

Chapter Tax 6

PUBLIC UTILITY TAXATION

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Tax 6.02 Returns for public utilities. Forms that are used in the administration of the various taxes levied according to ch. 76, Stats., may be obtained from the Wisconsin Department of Revenue, Bureau of Utility and Special Taxes, P.O. Box 8933, Madison, WI 53708.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75; r. and recr. Register, January, 1989, No. 397, eff. 2-1-89.

Tax 6.40 Waste treatment facilities (industrial/utility). (s. 76.02 (10), Stats.) (1) **STATUTE.** The exemption for a waste treatment facility otherwise taxable under s. 76.13 is contained in s. 76.02 (10), Stats.

(2) **APPROVAL.** (a) Requests for approval by public utilities subject to taxation under s. 76.13 Stats. for each waste treatment facility shall be made by completing the form entitled "Application for Exemption of Waste Treatment Facility-Utility." All actual costs of purchase or construction of the facility must be reflected on this form. The completed form is due January 15 of each year and is to be filed annually except in years subsequent to purchase or construction where no capital changes have occurred to the waste treatment facility, in which case a summary sheet may be submitted for these facilities. For good cause shown upon application by the applicant, the department may grant an extension of time not exceeding 120 days in which to file the application form.

(b) The completed form "Application for Exemption of Waste Treatment Facility-Utility" should be sent to the Bureau of Utility and Special Taxes, Division of State/Local Finance, Wisconsin Department of Revenue, P.O. Box 8933, Madison, WI 53708.

(c) Tentative approval for sales tax purposes may be obtained from the department by applying to the department at any time prior to January 15. Qualifying for the exemption under s. 70.11 (21) (a), Stats., will result in qualifying for the exemption under s. 77.54 (26), Stats. The request for a tentative approval should include all of the following:

1. A complete description of the function and operation of the facility.
2. A statement as to why the facility meets the definition of a waste treatment facility under sub. (3).
3. The estimated costs of all components of the facility.

(d) The approval of a waste treatment facility pursuant to par. (a) or (c), constitutes approval of the function of the facility only. The components and costs of the facility are subject to verification by the department and local units of government. Also, any approval is subject to the department verifying that the actual operation of the facility is consistent with the description provided in the request for exemption.

(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 (5), Stats., as including 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) 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 (8), 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, July, 1979, No. 283, eff. 8-1-79; r. (3)(d), Register, March, 1980, No. 291, eff. 4-1-80; r. (1) (b), cr. (2) (c) and (d), am. (3) (a) 1. and (b), Register, January, 1989, No. 397, eff. 2-1-89.

Tax 6.50 Full market value. (s. 76.07 (5), Stats.) (1) **GENERAL.** (a) The entire operating property of any company enumerated in s. 76.02, Stats., shall be valued together as a unit at full market value unless, in the opinion of the department, any of the property is so segregated that a separate assessment is warranted. The department shall apply recognized appraisal methods in determining full market value. The cost, stock and debt, and capitalized income indicators of value and reasonable variations shall be applied by the department in accordance with the general principles set forth in subs. (4) to (6).

(b) Indicators of value other than those enumerated in sub. (2) (g) 1 to 3 of this rule which result from recognized appraisal methods may be used by the department after due promulgation of general principles of application for the indicators of value by amendment to this rule.

(c) In determining the full market value of the operating property of any company enumerated in s. 76.02, Stats., the department shall not be limited to the method of accounting for legitimate business purposes used by the taxpayer but the department shall give due consideration to generally accepted accounting principles and regulated accounting practices in applying recognized appraisal methods. Whenever accounting principles and practices are not accepted by the department it shall provide an explanation to the company in writing setting forth the reasons for unacceptance and an explanation of any adjustments made.

(2) DEFINITIONS. In this section:

(a) "Discount rate or capitalization rate" is that rate of interest which is the most probable rate of return to be expected to prevail in the industry for companies of comparable risk at the time of assessment. This market rate of capitalization is a composite of rates which the market indicates that investors demand as interest for secured capital, bonds and equipment trust certificates, or other evidences of value, and rates which the market indicates as necessary to attract equity capital, common and preferred stock. The final capitalization rate used may not be lower than the rate or cost of bonded debt nor higher than the cost of raising equity capital. The discount or capitalization rate may be derived by the band of investment method, summation method or the comparative method. Any one of these methods or any combinations of, may be used by the department in deriving the appropriate capitalization rate, provided, however, that the department provides the company with documentation as to the method or combination used and the reasons for use of the method or methods.

(b) "Going concern value" is the enhanced value of assets due to their existence within an operating business that is expected to continue its operation in the foreseeable future with no intention or necessity of liquidation or the material alteration of the scale of operation.

(c) "Method of accounting" is a system of recording and summarizing business and financial transactions in books of account and analyzing, verifying and reporting the results, usually for a period of one year or less. The results of accounting methods which are prescribed by regulatory bodies and generally accepted accounting principles may not be synonymous with the results of valuation methods.

(d) "Operating property" is real and personal property including all rights, franchises and privileges used in and necessary to conduct the business of the enterprise subject to taxation under s. 76.02, Stats.

(e) "Present worth" is the value today of something to be received in the future. It is calculated by a discounting process that takes into consideration the time-interest concept of money by the application of a present worth factor.

Example: If a cash benefit of \$1,000 is to be received some years hence, the value today of such benefit is equal to \$1,000 multiplied by the appropriate present worth factor.

(f) "Present worth factor" is that ratio, expressed as a decimal equivalent, as shown in a compound interest table at a specific interest or discount rate for the appropriate period.

(g) "Recognized appraisal or valuation method" is the mode of inquiry employed in estimating or predicting the price in terms of money a

property may bring in a competitive and open market under all conditions requisite to a fair sale and include:

1. The method whereby the investment expenditure required to purchase the land or land rights, materials, labor and services necessary to bring a new property into existence is estimated and which is commonly referred to in appraisal and valuation literature as the cost method. Indicators of value within the cost method include:

- a. Historical cost of the property when first put into use.
- b. Original book cost of the property to the present owner.
- c. Reproduction cost to currently reproduce the same kind of property.
- d. Replacement cost to currently replace the property with its functional equivalent.

2. The method whereby the investment expenditure required to purchase an existing property is estimated and which is commonly referred to in appraisal and valuation literature as the market method. Where there are few unit sales, value under the market method shall be computed by using the stock and debt indicator of value. Indicators of value within the market method include:

- a. Sale of the subject or comparable property by acquisition or merger.
- b. Sale of the debt and equity interest of the subject or comparable enterprise as a proxy for the market value of the property presented on the balance sheet. This indicator is commonly referred to in appraisal and valuation literature as the stock and debt indicator.

3. The method whereby the investment expenditure required to purchase the anticipated future benefits resulting from the operation of the property is estimated and which is commonly referred to in appraisal and valuation literature as the capitalized income method. Indicators of value within the capitalized income method include:

- a. The capitalization of the estimated future income to the present owner or to a prospective purchaser. The estimated future income is that income which remains after book depreciation and federal tax expenses actually paid have been subtracted.
- b. The discounted or the present value of the estimated future cash flow to the present owner or to a prospective purchaser. The estimated future cash flow is that cash flow which remains after the asset replacement expenditures and the federal income taxes paid have been subtracted.

(h) "Unit valuation" is the appraisal as a whole of an integrated property operated as a going concern without any reference to the value of its component parts.

(3) DERIVATION OF INDICATORS OF VALUE. In principle each recognized appraisal method shall as near as possible follow a logic which is separate and unique and the department will attempt to apply the various appraisal methods in a manner which maximizes the uniqueness of each method.

(4) COST INDICATORS OF VALUE. (a) In determining cost indicators, the department may consider 4 kinds of cost described as follows:

1. Historical cost of the property when first put in service;
2. Original cost of the property to the present owner;
3. Reproduction cost to currently reproduce the property; and
4. Replacement cost to currently replace the property with its functional equivalent.

(b) The department shall make adequate and reasonable allowances for loss of value due to all causes including physical depreciation, functional and economic obsolescence, regulatory required write-offs and utility plant acquisition adjustments. The department shall also make required allowances for property which is not taxable under ch. 76, Stats., which includes but is not limited to, future use property, except when included in the rate base, approved waste treatment facilities, licensed motor vehicles, nonoperating property, property allocable outside the state and property leased to others. The cost indicator for regulated public utilities shall recognize that an asset's value generally is limited by its value for ratemaking purposes. The cost indicator shall include construction work in-progress regardless of the treatment for ratemaking purposes.

(5) STOCK AND DEBT INDICATORS OF VALUE. (a) Stock and debt indicators are determined by the application of the general financial appraisal principle that the market value of the debt and equity interests of the enterprise are equal to the market value of the assets presented on the balance sheet. Stock and debt indicators determine the value of a company's assets by appraising the value of the shareholders' equity and liabilities of the company, such as current liabilities, long-term debt, reserves and deferred credits. Appropriate reductions shall be made for nonoperating property of the company. The department may consider the following ratios to eliminate nonoperating properties:

1. Nonoperating book value to total book value, or
2. Nonoperating income to total income.
3. Nonoperating market value to total market value.

(b) The department shall also make required adjustments for nontaxable properties as set forth in sub. (4).

(6) CAPITALIZED INCOME INDICATORS OF VALUE. Capitalized income indicators are determined by the application of the general appraisal principle that the full market value of operating property is the present worth of anticipated future benefits to be derived from ownership of the property. Future benefits are the summation of the positive and negative cash flows which a fully informed person is warranted in assuming will be produced by operations of the property as a going concern. The department shall reflect earnings limitations imposed upon regulated utilities in this determination.

(7) CORRELATIONS OF INDICATORS OF VALUE. (a) The validity of a determination of value may be measured against the supporting evidence and documented data from which the determination of value was derived. Accordingly the department shall consider and weigh, in its best judgment any or all available indicators of full market value enumerated in sub. (2) (g) 1 to 3. In this correlation process it shall consider the following:

1. The speculative nature of estimates used in developing the indicators of value and the degree of reliability of each of the indicators of value.

2. The consistency of weighting indicators of value from year to year.

3. Uniformity of assessments within taxpayer classifications.

4. Buyer's and seller's viewpoints.

5. The reasonableness of the correlated full value market estimate when compared to:

a. Actual sales of comparable properties in an arm's-length transaction between independent parties;

b. Rate base;

c. Other states' correlated estimates of full market value of the same company adjusted for differences in state law;

d. Net salvage value;

e. Additional evidence of full market value submitted by the company or the department;

f. Value asserted in prospectus; and

g. All other facts obtainable bearing on the value of the property collectively.

(b) In the case of regulated utilities, a sale is comparable only if there is the sale of an entire operation capable of functioning independently and the parties thereto are subject to regulatory policies similar to those of Wisconsin.

(8) **REQUESTS FOR DOCUMENTATION.** Upon written request the department shall provide to the company copies of its computational worksheets used in determining full market value.

(9) **CORRECTION OF ERRORS.** Errors which are agreed to be palpable or computational and which are discovered after issuance of the assessment shall be adjusted by the department in the next subsequent assessment year and the department shall provide the company with evidence of such adjustment.

History: Cr. Register, November, 1983, No. 335, eff. 12-1-83.