

CHAPTER 74.

COLLECTION OF TAXES.

74.01	Lien of taxes on land, and on timber; levy.	74.33	Record of delinquent lands; notice of sale.
74.02	Notice of collection.	74.345	Error in notice; subsequent sale.
74.025	Postmarking by due date; timely payment.	74.36	Affidavits of publication and posting.
74.03	Semiannual payment of taxes.	74.38	Officers not to be interested.
74.031	Instalment tax payment.	74.39	Sale of real estate.
74.035	Taxes paid in advance.	74.40	Who to be purchaser; order of sale.
74.04	Payment in orders.	74.41	Payment.
74.045	Use of scrip.	74.42	When treasurer to buy.
74.05	Officers not to buy orders.	74.43	Cities bidding in at tax sales.
74.06	Payment on part; undivided interests; notice.	74.44	County may purchase on tax sales; cutting county timber, penalty.
74.07	How tax paid.	74.45	Mistake not to affect sale.
74.08	Blank tax receipts; use thereof.	74.455	Correction of tax certificates.
74.09	Comparison of stub book with tax roll; book as evidence.	74.456	Correction of tax sale certificates.
74.10	Collection.	74.46	Certificate of sale; may be assigned and recorded.
74.11	Action to collect tax on personal property.	74.47	Papers, stub book and rolls to be filed.
74.12	Action of debt to collect tax; duty of district attorney.	74.49	Sale after injunction dissolved.
74.13	Action for collection of taxes against public utilities.	74.50	Disqualification of officers.
74.135	Taxes, cancellation of.	74.57	Lands acquired by state are not subject to tax sale.
74.14	Procedure.	74.59	Application of chapter to cities.
74.16	Treasurer's receipts, how countersigned.	74.60	Neglect to elect officers; how taxes collected.
74.17	Delinquent taxes returned.	74.61	Mailing statements of taxes due.
74.18	Form of return.	74.62	Taxes; payment by grantor and grantee.
74.19	Local treasurer's affidavit, forfeiture; collection of delinquent taxes.	74.63	Rights of occupant who has paid taxes.
74.20	Certificate of delinquent taxes.	74.64	County to refund unjust tax.
74.21	Satisfaction of treasurer's bond.	74.65	Cancellation of sales.
74.22	Penalty for failure to settle taxes.	74.66	Loss by officers.
74.23	Warrant; levy; breach of bond.	74.67	Rights of lienholder who pays taxes.
74.24	False or negligent return.	74.68	Record of notice of lien.
74.25	Damages.	74.69	Discharge of lien; rights of lienor.
74.26	Payments by county treasurer.	74.695	Lienholder, acquisition of prior lien.
74.27	Penalties upon counties.	74.70	Lienholder may avoid tax.
74.28	Payments to local treasurers.	74.71	Assessments may be settled for; effect of release.
74.29	Delinquent personal tax.	74.72	Neglect to levy taxes.
74.30	Powers of sheriff; actions; attachment; garnishment.	74.73	Recovery of illegal taxes; limitation.
74.31	Charging tax to municipality.	74.74	Reassessment of plaintiff's taxes.
74.32	Taxes, interest; payment on share or part to county treasurer; notice.	74.76	Liens of internal revenue taxes.
74.325	Delinquent taxes; payment in instalments.	74.77	Paid by municipality; lien.
		74.78	Recovery of taxes paid by wrong school district.
		74.79	Instalment tax payments.

74.01 Lien of taxes on land, and on timber; levy. All taxes levied upon any tract or parcel of land and all costs, charges and interest thereon shall be a lien thereon until paid except as otherwise provided by law; and all costs and expenses which shall accrue jointly or in the aggregate on two or more tracts or parcels shall be apportioned in equal parts upon such several tracts or parcels; and all taxes levied upon any lands and all costs, charges and interest thereon shall also be a lien on all logs, wood and timber cut upon such lands subsequent to the first day of May in the year in which such taxes are levied; and it shall be the duty of the town treasurer, or if such taxes be returned uncollected, of the county treasurer, to pursue and levy upon such logs, wood or timber, wherever the same may be, and collect such tax by distress and sale of the same in the manner provided by law for the distress and sale of personal property for the payment of taxes.

Prior mortgage lien of the United States is superior to subsequent real estate tax liens of county, village, and town. U. S. v. Davis Mining Enterprises, 187 F. Supp. 911.

74.02 Notice of collection. The treasurer of each town, city or village on the receipt of the tax roll for the current year, shall forthwith post notices in 3 or more public places in such town, city or village, that the tax roll for the same is in his hands for collection. Such notice shall specify how and when taxes must be paid.

74.025 Postmarking by due date; timely payment. Whenever in this chapter or in ch. 75 a payment is required to be made by a taxpayer on or before a certain date, such payment shall be considered timely made if mailed in a properly addressed envelope with postage duly prepaid, which envelope is postmarked before midnight of the last date

prescribed for the making of such payment and if received by the proper official to whom directed within 5 days of such prescribed date.

History: 1965 c. 63.

74.03 Semiannual payment of taxes. (1) **PERSONALTY TAXES ANNUAL, REALTY SEMI-ANNUAL.** Commencing with the 1943 tax roll, all personal property taxes shall be paid on or before the last day of February and all real estate taxes may be paid in 2 instalments, as provided in this section.

(2) **SEMIANNUAL PAYMENTS.** Each and every person or corporation charged with real estate taxes on a tax roll in the hands of the town, city or village treasurer shall pay to such treasurer the full amount thereof on or before the last day of February next following the receipt of such tax roll by such treasurer, or he may pay the same in 2 equal instalments as follows:

(a) The first instalment shall be paid to the town, city or village treasurer on or before January 31. The governing body of any town, village or city may by resolution adopted by two-thirds of its membership not later than December 15 of the preceding year, fix a later date for the payment of the first instalment, which may be at a date not later than the last day of February.

(b) The second instalment shall be paid to the county treasurer, except as provided in subs. (6) and (10), without interest on or before July 31 next succeeding.

(c) Such first instalment shall not be less than \$20 if the total tax exceeds \$20, nor less than the total amount of the tax if the same does not exceed \$20. In towns this paragraph shall apply to the total tax levied against any one person and not to individual parcels or descriptions.

(3) **SPECIAL ASSESSMENTS, DRAINAGE TAXES.** The payment of special assessments levied for public improvements and benefits may be made in 2 instalments, as provided in sub. (2), if authorized by a two-thirds vote of the town or village board or city council. No other special assessments, including service charges, or taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) shall be subject to payment in instalments.

(4) **DELINQUENT FIRST INSTALMENT; INTEREST.** If the first instalment of the real estate taxes or special assessments so charged is not paid on or before January 31, the whole amount of such real estate taxes or special assessments shall become due and payable and shall be collected, together with unpaid personal property taxes, on or before the last day of February by the town, city or village treasurer. All such taxes and assessments remaining unpaid on March 1 are delinquent and shall be returned to the county treasurer as provided in s. 74.17. Such taxes shall be collected by the county treasurer with interest at the rate of eight-tenths of one per cent per month or fraction thereof from January 1 next preceding.

(5) **LOCAL TREASURER'S SETTLEMENT.** (a) On or before March 15, the town, city or village treasurer shall settle for all collections made by him on taxes and assessments.

(b) He shall pay to the proper treasurer all collections on taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) and all collections on special assessments of every character, or he shall retain such if levied by the town, city or village of which he is treasurer.

(d) Out of the remaining general property taxes collected he shall first set aside and pay over to the county treasurer the full amount due on state trust fund loans of every character levied on the property in such town, city or village, unless the governing body thereof shall have extended such loans pursuant to s. 74.03 (5a). He shall next set aside and pay over to the county treasurer the full amounts levied on the property of such town, city or village for high school tuition, high school transportation (or board and lodging in lieu thereof) and vocational and adult school tuition in the order named. The town, city or village treasurer shall then pay to each school district treasurer such proportions of the school levy of such district as the balance of the general property taxes collected in such town, city or village bears to the total general property tax levy therein for all purposes included in the tax roll, exclusive of levies for state trust fund loans, high school tuition, high school transportation and vocational and adult school tuition. In cities operating schools pursuant to ss. 40.80 to 40.827 he shall retain such proportion levied for school purposes. He shall pay to the county treasurer a like proportion of the state taxes, state special charges, county school tax, other county taxes and county special charges, and shall retain a similar proportion for the town, city or village. The county treasurer shall remit such state trust fund loans, state taxes and state special charges to the state treasurer as provided in s. 74.26, and likewise remit such county school moneys as provided by law, and shall retain for the use of the metropolitan sewerage district an amount equal to the taxes levied pursuant to s. 59.96 (7), and credit the same to the proper metropolitan sewerage area accounts on or before March 20.

(5a) TRUST FUND LOAN PAYMENTS, EXTENSION, INTEREST. The governing body of any town, city or village which collects taxes pursuant to this section may, by resolution, extend the time for the payments due on state trust fund loans levied on the property in such municipality up to and including August 15. A copy of said resolution shall be filed with the commissioners of public lands not later than February 1 of said year. Such total payment due on state trust fund loans shall bear interest from March 15 to August 15 at the rate currently received on loans by the commissioners of public lands. Said commissioners shall immediately notify the treasurer of the county in which such town, city or village is located of such extension.

(6) DELINQUENT 2ND INSTALMENT; INTEREST. Except as provided in s. 74.025, the 2nd instalment of real estate taxes and special assessments remaining unpaid on August 1 shall be delinquent and shall be subject to interest at the rate of eight-tenths of one per cent per month or fraction thereof from January 1 next preceding until paid or until the property upon which such taxes are levied is sold at the next tax sale as provided by law.

(7) DISTRIBUTION OF INTEREST COLLECTED. (b) All interest collected by the county treasurer on special assessments levied for public improvements and benefits, which are held in trust for collection, shall be paid over to the respective town, city or village treasurer.

(c) All interest collected by the county treasurer on taxes and assessments levied under ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) shall belong to the respective drainage districts, except as provided in s. 74.03 (8).

(d) All interest collected by the county treasurer on other taxes and special assessments both prior and subsequent to the tax sale shall be retained by the county treasurer for the use of the county, except as otherwise required by section 75.01.

(8) FIRST SETTLEMENT BY COUNTY TREASURER. (a) On or before August 20, the county treasurer shall settle for all collections on delinquent and postponed taxes and special assessments made by him up to and including July 31.

(b) He shall pay over to the proper treasurer or credit to the proper drainage district all collections on drainage taxes and assessments authorized by ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965).

(c) He shall pay to the treasurer of the political subdivision levying the same all collections on special assessments levied for public improvements and benefits which are held in trust for collection.

(d) He shall retain for the use of the county all payments made on special assessments levied under section 27.065.

(f) Out of the remaining proceeds of the general taxes and special assessments collected for each town, city or village, the county treasurer shall first set aside and pay to the state treasurer the balance due on state trust fund loans. He shall next set aside and pay to the proper treasurers any balances due on levies for high school tuition, high school transportation and vocational and adult school tuition in the order named. The county treasurer shall then pay to each town, city or village treasurer such proportions of the balances due on levies for school and for town, city or village purposes (including special assessments not returned in trust) as the balance of the general taxes and special assessments collected in such town, city or village bears to the total balance then due on all general levies and special assessments, except those referred to in pars. (b), (c) and (d). In cities operating schools pursuant to ss. 40.80 to 40.827 the city treasurer shall retain such proportion levied for school purposes, and elsewhere the town, city or village treasurer shall pay such proportion to the school treasurers. The county treasurer shall retain like proportions of the balances due on state taxes, state special charges, county school tax, other county taxes and county special charges. The county treasurer shall remit the proportions retained on state taxes and state special charges to the state treasurer as provided in s. 74.26, and likewise remit the amount retained for county school taxes as provided by law.

(g) The county board of any county may authorize and direct its county treasurer to settle in full for all taxes, or special assessments, or both, within one month after the return of such taxes and special assessments pursuant to s. 74.17. Such settlements shall be made with interest for special assessments levied for public improvements and benefits and for taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965). Settlements for all other taxes and special assessments shall be made without interest.

(9) SUBSEQUENT SETTLEMENTS BY COUNTY TREASURER. (a) Subsequent to the settlement provided in subsection (8), the county treasurer shall on the twentieth day of each month make payments to the treasurer of the state and of each town, city or village out of the proceeds of the delinquent taxes and special assessments of such town, city or vil-

lage, other than those referred to in paragraph (h), collected by him up to and including the last day of the preceding month which have not been included in a previous settlement, until the state and each town, city, village or school district shall have received in full their levies for that year on the property of such town, city or village. Such payments shall be made by the county treasurer out of the taxes collected for each particular town, city or village in the order of preferences set forth in paragraphs (b) to (g).

(b) He shall first set aside and pay to the proper treasurers any balances due on state trust fund loans, high school tuition, high school transportation and vocational and adult school tuition levies in the order named.

(c) He shall next set aside and pay to the state treasurer the balances due on state taxes and state special charges in the order named. In the event that the amounts so set aside and applied on state taxes and state special charges are insufficient to pay such taxes and charges in full by November 20, the county treasurer shall advance at that time the balance on state forestry taxes and state special charges. Thereafter, he shall retain for county purposes amounts set aside pursuant to this paragraph.

(d) He shall next set aside and remit as provided by law the balance on the county school tax. The county board of any county may authorize and direct its county treasurer to pay the entire balance due on aid to common schools subsequent to the settlement provided in subsection (8), in which case the amount set aside pursuant to this paragraph shall be retained by the county treasurer for county purposes.

(e) He shall next retain for the county the balance due on county taxes levied for social security pursuant to sections 49.18, 49.19, 49.37 and 49.61.

(f) He shall next pay to the treasurer of each town, city or village the balance due on school levies and the balance due on town, city or village taxes and special assessments other than those referred to in paragraph (h). Out of the moneys so received the town, city or village treasurer shall first set aside and pay over to each school district treasurer the balance due on school district levies, except that in cities operating schools pursuant to ss. 40.80 to 40.827 the city treasurer shall retain such balance.

(g) He shall finally retain any balance due on account of other county taxes and charges.

(h) All collections during the preceding calendar month on special assessments for public improvements and benefits which are held in trust for collection and drainage taxes and assessments authorized by ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) shall be paid to the proper treasurers or credited to the proper drainage districts on the 20th day of each month. All such collections on taxes and assessments levied pursuant to s. 27.065 shall be retained by the county treasurer.

(10) MILWAUKEE. In any city authorized by its charter to sell land for nonpayment of city taxes, the following provisions relating to the time and place of payment and returns and settlements of the taxes and charges in the duplicate county tax roll shall apply in order to conform as nearly as may be to the procedure prescribed and followed under such charter, but otherwise the provisions of this section shall govern:

(a) On or before February 25, the city treasurer shall return the duplicate county tax roll to the county treasurer and the delinquent city taxes and special assessments shall be collected by the city treasurer as provided in the city charter.

(b) On or before February 25, the city treasurer shall pay to the county treasurer all taxes and charges collected on the duplicate county tax roll, and all taxes and charges collected on the city tax roll shall be retained by the city treasurer. Immediately upon receipt of the allocable share of the sales and use tax collections as prescribed in s. 77.63 and the allocable share of the personal property tax offset as prescribed in s. 77.64, the city treasurer shall pay to the county treasurer the total tax credits applicable to the duplicate county tax roll.

(c) The amounts and time of payment of instalments of city taxes, special assessments and charges in the city tax roll shall be as provided in the charter of such city.

(d) The governing body of any city which retains and collects its delinquent real estate taxes shall have power by ordinance to extend the time for payment without interest of all or a portion of the personal property taxes levied by such city for a period of time not exceeding 10 months from January 31 following the tax levy year. Personal property taxes, at the option of the taxpayer, may be paid in 10 equal instalments, each of which instalments shall be paid on or before the last day of each month during the months of January through October provided that on or before January 31 of the year during which the tax becomes due, the said taxpayer shall have first paid to the city treasurer the full amount of all personal property taxes for all purposes except city purposes. If any instalment is not paid when due, the entire remaining balance of such taxes and charges shall become forthwith delinquent and shall bear interest at the rate of eight-tenths of one per cent per month or fraction thereof from the preceding January 1 until paid. The exercise of the option of the taxpayer to pay the city portion of per-

sonal property taxes in 10 equal monthly instalments must be made to the city treasurer in writing on or before January 31 of the year in which the taxes become due.

(11) APPLICATION OF SETTLEMENT PROVISIONS. The settlement provisions of sections 74.03 (9) and 74.031 (11) shall apply only to taxes of 1942 and subsequent years. All settlements for collections on taxes of 1941 shall be governed by the provisions of chapter 426, laws of 1933, and all settlements for collections on taxes prior to 1941 shall be governed by the provisions of law existing at the time chapter 426, laws of 1933, took effect [Oct. 1, 1941].

History: 1963 c. 73, 572; 1965 c. 63.

Cross Reference: For provisions relative to waiver and cancellation of interest, penalties, etc., by county boards and in Milwaukee, see chapters 123 and 330, Laws 1935, sections 74.045, 74.205 and 75.015, Stats. 1939. See also 74.79, created by ch. 287, Laws 1941, relative to instalment payment of taxes in Milwaukee.

74.031 Instalment tax payment. (1) COMMON COUNCIL TO PROVIDE FOR. The common council of any city other than a city authorized by its charter to sell land for nonpayment of city taxes, the board of trustees of any village or the town board of any town shall have power by ordinance to provide for the payment of real estate taxes or special assessments in 3 or more instalments as provided by this section. Except in cities that purchase their own tax collection supplies, the ordinance and any repeal or amendment thereof shall be enacted not later than August 15 of the tax levy year to which the same is first applicable. As to any city authorized by its charter to sell land for nonpayment of city taxes the provisions of section 74.79 shall apply.

(2) PERSONALTY TAXES ANNUAL, REALTY IN INSTALMENTS. Except in any city authorized by this charter to sell land for nonpayment of city taxes, all personal property taxes shall be paid on or before the last day of February. Every person or corporation charged with real estate taxes in the hands of the city, village or town treasurer shall pay to such treasurer the full amount thereof on or before the last day of February next following the receipt of such tax roll by such treasurer, or he may pay the same in instalments pursuant to this section and the ordinance enacted thereunder.

(3) INSTALMENTS DUE, PENALTIES. Such ordinance may postpone the time for the payment of a portion of the real estate taxes assessed in such city, village or town for not to exceed 6 months from January 31 so that real estate taxes may be paid to the city, village or town treasurer in 3 or more instalments beginning on or before January 31, each to be due on the last day of the month designated, under the conditions hereinafter specified, including the fixing of minimum payments. On any instalment date a taxpayer may pay the balance of the taxes due. Such ordinance may establish penalties for failure to pay instalments when due. Such ordinance must provide that not less than an aggregate of one-half of any tax paid in instalments shall be due and payable on or before April 30.

(4) SPECIAL ASSESSMENTS; DRAINAGE TAXES. Such ordinance may permit the payment of special improvement assessments levied for public improvements and benefits, in the same number of instalments and on the same conditions authorized for general real estate taxes. No other special assessments, or taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) shall be subject to instalment payment.

(5) DELINQUENT FIRST INSTALMENT; INTEREST. When the first instalment of the real estate taxes or special assessments so charged is not paid on or before January 31, the whole amount of such real estate taxes or special assessments shall become due and payable and shall be collected, together with unpaid personal property taxes, on or before the last day of February by the town, city or village treasurer. All such taxes and special assessments remaining unpaid on March 1 shall be delinquent, and shall be collected by the town, city or village treasurer with interest at the rate of eight-tenths of one per cent per month or fraction thereof from January 1 next preceding.

(6) OTHER DELINQUENT INSTALMENTS; INTEREST. If any taxes, the payment of which shall have been thus postponed, shall not be paid in full on or before the final date fixed in such ordinance, the unpaid portion of such postponed taxes shall be delinquent, and such taxes shall be collected together with interest thereon at eight-tenths of one per cent per month or fraction thereof from January 1 preceding in lieu of accumulated penalties imposed pursuant to subsection (3). Any such taxes remaining delinquent on August 1 shall be returned to the county treasurer for collection as provided in subsection (9).

(6a) METHOD OF COMPUTING INTEREST ON INSTALMENT PAYMENTS. In either of the cases provided for by subs. (5) and (6), payments may be made on account of the delinquent taxes and special assessments in instalments of not less than \$20 and in any multiple of \$5. The portion of such payment to be applied as principal shall be ascertained by

dividing the amount of the payment by the sum of one plus a figure which is the product of .008 multiplied by the number of months of delinquency, counting any part of a month as a full month. Such amount of principal shall be deducted from the amount offered in payment and the remainder thereof shall be the interest accrued from January 1 next succeeding the year of the tax levy on that portion of the tax which is offered to be paid. Interest on any new balance of principal sum shall be figured from January 1 next succeeding the year of the tax levy.

(7) COLLECTION BY BANKS. The treasurer of any city, village or town, subject to approval by the governing body, may designate banks to which taxpayers may pay instalments of taxes and may provide for the remuneration of such banks. Notice of such fact with the names and location of the banks shall be given by publication as a class 1 notice, under ch. 985. The receipts of any bank designated in the notice herein provided for shall protect the taxpayer to the same extent as if the same were signed by the treasurer in person.

(8) LOCAL TREASURER'S SETTLEMENTS, MONTHLY. (a) On or before the fifteenth day of each month succeeding the first payment date as provided pursuant to subsection (3), the city, village or town treasurer shall settle for all collections made by him on the tax roll up to and including the last day of the preceding month and subsequent to the period included in any previous settlement.

(b) He shall pay to the proper treasurer all collections on taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) and all collections on special assessments of every character, or he shall retain such if levied by the city, village or town of which he is treasurer.

(d) Out of the remaining general property taxes collected he shall first set aside and pay over to the county treasurer the full amount due on state trust fund loans of every character levied on the property in such city, village or town. He shall next set aside and pay over to the county treasurer the full amounts levied on the property of such city, village or town for high school tuition, high school transportation (or board and lodging in lieu thereof) and vocational and adult school tuition in the order named. The city, village or town treasurer shall then pay to each school district treasurer such proportions of the school levy of such district as the balance of the general property taxes collected in such city, village or town bears to the total general property tax levy therein for all purposes included in the tax roll, exclusive of levies for state trust fund loans, high school tuition, high school transportation and metropolitan sewerage district taxes. In cities operating schools pursuant to ss. 40.80 to 40.827 he shall retain such proportion levied for school purposes. He shall pay to the county treasurer a like proportion of the state taxes, state special charges, county school tax, other county taxes and county special charges and shall retain a similar proportion for the city, village or town. The county treasurer shall remit such state fund loans, state taxes and state special charges to the state treasurer as provided in s. 74.26 and likewise remit such county school moneys on March 22 and August 20 as provided by law.

(9) DELINQUENT TAXES RETURNED. The city, village or town treasurer shall retain the tax roll and make collections thereon to and including July 31. On or before August 15 he shall return the tax roll to the county treasurer as provided by s. 74.17. The county board of any county may authorize and direct its county treasurer to settle in full for all taxes, or special assessments, or both, within one month after the return of such taxes and special assessments to the county. Such settlements shall be made with interest for special assessments levied for public improvements and benefits and for taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965). Settlements for all other taxes and special assessments shall be made without interest.

(10) COLLECTION BY COUNTY. All taxes returned as delinquent shall thereafter be collected by the county treasurer, with interest thereon, and all actions and proceedings commenced and pending for the collection of any personal property tax shall be thereafter prosecuted and judgments therein shall be collected by the county treasurer. Any city, village or town may retain for collection the delinquent personal property taxes as provided by section 74.19, in which case such taxes shall be included as fully paid in arriving at the proportions to be paid in the final settlement pursuant to subsection (8).

(11) COUNTY TREASURER'S SETTLEMENTS. (a) The county treasurer shall on the twentieth day of each month make payments to the treasurer of the state and of each city, village or town out of the proceeds of the delinquent taxes and special assessments of such city, village or town, other than those referred to in paragraph (h), collected by him up to and including the last day of the preceding month which have not been included in a previous settlement, until the state and each city, village, town or school district shall have received in full their levies for that year on the property of such city, village or town.

Such payments shall be made by the county treasurer out of the taxes collected for each particular city, village or town in the order of preference set forth in paragraphs (b) to (g).

(b) He shall first set aside and pay to the proper treasurers any balances due on state trust fund loans, high school tuition, high school transportation and vocational and adult school tuition levies in the order named.

(c) He shall next set aside and pay to the state treasurer the balances due on state taxes and state special charges in the order named. In the event that the amounts so set aside and applied on state taxes and state special charges are insufficient to pay such taxes and charges in full by November 20, the county treasurer shall advance at that time the balance on state forestry taxes and state special charges. Thereafter, he shall retain for county purposes amounts set aside pursuant to this paragraph.

(d) He shall next set aside and remit as provided by law the balance on the county school tax. The county board of any county may authorize and direct its county treasurer to pay the entire balance due on aid to common schools subsequent to the final settlement provided in subsection (8), in which case the amount set aside pursuant to this paragraph shall be retained by the county treasurer for county purposes.

(e) He shall next retain for the county the balance due on county taxes levied for social security pursuant to sections 49.18, 49.19, 49.37 and 49.61.

(f) He shall next pay to the treasurer of each city, village or town the balance due on school levies and the balance due on city, village or town taxes and special assessments other than those referred to in paragraph (h). Out of the moneys so received the city, village or town treasurer shall first set aside and pay over to each school district the balance due on school district levies, except that in cities operating schools pursuant to ss. 40.80 to 40.827 the city treasurer shall retain such balance.

(g) He shall finally retain any balance due on account of other county taxes and charges.

(h) All collections during the preceding calendar month on special assessments for public improvements and benefits, which are held in trust for collection, and drainage taxes and assessments authorized by ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) shall be paid to the proper treasurers or credited to the proper drainage districts on the 20th day of each month. All such collections on taxes and assessments levied pursuant to s. 27.065 shall be retained by the county treasurer.

(12) DISTRIBUTION OF INTEREST COLLECTED. (a) All interest and penalties, if any, collected by the city, village or town treasurer on real estate and personal property taxes and special assessments before the return of the tax roll as provided in subsection (9) shall be retained by such treasurer.

(c) All interest collected by the county treasurer on special assessments levied for public improvements and benefits, which are held in trust for collection, shall be paid over to the respective city, village or town treasurer.

(d) All interest collected by the county treasurer on taxes and assessments levied under ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965) shall belong to the respective drainage districts, except as provided in sub. (9).

(e) All interest collected by the county treasurer on other taxes and special assessments both prior and subsequent to the tax sale shall be retained by the county treasurer for the use of the county, except as otherwise required by section 75.01.

(13) OTHER STATUTES MODIFIED. Whenever any city, village or town shall provide for the instalment payment of real estate taxes pursuant to this section, then section 74.03 shall not be applicable to such city, village or town but shall be superseded by the provisions of this section. Any other conflicting statutory provision is hereby modified to the extent required to make this section operative.

History: 1963 c. 572; 1965 c. 252.

74.035 Taxes paid in advance. (1) The governing body of any town, village or city may authorize the treasurer thereof to accept payment of taxes in advance, in instalments of not less than ten dollars and in any multiple of five dollars; provided, that such treasurer, prior to the determination of the tax roll, shall accept such deposits on the anticipated tax on any tract or description of taxable property only to the extent of eighty per cent of the previous year's tax on such property. Such payment may be accepted between the last date for the payment of taxes and the succeeding third Monday in December. Deposits upon taxes on any property made under this section, upon completion of the tax roll, shall be credited to the tax assessed against such property. Funds so deposited by taxpayers are hereby declared to be trust funds and no part of such funds shall be available for expenditure by such city, town or village until such taxes become due.

(2) The part-time treasurer of any town, city or village may designate banks to which taxpayers may pay such advance deposits. A notice containing the names and locations

of the designated banks shall be published as a class 1 notice, under ch. 985. A receipt from any such bank shall protect the taxpayer to the same extent as a receipt signed by the treasurer in person.

History: 1965 c. 252.

74.04 Payment in orders. Town, city and village orders shall be receivable for taxes in the town, city or village where issued, and shall be allowed the treasurer on settlement of such taxes; and county orders, scrip and accrued interest and jurors' certificates shall be receivable for taxes in the county where issued, and shall be allowed the treasurer on settlement of county taxes with the county treasurer; but no town, city or village treasurer shall receive orders in payment for taxes to a larger amount than the town, city or village taxes included in his tax roll, exclusive of all taxes for school purposes, nor county orders, scrip and accrued interest and jurors' certificates to a greater amount than the county tax included therein. County scrip and accrued interest thereon shall be accepted by the county issuing the same in payment of all delinquent county taxes where the county holds the tax certificate, and any such county may, when authorized by its county board, accept such scrip in payment of any delinquent taxes where the county holds the tax certificate.

74.045 Use of scrip. Whenever any city, village or town shall have an interest in the delinquent general property taxes for any prior year, the city, village or town may retain any county scrip received pursuant to section 74.04 and may use such scrip as any other holder thereof, with the consent of the county board, provided that the amount of such scrip to be retained shall not exceed the share of such municipality in the delinquent taxes.

74.05 Officers not to buy orders. No town, city, village or county treasurer, or other town, city, village or county officer shall, either directly or indirectly, purchase or receive in exchange or in payment for taxes or otherwise, in any manner whatever, any county, city, village or town order, or any demand against his county, city, village or town for a claim allowed by the proper board or council during his term of office for a less amount than that expressed on the face of such order or demand; and any such person so offending shall for each offense forfeit not less than twenty-five dollars nor more than two hundred and fifty dollars.

74.06 Payment on part; undivided interests; notice. The treasurer shall receive the tax on any part of any lot or parcel of land or on any undivided share or interest therein which the person paying the tax will clearly define; and if the tax on the remainder of such lot or parcel of land shall remain unpaid such treasurer shall return such remainder and the tax due thereon as delinquent to the county treasurer; and if the part on which the tax is so paid shall be an undivided share the person paying the same shall state to the treasurer the name of the owner of such share, that it may be excepted in case of sale for the tax on the remainder, for which purpose the treasurer shall enter the name of such owner and a specification of such share in his account of uncollected taxes; and the balance of the taxes on any such land shall be a lien on the residue only of such lot or parcel of land; provided, that when an application is made to the treasurer for the payment of the taxes upon any divided portion of any part or portion of any lot or parcel of land, such treasurer shall give notice of such proposed payment to any person other than the applicant having a recorded ownership, mortgage, or land contract interest in such land which may be affected by such application and afford him a hearing. Such notice shall be given in the manner provided in section 75.12 for the giving of notice of application for tax deed, and the costs of giving such notice shall be paid by the person making such application. The time for such hearing shall be fixed at not less than 10 days after the service of such notice has been completed. The treasurer shall thereafter determine the true proportion of taxes chargeable to the part or portion on which the taxes are sought to be paid, and the amount so found shall be deemed to be the amount of the taxes chargeable thereto.

74.07 How tax paid. When any land has been assessed more than once for the same year the treasurer shall collect only the tax justly due thereon and shall make return to the county treasurer of the balance as a double assessment, and he shall be credited therefor by such treasurer.

74.08 Blank tax receipts; use thereof. (1) The county clerk of each county, unless a different official is designated by the county board, shall prepare and cause to be printed and furnished to each town, city and village treasurer of his county a book of tax receipts for each current year, with stubs to be a duplicate of the receipts; which receipts shall be printed in a form containing separate and distinct columns labeled respectively to show:

column by column the following taxes: Namely, state taxes, county taxes, town, city or village taxes, and all other taxes; and every town, city and village treasurer shall use only the receipts so furnished. Notwithstanding any other provisions of law, all city treasurers, and town and village treasurers, except where the information has already been placed in the receipt by the county, shall enter in each receipt given by him for the payment of taxes the name of the person, firm, company or corporation paying the same, the date thereof, the description of the property, the valuation and the aggregate amount of taxes paid, the total of the rates from which the total amount of the tax was computed and in separate and distinct columns labeled as herein provided the several amounts paid respectively for state taxes, county taxes, county school taxes levied pursuant to s. 59.07 (21) (a), town, city or village taxes, and all other taxes, if any, appearing on the tax roll opposite the valuations to be charged therewith. In the alternative the governing body of any city, village or town may by ordinance direct that while such ordinance is in effect the aggregate amount of state, county, local, school and other taxes shall be carried in a single column on the tax receipt, in which case there shall be printed or stamped on the tax receipt the separate proportion or rate of taxes levied for state, county, county school taxes levied pursuant to s. 59.07 (21) (a), local, school and other purposes.

(2) Such receipts shall be signed by the treasurer and a duplicate thereof made upon the stub thereof to be left in the book, and after noting the payment of such taxes upon the tax roll he shall deliver said receipt to the person entitled thereto. No city, county, village or town treasurer or tax collector shall collect or receive any taxes in any room where malt or intoxicating liquors are sold, given away or otherwise disposed of. Any person violating this provision shall be punished by a fine of not less than \$25, nor more than \$100, or by imprisonment in the county jail not less than 10 days nor more than 30 days.

History: 1963 c. 6.

74.09 Comparison of stub book with tax rolls; book as evidence. Every such treasurer shall each year compare the stub book of receipts with the tax roll of his town, city or village as to the description of land or other property upon which taxes have or have not been paid and as to the amount of money received for taxes; and the treasurer shall certify on such stub book that he has made such comparison, and that the stub book and tax roll correspond; and the stub book thus certified shall be returned with the tax roll to the county treasurer, who may destroy such duplicate receipts and stub books after the taxes recorded therein have outlawed pursuant to section 75.20. Such stub book or a certified copy thereof shall have the same effect as evidence as the original receipt.

74.10 Collection. (1) **BY DISTRESS.** In case any person shall refuse or neglect to pay the tax imposed upon him the treasurer may in his discretion levy the same by distress and sale of any goods and chattels belonging to such person, wherever the same may be found within his town, city or village; and if a sufficient amount of such property cannot be found in such town, city or village the treasurer may levy the same by distress and sale of the goods and chattels belonging to such person, wherever the same may be found in the county or in any adjoining counties, and shall receive therefor the fees allowed by law to constables for levy and sale of goods upon execution.

(2) **NOTICE AND SALE.** The treasurer shall give public notice of the time and place of such sale at least six days previous thereto by advertisement, containing a description of the property to be sold, to be posted up in three public places in the town where the sale is to be made. The sale shall be at public auction in the daytime and the property sold shall be present; such property may be released by the payment of the taxes and charges for which the same is liable to be sold; if the purchase money on such sale shall not be paid at such time as the treasurer shall require he may again, in his discretion, expose such property for sale or sue in his name of office the purchaser for the purchase money, and recover the same with costs and ten per centum damages.

(3) **RETURN OF SURPLUS; PROCEEDINGS IF NO SALE.** If the property so levied upon shall be sold for more than the amount of the tax and costs the surplus shall be returned to the owner thereof; and if it cannot be sold for want of bidders the treasurer shall return a statement of the fact and return the property to the person from whose possession he took the same; and the tax, if unsatisfied, shall be collected in the same manner as if no levy had been made.

74.11 Action to collect tax on personal property. (1) **HOW BROUGHT.** In case the treasurer is unable to collect any tax assessed upon personal property he may in his discretion make and file with some justice of the peace, as defined in s. 990.01 (17m), or the county court of his county an affidavit showing that there is such tax upon per-

sonal property, the amount thereof and the name of the person against whom assessed, that he has demanded payment thereof and is unable to collect the same. If commenced in the county court ch. 299 shall apply so far as applicable. Such justice or the judge of such county court shall thereupon issue a summons directed to such person, commanding him to appear forthwith to answer under oath and show cause why he does not pay said tax. Such summons may be served by said treasurer or any constable in said county on the person to whom the summons is directed in the manner and as required for the exercise of personal jurisdiction under ch. 262 in a civil action in a court of record; upon its appearing by the affidavit of the officer or person serving such summons that the same was duly served upon such person to whom the same was directed, and that he has failed or neglected to appear before said justice or judge for 24 hours after the service of the summons, the said justice or judge shall issue a warrant, directed to the sheriff or any constable of the county, commanding him to forthwith arrest and bring such person before him.

(2) JURISDICTION; COMPLAINT; REMOVAL; ARREST. The justice or judge before whom such person appears or is brought shall have jurisdiction of the subject matter to the full amount of the tax against such person, with interest, charges and costs; and he shall enter the cause in his docket if a justice of the peace or if in county court in the manner provided in ss. 299.07 and 299.10, as an action wherein the town, city or village in which such tax is assessed shall be plaintiff and the person against whom the same is assessed shall be defendant; and the affidavit of the treasurer shall be deemed the complaint. Such defendant may, on his appearing or being brought before such justice and before submitting to an examination as hereinafter provided, remove such action to the next nearest justice in the same county upon making and filing with such justice an affidavit stating that from prejudice or other cause he believes such justice will not decide impartially in the matter; and thereupon the justice shall transmit all the papers, with a copy of his docket entries in such action, to such nearest justice; and if the defendant is under arrest the officer having him in charge shall take him before such nearest justice. Such nearest justice shall enter the action in his docket and proceed in the manner hereinafter provided; if such defendant is not under arrest and fails to appear before such last-named justice within one hour after the receipt of the papers in such action he may issue his warrant, directed to the sheriff or any constable of his county, commanding him to forthwith arrest such defendant and bring him before such justice. If the action is in county court the defendant may in like manner disqualify the county court judge and in such case another judge shall be required to attend and hold court in the matter, as provided in s. 299.05, and thereupon this section, relating to such nearest justice, shall apply to such other judge.

(3) PROCEEDINGS; COSTS; EXECUTION. When the defendant appears or is brought before the justice or judge before whom such proceedings were commenced, or if the cause has been removed to another justice, before such last-named justice, or referred to another judge, such justice or judge shall cause the defendant to be examined on oath, and hear the testimony of any witnesses or other evidence presented by either party upon the following questions:

(a) Whether the defendant had any personal property liable to taxation at the time the assessment was made.

(b) Whether he has money or property, real or personal, of any description sufficient to pay such tax or any part thereof.

(c) Whether he is justly liable for the payment of such tax or any part thereof; and if any of said questions are established in the negative the defendant shall be discharged with his costs; but if the defendant refuses to answer such relevant questions as are put to him or if he fails to establish either of said questions in the negative, judgment shall be entered against the defendant for the amount of such tax which he ought to pay, with costs of such proceedings. No stay of execution shall be allowed on any such judgment except in case of appeal; and no property of such defendant shall be exempt from levy and sale upon execution issued thereon. The justice or judge shall reduce the examination of the defendant and of all witnesses produced and examined by either party to writing, and cause the same to be signed by the persons so examined.

(4) TRANSCRIPT OF JUDGMENT; LIEN; EXECUTION. The treasurer may file a transcript of any such judgment rendered against the defendant in any such action in the office of the clerk of the circuit court of any county, and the same shall be docketed by such clerk in the same manner as other transcripts of justices' or county court judgments, and when so docketed it shall be a lien on all the real estate of the defendant in every county in which the same is docketed. The clerk of any circuit court in which any such transcript is filed and docketed may issue execution thereon, and no real or personal estate of the defendant shall be exempt from seizure and sale on such execution; and upon the sale of

any real estate of the defendant by virtue of such execution the sheriff selling the same shall make, execute and deliver to the purchaser thereof a deed of the same, and the defendant shall have no right to redeem the said real estate after the sale thereof; and such deed shall be absolute to convey all the interest of the defendant in such real estate so sold as aforesaid, and the sheriff shall proceed in the sale of such real estate as upon sale on execution in other cases.

(5) APPEAL AND RETURN. The defendant may, within 20 days after the entry of any such judgment, appeal to the circuit court by executing and delivering to the justice or county court judge an undertaking to the town, city or village, with one or more sureties to be approved by such justice or judge, conditioned to pay any judgment the said circuit court may render against him in such action; and upon the receipt of such undertaking the justice or judge shall return the same with the examinations and evidence taken by him and all other papers and proceedings in such action, duly certified by him, to the said circuit court. The plaintiff may also appeal from any such judgment or from any judgment discharging such defendant to the said circuit court in the same manner that a plaintiff to a civil action in a justice's court or such county court may appeal from a judgment rendered therein; and upon taking such appeal the justice or judge shall make a like return to the circuit court as upon an appeal by the defendant.

(6) TRIAL; DUTY OF DISTRICT ATTORNEY. Upon filing the return of the justice or judge by the clerk of the circuit court such action shall be tried in such court as other actions therein; and the district attorney of the county shall appear for and try such action on behalf of the plaintiff whenever requested by the county treasurer so to do. Upon the trial in such court either party may read as evidence the examinations taken by the justice or judge and returned by him to such court and produce such other proofs as they deem necessary. The issues shall be the same as before the justice or judge; and if upon the trial in the circuit court neither of said issues are established in the negative, or if the defendant neglects or refuses to appear on such trial and answer all relevant questions which are put to him the judge or jury by whom such action is tried shall assess the amount of the tax which the defendant ought to pay, and judgment shall be rendered against him and his sureties in said undertaking for the amount so assessed and for all costs, fees and disbursements before the justice or county court judge and the circuit court; and execution shall issue upon such judgment against the property of all the defendants in such judgment, and no property belonging to the defendant in the action shall be exempt from seizure and sale on such execution; but if either of such issues are established in the negative the action shall be dismissed and the defendant shall recover his costs.

(7) SUPPLEMENTARY PROCEEDINGS. In case execution in any such action upon a judgment rendered upon an appeal or upon a transcript of a judgment of such justice or judge is returned unsatisfied in whole or in part, the proper treasurer is hereby authorized to institute proceedings supplementary to execution to collect such judgment; and all laws applicable to supplementary proceedings upon other judgments are made applicable to the judgment above mentioned.

(8) EFFECT OF JUDGMENT. A final judgment in such action upon the ground that the defendant had no personal property liable to taxation at the time the assessment was made or that he is not justly liable to pay any portion of such tax shall be a bar to any further proceedings of any kind for the collection of such tax; and every such judgment against the defendant, fixing the amount of tax which he ought justly to pay, shall be conclusive as to the extent of his liability; and in fixing the amount which the defendant ought justly to pay, all irregularities, mistakes and errors in the assessment and proceedings which do not affect the justice and equity of such tax or some part thereof shall be disregarded.

History: 1963 c. 98.

74.12 Action of debt to collect tax; duty of district attorney. (1) In addition to the other remedies provided in this chapter an action of debt or an action of attachment shall lie in the name of the town, city or village, and, after the tax is returned as delinquent, in the name of the county, for any tax assessed against any person upon personal property remaining unpaid after February 28. Summons or warrants in such action shall issue at the request of the treasurer of the town, city, village or county as the case may be and shall be subject to all the rules of law and practice applicable to actions of debt or attachment, except that the warrant of attachment shall be issued on the making and filing of an affidavit by the proper treasurer that such taxes are delinquent. Such summons or warrant when issued by a justice of the peace or county court judge may in addition to the other methods of service provided by law in justice's court be served in the manner and as required for the exercise of personal jurisdiction under ch. 262. Such

summons or warrant shall state that it is issued for the collection of a tax and judgment may be entered and execution issued as provided in this chapter.

(2) Whenever the treasurer of any town, village or city files with any justice of the peace or county court judge in any county an affidavit, setting forth that a certain person, naming him, owns, possesses, or is in charge of, certain personal property duly assessed in such municipality, and that such person is about to depart permanently from the municipality or state, or is about to dispose of such property, or is about to remove such property from the municipality, such justice or judge shall issue a warrant of attachment as provided in sub. (1). If such person has departed permanently from the municipality or state, or has disposed of such property, or has removed such property from the municipality, the personal property tax matures, and an action of debt or distress shall lie and s. 74.11 will be applicable, in the name of the municipality for its collection. Prior to filing such affidavit the treasurer shall make a demand upon such person for payment of the tax and if not collected, shall then file an affidavit under this section.

(3) Taxes collected in the manner provided by this section prior to the time they become due shall be figured at the rate of the previous year, but in the event that such rate shall exceed the rate for the current year any excess collected due to such difference in rate shall be refunded with interest at the rate of 6 per cent per annum on such excess covering the period from the date of collection to the first day of March next following such collection.

History: 1963 c. 98.

74.13 Action for collection of taxes against public utilities. In addition to the other remedies provided by law for the collection of taxes against real estate, an action of debt shall lie in the name of the town, city or village, and, after the tax is returned as delinquent, in the name of the county, for any tax heretofore or hereafter levied upon and extended against the property of any public service corporation as defined in s. 184.01, which property is subject to taxation like the property of individuals, and which tax remains unpaid after January 31 in any year. Summons in such action shall issue at the request of the treasurer of the town, city, village or county, as the case may be; shall be served as provided in s. 262.06, and such action shall be subject to all of the rules of law and practice in this state applicable to actions of debt. The complaint in such action shall be served with the summons. Judgment in such action shall be entered and execution issued thereon as in other actions of debt. The judgment shall bear interest at the rate of 10 per cent per annum from the date of entry until paid.

74.135 Taxes, cancellation of. After the tax roll shall have been thus delivered to the treasurer it shall not be lawful for the governing body of any town, city or village to remit, annul or cancel any tax specified therein, or a portion thereof, except in the following cases:

- (1) When a clerical error has been made in the description of the property or in the extension of the tax.
- (2) When improvements on lots were considered in making the assessment roll, where the improvements did not exist at the time fixed by law for making the assessment.
- (3) When the property is exempt by law from taxation.
- (4) When a person has been assessed the same year for the same property in more than one ward or place.
- (5) When a double assessment has been made.
- (6) When a palpable error had been made in the assessment, in which case the error may be corrected.

74.14 Procedure. In any action brought pursuant to section 74.13 it shall be sufficient to entitle plaintiff to judgment in said action to allege and prove that the tax was regularly levied and extended upon the tax roll and that the same has not been paid; provided, that the defendant may defend against such action by first paying the amount of the tax with interest, penalties and charges into the county, town, city or village treasury. The defendant in such action shall be entitled to recover judgment for the amount, if any, so paid in excess of the amount the court shall finally determine it ought to have paid on the property involved in said action, with interest from the date of such payment. Payment of any judgment so recovered by the defendant, shall be made forthwith by the treasurer of any such county, town, city or village, upon presentation of a certified copy thereof, without other or further order. He shall preserve said copy of such judgment as his warrant for such payment and shall require the satisfaction of record of such judgment upon the making of such payment.

74.16 Treasurer's receipts, how countersigned. Whenever any town, city or village treasurer shall pay any money to the county treasurer such county treasurer shall deliver to him duplicate receipts for the amount of money so paid, specifying in such receipts the sum paid, date of payment and on what account the same is paid; and the town, city or village treasurer shall present such receipts to the county clerk, who shall countersign one of said receipts and return the same to such treasurer, and shall retain and safely keep the other in his office; and no receipt of the county treasurer given to a town, city or village treasurer for money paid by such town, city or village treasurer shall be any evidence of such payment in favor of such town, city or village treasurer unless the same be first countersigned by the county clerk.

74.17 Delinquent taxes returned. The treasurer shall on or before the dates prescribed in sections 74.03 (5) and 74.031 (9) return the tax roll to the county treasurer together with a statement of the taxes so remaining unpaid, distinguishing, by setting down separately, postponed real estate, delinquent real estate and delinquent personal property, with a full and perfect description of such real estate from his tax roll, and the name of the person taxed, if therein specified, and by setting down separately all public lands which are held on contract and all lands mortgaged to the state, and submit the same to the county treasurer; he shall also include in such statement a description of any land doubly assessed and the amount of tax thereon, and also the specification and entry required by section 74.06. The county treasurer shall carefully compare such statements, when submitted, with the tax roll and ascertain that it is correct. The taxes included in such return shall be accepted by the county treasurer for collection pending settlement thereon as provided in sections 74.03 (8) and 74.03 (9) and in section 74.031 (11). Whenever the county treasurer shall discover any error or inadequacy in the description of any parcel of land on the tax roll he may at any time before giving notice of the sale of lands for delinquent taxes, correct such description on the tax roll. When such correction is made the county treasurer shall make a marginal note in the tax roll opposite such correction stating when made and subscribing his name thereto.

74.18 Form of return. The return of the town, city or village treasurer to the county treasurer of delinquent taxes shall be made in the form prescribed by the department of taxation pursuant to section 70.09.

74.19 Local treasurer's affidavit, forfeiture; collection of delinquent taxes. (1) The town, city or village treasurer shall then make an affidavit to be annexed to such statement, before the county treasurer or before any officer authorized to administer oaths, that the facts set forth in said statement are correct, that the sums therein returned as unpaid taxes have not been paid, and that he has not, upon diligent inquiry, been able to discover any goods or chattels belonging to the persons charged with such unpaid taxes whereon he could levy the same, which statement and affidavit shall be filed with the county treasurer; and he shall be allowed by the county treasurer, in settlement \$8, and 7 cents for each mile traveled both ways to deliver the same.

(2) If any actions have been commenced by him for the recovery of any personal property tax he shall also state that fact and what proceedings have been had therein. And any town, city or village treasurer who shall render his return without duly making, annexing, subscribing and making oath to the affidavit as above required shall forfeit \$100; and every county treasurer who shall receive such return, without first requiring such return to be duly verified by affidavit as above required shall forfeit \$200; and neither said town, city or village nor county treasurer shall be permitted to offer such unverified statement in evidence in any settlement made by them with their respective boards of supervisors or auditing officers, nor in any action brought against them on their respective official bonds, nor in any prosecution against them for embezzlement.

(3) (a) All taxes returned delinquent and postponed shall be collected by the county treasurer, with the interest thereon; and all actions and proceedings commenced and pending for the collection of any personal property tax shall be thereafter prosecuted and judgments therein be collected by the county treasurer.

(b) Any town, city or village may retain for collection the delinquent personal property taxes by including the same as fully paid in arriving at the proportions to be paid as provided in section 74.03 (5). All laws applicable to the collection of personal property taxes prior to the return of the tax roll to the county treasurer shall apply to the collection of the delinquent personal property taxes retained.

(4) Upon charging back the delinquent personal property taxes pursuant to section 74.31, any town, city or village may collect such taxes under sections 74.10, 74.11 and 74.12 by commencing a new action, or by proceeding with an action already commenced in which case the town, city or village shall be substituted as the party plaintiff.

History: 1961 c. 197.

74.20 Certificate of delinquent taxes. The county treasurer shall, at the time the town, city or village treasurer makes his return to him of the delinquent and postponed taxes aforesaid, make and deliver to such town, city or village treasurer a certificate of the amount of the delinquent and postponed taxes so returned by such town, city or village treasurer, specifying separately the amount delinquent and postponed on real estate and the amount delinquent on personal property; and it shall be the duty of the town, city or village treasurer to whom such certificate is given forthwith to deliver the same to the county clerk, who shall file the same in his office; and no county treasurer shall indorse the bond of such town, city or village treasurer, filed in his office, as satisfied and paid until such certificate shall be delivered to the county clerk and filed in his office as above specified.

74.21 Satisfaction of treasurer's bond. Upon filing said certificate by the town, city or village treasurer and upon payment to the county treasurer of the full amount of state trust fund loans, unless extended as provided in subsection (5a) of section 74.03, and the proportionate amounts of state taxes, state special charges, county school tax, other county taxes and county special charges, the county treasurer shall indorse the bond of such town, city or village treasurer, filed in his office, as satisfied and paid; and the indorsement so made shall operate as a full discharge of such town, city or village treasurer and his sureties from the obligations of such bond unless it shall afterwards appear that the return of such town, city or village treasurer was false; in which case such bond shall continue in force, and such treasurer and his sureties shall be liable to be prosecuted thereon for all deficiencies and for all damages occasioned by such false return.

74.22 Penalty for failure to settle taxes. If any town, city or village treasurer shall fail to make settlement of the taxes included in his tax roll within the time required by law the county treasurer shall charge such town, city or village treasurer five per centum damages and ten per centum interest per annum from the day payment should have been made on the balance of unsettled taxes due from him; and if any town, city or village treasurer shall withhold the payment of any public moneys collected or received by him, after the same should be paid and shall have been demanded, he shall pay ten per cent damages and ten per cent interest, as above specified, on such moneys; which moneys, damages and interests may be collected by action upon such town, city or village treasurer's bond.

74.23 Warrant; levy; breach of bond. If any town, city or village treasurer shall neglect or refuse to pay to the county treasurer the sums in his hands required by law to be paid to him, or if he shall neglect or refuse to account for moneys required by law to be collected and paid by him to the county treasurer, such county treasurer shall issue a warrant under his hand, directed to the sheriff of the county, commanding him to levy such sum, specifying the amount thereof, as shall remain unpaid or unaccounted for, with interest and damages as specified in the preceding section, together with his fees for collecting the same, of the goods and chattels, lands and tenements of such town, city or village treasurer, and pay the same to the county treasurer, and return such warrant within sixty days from the date thereof and deliver the same to the sheriff, who shall immediately cause the same to be executed and make return thereof within the time therein specified, and pay to such county treasurer the amount required by such warrant or so much thereof as he shall have collected thereon; and such sheriff shall be entitled to collect and receive the same fees as are allowed by law to sheriffs on execution. Nothing in this section shall prohibit prosecution of such treasurer's bond in case of a breach thereof.

74.24 False or negligent return. If any sheriff shall neglect to return any such warrant or to pay the money collected thereon within the time limited for the return of such warrant, or shall make a false return thereto, the county treasurer shall forthwith proceed to collect of him the whole sum directed to be levied by such warrant in the same manner as such sheriff might be proceeded against for neglecting to return an execution in a civil action; and if he shall fail to collect such money of the sheriff he shall forthwith cause a prosecution to be commenced against him and his sureties on his official bond for the sum due on such warrant, which sum, when collected, shall be paid into the county treasury.

74.25 Damages. If any person shall be injured by the false return or fraudulent act of any town, city or village treasurer such person shall recover upon action brought on the bond of such treasurer, of him and his sureties, double damages and costs of suit.

74.25, providing that any person injured by the false return or false act of any town treasurer shall recover double damages on action brought on the bond of such treasurer, has reference to the town treasurer's official bond required by 60.48, and has no application to the bond executed and delivered to the county treasurer under 70.67 (1). *Akan v. Kanable*, 18 W (2d) 615, 119 NW (2d) 419.

74.26 Payments by county treasurer. (1) To STATE TREASURER AND LOCAL TREASURERS. On or before March 22 in each year the several county treasurers shall pay to the state treasurer the amounts of state trust fund loans, state taxes and state special charges collected from the towns, cities and villages up to and including March 15 pursuant to sections 74.03 (5) and 74.031 (8). On or before August 20 in each year they shall pay to the state treasurer all collections of the foregoing character made pursuant to sections 74.03 (8) and 74.031 (8). On the twentieth day of each month thereafter they shall pay to the state treasurer any residue on state trust fund loans, state taxes and state special charges collected during the preceding calendar month pursuant to sections 74.03 (9) and 74.031 (11), but all state forestry taxes and state special charges shall be payable not later than November 20 of the year following the one in which they were levied or apportioned, and if not paid by that date shall be subject to the provisions of section 74.27.

(2) COUNTY TREASURER'S AFFIDAVIT. Every county treasurer shall, at the time for making such payments, file with the state treasurer an affidavit that he has returned and paid into the state treasury the amounts of state trust fund loans, state taxes and state special charges required by subsection (1), specifying the amount remitted on each; and if any county treasurer shall fail to make and file such affidavit and pay into the state treasury the amounts so required he shall, in addition to other penalties prescribed by law, forfeit \$1,000 which shall be collected for the benefit of the state upon the official bond of such treasurer.

(3) ADDITIONAL LIABILITY. Whenever any county treasurer shall fail to pay into the state treasury any moneys in his hands for that purpose at the time prescribed by law he shall, in addition to other penalties, be liable to the following: If he shall so fail for the space of ten days he shall forfeit to the state twenty per cent on the amount withheld, and if he shall fail to pay over such moneys for the space of thirty days after such specified time he shall forfeit his office of treasurer.

74.27 Penalties upon counties. When any county shall fail, neglect or refuse to pay to the state treasurer the whole or any part of the state tax lawfully apportioned to and levied upon such county at the time and in the manner required by law such county shall pay to the state treasurer, in addition to the amount so due and unpaid on such tax, interest at the rate of 10 per centum per annum from the time such tax was due and payable, until the same, together with such interest thereon, shall be fully paid. The department of administration shall annually, at the time it is by law directed to apportion the state tax, add to the amount charged to each county respectively all amounts which may be due the state and unpaid from such county on any former tax, together with interest thereon at the rate aforesaid up to the first day of January following such apportionment; and the amount so found shall be the amount of the state tax to be paid by such county for the year, and shall be certified, levied, collected and paid into the state treasury as provided by law; and any money in the state treasury or which may come therein at any time prior to the payment of such delinquent tax by such county, on account of any appropriation made to such county by the legislature or otherwise, except money belonging to the school fund income, shall be retained by the state treasurer, and he shall apply the same, or such part thereof as may be necessary, to fully pay such delinquent tax, with interest thereon.

74.28 Payments to local treasurers. Each county treasurer shall pay to the several towns, cities or villages on demand, all money collected or received by him and belonging to them; but he may retain in the county treasury all amounts due from any town, city or village to the county.

74.29 Delinquent personal tax. (1) The county treasurer shall annually, within thirty days after the several town treasurers shall have made their returns of the delinquent taxes as provided by law, make a schedule of all the taxes on personal property in his county so returned delinquent and which shall remain unpaid at the time of making such schedule. Such schedule shall also contain all taxes on personal property in said county returned by said town treasurers as unpaid for the two years next preceding those last returned and which shall have remained uncollected at the date thereof, and may be in the following form, to wit:

Schedule of taxes assessed on personal property for the years 19... 19.. and 19.., and which were returned as provided by law by the several town treasurers of the county of, as delinquent and unpaid and which remain unpaid on this day of, A. D. 19...:

Names of Persons Taxed.	Amount of taxes due.	Years for which taxes are due.
A. B.	\$10.50	19..
C. D.	7.50	19..
E. F.	12.50	19..
G. H.	10.50	19..

(2) The county treasurer shall, within the time aforesaid, annex to such schedule a warrant under his hand, directed to the sheriff of his county, commanding him to collect from each of the persons and corporations named in said schedule the amount of the unpaid taxes set down in such schedule opposite to their respective names, with interest at eight-tenths of one per cent per month or fraction thereof from the first day of January next preceding the time when such taxes were returned unpaid, together with his fees for collecting the same, of the goods and chattels, lands and tenements of said persons and corporations respectively, and to pay the same to the county treasurer, and to make return of such warrant within sixty days after the date thereof; and such treasurer may issue a special warrant or warrants, in any convenient or proper form, to the sheriff of any other county commanding the collection of the delinquent personal property tax of any one person or of several persons in the discretion of the treasurer; and such last-named warrants may be issued at any time while such tax remains unpaid. The county treasurer may renew, by indorsement thereon, such general or special warrants from time to time, either before or after the return thereof, for sixty days at one time and not longer than one year after the date thereof.

74.30 Powers of sheriff; actions; attachment; garnishment. (1) The sheriff to whom any such warrant shall be delivered shall proceed in the same manner and with the same power to collect the unpaid taxes specified in the schedule or warrant as he would upon execution issued out of a court of record. And the county treasurer or any person in his behalf who is interested in the collection of said tax may make the necessary affidavit for garnishee proceedings or attachment, and thereupon any competent court shall have jurisdiction of the same. Such affidavit need not state that such indebtedness or property is not exempt by law from sale on execution, but shall state that the indebtedness is for a delinquent personal property tax instead of stating that it is on contract or judgment. Such affidavit may be amended as in other cases.

(2) In case any of such taxes shall be returned unpaid in whole or in part the said treasurer may, at any time within six years thereafter, bring an action or actions in the name of his county to recover such unpaid taxes and the costs and charges thereon against the persons or corporation charged therewith in any court of competent jurisdiction; and no law exempting any goods and chattels, lands and tenements from forced sale under execution shall apply to a levy and sale under any of said warrants or upon any execution issued upon any judgment rendered in any such action; and upon the return of such general warrant the county treasurer is also authorized to institute against any person charged with any personal tax which remains uncollected supplementary proceedings for the collection thereof; and all laws applicable to such supplementary proceedings upon judgments are made applicable to the proceedings hereby authorized, except that if such delinquent is a resident of this state such proceedings shall be instituted before some proper officer of the county in which the person proceeded against resides, otherwise in any county in the state.

(3) The tax roll and town treasurer's warrant and return, or abstracts therefrom, certified by the county treasurer under his seal of office, shall, upon the trial of any such action or proceedings authorized by this section, be presumptive evidence of such tax, of its being unpaid and of the amount unpaid, and in supplementary proceedings the same presumptions shall be entertained in favor of the validity of the tax and tax proceedings as in favor of a judgment and execution.

74.31 Charging tax to municipality. The county treasurer, after one year from the time any delinquent personal property tax shall have been returned to his office by the treasurer of any town and upon filing in his office the affidavit of the sheriff, his deputy or undersheriff, stating that such tax is uncollectible, shall charge the same back to such town, city or village and certify the same to the county clerk, who shall add the same to the next county tax apportioned thereto and send a list of the individual taxes comprising the same to the clerk of such town, city or village; but if any such tax shall be thereafter collected by the county treasurer the amount so collected shall be credited to such town, city or village.

74.32 Taxes, interest; payment on share or part to county treasurer; notice. (1) Any person may discharge the taxes on any parcel of land returned to the county treas-

urer as delinquent or on any part thereof or undivided share therein, by paying the same, with interest at eight-tenths of one per cent per month or fraction thereof from January 1 succeeding the year of the tax levy, and all lawful charges thereon, to such county treasurer at any time before the same shall be sold as hereinafter provided; and upon such payment the treasurer shall execute duplicate receipts therefor, showing the name of the person paying the same, the date of the receipt, the description of the property on which the tax was paid and the aggregate amount of taxes, interest, costs and charges paid, one of which shall be delivered to such person and the other filed by the county clerk; provided, that when an application is made to the county treasurer for the payment of the taxes upon any divided portion of any part or portion of any lot or parcel of land such treasurer shall give notice of such proposed payment to any person other than the applicant having a recorded ownership, mortgage, or land contract interest in such land which may be affected by such application and afford him a hearing. Such notice shall be given in the manner provided in section 75.12 for the giving of notice of applications for tax deed, and the costs of giving such notice shall be paid by the person making such application. The time for such hearing shall be fixed at not less than 10 days after the service of such notice has been completed. The treasurer shall thereafter determine the true proportion of taxes chargeable to the part or portion on which the taxes are sought to be paid, and the amount so found shall be deemed to be the amount of the taxes chargeable thereto.

(2) In counties having a population of 500,000 or more the duplicate of such receipt shall not be filed in the county clerk's office, but shall be filed in the county treasurer's office.

74.325 Delinquent taxes; payment in instalments. The tax on any parcel of land returned to the county treasurer as delinquent may be paid in instalments of not less than \$20 and in any multiple of \$5. The portion of such payment to be applied as principal shall be ascertained by dividing the amount of the payment by the sum of one plus a figure which is the product of .008 multiplied by the number of months of delinquency, counting any part of a month as a full month. Such amount of principal shall be deducted from the amount offered in payment and the remainder thereof shall be the interest accrued from January 1 next succeeding the year of the tax levy on that portion of the tax which is offered to be paid. Interest shall be computed only on the unpaid balance of the principal and be figured from such date of January 1 and the land against which such tax or special assessment is a lien shall be sold for the amount of such unpaid balance plus interest.

74.33 Record of delinquent lands; notice of sale. (1) On or before September 15 of each year, the county treasurer shall have available in his office for public inspection a record of all lands on which the taxes have been returned as delinquent and which then remain unpaid, except public lands held on contract and lands mortgaged to the state.

(2) (a) He shall prepare and cause to be published a notice stating that so much as may be necessary of each tract of land upon which the taxes have been returned as delinquent and which remain unpaid on the third Tuesday in October next, except public lands held on contract and lands mortgaged to the state, as shown on the official records of delinquent taxes in his office, will, on the third Tuesday in October and the next succeeding days, be sold by him at public auction at a named public place, at the county courthouse, for the payment of taxes and interest thereon. If the county is the exclusive bidder under s. 74.44, he shall so state in a separate notice under par. (c). He shall cause such notice to be published, as a class 2 notice, under ch. 985, prior to but not earlier than 30 days before the 3rd Tuesday in October in each newspaper published in his county possessing the qualifications specified in s. 985.03, or, if there is none, in one such newspaper in each adjoining county as the county board directs. Every newspaper, for purposes of this section, shall be deemed to have been regularly published once in each week if not more than 10 days has intervened between successive issues. Such notice shall be 3 newspaper columns wide and 10 column inches deep, except in counties having a population of 500,000 or more such notice shall be 2 newspaper columns wide and 6 column inches deep, and shall be charged and paid for at the advertising space rates regularly charged by each such newspaper. The county treasurer shall post the notice in a conspicuous place in his office, and in 3 other public places in his county.

(b) Such notice shall be substantially in the following form and language:

OWNERS OF REAL ESTATE IN COUNTY
TAKE NOTICE

On October .., 19.., and the next succeeding days,, Treasurer of county, will, at the courthouse at (county seat), Wisconsin, sell at public auction so much as may be necessary of each tract of land upon which the taxes have been returned as

delinquent and are on said date still unpaid, for the payment of the taxes and interest due thereon. This sale will include all real estate listed in the county treasurer's official records of delinquent taxes for the tax levy year, except public lands held on contract and lands mortgaged to the state. If you are in doubt as to whether the taxes on your land are paid, consult the county treasurer.

PAY YOUR TAXES NOW

By so doing you will prevent sale of your property for taxes and you will stop the further addition of interest charges.

. . . . (Name of treasurer)
County Treasurer
. . . . County

(c) If the county is the exclusive bidder under par. (a) the notice shall be published as provided in par. (a) and shall be in substantially the following form and language:

**OWNERS OF REAL ESTATE
IN COUNTY
TAKE NOTICE**

On October . . , 19. . , and the next succeeding days,, Treasurer of county, will, at the courthouse at, Wis., sell to County so much as may be necessary of each tract of land upon which the taxes have been returned as delinquent and are on said date still unpaid, for the payment of the taxes and interest due thereon. This sale will include all real estate listed in the county treasurer's official records of delinquent taxes for the tax levy year 19. . except public lands held on contract and lands mortgaged to the state. If you are in doubt as to whether the taxes on your land are paid, consult the county treasurer.

PAY YOUR TAXES NOW

By doing so you will prevent sale of your property for taxes and you will stop the further addition of interest charges.

THIS SALE IS NOT OPEN TO THE PUBLIC.

THE COUNTY WILL PURCHASE THESE DELINQUENT TAXES.

.
County Treasurer
. . . . County

History: 1961 c. 57, 622; 1965 c. 252.

74.345 Error in notice; subsequent sale. (1) If the county treasurer fails to comply with s. 74.33, notice of sale may be published later as provided in s. 74.33 and the sale held at a time fixed by him, not later than December 15, with like effects as if he had originally complied with the section.

(2) If any land was omitted from the list of lands advertised for tax sale prior to July 12, 1957, such land may be advertised for sale in the year following discovery of the omission in the same manner as required by statute prior to such date.

History: 1965 c. 252.

74.36 Affidavits of publication and posting. Every printer who publishes such notice shall, immediately after the last publication thereof, transmit to the treasurer of the proper county an affidavit of such publication made by some person to whom the fact of publication is known; and no printer shall be paid for publishing any such notice who fails to so transmit such affidavit on or before the date fixed for such sale; and the county treasurer shall also make or cause to be made an affidavit of the posting of such notice as required in s. 74.33, which affidavit together with the affidavit of publication, shall be carefully preserved by him.

74.38 Officers not to be interested. It shall be unlawful for any town or county officer or county board to make any contract or agreement with the printer or any other person by which the said fees or compensation or any part thereof, or the fees and compensation hereinafter provided for the publication of the notice of the time when redemption of lands sold for taxes will expire or any part thereof, may or shall, directly or indirectly, inure to the use or benefit of any such town or county officer; and if any such officer or printer shall violate the provisions of this section he shall forfeit not less than two hundred and fifty nor more than one thousand dollars.

74.39 Sale of real estate. On the day designated in the notice of sale the several county treasurers shall commence the sale of those lands on which the taxes and interest shall not have been paid and shall continue the same from day to day, Sundays excepted, until so much of each parcel thereof shall be sold as shall be sufficient to pay the taxes,

interest at eight-tenths of one per cent per month or fraction thereof upon the amount of such taxes from the first day of January next succeeding the year of the tax levy, and all moneys received on such sale shall be paid into the county treasury; but if the treasurer shall discover before the sale that on account of irregular assessment or for any other error any of said lands ought not to be sold, he shall not offer the same for sale, and report the lands so withheld from sale to the county board at the next session thereof with his reasons for withholding the same.

74.40 Who to be purchaser; order of sale. The person offering at such sale to pay the taxes, interest and charges on any tract of land for the least quantity thereof shall be the purchaser of such quantity, which shall be taken from the north side or end of such tract, and shall be bounded on the south by a line running parallel with the northerly line thereof, if such line be a single straight line, otherwise the south line of the portion so sold shall run due east and west; and in case no bid be made for the payment of the taxes, interest and charges on any such tract of land for a portion thereof then the whole of such tract shall be sold.

74.41 Payment. The county treasurer may, in his discretion, require immediate payment of every person to whom any such tract or parcel thereof shall be struck off; and in all cases where the payment is not made within twenty-four hours after the bid he may declare such bid canceled and sell the land again or may sue the purchaser for the purchase money and recover the same, with costs and ten per cent damages; and any person so neglecting or refusing to make payment shall not be entitled after such neglect to have any bid made by him received by the treasurer during such sale.

74.42 When treasurer to buy. If any tract of land cannot be sold for the amount of taxes, interest and charges thereon it shall be passed over for the time being, but shall, before the close of the sale, be re-offered for sale; and if the same cannot be sold for the amount aforesaid the county treasurer shall bid off the same for the county for such amount.

74.43 Cities bidding in at tax sales. (1) If, at any sale in any city in this state, whether organized under general law or special charter, of real or personal property for taxes or assessments, no bid shall be made for any parcel of land, or for any goods and chattels, the same shall be struck off to the city, and thereupon the city shall receive in its corporate name a certificate of the sale thereof, and shall be vested with the same rights as other purchasers are. Whenever such city shall hold any certificate of sale for any land sold for the nonpayment of city taxes, the common council of such city, to protect such interest, may authorize and direct the city treasurer to bid in and to become exclusive purchaser in the corporate name of such city of such lands at any sale of the same by the county treasurer for the county and state taxes, and such city shall be vested with the same rights as are other purchasers; provided that such city shall, before becoming the exclusive purchaser for said lands for said county taxes, purchase any outstanding county certificates of sale held by the county which are subsequent to the city certificates of sale, or in case such land has been sold by the county to a private purchaser subsequent to the city certificate of sale such city shall first secure an assignment of the certificate of sale from the owner thereof or redeem the lands from such sale. When a tax deed shall be issued to the city, the land covered by said tax deed shall be exempt from further taxation until the same is sold by the city. The city treasurer shall annually, before the first day of May, furnish to the assessors of such city, a list of the lands in such city exempt under this subsection. If the city shall be purchaser of any personal property by virtue of this chapter, the treasurer shall have the power to sell the same at public sale, and in case the city shall become the purchaser of any real estate at any tax sale, the treasurer is authorized to sell the certificates issued therefor for the amount of such sale and interest at eight per centum per annum, and to indorse and transfer such certificates to the purchasers.

(2) All acts or parts of acts, including the provisions of any city charter, which are contrary to the provisions of this section are repealed.

(3) Notwithstanding the provisions of subsection (1) of this section the common council in any such city may by ordinance authorize and direct the city treasurer to bid in and become the purchaser of all lands sold for taxes, except such as to which section 75.67 is applicable, for the amount of taxes, interest and charges remaining unpaid thereon, and all such lands sold shall be struck off to the city, and thereupon the city shall receive in its corporate name a certificate of sale thereof, and shall be vested with the same rights as other purchasers. Such tax sale certificate shall be assigned by the city treasurer by direction of the common council of such city.

74.44 County may purchase on tax sales; cutting county timber, penalty. (1) The county board of any county may authorize and direct the county treasurer to bid in and become the purchaser of all lands sold for taxes for the amount of taxes, interest and charges remaining unpaid thereon. Any certificate of sale, except as to drainage assessments, owned by any county, shall constitute collateral security for any loan to such county to an amount equal to one-half the face value of such certificate when negotiated by the county clerk and treasurer. All laws relating to the sale or purchase of lands sold for the nonpayment of such taxes, and to the redemption of such lands, shall apply and be deemed to relate to the sale or purchase of such lands by the county.

(2) Unless expressly authorized by resolution of the county board or by the governing body of any city authorized by law to sell its own delinquent taxes or assessments, any person who cuts, destroys or removes, or directs on contracts for the cutting, destruction or removal of any logs, wood, timber, bushes or shrubs, or any buildings, fixtures and other improvements assessed as real property from lands owned by any county or such city or from any lands upon which any county or such city holds a tax certificate shall be liable to such county or such city for the value thereof, and any person who wilfully cuts, destroys or removes or directs on contracts for such cutting, destruction or removal shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$10 nor more than \$100, or by imprisonment in the county jail for not less than 10 days nor more than 90 days, or by both such fine and imprisonment.

(3) Any person who receives, conceals or aids in the concealment of any such logs, wood, timber, bushes or shrubs, or any such buildings, fixtures and other improvements or materials salvaged therefrom, knowing the same to have been wilfully severed or removed from the lands of any county or such city or on which any county or such city has a tax lien, shall be liable to the county or such city for the value thereof and shall be guilty of the offense of receiving stolen property and upon conviction shall be punished as provided in s. 943.34.

74.45 Mistake not to affect sale. When any land is offered for sale for any taxes it shall not be necessary to sell the same as the property of any particular person; and if it should be sold as the property of any such person no misnomer of the owner or supposed owner or other mistake respecting the ownership of such land shall ever affect the sale or render it void or voidable.

74.455 Correction of tax certificates. Any tax certificate held by a county containing an incorrect real estate description may be corrected by an action brought in the circuit court in the same manner as actions for the reformation of instruments. Such certificates so corrected shall be valid as of the date first issued.

74.456 Correction of tax sale certificates. (1) Whenever the county treasurer or the treasurer of any city authorized by law or charter to sell lands for the nonpayment of taxes and special assessments, shall discover that the real estate description in any tax sale certificate owned by the county or any such city is erroneous and does not describe the lands intended to be assessed, and the correct description of such lands can be obtained from the assessor of the town, city or village wherein such lands are located, such treasurer may request that such assessor make and file with such treasurer an affidavit correctly describing said lands. Such assessor shall make and file such affidavit upon such request being made.

(2) Upon the filing of such affidavit the treasurer shall give notice in the manner hereinafter prescribed to the owners and mortgagees, if any, of record in the office of register of deeds of the county wherein such land is located, that it is proposed to correct the description in such tax certificate to conform to the description in such assessor's affidavit. Such notice shall be given by service in the manner that a summons is served in a court of record, or by registered mail with return receipt of addressee demanded. Such notice may be served by any officer or employe of such county or city. If such notice cannot with due diligence be so served, it shall be served on such owner or mortgagee by publication as a class 3 notice, under ch. 985. The affidavit and notice, together with affidavit of service, registered mail return receipts or proof of publication, as the case may be, shall be filed in the office of the treasurer who has applied for the corrective description. All other provisions of law, including the provisions of any city charter, which are contrary to the provisions of this subsection, are superseded by it.

(3) The notice hereinabove referred to shall be in substantially the following form to wit:

NOTICE OF CORRECTING TAX SALE CERTIFICATE

STATE OF WISCONSIN, }
 County. } ss.

To (Record owner or owners)

.... (Mortgagee or Mortgagees of record)

Take notice that pursuant to section 74.456, Wisconsin statutes, the following description of lands situated in the county of, state of Wisconsin, to wit: (Here insert description) in tax sale certificate no., dated, issued by the treasurer of the (county of) (city of) as provided by law for unpaid taxes of the year and now held by (county of) (city of), will be corrected to read as follows, to wit: (Here insert correct description).

Date

Treasurer of (....)

(4) Such owners or mortgagee may within 20 days after the time of completion of service of such notice, file a written objection to the making of such correction with such treasurer. When such objection is filed, the matter shall be referred by such treasurer to the governing body of the town, city or village wherein such lands are located for a hearing on such objection. Such governing body shall have power to decide whether such correction shall be made and its decision shall be final and conclusive subject to being reviewed by certiorari in the circuit court of such county. A copy, certified to by the county treasurer or city treasurer, as the case may be, of the assessor's affidavit and notice together with affidavit of service, registered mail return receipt or proof of publication, shall be filed with such governing body, when such objection is filed with such treasurer.

(5) When no objection to such correction shall have been made within the time hereinabove provided, or when after objection, the correction has been permitted by such governing body, the county treasurer or such city treasurer, as the case may be, shall correct the real estate description in the tax sale certificate so as to conform to the proper description as set forth in the affidavit of the assessor. The fact of such correction will thereafter be indorsed by the proper treasurer on such tax sale certificates and on the record of tax sales and such indorsement shall be dated and signed by such treasurer in his official capacity. Any such tax sale certificate so corrected and any tax deed issued thereon shall be as valid and effectual as if the proper real estate description for such lands had appeared in such tax sale certificate when first issued and in the assessment and tax roll, and in the duplicate tax roll and statement of unpaid taxes and list of delinquent lands provided for in the charter, pursuant to sections 74.17 and 74.03 (10) (a).

(6) Any individual owner and holder of a tax sale certificate may have the same corrected by making application to such county or city treasurer to cause such certificate to be corrected as in this section provided. In such case such individual owner shall deposit in advance with the proper treasurer the reasonable costs of the service of the notice of proposed correction.

(7) This section shall apply to tax sale certificates issued prior as well as after May 20, 1943.

History: 1965 c. 252.

74.46 Certificate of sale; may be assigned and recorded. (1) (a) The county treasurer shall give to each purchaser on the payment of his bid, and if the same be struck off to the county then to the county, a certificate dated the day of the sale, describing the lands purchased, stating the original amount of the tax, the rate of interest thereon and the date from which such interest accrues, and the time when the purchaser will be entitled to a deed; which certificate shall be substantially in the following form, to wit:

STATE OF WISCONSIN, }
 County. } ss.

County Treasurer's Office,, 19... I,, county treasurer of the county of ... in said state, do hereby certify that I did at public auction, pursuant to notice given as by law required, on this ... day of ..., sell to A. B. (or the county of ...) the lands herein described for the sum of ... dollars and ... cents, said sum being the amount due and unpaid for taxes, on said land for the year 19...; that said A. B., his heirs or assigns (or said county or assigns), will, therefore, be entitled to a deed of conveyance of said lands in 3 years from this date, unless sooner redeemed from such sale according to law, and the rate of interest in case of such redemption shall be eight-tenths of one per cent per month or fraction of a month from the date of January 1, 19... Said lands are described as follows, with sums for which each tract was sold set opposite to

each description, that is to say: (Here insert description, and separately the amount bid on each tract).

A. B. County Treasurer.

(b) The purchaser at any tax sale and any person taking tax certificates from the county by assignment shall pay therefor the principal of the tax and interest thereon from January 1 of the year following the tax levy to the date on which he pays for his certificate.

(c) Whenever in any county lands are bid in for delinquent taxes for the county, the county treasurer may in lieu of executing separate tax certificates on every parcel of land to the county, prepare and execute one master certificate to include lands in each town, city or village sold for delinquent general taxes, special assessments, drainage assessments levied as specified in ch. 88 (or ch. 88 or 89 as they existed prior to January 1, 1965), special improvements bonds and trust items, which certificate shall be in substantially the form as hereinafter provided and shall incorporate by reference to appropriate numbering in the treasurer's tax sales record the description of each separate parcel and the amount of delinquent tax and charges intended to be included in said tax certificate. Thereafter when any person desires to purchase the tax certificate on any individual parcel included in either of said master certificates the county treasurer shall execute a single tax certificate to the county in the form prescribed in this subsection, which certificate shall be indorsed by the county treasurer with his official character added and thereafter the procedure prescribed in sub. (2) shall apply. Whenever one or more single certificates are executed on parcels included in a master certificate such fact shall be forthwith noted on the master certificate by reference to the item number of said parcel. If after the issuance of any master certificate, any delinquent tax item therein included is redeemed, the fact, date and amount of such redemption shall be noted forthwith on such master certificate by reference to the items of said parcel. The form of such master certificate shall be substantially as follows:

STATE OF WISCONSIN, }
 County. } ss.

County Treasurer's Office,, 19...

I,, county treasurer of the county of, in said state, do hereby certify there was sold at public auction, pursuant to notice given as by law required, on the day of, 19.., to the county of, the lands described and listed in volume number, town of, record of sales and assignments the specific item numbers whereof are hereinafter set forth, said record being on file in the office of county treasurer of county and which is hereby made a part of this certificate. Said sum listed below represents the amount due and unpaid for taxes on said lands for the year 19..; that the said county of or assigns will therefore be entitled to a deed of conveyance of said lands in 3 years from this date unless redeemed from such sale according to law, and the rate of interest in case of redemption shall be eight-tenths of one per cent per month or fraction of a month from date of January 1, 19... The said lands together with the sum for which the same is sold are more particularly shown in volume number, town of, record of sales and assignments numbers,, and

...., County Treasurer.

(1a) Unless the context clearly requires otherwise, as used in this section "county" shall include a city of the first class and "county treasurer" shall include a treasurer of a city of the first class.

(2) Any such certificate may be assigned by the purchaser by writing his name in blank on the back thereof, and by the county treasurer or county clerk in like manner, with his official character added, or any person's interest therein may be transferred by a written assignment indorsed upon or attached to the same. Any assignment of such certificate after the first may be made by the delivery of the certificate without any writing or other indorsement. A deed may be issued on such assigned certificate, though indorsed or delivered to the owner and holder thereof, and possession of the same, together with the affidavit now required by law, shall be sufficient evidence of the ownership of such certificate. And the county treasurer or county clerk, whichever of them shall, by the county board in pursuance of section 75.35, be authorized to sell and assign any tax certificates owned by such county, shall make and keep on file in his office a careful and accurate list of all such tax certificates struck off to or owned by such county, and he shall note upon such list, at the time of the sale or assignment of any such certificate, the time when and the person to whom the same is assigned. All such certificates and assignments thereof, when such assignments are duly sealed, duly attested by two subscribing witnesses and acknowledged, may be recorded in the office of the register of deeds of the proper county with the same effect as other records therein.

74.47 Papers, stub book and rolls to be filed. Every county treasurer shall, immediately after the close of the sale of any lands for taxes file and carefully preserve in his office all affidavits, notices and papers in relation to such tax sale; also a statement containing a particular description of each tract or parcel thereof, of lands so sold by him, specifying the name of the person to whom sold, the amount for which the same was sold and the name of the owner, if known. Said treasurer shall also file and carefully preserve in his office the stub book, tax roll and delinquent return. Every county treasurer shall, at the expense of the county, procure a record book and record therein all affidavits and notices hereinabove mentioned and the record of such affidavits and notices shall be received in evidence in all courts and proceedings as proof of the matters therein contained with like effect as such original notices or affidavits.

74.49 Sale after injunction dissolved. Whenever any officer shall have been enjoined from selling any lands subject to sale for unpaid taxes or assessments of any kind or nature and such injunction shall have been dissolved, if such taxes or assessments, with interest and charges thereon, shall remain unpaid for thirty days after the dissolution of such injunction such officer or his successor shall, immediately after the expiration of said thirty days, give notice of the time and place of the sale of such lands, and thereupon sell the same for such unpaid taxes or assessments, interest and charges; and interest shall be charged thereon to the time of sale at the rate provided by law for interest on such taxes and assessments at the time of granting such injunction; and in any city authorized to sell land for nonpayment of taxes at the rate provided in tax certificates of such city at the time the tax sale would have been made except for such injunction, the same to be computed from the date of delinquency of the tax; and in giving such notices and in making such sale he shall be governed in all respects by the provisions of law which may then be in force concerning sales of lands for taxes so far as the same may be applicable. The effect of such sale shall be the same as of other sales of lands for taxes by such officer; and the land sold may be redeemed from such sale, and if not redeemed, deeded in like manner and with like effect as may be provided in other cases of lands sold for taxes.

74.50 Disqualification of officers. It shall not be lawful for any county treasurer, county clerk, any of their deputies or clerks or any other person for them or any of them to purchase, directly or indirectly, property sold for taxes at any tax sale, or to purchase any tax certificate or tax title held by the county or by any person or persons whomsoever, except for and on behalf of the county as provided by law; nor shall any such treasurer, clerk, any of their deputies or clerks or any other person for them or either of them be directly or indirectly interested in the purchase of any property sold as aforesaid at any tax sale or in the purchase of any tax certificate or tax title except as hereinbefore provided; and any such certificate or title purchased or issued or any purchase of property made contrary to this section shall be null and void; and no money received into the county treasury for any such tax certificate shall be refunded to the purchaser or to any person on his behalf.

74.57 Lands acquired by state are not subject to tax sale. (1) It shall not be lawful for any county, city or village treasurer to sell any lands which shall have been acquired by the state after the taxes become a lien thereon. When such lands shall have been returned delinquent to the county treasurer he shall certify to the commissioners of public lands a description thereof together with the amount of taxes charged against each separate description. The commissioners of public lands within 10 days after the receipt of such certificate from the county treasurer shall consider the question of whether such taxes are just and legal, and if they so find shall order the same paid. They shall transmit a certified copy of their order to the department of administration, and upon its audit and warrant drawn upon the state treasurer the amount of said taxes shall be paid out of the appropriation provided for carrying out the purposes of this section.

(2) No tax deed shall be issued upon any land the title of which shall have been acquired by the state after the same shall have been sold for taxes and a tax certificate issued thereon. Upon the purchase by the state of any lands upon which there are tax certificates outstanding, the state department or agency making such purchase shall cause the amount of money required for the redemption thereof to be paid to the county treasurer. If such tax certificates shall not be so redeemed, the owner thereof may deposit the same with the county clerk who shall draw an order upon the county treasurer for an amount necessary to redeem the same and payable to the holder of the tax certificate. The amount of such order shall be paid by the county treasurer and deducted by him in his next settlement with the state treasurer for state taxes.

(3) Whenever, in any action brought by the state to set aside tax deeds outstanding on lands owned by the state, the court shall, as a condition of relief, order a certain

amount to be paid by the state, the commissioners of public lands may order that the amount required by the order of the court as a condition of relief shall be paid from the state treasury. A certified copy of their order shall be filed with the department of administration, and upon its audit thereof and its order drawn on the state treasurer the amount shall be paid to the clerk of the proper court or such other person as directed by the order of the court.

(4) The commissioners of public lands are authorized and empowered to negotiate with such parties as may hold tax deeds or tax certificates upon any of the public domain, and if the holder of such tax deed or deeds or tax certificate or certificates is willing to accept the amount of the taxes and interest thereon at the rate prescribed by s. 75.01, or if lands are in counties where the rate has been changed at the rate fixed by the county board, and the legal charges paid out by him for the purpose of securing said tax deed or tax certificate, the commissioners of public lands may, by their order, direct that he be paid such sums for a quitclaim deed of such lands or for the surrender of such certificate or certificates. A certified copy of such order may be filed with the department of administration, and upon its audit thereof and an order drawn on the state treasurer, the same shall be paid to the person or persons indicated in the order of the commissioners of public lands.

(5) The amount of any unpaid liens against property purchased for the state shall be considered a part of the purchase price and when paid shall be charged to the appropriation to which the purchase price is charged. Any such liens on property forfeited under the provisions of section 24.28 shall be paid out of the fund, and specific appropriation if any, to which payments in the contract have been credited.

74.59 Application of chapter to cities. The provisions of this chapter relative to towns and town treasurers shall apply to cities and villages and the treasurers thereof when the same are applicable, unless otherwise provided. When any territory shall be detached from any county, town, city, village or school district it shall in no manner invalidate or interfere with the collection of taxes in such territory, but they shall be collected and returns made as if the territory was not detached therefrom.

74.60 Neglect to elect officers; how taxes collected. Whenever the people of any territory which has been or shall hereafter be set off as a separate town shall neglect or refuse to elect the officers required by law to be chosen therein, by reason whereof the property of such town shall fail to be assessed in the manner provided by law, the county board shall issue their warrant to the assessor and to the treasurer of a town next adjoining, requiring them to assess and collect respectively the amount of taxes due from such town to the state and county till an election shall be held therein; and thereupon such assessor and treasurer shall severally discharge all the duties in regard to the assessment and collection of said taxes within said town that would have devolved upon them had they been duly elected assessor and treasurer respectively for said town; and for any malfeasance in respect thereof said treasurer shall be liable on his official bond, or said board of supervisors may, if they think necessary, require him to execute a new bond to the county treasurer in such sum and with such surety as they shall direct.

74.61 Mailing statement of taxes due. The treasurer of any town, village or city, while the tax roll therefor is in his possession, shall, upon request therefor from any taxpayer, forthwith deliver or forward by mail to such taxpayer a statement of the amount of taxes due upon each parcel or tract of land owned by such taxpayer and situated in such town, city or village, and in case the tax roll has been delivered to the county treasurer of any county, except those containing a population of one hundred fifty thousand inhabitants or more, then and in such case the county treasurer shall, upon request therefor, forthwith perform such service. Whenever, in any county having a population of five hundred thousand or more, any taxpayer shall make application by mail or in person to the treasurer of any town, village or city for a statement of the amount of taxes due on any parcel or tract of land owned by such taxpayer, such treasurer shall enter or cause to be entered upon the tax roll in his possession opposite the description of the proper parcel or tract of land thereon the name and address of the owner thereof as given to him by said taxpayer.

74.62 Taxes; payment by grantor and grantee. (1) As between grantor and grantee of any land, when there is no express agreement as to which shall pay the taxes assessed thereon for the year in which the conveyance is made, the grantor shall be chargeable with and pay to the grantee an amount thereof equal to one-twelfth of the taxes assessed against such land for the preceding calendar year multiplied by the number of months in the current calendar year which have elapsed prior to the date of the conveyance, including the month in which the conveyance is made if such conveyance occurs after the fifteenth day thereof.

(2) If real estate is specifically devised and there is no testamentary provision as to the burden of the taxes for the year of the testator's death, taxes shall be apportioned as of the date of death between the testator's estate and the specific devisee in the same manner as between grantor and grantee in sub. (1).

74.63 Rights of occupant who has paid taxes. When a tax of any kind on any real estate shall have been paid by or collected of an occupant or tenant such occupant or tenant shall be entitled to recover from the person under whom he is such occupant or tenant the amount so paid by him, with interest thereon at eight-tenths of one per cent per month or fraction thereof, or he may retain the same from any rent due or owing from him to such person for the real estate on which such tax was paid, unless it be otherwise provided by agreement between such parties.

74.64 County to refund unjust tax. If any person, within two years after the payment of any state or county tax by him, can satisfactorily show to the county board that the same was improperly assessed or was paid by mistake when it was not justly chargeable, the said board shall order the same to be repaid by the county treasurer; and if the taxes so refunded or any portion thereof be properly chargeable to any town, city or village it shall be so charged.

74.65 Cancellation of sales. If the county treasurer shall sell any parcel of land for taxes which shall have been paid before sale he shall, on presentation to him of a receipt of the town or county treasurer showing that such taxes have been so paid, enter in a sales book, opposite the description of the property so sold, that fact that such receipt had been presented, the date of the presentation and by whom the receipt was executed.

74.66 Loss by officers. All losses that may be sustained by the default of any officer of any town, city or village in the discharge of the duties imposed by this title shall be chargeable to such town, city or village; and all losses sustained by the default of any county officer in the discharge of such duties shall be chargeable to such county; and the county board shall add all such losses to the next year's taxes of such town, city or village, or county, as the case may require.

74.67 Rights of lienholder who pays taxes. Whenever any person having any lien upon any real estate, obtained pursuant to law, shall have paid any taxes on such real estate or shall have redeemed such real estate, when the same shall have been sold for taxes, he shall have a further lien upon such real estate as against the person under whose title he claims such first lien and all other persons then claiming under him for the amount of money so paid, with interest at eight-tenths of one per cent per month or fraction thereof, and against all other persons claiming title to such real estate under such person accruing subsequently to the time of recording the notice hereinafter specified.

74.68 Record of notice of lien. Any person paying money as aforesaid may cause to be recorded in the office of the register of deeds of the county where the real estate is situated a notice, signed and acknowledged by him, stating the land upon which the tax or redemption money was paid and the amount of the moneys thus paid.

74.69 Discharge of lien; rights of lienor. The original lien, by virtue of which any person shall obtain such second lien, shall not be discharged as to the persons mentioned in section 74.67 until the money thus paid for taxes, charges, interest or redemption, with interest thereon as aforesaid, shall be first repaid. If the original lien be a mechanic's lien, or by attachment or mortgage, the amount of such second lien may be included in any judgment rendered in the suit by which such original lien shall be enforced; if it be by judgment, then upon the sale of such real estate the amount of such subsequent lien shall be paid before any surplus shall be paid to the owner of such real estate or to any such subsequent incumbrancer or claimant; and if it be by a sheriff's certificate of a sale on execution or by purchase at a mortgage foreclosure sale, then such real estate shall not be redeemed or repurchased from such sale or purchase until such second lien has been paid.

74.695 Lienholder, acquisition of prior lien. (1) Any person having a lien on real estate against which realty there is a prior lien may pay any or all of the items mentioned in subsection (2), and the amounts so paid shall be added to the payor's lien, bear interest from date of payment at the same rate as that borne when paid, or if no rate was provided for prior to such payment, at the legal rate of interest. All sums so paid shall be collected as a part of and in the same manner as is the lien by virtue of which said payments are made and be entitled to the same priority.

(2) The items, any or all of which may be paid under subsection (1), are as follows:

- (a) Any past due or defaulted principal or interest of a prior lien.
- (b) Any interest or amortized instalment due under a prior lien.
- (c) Premiums and assessment on insurance policies necessary to protect the security of the lienor making such payments or of any prior lien and authorized under the terms of either such lien.
- (d) Taxes or special assessments due and unpaid on any realty covered by the lien with interest, penalties and costs.
- (e) Any portion of a prior lien.
- (f) Any charge for improvements or any other item authorized by statutes or by the terms of any prior lien.

(3) Such payments shall be proved by the affidavit of the person making the same, his agent or attorney, giving the items paid, the dates when paid and the description of the real estate on which the lien is claimed, shall have priority over any liens which were subsequent to the lien of the person making the payment at the date of such payments, and shall also have priority over any lien filed after such affidavit is recorded with the register of deeds of the county where the land is located. Said payments shall also be prior to any liens filed before the recording of such affidavit if such filing was made with knowledge of such payments.

(4) Said payments may be made during the period in which any lien is being enforced, or during the redemption period. An affidavit of such payments as provided in subsection (3) may be filed with the register of deeds, and a copy thereof shall be furnished by the sheriff at least five days before the expiration of the redemption period.

(5) If the lienor at the time of making such payment has an equal priority with other lienors, and the property securing such liens does not sell for a sufficient sum to pay all liens, the person making such payments shall be repaid the amounts thereof before the other equal lienors receive any share in the proceeds of such sale.

(6) The provisions of section 74.695 shall not apply to any lien in existence on June 17, 1925.

74.70 Lienholder may avoid tax. Any person who is the holder of any such original lien upon any real estate shall have the same right of action that the owner of the land has to test the legality and validity of any tax, charge or assessment or tax sale, and to annul the same, and to enjoin the sale or deeding of the land on account thereof.

74.71 Assessments may be settled for; effect of release. Whenever any assessment has been or shall be made by the authorities of any city or village for the purpose of paying for any work done or improvement made upon any street or highway therein, the costs of which are liable to be or have been assessed against any lot or parcel of land, the owner or any person interested in any such lot or parcel of land may settle for such work or improvement with any contractor or his assigns having a claim against the same for any work done or to be done by him upon such street or highway under any contract with the authorities of such city or village; and a release, duly executed and acknowledged by such contractor or his assigns, shall be entitled to be recorded in the office of the register of deeds in the county and shall be an effectual release and discharge of all claims of such contractor or his assigns against the land described therein and against the owner thereof and the city or village which may be the contracting party for such work or improvement, but not of any claim of the city or village against such land for printing, surveying, engineering and other incidental expenses. In counties having a population of five hundred thousand or more the provisions of this section shall also apply to towns.

74.72 Neglect to levy taxes. Whenever any town shall have failed to levy, collect or pay over to the county treasurer any state or county tax apportioned to and charged against such town in any year, or any part thereof, the county board of such county shall, in the next or any succeeding year, charge all such delinquent taxes and a penalty of twenty-five per cent to such delinquent town; and the county clerk shall add the same to the amount of the annual state and county tax apportioned to such town for such succeeding year.

74.73 Recovery of illegal taxes; limitation. (1) Any person aggrieved by the levy and collection of any unlawful tax assessed against him may file a claim therefor against the town, city, or village, whether incorporated under general law or special charter, which collected such tax in the manner prescribed by law for filing claims in other cases, and if it shall appear that the tax for which such claim was filed or any part thereof is unlawful and that all conditions prescribed by law for the recovery of illegal taxes have been complied with, the proper town board, village board, or common council of any city, whether incorporated under general law or special charter, may allow and the proper town, city, or village treasurer shall pay such person the amount of such claim found to be illegal and

excessive. If any town, city, or village shall fail or refuse to allow such claim, the claimant may have and maintain an action against the same for the recovery of all money so unlawfully levied and collected of him. Every such claim shall be filed; and every action to recover any money so paid shall be brought within one year after such payment and not thereafter.

(2) In case any such town, city or village shall have paid such claim or any judgment recovered thereon after having paid over to the county treasurer the state, county and metropolitan sewerage area debt retirement tax levied and collected as part of such unlawful tax, or shall have paid any necessary expenses in defense of such action, such town, city or village shall be credited by the county treasurer, on the settlement with the proper treasurer for the taxes of the ensuing year, the whole amount of such state, county and metropolitan sewerage area debt retirement tax so paid into the county treasury and the county's, state's and metropolitan sewerage area debt retirement tax proportionate share of the taxable costs and expenses of suit, as the case may be, unless such claim or judgment shall be the result of an error or defect, other than an error or defect of law, caused by said town, city or village or official thereof; and the county treasurer shall also be allowed by the state treasurer the amount of state tax so illegally collected and the state's proportionate share of such taxable costs and expenses of suit and paid in his settlement with the state treasurer next after the payment of such claim or the collection of such judgment. If any part of such unlawful tax shall have been paid over to any school district before the payment of such claim or judgment, such town shall charge the same to such district with the proportionate share of the taxable costs and expenses of suit, and the town clerk shall add the same to the taxes of such school district in the next annual tax; provided, however, that no claim shall be allowed and no action shall be maintained under the provisions of this section unless it shall appear that the plaintiff has paid more than his equitable share of such taxes.

(3) If any person shall within the time provided by law have paid an occupational tax upon any personal property, and by mistake of the assessing officer such person shall also have paid another tax assessed unlawfully against said property for state or municipal purposes during such period, such person may file a claim therefor and maintain an action for the recovery of all money so unlawfully levied and collected of him as provided in subsection (1) of this section, and every such claim shall be filed and every action to recover any money so paid shall be brought within six years after such payment and not thereafter.

(4) No claim shall be filed and no action shall be brought under this section which is based upon an allegedly excessive assessment except that in counties with a population of under 500,000 a claim may be filed and an action may be brought if the tax is paid on the contested assessment by January 10 of the year following the year of the assessment and a claim filed within 10 days thereafter and suit commenced within 30 days following the denial of the claim or within 90 days after the claim is filed if the municipalities fail to act on the claim.

Under (1) the one-year limitation begins to run when a first instalment is paid, as against a contention that it does not begin to run until the final instalment has been paid. A complaint for the recovery of an alleged unlawful property tax paid must allege that the tax was paid under protest. *Waukesha Development Corp. v. Waukesha*, 10 W (2d) 621, 103 NW (2d) 668.

In cases of illegal taxes based on 74.73 (4), involving an allegedly excessive assessment based on the amount or valuation of property, such assessment must first come before the board of review as provided in 70.47 (7) (a), as a condition precedent to bringing an action for the recovery of illegal taxes paid. The language "contested assessment," found in 74.73 (4), refers to the assessment contested before the board of review. In cases of illegal taxes not involving the amount or valuation of the property

or excessive assessment, it is not necessary to comply with 70.47 (7) (a). *Pelican Amusement Co. v. Pelican*, 13 W (2d) 585, 109 NW (2d) 82.

Where taxpayers protesting overassessment of lakeshore property as compared to farms produced testimony as to assessments of only 6 farms, without showing that the 6 were representative or chosen at random, they have not supplied the proof required. *Bauermeister v. Alden*, 16 W (2d) 111, 113 NW (2d) 823.

A taxpayer was not entitled to recover interest from a city for the city's use of the money refunded to the taxpayer in its action for a refund. *Associated Hospital Service v. Milwaukee*, 18 W (2d) 183, 118 NW (2d) 96.

Payment of interest on refunds when the statute is silent. 1964 WLR 153.

74.74 Reassessment of plaintiff's taxes. (1) In any action for the recovery of any money paid as and for taxes levied either upon real or personal property, or both, if upon the trial it shall appear that the assessment upon which the taxes were so paid is void, the court, before entering judgment, shall continue the action for a sufficient time to permit a reassessment of the property affected by such void assessment, and such reassessment shall thereupon be made in accordance with the provisions of law. If from such reassessment when so made it shall appear that the sum or sums paid for taxes by the plaintiff are no greater than his equitable and just share of the taxes as so reassessed, judgment shall be entered for the defendant; and if from such reassessment it shall appear

that the plaintiff has paid more than his equal and just share of the taxes judgment shall be entered in his favor for the excess only over such share. The validity of the reassessment herein provided for may be attacked and determined, and subsequent reassessments may be had as provided by section 75.54; provided, that such reassessment shall in all cases be made by the assessor of the assessment district wherein the property to be reassessed is situated.

(2) If however, in any such action now pending or which may be begun hereafter the evidence enables the court to determine, with reasonable certainty, the amount of taxes which were justly chargeable against the lands involved in the action, the court, in its discretion, may proceed to judgment without staying proceedings or ordering a reassessment, if it finds that it is for the best interests of all parties to the action that it should do so.

74.76 Liens of internal revenue taxes. (1) Notices of liens for internal revenue taxes payable to the United States and certificates discharging such liens shall be filed in the office of the register of deeds of the county or counties within which the property subject to such lien is situated.

(2) When a notice of such tax lien is filed, the register of deeds shall forthwith enter the same in an alphabetical federal tax lien index to be provided by the county board, showing on one line the name and residence of the taxpayer named in such notice, the collector's serial number of such notice, the date and hour of filing, and the amount of tax and penalty assessed. He shall file and keep all original notices so filed in numerical order in files to be provided by the county board and designated federal tax lien notices.

(3) When a certificate of discharge of any tax lien, issued by the collector of internal revenue or other proper officer, is filed in the office of the register of deeds where the original notice of lien is filed, said register of deeds shall enter the same with date of filing in said federal tax lien index on the line where the notice of the lien so discharged is entered, and permanently attach the original certificate of discharge to the original notice of lien.

(4) The fee for filing a notice of tax lien is \$1 and for filing a certificate is 50 cents. The filing officer shall bill the district director of internal revenue on a monthly basis for all fees for filing tax notices. Such lien shall be satisfied of record upon presentation of the collector's certificate of discharge thereof and payment of the fee.

(5) This section is enacted for the purpose of authorizing the filing of notices of liens in accordance with 68A Stat. 779; 26 USC 6323.

History: 1963 c. 104; 1965 c. 186.

74.77 Paid by municipality; lien. (1) The council of any city and the board of any town or village may by resolution direct its treasurer to pay any tax legally assessed against the real estate of any worthy, indigent person resident therein.

(2) A copy of such resolution with a statement of the amount and date paid and description of the property certified by the clerk of the paying municipality, may be recorded with the register of deeds of the proper county and the amount shall thereby become a lien upon such real property in favor of the paying municipality prior to any other lien than prior outstanding tax certificates or prior liens hereunder for the amount paid, with legal interest, and shall be enforceable after transfer of title of the property by sale, inheritance or will, in the manner provided by law for the enforcement of mechanic's liens.

(3) The owner of such property, his heirs, personal representatives or assigns may discharge such lien at any time by paying the amount of such lien with accrued interest to the treasurer of the proper municipality who shall execute a proper satisfaction piece which may be duly recorded with the said register of deeds.

(4) The holder of any subsequent lien may purchase such lien by payment of the amount thereof with accrued interest to the treasurer of the proper municipality who shall execute a proper assignment thereof to such payer, and on recording such assignment, such assignee shall have the same rights the assignor had.

74.78 Recovery of taxes paid by wrong school district. Whenever any debt or tax owing by a school district is assessed against and paid by another district, such tax plus six per cent shall be entered in the next tax roll against the taxable property in the debtor district, and when collected shall be paid to the treasurer of the district, against which the tax was so erroneously assessed.

79.79 Instalment tax payments. (1) The common council of any city authorized by its charter to sell land for nonpayment of city taxes may by ordinance extend the time for payment without interest of all or a portion of the real estate taxes and special assess-

ments of such city, except special assessments as to which no extension is allowed, for a period of time not exceeding 10 months from January 31 in one or more instalments under conditions set forth in the ordinance. If one instalment only is not paid on the due date it shall not be deemed delinquent or to render the unpaid balance delinquent, but such instalment shall be collected together with interest thereon at the rate of eight-tenths of one per cent per month, or fraction thereof, from January 1 preceding. If a second instalment shall not be paid on the due date then the city treasurer shall declare the unpaid balance to be delinquent; and such taxes and special assessments shall be collected together with interest thereon at eight-tenths of one per cent per month, or fraction thereof, from January 1 preceding. The treasurer shall, on the 15th day after the date that payment of the final instalment provided for in said ordinance is due, commence by public auction the sale of all tracts and lots or parcels upon which instalments of city taxes and special assessments shall remain unpaid in the same manner in which land is required to be sold for nonpayment of city taxes.

(2) The common council of such city shall have the power by ordinance to extend the time of payment without interest of a portion of all taxes and charges in the duplicate county tax roll for a period of time not exceeding 6 months from January 31 in one or more instalments; the time of payment, interest and delinquency to be the same as provided for such city instalments.

History: 1965 c. 135.

Cross Reference: See 74.03, semiannual payment of taxes, and especially 74.03 (10), relative to special provisions for Milwaukee.