast guard to operate the boat for that purpose.

(4) CROPS. Growing and harvested crops, and the seed, fertilizer and supplies used in their production or handling, in the hands of the grower, including nursery stock and trees growing for sale as such, medicinal plants, perennial plants that produce an annual crop and plants growing in greenhouses or under hotbeds, sash or lath. This exemption also applies to trees growing for sale as Christmas trees.

(5) FAMILY SUPPLIES. Provisions and fuel to sustain the owner's family; but no person paying board shall be deemed a member of a family.

(6) FEED. Feed and feed supplements owned by the operator or owner of a farm and used in feeding on the farm and not for sale.

(7) HORSES, ETC. All horses, mules, wagons, carriages, sleighs, harnesses.

(9) TOOLS AND GARDEN MACHINES. The tools of a mechanic if those tools are kept and used in the mechanic's trade; and garden machines and implements and farm, orchard and garden tools if those machines, implements and tools are owned and used by any person in the business of farming or in the operation of any orchard or garden. In this subsection, "machine" has the meaning given in sub. (10) (a) 2.

(10) FARM MACHINERY AND EQUIPMENT. (a) In this subsection:

1. "Building" means any structure that is intended to be a permanent accession to real property; that is designed or used for sheltering people, animals or plants, for storing property or for working, office, parking, sales or display space, regardless of any contribution that the structure makes to the production process in it; that in physical appearance is annexed to that real property; that is covered by a roof or encloses space; that is not readily moved or disassembled; and that is commonly known to be a building because of its appearance and because of the materials of which it is constructed.

2. "Machine" means an assemblage of parts that transmits force, motion and energy from one part to another in a predetermined manner.

(b) Tractors and machines; including accessories, attachments, fuel and repair parts for them; whether owned or leased, that are used exclusively and directly in farming; including dairy farming, agriculture, horticulture, floriculture and custom farming services; but not including personal property that is attached to, fastened to, connected to or built into real property or that becomes an addition to, component of or capital improvement to real property and not including buildings or improvements to real property, regardless of any contribution that that personal property makes to the production process in them and regardless of the extent to which that personal property functions as a machine.

(c) For purposes of this subsection, the following items retain their character as tangible personal property, regardless of the extent to which they are fastened to, connected to or built into real property:

1. Auxiliary power generators.
2. Bale loaders.
3. Barn elevators.
4. Conveyors.
5. Feed elevators and augers.
6. Grain dryers and grinders.
7. Milk coolers.
8. Milking machines; including piping, pipeline washers and compressors.
9. Silo unloaders.
10. Powered feeders, but not including platforms or troughs constructed from ordinary building materials.

(11) CHEESE. Natural cheese owned by the Wisconsin primary manufacturer or by any other person while in storage for the purpose of further aging in preparation for cutting, packaging or other processing.

(14) MILKHOUSE EQUIPMENT. Milkhouse equipment used by a farmer, including mechanical can coolers, bulk tanks and hot water heaters. This exemption shall apply whether such equipment is deemed personal property or is so affixed to the realty as to be classified in the category of real estate.

(17) MERCHANTS' STOCK−IN−TRADE; MANUFACTURERS' MATERIALS AND FINISHED PRODUCTS; LIVESTOCK. As of January 1, 1981, merchants' stock−in−trade, manufacturers' materials and finished products and livestock.

(18) SOLAR AND WIND ENERGY SYSTEMS. Solar energy systems and wind energy systems. In this subsection, "solar energy system" means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy, but does not include equipment or components that would be present as part of a conventional energy system or a system that operates without mechanical means. In this subsection, "wind energy system" means equipment which converts and then transfers or stores energy from the wind into usable forms of energy, but does not include equipment or components that would be present as part of a conventional energy system.

Cross−reference: See also s. Tax 12.50, Wis. adm. code.

(19) CAMPING TRAILERS, RECREATIONAL MOBILE HOMES, AND RECREATIONAL VEHICLES. (a) Camping trailers as defined in s. 340.01 (6m).

(b) Recreational mobile homes, as defined in s. 66.0435 (1) (hm), and recreational vehicles, as defined in s. 340.01 (48r). The exemption under this paragraph also applies to steps and a platform, not exceeding 50 square feet, that lead to a doorway of a recreational mobile home or a recreational vehicle, but does not apply to any other addition, attachment, deck, or patio.

(20) LOGGING EQUIPMENT. All equipment used to cut trees, to transport trees in logging areas or to clear land of trees for the commercial use of forest products.

(21) STRUCTURES FOR GINSENG. Any temporary structure in the hands of a grower of ginseng used or designed to be used to provide shade for ginseng plants.

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(22) RENTED PERSONAL PROPERTY. Personal property held for rental for periods of one month or less to multiple users for their temporary use, if the property is not rented with an operator, if the owner is not a subsidiary or affiliate of any other enterprise which is engaged in any business other than personal property rental, if the owner is classified in group number 735, industry number 7359 of the 1987 standard industrial classification manual published by the U.S. office of management and budget and if the property is equipment, including construction equipment but not including automotive and computer−related equipment, television sets, video recorders and players, cameras, photographic equipment, audiovisual equipment, photocopying equipment, sound equipment, public address systems and video tapes; party supplies; appliances; tools; dishes; silverware; tables; or banquet accessories.

(23) VENDING MACHINES. All machines that automatically dispense food and food ingredient, as defined in s. 77.51 (3t), upon the deposit in the machines of specified coins or currency, or insertion of a credit card, in payment for the food and food ingredient, as defined in s. 77.51 (3t).

(24) MOTION PICTURE THEATER EQUIPMENT. Projection equipment, sound systems and projection screens that are owned and used by a motion picture theater.

(25) DIGITAL BROADCASTING EQUIPMENT. Digital broadcasting equipment owned and used by a radio station, television station, or video service network, as defined in s. 66.0420 (2) (zb).

(26) HIGH DENSITY SEQUENCING SYSTEMS. (a) In this subsection, "production process" has the meaning given in s. 70.11 (27) (a) 5., except that storage is not excluded.

(b) A high density sequencing system that by mechanical or electronic operation moves printed materials from one place to another within the production process, organizes the materials for optimal staging, or stores and retrieves the materials to facilitate the production or assembly of such materials.

History: 1971 c. 315; 1973 c. 90; 1973 c. 336 s. 36; 1975 c. 39, 224; 1977 c. 29 ss. 746, 1646 (2), (3), (4); 1977 c. 142, 273; 1979 c. 3, 199, 349; 1981 c. 20, 221; 1983 a. 27 ss. 1179 to 1179m; 1983 a. 88, 201, 243, 276; 1985 a. 29; 1987 a. 387, 399; 1989 a. 31; 1991 a. 269; 1993 a. 85; 1995 a. 27; 1997 a. 248; 1999 a. 9; 1999 a. 150 s. 672; 2001 a. 16, 30, 105; 2005 a. 298; 2007 a. 11, 20, 42, 97; 2009 a. 2.

Personal property held out for rental is not "stock−in−trade" under sub. (17). Menomonee Falls v. Falls Rental World, 135 Wis. 2d 393, 400 N.W.2d 478 (Ct. App. 1986).

Farm machinery, which is also a fixture, is not personal property eligible for exemption under sub. (9). Pulsfus v. Town of Leeds, 149 Wis. 2d 797, 440 N.W.2d 329 (1989).

"Interstate traffic" in sub. (3) means interstate commerce; what constitutes a boat in interstate commerce is discussed. Town of LaPointe v. Madeline Island Ferry, 179 Wis. 2d 726, 508 N.W.2d 440 (Ct. App. 1993).

A mobile home is an improvement to real property under s. 70.043 (1) when the home is resting for more than a temporary time, in whole or in part, on some other means of support than its wheels, but a mobile homes may be personal property and exempt under s. (19) (b) although it may have some weight off its wheels. Ahrens v. Town of Fulton, 2002 WI 29, 251 Wis. 2d 135, 641 N.W.2d 423, 99−2466.

In applying sub. (20), the use of the equipment rather than the primary purpose of the underlying business is the determining factor in deciding whether equipment is exempt from taxation. De minimis uses of the property are not sufficient to invoke this exemption. Village of Lannon v. Wood−Land Contractors, Inc. 2003 WI 150, 267 Wis. 2d 158, 672 N.W.2d 275, 02−0236.

Sub. (22) unambiguously expresses the legislature's clear intent to exempt rental property from taxation that is held for rental for one month or less and for property available for rental for more than one month to be taxed. There is no ambiguity in the statutory language such that it might possibly apply to property that is held for rental for one month or less and that is also available for rental for more than one month. United Rentals, Inc. v. City of Madison, 2007 WI App 131, 305 Wis. 2d 120, 741 N.W.2d 471, 05−1440.

As used in sub. (1), "kept for personal use" does not explicitly limit the use of personal property solely to personal use. The decisive question is whether the use is de minimus or inconsequential. Faydash v. City of Sheboygan, 2011 WI App 57, 332 Wis. 2d 397, 797 N.W.2d 540, 10−2073.

70.112 Property exempted from taxation because of special tax. The property described in this section is exempted from general property taxes:

(1) MONEY AND INTANGIBLE PERSONALTY. Money and all intangible personal property, such as credit, checks, share drafts, other drafts, notes, bonds, stocks and other written instruments.

(4) SPECIAL PROPERTY AND GROSS RECEIPTS TAXES OR LICENSE FEES. (a) All special property assessed under ss. 76.01 to 76.26 and property of any light, heat, and power company taxed under s. 76.28, car line company, and electric cooperative association that is used and useful in the operation of the business of such company or association. If a general structure for which an exemption is sought under this section is used and useful in part in the operation of any public utility assessed under ss. 76.01 to 76.26 or of the business of any light, heat, and power company taxed under s. 76.28, car line company, or electric cooperative association and in part for nonoperating purposes of the public utility or company or association, that general structure shall be assessed for taxation under this chapter at the percentage of its full market value that fairly measures and represents the extent of its use for nonoperating purposes. Nothing provided in this paragraph shall exclude any real estate or any property which is separately accounted for under s. 196.59 from special assessments for local improvements under s. 66.0705.

(b) If real or tangible personal property is used more than 50%, as determined by the department of revenue, in the operation of a telephone company that is subject to the tax imposed under s. 76.81, the department of revenue shall assess the property and that property shall be exempt from the general property taxes imposed under this chapter. If real or tangible personal property is used less than 50%, as determined by the department of revenue, in the operation of a telephone company that is subject to the tax imposed under s. 76.81, the taxation district in which the property is located shall assess the property and that property shall be subject to the general property taxes imposed under this chapter.

(5) MOTOR VEHICLES, BICYCLES, SNOWMOBILES. Every automobile, motor bicycle, motor bus, motorcycle, motor truck, moped, road tractor, school bus, snowmobile, truck tractor, or other similar motor vehicle, or trailer or semitrailer used in connection therewith.

(6) AIRCRAFT. Every aircraft.

(7) MOBILE HOMES AND MANUFACTURED HOMES. Every unit, as defined in s. 66.0435 (1) (j), that is subject to a monthly municipal permit fee under s. 66.0435 (3).

History: 1971 c. 221, 289; 1981 c. 20; 1983 a. 27, 243, 342, 368; 1999 a. 80; 1999 a. 150 s. 672; 2001 a. 16; 2007 a. 11.

Under ss. 70.112 (4) and 76.38 (8), leased property "used and useful" in a telephone utility's business is exempt from ad valorem tax. Wisconsin Telephone Co. v. City of Milwaukee, 85 Wis. 2d 447, 271 N.W.2d 362 (1978).

70.113 State aid to municipalities; aids in lieu of taxes. **(1)** As soon after April 20 of each year as is feasible the department of natural resources shall pay to the city, village, or town treasurer all of the following amounts from the following appropriations for each acre situated in the municipality of state forest lands, as defined in s. 28.02 (1), state parks under s. 27.01 and state public shooting, trapping or fishing grounds and reserves or refuges operated thereon, acquired at any time under s. 29.10, 1943 stats., s. 23.09 (2) (d) or 29.749 (1) or from the appropriations made by s. 20.866 (2) (tp) by the department of natural resources or leased from the federal government by the department of natural resources:

(a) Eighty cents, to be paid from the appropriation under s. 20.370 (5) (da) or (dq).

(b) Eight cents, to be paid from the appropriation under s. 20.370 (5) (dq).

(2) (a) Towns, cities or villages shall be paid for forest lands as defined in s. 28.02 (1), state parks under s. 27.01 and other lands acquired under s. 23.09 (2) (d), 23.27, 23.29, 23.293, 23.31 or 29.749 (1) located within such municipality and acquired after June 30, 1969. Such payments shall be made from the appropriation under s. 20.370 (5) (da) or (dq) and remitted by the department of natural resources in the amounts certified by the department of revenue according to par. (b).

(b) Towns, cities or villages shall be paid aids in lieu of taxes for real estate specified in par. (a). The first payment on an acquisition after July 1, 1969, shall be determined on the basis of the January 1 local assessment following the acquisition multiplied by the county, local and school tax rate levied against all January 1 assessments for that year. The payment to the town, city or vil-

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lage shall be made after April 20 following the tax levy. Subsequent payments shall be made after April 20 following the levy date according to the following schedule:

1. For the 2nd year, 90% of the first year's payment.
2. For the 3rd year, 80% of the first year's payment.
3. For the 4th year, 70% of the first year's payment.
4. For the 5th year, 60% of the first year's payment.
5. For the 6th year, 50% of the first year's payment.
6. For the 7th year, 40% of the first year's payment.
7. For the 8th year, 30% of the first year's payment.
8. For the 9th year, 20% of the first year's payment.
9. For the 10th year and every year thereafter, 10% of the first year's payment.
10. In no year shall the amounts paid under the 10−year schedule fall below 50 cents per acre.

(3) The town, city or village authorized to receive payment under sub. (2) and the state may petition the department of revenue to review the assessment of the property upon which taxes were levied, the taxes now being the basis for payment under sub. (2). The petition to the department of revenue to review the assessment shall be due within 30 days of receipt of the assessment. In its review, the department of revenue shall determine if the assessment complained of is unreasonably out of proportion to the general average of the assessment of all other property in the taxation district, and if it finds the assessment high or low it shall lower or raise the assessment. The department of revenue shall make its determination not later than 60 days after the petition is received, and its decision shall be final and not subject to review.

(4) For land acquired after December 31, 1991, aids shall be paid under s. 70.114 and not under this section.

History: 1971 c. 125 s. 522 (1); 1973 c. 90; 1975 c. 39 s. 734; 1975 c. 198; 1977 c. 29 ss. 1646 (3), 1647 (10), (18); 1977 c. 224; 1979 c. 34 s. 2102 (39) (a); 1979 c. 175 s. 53; 1979 c. 355 s. 241; 1983 a. 27 s. 2202 (38); 1985 a. 29 s. 3202 (39) (b), (dm); 1987 a. 27, 399; 1989 a. 336; 1991 a. 39; 1995 a. 27, 417; 1997 a. 27, 248.

70.114 Aids on certain state lands equivalent to property taxes. (1) DEFINITIONS. In this section:

(a) "Department" means the department of natural resources.

(b) 1. For land purchased before July 1 2011, "estimated value," for the year during which land is purchased, means the purchase price and, for later years, means the value that was used for calculating the aid payment under this section for the prior year increased or decreased to reflect the annual percentage change in the equalized valuation of all property, excluding improvements, in the taxation district, as determined by comparing the most recent determination of equalized valuation under s. 70.57 for that property to the next preceding determination of equalized valuation under s. 70.57 for that property.

2. For land purchased on or after July 1, 2011, "estimated value," for the year during which land is purchased, means the lesser of the purchase price or the determination of the land's equalized valuation under s. 70.57 in the year before the year during which the land is purchased, increased or decreased to reflect the annual percentage change in the equalized valuation of all property, excluding improvements, in the taxation district, as determined by comparing the most recent determination of equalized valuation under s. 70.57 for that property, except that if the land was exempt from taxation in the year prior to the year during which the Department purchased the land "estimated value," for the year during which the land is purchased means the lesser of either the purchase price; or the land's equalized valuation under s. 70.57 or an amount that would result in a payment under sub. (4) that is equal to $10 per acre, whichever is greater. "Estimated value," for later years, means the value that was used for calculating the aid payment under this section for the prior year increased or decreased to reflect the annual percentage change in the equalized valuation of all property, excluding improvements, in the taxation district, as determined by comparing the most recent determination of equalized valuation under s. 70.57 for that property to the next preceding determination of equalized valuation under s. 70.57 for that property.

(c) "Land" means state forests, as defined in s. 28.02 (1), that are acquired after December 31, 1991, state parks that are acquired after December 31, 1991, under s. 27.01 and other areas that are acquired after December 31, 1991, under s. 23.09 (2) (d), 23.091, 23.27, 23.29, 23.293, 23.31 or 29.749 (1).

(d) "Purchase price" means the amount paid by the department for a fee simple interest in real property. "Purchase price" does not include administrative costs incurred by the department to acquire the land, such as legal fees, appraisal costs or recording fees. If real estate is transferred to the department by gift or is sold to the department for an amount that is less than the estimated fair market value of the property as shown on the property tax bill prepared for the prior year under s. 74.09, "purchase price" means an amount equal to the estimated fair market value of the property as shown on that tax bill. If the real estate is exempt from taxation at the time that it is transferred or sold to the department and if the property was not sold at an arm's−length sale, "purchase price" means the fair market value of the real estate at the time that the department takes title to it.

(e) "Taxation district" means a city, village or town, except that if a city or village lies in more than one county, the portions of that city or village that lie within each county are separate taxation districts.

(f) "Taxing jurisdiction" means any entity authorized by law to levy taxes on general property, as defined in s. 70.02, that are measured by the property's value.

(2) APPLICATION. For all land acquired after December 31, 1991, the department shall pay aids in lieu of taxes under this section and not under s. 70.113.

(3) ASCERTAINING RATE. Each year, the department shall ascertain from the clerks of the taxation district the aggregate net general property tax rate for taxation districts to which aids are paid under this section.

(4) PAYMENT REQUIRED. (a) On or before January 31, the department shall pay to each treasurer of a taxation district, with respect to each parcel of land acquired by the department within the taxation district on or before January 1 of the preceding year, an amount determined by multiplying each parcel's estimated value equated to the average level of assessment in the taxation district by the aggregate net general property tax rate that would apply to the parcel of land if it were taxable, as shown on property tax bills prepared for that year under s. 74.09.

(b) On or before February 15, the taxation district treasurer shall pay to the treasurer of each taxing jurisdiction, from the amount received under par. (a), the taxing jurisdiction's proportionate share of the tax that would be levied on the parcel if it were taxable.

History: 1989 a. 336; 1991 a. 39; 1997 a. 248; 2011 a. 32.

70.115 Taxation of real estate held by investment board. All real estate owned or held by any of the funds invested by the 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 inclusion in a tax certificate under s. 74.57 as are privately owned lands.

History: 1987 a. 378; 1995 a. 225.

70.119 Payments for municipal services. (1) The state and the University of Wisconsin Hospitals and Clinics Authority shall make reasonable payments at established rates for water, sewer and electrical services and all other services directly provided by a municipality to state facilities and facilities of the University of Wisconsin Hospitals and Clinics Authority described in s. 70.11 (38), including garbage and trash disposal and collection, which are financed in whole or in part by special charges or fees. Such payments for services provided to state facilities shall be

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made from the appropriations to state agencies for the operation of the facilities. Each state agency making such payments shall annually report the payments to the department.

(2) The department shall make reasonable payments for municipal services pursuant to the procedures specified in subs. (4), (5) and (6), except as provided in sub. (9).

(3) In this section:

(a) "Committee" means the joint committee on finance.

(b) "Department" means the department of administration.

(c) "Municipality" means cities, villages, towns, counties and metropolitan sewerage districts with general taxing authority.

(d) "Municipal services" means police and fire protection, garbage and trash disposal and collection not paid for under sub. (1) and, subject to approval by the committee, any other direct general government service provided by municipalities to state facilities and facilities of the University of Wisconsin Hospitals and Clinics Authority described in s. 70.11 (38).

(dm) "State agency" has the meaning given under s. 20.001 (1).

(e) "State facilities" means all property owned and operated by the state for the purpose of carrying out usual state functions, including the branch campuses of the university of Wisconsin system but not including land held for highway right−of−way purposes.

(4) The department shall be responsible for negotiating with municipalities on payments for municipal services and may delegate certain responsibilities of negotiation to other state agencies or to the University of Wisconsin Hospitals and Clinics Authority. Prior to negotiating with municipalities the department shall submit guidelines for negotiation to the committee for approval.

(5) Upon approval of guidelines by the committee, the department shall proceed with negotiations. In no case may a municipality withhold services to the state or to the University of Wisconsin Hospitals and Clinics Authority during negotiations.

(6) (a) No later than November 15 annually, the department shall report to the cochairpersons of the committee the results of its negotiations and the total payments proposed to be made in the subsequent calendar year. In computing the proposed payments to a municipality, the department shall base its calculations on the values of state facilities and facilities of the University of Wisconsin Hospitals and Clinics Authority described in s. 70.11 (38), as determined by the department for January 1 of the year preceding the year of the report, and the values of improvements to property in the municipality as determined under s. 70.57 (1) for January 1 of the year preceding the year of the report, and shall also base its calculations on revenues and expenditures of the municipality as reported under s. 73.10 (2) for the year preceding the year of the report.

(b) If the cochairpersons of the committee do not notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed total payments within 14 working days after the date on which the department's report is received, the department may make the payments. If, within 14 working days after the date on which the department's report is received, the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed total payments, the department shall not make the payments without the approval of the committee.

(7) (a) The department shall make payment from the appropriation under s. 20.835 (5) (a) for municipal services provided by municipalities to state facilities. If the appropriation under s. 20.835 (5) (a) is insufficient to pay the full amount under sub. (6) in any one year, the department shall prorate payments among the municipalities entitled thereto. The University of Wisconsin Hospitals and Clinics Authority shall make payment for municipal services provided by municipalities to facilities of the authority described in s. 70.11 (38).

(b) The department shall determine the proportionate cost of payments for municipal services provided by a municipality for each program financed from revenues other than general purpose revenues and revenues derived from academic student fees levied by the board of regents of the University of Wisconsin System, and for each appropriation made from such revenues which finances the cost of such a program.

(c) The department shall assess to the appropriate program revenue and program revenue−service accounts and segregated funds the costs of providing payments for municipal services for the administration of programs financed from program revenues or segregated revenues, except program revenues derived from academic student fees levied by the board of regents of the University of Wisconsin System. If payments are prorated under par. (a) in any year, the department shall assess costs under this paragraph as affected by the proration. The department shall transfer to the general fund an amount equal to the assessments in each year from the appropriate program revenue, program revenue−service and segregated revenue appropriations.

(8) This section supersedes other statutes relating to payments for municipal services. Extraordinary police services provided to state facilities are subject to reimbursement under s. 16.008.

(9) The department shall not make payments for municipal services at the parking ramp located at 1 West Wilson Street in the city of Madison.

History: 1971 c. 328; 1973 c. 90; 1975 c. 39; 1977 c. 29; 1977 c. 418 ss. 470 to 473, 929 (1); 1979 c. 34 s. 2102 (58) (a); 1981 c. 20; 1987 a. 27, 399; 1989 a. 31; 1991 a. 269; 1995 a. 27.

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.

History: 1981 c. 190.

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 January 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 sub. (5).

(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 January in each year the owner of logs or timber in transit shall furnish the assessor of the district in which the mill at which the logs or timber will be sawed or manufactured is located a verified statement of the amount, character and value of all the logs and timber in transit on the first day of January preceding, and the owner of the logs or timber shall furnish to the assessor of the district in which the logs and timber were located on the first day of January preceding, a like verified statement of the amount, character and value thereof. Any assessment made in accordance with the owner's 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 the logs or timber shall fail or refuse to furnish the statement herein provided for, or shall intentionally make a false statement, that owner shall be subject to the penalties prescribed by s. 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 occu-

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pant shall reside upon any contiguous tracts or parcels of land which shall lie in 2 or more assessment districts, then the farm implements, livestock, and farm products of the owner or occupant used, kept, or being upon the contiguous tracts or parcels of land, shall be assessed in the assessment district where that personal property is customarily kept.

(6) No change of location or sale of any personal property after the first day of January in any year shall affect the assessment made in such year.

(7) Saw logs or timber removed from public lands during the year next preceding the first day of January or having been removed from such lands and in transit therefrom on the first day of January, shall be deemed located and assessed in the assessment district wherein such public lands are located and shall be assessed in no other assessment district. Saw logs or timber shall be deemed in transit when the same are being transported. On or before January 10 in each year the owner of such logs or timber shall furnish the assessor of the assessment district wherein they are assessable a verified statement of the amount, character and value of all such logs and timber. If the owner of any such logs or timber shall fail or refuse to furnish such statement or shall intentionally make a false statement, he or she is subject to the penalties prescribed by s. 70.36. This subsection shall supersede any provision of law in conflict therewith. The term "owner" as used in this subsection is deemed to mean the person owning the logs or timber at the time of severing. "Public lands" as used in this subsection shall mean lands owned by the United States of America, the state of Wisconsin or any political subdivision of this state.

History: 1977 c. 29 s. 1646 (3); 1977 c. 273; 1991 a. 316; 1993 a. 213; 1995 a. 225.

The situs for taxation assessment purposes of a movable bituminous plant was not in the town where the plant was physically present during most of the tax year because the property was neither "located" in the town nor "customarily kept" there. Wm. J. Kennedy & Son, Inc. v. Town of Albany, 66 Wis. 2d 447, 225 N.W.2d 624 (1975).

70.14 Incorporated companies. The residence of an incorporated company, for the purposes of s. 70.13, 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 January, 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 a receipt. 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.

History: 1977 c. 29 s. 1646 (3); 1977 c. 273.

70.17 Lands, to whom assessed; buildings on exempt lands. (1) 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.

(2) All lands which have been or may be contracted for sale by any county shall be assessed and taxed to the parties contracting therefor.

The term "leased lands" should be construed broadly to include a number of situations in which the occupier of land not owned by him or her places improvements on the land; a formal lease is not required. Town of Menominee v. Skubitz, 53 Wis. 2d 430, 192 N.W.2d 887 (1972).

The tax lister may, but is not required to, change the ownership designation on joint property on the basis of notification other than formal procedures. 80 Atty. Gen. 73.

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.

70.177 Federal property. Property the taxation of which the federal government has consented to is taxable under this chapter.

History: 1987 a. 10.

70.18 Personal property, to whom assessed. (1) Personal property shall be assessed to the owner thereof, except that when it is in the charge or possession of some person other than the owner it may 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 subsection shall affect or change the rules prescribed in s. 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 shall be assessed to the owner thereof and not to the warehouse or public wharf, if the operator of the warehouse or public wharf furnishes to the assessor the names and addresses of the owners of all goods, wares and merchandise not exempt from taxation.

History: 1981 c. 20; 2005 a. 253.

Property whose title and most of the indicia of ownership is in the U.S. government may not be taxed under sub. (1) since the tax is on ownership, not use. State ex rel. General Motors Corp. v. Oak Creek, 49 Wis. 2d 299, 182 N.W.2d 481 (1971).

A trial court's finding, on stipulated facts, that the U.S. government was the beneficial owner and not subject to the personal property tax under sub. (1) constituted a conclusion of law; hence the supreme court was not limited in its review to the finding. Teledyne Industries, Inc. v. Milwaukee, 65 Wis. 2d 557, 223 N.W.2d 586 (1974).

Decisions permitting local taxation of the possession of federal property. Van Cleve, 1959 WLR 190.

70.19 Assessment, how made; liability and rights of representative. (1) When personal property is assessed under s. 70.18 (1) to a person in charge or possession of the personal property other than the owner, the assessment of that personal property shall be entered upon the assessment roll separately from the assessment of that person's own personal property, adding to the person's name upon the tax roll words briefly indicating that the assessment is made to the person as the person in charge or possession of the property. The failure to enter the 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 assessed under sub. (1) and s. 70.18 (1) is personally liable for the tax on the property. The person assessed under sub. (1) and s. 70.18 (1) has a personal right of action against

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the owner of the property for the amount of the taxes; has a lien for that amount upon the property with the rights and remedies for the preservation and enforcement of that lien as provided in ss. 779.45 and 779.48; and is entitled to retain possession of the property until the owner of the property pays the tax on the property or reimburses the person assessed for the tax. The lien and right of possession relate back and exist from the time that the assessment is made, but may be released and discharged by giving to the person assessed such undertaking or other indemnity as the person accepts or by giving the person assessed a bond in the amount and with the sureties as is directed and approved by the circuit court of the county in which the property is assessed, upon 8 days' notice to the person assessed. The bond shall be conditioned to hold the person assessed free and harmless from all costs, expense, liability or damage by reason of the assessment.

History: 1975 c. 94 s. 91 (13); 1975 c. 199; 1977 c. 449; 1979 c. 32 s. 92 (9); 2001 a. 102.

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.

70.21 Partnership; estates in hands of personal representative; personal property, how assessed. (1) Except as provided in sub. (2), the personal property of a partnership may be assessed in the names of the persons composing the 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 on the partnership's personal property.

(1m) Undistributed personal property belonging to the estate of a decedent shall be assessed as follows:

(a) If a personal representative has been appointed and qualified, on the first day of January in the year in which the assessment is made, the property shall be assessed to the personal representative.

(b) If a personal representative has not been appointed and qualified, on the first day of January in the year in which the assessment is made, the property may be assessed to the decedent's estate. The tax on the property shall be paid by the personal representative if one is subsequently appointed, or by the person or persons in possession of the property at the time of the assessment if a personal representative is not appointed.

(2) The personal property of a limited liability partnership shall be assessed in the name of the partnership, and each partner shall be liable for the taxes levied thereon only to the extent permitted under s. 178.12.

History: 1977 c. 29 s. 1646 (3); 1995 a. 97; 2001 a. 102.

70.22 Personal property being administered, how assessed. (1) In case one or more of 2 or more personal representatives or trustees of the estate of a decedent who died domiciled in this state are not residents of the state, the taxable personal property belonging to the estate shall be assessed to the personal representatives or trustees residing in this state. In case there are 2 or more personal representatives or trustees of the same estate residing in this state, but in different taxation districts, the assessment of the taxable personal property belonging to the estate shall be in the names of all of the personal representatives or trustees of the estate residing in this state. In case no personal representative or trustee resides in this state, the taxable personal property belonging to the estate may be assessed in the name of the personal representative or trustee, or in the names of all of the personal representatives or trustees if there are more than one, or in the name of the estate.

(2) (a) The taxes imposed pursuant to an assessment under sub. (1) may be enforced as a claim against the estate, upon presentation of a claim for the taxes by the treasurer of the taxation district to the court in which the proceedings for the probate of the estate are pending. Upon due proof, the court shall allow and order the claim to be paid.

(b) Before allowing the final account of a nonresident personal representative 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 any order or direction that is necessary to provide for the payment of the taxes.

(3) The provisions of this section 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 personal representatives or trustees.

History: 1991 a. 316; 1997 a. 253; 2001 a. 102.

70.23 Duties of assessors; entry of parcels on assessment roll. (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, a correct and pertinent description of each parcel of real property in the assessment district and the number of acres in each tract containing more than one acre.

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

History: 1971 c. 215; 1983 a. 532; 1993 a. 491; 1997 a. 35, 253; 1999 a. 96.

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70.24 Public lands and land mortgaged to state. The secretary of state shall annually, before January 1, 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 the county; and immediately on receipt thereof the county clerk shall make and transmit to the county assessor and to the clerk of each town, village or city in the county not under the assessment jurisdiction of the county assessor a list from said abstract of such lands lying in such town, village or city. 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.

History: 1977 c. 29 s. 1646 (3); 1977 c. 273.

70.25 Lands, described on rolls. In all assessments and tax rolls in all advertisements, certificates, papers, conveyances or proceedings for the assessment and collection of taxes and in all related proceedings, except in tax bills, any descriptions of land which indicate the land intended with ordinary and reasonable certainty and which would be sufficient between grantor and grantee in an ordinary conveyance are sufficient. No description of land according to the United States survey is 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, an abbreviated description including the volume and page where recorded, and the section, village or city where the property is situated, is 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, an abbreviated description including the volume and page of the court record where recorded, and the section, village or city where the property is situated, is sufficient. Descriptions in property tax bills shall be as provided under s. 74.09 (3) (a).

History: 1987 a. 378, 399, 403.

70.27 Assessor's plat. (1) WHO MAY ORDER. Whenever any area of platted or unplatted land is owned by 2 or more persons in severalty, and when in the judgment of the governing body having jurisdiction, the description of one or more of the different parcels thereof cannot be made sufficiently certain and accurate for the purposes of assessment, taxation or tax title procedures without noting the correct metes and bounds of the same, or when such gross errors exist in lot measurements or locations that difficulty is encountered in locating new structures, public utilities or streets, such governing body may cause a plat to be made for such purposes. Such plat shall be called "assessor's plat," and shall plainly define the boundary of each parcel, and each street, alley, lane or roadway, or dedication to public or special use, as such is evidenced by the records of the register of deeds or a court of record. Such plats in cities may be ordered by the city council, in villages by the village board, in towns by the town board or the county board. A plat or part of a plat included in an assessor's plat shall be deemed vacated to the extent it is included in or altered by an assessor's plat. The actual and necessary costs and expenses of making assessors' plats shall be paid out of the treasury of the city, village, town or county whose governing body ordered the plat, and all or any part of such cost may be charged to the land, without inclusion of improvements, so platted in the proportion that the last assessed valuation of each parcel bears to the last assessed total valuation of all lands included in the assessor's plat, and collected as a special assessment on such land, as provided by s. 66.0703.

(2) CERTIFICATION, APPROVAL, RECORDING. Such plat, when completed and certified as provided by this section, and when approved by the governing body, shall be acknowledged by the clerk thereof and recorded in the office of the register of deeds.

(3) ASSESSMENT, TAXATION, CONVEYANCING. (a) Reference to any land, as it appears on a recorded assessor's plat is deemed sufficient for purposes of assessment and taxation. Conveyance may be made by reference to such plat and shall be as effective to pass title to the land so described as it would be if the same premises had been described by metes and bounds. Such plat or record thereof shall be received in evidence in all courts and places as correctly describing the several parcels of land therein designated. After an assessor's plat has been made and recorded with the register of deeds as provided by this section, all conveyances of lands included in such assessor's plat shall be by reference to such plat. Any instrument dated and acknowledged after September 1, 1955, purporting to convey, mortgage, or otherwise give notice of an interest in land that is within or part of an assessor's plat shall describe the affected land by the name of the assessor's plat, lot, block, or outlot.

(b) Notwithstanding par. (a), lands within an assessor's plat that are divided by a subdivision plat that is prepared, approved and recorded and filed in compliance with ch. 236 or a certified survey map that is prepared and recorded and filed in compliance with s. 236.34 shall be described for all purposes with reference to the subdivision plat or certified survey map, as provided in ss. 236.28 and 236.34 (3).

(4) AMENDMENTS. Amendments or corrections to an assessor's plat may be made at any time by the governing body by recording with the register of deeds a plat of the area affected by such amendment or correction, made and authenticated as provided by this section. It shall not be necessary to refer to any amendment of the plat, but all assessments or instruments wherein any parcel of land is described as being in an assessor's plat, shall be construed to mean the assessor's plat of lands with its amendments or corrections as it stood on the date of making such assessment or instrument, or such plats may be identified by number. This subsection does not prohibit the division of lands that are included in an assessor's plat by subdivision plat, as provided in s. 236.03, or by certified survey map, as provided in s. 236.34.

(5) SURVEYS, RECONCILIATIONS. The surveyor making the plat shall survey and lay out the boundaries of each parcel, street, alley, lane, roadway, or dedication to public or private use, according to the records of the register of deeds, and whatever evidence that may be available to show the intent of the buyer and seller, in the chronological order of their conveyance or dedication, and set temporary monuments to show the results of such survey which shall be made permanent upon recording of the plat as provided for in this section. The map shall be at a scale of not more than 100 feet per inch, unless waived in writing by the department of administration under s. 236.20 (2) (L). The owners of record of lands in the plat shall be notified by certified letter mailed to their last−known address, in order that they shall have opportunity to examine the map, view the temporary monuments, and make known any disagreement with the boundaries as shown by the temporary monuments. It is the duty of the surveyor making the plat to reconcile any discrepancies that may be revealed, so that the plat as certified to the governing body is in conformity with the records of the register of deeds as nearly as is practicable. When boundary lines between adjacent parcels, as evidenced on the ground, are mutually agreed to in writing by the owners of record, such lines shall be the true boundaries for all purposes thereafter, even though they may vary from the metes and bounds descriptions previously of record. Such written agreements shall be recorded in the office of the register of deeds. On every assessor's plat, as certified to the governing body, shall appear the volume, page and document number of the metes and bounds description of each parcel, as recorded in the office of the register of deeds, which shall be identified with the number by which such parcel is designated on the plat, except that lots which have been conveyed or otherwise acquired but upon which no deed is recorded in the

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office of register of deeds may be shown on an assessor's plat and when so shown shall contain a full metes and bounds description.

(6) MONUMENTS, PLAT REQUIREMENTS. The provisions of s. 236.15 as to monuments, and the provisions of s. 236.20 as to form and procedure, insofar as they are applicable to the purposes of assessors' plats, shall apply. Any stake or monument found and accepted as correct by a surveyor laying out an assessor's plat shall be indicated as "stake found" or "monument found" when mapping the plat and such stake or monument shall not be removed or replaced even though it is inconsistent with the standards of s. 236.15.

(7) CERTIFICATE. When completed, the assessor's plat shall be filed with the clerk of the governing body that ordered the plat. On its title page shall appear the sworn certificate of the surveyor who made the plat, which shall state and contain:

(a) The name of the governing body by whose order the plat was made, and the date of the order.

(b) A clear and concise description of the land so surveyed and mapped, by government lot, quarter quarter−section, township, range and county, or if located in a city or village or platted area, then according to the plat; otherwise by metes and bounds beginning with some corner marked and established in the United States land survey.

(c) A statement that the plat is a correct representation of all the exterior boundaries of the land surveyed and each parcel thereof.

(d) A statement that the surveyor has fully complied with the provisions of this section in filing the same.

(8) PLAT FILED WITH GOVERNING BODY. Within 2 days after the assessor's plat is filed with the governing body, it shall be transmitted to the department of administration by the clerk of the governing body which ordered the plat. The department of administration shall review the plat within 30 days of its receipt. No such plat may be given final approval by the local governing body until the department of administration has certified on the face of the original plat that it complies with the applicable provisions of ss. 236.15 and 236.20. After the plat has been so certified the clerk shall promptly publish a class 3 notice thereof, under ch. 985. The plat shall remain on file in the clerk's office for 30 days after the first publication. At any time within the 30−day period any person or public body having an interest in any lands affected by the plat may bring a suit to have the plat corrected. If no suit is brought within the 30−day period, the plat may be approved by the governing body, and filed for record. If a suit is brought, approval shall be withheld until the suit is decided. The plat shall then be revised in accordance with the decision if necessary, and, without rereferral to the department of administration unless rereferral is ordered by the court. The plat may then be approved by the governing body and filed for record. When so filed the plat shall carry on its face the certificate of the clerk that all provisions of this section have been complied with. When recorded after approval by the governing body, the plat shall have the same effect for all purposes as if it were a land division plat made by the owners in full compliance with ch. 236. Before January 1 of each year, the register of deeds shall notify the town clerks of the recording of any assessors' plats made or amended during the preceding year, affecting lands in their towns.

History: 1977 c. 29 s. 1646 (3); 1979 c. 221, 248, 355, 361; 1983 a. 473; 1987 a. 172; 1989 a. 31, 56; 1991 a. 316; 1995 a. 27 ss. 3361, 3362, 9116 (5); 1997 a. 27, 99; 1999 a. 96; 1999 a. 150 s. 672; 2005 a. 41, 254.

Cross−reference: See also ch. Adm 49, Wis. adm. code.

The reference to s. 66.60 [now s. 66.0703] in sub. (1) refers only to the collection procedures; it does not make all of that section apply. Dittner v. Town of Spencer, 55 Wis. 2d 707, 201 N.W.2d 45 (1972).

The division of a lot within an assessor's plat is an amendment of the plat and must be made by following the procedure under this section. Ahlgren v. Pierce County, 198 Wis. 2d 576, 543 N.W.2d 812 (Ct. App. 1995), 95−2088.

The provisions of s. 236.41 relating to vacation of streets are inapplicable to assessors plats. Once properly filed and recorded, an assessor's plat becomes the operative document of record, and only sections specified in s. 236.03 (2) apply to assessor's plats. Schaetz v. Town of Scott, 222 Wis. 2d 90, 585 N.W.2d 889 (Ct. App. 1998), 98−0841.

Section 236.03 (2) sets forth the "applicable provisions" of 236.15 and 236.20 with which assessors' plats must comply under 70.27 (8). A determination by the state under sub. (8) that an assessor's plat does not comply with the applicable provisions of ss. 236.15 and 236.20 may be reviewed under ch. 227. 58 Atty. Gen. 198.

The temporary survey monuments required to be set in the field prior to the submission of an assessor's plat for state level review are not made permanent until the recording of the assessor's plat. 59 Atty. Gen. 262.

Section 236.295 does not apply to assessors' plats. The amendment or correction of an assessor's plat under sub. (4) is an exercise of the police power that is accomplished for the same purposes and in the same manner as the original assessor's plat. The governing body involved is not required to conduct a public hearing concerning a proposed amendment or correction to an assessor's plat of record. Other questions concerning the amendment or correction of an assessor's plat are answered. 61 Atty. Gen. 25.

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 the assessor's assessment district, and foot up the valuation thereof separately; otherwise the assessor shall arrange all names of persons assessed for personal property on the roll alphabetically so far as convenient. The assessor 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.

History: 1991 a. 316.

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:

(9) The number and value of steam and other vessels.

(11) The value of machinery, tools and patterns.

(12) The value of furniture, fixture and equipment.

(13) The value of all other personal property except such as is exempt from taxation.

History: 1981 c. 20; 1983 a. 27 s. 2202 (45); 1983 a. 405; 1991 a. 39.

70.32 Real estate, how valued. (1) Real property shall be valued by the assessor in the manner specified in the Wisconsin property assessment manual provided under s. 73.03 (2a) 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 recent arm's−length sales of the property to be assessed if according to professionally acceptable appraisal practices those sales conform to recent arm's−length sales of reasonably comparable property; recent arm's−length sales of reasonably comparable property; and all factors that, according to professionally acceptable appraisal practices, affect the value of the property to be assessed.

(1g) In addition to the factors set out in sub. (1), the assessor shall consider the effect on the value of the property of any zoning ordinance under s. 59.692, 61.351 or 62.231, any conservation easement under s. 700.40, any conservation restriction under an agreement with the federal government and any restrictions under ch. 91. Beginning with the property tax assessments as of January 1, 2000, the assessor may not consider the effect on the value of the property of any federal income tax credit that is extended to the property owner under section 42 of the Internal Revenue Code.

(1m) In addition to the factors set out in sub. (1), the assessor shall consider the impairment of the value of the property because

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of the presence of a solid or hazardous waste disposal facility or because of environmental pollution, as defined in s. 299.01 (4).

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

(a) The assessor 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, except for subds. 5., 5m., and 6., the improvements in each class:

1. Residential.
2. Commercial.
3. Manufacturing.
4. Agricultural.
5. Undeveloped.
5m. Agricultural forest.
6. Productive forest land.
7. Other.

(c) In this section:

1d. "Agricultural forest land" means land that is producing or is capable of producing commercial forest products, if the land satisfies any of the following conditions:

a. It is contiguous to a parcel that has been classified in whole as agricultural land under this subsection, if the contiguous parcel is owned by the same person that owns the land that is producing or is capable of producing commercial forest products. In this subdivision, "contiguous" includes separated only by a road.

b. It is located on a parcel that contains land that is classified as agricultural land in the property tax assessment on January 1, 2004, and on January 1 of the year of assessment.

c. It is located on a parcel at least 50 percent of which, by acreage, was converted to land that is classified as agricultural land in the property tax assessment on January 1, 2005, or thereafter.

1g. "Agricultural land" means land, exclusive of buildings and improvements and the land necessary for their location and convenience, that is devoted primarily to agricultural use.

1i. "Agricultural use" means agricultural use as defined by the department of revenue by rule and includes the growing of short rotation woody crops, including poplars and willows, using agronomic practices.

1k. "Agronomic practices" means agricultural practices generally associated with field crop production, including soil management, cultivation, and row cropping.

1m. "Other," as it relates to par. (a) 7., means buildings and improvements; including any residence for the farm operator's spouse, children, parents, or grandparents; and the land necessary for the location and convenience of those buildings and improvements.

2. "Productive forest land" means land that is producing or is capable of producing commercial forest products and is not otherwise classified under this subsection.

3. "Residential" includes any parcel or part of a parcel of untilled land that is not suitable for the production of row crops, on which a dwelling or other form of human abode is located and which is not otherwise classified under this subsection.

4. "Undeveloped land" means bog, marsh, lowland brush, uncultivated land zoned as shoreland under s. 59.692 and shown as a wetland on a final map under s. 23.32 or other nonproductive lands not otherwise classified under this subsection.

(2r) Agricultural land shall be assessed according to the income that could be generated from its rental for agricultural use.

(3) Manufacturing property subject to assessment under s. 70.995 shall be assessed according to that section.

(4) Beginning with the assessments as of January 1, 2004, agricultural forest land shall be assessed at 50% of its full value, as determined under sub. (1), and undeveloped land shall be assessed at 50% of its full value, as determined under sub. (1).

History: 1973 c. 90; 1977 c. 29, 418; 1979 c. 34; 1981 c. 20, 390; 1983 a. 36; 1983 a. 275 s. 15 (8); 1983 a. 410; 1985 a. 54, 153; 1991 a. 39, 316; 1993 a. 337; 1995 a. 27, 201, 227; 1999 a. 9; 2001 a. 109; 2003 a. 33, 230; 2009 a. 177, 235, 276, 401.

Cross−reference: See also ch. Tax 18, Wis. adm. code.

When market value is established by a fair sale of the property or sales of reasonably comparable property are available, it is error for an assessor to resort to other factors to determine fair market value, although such factors in the absence of such sales would have a bearing on market value. Rules on judicial review of valuation presuppose that the method of evaluation is in accordance with the statutes; hence errors of law should be corrected by the court on certiorari and the failure to make an assessment on the statutory basis is an error of law. State ex rel. Markarian v. Cudahy, 45 Wis. 2d 683, 173 N.W.2d 627 (1970).

While a sale establishes value, the assessment still has to be equal to that on comparable property. Sub. (2) (b) requires the assessor to fix a value before classifying the land; it does not prohibit the assessor from considering the zoning of the property when it is used for some other purpose. State ex rel. Hensel v. Town of Wilson, 55 Wis. 2d 101, 197 N.W.2d 794.

In making an assessment based on a recent sale of the property, the assessor cannot increase the value because no commission was paid to a broker. Lincoln Fireproof Warehouse v. Milwaukee Board of Review 60 Wis. 2d 84, 208 N.W.2d 380 (1973).

Under an option agreement, the sellers' right to repurchase their homestead and their right of first refusal for the purchase of industrial buildings to be constructed on the property were factors going only to the willingness of the parties to deal, not their compulsion to do so; the value of these rights, together with the monetary amount per acre, comprised the total sale price of the land. Geipel v. Milwaukee, 68 Wis. 2d 726, 229 N.W.2d 585 (1975).

Evidence of net income from unique property was admissible to show market value. An assessor's unconfirmed valuation based on estimated replacement cost less depreciation could not stand alone because of uncontroverted evidence of actual costs of recent construction. Rosen v. Milwaukee, 72 Wis. 2d 653, 242 N.W.2d 681 (1976).

When there are no actual sales, cost, depreciation, replacement value, income, industrial conditions, location and occupancy, sales of like property, book value, insurance carried, value asserted in a prospectus, and appraisals are all relevant to determination of market value for assessment purposes. Mitchell Aero, Inc. v. Milwaukee Board of Review, 74 Wis. 2d 268, 246 N.W.2d 521 (1976).

District−wide use of comparative sales statistics to determine annual percentage increases of assessments was invalid under sub. (1). Kaskin v. Board of Review, 91 Wis. 2d 272, 282 N.W.2d 620 (Ct. App. 1979). See also Lloyd v. Board of Review of City of Stoughton, 179 Wis. 2d 33, 505 N.W.2d 465 (Ct. App. 1993).

An assessor erred in failing to consider disadvantages and liabilities that affect the fair market value of dams. Wisconsin Edison Corp. v. Robertson, 99 Wis. 2d 561, 299 N.W.2d 626 (Ct. App. 1980).

The lease of comparable property constituted the "best information" regarding fair market value of leasehold improvements. Keane v. Bd. of Review, 99 Wis. 2d 584, 299 N.W.2d 638 (Ct. App. 1980).

Sub. (1) requires the use of a cash equivalency adjustment in assessing property based upon the sale of comparable properties. Flint v. Kenosha County Rev. Bd. 126 Wis. 2d 152, 376 N.W.2d 364 (Ct. App. 1985).

An assessment largely based upon consideration of equalized value was invalid. The court erred by remanding with the requirement that a new assessment consider the actual subsequent sale of the subject property. Kesselman v. Sturtevant, 133 Wis. 2d 122, 394 N.W.2d 745 (Ct. App. 1986).

The board of review erred as a matter of law by basing an assessment on "market" rental income when there was a recent arms−length sale of the property. Darcel v. Manitowoc Review Board, 137 Wis. 2d 623, 405 N.W.2d 344 (1987).

In determining market value under sub. (1), the board of review must determine whether financing arrangements between the seller and buyer affected the sale price; sub. (1) prohibits assessment exceeding market value. Flood v. Lomira Board of Review, 153 Wis. 2d 428, 451 N.W.2d 422 (1990).

Factors applicable to the assessment of commercial property following its sale are discussed. State v. Greendale Board of Review, 164 Wis. 2d 31, 473 N.W.2d 554 (Ct. App. 1991).

Section 70.32 establishes a unitary taxing scheme; mineral rights are taxed as an element of the real estate and not separately. Cornell University v. Rusk County, 166 Wis. 2d 811, 481 N.W.2d 485 (Ct. App. 1992).

The capitalization of income method, based on estimated market rents rather than on actual rent, was an improper method of assessing subsidized rental property. Metro. Holding v. Milwaukee Review Bd. 173 Wis. 2d 626, 495 N.W.2d 314 (1993).

Compliance with the s. 73.03 (2a) assessment manual is not a defense when the method of assessment violates s. 70.32 (1). Metropolitan Holding Co. v. Milwaukee Board of Review, 173 Wis. 2d 626, 495 N.W.2d 314 (1993).

When an assessor disavows the correctness of a valuation of comparable property shown on the tax roll, the burden is on the assessor to explain why the assessment is incorrect. Brighton Square Co. v. Madison, 178 Wis. 2d 577, 504 N.W.2d 436 (Ct. App. 1993).

A taxpayer challenging an assessment has the burden of proving that a sale was an arm's−length transaction. The taxpayer has the burden of proof on each assessment manual condition that must be met. Doneff v. Review Board of Two Rivers, 184 Wis. 2d 203, 516 N.W.2d 383 (1994).

The use of owner−operator income to value property is allowed if the net income reflects the property's chief source of value, the income is produced without skill of the owner, or the owner's skill and labor are factored out and other valuation approaches are considered. Waste Management v. Kenosha County Board of Review, 184 Wis. 2d 541, 516 N.W.2d 695 (1994).

There is no bright line rule for the number of comparable properties that must be shown to prove that the rule of uniformity is being violated. Assessments that are dis-

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criminatory and made based on arbitrary and improper considerations cannot stand. Levine v. Fox Point Board of Review, 191 Wis. 2d 363, 528 N.W.2d 424 (1995).

Property that is encumbered by a bundle of rights must be appraised at its value using the current value of that bundle of rights. City of West Bend v. Continental IV Fund, 193 Wis. 2d 481, 535 N.W.2d 24 (Ct. App. 1995).

Real property shall be valued based on the best information available. The best information is a recent arms−length sale of the property, followed by recent sales of comparable property. If either of those are not available the assessor may look to all factors that collectively have a bearing on the value of the property. Campbell v. Town of Delavan, 210 Wis. 2d 239, 565 N.W.2d 209 (Ct. App. 1997), 96−1291.

Equalized value is not a measure of fair market value of individual properties; it is improper for an assessor to take it into account in valuing property. Noah's Ark Family Park v. Village of Lake Delton, 210 Wis. 2d 301, 565 N.W.2d 230 (Ct. App. 1997), 96−1074. Affirmed. 216 Wis. 2d 387, 573 N.W.2d 852 (1998), 96−1074.

For purposes of the uniformity clause, there is only one class of property. The burden of taxation must be borne as nearly as practicable among all property, based on value. Compliance with the requirement of s. 70.05 (5) that property be assessed at fair value at least once every 5 years is not a substitute for compliance with the uniformity clause and sub. (1). Approving an increased assessment for only one property despite evidence that it and other properties had recent sales at a price above prior assessments violated the law, and its approval by the board of review was arbitrary. Noah's Ark Family Park v. Village of Lake Delton, 210 Wis. 2d 301, 565 N.W.2d 230 (Ct. App. 1997), 96−1074. Affirmed. 216 Wis. 2d 387, 573 N.W.2d 852 (1998), 96−1074.

It was improper to rely solely on insurance replacement value to set the valuation of low income apartments encumbered with income and rental restrictions, although it is a relevant factor. Walworth Affordable Housing, LLC v. Village of Walworth, 229 Wis. 2d 797, 601 N.W.2d 325 (Ct. App. 1999), 98−2535.

Income that is attributable to land, rather than personal to the owner, is inextricably intertwined with the land and is transferable to future owners. This income may be included in the land's assessment because it appertains to the land. Income from managing separate off−site property may be inextricably intertwined with land and subject to assessment if the income is generated primarily on the assessed property itself. ABKA Ltd. v. Fontana−On−Geneva−Lake, 231 Wis. 2d 328, 603 N.W.2d 217 (1999), 98−0851.

The requirement to use the "best information" does not require that an assessor use actual figures in the absence of a sale. An assessor acted properly in using estimated expense figures when actual figures did not reflect regular expenses. ABKA Ltd. v. Fontana−On−Geneva−Lake,231 Wis. 2d 328, 603 N.W.2d 217 (1999), 98−0851.

It is clear from the Assessor's Manual that assessors should consider many market factors from a variety of sources when gathering and applying comparable sales information. Even sales prices of similar properties need some adjustment in order to arrive at an estimate of value for a different property. Joyce v. Town of Tainter, 2000 WI App 15, 232 Wis. 2d 349, 605 N.W.2d 284, 99−0324.

An assessor cannot be free to choose between the mortgage subsidy rate and the mortgage market rate when using the income approach to valuing federally subsidized housing. If the use of a market rate was proper in *City of Bloomer*, the use of a subsidized interest rate cannot be. Mineral Point Valley Limited Partnership v. City of Mineral Point, 2004 WI App 158, 275 Wis. 2d 784, 686 N.W.2d 697, 03−1857

Sub. (2r) granted DOR authority to promulgate rules implementing full use−value assessment of agricultural land as of January 1, 2000. Mallo v. DOR, 2002 WI 70, 253 Wis. 2d 391, 645 N.W.2d 853, 00−3252.

When valuing subsidized housing, assessors are required to consider the effects the property's restrictions have on value. Bloomer Housing Limited Partnership v. City of Bloomer, 2002 WI App 252, 257 Wis. 2d 883, 653 N.W.2d 309, 01−3495. See also Northland Whitehall Apartments Limited Partnership v. City of Whitehall, 2004 WI App 60, 290 Wis. 2d 488, 713 N.W.2d 646, 04−2941.

When a property carries with it a bundle of rights, an assessment must be based on the property at its value using the current value of that bundle of rights. A buyer necessarily acquires the right to the rents guaranteed in long−term leases. The goal of assessment is to ascertain what an investor would pay for the property, and contract rents, not market rents, whether above or below market rent, are the clearest indicator of what the investor would pay. Walgreen Co. v. City of Madison, 2007 WI App 153, 303 Wis. 2d 620, 735 N.W.2d 543, 06−1859.

A property tax assessment of retail property leased at above−market rent values should be based on market rents and not on the above−market rental terms of the actual lease. Walgreen Co. v. City of Madison, 2008 WI 80, 311 Wis. 2d 158, 752 N.W.2d 687, 06−1859.

When an assessor only after looking at prevailing market conditions and all variables determined that the market for lakefront property had grown so strong that factors other than beach length and beach quality were being ignored by the marketplace, the approach was not formulaic and is not in violation of *Campbell*. Anic v. Board of Review of the Town of Wilson, 2008 WI App 71, 311 Wis. 2d 701, 751 N.W.2d 870, 07−0761.

An assessment based on a Department of Revenue analysis of the sale of a mining company that owned the land was not based upon a recent arm's−length sale of the property. A value derived by analyzing a complex corporate transaction involving the sale of a variety of assets, tangible and intangible, independent and interdependent, is not equivalent to the price obtained in a sale of one component of that transaction. Forest County Potawatomi Community v. Township of Lincoln, 2008 WI App 156, 314 Wis. 2d 363, 761 N.W.2d 31, 07−2523.

The Assessment Manual and case law set forth a 3−tier system for determining the fair market value of property. A recent arm's−length sale of the property is the best evidence of value, and is the basis for an assessment under tier one. If there has been no recent sale, an assessor must consider sales of reasonably comparable properties, which is the tier 2 approach. In the absence of comparable sales data, the assessor determines the value under tier 3, which permits consideration of all the factors collectively that have a bearing on value of the property in order to determine its fair market value. Nestle USA, Inc. v. DOR, 2009 WI App 159, 322 Wis. 2d 156, 776 N.W.2d 589, 08−0322. Affirmed Nestle USA, Inc. v. DOR, 2011 WI 4, 331 Wis. 2d 256, 795 N.W.2d 46, 08−0322.

Absent sufficient proof that no market existed for a property having a specialized use, an assessment under the tier 2 comparable sales approach based on an expanded definition of highest and best use to include a use for which a market exists would be contrary to sub. (1). The taxpayer has the burden of proving the absence of a market for the property with its current specialized use. That there were no known sales of properties put to that special use merely suggests that such properties are rarely bought and sold. It does not necessarily indicate that the taxpayer would be unable to find a buyer who intended to maintain the property as its current use. Nestle USA, Inc. v. DOR, 2009 WI App 159, 322 Wis. 2d 156, 776 N.W.2d 589, 08−0322. Affirmed Nestle USA, Inc. v. Wisconsin Department of Revenue, 2011 WI 4, 331_ Wis. 2d 256, 795 N.W.2d 46, 08−0322

When there are no sales of the property itself or of reasonably comparable properties, an assessment cannot be made under a tier one or tier 2 methodology. The assessment is then made using a tier 3 methodology. The cost of replacement approach is the preferred tier 3 method of valuation when, as here, the property has a highly specialized use resulting in there being no comparable properties. Nestle USA, Inc. v. DOR, 2009 WI App 159, 322 Wis. 2d 156, 776 N.W.2d 589, 08−0322. Affirmed Nestle USA, Inc. v. Wisconsin Department of Revenue, 2011 WI 4, 331 Wis. 2d 256, 795 N.W.2d 46, 08−0322.

In situations when it has been determined that there is no potential market for the subject property, it is contrary to sub. (1) to conclude that the highest and best use of the property should remain the same. That was not the case when there was at least a limited market for powdered infant formula production facilities. Nestle USA, Inc. v. Wisconsin Department of Revenue, 2011 WI 4, 331 Wis. 2d 256, 795 N.W.2d 46, 08−0322.

Reassessing one property at a significantly higher rate than comparable properties using a different methodology and then declining to reassess the comparable properties by that methodology violates the uniformity clause. U.S. Oil Co., Inc. v. City of Milwaukee, 2011 WI App 4, 331 Wis. 2d 407, 794 N.W.2d 904, 09−2260.

Comparing a taxpayer's appraised value to lower values assigned to a relatively small number of other properties has long been rejected as a claimed violation of the uniformity clause. Lack of uniformity must be established by showing a general undervaluation of properties within a district when the subject property has been assessed at full market value. Great Lakes Quick Lube, LP v. City of Milwaukee, 2011 WI App 7, 331 Wis. 2d 137, 794 N.W.2d 510, 09−2775.

A property's assessed value is based on fair market value but a property's assessed value is not necessarily equal to its fair market value. Assessors must base assessments of real property on the property's fair market value. However, as the plain language of the Property Assessment Manual makes clear, a property's fair market value is not synonymous with its assessed value. In most cases individual property assessments are different than the property's fair market value. Stupar River LLC v. Town of Linwood Board of Review, 2011 WI 82, 336 Wis. 2d 562, 800 N.W.2d 468, 09−0191.

Taxation of undeveloped real property in Wisconsin. Hack, Sullivan, 1974 WBB No. 1.

70.323 Assessment of divided parcel. (1) DETERMINATION OF VALUE. (a) If a parcel of real property is divided, the owner of a divided parcel may request a valuation of the divided parcels. A request shall be in writing and submitted to the treasurer of the taxation district in which the property is located. If the taxation district treasurer is in possession of the tax roll, the treasurer shall make the requested valuation. If the tax roll has been returned under s. 74.43, the taxation district treasurer shall forward the request to the county treasurer, who shall make the requested valuation.

(b) The appropriate treasurer shall, with the assistance of the assessor of the taxation district, attribute to each new parcel its value for the year of division. The value of each new parcel shall represent a reasonable apportionment of the valuation of the original undivided parcel, and the total of the new valuations shall equal the valuation of the original undivided parcel on January 1 of that year. The value of a new parcel as determined under this subsection is the value of that property for purposes of s. 70.32 for the year of division.

(2) APPEAL. A determination under sub. (1) may be appealed by bringing an action in circuit court within 60 days after the determination is made. The court shall determine whether the value determined under sub. (1) represents a reasonable apportionment of the valuation of the original undivided parcel on January 1 of that year. If the court determines that the value does not represent a reasonable apportionment, the court shall redetermine the parcels' values, the total of which shall equal the valuation of the original undivided parcel on January 1 of that year.

(3) LIEN EXTINGUISHED. Payment of all real estate taxes based on the value determined under sub. (1) or (2) extinguishes the lien against the parcel created under s. 70.01.

(4) COOPERATION OF ASSESSOR. The assessor of the taxation district shall assist the treasurer of the taxation district or of the county under sub. (1).

(5) NOT APPLICABLE WHERE WRITTEN AGREEMENT. This section does not apply if there is a written agreement providing for the

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payment of real property taxes on the divided parcels in the year of division.

History: 1987 a. 378.

70.327 Valuation and assessment of property with contaminated wells. In determining the market value of real property with a contaminated well or water system, the assessor shall take into consideration the time and expense necessary to repair or replace the well or private water system in calculating the diminution of the market value of real property attributable to the contamination.

History: 1983 a. 410; 1995 a. 378.

70.337 Tax exemption reports. (1) By March 31 of each even−numbered year, the owner of each parcel of property that is exempt under s. 70.11 shall file with the clerk of the taxation district in which the property is located a form containing the following information:

(a) The name and address of the owner of the property and, if applicable, the type of organization that owns the property.

(b) The legal description and parcel number of the property as shown on the assessment roll.

(c) The date of acquisition of the property.

(d) A description of any improvements on the land.

(e) A statement indicating whether or not any portion of the property was leased to another person during the preceding 2 years. If the property was leased, the statement shall identify the portion of the property that was leased, identify the lessee and describe the ways in which the lease payments were used by the owner of the property.

(f) The owner's estimate of the fair market value of the property on January 1 of the even−numbered year. The owner shall provide this estimate by marking one of a number of value ranges provided on the form prepared under sub. (2). The assessor for the taxation district within which the property is located may review the owner's estimate of the fair market value of the property and adjust it if necessary to reflect the correct fair market value.

(2) By July 1 of each even−numbered year, the clerk of each taxation district shall complete and deliver to the department of revenue a form on which the clerk estimates the value of tax−exempt property, classified by type of owner, within the taxation district.

(3) The department of revenue shall prescribe the contents of the form for reporting the information required under sub. (1), including the categories of value of property that the department of revenue determines will result in the best estimate of the value of tax−exempt property in this state. The department of revenue shall also prescribe the contents of the form under sub. (2). The form under sub. (2) shall provide for estimates of the value of tax−exempt property in the taxation district that is owned by various categories of owners, including property that is owned by the benevolent and educational associations; fraternal and labor organizations; nonprofit hospitals; private colleges; and churches and religious associations. The forms under subs. (1) and (2) shall be prepared and distributed under s. 70.09 (3).

(4) The department of revenue shall tabulate data from the forms received under sub. (2) and prepare an estimate of the value of tax−exempt property in this state by category of owner. The department shall include this information in the summary of tax exemption devices prepared under s. 16.425 (3).

(5) Each person that is required to file a report under sub. (1) shall pay a reasonable fee that is sufficient to defray the costs to the taxation district of distributing and reviewing the forms under sub. (1) and of preparing the form for the department of revenue under sub. (2). The amount of the fee shall be established by the governing body of the taxation district. This subsection does not apply to a church that is required to file a report under sub. (1).

(6) If the form under sub. (1) is not received by March 31 of the even−numbered year, the taxation district clerk shall send the owner of the property a notice, by certified mail, stating that the property for which the form is required will be appraised at the owner's expense if a completed form is not received by the taxation district clerk within 30 days after the notice is sent. If the completed form is not received by the taxation district clerk within 30 days after the notice is sent, the property shall be appraised either by the taxation district assessor or by a person hired by the taxation district to conduct the appraisal.

(7) This section does not apply to property that is exempt under s. 70.11 (1), (2), (13), (13m), (15), (15m), (21) or (30), property that is exempt under s. 70.11 (18) if a payment in lieu of taxes is made for that property, lake beds owned by the state, state forests under s. 28.03 or 28.035, county forests under s. 28.10, property acquired by the department of transportation under s. 85.08 or 85.09 or highways, as defined in s. 340.01 (22).

History: 1971 c. 215; 1973 c. 90; 1977 c. 29 ss. 749, 1647 (4), (9); 1977 c. 273, 418; 1983 a. 27; 1991 a. 39, 269; 1995 a. 113, 136, 417; 1999 a. 9.

70.339 Reporting requirements. (1) By March 15 each person that owns property that is exempt under s. 70.11, except s. 70.11 (1) and (2), and that was used in the most recently ended taxable year in a trade or business for which the owner of the property was subject to taxation under sections 511 to 515 of the internal revenue code, as defined in s. 71.22 (4m), shall file with the clerk of the taxation district in which the property is located a statement containing the following information:

(a) The name, address and telephone number of the owner of the property.

(b) The name, address and telephone number of a person who can be contacted concerning the use of the property in a trade or business.

(c) A general description of the activities engaged in to conduct the trade or business.

(d) The location and a description of the property that is used in the trade or business including, if applicable, the specific portion of a building that is used to conduct the trade or business.

(2) The format and distribution of statements under this section shall be governed by s. 70.09 (3).

(3) If the statement required under this section is not received by the due date, the taxation district clerk shall send the owner of the property a notice, by certified mail, stating that failure to file a statement is subject to the penalties under sub. (4).

(4) A person who fails to file a statement within 30 days after notification under sub. (3) shall forfeit $10 for each succeeding day on which the form is not received by the taxation district clerk, but not more than $500.

History: 1991 a. 39, 269.

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 the assessor shall be able to discover as belonging to any person, if the assessor has reason to believe that such person has other personal property or any other thing of value liable to taxation, the assessor shall add to such aggregate valuation of personal property an amount which, in the assessor's judgment, will render such aggregate valuation a just and equitable valuation of all the personal property liable to taxation belonging to such person. In carrying out the duties imposed on the assessor by this section, the assessor shall act in the manner specified in the Wisconsin property assessment manual provided under s. 73.03 (2a).

History: 1973 c. 90; 1991 a. 316.

"True cash value" is not a figure that can be determined by bargaining with the taxpayer, and such an agreement would be void. The unsupported statement of the taxpayer has no probative value. Berg Equipment Corp. v. Spencer Board of Review 53 Wis. 2d 233, 191 N.W.2d 892 (1971).

When there are no actual sales, cost, depreciation, replacement value, income, industrial conditions, location and occupancy, sales of like property, book value, insurance carried, value asserted in a prospectus, and appraisals are all relevant to determination of market value for assessment purposes. Mitchell Aero, Inc. v. Milwaukee Board of Review, 74 Wis. 2d 268, 246 N.W.2d 521 (1976).

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A market data or sales approach was proper when 94% of machines were leased and only 6% were sold. An income capitalization approach has been used only when no sales exist. Xerox Corp. v. Department of Revenue, 114 Wis. 2d 522, 339 N.W.2d 357 (Ct. App. 1983).

Although net income from billboard rentals may be a factor to consider, it cannot be the sole controlling factor in determining value. When the Madison city assessor acknowledged that he considered but rejected all other approaches and factors, his assessment contravened long−standing assessment principles, as well as the prevailing practice for assessing billboards throughout Wisconsin and the United States. Adams Outdoor Advertising, Ltd. v. City of Madison, 2006 WI 104, 294 Wis. 2d 441, 717 N.W.2d 803, 05−0508.

70.345 Legislative intent; department of revenue to supply information. The assessor shall exercise particular care so that personal property as a class on the assessment rolls bears the same relation to statutory value as real property as a class. To assist the assessor in determining the true relationship between real estate and personal property the department of revenue shall make available to local assessors information including figures indicating the relationship between personal property and real property on the last assessment rolls.

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, the taxable value thereof as defined in s. 70.34 if the property is taxable and the fair market value if the property is exempt under s. 70.11 (39) or (39m). 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) The return shall be made and all the information therein requested given by such person on a form prescribed by the assessor with the approval of the department of revenue which shall provide suitable schedules for such information bearing on value as the department deems necessary to enable the assessor to determine the true cash value of the taxable personal property, and of the personal property that is exempt under s. 70.11 (39) and (39m), that is owned or in the possession of such person on January 1 as provided in s. 70.10. The return may contain methods of deriving assessable values from book values and for the conversion of book values to present values, and a statement as to the accounting method used. No person shall be required to take detailed physical inventory for the purpose of making the return required by this section.

(3) Each return shall be filed with the assessor on or before March 1 of the year in which the assessment provided by s. 70.10 is made. The assessor, for good cause, may allow a reasonable extension of time for filing the return. All returns filed under this section shall be the confidential records of the assessor's office, except that the returns shall be available for use before the board of review as provided in this chapter. No return required under this section is 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 ch. 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.

(8) This section shall not be applicable to farm products as defined by s. 93.01 (5) when owned and possessed by the original producer.

History: 1977 c. 29 ss. 750, 1646 (3); 1983 a. 189 s. 329 (20); 1997 a. 237; 2001 a. 16.

Cross−reference: See also s. Tax 12.10, Wis. adm. code.

70.36 False statement; duty of district attorney. (1) Any person in this state owning or holding any personal property that is subject to assessment, individually or as agent, trustee, guardian, personal representative, assignee, or receiver or in some other representative capacity, who intentionally makes a false statement to the assessor of that person's assessment district or to the board of review of the assessment district with respect to the property, or who omits any property from any return required to be made under s. 70.35, with the intent of avoiding the payment of the just and proportionate taxes on the property, shall forfeit the sum of $10 for every $100 or major fraction of $100 so withheld from the knowledge of the assessor or board of review.

(1m) Any person, firm or corporation that fails to include information on property that is exempt under s. 70.11 (39) and (39m) on the report under s. 70.35 shall forfeit $10 for every $100 or major fraction thereof that is not reported.

(2) It is hereby made the duty of the district attorney of any county, upon complaint made to the district attorney 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 s. 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 ss. 70.35 and 70.36 shall, in 1st class cities, be deemed to refer also to the commissioner of assessments of any such city and, where applicable, shall be deemed also to refer to the department of revenue responsible for the manufacturing property assessment under s. 70.995.

History: 1973 c. 90; 1991 a. 156, 316; 1997 a. 237; 2001 a. 16, 102.

70.365 Notice of changed assessment. When the assessor assesses any taxable real property, or any improvements taxed as personal property under s. 77.84 (1), and arrives at a different total than the assessment of it for the previous year, the assessor shall notify the person assessed if the address of the person is known to the assessor, otherwise the occupant of the property. If the assessor determines that land assessed under s. 70.32 (2r) for the previous year is no longer eligible to be assessed under s. 70.32 (2r), and the current classification under s. 70.32 (2) (a) is not undeveloped, agricultural forest, productive forest land, or other, the assessor shall notify the person assessed if the assessor knows the person's address, or otherwise the occupant of the property, that the person assessed may be subject to a conversion charge under s. 74.485. Any notice issued under this section shall be in writing and shall be sent by ordinary mail at least 15 days before the meeting of the board of review or before the meeting of the board of assessors in 1st class cities and in 2nd class cities that have a board of assessors under s. 70.075 and shall contain the amount of the changed assessment and the time, date, and place of the meeting of the local board of review or of the board of assessors. However, if the assessment roll is not complete, the notice shall be sent by ordinary mail at least 15 days prior to the date to which the board of review has adjourned. The assessor shall attach to the assessment roll a statement that the notices required by this section have been mailed and failure to receive the notice shall not affect the validity of the changed assessment, the resulting changed tax, the procedures of the board of review or of the board of assessors or the enforcement of delinquent taxes by statu-

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tory means. After the person assessed or the occupant of the property receives notice under this section, if the assessor changes the assessment as a result of the examination of the rolls as provided in s. 70.45 and the person assessed waives, in writing and on a form prescribed or approved by the department of revenue, the person's right to the 15−day notice of the changed assessment, no additional notice is required under this section. The secretary of revenue shall prescribe the form of the notice required under this section. The form shall include information notifying the taxpayer of the procedures to be used to object to the assessment. The form shall also indicate whether the person assessed may be subject to a conversion charge under s. 74.485.

History: 1977 c. 418; 1981 c. 20; 1983 a. 490; 1991 a. 248; 1997 a. 237; 2007 a. 210.

Cross−reference: See also s. Tax 12.075, Wis. adm. code.

70.37 Net proceeds occupation tax on persons extracting metalliferous minerals in this state. (1) LEGISLATIVE FINDINGS. The legislature finds that:

(a) The existence has been announced of several economically significant ore bodies containing copper, zinc, lead, taconite and other metalliferous minerals in this state, including one of the largest zinc deposits in North America.

(b) Metalliferous minerals are valuable, irreplaceable natural resources which, once removed, are forever lost as an economic asset to the state.

(c) The activity of mining metalliferous minerals creates jobs, economic activity, tax revenues and other valuable benefits to the economy and residents of this state.

(d) The activity of mining metalliferous minerals creates additional costs to the state and municipalities for highways, sewers, schools and other improvements which are necessary to accommodate the development of a metalliferous mining industry.

(e) The activity of mining metalliferous minerals has a permanent and often damaging effect on the environment of the state.

(f) The activity of mining metalliferous minerals significantly alters the quality of life in communities directly affected by mining.

(g) As the size of a mining operation increases, the cost to the state and municipalities to support the operation increases, as does the damage to the environment. Furthermore, as the size of a mining operation increases, the person mining metalliferous minerals benefits from economies of scale in the mining operation.

(h) A graduated net proceeds occupational tax, by taxing profitability at rates which vary with the level of profitability, encourages important state goals, such as:

1. Gradual, continuous and complete extraction of metalliferous minerals.

2. Continued stable employment.

3. Taxation according to ability to pay.

4. Taxation based on the privileges enjoyed by persons mining metalliferous metallic minerals.

(i) Municipalities incur long−term economic costs as a result of metalliferous mineral mining after the mining operation shuts down. An impact fund, in which is deposited a portion of the tax revenues, should assure that moneys will be available to such municipalities for long− and short−term costs associated with social, educational, environmental and economic impacts of metalliferous mineral mining.

(2) LEGISLATIVE INTENT. It is the declared intent of the legislature to establish a net proceeds occupation tax on persons engaged in the activity of mining metalliferous minerals in this state. The tax is established in order that the state may derive a benefit from the extraction of irreplaceable metalliferous minerals and in order to compensate the state and municipalities for costs, past, present and future, incurred or to be incurred as a result of the loss of valuable irreplaceable metallic mineral resources.

History: 1977 c. 31.

70.375 Net proceeds occupation tax on mining of metallic minerals; computation. (1) DEFINITIONS. In ss. 70.37 to 70.3965:

(ab) "Controlled entity" means a person at least 50% of the voting stock of which is owned directly or indirectly by another person who is engaged in mining metalliferous minerals.

(ad) "Controlling entity" is a person who owns directly or indirectly at least 50% of the voting stock of another person who is engaged in mining metalliferous minerals.

(ae) "Department" means the department of revenue.

(ag) "Extraction of ores or minerals from the ground" includes the extraction, by owners or operators of mines, of ores or minerals from the waste or residue of prior mining unless the extraction is made by a purchaser of waste or residue or by a purchaser of the rights to extract ores or minerals from the waste or residue.

(ai) "Gross income from mining" means that amount of income which is attributable to the processes of extraction of ores or minerals from the ground and the application of mining processes, including mining transportation and as further defined in 26 CFR section 1.613−4. In this paragraph "income" means the actual amount for which ore or mineral, less trade and cash discounts actually allowed, is sold if the taxpayer sells the ore or mineral after the application of mining processes. If ore or minerals are sold after the application of nonmining processes, gross income from mining shall be computed as provided in 26 CFR section 1.613−4.

(am) "Gross proceeds" means gross income from mining except as provided under sub. (3).

(ar) "Internal revenue code", for taxable year 1981 and thereafter, means the internal revenue code and regulations as amended to December 31, 1981.

(as) "Mine" means an excavation in or at the earth's surface made to extract metalliferous minerals for which a permit has been issued under s. 293.49.

(av) "Mine site" means the underground and surface area disturbed by a mine, including the locations from which the minerals or refuse or both have been removed, the surface area covered by refuse, and any surface areas in which structures, haulageways, pipelines, equipment, materials and any other things used directly in connection with the mine are situated.

(b) 1. "Mining" has the meaning under section 613 (c) of the internal revenue code and includes the extraction of ores or minerals from the ground, the transportation of ores or minerals from the point of extraction to the plants or mills at which the treatment processes are applied and the following treatment processes applied to an ore or mineral for which the owner or operator is entitled to a deduction for depletion under section 611 of the internal revenue code:

a. In the case of iron ore, bauxite and other ores or minerals that are customarily sold in the form of a crude mineral product; sorting, concentrating, sintering and substantially equivalent processes that bring the ore or mineral to shipping grade and form, and loading for shipment.

b. In the case of lead, zinc, copper, gold, silver, uranium and other ores or minerals that are not customarily sold in the form of the crude mineral product; crushing, grinding and beneficiation by concentration by means of gravity, flotation, amalgamation, electrostatic or magnetic processes, cyanidation, leaching, crystallization or precipitation; not including electrolytic deposition, roasting, thermal or electric smelting or refining; or by substantially equivalent processes or by a combination of processes used in the separation or extraction of the products from other material taken out of the mine or out of another natural deposit.

c. The furnacing of quicksilver ores.

d. Treatment processes necessary or incidental to the processes under subd. 1. a. to c.

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e. Any treatment processes provided for by rules promulgated by the department.

2. For purposes of this section, "mining" does not include the extraction or beneficiation of sand or gravel or the following treatment processes unless they are provided for under subd. 1. d.: electrolytic deposition, roasting, calcining, thermal or electric smelting, refining, polishing, fine pulverization, blending with other materials, treatment effecting a chemical change, thermal action, molding and shaping.

(bm) "Mining−related purposes" means activities which are directly in response to the application for a mining permit under s. 293.37; directly in response to construction, operation, curtailment of operation or cessation of operation of a metalliferous mine site; or directly in response to conditions at a metalliferous mine site which is not in operation. "Mining−related purposes" also includes activities which anticipate the economic and social consequences of the cessation of mining. "Mining−related purposes" also includes the purposes under s. 70.395 (2) (g).

(c) "Municipality" means any county, city, village, town or school district.

(d) "Person" means a sole proprietorship, partnership, limited liability company, association or corporation and includes a lessee engaged in mining metalliferous minerals.

(e) "Secretary" means the secretary of revenue.

(2) TAX IMPOSED. (a) In respect to mines not in operation on November 28, 1981, there is imposed upon persons engaged in mining metalliferous minerals in this state a net proceeds occupation tax effective on the date on which extraction begins to compensate the state and municipalities for the loss of valuable, irreplaceable metalliferous minerals. The amount of the tax shall be determined by applying the rates established under sub. (5) to the net proceeds of each mine. The net proceeds of each mine for each year are the difference between the gross proceeds and the deductions allowed under sub. (4) for the year.

(b) The secretary may promulgate any rules necessary to implement the tax under ss. 70.37 to 70.39 and 70.395 (1e). In respect to mines not in operation on November 28, 1981, ss. 71.10 (1), 71.30 (1), 71.74 (2), (3), (9), (11) and (15), 71.77, 71.78, 71.80 (6), 71.83 (1) (a) 1. and 2. and (b) 2. and (2) (a) 3. and (b) 1. and 71.85 (2) apply to the administration of this section.

(2m) TAX IMPOSED. (a) There is imposed upon persons engaged in mining metalliferous minerals in this state in respect to mines in operation on November 28, 1981, a net proceeds occupation tax effective on the date on which extraction begins to January 1, 1991, to compensate the state and municipalities for the loss of valuable, irreplaceable metalliferous minerals. The amount of the tax shall be determined by applying the rates established under sub. (5) to the average of the net proceeds of the person for the preceding 3−year period. The net proceeds of a person for each year shall be the difference between the gross proceeds, computed under sub. (3) for the year, and the deductions allowed under sub. (4) for the year.

(b) In respect to mines in operation on November 28, 1981, ss. 71.10 (1), 71.30 (1), 71.74 (2), (3), (7), (9) and (11), 71.76 and 71.77 (1) to (8) apply to the administration of this section to January 1, 1991.

(3) ALTERNATE COMPUTATION OF GROSS PROCEEDS. If products are sold or transferred to a person operating a smelting, refining or other processing or marketing facility which is located outside of the United States or to a controlled entity or controlling entity of the seller or transferor and if the secretary determines that the gross proceeds under sub. (1) (am) do not reflect or demonstrate the gross proceeds that would have been received from an unrelated purchaser for the product under similar circumstances, the gross proceeds shall be computed under this subsection. For the purpose of this subsection "control" means direct or indirect ownership of at least 50% of the total combined voting stock of the corporation. The gross proceeds shall be computed by multiplying that part of the production of recovered metalliferous minerals which were sold or transferred during the taxable year by the average price of that mineral for the taxable year and then subtracting the cost of postmining processes, including the cost of capital (interest and earnings) imputed to that production. The average price shall be computed from the monthly prices published in the engineering and mining journal as follows:

(a) Taconite pellets, lower lake ports price, net of unloading charges.

(b) Copper, United States producer price, F.O.B. refinery.

(c) Lead, United States producer price.

(d) Zinc, United States prime western price.

(e) Silver, United States producer price.

(f) Gold, London final price.

(g) Other metalliferous minerals or other forms of metalliferous minerals not including mineral aggregates such as stone, sand and gravel, at a price determined by the secretary, by rule, from a nationally known publication or other nationally known source listing prices of metalliferous minerals.

(4) DEDUCTIONS. If the costs are not excluded in determining gross proceeds and are actually incurred or accrued, there shall be allowed to persons subject to the tax under sub. (2) or (2m) the following deductions:

(a) The actual and necessary expenses incurred during the taxable year for labor, tools, appliances and supplies used in mining metalliferous minerals, including the labor of the lessee and the lessee's employees and the amount expended by the lessee for tools, appliances and supplies used by the lessee in the mining operation. The personal labor of the lessee shall be computed at the prevailing wage rate.

(b) The actual and necessary expenses for mining including extracting, transporting, milling, concentrating, smelting, refining, reducing, assaying, sampling, inventorying and handling the ore and for further processing and transferring related to the product for which gross proceeds are received, including the cost of capital (interest and earnings) imputed to smelting and refining expenses.

(c) The actual and necessary expenses for administrative, appraising, accounting, legal, medical, engineering, clerical and technical services directly related to mining metalliferous minerals in this state, excluding salaries and expenses for corporate officers and for lobbying, as defined in s. 13.62 (10).

(d) The actual and necessary expenses directly related to the repair and maintenance of any machinery, mills, reduction works, buildings, structures, other necessary improvements, tools, appliances and supplies used in mining metalliferous minerals extracted in this state.

(e) Except as provided in par. (em), federal income taxes paid, state income or franchise taxes paid, property taxes, sales taxes and use taxes paid and other taxes paid and deductible by corporations in computing net income under s. 71.26 (2) which are allocable to the mine, excluding the tax under this section.

(em) In the case of a mine owned by a corporation that owns other business operations or is part of an affiliated group of corporations eligible to file consolidated federal income tax returns, the determination of deductible state income or franchise taxes and federal income taxes shall be made by calculating the taxable income from the mine as though the mine were a separate entity and applying the federal income tax laws and state income or franchise tax laws to this income as though the mine were filing a separate income or franchise tax return. To calculate taxable income, federal taxable income as it applies to the depletion deduction under section 613 of the internal revenue code shall be adjusted to reflect the difference between Wisconsin income or franchise tax law and federal income tax law.

(f) Rents paid on personal property used in mining metalliferous minerals.

(g) The cost of relocating employees within this state.

(h) The cost of premiums for bonds required under s. 293.51.

(i) The cost of premiums for insurance on persons or tangible assets relating to mining metalliferous minerals.

(j) Losses from uninsured casualty losses and the sale of personal property used in mining metalliferous minerals.

(k) Depreciation or amortization on property used in connection with mining. With respect to property first eligible for depreciation or amortization before January 1, 1981, the deduction shall be limited to the deduction under s. 70.375 (4) (k), 1979 stats. With respect to property first eligible for depreciation or amortization on or after January 1, 1981, the deduction shall be limited to the amount allowable as a deduction to corporations in computing net income under s. 71.26 (2). The following assets may be depreciated or amortized:

1. Machinery, mills and reduction works.

2. Buildings, structures and other improvements.

3. Permit fees, license fees and any other fees for formal written authorization required by a department or instrumentality of the state.

4. Development of the mine after the date on which extraction begins.

(L) Royalties paid to owners of the mineral rights to the lands where the mine or an extension of the mine is located. In this paragraph, "owners" does not include the person mining or a controlled entity or controlling entity of the person mining.

(m) Amortization by a straight−line method over the life of the mine commencing with production of premining costs, including costs for drilling, geological and engineering studies, design of facilities, pilot mines, mine testing, environmental surveys, facilities siting surveys and other exploration and development activities.

(n) Expenses under par. (m) incurred after mining begins, those costs to be expensed currently.

(o) Actual and necessary reclamation and restoration costs associated with a mine in this state, including payments for future reclamation and postmining costs which are required by law or by department of natural resources order and fees and charges under chs. 281, 285 or 289 to 299 not otherwise deductible under this section. Any refunds of escrowed or reserve fund payments allowed as a deduction under this paragraph shall be taxed as net proceeds at the average effective tax rate for the years the deduction was taken.

(p) Interest determined as follows:

1. If the interest is specifically allocable to the development or operation of a mine or beneficiation facility from which net proceeds are derived, all of the interest is deductible.

2. If the interest is not specifically allocable to the development or operation of a mine or beneficiation facility, the proportion of the interest that equals the proportion of the capital investment in the mine and beneficiation facilities as compared to the taxpayer's total capital investment.

3. If a mine is owned by a corporation that is part of an affiliated group of corporations, "interest" means the interest paid to nonmembers of the group.

4. The deduction for interest under this paragraph shall not exceed 5% of the total gross proceeds for the taxable year.

(q) An allowance for depletion of ores on the basis of their actual original cost in cash or the equivalent of cash.

(r) Administrative fees under s. 70.3965.

(5) RATES. The tax to be assessed, levied and collected upon persons engaging in mining metalliferous minerals in this state shall be computed at the following rates:

(a) On the amount from $250,001 to $5,000,000, at a rate of 3%.

(b) On the amount from $5,000,001 to $10,000,000, at a rate of 7%.

(c) On the amount from $10,000,001 to $15,000,000, at a rate of 10%.

(d) On the amount from $15,000,001 to $20,000,000, at a rate of 13%.

(e) On the amount from $20,000,001 to $25,000,000, at a rate of 14%.

(f) On the amount exceeding $25,000,000, at a rate of 15%.

(6) INDEXING. For calendar year 1983 and corresponding fiscal years and thereafter, the dollar amounts in sub. (5) and s. 70.395 (1) and (2) (d) 1m. and 5. a. and (dg) shall be changed to reflect the percentage change between the gross national product deflator for June of the current year and the gross national product deflator for June of the previous year, as determined by the U.S. department of commerce as of December 30 of the year for which the taxes are due, except that no annual increase may be more than 10%. For calendar year 1983 and corresponding fiscal years and thereafter until calendar year 1997 and corresponding fiscal years, the dollar amounts in s. 70.395 (1m), 1995 stats., shall be changed to reflect the percentage change between the gross national product deflator for June of the current year and the gross national product deflator for June of the previous year, as determined by the U.S. department of commerce as of December 30 of the year for which the taxes are due, except that no annual increase may be more than 10%. The revised amounts shall be rounded to the nearest whole number divisible by 100 and shall not be reduced below the amounts under sub. (5) on November 28, 1981. Annually, the department shall adopt any changes in dollar amounts required under this subsection and incorporate them into the appropriate tax forms.

History: 1977 c. 31, 272; 1979 c. 32 s. 92 (1); 1981 c. 86, 314; 1983 a. 27 ss. 1184b to 1184m, 1803g, 1803r, 2202 (45); 1985 a. 29; 1987 a. 27; 1987 a. 312 ss. 1, 17; 1991 a. 39; 1993 a. 112; 1995 a. 27, 225, 227; 1997 a. 27, 237; 2005 a. 347.

Cross−reference: See also s. Tax 12.20, 12.21, and 12.23, Wis. adm. code.

NOTE: 2005 Wis. Act 347, which affected this section, contains extensive explanatory notes.

70.38 Reports, appeals, estimated liability.

(1) REPORTS. On or before June 15, persons mining metalliferous minerals shall file with the department a true and accurate report in the form the department deems necessary to administer the tax under s. 70.375. The books and records of the person shall be open to inspection and examination to employees of the department designated by the secretary and to the state geologist.

(1m) ESTIMATED LIABILITY. Upon written request and for sufficient reason shown, the department shall allow a person subject to the tax under s. 70.375 to file, on or before June 15, a net proceeds tax return and to pay that tax based upon estimated tax liability. On or before September 15, that person shall file a final report and pay any additional tax due along with interest at the rate of 1% per month from June 15 until the date of payment. If the additional tax exceeds 10% of the person's tax under s. 70.375 for the previous year, the penalty and interest under s. 70.39 (1) apply. If the final report indicates that the person overpaid the person's liability, the department shall refund the overpayment.

(2) COMBINED REPORTING. If the same person extracts metalliferous minerals from different sites in this state, the net proceeds for each site for which a permit has been issued under s. 293.49 shall be reported separately for the purposes of computing the amount of the tax under s. 70.375 (5).

(4) APPEALS. (a) Any person feeling aggrieved by the assessment notice shall, within 60 days after the receipt of the notice, file with the department a petition for redetermination setting forth the person's objections to the assessment. The person may request an informal conference with representatives of the department prior to September 15. The request shall be indicated in the petition. The secretary shall act on the petition on or before October 1. On or before November 1, the person shall pay the amount determined by the secretary pursuant to the secretary's action on the petition. If the person is aggrieved by the secretary's denial of the

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petition the person may appeal to the tax appeals commission if the appeal is filed with the commission on or before December 1.

(b) Determinations of the tax appeals commission shall be subject to judicial review under ch. 227.

History: 1977 c. 31; 1981 c. 86; 1983 a. 27; 1995 a. 227.

Cross−reference: See also ch. TA 1 and s. Tax 12.25, Wis. adm. code.

70.385 Collection of the tax. All taxes as evidenced by the report under s. 70.38 (1) are due and payable to the department on or before June 15, and shall be deposited by the department with the secretary of administration.

History: 1977 c. 31; 1981 c. 86; 1983 a. 27; 2003 a. 33.

70.39 Collection of delinquent tax. (1) Taxes due and unpaid on June 15 shall be deemed delinquent as of that date, and when delinquent shall be subject to a penalty of 4% of the tax and interest at the rate of 1.5% per month until paid. The parent shall be liable for any delinquent taxes of a subsidiary person. The department shall immediately proceed to collect the tax due, penalty, interest and costs. For the purpose of collection the department or its duly authorized agent has the same powers as conferred by law upon the county treasurer, county clerk, sheriff and district attorney.

(2) Any part of an assessment which is contested before the tax appeals commission or the courts, which after hearing shall be ordered to be paid, shall be considered as a delinquent tax if unpaid on the 10th day following the date of the final order and shall be subject to the penalty and interest provisions under sub. (1).

(3) After the tax becomes delinquent, the department shall issue a warrant to the sheriff of any county of the state in which the metalliferous mineral property is located in total or in part. The warrant shall command the sheriff to levy upon and sell sufficient of the person's metalliferous mineral property found within the sheriff's county, to pay the tax with the penalties, interest and costs, and to proceed in the same manner as upon an execution against property issued out of a court of record, and to return the warrant to the department and pay to it the money collected, or the part thereof as may be necessary to pay the tax, penalties, interest and costs, within 60 days after the receipt of the warrant, and deliver the balance, if any, after deduction of lawful charges to the person.

(4) (a) Within 5 days after the receipt of the warrant the sheriff shall file a copy of it with the clerk of circuit court of the county, unless the person makes satisfactory arrangements for payment with the department, in which case, the sheriff shall, at the direction of the department, return the warrant to it.

(b) The clerk of circuit court shall enter the warrant as a delinquent income or franchise tax warrant as required under s. 806.11. The clerk of circuit court shall accept, file, and enter the warrant without prepayment of any fee, but shall submit a statement of the proper fees within 30 days to the department of revenue. Upon audit by the department of administration on the certificate of the secretary of revenue, the secretary of administration shall pay the fees and the fees shall be charged to the proper appropriation for the department of revenue.

(c) The sheriff shall be entitled to the same fees for executing upon the warrant as upon an execution against property issued out of a court of record, to be collected in the same manner.

(d) Upon the sale of any real estate the sheriff shall execute a deed of the real estate, and the person may redeem the real estate as from a sale under an execution against property upon a judgment of a court of record. No public official may demand prepayment of any fee for the performance of any official act required in carrying out this section.

History: 1977 c. 31; 1983 a. 27; 1991 a. 39; 1995 a. 224; 2003 a. 33.

70.395 Distribution and apportionment of tax. (1) DEFINITION. In this section, "first−dollar payment" means an amount equal to $100,000 adjusted as provided in s. 70.375 (6).

(1e) DISTRIBUTION. Fifteen days after the collection of the tax under ss. 70.38 to 70.39, the department of administration, upon certification of the department of revenue, shall transfer the amount collected in respect to mines not in operation on November 28, 1981, to the investment and local impact fund.

(2) INVESTMENT AND LOCAL IMPACT FUND. (b) There is created an investment and local impact fund under the jurisdiction and management of the investment and local impact fund board, as created under s. 15.435.

(c) The board shall, according to procedures established by rule:

1. Certify to the department of administration the amount of funds to be distributed under pars. (d) to (g) and to be paid under par. (j).

2. Determine the amount which is not distributed under subd. 1. which shall be invested under s. 25.17 (1) (jc).

(d) Annually on the first Monday in January, except as provided in subd. 5. b. and c., the department of administration shall distribute, upon certification by the board:

1. To each county in which metalliferous minerals are extracted, the first−dollar payment.

1m. To each county in which metalliferous minerals are extracted, 20% of the tax collected annually under ss. 70.38 to 70.39 from persons extracting metalliferous minerals in the county or $250,000, whichever is less, to be used for mining−related purposes.

2. To each city, town or village in which metalliferous minerals are extracted, the first−dollar payment minus any payment during that year under par. (d) (intro.) or subd. 5. If the minable ore body is located in 2 contiguous municipalities and if at least 15% of the minable ore body is in each municipality, each qualifying municipality shall receive a full payment specified in this subdivision as if the ore body were located solely within that municipality. The department of revenue shall annually change the dollar amount specified in this subdivision as specified in s. 70.375 (6) except that the dollar amount may not be reduced below the dollar amount under this subdivision on November 28, 1981.

2m. To any Native American community that has tribal lands within a municipality qualified to receive a payment under this section, an amount equal to $100,000 minus any payments during that year under par. (d) (intro.) or subd. 5. Annually, the dollar amount in this subdivision shall be adjusted as specified under s. 70.375 (6).

3. Where the tax under ss. 70.37 to 70.39 is in respect to a mining site which is located in more than one county or municipality the distribution under subds. 1. and 2. shall be as follows:

a. On or before February 10 of each year persons extracting metalliferous minerals in this state shall report to the department the amount of crude ore extracted from each municipality and county in the state in the previous year. The data shall detail the total amount of crude ore extracted from each mine and the portion of the total taken from each municipality and county. This data shall be included in the report required by s. 70.38 (1) and (2).

c. Each county's proportion of the amount determined under subd. 1. shall be equal to the ratio of the amount of crude ore extracted from the mine in that county to the total amount of crude ore extracted from the mine multiplied by the amount determined under subd. 1.

4. To the investment and local impact fund an amount equal to 10% of the taxes paid by each mine plus all accrued interest on that amount for a project reserve fund. The funds shall be withdrawn by the investment and local impact fund board to be used for the following purposes in respect to the municipality or municipalities in which the mine is located:

a. To ensure an annual payment to each municipality under subds. 1. and 2. in an amount equal to the average payment for the 3 previous years to that municipality.

b. To reimburse municipalities for costs associated with the cessation of mining operations.

c. To indemnify municipalities for reclamation expenses.

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5. a. To each municipality that contains a metalliferous mining site in respect to which an application for a mining permit has been made prior to January 1, 1986, until a final decision is made on that application or for 4 years, whichever is the shorter period, $100,000 annually. To each municipality that contains a metalliferous mining site at which construction has begun prior to January 1, 1989, but at which extraction has not been engaged in for at least 3 years, $100,000 annually. The funds under this subdivision shall be used only for mining−related purposes. Payments under this subdivision are payable 30 days following submission of the application or commencement of construction. Payments shall be made on a project fiscal year basis commencing on the date of submission or commencement of construction. In this subdivision, "municipality" means a city, town or village and any Native American community contained within such a city, town or village.

b. Annually, after the board has determined that the use of the funds is for mining−related purposes associated with construction of the specific project in the project fiscal year, to each county that contains a metalliferous mining site at which construction is begun prior to January 1, 1989, but at which extraction has not been engaged in, $300,000 annually reduced by the amount of property taxes paid to the county during the current fiscal year on improvements and also reduced by any payments received under subds. 1. and 1m. The funds under this subparagraph shall be used only for mining−related purposes. Payments shall be made on a project fiscal year basis commencing on the date of commencement of construction, and are payable 30 days following the close of the fiscal year.

c. To each Native American community, county, city, town and village that contains at least 15% of a minable ore body in respect to which construction has begun at a metalliferous mining site but in respect to which extraction has not begun, $100,000 as a one−time payment. Those payments shall be made on or before the date 30 days after the beginning of construction.

(dc) 1. Each person intending to submit an application for a mining permit shall pay $50,000 to the department of revenue for deposit in the investment and local impact fund at the time that the person notifies the department of natural resources under s. 293.31 (1) of that intent.

2. A person making a payment under subd. 1. shall pay an additional $50,000 upon notification by the board that the board has distributed 50% of the payment under subd. 1.

3. A person making a payment under subd. 2. shall pay an additional $50,000 upon notification by the board that the board has distributed all of the payment under subd. 1. and 50% of the payment under subd. 2.

4. Six months after the signing of a local agreement under s. 293.41 for the proposed mine for which the payment is made, the board shall refund any funds paid under this paragraph but not distributed under par. (fm) from the investment and local impact fund to the person making the payment under this paragraph.

(dg) Each person constructing a metalliferous mining site shall pay to the department of revenue for deposit in the investment and local impact fund, as a construction fee, an amount sufficient to make the construction period payments under par. (d) 5. in respect to that site. Any person paying a construction fee under this paragraph may credit against taxes due under s. 70.375 an amount equal to the payments that the taxpayer has made under this paragraph, provided that the credit does not reduce the taxpayer's liability under s. 70.375 below the amount needed to make the first−dollar payments under par. (d) 1., 2. and 2m. for that year in respect to the taxpayer's mine. Any amount not creditable because of that limitation in any year may be carried forward.

(e) If the appropriations under ss. 20.566 (7) (e) and (v) in any year are insufficient to make all payments under par. (d), full payments shall be made in the order listed in subds. 1. to 4., except that construction period payments under par. (d) 5. for which a person mining has made a construction fee payment under par. (dg) shall be made first. If funds are insufficient to pay the full amounts payable at a particular priority level listed in subds. 1. to 4., payments shall be prorated among the entities entitled to payments at that level:

1. Payments under par. (d) 1., 2. and 2m.

2. Payments under par. (d) 1m.

3. Payments under par. (d) 4.

4. Mining permit application payments under par. (d) 5.

(f) A school district may apply to the board for payments from the fund in an amount equal to the school district's nonshared costs. If the board finds that the school district has incurred costs attributable to enrollment resulting from the development and operation of metalliferous mineral mining and if the board and the school board of the school district reach an agreement on a payment schedule, the board shall certify to the department of administration for payment to the school district an amount equal to all or part of the nonshared costs of the school district in the year in which the initial agreement was reached. The board and the school district may, by mutual consent, modify the provisions of the agreement at any time. The payment shall be considered a nondeductible receipt for the purposes of s. 121.07 (6). In this paragraph, "nonshared costs" means the amount of the school district's principal and interest payments on long−term indebtedness and annual capital outlay for the current school year, which is not shared under s. 121.07 (6) (a) or other nonshared costs and which is attributable to enrollment increases resulting from the development of metalliferous mineral mining operations.

(fm) The board may distribute a payment received under par. (dc) to a county, town, village, city, tribal government or local impact committee authorized under s. 293.41 (3) only for legal counsel, qualified technical experts in the areas of transportation, utilities, economic and social impacts, environmental impacts and municipal services and other reasonable and necessary expenses incurred by the recipient that directly relate to the good faith negotiation of a local agreement under s. 293.41 for the proposed mine for which the payment is made.

(g) The board may distribute the revenues received under sub. (1e) or proceeds thereof in accordance with par. (h) for the following purposes, as the board determines necessary:

1. Protective services, such as police and fire services associated with the construction and operation of the mine site.

2. Highways, as defined in s. 990.01 (12), repaired or constructed as a consequence of the construction and operation of the mine site.

3. Studies and projects for local development.

4. Monitoring the effects of the mining operation on the environment.

5. Extraordinary community facilities and services provided as a result of mining activity.

6. Legal counsel and technical consultants to represent and assist municipalities appearing before state agencies on matters relating to metalliferous mineral mining.

7. Other expenses associated with the construction, operation, cessation of operation or closure of the mine site.

8. The preparation of areawide community service plans for municipalities applying for funds under par. (h) which identify social, economic, educational and environmental impacts associated with mining and set forth a plan for minimizing the impacts.

9. Provision of educational services in a school district.

10. Expenses attributable to a permanent or temporary closing of a mine including the cost of providing retraining and other educational programs designed to assist displaced workers in finding new employment opportunities and the cost of operating any job placement referral programs connected with the curtailment of mining operations in any area of this state.

(h) Distribution under par. (g) shall be as follows:

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1. Distribution shall first be made to those municipalities in which metalliferous minerals are extracted or were extracted within 3 years previous to December 31 of the current year, or in which a permit has been issued under s. 293.49 to commence mining;

2. Distribution shall next be made to those municipalities adjacent to municipalities in which metalliferous minerals are extracted or were extracted more than 3 years, but less than 7 years previous to December 31 of the current year;

3. Distribution shall next be made to those municipalities which are not adjacent to municipalities in which metalliferous minerals are extracted and in which metalliferous minerals are not extracted.

(hg) The board shall, by rule, establish fiscal guidelines and accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub. (3) and s. 293.65 (5).

(hr) The board shall, by rule, establish procedures to recoup payments made, and to withhold payments to be made, under pars. (d), (f), (fm) and (g), sub. (3) and s. 293.65 (5) for noncompliance with this section or rules adopted under this section.

(hw) A recipient of a discretionary payment under par. (f) or (g), sub. (3) or s. 293.65 (5) or any payment under par. (d) that is restricted to mining−related purposes who uses the payment for attorney fees may do so only for the purposes under par. (g) 6. and for processing mining−related permits or other approvals required by the municipality. The board shall recoup or withhold payments that are used or proposed to be used by the recipient for attorney fees except as authorized under this paragraph. The board may not limit the hourly rate of attorney fees for which the recipient uses the payment to a level below the hourly rate that is commonly charged for similar services.

(i) The board may require financial audits of all recipients of payments made under pars. (d) to (g). The board shall require that all funds received under pars. (d) to (g) be placed in a segregated account. The financial audit may be conducted as part of a municipality's or county's annual audit, if one is conducted. The cost of the audits shall be paid by the board from the appropriation under s. 20.566 (7) (g).

(j) Prior to the beginning of a fiscal year, the board shall certify to the department of administration for payment from the investment and local impact fund any sum necessary for the department of natural resources to make payments under s. 289.68 (3) for the long−term care of mining waste sites, if moneys in the waste management fund are insufficient to make complete payments during that fiscal year, but this sum may not exceed the balance in the waste management fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

(k) Prior to the beginning of each fiscal year, the board shall certify to the department of administration for payment from the investment and local impact fund any sum necessary for the department of natural resources to make payments under s. 292.31 for the environmental repair of mining waste sites, if moneys in the environmental fund that are available for environmental repair are insufficient to make complete payments during that fiscal year. This sum may not exceed the balance in the environmental fund at the beginning of that fiscal year or 50% of the balance in the investment and local impact fund at the beginning of that fiscal year, whichever amount is greater.

(3) FEDERAL REVENUE DISTRIBUTION. The investment and local impact fund board shall distribute federal mining revenue received by the state from the sales, bonuses, royalties and rentals of federal public lands located within the state. The distribution of such federal revenues by the board shall give priority to those municipalities socially or economically impacted by mining on such federal lands and shall be used for planning, construction and maintenance of public facilities or provision of public services. The funds distributed under this subsection may be used only for mining−related purposes.

History: 1977 c. 31, 185, 423; 1979 c. 34 s. 2102 (46) (c); 1979 c. 63; 1979 c. 175 s. 53; 1981 c. 86 ss. 27 to 36, 71; 1981 c. 374 s. 150; 1983 a. 27 ss. 1184u to 1185r, 2202 (38) and (45); 1983 a. 410 ss. 22, 2202 (38); 1985 a. 29 ss. 1214s to 1214z, 3200 (46) (a); 1985 a. 332 s. 253; 1987 a. 399; 1989 a. 31; 1991 a. 39, 259; 1995 a. 27, 227; 1997 a. 27; 1999 a. 32.

Cross−reference: See also ch. Tax 13, Wis. adm. code.

The legislature has vested the board with the power to make discretionary distributions under sub. (2) (g). Kammes v. Wisconsin Mining Investment & Local Impact Fund Board, 115 Wis. 2d 144, 340 N.W.2d 206 (Ct. App. 1983).

Grants under this section would not violate the public purpose doctrine and the internal improvements clause of the Wisconsin Constitution. 70 Atty. Gen. 48.

70.396 Use of metalliferous mining tax payments by counties. Counties receiving payments under s. 70.395 (2) (d) 1. shall expend the funds for any or all of the following uses:

(1) For mining−related purposes.

(2) Funds may be placed in the county mining investment fund for investment by the state investment board or may be placed in a segregated account with a financial institution located in the state. The funds may be withdrawn only at a later date to alleviate impacts associated with the closing of a metalliferous mine in the county or the curtailment of metalliferous mining activity in the county. If a county deposits mining impact funds in the county mining investment fund, withdrawals from the fund shall be subject to the restrictions described under s. 25.65 (4). If a county deposits mining impact funds with a financial institution located in this state, withdrawals made within 10 years of deposit shall be subject to the review and approval of the investment and local impact fund board. The county shall notify the board of withdrawals made 10 years after deposit. The county shall report annually to the impact board any deposits, withdrawals and use of mining impact funds in that year.

(3) A maximum of $25,000 annually may be distributed by a county to any town, city or village in the county where the extraction of metalliferous minerals is occurring.

History: 1977 c. 423; 1981 c. 87; 1985 a. 29; 1991 a. 259.

70.3965 Fund administrative fee. There is imposed an investment and local impact fund administrative fee on each person that has gross proceeds. On or before July 31 the department shall calculate the fee imposed on each such person by dividing the person's gross proceeds for the previous year by the total gross proceeds of all persons for that year and by multiplying the resulting fraction by the amount expended under s. 20.566 (7) (g) for the previous fiscal year. Each person who is subject to a fee under this section shall pay that fee on or before August 15.

History: 1995 a. 27.

70.397 Oil and gas severance tax. (1) DEFINITIONS. In this section:

(a) "Department" means the department of revenue.

(b) "Market value" means the sales price or market value of oil or gas at the mouth of the well, except that if the oil or gas is exchanged for something other than cash, if there is no sale between the time of severance and the due date of the tax or if the department determines that the oil or gas was not sold in an arm's length transaction, "market value" means the value determined by the department based upon a consideration of the sales price of oil or gas of similar quality.

(c) "Producer" means any person owning, controlling, managing or leasing any oil or gas property, any person who severs oil or gas from the soil or water and any person owning a royalty or other interest in oil or gas.

(2) IMPOSITION. A severance tax is imposed upon each producer who severs oil or gas from the soil or water of this state. The amount of the tax is 7% of the market value of the total production of oil or gas during the previous year. If more than one producer severs oil or gas at a location, the tax imposed under this section is levied upon the producers of oil or gas in the proportion of their

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ownership at the time of severance but shall be paid by the person in charge of the production operation, who may deduct the amount of tax imposed upon a producer from the payments due that producer.

(3) REPORTS; ADMINISTRATION. (a) Sections 70.38 (1), 70.385 and 70.39, as they apply to the tax under s. 70.375 (2m), apply to the tax under this section. If a producer severs oil or gas from more than one location in this state, the producer shall submit a report for each location separately.

(b) Sections 71.74 (2), (9), (11), (14) and (15), 71.77, 71.78, 71.80 (6), 71.83 (1) (a) 1. and 2. and (2) (a) 2. and 3. and 71.85 (2), as they apply to the taxes under ch. 71, apply to the tax under this section.

(c) Any person feeling aggrieved by an assessment notice under this section may, within 60 days after receipt of the notice, file with the department a petition for redetermination setting forth the person's objections to the assessment. In the petition, the person may request an informal conference with representatives of the department. The secretary of revenue shall act on the petition within 90 days after receipt of the petition for redetermination. If the person is aggrieved by the secretary's denial of the petition, the person may appeal to the tax appeals commission if the appeal is filed with the commission within 30 days after the petition is denied.

(d) No petition for redetermination may be filed, acted upon or appealed unless the tax objected to is paid by the due date.

(e) The department shall administer the tax under this section.

History: 1991 a. 262.

70.40 Occupational tax on iron ore concentrates. (1) Every person operating an iron ore concentrates dock in this state shall on or before January 31 of each year pay an annual occupational tax equal to 5 cents per ton upon all iron ore concentrates handled by or over the dock during the year ending on the December 31 which is 2 years prior to the payment due date. In this section "dock" means a wharf or platform for the loading or unloading of materials to or from ships.

(2) Every person on whom a tax is imposed by sub. (1) shall, on May 1 of each year, furnish to the assessor of the town, city or village in which the dock is situated, a full and true list or statement of all iron ore concentrates received or handled by the person during the year ending on April 30 of such year. Beginning in 1979, the list shall be furnished on February 1 and apply to the year ending on the preceding December 31. Any such person who willfully fails or refuses to furnish the list or statement or who knowingly makes or furnishes a false or incorrect list or statement, shall be fined not exceeding $1,000.

(3) The tax provided for in this section shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by the assessor to the town, village or city clerk and shall be entered by the clerk on the tax roll. The tax is a special tax under ch. 74 and shall be deductible from gross income for income or franchise tax purposes as personal property taxes are deductible by corporations in computing net income under s. 71.26 (2). Taxes collected under this section shall be divided as follows: 30% to the state general fund and 70% to the town, city or village in which the 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 has reason to believe that the list or statement made by any person is incorrect, or when any such person fails or refuses to furnish a list or statement as required by law, the assessor or board of review shall place on the assessment roll such assessment against the person as they deem true and just. If such change or assessment is made by the assessor, the assessor shall give written notice of the amount of the assessment at least 6 days before the first or some adjourned meeting of the board of review. If such change or assessment is made by the board of review, notice shall be given in time to allow the person to appear and be heard before the board of review in relation to the assessment. Notice may be served as a circuit court summons is served or by registered mail.

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

History: 1977 c. 29, 418; 1985 a. 29; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 378, 403; 1991 a. 39.

Imposition by a city of a tax under s. 70.40 was precluded by federal law as being discriminatory against railroads. Burlington Northern v. City of Superior, 932 F.2d 1185 (1991).

70.41 Occupation tax on grain storage. (1) GRAIN TAX. Every person 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 January 31 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 year ending on the December 31 which is 2 years prior to the payment due date; and such grain shall be exempt from all taxation, either state or municipal.

(2) STATEMENT FOR ASSESSMENT OF GRAIN STORAGE. Every person on whom a tax is imposed by sub. (1) shall on February 1 of each year furnish to the assessor of the town, city or village within which the grain elevator or warehouse is situated, a full and true list or statement of all grain specifying the respective amounts and different kinds received in or handled by the elevator or warehouse during the year immediately preceding January 1 of the year in which the list or statement is to be made. Any such operator of an elevator or warehouse who fails or refuses to furnish the list or statement or who knowingly makes or furnishes a false or incorrect list or statement, shall be fined not exceeding $1,000.

(3) ASSESSMENT AND COLLECTION OF TAX ON GRAIN STORAGE. The tax under this section shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by the assessor to the town, village or city clerk and shall be entered by the clerk on the tax roll. The tax is a special tax under ch. 74.

(4) FAILURE TO SUBMIT CORRECT STATEMENT FOR GRAIN STORAGE ASSESSMENT. If the assessor or board of review has reason to believe that the list or statement made by any person is incorrect, or when any such person 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 as they 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 6 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 to appear and be heard before the board of review in relation to said assessment; said notice may be served as a circuit court summons is served or by registered mail.

(5) TAXATION STATUTES APPLICABLE TO GRAIN STORAGE TAXATION. All laws not in conflict with 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 imposed under this section.

History: 1977 c. 29 ss. 751, 1647 (3); 1979 c. 89; 1983 a. 192; 1987 a. 27, 378.

70.42 Occupation tax on coal. (1) Every person 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 the industry, shall on or before January 31 of each year pay an annual occupation tax of a sum equal to 5 cents per ton upon all bituminous and subbituminous coal, coke and briquettes, and upon all petroleum carbon, coke and briquettes, and 7 cents per ton upon all anthracite coal, coke and briquettes handled by or over such coal dock, during the preceding year ending April 30 except that as of December 15, 1979, such tax shall apply to the year ending on the December 31 which is 2 years prior to the pay-

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ment due date. Such coal, petroleum carbon, coke and briquettes shall be exempt from all other taxation, either state or municipal.

(2) Every person on whom a tax is imposed by sub. (1) shall on February 1 of each year furnish to the assessor of the town, city or village within which the coal dock is situated, a full and true list or statement of all coal, specifying the respective amounts and different kinds, received in or on, or handled by or over the coal dock during the year immediately preceding January 1 of the year in which the list or statement is to be made. Any operator of a coal dock who fails or refuses to furnish the list or statement or who knowingly makes or furnishes a false or incorrect list or statement, shall be fined not exceeding $1,000.

(3) The tax provided for in this section shall be separately assessed to the person chargeable therewith by the assessor and shall be included in the assessment roll annually submitted by the assessor to the town, village or city clerk and shall be entered by the clerk on the tax roll. The tax is a special tax under ch. 74 and when paid shall be deductible from gross income for income or franchise tax purposes as personal property taxes are deductible by corporations in computing net income under s. 71.26 (2). Taxes collected under this section shall be divided as follows: 10% to the state, 20% to the county, and 70% to the town, city or village in which the 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 has reason to believe that the list or statement made by any person is incorrect, or when any such person 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 as they 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 6 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 to appear and be heard before the board of review in relation to said assessment; said notice may be served as a circuit court summons is served or by registered mail.

(5) All laws not in conflict with 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 imposed under this section.

History: 1977 c. 29; 1979 c. 89; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 378, 403; 1991 a. 39.

70.421 Occupational tax on petroleum and petroleum products refined in this state. (1) Every person operating a crude oil refinery in this state, shall on or before January 31 of each year pay an annual occupation tax of a sum equal to 5 cents per ton upon all crude oil handled during the preceding year ending April 30 except that as of December 15, 1979, such tax shall apply to the year ending the December 31 which is 2 years prior to the payment due date. All such crude oil so handled and all petroleum products refined therefrom, in the possession of the refinery, shall be exempt from all personal property taxation, either state or municipal.

(2) Every person on whom a tax is imposed by sub. (1) shall on February 1 of each year furnish to the assessor of the town, city or village within which the refinery is situated, a full and true list or statement of all crude oil handled and all petroleum products refined specifying the respective amounts and different kinds, refined by the refinery during the year immediately preceding January 1 of the year in which the list or statement is to be made. Any operator of a refinery who fails or refuses to furnish the list or statement or who knowingly makes or furnishes a false or incorrect list or statement, shall be fined not exceeding $1,000.

(3) The tax provided for shall be separately assessed to the person 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 taxing district where such refinery is situated, and shall be deductible from gross income for income or franchise tax purposes in the same manner as personal property taxes are deductible by corporations in computing net income under s. 71.26 (2). Such tax is a special tax under ch. 74 and the entire proceeds of such tax shall be retained by such taxing district.

(4) If the assessor or board of review has reason to believe that the list or statement made by any person is incorrect, or when any such person 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 as the assessor or board of review deems 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 6 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 to appear and be heard before the board of review in relation to said assessment; said notice may be served as a circuit court summons is served or by registered mail.

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

(6) This section shall apply to the year ending April 30, 1957, and subsequent years.

History: 1977 c. 29; 1979 c. 89; 1987 a. 27; 1987 a. 312 s. 17; 1987 a. 378, 403; 1991 a. 39, 316.

70.43 Correction of errors by assessors. (1) In this section, "palpable error" means an error under s. 74.33 (1).

(2) If the assessor discovers a palpable error in the assessment of a tract of real estate or an item of personal property that results in the tract or property having an inaccurate assessment for the preceding year, the assessor shall correct that error by adding to or subtracting from the assessment for the preceding year. The result shall be the true assessed value of the property for the preceding year. The assessor shall make a marginal note of the correction on that year's assessment roll.

(3) The dollar amount of the adjustment determined in the correction under sub. (2) shall be referred to the board of review and, if certified by that board, shall be entered in a separate section of the current assessment roll, as prescribed by the department of revenue, and shall be used to determine the amount of additional taxes to be collected or taxes to be refunded. The dollar amount of the adjustment may be appealed to the board of review in the same manner as other assessments. The taxes to be collected or refunded shall be determined on the basis of the net tax rate of the previous year, taking into account credits under s. 79.10. The taxes to be collected or refunded shall be reflected on the tax roll in the same manner as omitted property under s. 70.44, but any such adjustment may not be carried forward to future years. The governing body of the taxation district shall proceed under s. 74.41.

(4) As soon as practicable, the assessor shall provide written notice of the correction to the person assessed. That notice shall include information regarding that person's appeal rights to the board of review.

History: 1983 a. 300; 1987 a. 378; 1991 a. 39.

This section provides a taxpayer with a substantive right and procedure to recover unlawful taxes. IBM Credit Corp. v. Village of Allouez, 188 Wis. 2d 143, 524 N.W.2d 132 (Ct. App. 1993).

70.44 Assessment; property omitted. (1) Real or personal property omitted from assessment in any of the 2 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 of omission and affixing a just valuation to each entry for a former year as the same should then have been assessed

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according to the assessor's best judgment, and taxes shall be apportioned, using the net tax rate as provided in s. 70.43, and collected on the tax roll for such entry. This section shall not apply to manufacturing property assessed by the department of revenue under s. 70.995.

(2) Any property assessment increased by a local board of review under s. 70.511 shall be entered in the assessment roll as prescribed under sub. (1).

(3) As soon as practicable, the assessor shall provide written notice concerning the discovery of property omitted from assessment and concerning that person's appeal rights to the board of review to the owner of the property.

History: 1975 c. 39; 1983 a. 300; 1987 a. 378; 1991 a. 316; 1997 a. 35, 250; 1999 a. 32.

70.45 Return and examination of rolls. When the assessment rolls have been completed in cities of the 1st class, they shall be delivered to the commissioner of assessments, in all other cities to the city clerk, in villages to the village clerk and in towns to the town clerk. At least 15 days before the first day on which the assessment rolls are open for examination, these officials shall have published a class 1 notice if applicable, or posted notice, under ch. 985, in anticipation of the roll delivery as provided in s. 70.50, that on certain days, therein named, the assessment rolls will be open for examination by the taxable inhabitants, which notice may assign a day or days for each ward, where there are separate assessment rolls for wards, for the inspection of rolls. The assessor shall be present for at least 2 hours while the assessment roll is open for inspection. Instructional material under s. 73.03 (54) shall be available at the meeting. On examination the commissioner of assessments, assessor or assessors may make changes that are necessary to perfect the assessment roll or rolls, and after the corrections are made the roll or rolls shall be submitted by the commissioner of assessments or clerk of the municipality to the board of review.

History: 1981 c. 20; 1991 a. 156; 1997 a. 237; 1999 a. 32.

70.46 Boards of review; members; organization. (1) Except as provided in sub. (1m) and s. 70.99, the supervisors and clerk of each town, the mayor, clerk and such other officers, other than assessors, as the common council of each city by ordinance determines, the president, clerk and such other officers, other than the assessor, as the board of trustees of each village by ordinance determines, shall constitute a board of review for the town, city or village. In cities of the 1st class the board of review shall by ordinance in lieu of the foregoing consist of 5 to 9 residents of the city, none of whom may occupy any public office or be publicly employed. The members shall be appointed by the mayor of the city with the approval of the common council and shall hold office as members of the board for staggered 5−year terms. Subject to sub. (1m), in all other towns, cities and villages the board of review may by ordinance in lieu of the foregoing consist of any number of town, city or village residents and may include public officers and public employees. The ordinance shall specify the manner of appointment. The town board, common council or village board shall fix, by ordinance, the salaries of the members of the board of review. No board of review member may serve on a county board of review to review any assessment made by a county assessor unless appointed as provided in s. 70.99 (10).

(1a) Whenever the duties of assessor are performed by one of the officers named to the board of review by sub. (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.

(1m) (a) A person who is appointed to the office of town clerk, town treasurer or to the combined office of town clerk and town treasurer under s. 60.30 (1e) may not serve on a board of review under sub. (1).

(b) If a town board of review under sub. (1) had as a member a person who held the elective office of town clerk, town treasurer or the combined office of town clerk and town treasurer, and the town appoints a person to hold one or more of these offices under s. 60.30 (1e), the town board shall fill the seat on the board of review formerly held by an elective office holder by an elector of the town.

(2) The town, city or village clerk on such board of review and in cities of the first class the commissioner of assessments on such board of review or any person on the commissioner's staff designated by the commissioner shall be the clerk thereof and keep an accurate record of all its proceedings.

(3) The members of such board, except members who are full time employees 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.

(4) No board of review may be constituted unless it includes at least one voting member who, within 2 years of the board's first meeting, has attended a training session under s. 73.03 (55) and unless that member is the municipality's chief executive officer or that officer's designee. The municipal clerk shall provide an affidavit to the department of revenue stating whether the requirement under this subsection has been fulfilled.

History: 1971 c. 180; 1973 c. 90; 1975 c. 427; 1979 c. 58; 1991 a. 156, 316; 1995 a. 34; 1997 a. 237; 1999 a. 32.

Prejudice of a board of review is not shown by the fact that the members are taxpayers. Berg Equipment Corp. v. Spencer Board of Review, 53 Wis. 2d 233, 191 N.W.2d 892 (1971).

A town clerk's compensation may be increased for service on the board of review if the clerk has been designated part−time by the town meeting. 79 Atty. Gen. 176.

70.47 Board of review proceedings. (1) TIME AND PLACE OF MEETING. The board of review shall meet annually at any time during the 30−day period beginning on the 2nd Monday of May. In towns and villages the board shall meet at the town or village hall or some place designated by the town or village board. If there is no such hall, it shall meet at the clerk's office, or in towns at the place where the last annual town meeting was held. In cities the board shall meet at the council chamber or some place designated by the council and in cities of the 1st class in some place designated by the commissioner of assessments of such cities. A majority shall constitute a quorum except that 2 members may hold any hearing of the evidence required to be held by such board under subs. (8) and (10), if the requirements of sub. (9) are met.

(2) NOTICE. At least 15 days before the first session of the board of review, the clerk of the board of review shall publish a class 1 notice, place a notice in at least 3 public places and place a notice on the door of the town hall, of the village hall, of the council chambers or of the city hall of the time and place of the first meeting of the board of review under sub. (3) and of the requirements under sub. (7) (aa) and (ac) to (af). A taxpayer who shows that the clerk failed to publish the notice under this subsection may file a claim under s. 74.37.

(2m) OPEN MEETINGS. All meetings of the board of review shall be publicly held and open to all citizens at all times. No formal action of any kind shall be introduced, deliberated upon or adopted at any closed session or meeting of a board of review.

(3) SESSIONS. (a) At its first meeting, the board of review:

1. Shall receive the assessment roll and sworn statements from the clerk.

2. Shall be in session at least 2 hours for taxpayers to appear and examine the assessment roll and other assessment data.

3. Shall schedule for hearing each written objection that it receives during the first 2 hours of the meeting or that it received prior to the first meeting.

4. Shall grant a waiver of the 48−hour notice of an intent to file a written or oral objection if a property owner who does not meet the notice requirement appears before the board during the first 2 hours of the meeting, shows good cause for failure to meet the 48−hour notice requirement and files a written objection.

5. May hear any written objections if the board gave notice of the hearing to the property owner and the assessor at least 48 hours before the beginning of the scheduled meeting or if both the

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property owner and the assessor waive the 48−hour notice requirement.

(ag) The assessor shall be present at the first meeting of the board of review.

(ah) For each properly filed written objection that the board receives and schedules during its first meeting, but does not hear at the first meeting, the board shall notify each objector and the assessor, at least 48 hours before an objection is to be heard, of the time of that hearing. If, during any meeting, the board determines that it cannot hear some of the written objections at the time scheduled for them, it shall create a new schedule, and it shall notify each objector who has been rescheduled, at least 48 hours before the objection is to be heard, of the new time of the hearing.

(ak) If an objector fails to provide written or oral notice of an intent to object 48 hours before the first scheduled meeting, fails to request a waiver of the notice requirement under par. (a) 4., appears before the board at any time up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days, files a written objection and provides evidence of extraordinary circumstances; the board of review may waive all notice requirements and hear the objection.

(aL) If the assessment roll is not completed at the time of the first meeting, the board shall adjourn for the time necessary to complete the roll, and shall post a written notice on the outer door of the place of meeting stating the time to which the meeting is adjourned.

(ar) With respect to the assessment rolls of taxing districts prepared by a county assessor, the board of review as constituted under s. 70.99 (10) shall schedule a meeting in each taxing jurisdiction on specific dates and shall comply with the provisions of this subsection and sub. (2) in each taxing district.

(b) The municipal governing body may by ordinance or resolution designate hours, other than those set forth in par. (a), during which the board shall hold its first meeting, but not fewer than 2 hours on the first meeting day between 8 a.m. and midnight. Such change in the time shall not become effective unless notice thereof is published in the official newspaper if in a city, or posted in not less than 3 public places if in any other municipality, at least 15 days before such first meeting.

(4) ADJOURNMENT. The board may adjourn from time to time until its business is completed. 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) RECORDS. The clerk shall keep a record in the minute book of all proceedings of the board.

(6) BOARD'S DUTY. The board shall carefully examine the roll or rolls and correct all apparent errors in description or computation, and shall add all omitted property as provided in sub. (10). The board shall not raise or lower the assessment of any property except after hearing as provided in subs. (8) and (10).

(6m) REMOVAL OF A MEMBER. (a) A municipality, except a 1st class city or a 2nd class city, shall remove, for the hearing on an objection, a member of the board of review if any of the following conditions applies:

1. A person who is objecting to a valuation, at the time that the person provides written or oral notice of an intent to file an objection and at least 48 hours before the first scheduled session of the board of review or at least 48 hours before the objection is heard if the objection is allowed under sub. (3) (a), requests the removal, except that no more than one member of the board of review may be removed under this subdivision.

2. A member of the board of review has a conflict of interest under an ordinance of the municipality in regard to the objection.

3. A member of the board of review has a bias in regard to the objection and, if a party requests the removal of a member for a bias, the party submits with the request an affidavit stating that the party believes that the member has a personal bias or prejudice against the party and stating the nature of that bias or prejudice.

(b) A member of a board of review who would violate s. 19.59 by hearing an objection shall recuse himself or herself from that hearing. The municipal clerk shall provide to the department of revenue an affidavit declaring whether the requirement under this paragraph is fulfilled.

(c) If a member or members are removed under par. (a) or are recused under par. (b), the board may replace the member or members or its remaining members may hear the objection, except that no fewer than 3 members may hear the objection.

(6r) COMMENTS. Any person may provide to the municipal clerk written comments about valuations, assessment practices and the performance of an assessor. The clerk shall provide all of those comments to the appropriate municipal officer.

(7) OBJECTIONS TO VALUATIONS. (a) The board of review may not hear an objection to the amount or valuation of property unless, at least 48 hours before the board's first scheduled meeting, the objector provides to the board's clerk written or oral notice of an intent to file an objection, except that, upon a showing of good cause and the submission of a written objection, the board shall waive that requirement during the first 2 hours of the board's first scheduled meeting, and the board may waive that requirement up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days with proof of extraordinary circumstances for failure to meet the 48−hour notice requirement and failure to appear before the board of review during the first 2 hours of the first scheduled meeting. Objections to the amount or valuation of property shall first be made in writing and filed with the clerk of the board of review within the first 2 hours of the board's first scheduled meeting, except that, upon evidence of extraordinary circumstances, the board may waive that requirement up to the end of the 5th day of the session or up to the end of the final day of the session if the session is less than 5 days. The board may require such objections to be submitted on forms approved by the department of revenue, and the board shall require that any forms include stated valuations of the property in question. Persons who own land and improvements to that land may object to the aggregate valuation of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. No person shall be allowed in any action or proceedings to question the amount or valuation of property unless such written objection has been filed and such person in good faith presented evidence to such board in support of such objections and made full disclosure before said board, under oath of all of that person's property liable to assessment in such district and the value thereof. The requirement that it be in writing may be waived by express action of the board.

(aa) No person shall be allowed to appear before the board of review, to testify to the board by telephone or to contest the amount of any assessment of real or personal property if the person has refused a reasonable written request by certified mail of the assessor to view such property.

(ab) For the purpose of this section, the managing entity, as defined in s. 707.02 (15), or its designees, may be considered the taxpayer as an agent for the time−share owner, as defined in s. 707.02 (31), and may file one objection and make one appearance before the board of review concerning all objections relating to a particular real property improvement and the land associated with it. A time−share owner may file one objection and make one appearance before the board of review concerning the assessment of the building unit in which he or she owns a time share.

(ac) After the first meeting of the board of review and before the board's final adjournment, no person who is scheduled to appear before the board of review may contact, or provide information to, a member of the board about that person's objection except at a session of the board.

(ad) No person may appear before the board of review, testify to the board by telephone or contest the amount of any assessment unless, at least 48 hours before the first meeting of the board or at

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least 48 hours before the objection is heard if the objection is allowed under sub. (3) (a), that person provides to the clerk of the board of review notice as to whether the person will ask for removal under sub. (6m) (a) and if so which member will be removed and the person's reasonable estimate of the length of time that the hearing will take.

(ae) When appearing before the board, the person shall specify, in writing, the person's estimate of the value of the land and of the improvements that are the subject of the person's objection and specify the information that the person used to arrive at that estimate.

(af) No person may appear before the board of review, testify to the board by telephone or object to a valuation; if that valuation was made by the assessor or the objector using the income method; unless the person supplies to the assessor all of the information about income and expenses, as specified in the manual under s. 73.03 (2a), that the assessor requests. The municipality or county shall provide by ordinance for the confidentiality of information about income and expenses that is provided to the assessor under this paragraph and shall provide exceptions for persons using the information in the discharge of duties imposed by law or of the duties of their office or by order of a court. The information that is provided under this paragraph, unless a court determines that it is inaccurate, is not subject to the right of inspection and copying under s. 19.35 (1).

(bb) Upon receipt of an objection with respect to the assessment rolls of taxation districts prepared by a county assessor the board of review as constituted under s. 70.99 (10) may direct such objection to be investigated by the county board of assessors if such board has been established under s. 70.99 (10m). If such objection has been investigated by the county board of assessors as provided by s. 70.99 (10m), the county board of review may adopt the determination of county board of assessors unless the objector requests or the board of review orders a hearing. At least 2 days' notice of the time fixed for such hearing shall be given to the objector or the objector's attorney and to the corporation counsel. If the county board of review adopts the determination of the county board of assessors and no further hearing is held, the clerk of the board of review shall record the adoption in the minutes of the board and shall correct the assessment roll as provided by s. 70.48.

(c) The board of review shall grant a taxpayer a 60−day extension for a hearing related to the taxpayer's objection submitted under this section, if the taxation district enacts an ordinance authorizing such extensions and if the taxpayer submits with the objection a request to the board for an extension and pays the taxation district a $100 fee. A request for an extension under this paragraph shall not stop the accrual of interest, notwithstanding s. 70.511 (2) (b). The 60−day extension period under this paragraph may be further extended, if the taxpayer shows good cause. If a taxation district enacts an ordinance under this paragraph, each taxpayer who submits an objection under this section, regardless of whether the taxpayer requests an extension, and the assessor shall present to the board of review all evidence, as specified in the manual under s. 73.03 (2a), on which they rely to support their respective positions and any additional evidence that the taxpayer or the assessor believes is relevant to determining the correct assessment. If the taxpayer receives an extension under this paragraph, at least 10 days before the scheduled board of review hearing, the taxpayer and the assessor shall simultaneously exchange all reports, documents, and exhibits that the taxpayer and assessor will present at the hearing. At least 60 days prior to the first day on which the board of review hears objections, each taxation district that enacts an ordinance under this paragraph shall publish on its Internet site the last day on which a taxpayer may submit an objection under this section. At least 15 days prior to the first day on which the board of review hears objections, each taxation district that enacts an ordinance under this paragraph shall include with the notice under s. 70.365 information to inform the taxpayer of the last day on which a taxpayer may submit an objection under this section.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (c) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(8) HEARING. The board shall hear upon oath all persons who appear before it in relation to the assessment. The board shall hear upon oath, by telephone, all ill or disabled persons who present to the board a letter from a physician, osteopath, physician assistant, as defined in s. 448.01 (6), or advanced practice nurse prescriber certified under s. 441.16 (2) that confirms their illness or disability. The board at such hearing shall proceed as follows:

(a) The clerk shall swear all persons testifying before it or by telephone in relation to the assessment.

(b) The owner or the owner's representatives and the owner's witnesses shall first be heard.

(c) The board may examine under oath such persons as it believes have knowledge of the value of such property.

(d) It may and upon request of either the assessor or the objector shall compel the attendance of witnesses for hearing, except objectors who may testify by telephone, and the production of all books, inventories, appraisals, documents and other data which may throw light upon the value of property, and, with regard to an objection that is subject to sub. (7) (c) or (16) (c), may, on a showing of good cause, compel the attendance of witnesses for depositions.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the amendment of par. (d) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute. Prior to the amendment by Act 86, par. (d) read:

(d) It may and upon request of the assessor shall compel the attendance of witnesses, except objectors who may testify by telephone, and the production of all books, inventories, appraisals, documents and other data which may throw light upon the value of property.

(e) All proceedings shall be taken in full by a stenographer or by a recording device, the expense thereof to be paid by the district. The board may order that the notes be transcribed, and in case of an appeal or other court proceedings they shall be transcribed. If the proceedings are taken by a recording device, the clerk shall keep a list of persons speaking in the order in which they speak.

(f) The clerk's notes, written objections and all other material submitted to the board of review, tape recordings of the proceedings and any other transcript of proceedings shall be retained for at least 7 years, shall be available for public inspection and copies of these items shall be supplied promptly at a reasonable time and place to anyone requesting them at the requester's expense.

(g) All determinations of objections shall be by roll call vote.

(h) The assessor shall provide to the board specific information about the validity of the valuation to which objection is made and shall provide to the board the information that the assessor used to determine that valuation.

(i) The board shall presume that the assessor's valuation is correct. That presumption may be rebutted by a sufficient showing by the objector that the valuation is incorrect.

(j) The board shall allow a sufficient amount of time for a hearing under this subsection to permit the taxpayer and assessor to present their evidence.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (j) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(9) CORRECTION OF ASSESSMENTS. (a) From the evidence before it the board shall determine whether the assessor's assessment is correct. If the assessment is too high or too low, the board shall raise or lower the assessment accordingly and shall state on the record the correct assessment and that that assessment is reasonable in light of all of the relevant evidence that the board received. A majority of the members of the board present at the meeting to make the determination shall constitute a quorum for purposes of making such determination, and a majority vote of the

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quorum shall constitute the determination. In the event there is a tie vote, the assessment shall be sustained.

(b) A board member may not be counted in determining a quorum and may not vote concerning any determination unless, concerning such determination, such member:

1. Attended the hearing of the evidence; or

2. Received the transcript of the hearing no less than 5 days prior to the meeting and read such transcript; or

3. Received a mechanical recording of the evidence no less than 5 days prior to the meeting and listened to such recording; or

4. Received a copy of a summary and all exceptions thereto no less than 5 days prior to the meeting and read such summary and exceptions. In this subdivision "summary" means a written summary of the evidence prepared by one or more board members attending the hearing of evidence, which summary shall be distributed to all board members and all parties to the contested assessment and "exceptions" means written exceptions to the summary of evidence filed by parties to the contested assessment.

(10) ASSESSMENT BY BOARD. If the board has reason to believe, upon examination of the roll and other pertinent information, that other property, the assessment of which is not complained of, is assessed above or below the general average of the assessment of the taxation district, or is omitted, the board shall:

(a) Notify the owner, agent or possessor of such property of its intention to review such assessment or place it on the assessment roll and of the time and place fixed for such hearing in time to be heard before the board in relation thereto, provided the residence of such owner, agent or possessor be known to any member of the board or the assessor.

(b) Fix the day, hour and place at which such matter will be heard.

(c) Subpoena such witnesses, except objectors who may testify by telephone, as it deems necessary to testify concerning the value of such property and, except in the case of an assessment made by a county assessor pursuant to s. 70.99, the expense incurred shall be a charge against the district.

(d) At the time appointed proceed to review the matter as provided in sub. (8).

(11) PARTIES. In all proceedings before the board the taxation district shall be a party in interest to secure or sustain an equitable assessment of all the property in the taxation district.

(12) NOTICE OF DECISION. Prior to final adjournment, the board of review shall provide the objector, or the appropriate party under sub. (10), notice by personal delivery or by mail, return receipt required, of the amount of the assessment as finalized by the board and an explanation of appeal rights and procedures under sub. (13) and ss. 70.85, 74.35 and 74.37. Upon delivering or mailing the notice under this subsection, the clerk of the board of review shall prepare an affidavit specifying the date when that notice was delivered or mailed.

(13) REVIEW. Except as provided in this subsection and in ss. 70.85 and 74.37, appeal from the determination of the board of review shall be by an action for certiorari commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference. If the court on the appeal finds any error in the proceedings of the board which renders the assessment or the proceedings void, or if the court determines that the board lacked good cause to deny a request for a deposition subpoena, it shall remand the assessment to the board for further proceedings in accordance with the court's determination and retain jurisdiction of the matter until the board has determined an assessment in accordance with the court's order. For this purpose, if final adjournment of the board occurs prior to the court's decision on the appeal, the court may order the governing body of the assessing authority to reconvene the board. If the appellant challenges the value determination that the board made at a proceeding under sub. (7) (c), the court shall presume that the board's valuation is correct, except that the presumption may be rebutted by a sufficient showing by the appellant that the valuation is incorrect. If the presumption is rebutted, the court shall determine the assessment without deference to the board of review and based on the record before the board of review, except that the court may consider evidence that was not available at the time of the hearing before the board, that the board refused to consider, or that the court otherwise determines should be considered in order to determine the correct assessment. In the event that an objection to the previous year's assessment has not been resolved, the parties may agree that the assessment for the previous year shall also apply for the current year and shall be included in the court's review of the prior year's assessment without an additional hearing by the board.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the amendment of sub. (13) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute. Prior to the amendment by Act 86, sub. (13) read:

(13) Certiorari. Except as provided in s. 70.85, appeal from the determination of the board of review shall be by an action for certiorari commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference. If the court on the appeal finds any error in the proceedings of the board which renders the assessment or the proceedings void, it shall remand the assessment to the board for further proceedings in accordance with the court's determination and retain jurisdiction of the matter until the board has determined an assessment in accordance with the court's order. For this purpose, if final adjournment of the board occurs prior to the court's decision on the appeal, the court may order the governing body of the assessing authority to reconvene the board.

(14) TAX PAYMENTS. In the event the board of review has not completed its review or heard an objection to an assessment on real or personal property prior to the date the taxes predicated upon such assessment are due, or in the event there is an appeal as provided in sub. (13) and s. 74.37 from the correction of the board of review to the court, the time for payment of such taxes as levied is the same as provided in ch. 74 and if not paid in the time prescribed, such taxes are delinquent and subject to the same provisions as other delinquent taxes.

(15) SAVING CLAUSE. Nothing herein contained shall be construed to alter or repeal any of the provisions of s. 70.35.

(16) FIRST CLASS CITY, FILING OBJECTIONS, PROCEEDINGS, APPEAL. (a) In 1st class cities all objections to the amount or valuation of real or personal property shall be first made in writing and filed with the commissioner of assessments on or before the 3rd Monday in May. No person may, in any action or proceeding, question the amount or valuation of real or personal property in the assessment rolls of the city unless objections have been so filed. The board may not waive the requirement that objections be in writing. Persons who own land and improvements to that land may object to the aggregate valuation of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. If the objections have been investigated by a committee of the board of assessors under s. 70.07 (6), the board of review may adopt the recommendation of the committee unless the objector requests or the board orders a hearing. At least 2 days' notice of the time fixed for the hearing shall be given to the objector or attorney and to the city attorney of the city. The provisions of the statutes relating to boards of review not inconsistent with this subsection apply to proceedings before the boards of review of 1st class cities, except that the board need not adjourn until the assessment roll is completed by the commissioner of assessments, as required in s. 70.07 (6), but may immediately hold hearings on objections filed with the commissioner of assessments, and the changes, corrections and determinations made by the board acting within its powers shall be prima facie correct. Appeal from the determination shall be by an action under sub. (13) commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference. If the court on the appeal finds any error in the proceedings of the board that renders the assessment or the proceedings void or, with regard to an objection that is subject to par. (c), if the court determines that the board lacked good cause to deny a request for a deposition subpoena, it shall remand the assessment to the board for further proceedings in accordance

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with the court's determination and retain jurisdiction of the matter until the board has determined an assessment in accordance with the court's order. If the appellant challenges the value determination that the board made at a proceeding under sub. (16) (c), the court shall presume that the board's valuation is correct, except that the presumption may be rebutted by a sufficient showing by the appellant that the valuation is incorrect. If the presumption is rebutted, the court shall determine the assessment without deference to the board of review and based on the record before the board of review, except that the court may consider evidence that was not available at the time of the hearing before the board or that the board refused to consider, or that the court otherwise determines should be considered in order to determine the correct assessment. In the event that an objection to the previous year's assessment has not been resolved, the parties may agree that the assessment for the previous year shall also apply for the current year and shall be included in the court's review of the prior year's assessment without an additional hearing by the board.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the amendment of par. (a) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute. Prior to the amendment by Act 86, par. (a) read:

(a) In 1st class cities all objections to the amount or valuation of real or personal property shall be first made in writing and filed with the commissioner of assessments on or before the 3rd Monday in May. No person may, in any action or proceeding, question the amount or valuation of real or personal property in the assessment rolls of the city unless objections have been so filed. The board may not waive the requirement that objections be in writing. Persons who own land and improvements to that land may object to the aggregate valuation of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land. If the objections have been investigated by a committee of the board of assessors under s. 70.07 (6), the board of review may adopt the recommendation of the committee unless the objector requests or the board orders a hearing. At least 2 days' notice of the time fixed for the hearing shall be given to the objector or attorney and to the city attorney of the city. The provisions of the statutes relating to boards of review not inconsistent with this subsection apply to proceedings before the boards of review of 1st class cities, except that the board need not adjourn until the assessment roll is completed by the commissioner of assessments, as required in s. 70.07 (6), but may immediately hold hearings on objections filed with the commissioner of assessments, and the changes, corrections and determinations made by the board acting within its powers shall be prima facie correct. Appeal from the determination shall be by an action for certiorari commenced within 90 days after the taxpayer receives the notice under sub. (12). The action shall be given preference.

(b) In 1st class cities if an assessment valuation for taxes based on the value of real property is the same for the current year as for the preceding year and ownership of the property is unchanged, and if an objection had been filed to the assessment valuation for the preceding year and the assessed valuation by the assessor was sustained by the board of review or the courts, an objection filed under sub. (7) to the assessment valuation on the same property for the current year shall be subject to a fee not to exceed $10 payable to the city at the time of filing the objection or within 3 days thereafter, and the fee shall be a condition for the hearing of the objection before the board of review.

(c) The board of review shall grant a taxpayer a 60−day extension for a hearing related to the taxpayer's objection submitted under this section, if the 1st class city enacts an ordinance authorizing such extensions and if the taxpayer submits with the objection a request to the board for an extension and pays the city a $100 fee. A request for an extension under this paragraph shall not stop the accrual of interest, notwithstanding s. 70.511 (2) (b). The 60−day extension period under this paragraph may be further extended, if the taxpayer shows good cause. If a 1st class city enacts an ordinance under this paragraph, each taxpayer who submits an objection under this section, regardless of whether the taxpayer requests an extension, and the assessor shall present to the board of review all evidence, as specified in the manual under s. 73.03 (2a), on which they rely to support their respective positions and any additional evidence that the taxpayer or the assessor believes is relevant to determining the correct assessment. If the taxpayer receives an extension under this paragraph, at least 10 days before the scheduled board of review hearing, the taxpayer and the assessor shall simultaneously exchange all reports, documents, and exhibits that the taxpayer and assessor will present at the hearing. At least 60 days prior to the first day on which the board of review hears objections, each 1st class city that enacts an ordinance under this paragraph shall publish on its Internet site the last day on which a taxpayer may submit an objection under this section. At least 15 days prior to the first day on which the board of review hears objections, each 1st class city that enacts an ordinance under this paragraph shall include with the notice under s. 70.365 information to inform the taxpayer of the last day on which a taxpayer may submit an objection under this section.

NOTE: The supreme court in *Metropolitan Associates v. City of Milwaukee*, 2011 WI 20, held the creation of par. (c) by 2007 Wis. Act 86 to be unconstitutional and severed from the remainder of the statute.

(17) SUMMARY OF PROCEEDINGS. After the board of review has completed its determinations, the clerk shall prepare a summary of the proceedings and determinations, on forms prescribed by the department of revenue, which shall include the following information:

(a) Name of taxpayer;

(b) Description or designation of the property subject to the objection;

(c) Amount of the assessment about which taxpayer objected;

(d) Names of any persons who appeared on behalf of taxpayer; and

(e) Board's determination on taxpayer's objection.

(18) TAMPERING WITH RECORDS. (a) Whoever with intent to injure or defraud alters, damages, removes or conceals any of the items specified under subs. (8) (f) and (17) is guilty of a Class I felony.

(b) Whoever intentionally alters, damages, removes or conceals any public notice, posted as required by sub. (2), before the expiration of the time for which the notice was posted, may be fined not more than $200 or imprisoned not more than 6 months or both.

History: 1973 c. 90; 1975 c. 151, 199, 427; 1977 c. 29 ss. 755, 1647 (8); 1977 c. 273; 1977 c. 300 ss. 2, 8; 1977 c. 414; 1979 c. 34 ss. 878 to 880, 2102 (46) (b); 1979 c. 95, 110, 355; 1981 c. 20, 289; 1983 a. 192, 219, 432; 1985 a. 39; 1985 a. 120 ss. 155, 3202 (46); 1985 a. 188 s. 16; 1987 a. 27, 139, 254, 378, 399; 1989 a. 31; 1991 a. 39, 156, 218, 315, 316; 1993 a. 82, 307; 1997 a. 237, 252, 283; 2001 a. 109; 2005 a. 187; 2007 a. 86; 2011 a. 161.

Judicial Council Note, 1981: References in subs. (13) and (16) (a) to "writs" of certiorari have been removed because that remedy is now available in an ordinary action. See s. 781.01, stats., and the note thereto. [Bill 613−A]

A board of review may deny a taxpayer a hearing if the taxpayer's objections are not stated on an approved form; the board is not required to accept information submitted in a different form. Certiorari review under this section is limited to the action of the board. Bitters v. Newbold, 51 Wis. 2d 493, 187 N.W.2d 339 (1971).

Board of review consideration of testimony by the village assessor at an executive session subsequent to the presentation of evidence by the taxpayer was contrary to the open meeting law, s. 66.77, [now ss. 19.81 to 19.98]. Although it was permissible for the board to convene a closed session for the purpose of deliberating after a quasi−judicial hearing, the proceedings did not constitute mere deliberations but were a continuation of the hearing without the presence of or notice to the objecting taxpayer. Dolphin v. Butler Board of Review, 70 Wis. 2d 403, 234 N.W.2d 277 (1975).

A circuit court's retained jurisdiction in board of review certiorari actions under s. 70.47 (13) does not affect the finality of an order for appeal purposes. Steenberg v. Town of Oakfield, 157 Wis. 2d 674, 461 N.W.2d 148 (Ct. App. 1990).

On certiorari review of a board of review decision only whether the board acted: 1) within its jurisdiction; 2) according to law; 3) arbitrarily, oppressively, or unreasonably; or 4) without evidence to make the order or determination in question is considered. Metropolitan Holding Co. v. Milwaukee Board of Review, 173 Wis. 2d 626, 495 N.W.2d 314 (1993).

When a board disregards uncontroverted evidence, its determination must be set aside. Campbell v. Town of Delavan, 210 Wis. 2d 239, 565 N.W.2d 209 (Ct. App. 1997), 96−1291.

Approving an increased assessment for only one property, despite evidence that it and other properties had recent sales at a price above prior assessments, violated the law; its approval by the board of review was arbitrary. Noah's Ark Family Park v. Village of Lake Delton, 210 Wis. 2d 301, 565 N.W.2d 230 (Ct. App. 1997), 96−1074. Affirmed. 216 Wis. 2d 387, 573 N.W.2d 852 (1998), 96−1074.

A board's across the board 3% assessment reduction of all lots in a developer's subdivision was not arbitrary and capricious when the board was presented with conflicting credible evidence. Whitecaps Homes v. Kenosha County Board of Review, 212 Wis. 2d 714, 569 N.W.2d 714 (Ct. App. 1997), 96−1913.

Sections 70.47 (13), 70.85, and 74.37 provide the exclusive methods to challenge a municipality's bases for assessment of individual parcels. All require appeal to the board of review prior to court action. There is no alternative procedure to challenge an assessment's compliance with the uniformity clause. Hermann v. Town of Delavan, 215 Wis. 2d 370, 572 N.W.2d 855 (1998), 96−0171.

It was not improper for an assessor to testify as a witness and also to ask questions of other witnesses at a board of review hearing. Rite−Hite Corp. v. Brown Deer Board of Review, 216 Wis. 2d 189, 575 N.W.2d 721 (Ct. App. 1997), 96−3178.

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A landowner who has in the immediately previous year already objected to the board regarding an unchanged assessment is relieved from filing another objection to the current assessment prior to commencing an action. Duesterbeck v. Town of Koshkonong, 2000 WI App 6, 232 Wis. 2d 16, 605 N.W.2d 904, 98−3048.

When after hearing a taxpayer's complaint the board approved the assessor's valuation by giving notice affirming the assessment under sub. (1), the board waived the requirement under sub. (7) (a) that the taxpayer's objection be in writing. Fee v. Town of Florence Board of Review, 2003 WI App 17, 259 Wis. 2d 868, 657 N.W.2d 112, 02−1758.

Neither sub. (7) nor *Hermann* stand for the proposition that a property owner may not raise any issue with the trial court that was not fully argued before the board of review. Rather, *Hermann* explains that under sub. (7) any property owner wishing to challenge a property tax assessment, whether via certiorari review, written complaint to the department of revenue, or a claim filed under s. 74.37, must first file an objection before the board of review. U.S. Oil Co., Inc. v. City of Milwaukee, 2011 WI App 4, 331 Wis. 2d 407, 794 N.W.2d 904, 09−2260.

Hermann makes clear that exhaustion of remedies before the board of review is required unless the property taxed is exempt or lies outside of the taxing district. An assertion that a city's assessment process was flawed and unconstitutional, if true, would make the levy merely voidable, not void *ab initio*. Clear Channel Outdoor, Inc. v. City of Milwaukee, 2011 WI App 117, 336 Wis. 2d 707, 805 N.W.2d 582, 10−1809.

Boards of review cannot rely on exemptions in s. 19.85 (1) to close any meeting in view of explicit requirements in s. 70.47 (2m). 65 Atty. Gen. 162.

Wisconsin's Property Tax Assessment Appeal System. Ardern. Wis. Law. March 1996.

Over Assessed? Appealing Home Tax Assessments. McAdams. Wis. Law. July 2011.

70.48 Assessor to attend board of review. The assessor or the assessor's authorized representative shall attend without order or subpoena all hearings before the board of review and under oath submit to examination and fully disclose to the board such information as the assessor may have touching the assessment and any other matters pertinent to the inquiry being made. All part−time assessors shall receive the same compensation for such attendance as is allowed to the members of the board but no county assessor or member of a county assessor's staff shall receive any compensation other than that person's regular salary for attendance at a board of review. 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 the clerk 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 as determined by the assessor, after deducting exemptions and making such corrections as the board has ordered. All changes in valuation of personal property made by the board of review shall be made in the same manner as changes in real estate.

History: 1991 a. 316.

70.49 Affidavit of assessor. (1) Before the meeting of the board of review, the assessor shall attach to the completed assessment roll an affidavit in a form prescribed by the department of revenue.

(2) The value of all real and personal property entered into the assessment roll to which such affidavit is attached by the assessor shall, in all actions and proceedings involving such values, be presumptive evidence that all such properties have been justly and equitably assessed in proper relationship to each other.

(3) No assessor shall be allowed in any court or place by oath or testimony to contradict or impeach any affidavit or certificate made or signed by the assessor as assessor.

(4) In this section "assessor" means an assessor or any person appointed or designated under s. 70.055 or 70.75.

History: 1991 a. 316; 1993 a. 307.

70.50 Delivery of roll. Except in counties that have a county assessment system under s. 70.99 and in cities of the 1st class and in 2nd class cities that have a board of assessors under s. 70.075 the assessor shall, on or before the first Monday in May, deliver the completed assessment roll and all the sworn statements and valuations of personal property to the clerk of the town, city or village, who shall file and preserve them in the clerk's office. On or before the first Monday in April, a county assessor under s. 70.99 shall deliver the completed assessment roll and all sworn statements and valuations of personal property to the clerks of the towns, cities and villages in the county, who shall file and preserve them in the clerk's office.

History: 1977 c. 29; 1977 c. 300 ss. 3, 8; 1981 c. 20; 1987 a. 139.

70.501 Fraudulent valuations by assessor. Any assessor, or person appointed or designated under s. 70.055 or 70.75, who intentionally fixes the value of any property assessed by that person at less or more than the true value thereof prescribed by law for the valuation of the same, or intentionally omits from assessment any property liable to taxation in the assessment district, or otherwise intentionally violates or fails to perform any duty imposed upon that person by law relating to the assessment of property for taxation, shall forfeit to the state not less than $50 nor more than $250.

History: 1991 a. 316.

70.502 Fraud by member of board of review. Any member of the board of review of any assessment district who shall intentionally fix the value of any property assessed in such district, or shall intentionally agree with any other member of such board to fix the value of any of such property at less or more than the true value thereof prescribed by law for the valuation of the same, or shall intentionally omit or agree to omit from assessment, any property liable to taxation in such assessment district, or shall otherwise intentionally violate or fail to perform any duty imposed upon the member by law relating to the assessment of property for taxation, shall forfeit to the state not less than $50 nor more than $250.

History: 1991 a. 316.

70.503 Civil liability of assessor or member of board of review. If any assessor, or person appointed or designated under s. 70.055 or 70.75, or any member of the board of review of any assessment district is guilty of any violation or omission of duty as specified in ss. 70.501 and 70.502, such persons shall be liable in damages to any person who may sustain loss or injury thereby, to the amount of such loss or injury; and any person sustaining such loss or injury shall be entitled to all the remedies given by law in actions for damages for tortious or wrongful acts. This section does not apply to the department of revenue or its employees when appointed or designated under s. 70.055 or 70.75.

History: 1977 c. 29.

70.51 Assessment review and tax roll in first class cities. (1) The board of review in all 1st class cities, after they 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 commissioner of assessments, 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 commissioner of assessments, except that the work of making said rolls shall be performed by the assessors and such other employees in the commissioner of assessments' office as the commissioner of assessments shall designate. After the completion of said tax roll in the manner provided by law, the commissioner of assessments shall deliver the tax roll to the city treasurer of such city on the 3rd Monday of December in each year.

(1a) If the board of review has not completed its work within the time limited by the first Monday in November, it shall nevertheless deliver the assessment roll to the commissioner of assessments as therein required, and the commissioner of assessments shall thereupon perfect the same as though the board of review had fully completed its work thereon. In any case wherein the board of review alters the assessment after the first Monday of November and before the treasurer is required to make the return of delinquent taxes, the assessment roll and the tax roll may be corrected accordingly in the manner provided in s. 74.05, except that the consent of the treasurer shall not be required.

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(2) The county clerk of any county having a population of 500,000 or more and containing a city of the 1st class shall deliver the county clerk's certificates of apportionment of taxes to the commissioner of assessments instead of the city clerk of such city.

History: 1975 c. 39, 199; 1977 c. 29 s. 1647 (19); 1977 c. 273; 1983 a. 192, 220; 1987 a. 378; 1991 a. 39, 156, 189, 315, 316.

70.511 Delayed action of reviewing authority. (1) VALUE TO BE USED IN SETTING TAX RATE. If the reviewing authority has not completed its work prior to the time set by a municipality for establishing its current tax rate, the municipality shall use the total value, including contested values, shown in the assessment roll in setting its tax rate.

(2) TAX LEVIES, REFUNDS. (a) If the reviewing authority has not made a determination prior to the time of the tax levy with respect to a particular objection to the amount, valuation or taxability of property, the tax levy on the property or person shall be based on the contested assessed value of the property. A tax bill shall be sent to, and paid by, the person subject to the tax levy as though there had been no objection filed, except that the payment shall be considered to be made under protest. The entire tax bill shall be paid when due under s. 74.11, 74.12 or 74.87 even though the reviewing authority has reduced the assessment prior to the time for full payment of the tax billed.

(b) If the reviewing authority reduces the value of the property in question, or determines that manufacturing property is exempt, the taxpayer may file a claim for refund of taxes resulting from the reduction in value or determination that the property is exempt. If claim for refund is filed with the clerk of the municipality on or before the November 1 following the decision of the reviewing authority, the claim shall be payable to the taxpayer from the municipality no later than January 31 of the succeeding year. A claim filed after November 1 shall be paid to the taxpayer by the municipality no later than the 2nd January 31 after the claim is filed. Interest on the claim shall be paid to the taxpayer when the claim is paid at the average annual discount rate determined by the last auction of 6−month U.S. treasury bills before the objection per day for the period of time between the time when the tax was due and the date that the claim was paid. If the taxpayer requests a postponement of proceedings before the reviewing authority, interest on the claim shall permanently stop accruing at the date of the request. If the hearing is postponed at the request of the taxpayer, the reviewing authority shall hold a hearing on the appeal within 30 days after the postponement is requested unless the taxpayer agrees to a longer delay. If the reviewing authority postpones the hearing without a request by the taxpayer, interest on the claim shall continue to accrue. No interest may be paid if the reviewing authority determines under s. 70.995 (8) (a) that the value of the property was reduced because the taxpayer supplied false or incomplete information. If taxes are refunded, the municipality may proceed under s. 74.41.

(bm) No later than July 1 of each year, each municipality that pays a refund under par. (b) for property that is assessed under s. 70.995 shall notify the department of administration of the amount of all such refunds paid by the municipality in the previous fiscal year. Annually, no later than the 3rd Monday in November, from the appropriation account under s. 20.835 (2) (br), the department of administration shall pay to each municipality that pays a refund under par. (b) for property that is assessed under s. 70.995 an amount that is equal to 20 percent of the interest on such refunds paid by the municipality in the previous fiscal year and that has accrued up to the date of the determination by the tax appeals commission of the municipality's obligation.

(c) If the reviewing authority increases the value of the property in question, the increase in value shall in the case of manufacturing property assessed by the department of revenue under s. 70.995 be assessed as omitted property as prescribed under s. 70.995 (12). In the case of all other property s. 70.44 shall apply.

History: 1975 c. 39; 1977 c. 29; 1979 c. 34, 221; 1981 c. 20, 132, 391; 1983 a. 27, 300; 1987 a. 378, 399, 403; 1989 a. 104; 1991 a. 39; 2005 a. 405; 2007 a. 96.

70.52 Clerks to examine and correct rolls. Each city, village, and town clerk upon receipt of the assessment roll shall carefully examine the roll. The clerk 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. The clerk shall add to the roll any parcel of real property or item of personal property omitted by the assessors and immediately notify the assessors of the omissions. The assessors shall immediately view and value the omitted property and certify the valuation to the clerk. The clerk shall enter the valuation upon the roll, and the valuation shall be final. To enable the clerk to properly correct defective descriptions, the clerk may request aid, when necessary, from the county surveyor, whose fees for the services rendered shall be paid by the city, village, or town.

History: 1977 c. 29, 203, 273; 2001 a. 107.

A municipality is entitled to rely on the address provided on the transfer tax return until it is provided with information reasonably calculated to inform of a new address. Pocius v. Kenosha County, 231 Wis. 2d 596, 605 N.W.2d 915 (Ct. App. 1999), 98−3176.

70.53 Statement of assessment and exemptions. (1) Upon the correction of the assessment roll under s. 70.52, each city, village, and town clerk shall prepare and, on or before the 2nd Monday in June, transmit to the department of revenue all of the following:

(a) A detailed statement of the aggregate of each of the several items of taxable property specified in s. 70.30.

(b) A detailed statement of each of the several classes of taxable real estate, entering land and improvements separately, as prescribed in s. 70.32 (2).

(c) A detailed statement of the aggregate of all taxable property by elementary and high school district and by technical college district.

(d) A detailed statement of the aggregate of each of the several items of exempt real property as specified by the department of revenue, entering land and improvements separately.

(2) The city, village, or town clerk shall make available to the department of revenue at its request a copy of the corrected assessment roll from which the statements required under sub. (1) are prepared. Failure to comply with this section subjects the taxation district to the penalty provisions under s. 73.03 (6). The department of revenue shall review and correct the statements.

(3) Every county clerk shall, at the expense of the county, annually procure and furnish to each city, village, and town clerk forms for the statements required under sub. (1), the form of which shall be prescribed by the department of revenue.

History: 1971 c. 65, 215; 1973 c. 61, 90, 243; 1977 c. 29 s. 1647 (9); 1977 c. 300 ss. 4, 8; 1979 c. 34, 216, 221; 1983 a. 275 ss. 6, 16; 1987 a. 399; 1993 a. 399; 2001 a. 107.

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 treasurer or the department of revenue shall send a messenger therefor, who shall be paid and the expenses charged back as provided in s. 69.67 or 73.03 (6), respectively; and whenever any county treasurer shall have failed to transmit any such statement, within the time fixed as aforesaid, the department of revenue may send a messenger therefor, who shall be paid and the expenses therefor charged back to the county.

History: 1975 c. 295 s. 9; 1991 a. 39.

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 entrusted with the same, not affecting the substantial justice of the tax, shall vitiate or in anywise affect the validity of such tax or assessment.

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 October in any year and before the tax roll therefrom has been completed the assessor of such district

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shall immediately prepare a new roll and as soon thereafter as practicable make a new assessment of the property in the assessor's 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 October, 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 s. 70.47 (2). 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 October 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 s. 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 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.

History: 1977 c. 29 s. 1647 (19); 1987 a. 378; 1991 a. 316.

70.57 Assessment of counties and taxation districts by department. (1) (a) The department of revenue before August 15 of each year shall complete the valuation of the property of each county and taxation district of the state. From all the sources of information accessible to it the department shall determine and assess by class the value of all property subject to general property taxation in each county and taxation district. If the department is satisfied that the assessment by a county assessor under s. 70.99 is at full value, it may adopt that value as the state's full value.

(b) The department shall set down a list of all the counties and taxation districts and opposite to the name of each county and taxation district the valuation determined by the department, which shall be the full value according to its best judgment.

(c) There shall also be prepared a list of all the counties of the state with the valuation determined for each county listed opposite the name of the county. The list shall be certified by the secretary of revenue as the assessment of the counties of the state made by the department and be delivered to the department of administration.

(d) In any case where the department, through mistake or inadvertence, has assessed to any county or taxation district, in the current year or in the previous year, a greater or less valuation for any year than should have been assessed, it shall correct the error. The department shall add or subtract, as the case may be, from the valuation of the county or taxation district, as determined by the department at the assessment in the year after the error is discovered, the amount omitted from or added to the true valuation of the county in the former assessment in consequence of the error. The result shall be taken as the full value of the county for the latter year and a final correction of the error.

(1m) On August 15 the department of revenue shall notify each county and taxation district of its equalized value. The department of revenue shall make available to each taxation district a list of sales within the taxation district and shall indicate whether or not those sales were used or rejected in establishing equalized value. If insufficient residential and agricultural sales in a taxation district require the department to use sales information from other taxation districts in establishing equalized value, the department shall so notify the affected taxation district and, upon written request from that taxation district, shall make available to the taxation district the sales information from other taxation districts and other information used to establish the equalized value. Upon resolution by the governing body of a county or taxation district, the department shall review the equalized value established for the county or taxation district.

(2) (a) If the state board of assessors, the tax appeals commission or a court makes a final redetermination on the assessment of property subject to taxation under s. 70.995 that is higher or lower than the previous assessment, the department of revenue shall recertify the equalized value of the school district in which the property subject to taxation under s. 70.995 is located.

(b) If a court makes a final redetermination on the assessment of telephone company property subject to taxation under s. 70.112 (4) and subch. IV of ch. 76 that is lower than the previous assessment, the department of revenue shall recertify the equalized value of the school district in which such property is located.

(3) (a) In determining the value of agricultural land under sub. (1), the department shall fulfill the requirements under s. 70.32 (2r).

(b) In determining the value under sub. (1) of agricultural forest land, as defined in s. 70.32 (2) (c) 1d., and undeveloped land, as defined in s. 70.32 (2) (c) 4., the department shall fulfill the requirements under s. 70.32 (4).

(4) (a) From the appropriation under s. 20.566 (2) (b), the department shall provide payments to any taxation district that certifies to the department, in the manner prescribed by the department, that the most recent valuation of the taxation district's property under this section is greater than it should be because of a clerical, arithmetic, transpositional, or similar error made by the department, as confirmed by the department, and that the amount of the overvaluation represents 7.5 percent or more of the taxation district's valuation under this section in the year prior to the year in which the error occurred.

(b) If property tax bills for the assessment year in which the error relates have been distributed to property owners, the taxation district receiving payments under par. (a) shall use the payments to make loans to persons who own property located in the taxation district and who are paying more property taxes than they should be as a result of the error. A person may receive a loan by applying, in the manner prescribed by the department, to the taxation district in which the person's property is located no later than June 15 of the year following the error. The state shall collect the amount of any loan issued under this paragraph as a state special charge against the taxation district for the year after the year in which the error occurred and the special charge shall not be included in the taxation district's levy. The taxation district shall assess the loan amount as a special charge against the property for which the loan was made on the property tax bill succeeding the loan, as provided under ch. 74 and s. 66.0627 (1) (c). Except for interest and penalties, as provided under s. 74.47, that apply to any delinquent special charge based on the loan amount, neither the department nor the taxation district may charge interest on any loan issued under this paragraph. The maximum loan amount that a person may receive under this paragraph shall be calculated by multiplying the assessed value of the person's property by a decimal determined by the department as follows:

1. For the year in which the error occurred, apportion county, school district, technical college district, and metropolitan sewerage district property taxes, and state forestation taxes under s. 70.58, to the taxation district using the taxation district's erroneous valuation.

2. For the year in which the error occurred, apportion county, school district, technical college district, and metropolitan sewerage district property taxes, and state forestation taxes under s. 70.58, to the taxation district using the taxation district's correct valuation.

3. Subtract the amount determined under subd. 2. from the amount determined under subd. 1.

4. Divide the amount determined under subd. 3. by the taxation district's assessed value for the year in which the error occurred and express the result as a decimal.

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(c) With regard to loans made under par. (b), the department shall make the payments under par. (a) monthly, based on the amounts requested in loan applications to the taxation district each month, except that the department shall make no payments to a taxation district after June 30 of the year following the year in which the error occurred.

(d) If property tax bills for the assessment year in which the error relates have not been distributed to property owners, the department may make one payment from the appropriation under s. 20.566 (2) (b) to the taxation district to reduce the property taxes that would otherwise be imposed as a result of the error. The department shall confirm the amount of the payment and provide guidance to the taxation district in allocating the amount to specific parcels. In the year following the error, the taxation district, with the guidance of the department, shall collect from property owners in the taxation district an amount equal to the amount of the payment and shall remit the amount collected to the department. The department may not charge interest for any payment under this paragraph. Notwithstanding s. 66.0602 or 79.05, payments under this paragraph in both the year the payment is made to the taxation district and the year the taxation district returns the payment to the department shall not be included in determining the taxation district's or the county's levy, or allowable levy under s. 66.0602, or in determining the taxation district's eligibility for, and calculation of payments, under s.79.05. Solely for purposes of relating annual revenue to estimated expenses, the amounts collected and remitted to the state under this paragraph shall be deemed accrued receipts as of the close of the fiscal year, but no revenue shall be deemed accrued receipts unless it is deposited by this state on or before August 31.

History: 1973 c. 90, 336; 1977 c. 29 ss. 761, 762, 1647 (12); 1977 c. 300 ss. 5, 8; 1981 c. 20; 1983 a. 372; 1985 a. 29, 54, 153, 246, 332, 399; 1991 a. 39; 1995 a. 27, 225; 2003 a. 33; 2007 a. 4; 2009 a. 11; 2011 a. 64.

Cross−reference: See also ch. Tax 18 and s. Tax 12.08, Wis. adm. code.

Municipalities are not authorized to appeal for redetermination of tax assessments. Village of Silver Lake v. DOR, 87 Wis. 2d 463, 275 N.W.2d 119 (Ct. App. 1978).

"Taxation under s. 70.995" as used in sub. (2) means "assessment under s. 70.995". 73 Atty. Gen. 119.

70.575 State assessment, time. The department, not later than August 15 in each year, shall total the assessments of counties made by the department of revenue under s. 70.57, and the 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.

History: 1977 c. 29 ss. 763, 1647 (17); 1977 c. 300 ss. 6, 8.

70.58 Forestation state tax. (1) Except as provided in sub. (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 revenue under s. 70.57, for the purpose of acquiring, preserving and developing the forests of the state and for the purpose of forest crop law and county forest law administration and aid payments, for grants to forestry cooperatives under s. 36.56, and for the acquisition, purchase and development of forests described under s. 25.29 (7) (a) and (b), the proceeds of the tax to be paid into the conservation fund. The tax shall not be levied in any year in which general funds are appropriated for the purposes specified in this section, equal to or in excess of the amount which the tax would produce.

(2) In each of 3 years beginning with the property tax assessments as of January 1, 2005, the department of revenue shall adjust the rate of the tax imposed under this section so that the percentage increase from the previous year in the total amount levied under this section does not exceed 2.6 percent. The rate determined by the department of revenue for the property tax assessment as of January 1, 2007, shall be the rate of the tax imposed under this section for all subsequent years.

History: 1975 c. 39 s. 734; 1977 c. 29, 418; 1979 c. 34; 1983 a. 27; 1989 a. 359; 1999 a. 9; 2005 a. 25.

70.60 Apportionment of state tax to counties. (1) The department of administration shall compute the state tax chargeable against each county basing such computation upon the valuation of the taxable property of the county as determined by the department of revenue pursuant to s. 70.57. On or before the 4th Monday of August in each year the department of administration shall certify to the county clerk of each county the amount of the taxes apportioned to and levied upon the county, and all special charges which the county clerk is required by law to make in any year to any such county to be collected with the state tax. The county clerk 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.

History: 1977 c. 29 s. 1647 (14); 1977 c. 273; 1997 a. 35.

70.62 County tax rate. (1) COUNTY BOARD TO DETERMINE. The county board shall determine by resolution the amount of taxes to be levied in its county for the year.

(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.

History: 1973 c. 90, 333; 1975 c. 39, 80, 200, 224; 1977 c. 113 ss. 5, 6; 1977 c. 142; 1977 c. 418 ss. 482 to 487, 929 (42); 1979 c. 34, 122; 1979 c. 175 s. 51; 1979 c. 346 s. 15; 1981 c. 20, 61, 93; 1983 a. 27, 275; 1985 a. 29; 1997 a. 35.

70.63 Apportionment of county and state taxes to municipalities. (1) BY COUNTY CLERK. The county clerk shall apportion the county tax and the whole amount of state taxes and charges levied upon the county, as certified by the department of administration, among the towns, cities and villages of the county, according and in proportion to the valuation thereof as determined by the department of revenue. The county clerk shall carry out in the record book, opposite 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 the clerk is required by law to make in any year to any town, city or village, to be collected with the annual taxes. The clerk shall certify to the clerk of and charge to each town, city and village, except in cities of the 1st class, the amount of all such taxes so apportioned to and levied upon it, and shall, at the same time, file with the county treasurer a certified copy of each apportionment.

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

History: 1973 c. 90; 1981 c. 20; 1991 a. 156; 1997 a. 35.

The statutory duties of the county clerk under ch. 70 may not be transferred to the county auditor, but the county auditor may be granted supervisory authority over the manner in which such duties are exercised. OAG 6−08.

70.64 Review of equalized values. (1) BY TAX APPEALS COMMISSION. The assessment and determination of the relative value of taxable general property in any county or taxation district, made by the department of revenue under s. 70.57, may be reviewed, and a redetermination of the value of such property may be made by the tax appeals commission, upon appeal by the county or taxation district. The filing of such appeal in the manner provided in this section by any county or taxation district shall impose upon the commission the duty, under the powers conferred upon it by s. 73.01 (4) (a), to review the assessment complained of. If, in its judgment based upon the testimony, evidence and record made on the preliminary hearing of such appeal, the commission finds such assessment to be unequal and discriminatory, it shall determine to correct such assessment to bring it into substantial compliance with law. Except as provided in this section, the appeal shall be taken and such review and redetermination

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shall be made as provided in ss. 73.01 and 73.015 and under the rules governing the procedure of the commission.

(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 county or taxation district taking the appeal at a lawful meeting of the governing body. When an appeal shall have been authorized the prosecution of it shall be in charge of the chairperson of the county board or county administrator or of the chairperson, mayor or president of the taxation district taking the appeal unless otherwise directed by the governing body. The officers or committee in charge of the appeal may employ attorneys to conduct the appeal. After authorizing an appeal as provided in this subsection, any 2 or more taxation districts in the same county may join in taking and prosecuting an appeal.

(3) FORM OF APPEAL. To accomplish an appeal there shall be filed with the tax appeals commission on or before October 15 an appeal in writing setting forth:

(a) That the county or taxation district, naming the same, appeals to the tax appeals commission from the assessment made by the department of revenue under s. 70.57, specifying the date of such assessment.

(b) Whether the appeal is to obtain 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 personal property, or both.

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

(e) A plain and concise statement, without unnecessary repetition, of the facts constituting the grievance sought to be remedied upon appeal, which shall specifically allege in what respects the assessment is in error.

(f) The appeal shall be verified by a member of the governing body of the county or taxation district authorizing the appeal in the manner that pleadings in courts of record are verified. When 2 or more taxation districts join in taking such appeal the verification may be made by the proper officer of any one of them.

(4) CERTIFIED COPIES. Upon the filing of such appeal, the clerk of the county or taxation district, without delay, shall prepare certified copies of it, together with certified copies of the value established by the department of revenue from which the appeal is taken and a complete list showing the clerk of each taxation district within the county and the post−office address of each. The clerk shall mail by certified mail 4 sets of certified copies to the tax appeals commission and one set of the copies to the department of revenue, the county clerk and the clerk of each taxation district within the county.

(5) APPEARANCE. Not later than 30 days after the clerk of the county or taxation district has mailed the certified copies, unless the time is extended by order of the tax appeals commission, any county, town, city or village may cause an appearance to be entered in its behalf before the commission in support of the 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 appeal. Within the same time the county, town, city or village in the county may in the same manner have its appearance entered in opposition to the appeal and to the relief demanded. Such appearances shall be authorized in the manner for authorizing an appeal under sub. (2). When so authorized the interests of the county, town, city or village authorizing it shall be in the charge of the chairperson, 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 2 or more of the towns, cities and villages of the county may join if united in support of or in opposition to the appeal. Four copies of each appearance, petition or statement mentioned in this subsection shall be filed in the offices of the tax appeals commission and a copy of each mailed by certified mail to the department of revenue, to the county clerk, and to the clerk of each town, city and village within the county, and a copy to the attorney authorized to appear on behalf of the county or any town, city or village within the county.

(6) HEARING. As soon as practicable, the commission shall set a time and place for preliminary hearing of such appeal. At least 10 days before the time set for such hearing, the commission shall cause notice thereof to be mailed by certified mail to the county clerk and to the attorney or the clerk of each town, city and village in whose behalf an appearance has been entered in the matter of such appeal, and to the clerk of each town, city or village which has not appeared, and mail a like notice to the clerk of the taxation district taking such appeal and to the department of revenue. The department of revenue shall be prepared to present to the commission at such time during the course of the hearings as the commission requires, the full value of all property subject to general property taxation in each town, village and city of the county, as determined by the department according to s. 70.57 (1) or in the case of a complaint by a taxation district under a county assessor such information as the department has in its possession. Said hearing may be adjourned, in the discretion of the tax appeals commission, as often and to such times and places as may be necessary in order to determine the facts. If satisfied that no substantial injustice has been done in the taxation district assessment appealed from, the commission in its discretion may dismiss such appeal. If satisfied that substantial injustice has been done in the taxation district assessment, the commission shall determine to revalue any or all of the taxation districts in the county, which it deems necessary, in a manner which in its judgment is best calculated to secure substantial justice.

(7) REDETERMINATION. The commission shall then proceed to redetermine the value of the taxable general property in such of the taxation districts in the county as it deems necessary. It may 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 is 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. The commission 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 commission shall have all the 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) HEARING. The commission may at any time before its final determination appoint a time and place 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 commission directs. At least 10 days before the time fixed for such hearings, the commission shall cause notice thereof to be mailed by certified mail 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, and a like copy to the department of revenue.

(9) TESTIMONY. The tax appeals commission may take testimony. Witnesses summoned at the instance of said commission 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 commission. If any property owner or other person makes any false statement to said commission or to any person employed by it upon any mat-

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ter under investigation that person shall be subject to all the forfeitures and penalties imposed by law for false statements to assessors and boards of review.

(10) DETERMINATION. The tax appeals commission shall make its determination upon such appeal without unreasonable delay and shall file a copy thereof in the office of the county clerk and mail by certified mail a like copy to the department of revenue and to the clerk and attorney of the taxation district appealing, and a copy to the clerk and attorney of each taxation district having appeared. In such determination the commission 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 department of revenue from which such appeal was taken in order to produce a relatively just and equitable taxation district assessment. Such determination shall be final.

(11) COMPUTATION. The determination of the commission shall not affect the validity of taxes apportioned in accordance with the taxation district assessment from which such appeal was taken; but if it is 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 commission in the following manner: Each town, city and village whose valuation in such taxation district assessment was determined by said commission 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 commission; and each town, city and village whose valuation in such taxation district assessment was determined by said commission 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 commission. The department of revenue shall aid the county clerk in making proper computations.

(12) EXPENSES. The tax appeals commission 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 commission, which shall include the actual expenses of the commission and regular employees of the commission, 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 department of administration. Such expenses shall be audited upon the certificate of the commission, 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 commission 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 commission 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 commission. 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.

(13) PROCEDURES. The provisions of s. 73.01, insofar as consistent with this section, shall be applicable to proceedings under this section.

History: 1973 c. 90; 1981 c. 20; 1983 a. 275; 1989 a. 56 s. 258; 1991 a. 316.
Cross−reference: See also s. TA 1, Wis. adm. code.

70.65 Tax roll. (1) CLERK TO PREPARE. Annually the clerk of the taxation district shall prepare a tax roll. The clerk shall begin preparation of the tax roll at a time sufficient to permit timely delivery of the tax roll under s. 74.03.

(2) CONTENT. The tax roll shall do all of the following:

(a) As shown on the assessment roll:

1. Identify all the real property within the taxation district and, with respect to each description of real property, the name and address of the owner and the assessed value.

2. Identify the name and address of the owners of all taxable personal property within the taxation district and the assessed value of each owner's taxable personal property.

(b) With respect to each description of real property and each owner of taxable personal property:

1. Show the total amount of taxes levied against the property by all taxing jurisdictions to which the property is subject.

2. Show all other taxes, assessments and charges against the property which are authorized by law to be collected as are taxes levied against property.

(c) Set forth the taxes, assessments and charges against property in the tax roll in a manner sufficiently organized and apportioned to permit collection and settlement of the taxes, assessments and charges under ch. 74.

(d) Show the total amount of taxes, assessments and charges to be collected against property within the taxation district.

(e) Direct the treasurer of the taxation district and the county treasurer to collect, under s. 74.07, the amount of taxes, assessments and charges under par. (d).

(f) Set forth any other information required by law or determined necessary by the department of revenue.

(3) CERTIFICATION OF CORRECTNESS. The clerk of the taxation district shall certify, on the tax roll, that the information contained in the tax roll is accurate, to the clerk's best knowledge.

(4) FORM. The format of the tax roll shall be prescribed by the department of revenue under s. 70.09 (3).

(5) DELIVERY. The clerk of the taxation district shall transfer the tax roll under s. 74.03.

History: 1981 c. 20; 1983 a. 300, 532; 1985 a. 29; 1987 a. 27, 378.

A municipality is entitled to rely on the address provided on the transfer tax return until it is provided with information reasonably calculated to inform of a new address. Pocius v. Kenosha County, 231 Wis. 2d 596, 605 N.W.2d 915 (Ct. App. 1999), 98−3176.

70.67 Municipal treasurer's bond; substitute for. (1) The treasurer of each town, city or village shall, unless exempted under sub. (2), execute and deliver to the county treasurer a bond, with sureties, to be approved, in case of a town treasurer, by the chairperson 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 the office and that the treasurer will account for and pay over according to law all taxes of any kind which are received and which are required to be paid to the county treasurer. 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 s. 632.17 (2), 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 the 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 taxes of any kind 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

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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 the county treasurer in lieu of the bond required by sub. (1). Such ordinance shall remain in effect until a certified copy of its repeal shall be filed with the county clerk and the county treasurer. The official bond executed pursuant to s. 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.

History: 1975 c. 375 s. 44; 1975 c. 421; 1989 a. 56 s. 258; 1991 a. 316.

For purposes of sub. (2), the town board is the governing body of the town. 63 Atty. Gen. 10.

70.68 Collection of taxes. (1) COLLECTION IN CERTAIN CITIES. In cities authorized to act under s. 74.87, the chief of police shall collect all state, county, city, school and other taxes due on personal property as shall then remain unpaid, and the chief of police 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.

(2) BOND OF CHIEF OF POLICE. The 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 collected by the chief of police.

History: 1985 a. 135; 1987 a. 378; 1991 a. 316.

70.71 Proceedings if roll not made. (1) Whenever any town, city or village clerk neglects or refuses to make and deliver the tax roll 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 deliver the same to the county treasurer for collection.

(2) If the assessment roll cannot be obtained the county clerk may use a copy thereof if obtainable. If the clerk can obtain neither original nor copy the clerk shall make out, to the best of the clerk's ability, a tax roll from the last assessment or tax roll on file in the clerk's 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.

History: 1975 c. 324; 1987 a. 378; 1991 a. 316.

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. (a) If it is discovered by any town, village or city clerk or treasurer that any parcel of land has been erroneously described on the tax roll the clerk or treasurer shall correct the description.

(b) If a town, village or city clerk or treasurer discovers that personal property has been assessed to the wrong person, or 2 or more parcels of land belonging to different persons have been erroneously assessed together on the tax roll, the clerk or treasurer shall notify the assessor and all parties interested, if the parties are residents of the county, by notice in writing to appear at the clerk's office at some time, not less than 5 days thereafter, to correct the assessment roll.

(c) At the time and place designated in the notice given under par. (b), the assessment roll shall be corrected by entering the correct names of the persons liable to assessment, both as to real and personal property, describing each parcel of land and giving the proper valuation to each parcel separately owned. The total valuation given to the separate tracts of real estate shall be equal to the valuation given to the same property when the several parcels were assessed together.

(d) The valuation of parcels of land or correction of names of persons whose personal property is assessed under this subsection may be made at any time before the tax roll is returned to the county treasurer for the year in which the tax is levied. The valuation or correction of names, when made under this subsection, shall be held just and correct and be final and conclusive.

(1m) AFTER BOARD OF REVIEW. If a town, village, or city clerk or treasurer discovers a palpable error, as described under s. 74.33 (1), in the assessment roll after the board of review has adjourned for the year under s. 70.47 (4), the clerk or treasurer shall correct the assessment roll before calculating the property taxes that are due on the property related to the error and notify the department of revenue of the correction under s. 74.41 (1).

(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.

History: 1987 a. 378; 1991 a. 316; 1997 a. 253; 2001 a. 16.

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 inclusion of the land in the tax certificate next issued under s. 74.57, such tax, or so much thereof as shall not have been collected and as may be taxable or assessable thereto may be reassessed or relevied 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 relevied 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 ss. 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 certificate issued which includes such lands 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

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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.

History: 1987 a. 378.

70.75 Reassessments. (1) REASSESSMENTS, HOW MADE. (a) 1. The owners of taxable property in any taxation district, other than an assessment district within the corporate limits of any 1st class city, whose property has an aggregate assessed valuation of not less than 5% of the assessed valuation of all of the property in the district according to the assessment sought to be corrected, may submit to the department of revenue a written petition concerning the assessed valuation of their property. Subject to subd. 2. and sub. (1m), if the department finds that the assessment of property in the taxation district is not in substantial compliance with the law and that the interest of the public will be promoted by a reassessment, the department may order a reassessment of all or of any part of the taxable property in the district to be made by one or more persons appointed for that purpose by the department.

2. The department may dismiss any petition for reassessment if, prior to the entry of a reassessment order under subd. 1., the taxation district involved determines under s. 70.055 that employing expert help to aid in assessing property would be in the public interest and if, after receiving departmental approval, the taxation district does employ expert help for either of the 2 years following the assessment year complained of.

3. If the department performs the reassessment or special supervision under sub. (3), the department shall designate the person responsible for the reassessment. If the department appoints a corporation for the reassessment or special supervision under sub. (3), the corporation shall designate the person responsible for the reassessment. The corporate or departmental designee shall file the official oath under s. 19.01.

4. If a petition under subd. 1. is filed in the office of the department the department shall, under the powers conferred by s. 73.03 (1), review the assessment complained of. If the department finds the assessment is not in substantial compliance with law and that public interest will be promoted by a reassessment, it shall correct such assessment by a reassessment as provided in this section. The department's duty to reassess is not impaired by any action, subsequent to such filing, of any taxpayer represented in the application.

5. As a part of its investigation of the assessment complained of, the department 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 the hearing specifying the time and place of the hearing 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 the hearing.

6. The department shall keep on file its order directing such reassessment and naming the persons appointed to make the reassessment. In addition, the department shall transmit a copy of the order to the clerk of the taxation district, to the supervisor of equalization of the county in which the district is located and to each of the persons appointed to make such reassessment and serve on the board for the review of the reassessment. Service of a copy of the order is legal notice to these people of their appointment. No person may be authorized by the department to make a reassessment or to provide special supervision instead of reassessment unless the person is willing and able to use the assessment manual.

(b) All assessment personnel appointed under this section in 1974 and thereafter shall have passed an examination and have been certified by the department of revenue as qualified for performing the functions of the office to which appointed. Any person appointed under par. (a) or sub. (3) shall be certified as an expert appraiser as provided in s. 70.055 (1).

(1m) ADDITIONAL REQUIREMENTS. The department may not proceed under sub. (1) (a) with respect to a petition filed by a property owner who owns more than 5% of the assessed valuation of all the property in a taxation district if within the 3 years preceding the date of the petition that person petitioned for reassessment and the department of revenue did not order a reassessment under sub. (1) or special supervision under sub. (3) unless, in addition to that property owner, an owner or owners of an additional 5% of the assessed valuation of the taxation district join in the petition. If a petition is denied under this subsection, the property owner who petitioned twice within a 3−year period shall pay 75% of the department of revenue's costs in respect to that petition. Payments under this subsection shall be made to the department of revenue for deposit in the appropriation under s. 20.566 (2) (h).

(2) PERSONS APPOINTED TO REASSESS, POWERS AND DUTIES. The person or persons appointed under sub. (1) to make a 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 to faithfully perform the duties imposed upon that person in respect to the reassessment to the best of that person's ability, and shall file the same with the department of revenue. Thereupon the person or persons appointed to make the reassessment shall proceed with diligence to make a reassessment of all the taxable property in the affected district. For that purpose the person or persons appointed to make the reassessment shall have all the power and authority given by law to assessors in the district and shall perform all the duties and be subject to all restrictions and penalties imposed by law upon assessors in the district. The person or persons appointed to make the reassessment shall have access to all public records and files which may be necessary or useful in the performance of the reassessment, and while engaged therein shall be entitled to have custody and possession of the roll containing the original assessment in the district and all property and other statements and memoranda relating thereto. A blank assessment roll and all property statements and other blank forms necessary for the purposes of the reassessment shall be furnished by the county clerk at the expense of the county upon the application of the department of revenue.

(3) SPECIAL SUPERVISION INSTEAD OF REASSESSMENT. Whenever the department determines, after the hearing provided for in sub. (1) or in the determination under s. 70.05 (5) (d), 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 one or more employees of the department or appoint one or more other qualified persons to assist the local assessor in making the assessments to be thereafter made in such district. Any person so appointed may give all or such part of that person's time to such supervision as, in the judgment of the department, is 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 designated to make a reassessment and together with the assessor shall constitute an assessment board as defined in s. 70.055.

(4) COSTS. Except as provided in sub. (1m), all costs of the department of revenue in connection with reassessment or special supervision under this section shall be borne by the taxation district. These receipts shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts shall be certified on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(5) DEFINITIONS. In this section, for those taxation districts that are under a county assessor system, the terms "local assessor"

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and "board of review" include the county assessor and the county board of review, respectively.

History: 1973 c. 90; 1977 c. 29; 1981 c. 20; 1983 a. 27, 241; 1983 a. 275 s. 15 (1), (3); 1991 a. 316.

70.76 Board of correction. (1) NOTICE, PROOF. (a) In the order for reassessment the department of revenue shall designate 3 persons to serve as a board for the correction and review of the reassessment. As soon as practicable the person making the reassessment shall inform the clerk of the district of the date on which the reassessment will be ready for the consideration of the board. The information shall be given in time to enable the clerk to give the notice required in this subsection.

(b) The clerk shall give notice that the board will meet on the date at the place provided by law for the meeting of the regular board of review of the district, specifying the place. The clerk shall record the notice in the record book of proceedings of the board of review of the district after first recording the order for reassessment. The clerk shall post the notice in 3 conspicuous public places in the district and shall also serve a copy of the notice upon each of the persons named to act as the board and upon the department of revenue if the reassessment is not made by the department. The posting and service shall be at least one week before the day designated for the meeting.

(c) In case of the failure or refusal of the clerk to give and serve the notice in the manner prescribed within 5 days after being requested to do so by the person making the reassessment, the department of revenue may give and serve the notice with the same force and effect as if given and served by the clerk. The service may be by personal delivery to the person to be served or by leaving the copy at the person's usual place of abode or by mailing it in a sealed envelope postpaid and directed to the person at the person's post−office address.

(d) A memorandum stating the time and place of posting and the time and manner of service shall be entered by the clerk in the record. The memorandum, authenticated by the signature of the clerk, is presumptive evidence of the facts stated. The fact, time and manner of posting and service may be proved by any person having knowledge of the facts even though no entry of a memorandum is made.

(2) HEARING. The persons designated to serve as a board to review the reassessment shall attend at the time and place specified in the notice. A majority of them constitutes a quorum. Before proceeding in the 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 the reassessment. The clerk of the district shall attend and serve as the clerk of the board at all its sessions and shall perform all the duties required of clerks at meetings of the regular board of review of the district, except that the clerk shall have no voice in the determinations of the board.

(3) EVIDENCE. The person making the reassessment shall attend the meeting, shall present before the board the roll containing the reassessment of property made by the person and all property statements, affidavits, and other memoranda in relation to it, shall furnish the board all information in the person's possession which may be useful in the work of the board, and may give testimony of any facts within the person's knowledge pertinent to any matter under the consideration of the board.

History: 1983 a. 275; 1985 a. 135.

70.77 Proceedings; inspection. 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.

History: 1999 a. 83.

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 supervisor of equalization. If the reassessment is made by a person other than the supervisor of equalization of the county in which the district is located the supervisor of equalization has the same authority as in other assessments in the county and shall render assistance to the person making the reassessment and to the reviewing board and shall attend the meeting of the reviewing board. The district attorney of the county in which the reassessment is made shall give legal assistance in relation to the reassessment or the review upon the request of the supervisor of equalization.

History: 1983 a. 275 s. 15 (3); 1983 a. 538.

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 revenue 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 attendance and the giving of testimony. Supervisors of equalization may be appointed to make reassessments, but in no case shall a supervisor of equalization be appointed to reassess a district when the complaint was made or the proceedings instituted by that supervisor of equalization.

History: 1983 a. 275 s. 15 (3), (4); 1983 a. 538 s. 269 (3); 1991 a. 316.

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 s. 70.80 shall make out a statement of the person's 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 revenue. 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 supervisor of equalization. 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.

History: 1983 a. 275 s. 15 (3); 1991 a. 316.

70.82 Review of claims; payment. The statements and vouchers mentioned in s. 70.81 shall be promptly transmitted by the supervisor of equalization to the department of revenue, which shall have authority to review the statements and vouchers and determine the number of days to be allowed. After such review and determination and after procuring any needed corrections therein said department shall endorse their approval of such statements and file the same and such vouchers in the office of the department of administration. Such claims shall thereupon be

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audited by the department of administration 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 percent per year 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.

History: 1979 c. 110 s. 60 (13); 1983 a. 275 s. 15 (3); 2009 a. 177.

70.83 Deputies; neglect; reassessment. If any person appointed or required to perform any duty under ss. 70.75 and 70.76 shall be unable or neglect to do so, that person's place may be filled by appointment by said department. If any person required to perform any duty under ss. 70.75 to 70.84 shall willfully neglect or refuse to do so, that person shall forfeit to the state not less than $50 nor more than $250. In the appointment of persons to perform services under ss. 70.75 to 70.84 the department of revenue 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 ss. 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.

History: 1991 a. 316.

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 revenue, 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.

70.85 Review of assessment by department of revenue. (1) COMPLAINT. A taxpayer may file a written complaint with the department of revenue alleging that the assessment of one or more items or parcels of property in the taxation district the value of which, as determined under s. 70.47, does not exceed $1,000,000 is radically out of proportion to the general level of assessment of all other property in the district.

(2) BOARD OF REVIEW; TIMING. A complaint under this section may be filed only if the taxpayer has contested the assessment of the property for that year under s. 70.47. The complaint shall be filed with the department of revenue within 20 days after receipt of the board of review's determination or within 30 days after the date specified on the affidavit under s. 70.47 (12) if there is no return receipt.

(3) FEE. A taxpayer filing a complaint under this section shall pay a filing fee of $100 to the department of revenue, which shall be credited to the appropriation under s. 20.566 (2) (h).

(4) REVALUATION. (a) In this subsection, "the property" means the items or parcels of property which are the subject of the written complaint filed under sub. (1).

(b) The department of revenue may revalue the property and adjust the assessment of the property to the assessment ratio of other property within the taxation district, if the department of revenue determines that:

1. The assessment of the property is not within 10% of the general level of assessment of all other property in the taxation district.

2. The revaluation of the property can be satisfactorily completed without a reassessment of all property within the taxation district.

3. The revaluation can be accomplished before November 1 of the year in which the assessment is made or within 60 days of the receipt of the written complaint, whichever is later.

(c) Appeal of the determination of the department of revenue shall be by an action for certiorari in the circuit court of the county in which the property is located.

(5) OTHER PROPERTY. In determining whether to revalue property under sub. (4), the department of revenue may examine the valuation of other property in the taxation district which is owned by the person filing the complaint.

(6) TAX COMPUTED ON REVALUED AMOUNT. The valuation fixed by the department of revenue under this section shall be substituted for the assessed value of the property shown on the tax roll, and the tax shall be computed on the amount of the valuation determined by the department of revenue.

(7) DELAY IN REVALUATION. (a) If the department of revenue has not completed the revaluation prior to the time established by a taxation district for fixing its tax rate, the taxation district shall base its tax rate on the total value of property contained in the assessment roll, including property whose valuation is contested under this section.

(b) If the department of revenue has not completed the revaluation prior to the time of the tax levy, the tax upon property with respect to which the revaluation has not been completed shall be computed on the basis of the contested value of the property. The taxpayer shall pay in full the tax based upon the contested valuation. If the department of revenue reduces the valuation of the property, the taxpayer may file a claim under s. 70.511 (2) (b) for a refund of taxes resulting from the reduction in value.

(8) COSTS. If the department of revenue determines that no change in the assessment of the property is required, the costs related to the department's determination shall be paid by the department. If the department of revenue changes the property assessment, costs related to the department's determination that the assessment of that property should be changed, but not more than $300, shall be paid by the taxation district and shall be credited to the appropriation under s. 20.566 (2) (h). Past due accounts for costs shall be certified by the department of revenue on or before the 4th Monday of August of each year and included in the next apportionment of state special charges to local units of government.

(9) COUNTY ASSESSOR SYSTEM. In this section, for those taxation districts that are under a county assessor system, the term "local assessor" includes the county assessor and the term "board of review" includes the county board of review.

History: 1987 a. 27, 378; 1991 a. 39; 1995 a. 408.

Sections 70.47 (13), 70.85, and 74.37 provide the exclusive methods to challenge a municipality's bases for assessment of individual parcels. All require appeal to the board of review prior to court action. There is no alternative procedure to challenge an assessment's compliance with the uniformity clause. Hermann v. Town of Delavan, 215 Wis. 2d 370, 572 N.W.2d 855 (1998), 96−0171.

Wisconsin's Property Tax Assessment Appeal System. Ardern. Wis. Law. March 1996.

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Over Assessed? Appealing Home Tax Assessments. McAdams. Wis. Law. July 2011.

70.86 Descriptions, simplified system. The governing body of any city, village or town 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, village or town, and may from time to time amend or change such simplified system. Descriptions in property tax bills shall be as provided under s. 74.09 (3) (a).

History: 1987 a. 378; 1993 a. 246.

70.99 County assessor. (1) A county assessor system may be established for any county by passage of a resolution or ordinance adopting such a system by an approving vote of 60% of the entire membership of the county board. After passage of this enabling resolution or ordinance by the county board, the county executive, or the county administrator, or the chairperson of the county board with the approval of the county board, shall appoint a county assessor from a list of candidates provided by the department of revenue who have passed an examination and have been certified by the department of revenue as qualified for performing the functions of the office. Certification shall be granted to all persons demonstrating proficiency by passing an examination administered by the department. The persons selected for listing shall first have been given a comprehensive examination, approved by the department of revenue, relating to the work of county assessor. A person appointed as county assessor shall thereafter have permanent tenure, after successfully serving the probationary period in effect in the county, and may be removed or suspended only for the reasons named in s. 17.14 (1) or for such cause as would sustain the suspension or removal of a state employee under state civil service rules. If employees of a county are under a county civil service program, the county assessor may, and any person appointed as a member of his or her staff shall, be incorporated into the county civil service program but tenure is dependent on the foregoing provision.

(1m) Upon request of a county that is considering the creation of an assessment system under this section, the department of revenue may study the feasibility of that creation. The county shall reimburse the department for the costs of the study.

(3) (a) The office of state employment relations shall recommend a reasonable salary range for the county assessor for each county based upon pay for comparable work or qualifications in that county. If, by contractual agreement under s. 66.0301, 2 or more counties join to employ one county assessor with the approval of the secretary of revenue, the office of state employment relations shall recommend a reasonable salary range for the county assessor under the agreement. The department of revenue shall assist the county in establishing the budget for the county assessor's offices, including the number of personnel and their qualifications, based on the anticipated workload.

(b) The department of revenue shall establish levels of proficiency for all appraisal personnel to be employed in offices of county assessors.

(5) The county assessor and the county assessor's staff shall be supplied suitable quarters, equipment and supplies by the county.

(6) In respect of any assessment made by a county assessor, the county assessor shall perform all the functions and acts theretofore required to be performed by the local assessor of the taxation district and shall have the same authority, responsibility and status, privileges and obligations of the assessor the county assessor displaces, except as clearly inconsistent with this section.

(7) The county assessor may designate one member of the county assessor's staff as deputy county assessor who shall have full power to act for the county assessor in the event of the inability of the county assessor to act through absence, incapacity, resignation or otherwise.

(8) Each city, town and village assessor duly appointed or elected and qualified to make the assessment for a city, town or village shall continue in office for all purposes of completing the functions of assessor with respect to such current year's assessment, but is divested of all authority in respect to the January 1 assessment that comes under the jurisdiction of the county assessor.

(9) In making the first assessment of any city, town or village the county assessor shall equalize the assessment of property within each taxation district. Thereafter, the county assessor shall revalue each year as many taxation districts under the county assessor's jurisdiction within the county as the county assessor's available staff will permit so as to bring and maintain each such taxation district at a full value assessment. The county assessor shall proceed with such work so as to complete the revaluation of all taxation districts under the county assessor's jurisdiction within 4 years. Such revaluation shall be made according to the procedures and manuals established by the department of revenue for the use of assessors.

(10) (a) There shall be one board of review for each county under the county assessor system. The board of review in any county having a county executive shall be appointed by the county executive from the cities or villages or towns under the county assessor. The board of review of all other counties shall be appointed by the chairperson of the county board from the tax districts under the county assessor. County board of review appointments in all counties shall be subject to approval by the county board. The board of review shall have 5 to 9 members, no more than 2 of whom may reside in the same city, town or village, and shall hold office as members of said board for staggered 5−year terms and until their successors are appointed and qualified. In counties other than Milwaukee County at least one member shall be from a town. The compensation and reimbursement of expenses of members of the board of review shall be fixed by the county board and shall be borne by the county. Each such board of review shall appoint one of its members present at the hearing as clerk and such clerk shall keep an accurate record of its proceedings. The provisions of s. 70.47, not in conflict with this section, shall be applicable to procedure for review of assessments by county boards of review and to appeals from determinations of county boards of review.

(b) Two members of the board of review may hold the hearing of the evidence but a majority of the board members must be present to constitute a quorum at the meeting at which the determination of the issue is made. A majority vote of the quorum shall constitute the determination. In the event there is a tie vote, the assessor's valuation shall be sustained.

(c) A board member may not be counted in determining a quorum and may not vote concerning any determination unless, concerning such determination, such member:

1. Attended the hearing of the evidence; or

2. Received the transcript of the hearing no less than 5 days prior to the meeting and read such transcript; or

3. Received a mechanical recording of the evidence no less than 5 days prior to the meeting and listened to such recording; or

4. Received a copy of a summary and all exceptions thereto no less than 5 days prior to the meeting and read such summary and exceptions. In this subdivision "summary" means a written summary of the evidence prepared by one or more board members attending the hearing of evidence, which summary shall be distributed to all board members and all parties to the contested assessment and "exceptions" means written exceptions to the summary of evidence filed by parties to the contested assessment.

(10m) The county board may by resolution establish a county board of assessors, which board shall be comprised of the county assessor or the deputy county assessor and such other members of the county assessor's staff as the county assessor annually designates. If so established the county board of assessors shall investigate any objection referred to it by direction of the county board of review. The county board of assessors shall, after having made the investigation notify the person assessed or that person's agent

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of its determination by first class mail, and a copy of such determination shall be transmitted to the county board of review. The person assessed having been notified of the determination of the county board of assessors shall be deemed to have accepted such determination unless that person notifies the county assessor in writing, within 10 days, of that person's desire to present testimony before the county board of review.

(10p) In counties that enter into a compact for a county assessor system, the board of review shall consist of 2 members appointed by each county with one additional member appointed by the county having the greatest full value.

(11) The county assessor shall annually submit a budget request for funds to cover the operation of the county assessor system for the ensuing year to the county office responsible for preparing the county budget.

(13) (a) 1. The department of revenue shall prescribe the due dates, the forms, and the format of information transmitted by the county assessor to the department as to the assessment of property and any other information that may be needed in the department's work. The department of revenue shall also prescribe the form of assessment rolls, forms, books, and returns required for the assessment and collection of general property taxes by the county. The county shall submit material on or before the due dates that the department prescribes and shall use all of the material that the department prescribes.

2. The department of revenue shall design and make available to any county, basic computer programs for the preparation of assessment rolls, tax rolls and tax receipts which are deemed necessary by the secretary of revenue to the utilization of automatic data processing in the administration of the property tax.

(b) The department of revenue shall prescribe minimum specifications for assessment maps. Any county whose assessment maps do not meet the department's specifications at the time of converting to the county assessment system shall have 4 years from the first countywide January 1 assessment date to bring its maps in conformance with the department's specifications.

(c) The department of revenue shall determine the minimum number of staff members required for each county assessor's office and the level of certification under sub. (3) required for each position.

(d) In order to effect the orderly transition of local property assessment to the county assessor system, as soon as practicable after the effective date of the resolution or ordinance adopting such system, all assessment records, books, maps, aerial photographs, appraisal cards and any other data currently in the possession of any town, village or city shall be made available to and become the property of the county assessor.

(14) A county may discontinue a county assessor system by passage of a resolution or ordinance by an approving vote of a majority of the entire membership of the county board. The effective date of the resolution or ordinance shall be December 31. A county shall, on or before October 31 of the year when the resolution or ordinance is effective, notify all municipalities in the county of its intent to discontinue its county assessor system. As soon as practicable after the effective date of the resolution or ordinance, the county shall transfer to the proper municipality all assessment records, books, maps, aerial photographs, appraisal cards and other assessment data in its possession.

History: 1971 c. 40 s. 93; 1973 c. 90; 1975 c. 427; 1977 c. 29 ss. 1646 (3), 1647 (15); 1977 c. 196 s. 130 (10); 1977 c. 273; 1979 c. 34 s. 2102 (58) (a); 1979 c. 177, 221; 1981 c. 20; 1983 a. 27 s. 2200 (15); 1983 a. 192 s. 303 (2); 1987 a. 27; 1989 a. 31; 1991 a. 316; 1993 a. 16; 1995 a. 27; 1997 a. 253; 1999 a. 150 s. 672; 2001 a. 107; 2003 a. 33 ss. 1558, 9160.

The constitutionality of this section is upheld. Art. IV, sec. 23; art. XI, sec. 3 and art. XIII, s. 9 are discussed. Thompson v. Kenosha County, 64 Wis. 2d 673, 221 N.W.2d 845 (1973).

This section must be read in conjunction with s. 70.32 (1). Kaskin v. Kenosha Board of Review, 91 Wis. 2d 272, 282 N.W.2d 620 (Ct. App. 1979).

The offices of county assessor and town supervisor are compatible. 63 Atty. Gen. 599.

70.995 State assessment of manufacturing property. **(1)** APPLICABILITY. (a) In this section "manufacturing property" includes all lands, buildings, structures and other real property used in manufacturing, assembling, processing, fabricating, making or milling tangible personal property for profit. Manufacturing property also includes warehouses, storage facilities and office structures when the predominant use of the warehouses, storage facilities or offices is in support of the manufacturing property, and all personal property owned or used by any person engaged in this state in any of the activities mentioned, and used in the activity, including raw materials, supplies, machinery, equipment, work in process and finished inventory when located at the site of the activity. Establishments engaged in assembling component parts of manufactured products are considered manufacturing establishments if the new product is neither a structure nor other fixed improvement. Materials processed by a manufacturing establishment include products of agriculture, forestry, fishing, mining and quarrying. For the purposes of this section, establishments which engage in mining metalliferous minerals are considered manufacturing establishments.

(b) Materials used by a manufacturing establishment may be purchased directly from producers, obtained through customary trade channels or secured without recourse to the market by transfer from one establishment to another under the same ownership. Manufacturing production is usually carried on for the wholesale market, for interplant transfer or to order for industrial users rather than for direct sale to a domestic consumer.

(c) Manufacturing shall not include the following agricultural activities:

1. Processing on farms if the raw materials are grown on the farm.

2. Custom gristmilling.

3. Threshing and cotton ginning.

(d) Except for the activities under sub. (2), activities not classified as manufacturing in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget are not manufacturing for this section.

(2) FURTHER CLASSIFICATION. In addition to the criteria set forth in sub. (1), property shall be deemed prima facie manufacturing property and eligible for assessment under this section if it is included in one of the following major group classifications set forth in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget. For the purposes of this section, any other property described in this subsection shall also be deemed manufacturing property and eligible for assessment under this section:

(a) 10—Metal mining.

(b) 14—Mining and quarrying of nonmetallic minerals, except fuels.

(c) 20—Food and kindred products.

(d) 21—Tobacco manufacturers.

(e) 22—Textile mill products.

(f) 23—Apparel and other finished products made from fabrics and similar materials.

(g) 24—Lumber and wood products, except furniture.

(h) 25—Furniture and fixtures.

(i) 26—Paper and allied products.

(j) 27—Printing, publishing and allied industries.

(k) 28—Chemicals and allied products.

(L) 29—Petroleum refining and related industries.

(m) 30—Rubber and miscellaneous plastic products.

(n) 31—Leather and leather products.

(o) 32—Stone, clay, glass and concrete products.

(p) 33—Primary metal industries.

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(q) 34—Fabricated metal products, machinery and transportation equipment.

(r) 35—Machinery, except electrical.

(s) 36—Electrical and electronic machinery, equipment and supplies.

(t) 37—Transportation equipment.

(u) 38—Measuring, analyzing and controlling instruments; photographic, medical and optical goods; watches and clocks.

(v) 39—Miscellaneous manufacturing industries.

(w) 7384—Photofinishing laboratories.

(x) Scrap processors using large machines processing iron, steel or nonferrous scrap metal and whose principal product is scrap iron and steel or nonferrous scrap metal for sale for remelting purposes.

(y) Processors of waste paper, fibers or plastics using large machines for recycling purposes.

(z) Hazardous waste treatment facility, as defined in s. 291.01 (22), unless exempt under s. 70.11 (21).

(3) For purposes of subs. (1) and (2) "manufacturing, assembling, processing, fabricating, making or milling" includes the entire productive process and includes such activities as the storage of raw materials, the movement thereof to the first operation thereon, and the packaging, bottling, crating or similar preparation of products for shipment.

(4) Whenever real property or tangible personal property is used for one, or some combination, of the processes mentioned in sub. (3) and also for other purposes, the department of revenue, if satisfied that there is substantial use in one or some combination of such processes, may assess the property under this section. For all purposes of this section the department of revenue shall have sole discretion for the determination of what is substantial use and what description of real property or what unit of tangible personal property shall constitute "the property" to be included for assessment purposes, and, in connection herewith, the department may include in a real property unit, real property owned by different persons. Vacant property designed for use in manufacturing, assembling, processing, fabricating, making or milling tangible property for profit may be assessed under this section or under s. 70.32 (1), and the period of vacancy may not be the sole ground for making that determination. In those specific instances where a portion of a description of real property includes manufacturing property rented or leased and operated by a separate person which does not satisfy the substantial use qualification for the entire property, the local assessor shall assess the entire real property description and all personal property not exempt under s. 70.11 (27). The applicable portions of the standard manufacturing property report form under sub. (12) as they relate to manufacturing machinery and equipment shall be submitted by such person.

(5) The department of revenue shall assess all property of manufacturing establishments included under subs. (1) and (2) as of the close of January 1 of each year, if on or before March 1 of that year the department has classified the property as manufacturing or the owner of the property has requested, in writing, that the department make such a classification and the department later does so. A change in ownership, location, or name of the manufacturing establishment does not necessitate a new request. In assessing lands from which metalliferous minerals are being extracted and valued for purposes of the tax under s. 70.375, the value of the metalliferous mineral content of such lands shall be excluded.

(6) Prior to February 15 of each year the department of revenue shall notify each municipal assessor of the manufacturing property within the taxation district that, as of that date, will be assessed by the department during the current assessment year.

(7) (a) Each manufacturing property assessed by the department of revenue shall be entered on a state manufacturing property assessment roll for each municipality that has manufacturing property as set forth in subs. (1) and (2). Notification of the individual manufacturing property assessments contained in the roll shall be furnished by the department to the municipal clerk.

(b) Each 5 years, or more frequently if the department of revenue's workload permits and if in the department's judgment it is desirable, the department of revenue shall complete a field investigation or on−site appraisal at full value under ss. 70.32 (1) and 70.34 of all manufacturing property in this state.

(8) (a) The secretary of revenue shall establish a state board of assessors, which shall be comprised of the members of the department of revenue whom the secretary designates. The state board of assessors shall investigate any objection filed under par. (c) or (d) if the fee under that paragraph is paid. The state board of assessors, after having made the investigation, shall notify the person assessed or the person's agent and the appropriate municipality of its determination by 1st class mail or electronic mail. Beginning with objections filed in 1989, the state board of assessors shall make its determination on or before April 1 of the year after the filing. If the determination results in a refund of property taxes paid, the state board of assessors shall include in the determination a finding of whether the refund is due to false or incomplete information supplied by the person assessed. The person assessed or the municipality having been notified of the determination of the state board of assessors shall be deemed to have accepted the determination unless the person or municipality files a petition for review with the clerk of the tax appeals commission as provided in s. 73.01 (5) and the rules of practice promulgated by the commission. If an assessment is reduced by the state board of assessors, the municipality affected may file an appeal seeking review of the reduction, or may, within 30 days after the person assessed files a petition for review, file a cross−appeal, before the tax appeals commission even though the municipality did not file an objection to the assessment with the board. If the board does not overrule a change from assessment under this section to assessment under s. 70.32 (1), the affected municipality may file an appeal before the tax appeals commission. If an assessment is increased by the board, the person assessed may file an appeal seeking review of the increase, or may, within 30 days after the municipality files a petition for review, file a cross−appeal, before the commission even though the person did not file an objection to the assessment with the board.

(b) 1. The department of revenue shall annually notify each manufacturer assessed under this section and the municipality in which the manufacturing property is located of the full value of all real and personal property owned by the manufacturer. The notice shall be in writing and shall be sent by 1st class mail or electronic mail. In addition, the notice shall specify that objections to valuation, amount, or taxability must be filed with the state board of assessors within 60 days of issuance of the notice of assessment, that objections to a change from assessment under this section to assessment under s. 70.32 (1) must be filed within 60 days after receipt of the notice, that the fee under par. (c) 1. or (d) must be paid and that the objection is not filed until the fee is paid. A statement shall be attached to the assessment roll indicating that the notices required by this section have been mailed and failure to receive the notice does not affect the validity of the assessments, the resulting tax on real or personal property, the procedures of the tax appeals commission or of the state board of assessors, or the enforcement of delinquent taxes by statutory means.

2. If a municipality files an objection to the amount, valuation, taxability, or change from assessment under this section and the person assessed does not file an objection, the person assessed may file an appeal within 15 days after the municipality's objection is filed.

(c) 1. All objections to the amount, valuation, taxability, or change from assessment under this section to assessment under s. 70.32 (1) of property shall be first made in writing on a form prescribed by the department of revenue that specifies that the objector shall set forth the reasons for the objection, the objector's estimate of the correct assessment, and the basis under s. 70.32 (1) for the objector's estimate of the correct assessment. An objection

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shall be filed with the state board of assessors within the time prescribed in par. (b) 1. A $45 fee shall be paid when the objection is filed unless a fee has been paid in respect to the same piece of property and that appeal has not been finally adjudicated. The objection is not filed until the fee is paid. Neither the state board of assessors nor the tax appeals commission may waive the requirement that objections be in writing. Persons who own land and improvements to that land may object to the aggregate value of that land and improvements to that land, but no person who owns land and improvements to that land may object only to the valuation of that land or only to the valuation of improvements to that land.

2. A manufacturer who files an objection under subd. 1. may file supplemental information to support the manufacturer's objection within 60 days from the date the objection is filed. The state board of assessors shall notify the municipality in which the manufacturer's property is located of supplemental information filed by the manufacturer under this subdivision, if the municipality has filed an appeal related to the objection.

(d) A municipality may file an objection with the state board of assessors to the amount, valuation, or taxability under this section or to the change from assessment under this section to assessment under s. 70.32 (1) of a specific property having a situs in the municipality, whether or not the owner of the specific property in question has filed an objection. Objection shall be made on a form prescribed by the department and filed with the board within 60 days of the date of the issuance of the assessment in question. If the person assessed files an objection and the municipality affected does not file an objection, the municipality affected may file an appeal to that objection within 15 days after the person's objection is filed. A $45 filing fee shall be paid when the objection is filed unless a fee has been paid in respect to the same piece of property and that appeal has not been finally adjudicated. The objection is not filed until the fee is paid. The board shall forthwith notify the person assessed of the objection filed by the municipality.

(dm) The department shall refund filing fees paid under par. (c) 1. or (d) if the appeal in respect to the fee is denied because of lack of jurisdiction.

(e) Upon completion of and review by the tax appeals commission and receipt of the statement of assessments required under s. 70.53, the department of revenue shall be responsible for equating all full−value manufacturing property assessments entered in the manufacturing property assessment roll to the general level of assessment of all other property within the individual taxation district. Thereafter, the manufacturing property assessment roll shall be delivered to the municipal clerk and annexed to the municipal assessment roll containing all other property.

(f) No manufacturing property assessment may be reviewed in a proceeding under s. 70.75 or 70.85, but such assessment may be reviewed in reassessment proceedings under s. 70.75 (1).

Cross−reference: See also ch. TA 1, Wis. adm. code.

(9) Any aggrieved party may appeal a determination by the tax appeals commission under sub. (8) to the circuit court for Dane County under s. 73.015.

(10) Municipalities, and counties with a county assessor system, shall have access to all manufacturing property for the purpose of making appraisals of valuation of such property and may employ appraisal personnel, who need not be certified under s. 70.05 (4), for such purpose.

(11) If any county appoints a county assessor under s. 70.99, the department of revenue shall nevertheless assess the property described in subs. (1) and (2) and shall continue to assess such property when required by this section, and the notice to the municipal assessor required by sub. (6) shall, in such case be made directly to the county assessor.

(12) (a) The department of revenue shall prescribe a standard manufacturing property report form that shall be submitted annually for each real estate parcel and each personal property account on or before March 1 by all manufacturers whose property is assessed under this section. The report form shall contain all information considered necessary by the department and shall include, without limitation, income and operating statements, fixed asset schedules and a report of new construction or demolition. Failure to submit the report shall result in denial of any right of redetermination by the state board of assessors or the tax appeals commission. If any property is omitted or understated in the assessment roll in any of the next 5 previous years, the assessor shall enter the value of the omitted or understated property once for each previous year of the omission or understatement. The assessor shall affix a just valuation to each entry for a former year as it should have been assessed according to the assessor's best judgment. Taxes shall be apportioned and collected on the tax roll for each entry, on the basis of the net tax rate for the year of the omission, taking into account credits under s. 79.10. In the case of omitted property, interest shall be added at the rate of 0.0267% per day for the period of time between the date when the form is required to be submitted and the date when the assessor affixes the just valuation. In the case of underpayments determined after an objection under s. 70.995 (8) (d), interest shall be added at the average annual discount interest rate determined by the last auction of 6−month U.S. treasury bills before the objection per day for the period of time between the date when the tax was due and the date when it is paid.

(b) The department of revenue shall allow an extension to April 1 of the due date for filing the report forms required under par. (a) if a written application for an extension, stating the reason for the request, is filed with the department on or before March 1.

(c) Unless the taxpayer shows that the failure is due to reasonable cause, if a taxpayer fails to file any form required under par. (a) for property that the department of revenue assessed during the previous year by the due date or by any extension of the due date that has been granted, the taxpayer shall pay to the department of revenue a penalty of $25 if the form is filed 1 to 10 days late; $50 or 0.05% of the previous year's assessment, whichever is greater, but not more than $250, if the form is filed 11 to 30 days late; and $100 or 0.1% of the previous year's assessment, whichever is greater, but not more than $750, if the form is filed more than 30 days late. Penalties are due 30 days after they are assessed and are delinquent if not paid on or before that date. The department may refund all or part of any penalty it assesses under this paragraph if it finds reasonable grounds for late filing.

(d) Sections 71.82 (2) (a) and 71.91 (4) to (6), as they apply to the taxes under ch. 71, apply to the penalties under par. (c).

(12m) Any property assessment increased by the reviewing authority under s. 70.511 shall be entered in the assessment roll as prescribed under sub. (12).

(12r) The department of revenue shall calculate the value of property that is used in manufacturing, as defined in this section, and that is exempt under s. 70.11 (39) and (39m).

(13) In the sections of this chapter relating to assessment of property, when the property involved is a manufacturing property subject to assessment under this section, the terms "local assessor" or "assessor" shall be deemed to refer also to the department of revenue except as provided in sub. (10).

(14) (a) Beginning with the property tax assessments as of January 1, 2003, the department of revenue shall annually impose on each municipality in which manufacturing property is located a fee in an amount that is equal to the equalized value of the manufacturing property located in the municipality multiplied by a rate that is determined annually by the department so that the total amount collected under this paragraph is sufficient to pay for 50% of the budgeted costs to the department in the current state fiscal year associated with the assessment of manufacturing property under this section. Except as provided in par. (b), each municipality that is assessed a fee under this paragraph shall collect the amount of the fee as a special charge against the taxable property located in the municipality, except that no municipality may apply

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the special charge disproportionately to owners of manufacturing property relative to owners of other property.

(b) If the department of revenue does not receive the fee imposed on a municipality under par. (a) by March 31 of each year, the department shall reduce the distribution made to the municipality under s.79.02 (2) (b) by the amount of the fee.

History: 1973 c. 90, 283, 333; 1975 c. 39, 144, 199, 200, 213, 224; 1977 c. 29 ss. 776 to 782, 1646 (3), 1647 (5m), 1656 (38); 1977 c. 31, 142, 272; 1977 c. 300 ss. 7, 8; 1977 c. 328, 377, 418, 447; 1979 c. 34 ss. 883m, 2102 (39) (g); 1979 c. 221; 1981 c. 20; 1983 a. 27; 1983 a. 275 s. 15 (8); 1985 a. 29; 1985 a. 120 s. 3202 (46); 1987 a. 27, 196, 399; 1989 a. 31; 1991 a. 39, 269; 1993 a. 307, 391; 1995 a. 227, 408; 1997 a. 35, 237, 250; 1999 a. 32; 2001 a. 16, 109; 2003 a. 33, 170.

Cross−reference: See also s. Tax 12.10, Wis. adm. code.

The board of assessors committed jurisdictional error by disregarding market adjustments that were not disputed during assessment review proceedings. This section does not contravene either the uniform taxation or equal protection clauses. Fort Howard Paper Co. v. Wisconsin Lake District Board, 82 Wis. 2d 491, 263 N.W.2d 172 (1978).

Sub. (1) (a) does not include all structures used predominantly in support of manufacturing as manufacturing property but limits qualifying support structures to warehouses, storage facilities, and office structures. Sub. (2) defines activities or industries that are considered manufacturing but does not create a category of manufacturing property independent of sub. (1) (a). S.C. Johnson, Inc. v. DOR, 202 Wis. 2d 714, 552 N.W.2d 102 (Ct. App. 1996), 95−3215.

If a business does not fit within a category listed in the manual under sub. (1) or is not listed under sub. (2), the assessment manual may be looked to, to determine if property is manufacturing property. The manual provides that the general definition under sub. (1) (a) and (b) is to be considered and supplies 3 questions to be used in applying the definition. Zip Sort, Inc. v. DOR, 2001 WI App 185, 247 Wis. 2d 295, 634 N.W.2d 99, 00−2824.

That the taxpayer was a wholesaler of fresh fruits and vegetables did not mean that its ripening chambers could not qualify as manufacturing property under this section. The 1987 SIC Manual, and not subsequently revised versions of the manual, must be followed under sub. (2) until the legislature directs otherwise. When the taxpayer's activities did not fit squarely into a particular SIC Manual category, the commission then reasonably looked to the general definition of manufacturing in the SIC Manual to assist it in classifying the facility. DOR v. A. Gagliano Co., Inc. 2005 WI App 170, 284 Wis. 2d 741, 702 N.W.2d 834, 03−3538.

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