

## Chapter Tax 12

### PROPERTY TAX

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**Tax 12.04 Limitation on property tax levies of towns, villages, cities and counties.** (ss. 60.175, 61.46 (3), 62.12 (4m), 65.07 (2) and 70.62 (4), Stats.) (1) Annually, on or before November 1, the department of revenue will provide each town, village, city and county with a worksheet for determining allowable tax levy which sets forth the prior year's tax levy, prior year adjustments, population adjustment, federal general revenue sharing adjustment and shared tax adjustment. The municipality or county must file a completed copy of said worksheet with the department of revenue on or before December 15 of that year.

(2) Town, village or city tax levies shall consist of the following items from its statement of taxes and indebtedness: special state trust fund loans (C-7), other state special charges (C-8), county special charges (C-9), highway taxes for local purposes (C-10), highway taxes for special benefits and county aid petitions (C-11), all other town, village or city taxes (C-13), overrun (C-14) and underrun (C-15). For the tax levy of 1978, and for subsequent years, the levy for these jurisdictions shall include all the items reportable in Section C of the Statement of Taxes except the following: Metropolitan Sewer District Taxes, Sanitary District Taxes, Public Inland Lake Protection and Rehabilitation District Taxes, and taxes for Tax Incremental Districts.

(3) County levies shall consist of the following items of the county clerk's apportionment sheet: state special charges upon county (B-2), county taxes levied over the entire county (B-3a), county taxes levied against districts for special purposes (B-3b, 3c and 3d). For the tax levy of 1978, and for subsequent years, the levy for counties will include all items on Section B of the County Apportionment Sheet.

(4) The .75 mill amount shall be computed on the state's current equalized value in determining the base for the subsequent year's tax

levy. If a municipality's tax levy for the current year as determined in sub. (2) above is less than .75 mill of the state equalized value of the municipality, the department of revenue will determine the municipality's tax levy prior to adjustments to be the state's equalized value of the municipality multiplied by .75 mills.

(5) "Surplus funds" are those surplus unallocated funds which are available to be applied along with the anticipated revenues to finance the estimated expenditures of the next year. These funds must be in cash or in so liquid a form as to be the equivalent of cash in order to be classed as such surplus unallocated funds. The surplus funds applied to the budget to reduce the tax levy noted above, in sub. (2) for municipalities and sub. (3) for counties, must either be reflected in the formal budget document prepared in accordance with s. 65.90 (1) of the statutes or reflected on the face of the statement of taxes and indebtedness filed with the department of revenue. Supplemental appropriations made during the course of a municipality's or county's fiscal year are not surplus funds applied within the intent and purpose of this law.

(6) The amount needed for retirement of principal and interest on long-term debt must be levied unless sufficient non-property tax receipts were available in a sinking fund created in accordance with s. 67.11 at the time the levy was established. The moneys in the sinking fund must be specifically earmarked for the repayment of general obligation debt which was due in the subsequent year. Such verification of intended use should include records of the legislative body or other tangible evidence that would demonstrate when and for what purpose the non-property tax receipts were placed in the sinking fund.

(7) In the case of a municipality or county assuming ownership of a service from the private sector, the municipality's or county's levy may be increased by the amount of the unreimbursed expenses budgeted for purchase of the functions and operating cost for the first year. If the purchase was made during the current year and the current year's budget provided a full year's funding, there would be no allowable increase in the next levy. If the purchase was made in the current year and the current year's budget provided funding for part of a year's operation, the next year's levy would be allowed to increase by the amount necessary to cover the increase from a part of a year to a full year of operation. Offsetting aids shall be deducted in arriving at the unreimbursed expenses. Also, if borrowed funds were used for the purchase, they shall be deducted in arriving at the allowable increase.

(8) In the case of a municipality assuming a function formerly performed by the county, the municipality's levy may be increased by the amount of the unreimbursed expenses that will be incurred during the first year for performing those functions. In the case of a county assuming a function formerly performed by a municipality, the county's levy may be increased by the amount of the unreimbursed expenses that will be incurred during the first year for performing those functions. For example, if a county takes over the assessing duties of the municipalities, the county would be allowed the unreimbursed operating expenses for the first year. Offsetting aids shall be deducted in arriving at unreimbursed expenses. Also, if borrowed funds were used for the purchase, they shall be deducted in arriving at the allowable tax levy increase.

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(9) In the case of a municipality transferring a function to a county, the municipality must reduce its next tax levy by the estimated amount

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(6) **REDETERMINATION OF COUNTY EQUALIZED VALUE.** The secretary shall make careful investigation of the value of taxable general property in the several tax districts to which such review and redetermination shall extend, in any manner which in good judgment is best calculated to determine the fair, equalized value of such property.

(7) **DECISION OF THE SECRETARY.** (a) The secretary shall make the final 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 attorney of the county appealing.

(b) In such determination the secretary shall set forth the relative value of the taxable general property in each such tax district as found, and what sum, if any, shall be added to or deducted from the aggregate value of taxable property in each such county and tax district as fixed in the determination of the department under s. 70.57, Stats., from which such appeal was taken in order to produce a relatively just and equitable county equalized value. The determination of the secretary shall be final and correction, if any, shall be made in the following year as specified in s. 70.57 (1), Stats.

**Note:** Further appeal from the determination made by the department is specified in s. 70.57 (2), Stats. as follows: "Appeal from the determination of the department shall be by writ of certiorari to the circuit court of Dane county within 90 days after the determination and shall be placed at the head of the circuit court calendar for an early hearing."

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.10 Examination of manufacturing property report forms, confidentiality.** (ss. 70.35 (3) and 70.995 (12), Stats.) (1) Manufacturing property report forms that must be completed by all manufacturers and returned to the department according to s. 70.995 (12), Stats., are confidential records. Self reporting forms for personal property required by s. 70.35 (3), Stats., are confidential records of the assessor's office.

(2) Manufacturing property report forms shall be deemed privileged information, for use by the department and for use in any public hearing regarding the property assessment. Local assessors and their agents view the report forms submitted regarding property in the jurisdiction the assessor represents. Government agencies may view the report forms for use in acquiring real property for public purposes.

(3) Upon presentation of appropriate identification by the person allowed to make the examination, the report forms may be examined only at the district property assessment office.

**History:** Cr. Register, March, 1979, No. 279, eff. 4-1-79.

**Tax 12.20 Net proceeds occupational tax on metal mining, taxable year.** The taxable year adopted by the person engaged in mining metalliferous minerals in this state for purposes of the "net proceeds occupational tax report" shall correspond to the year adopted by that person for Wisconsin franchise and income tax purposes.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.21 Reports, due date.** (s. 70.38 (1), Stats.) (1) The due date for the net proceeds tax report pursuant to s. 70.38 (1), Stats. may be extended to April 1, provided that a written request stating a sufficient reason for such extension is submitted to the department prior to February 10.

(2) If the person required to file a report in accordance with s. 70.38 (1), Stats. fails to file such a report within the time prescribed or as extended pursuant to sub. (1), the person shall be assessed a penalty of \$25 and such person shall not be allowed any action or proceeding to contest the imposition of such penalty.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.22 Confidentiality of information.** Any information obtained under s. 70.375, Stats. shall be held confidential except that information provided by the taxpayer for annual report purposes which shows:

- (1) The computation of gross proceeds;
- (2) Authorized deductions from gross proceeds;
- (3) Information regarding the distribution and apportionment of the tax.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.23 Basis for depreciation and amortization.** (s. 70.375 (4) (k), Stats.) The basis for depreciation and amortization of the property mentioned in s. 70.375 (4) (k) for mines operated during the taxable year 1977 shall be their net book value as of the beginning of that year provided that the straight line method for computing the expense was used for book purposes. If the straight line method was not used the basis shall be recomputed as if it was used.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.25 Deductions for expenses incurred by other than person taxed.** (s. 70.375 (4), Stats.) (1) In the event any expense required to obtain the product to which the published price applied is incurred directly by persons other than the person upon whom the tax is imposed, such expenses shall be allowed as are the expenses under s. 70.375 (4) provided the expenses are itemized and documented and are as near as may be to the kind enumerated in s. 70.375 (4).

(2) No deduction shall be allowed for the cost of capital (interest and earnings) imputed or implied in respect to the expenses enumerated in s. 70.375 (4) (b), Stats.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.27 Three year averaging rule.** (s. 70.375 (2), Stats.) (1) For purposes of s. 70.375 (2) when in the judgment of the department there is insignificant production or no production has occurred during any month, a weighted average for the 3 year period shall be computed eliminating those months of insignificant or no production from both the numerator and denominator of the fraction. The weighted average shall be computed by dividing the total significant production in the 3-year period into the sum of the following:

(a) The product of multiplying the total of significant production for the current year by the net proceeds for that year, and

(b) The products obtained by the same method for the 2 preceding years.

(2) In determining whether insignificant production has occurred, the department shall take into consideration the following:

- (a) The production schedule for the year
- (b) The total remaining defined reserves to be mined
- (c) Prior years actual production.
- (3) Definitions. "Production" means tons of natural or crude ore extracted.

**Note:** An example of the computation described in sub. (1) is as follows:

Calculations:

	<u>1st Yr.</u>	<u>2nd Yr.</u>	<u>3rd Yr.</u>	<u>Total</u>
Total Production	663,000	946,000	1,335,000	
Less: Total production during months of insignificant production	<u>53,000</u>	<u>56,000</u>	<u>15,000</u>	
Total significant production:	<u>610,000</u>	<u>890,000</u>	<u>1,320,000</u>	<u>2,820,000</u>
Net Proceeds	\$400,000	\$500,000	\$800,000	

The weighted average =  $\$ (400,000 \times 610,000 + 500,000 \times 890,000 + 800,000 \times 1,320,000) \div (610,000 + 890,000 + 1,320,000) = \$618,794$

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.28 Review of assessments, claims for refunds.** Additional assessments and claims for refunds for excess net proceed tax payments are subject to the same procedure for review and final determination as additional income tax assessments and claims for refunds under provisions of ch. 71, Stats., as far as the same may be applicable.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.29 Interest.** For purposes of s. 70.385 (2), Stats., interest shall accrue at the rate of 9% per annum beginning on the original due date.

**History:** Cr. Register, June, 1979, No. 282, eff. 7-1-79.

**Tax 12.40 Waste treatment facilities (industrial).** (s. 70.11 (21), Stats.) (1) STATUTE. (a) The general property tax exemption for a waste treatment facility is contained in s. 70.11 (21), Stats.

(b) Property purchased or upon which construction began prior to July 31, 1975 shall be subject to s. 70.11 (21), 1973 Stats. Property purchased or upon which construction began on July 31, 1975 or thereafter shall be subject to s. 70.11 (21), 1975 Stats. and must be approved by the department.

(2) APPROVAL. (a) Requests for approval by industrial or commercial concerns for each waste treatment facility shall be made by completing the form entitled "Application for Exemption of Waste Treatment Facility". The completed form is due February 1 of each year and is to be filed annually even though in years subsequent to purchase or construction no capital changes have occurred to the waste treatment facility. All actual costs of purchase or construction of the facility must be reflected on this form.

(b) The completed form "Application for Exemption of Waste Treatment Facility" should be sent to the Bureau of Property Taxes, Division of State/Local Finance, Wisconsin Department of Revenue, 201 East Washington Avenue, Madison, WI 53702.

(3) **INDUSTRIAL WASTE TREATMENT FACILITY EXEMPTION.** (a) The words "waste", "treatment" and "facility" are deemed to have the following meanings:

1. *Waste*; means that which is left over as superfluous, discarded or fugitive material. In addition, "*industrial waste*" is defined by reference to s. 144.01 (9), Stats., as liquid or other wastes resulting from any process of industry, manufacture, trade, business or the development of any natural resource. "*Air contaminant*" is defined by reference to s. 144.30 (1), Stats., as dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas odorous substances or any combination thereof but shall not include uncombined water vapor.

2. *Treatment*; means removing, altering or storing waste.

3. *Facility*; means tangible property that is built, constructed or installed as a unit so as to be readily identifiable as directly performing a waste treatment function.

4. *Waste treatment facility* means tangible property that is built, constructed or installed as a unit so as to be readily identifiable as directly removing, altering or storing leftover, superfluous, discarded or fugitive material. Monitoring equipment which is not a component or integral part of a waste treatment facility is not exempt.

(b) The exemption for industrial waste treatment facilities does not extend to "unnecessary siltation" resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion" (s. 144.01 (10), Stats.).

(c) The exemption also does not apply to conversion of an industrial furnace from one type of fuel to another type of fuel. The exemption does not apply to the increased height of a smoke stack to diffuse emissions over a wide area or increments to property held for the production of income but which may be indirectly related to pollution abatement. However, the installation of a scrubber or electrostatic precipitator in a smoke stack could qualify for exemption.

**History:** Cr. Register, June, 1979. No. 282, eff. 7-1-79. r. (3) (d), Register, March, 1980, No. 291, eff. 4-1-80.

**Tax 12.50 Exempt solar and wind energy systems.** (s. 70.111 (18), Stats.) (1) **APPLICABILITY.** The general property tax exemption applies whether the solar and wind energy systems certified by the department of industry, labor and human relations under s. 101.57 (4), Stats., are deemed personal property or are so affixed to the realty as to be classified as real estate.

(2) **CLAIMS FOR EXEMPTION, PROCEDURE.** Upon certification by the department of industry, labor and human relations the owner of the solar and wind energy system shall submit a claim for exemption on forms prescribed by the department of revenue to the assessor for the taxation district in which the system is located.

(3) **WHEN VALID.** An exemption shall become effective when both of the following conditions are met:

Register, May, 1981, No. 305

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(a) The certification under s. 101.57 (4), Stats., shall be effective prior to the January 1 assessment date for which the exemption is claimed.

(b) The claim for exemption shall be submitted to the assessor no later than the April 1 immediately following the assessment date for which the exemption is claimed.

(4) **TERMINATION.** This rule shall terminate December 31, 1995.

**History:** Emerg. cr. eff. 12-31-80; cr. Register, May, 1981, No. 305, eff. 6-1-81.