

1993 Assembly Bill 1095

Date of enactment: **April 14, 1994**
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1993 WISCONSIN ACT 307

AN ACT *to amend* 70.47 (13), 70.47 (16) (a), 70.995 (12) (c), 77.22 (1), 77.25 (15), 79.04 (1) (intro.), 79.04 (1) (b) 1, 79.04 (2) (a) and 121.06 (1); *to repeal and recreate* 70.11 (20), 70.49 (1), 70.995 (12) (d) and 74.33 (1) (f); and *to create* 79.04 (1) (b) 4 of the statutes, **relating to:** expanding the real estate transfer fee exemption for transfers between a corporation and its shareholders; the tax exemption for property held in trust; the deadline for appealing decisions of a board of review; the form of the property tax assessor's affidavit; penalties assessed against manufacturers for failing to file property tax reports; shared revenue payments under the public utility component; excluding from a school district's equalized valuation the estimated value of land for which aids in lieu of taxes are paid; real estate transfer fee returns; and the bases for adjustments of property taxes.

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

SECTION 2m. 70.11 (20) of the statutes is repealed and recreated to read:

70.11 (20) PROPERTY HELD IN TRUST IN PUBLIC INTEREST. Property that is owned by, or held in trust for, a non-profit 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.

SECTION 3. 70.47 (13) of the statutes is amended to read:

70.47 (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 ~~final adjournment of the board~~ 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.

SECTION 5. 70.47 (16) (a) of the statutes is amended to read:

70.47 (16) (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

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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 ~~final adjournment of the board of review~~ the taxpayer receives the notice under sub. (12). The action shall be given preference.

SECTION 6. 70.49 (1) of the statutes is repealed and recreated to read:

70.49 (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.

SECTION 9. 70.995 (12) (c) of the statutes is amended to read:

70.995 (12) (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 shall enter against the taxpayer a penalty of the greater of \$10 or 0.05% of the previous year's full value assessment not to exceed \$1,000, ~~if the property was assessed by the department during the previous year. If the form required under par. (a) for property that the department of revenue assessed during the previous year is not filed within 30 days after the due date or within 30 days after any extension, the taxpayer shall pay to the department of revenue shall enter against the taxpayer a 2nd penalty of the greater of \$10 or 0.05% of the previous year's full value assessment not to exceed \$1,000. The department shall not enter a penalty if the department did not assess the property during the previous year. 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.

SECTION 10. 70.995 (12) (d) of the statutes is repealed and recreated to read:

70.995 (12) (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).

SECTION 11. 74.33 (1) (f) of the statutes is repealed and recreated to read:

74.33 (1) (f) An arithmetic, transpositional or similar error has occurred.

SECTION 15. 77.22 (1) of the statutes is amended to read:

77.22 (1) There is imposed on the grantor of real estate a real estate transfer fee at the rate of 30 cents for each \$100 of value or fraction thereof on every conveyance not exempted or excluded under this subchapter. In regard to land contracts the value is the total principal amount that the buyer agrees to pay the seller for the real estate. This fee shall be collected by the register at the time the instrument of conveyance is submitted for recording. Except as provided in s. 77.255, at the time of submission the grantee or his or her duly authorized agent or other person acquiring an ownership interest under the instrument, or the clerk of court in the case of a foreclosure under s. 846.16 (1), shall execute a return, signed by both grantor and grantee, on the form prescribed under sub. (2). The register shall enter the fee paid on the face of the deed or other instrument of conveyance before recording, and, except as provided in s. 77.255, submission of a completed real estate transfer return and collection by the register of the fee shall be prerequisites to acceptance of the conveyance for recording. The register shall have no duty to determine either the correct value of the real estate transferred or the validity of any exemption or exclusion claimed. If the transfer is not subject to a fee as provided in this subchapter, the reason for exemption shall be stated on the face of the conveyance to be recorded by reference to the proper subsection under s. 77.25. ~~All returns related to conveyances exempt from the fee need not report the value of the ownership transferred except conveyances exempt under s. 77.25 (8).~~

SECTION 16. 77.25 (15) of the statutes is amended to read:

77.25 (15) Between a corporation and its shareholders if all of the stock is owned by persons who are related to each other as spouses or, lineal ascendants or, lineal descendants of each other, siblings or spouses of siblings, if the transfer is for no consideration except the assumption of debt or stock of the corporation and if the corporation owned the property for at least 3 years.

SECTION 17. 79.04 (1) (intro.) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

79.04 (1) (intro.) Annually the department of administration, upon certification by the department of revenue, shall distribute to a municipality having within its

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boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28 (2), ~~except those property described in s. 66.069 (2) unless the production plant is owned or operated by a local governmental unit located outside of the municipality,~~ or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073 the amount determined as follows:

SECTION 18. 79.04 (1) (b) 1. of the statutes is amended to read:

79.04 (1) (b) 1. Beginning with the distribution under this subsection in 1991, the amount determined under par. (a) to value property used by a light, heat or power company in a municipality may not be less than the amount determined to value the property for the distribution to the municipality under this subsection in 1990, subject to subs. 2 ~~and~~ 3 ~~and~~ 4.

SECTION 19. 79.04 (1) (b) 4. of the statutes is created to read:

79.04 (1) (b) 4. If property of a light, heat or power company described under par. (a) is included in the value of property for the distribution to the municipality under this subsection in 1990 and is located in territory annexed by another municipality after December 31, 1989, the amount established under subd. 1 shall be reduced annually by one-fifth of the value of the property located in the annexed territory for 5 consecutive years, beginning with the distribution in 1994 or with the first distribution after the year in which the annexation occurs, whichever is later.

SECTION 20. 79.04 (2) (a) of the statutes, as affected by 1993 Wisconsin Act 16, is amended to read:

79.04 (2) (a) Annually, the department of administration, upon certification by the department of revenue, shall distribute from the shared revenue account to any county having within its boundaries a production plant or a general structure, including production plants and general structures under construction, used by a light, heat or power company assessed under s. 76.28 (2), ~~except those property described in s. 66.069 (2) unless the production plant is owned or operated by a local governmental unit that is located outside of the municipality in which the production plant is located,~~ or by an electric cooperative assessed under ss. 76.07 and 76.48, respectively, or by a municipal electric company under s. 66.073 an amount determined by multiplying by 6 mills the first \$125,000,000 of the amount shown in the account, plus leased property, of each public utility on December 31 of the preceding year for either "production plant, exclusive of land" and "general structures", or "work in progress" for production plants and general structures under construction, in the case of light, heat and power companies, electric cooperatives or municipal electric companies, for all property within a town in accordance with the

system of accounts established by the public service commission or rural electrification administration, less depreciation thereon as determined by the department of revenue and less the value of treatment plant and pollution abatement equipment, as defined under s. 70.11 (21) (a), as determined by the department of revenue and by multiplying by 3 mills the first \$125,000,000 of the amount as defined in this subsection for all property within a city or village. The total of amounts, as depreciated, from the accounts of all public utilities for the same production plant is also limited to not more than \$125,000,000. The amount distributable to a county in any year shall not exceed \$100 times the population of the county.

SECTION 21. 121.06 (1) of the statutes is amended to read:

121.06 (1) Annually on or before October 1, the full value of the taxable property in each part of each city, village and town in each school district shall be determined by the department of revenue according to its best judgment from all sources of information available to it and shall be certified by the department to the state superintendent. ~~The "estimated value", as defined in s. 70.114 (1) (b), of land for which aids are required to be paid during the next calendar year under s. 70.114 shall be included in the determination of full value of each city, village or town in each school district.~~

SECTION 9300. Initial applicability; revenue.

(2) APPEALS OF BOARD OF REVIEW DECISIONS. The treatment of section 70.47 (13) and (16) (a) of the statutes first applies to appeals of the assessment as of January 1, 1993.

(3) ASSESSOR'S AFFIDAVIT. The treatment of section 70.49 (1) of the statutes first applies to the affidavit for the assessment as of January 1, 1994.

(4) PROPERTY TAX ADJUSTMENTS. The treatment of section 74.33 (1) (f) of the statutes first applies to adjustments of taxes based on the assessment as of January 1, 1992.

(5) REAL ESTATE TRANSFER FEE, CORPORATIONS. The treatment of section 77.25 (15) of the statutes first applies to transfers to which the parties agree on the effective date of this subsection.

(6) SHARED REVENUE PUBLIC UTILITY ANNEXATION ADJUSTMENT. The treatment of section 79.04 (1) (b) 1. and 4. of the statutes first applies to shared revenue payments made in 1995.

(7) SHARED REVENUE PUBLIC UTILITY DISTRIBUTION. The treatment of section 79.04 (1) (intro.) and (2) (a) of the statutes first applies to shared revenue payments made in 1995.

SECTION 9400. Effective dates. This act takes effect on the day after publication, except as follows:

(1) MANUFACTURERS' REPORTS. The treatment of section 70.995 (12) (c) and (d) of the statutes takes effect on the January 1 after publication.

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(2) ~~PROPERTY HELD IN TRUST.~~ The treatment of section 70.11 (20) of the statutes takes effect on January 1, 1995.
