



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2017 Senate Bill 291**

**Senate Amendment 1 to Senate  
Amendment 1 and Senate  
Amendment 1**

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### **2017 SENATE BILL 291**

Senate Bill 291 reverses the Wisconsin Supreme Court decision *Walgreen Company v. City of Madison*, 2008 WI 80, 752 N.W.2d 689 (2008), by providing that, for the purposes of property taxes, real property includes any leases, rights, and privileges pertaining to the property, including assets that cannot be taxed separately as real property, but are inextricably intertwined with real property. The bill requires that real property be valued at its highest and best use and that the assessor determine the value of leased property by considering the lease provisions and actual rent if they are the result of an “arm’s-length transaction.”<sup>1</sup>

### **SENATE AMENDMENT 1**

Senate Amendment 1 modifies the definition of “highest and best use” under the bill from the specific “current use of the property” to the “use of the property as of the current assessment date,” and, similarly, modifies a higher use to which the property can be expected to be put from “in the immediate future” to “before the next assessment date.” In addition, the amendment clarifies that “legally permissible” use does not include a conditional use that has not been granted as of the assessment date. Lastly, the amendment seeks to match the language of the current Wisconsin Property Assessment Manual by excluding speculative use from consideration when establishing the highest and best use of a property.

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<sup>1</sup> The bill defines an “arm’s-length transaction” as an agreement between willing parties, neither being under compulsion to act and each being familiar with the attributes of the property.

## **SENATE AMENDMENT 1 TO SENATE AMENDMENT 1**

Senate Amendment 1 to Senate Amendment 1 modifies the definition of “highest and best use” to exclude “highly” speculative use from consideration when establishing the highest and best use of a property. This matches the general recommendations of the Wisconsin Property Assessment Manual and, specifically, the Court decision *Nestle U.S.A., Inc., v. Wisconsin Department of Revenue*, 2011 WI 4, 331 Wis.2.d 256, 795 N.W.2d 46.

## **BILL HISTORY**

The Senate Committee on Revenue, Financial Institutions and Rural Issues recommended Senate Amendment 1 to Senate Amendment 1 and Senate Amendment 1 to Senate Bill 291 for adoption and recommended passage of Senate Bill 291, as amended, all by votes of Ayes, 5; Noes, 0; on October 11, 2017.

DWS:ksm