CHAPTER 76

TAXATION OF PUBLIC UTILITIES AND INSURERS

SUBCHAPTER I
PUBLIC UTILITIES

76.01 Railroads and utilities, assessment. The department of revenue shall make an annual assessment of the property of all railroad companies, of all conservation and regulation companies, of all air carriers, and of all pipeline companies, within this state, for the purpose of levying and collecting taxes thereon, as provided in this subchapter.

History: 1971 c. 23; 1971 c. 102 s. 236 (1); 1983 a. 27; 1985 a. 29; 1991 a. 39; 1995 a. 351; 2015 a. 216.

The Department of Revenue’s formula for determining the portion of an airline system’s value subject to Wisconsin taxation does not offend the commerce clause, due process, or this section. Northwest Airlines, Inc. v. DOR, 252 N.W.2d 337 (1977).

76.02 Definitions. In ss. 76.01 to 76.26:
(1) “Air carrier company” means any person engaged in the business of transportation in aircraft of persons or property for hire on regularly scheduled flights, except an air carrier company whose property is exempt from taxation under s. 76.26 (2).

In this subsection, “aircraft” means a completely equipped operating unit, including spare flight equipment, used as a means of conveyance in air commerce.

(2) “Company”, without other designation or qualification, includes any railroad company, any conservation and regulation company, any air carrier company, and any pipeline company.

(3) “Conservation and regulation company” means any person organized under the laws of this state for the conservation and regulation of the height and flow of water in public reservoirs within this state.

(4) “Department”, without other designation, means the department of revenue.

(5) “Pipeline company” means any person that is not a light, heat and power company, as defined by s. 76.28 (1), and that is engaged in the business of transporting or transmitting gas, gasoline, oils, motor fuels or other fuels by means of pipelines.

(6) “Railroad company” means any person owning or operating a railroad, or operating a railroad in this state, or owning or operating any station, depot, track, terminal or bridge in this state, for railroad purposes, except that “railroad company” does not include any county, city, village or town or any combination of them.

(6m) “Repair facility” means property on which a roundhouse, a repair shop, and a turntable are located and at which railcars and locomotives are built, maintained, and repaired.

(8) “Special property” means the property of companies that is assessed under ss. 76.01 to 76.26.


Sub. (1) is constitutional. Northwest Airlines, Inc. v. DOR, 2006 WI 88, 293 Wis. 2d 202, 717 N.W. 2d 280, 04−0319.

76.025 Miscellaneous provisions. (1) The property taxable under s. 76.13 shall include all franchises, and all real and personal property of the company used or employed in the operation of its business, excluding property that is exempt from the property tax under s. 70.11 (39) and (39m), such motor vehicles as are exempt under s. 70.112 (5) and treatment plant and pollution abatement equipment exempt under s. 70.11 (21).

The taxable property shall include all title and interest of the company referred to in such property as owner, lessee or otherwise, and in case any
portion of the property is jointly used by 2 or more companies, the unit assessment shall include and cover a proportionate share of that portion of the property jointly used so that the assessments of the property of all companies having any rights, title or interest of any kind or nature whatsoever in any such property jointly used shall, in the aggregate, include only one total full value of such property.

(2) If the property of any company defined in s. 76.28 (1), except a qualified wholesale electric company as defined in s. 76.28 (1) (gm), is located entirely within a single town, village or city, it shall be subject to local assessment and taxation.

(3) Any air carrier company engaged solely in intrastate transportation and using the facilities of only one airport within this state is exempt from taxation under this subchapter but is subject to local assessment and taxation.

(4) Nothing in this subchapter shall be construed to result in the levy, assessment or collection of taxes on property of a municipal water utility created under s. 198.22.

(5) Nothing in this chapter or ch. 70 shall be construed as providing an exemption for personal property for entities regulated under this chapter, except for the exemptions under ss. 70.11 (21), (39), and (39m), 70.112 (4) (b) and (5), and 76.074, and for such motor vehicles as are exempt under s. 70.112 (5).


Cross-reference: See also s. Tax 6.40, Wis. adm. code.

The exemption for water and air pollution equipment in sub. (1) is allowed to a public utility for equipment purchased or constructed before the effective date for sub. (1), Wisconsin Electric Power Co. v. DOR, 59 Wis. 2d 106, 207 N.W.2d 841 (1973).

The federal Railroad Revitalization and Regulatory Reform Act of 1976, 49 USC 11501 (b) (4), restricts the ability of state and local governments to levy discriminatory taxes on rail carriers. The Act might be violated if a railroad is singled out for unfavorable treatment in the form of inability to benefit from property tax exemptions given to other taxpayers. In Wisconsin, manufacturing and commercial taxpayers generally qualify for the intangible personal property exemption under s. 70.112 (1), but railroad and utilities companies under sub. (1) do not. Therefore, the intangible personal property exemption of railroad and utilities companies may be single out and isolated group in violation of the Act. Union Pacific Railroad Co. v. DOR, 940 F.3d 336 (2019).

76.03 Unit assessment and situs for taxation. (1) The property, both real and personal, including all rights, franchises and privileges used in and necessary to the prosecution of the business of any company enumerated in s. 76.02 shall be valued and assessed together as a unit.

(2) In case any of the property used in the business of a company defined in s. 76.02 is operated in connection with the property used in the same business or any other business therein described, all such property, rights, franchises and privileges shall be valued and assessed together as a unit, unless, in the opinion of the department of revenue, such properties are so segregated that separate assessments thereof should be made.

(3) The place of assessment and taxation of property subject to taxation under the provisions of this subchapter is fixed at the capitol of the state.

(4) Every person, company or companies, as defined in s. 76.02, shall be the representative of every title and interest in the property so operated or used either as owner, lessee or otherwise, and notice to the operating and using company or companies shall be notice to all interests in the property for the purposes of taxation. The assessment and taxation of the property of any company in the name of the operating or using company or companies shall be deemed and held an assessment and taxation of all the title and interest in such property of any kind or nature. Nothing herein contained shall be deemed to authorize the assessment and taxation of the interests of the state or of any county, city, village or town in any property used for highways or elevated roads and leased to or used by another.

History: 1977 c. 418; 1979 c. 102 s. 236 (1); 1983 a. 27; 1997 a. 237; 1999 a. 9; 2003 a. 12.

76.04 Reports of companies; penalty. (1) Every company defined in s. 76.02 shall, annually, file a true and accurate statement in such manner and form and setting forth such facts as are required to be assessed under this subchapter and is subject to local assessment and taxation.

(2) If the department shall deem necessary to enforce ss. 76.01 to 76.26. The annual reports shall be filed on or before May 1.

(1m) For sufficient reason shown the department may upon written request allow such further time for making and filing the report under sub. (1) as it may deem necessary, but not to exceed 30 days. If any company fails to file such report within the time prescribed or as extended under this subsection, the department shall add to the taxes due from such company $250 if the report is not filed within 15 days after the due date or extended due date and an additional $250 for each month or part of a month thereafter during which the report is not filed, except that the total penalty may not exceed $2,500. No company may in any action or proceeding contest the imposition of such penalty.

(2) The forms for all reports required by ss. 76.01 to 76.26 shall be prescribed and furnished by the department of revenue.


76.05 Refusal or neglect to report. (1) If any company defined in s. 76.02 or its officers or agents shall refuse or neglect to make any reports required by s. 76.04 or by the department, or shall refuse or neglect to permit an inspection and examination of its records, books, accounts or papers when requested by the department, or shall refuse or neglect to appear before the department in obedience to a summons, such company shall be estopped to question or impeach the action or determination of the department except upon satisfactory proof of fraud or mistake injurious to the company.

(2) Upon a showing by the department under s. 73.16 (4), no company shall be allowed in any action or proceeding to question the amount or valuation of its property as assessed by the department unless such company shall have made and filed with the department a full and complete report of the facts and information prescribed by s. 76.04 and called for by the department thereunder.

If the department has not made a showing under s. 73.16 (4), the company shall make a full and complete report of all facts and information mentioned in s. 76.04 within 15 days after notice by mail of the amount of the assessment of the property of such company, and shall appear before the department at a time designated by it and make a full disclosure of all property liable to assessment and taxation under this subchapter and show the full value of such property to the satisfaction of the department.

History: 1979 c. 102 s. 236 (1); 2011 a. 68; 2013 a. 165 s. 115.

76.06 General powers of investigation. In any matter material to the valuation, assessment or taxation of property under this subchapter, the department may, in its discretion, exercise any and all of the powers conferred upon it by ss. 73.03 and 73.04 (1); and every state, county, city, village, town and other public officer shall make return to the department in such form as it shall prescribe, of all information it shall call for. Persons serving the process of the department shall receive the same compensation allowed by law to sheriffs for similar service; and persons appearing before the department in obedience to its summons shall, in the discretion of the department, receive the same compensation as a witness in the circuit court; such fees and compensation to be audited by the department of administration on the certificate of the department, and charged to the proper appropriation for the department of revenue. The records, books, accounts and papers of any company defined in s. 76.02 to be assessed under this subchapter, except as otherwise provided, shall be subject to the visitation, inspection and examination by said department or by such person as it may designate for that purpose.

History: 1979 c. 102 s. 236 (1).

76.07 Assessment. (1) DUTY OF DEPARTMENT. The department on or before September 15 in each year shall, according to its best knowledge and judgment, ascertain and determine the full market value of the property of each company within the state.

(2) RELATION TO STATE VALUATION: DESCRIPTION. The value of the property of each company for assessment shall be made on the
same basis and for the same period of time, as near as may be, as the value of the general property of the state is ascertained and determined. The department shall prepare an assessment roll and place thereon the name of each company assessed, the following general description of the property of such company, which the department shall deem and hold to include the entire property and franchises of the company specified and all title and interest therein: “Real estate, right-of-way, tracks, stations, terminals, appurtenances, franchises, and all other real estate and personal property of the company,” in the case of railroads, and “Real estate, right-of-way, poles, wires, conduits, cables, devices, appliances, instruments, franchises, and all other real and personal property of the company,” in the case of conservation and regulation companies, and “Real estate, appurtenances, rolling stock, equipment, franchises, and all other real estate and personal property of the company,” in the case of air carrier companies, and “Land and land rights, structures, improvements, mains, pumping and regulation equipment, services, appliances, instruments, franchises, and all other real and personal property of the company,” in the case of pipeline companies.

(3) **Assessment.** For the purpose of determining the full market value of the property of each company appearing on the assessment roll, the department may view and inspect the property of such company and shall consider the reports filed in compliance with s. 76.04 and the reports and returns of the company filed in the office of any officer of this state, and other evidence or information bearing upon the full market value of the property of the company assessed. In case of companies which own or use property lying partly within and partly without the state, the department shall value and assess only the property within this state, using the methods under subs. (4g) and (4r). When the full market value of the property of a company within this state has been determined, the amount shall be entered upon the assessment roll opposite the name of the company and shall be the assessment of the entire property of such company within this state for the levy of taxes thereon, subject to review and correction. The department shall thereupon give notice by certified mail to each company assessed of the amount of its assessment as entered upon such roll.

(4g) **Determining the property in this state.** The department shall determine the property in this state of railroad companies, air carrier companies, pipeline companies and telephone companies in the following manner:

(a) **Railroad companies.** For railroad companies:

1. Determine the ton miles of revenue freight handled in this state.

2. Divide the amount under subd. 1. by the ton miles of revenue freight handled everywhere.

3. Divide the fraction under subd. 2. by 3.

4. Determine the number of cars originated, terminated, received at connections, delivered at connections or otherwise handled in this state.

5. Divide the amount under subd. 4. by the number of cars originated, terminated, received at connections, delivered at connections or otherwise handled everywhere.

6. Divide the fraction under subd. 5. by 6.

7. Determine the tons of revenue freight on line, both originated and terminated, and at connections, both received and delivered, in this state.

8. Divide the amount under subd. 7. by the tons of revenue freight on line, both originated and terminated, and at connections, both received and delivered, everywhere.


10. Determine the depreciated cost of real property owned or rented by the company and used in the operation of the company’s business in this state.

11. Determine the tons of revenue passengers and revenue cargo first received either as originating traffic or as connecting traffic in this state or finally discharged by the company in this state.

12. Divide the amount under subd. 11. by the amount under subd. 12.

13. Divide the fraction under subd. 13. by 3.0.

14. Divide the fraction under subd. 13. by 3.0.

15. Add the fractions under subs. 6., 10. and 14.

16. Multiply the fraction under subd. 15. by the full market value of the company’s property everywhere.

(b) **Air carrier companies.** For air carrier companies:

1. Determine the depreciated original cost of the real and tangible personal property owned or rented by the company in this state and used in the operation of the company’s business.

2. Determine the depreciated original cost of the company’s migratory tangible personal property owned or rented by the company and used in the operation of the company’s business.

3. Multiply the amount under subd. 2. by a fraction the numerator of which is the total of flight hours in this state and the denominator of which is the flight hours everywhere.

4. Add the amounts under subs. 1. and 3.

5. Divide the amount under subd. 4. by the depreciated original cost of the real and tangible personal property owned or rented by the company everywhere and used in the operation of the company’s business.

6. Divide the fraction under subd. 5. by 3.0.

7. Determine transport revenue by adding revenue received for transporting passengers and property on flights either originating at, or connecting at, airports in this state.

8. Divide the amount under subd. 7. by 3.0.

9. Multiply the amount under subd. 7. by the transport and transport-related revenues everywhere.

10. Divide the amount under subd. 9. by 3.0.

11. Determine the tons of revenue passengers and revenue cargo first received either as originating traffic or as connecting traffic in this state or finally discharged by the company in this state.

12. Determine the tons of revenue passengers and revenue cargo received or finally discharged at airports everywhere.

13. Divide the amount under subd. 11. by the amount under subd. 12.

14. Divide the fraction under subd. 13. by 3.0.

15. Add the fractions under subs. 6., 10. and 14.

16. Multiply the fraction under subd. 15. by the full market value of the company’s property everywhere.

(c) **Natural gas pipelines.** For natural gas pipelines, except liquefied gas pipelines:

1. Determine the gross cost of gas plant in service in this state, except motor vehicles exempt from the property tax under s. 70.112 (5), and of all other property owned or rented by the company and used in the operation of the company’s business in this state and included in the base for purposes of rate regulation by the federal energy regulatory commission.

2. Determine the gross cost of gas plant in service everywhere, except motor vehicles specified under s. 70.112 (5), and of all other property owned or rented by the company and used in the operation of the company’s business everywhere and included in the base for purposes of rate regulation by the federal energy regulatory commission.

3. Divide the amount under subd. 1. by the amount under subd. 2.
4. Multiply the fraction under subd. 3. by the full market value of the company’s property everywhere.

(d) Other pipeline companies. For pipeline companies except those under par. (c): 
1. Determine the gross cost of line of pipe owned or rented by the company and used in the operation of the company’s business in this state.
2. Determine the gross cost of line of pipe owned or rented by the company and used in the operation of the company’s business everywhere.
3. Divide the amount under subd. 1. by the amount under subd. 2.
4. Multiply the fraction under subd. 3. by 3.
5. Divide the fraction under subd. 4. by 4.
6. Determine the barrel miles transported in this state.
7. Determine the barrel miles transported everywhere.
8. Divide the amount under subd. 6. by the amount under subd. 7.
9. Divide the fraction under subd. 8. by 5.
10. Determine the number of barrels received and delivered in this state.
11. Determine the number of barrels received and delivered everywhere.
12. Divide the amount under subd. 10. by the amount under subd. 11.
14. Determine the gross cost of line of pipe everywhere.
15. Determine the gross cost of all property owned or rented by the company and used in the company’s business everywhere.
16. Divide the amount under subd. 14. by the amount under subd. 15.
17. Add the fractions under subds. 5., 9. and 13. and multiply that result by the fraction under subd. 16.
18. Determine the gross cost of property owned or rented by the company and used in the operation of the company’s business other than pipe in this state.
19. Determine the gross cost of all property owned or rented by the company and used in the operation of the company’s business everywhere.
20. Divide the amount under subd. 18. by the amount under subd. 19.
21. Add the fraction under subd. 17. to the fraction under subd. 20.
22. Multiply the fraction under subd. 21. by the full market value of the company’s property everywhere.

(4r) Adjustment of factors. In making the determinations under sub. (4g), the department may adjust any factor or use any other factor in order to reflect more accurately the company’s property in this state if in the department’s judgment the factor or combination of factors does not produce a substantially just and correct determination or if during the 12 months preceding the assessment date any of the following conditions applies:

(a) The company began operating in this state and the results of its operations during the first year materially distort the allocation of property to this state.

(b) The company’s service was interrupted so that the allocation of property to this state is materially distorted.

(c) The company acquired or disposed of assets having a substantial value that are situated so as materially to distort the allocation of property to this state.

(d) Another event occurred which materially distorted the allocation of property to this state.

(5) Full market value. (a) The full market value of the operating property of a company listed in s. 76.01 shall be determined by applying recognized appraisal methods, which may include, but are not limited to, the capitalized income, cost, and stock and debt indicators of value, regardless of the method of accounting for legitimate business purposes used by the taxpayer. The department shall give due consideration to generally accepted accounting principles and regulated accounting practices.

(b) The department shall promulgate rules relating to the general principles of the indicators of value under par. (a).


Cross-reference: See also s. Tax 6.50, Wis. adm. code.

A railroad’s working capital was properly assessed as operating property. The valuation of railroads is discussed. See Line Railroad Co. v. DOR, 97 Wis. 2d 56, 292 N.W.2d 869 (1980).

The application of sub. (4g) to sub. 13. is discussed. United Airlines, Inc. v. DOR, 226 Wis. 2d 409, 595 N.W.2d 49 (Ct. App. 1999), 98–2299.

76.074 Property exempt from assessment. (1) In this section:

(a) Notwithstanding s. 76.02, “air carrier company” means any person engaged in the business of transportation in aircraft of persons or property for hire on regularly scheduled flights. In this paragraph, “aircraft” has the meaning given in s. 76.02 (1).

(b) “Hub facility” means any of the following:

1. A facility at an airport from which an air carrier company operated at least 45 common carrier departing flights each weekday in the prior year and from which it transported passengers to at least 15 nonstop destinations, as defined by rule by the department, or transported cargo to nonstop destinations, as defined by rule by the department.

2. An airport or any combination of airports in this state from which an air carrier company cumulatively operated at least 20 common carrier departing flights each weekday in the prior year, if the air carrier company’s headquarters, as defined by rule by the department, is in this state.

(2) Property owned by an air carrier company that operates a hub facility in this state, if the property is used in the operation of the air carrier company, is exempt from taxation under this subchapter and from local assessment and taxation.

(3) For assessments after January 1, 2024, the personal property, as defined in s. 70.04, of a railroad company is exempt from taxation under this subchapter and from local assessment and taxation.

History: 2023 a. 12.

76.075 Adjustments of assessments. Within 4 years after the due date, or extended due date, of the report under s. 76.04, any person subject to taxation under this subchapter may request the department to make, or the department may make, an adjustment to the data under s. 76.07 (4g) or (4r) submitted by the person. If an adjustment under this section results in an increase in the tax due under this subchapter, the person shall pay the amount of the tax increase plus interest on that amount at the rate of 1 percent per month from the due date or extended due date of the report under s. 76.04 until the date of final determination and interest at the rate of 1.5 percent per month from the date of final determination until the date of payment. If an adjustment under this section results in a decrease in the tax due under this subchapter, the department shall refund the appropriate amount plus interest at the rate of 0.25 percent per month from the due date or extended due date under s. 76.04 until the date of refund. Sections 71.74 (1) and (2) and 71.75 (6) and (7), as they apply to income and franchise tax adjustments, apply to adjustments under this section.

Review of the adjustments is as stated in s. 76.08.

History: 1989 a. 31; 2021 a. 1.

76.08 Review of assessment. (1) Notice of the assessments determined under s. 76.07 and of adjustments under s. 76.075 shall be given by certified mail to each company the property of which has been assessed, and the notice of assessment shall be mailed on or before the assessment date specified in s. 76.07 (1). Any company aggrieved by the assessment or adjustment of its property thus made may have its assessment or adjustment...
redetermined by the Dane County circuit court if within 30 days after notice of assessment or adjustment is mailed to the company under s. 76.07 (3) an action for the redetermination is commenced by filing a summons and complaint with that court, and service of authenticated copies of the summons and complaint is made upon the department of revenue. No answer need be filed by the department and the allegations of the complaint in opposition to the assessment or adjustment shall be deemed denied. Upon the filing of the summons and complaint the court shall set the matter for hearing without a jury. If the plaintiff fails to file the summons and complaint within 5 days of service upon the department, the department may file a copy thereof with the court in lieu of the original. The department may be named as the defendant in any such action and shall appear and be represented by its counsel in all proceedings connected with the action but, on the request of the secretary of revenue, the attorney general may participate with or serve in lieu of departmental counsel. In an action for redetermination of an adjustment, only the issues raised in the department’s adjustment under s. 76.075 may be raised.

(2) If as the result of an action pursuant to sub. (1) the assessment as found by the department is increased by the court, any reduction in the tax shall be collected upon final determination of the action as other taxes levied and assessed under ss. 76.01 to 76.26 are collected.


Judicial Council Committee Note, 1974: Sub. (1) amended to conform to the new motto on the department of action under s. 803.02. As amended, this section would require both the filing and the service on the department within 30 days after the mailing of the notice of assessment. [Re Order effective Jan. 1, 1976]

76.09 Assessment of omitted property. Any property subject to assessment under this subchapter which has been omitted from assessment or which has not been included in any assessment already made in any of the 5 previous years by mistake or inadvertence unless previously reassessed for the same year or years, shall be entered by the department upon its assessment and tax roll once additionally for each year so omitted, designating each additional entry as omitted for the year of omission and fixing the valuation and tax to each entry for a former year as the same should then have been assessed according to the best judgment of the department. The proceedings related to an assessment under this section shall be had and hearings given as far as practicable in accordance with this subchapter.

History: 1979 c. c. 123 s. 236 (1); 1995 a. 225.

A decision based on a view of law that is subsequently overturned is not a mistake under this section. Wisconsin Central Limited v. DOR, 2000 WI App 14, 232 Wis. 2d 323, 606 N.W.2d 226, 99–0194.

76.10 Review of state assessment; notice of hearing; decision; time limits; notice of decision; action to review decision; error adjusted. (1) Every company defined in s. 76.02 shall, on or before October 1 in each year, be entitled, on its own motion, to present evidence before the department relating to the state assessment made in the preceding year pursuant to s. 70.575. On request, in writing, for such hearing or presentation, the department shall fix a time therefor within 60 days after such application is filed, the same to be conducted in such manner as the department directs. Notice of such hearing shall be mailed to any company requesting a hearing and shall be published in the official state paper. Within 30 days after the conclusion of such hearing the department shall enter an order either affirming the state assessment or ordering correction thereof as provided in sub. (2). A copy of such order shall be sent by certified mail to the company or companies requesting such hearing and to any interested party who has made an appearance in such proceeding.

The department may, on its own motion, correct such state assessment. Any company having filed application for review of the state assessment pursuant to this section, or any other interested party participating in such hearing, if aggrieved by the order entered by the department, may bring an action in the circuit court for Dane County within 30 days after the entry of such order to have said order set aside and a redetermination made of the state assessment. In any such action or in any hearing before the department pursuant to this section, any interested party may appear and be heard. An interested party includes any division of government whose revenues would be affected by any adjustment of the state assessment.

(2) Whenever, in reviewing the valuation of the general property of the state, under the provisions of this section, the department shall determine that the valuation last made by it of the general property of the state under s. 70.575 was too high or too low, it shall adjust the next state assessment to correct such error; and any mistake discovered in any return, either by omission or otherwise, of any tax reported, or because of failure to report, shall be considered by the department in fixing the average tax rate for the year following, by adding to or deducting from the total tax returned the amount of such mistake or omission.

76.11 Aggregate of all general property taxes. (1) The department on or before August 15, upon returns from the secretary of state or from county, town, city and village officers, or both, shall ascertain and determine the aggregate tax in the whole state for state, county and local purposes levied on the general property of the state, excluding special assessments on property for local improvements, and when the aggregate of all taxes, state, county and local consolidated is thus ascertained and determined, the amount thereof shall be entered on the records of the department.

(2) When the officers of any county, town, city or village shall have failed to return the amount of state, county and local taxes, levied on property therein within the time required by law, the department may inspect and examine or cause an inspection and examination of the records of such officers, to procure the required information, and when no return is made and no information can be procured, the state, county, and local taxes levied in such town, city or village in the prior year may be used in determining the aggregate taxes specified in sub. (1). Any county, town, city or village officer who shall fail to make the report or reports required by this subchapter shall be subject to a penalty of not less than $25 nor more than $150, to be recovered in a proper action in the name of the state of Wisconsin in any court of competent jurisdiction; and any expense necessarily incurred by the department in procuring the information not reported as required by law by any such officer shall be a special charge against the county, town, city or village whose officer shall have so failed to furnish the required information and shall be collected in the same manner as other special charges.

History: 1979 c. 102 s. 236 (1); 1985 a. 29.

76.125 Net tax rate for commercial and manufacturing property. (1) Using the statement of assessments under s. 70.53 and the statement of taxes under s. 69.61, the department shall determine the net rate of taxation of commercial property under s. 70.32 (2) (a) 2. and of manufacturing property under s. 70.32 (2) (a) 3. as provided in subs. (2) to (6). The department shall enter that rate on the records of the department.

(2) For each taxation district add the assessed values of the property specified in sub. (1).

(3) Multiply the amount under sub. (2) by the taxation district’s net tax rate.

(4) Add the amounts under sub. (3) for all taxation districts.

(5) Determine the value, as equalized under s. 70.57, of all the property in this state of the types specified in sub. (1).

(6) Divide the amount under sub. (4) by the amount under sub. (5).

History: 1985 a. 29; 1987 a. 399; 1995 a. 27; 2023 a. 12.

76.126 Average net rate of taxation. The department shall compute the average net rate of taxation by subtracting the aggregate state property tax credits paid under s. 79.10 from the aggregate tax determined under s. 76.11 and dividing that result by the state assessment of the general property of the state upon which
those taxes were levied. The department shall enter that rate upon the department’s records.

History: 1987 a. 399.

76.13 Levy; tax roll; lien. (1) The department shall compute and levy a tax upon the property of each company defined in s. 76.02, as assessed in the manner specified in ss. 76.07 and 76.08, at the average net rate of taxation determined under s. 76.126. The amount of tax to be paid by each such company shall be computed upon a tax roll opposite the description of the property of the respective companies. The tax rolls for all companies required to be assessed on September 15 in each year under s. 76.07 (1) shall be completed on or before October 1; and the department shall thereupon attach to each such roll a certificate signed by the secretary of revenue, which shall be as follows:

“I hereby certify that the foregoing tax roll includes the property of all railroad companies, air carrier companies, conservation and regulation companies or pipeline companies, as the case may be, as defined in s. 76.02, liable to taxation in this state; that the valuation of the property of each company as set down in said tax roll is the full market value thereof as assessed by the department of revenue, except as changed by court judgment, and that the taxes thereon charged in said tax roll have been assessed and levied at the average net rate of taxation in this state, as required by law”.

(2) Every tax roll upon completion shall be delivered to the secretary of administration. The department shall notify, by certified mail, all companies listed on the tax roll of the amount of tax due, which shall be paid to the department. The payment dates provided for in sub. (2a) shall apply. The payment of one-fourth of the tax of any company may, if the company has brought an action in the Dane County circuit court under s. 76.08, be made without delinquent interest as provided in s. 76.14 any time prior to the date upon which the appeal becomes final, but any part of the tax ultimately required to be paid shall bear interest from the original due date to the date the appeal became final at the rate of 12 percent per year and at 1.5 percent per month thereafter until paid. The taxes extended against any company after the same become due, with interest, shall be a lien upon all the property of the company prior to all other liens, claims, and demands whatsoever, except as provided in ss. 292.31 (8) (i) and 292.81, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of the company within the state as an entirety.

(2a) Taxes levied under this section shall be paid to the department in semiannual installments, on May 10 and November 10, on a partially estimated basis. The May 10 payment shall be at least 50 percent of the total tax assessed for the previous calendar year or 40 percent of the tax assessed for the current calendar year. Any amounts not paid when due shall become delinquent and shall be subject to interest under s. 76.14. The payment of 25 percent of the tax of any company may, if the company has brought an action in the Dane County circuit court under s. 76.08, be made without delinquent interest as provided in s. 76.14 any time prior to the date upon which the appeal becomes final, but any part thereof ultimately required to be paid shall bear interest from the original due date to the date the appeal becomes final at the rate of 12 percent per year and at 1.5 percent per month thereafter until paid. Companies with a tax liability under this section of less than $2,000 are not required to make semiannual payments but shall pay the full amount of taxes due on or before November 10. (3) If the Dane County circuit court, after such roll is delivered to the secretary of administration, increases or decreases the assessment of any company, the department shall immediately redetermine the tax of the company on the basis of the revised assessment, and shall certify and deliver the revised assessment to the secretary of administration as a revision of the tax roll. If the amount of tax upon the assessment as determined by the court is less than the amount paid by the company, the secretary of administration shall refund the excess to the company with interest at the rate of 3 percent per year. If the amount of the tax upon the assessment as determined by the court is in excess of the amount of the tax as determined by the department, interest shall be paid on the additional amount at the rate of 12 percent per year from the date of entry of judgment to the date the judgment becomes final, and at 1.5 percent per month thereafter until paid.


76.14 Remedies for nonpayment of taxes. All taxes levied under this subchapter upon the property of any company defined in s. 76.02, which are not paid at the time provided by law, shall thereupon become delinquent and bear interest at the rate of 1.5 percent per month until actually paid. Upon a showing by the department under s. 73.16 (4), the failure of any such company to pay the taxes and interest so required of the company within 60 days after the entry of final judgment dismissing in whole or in part any action of the company to restrain or set aside a tax, or the failure of the company within 60 days after the entry of final judgment in favor of the state for the taxes and interest to pay the judgment shall cause be forfeiture of all the rights, privileges and franchises granted by special charter or obtained under general laws, by or under which the company is organized and its business is operated. The attorney general upon the showing by the department under s. 73.16 (4) shall proceed by action to have forfeiture of such rights, privileges and franchises of the company duly declared. Any such company, at any time prior to the final judgment for forfeiture of such rights, privileges and franchises is rendered, may be permitted, absent a showing by the department under s. 73.16 (4), to pay the taxes, interest and the costs of the action upon special application to the court in which the action is pending upon such terms as the court directs. Section 71.91, as it applies to the collection of delinquent taxes under ch. 71, applies to the collection of delinquent taxes under this subchapter.

History: 1971 c. 215; 1977 c. 29; 1979 c. 102 s. 336 (1); 2011 a. 68; 2013 a. 20.

76.15 Reassessment. (1) If any tax levied under the provisions of s. 76.13 shall be adjudged illegal and nonenforceable, or shall be set aside by any court of the state of competent jurisdiction, it shall be the duty of the department, whether any part of the taxes assessed and levied have been paid or not, to forthwith ascertain and redetermine the value of the property of the companies or the value of the general property of the state or the average rate of taxation throughout the state as may be required; and when such reassertion and redetermination has been made, to make a duplicate of the original assessment roll and to extend the taxes thereon according to such reassessment, and when such duplicate roll has been made and the taxes extended thereon in the manner provided in this section, it shall be of the same force and effect as the original assessment made in accordance with law. The proceedings for such reassessment and for the extension, payment and collection of taxes upon such duplicate assessment roll shall be conducted in the method originally provided for as near as may be. The department shall fix the time and place for the hearings or proceedings for the reassessment and give notice thereof by mail to the companies.

(2) The power to reassess the property of any company defined in s. 76.02 and the general property of the state, and to redetermine the average rate of taxation, may be exercised under sub. (1) as often as may be necessary until the amount of taxes legally due from any such company for any year under ss. 76.01 to 76.26 has been finally and definitely determined. Whenever any sum or part thereof, levied upon any property subject to taxation under ss. 76.01 to 76.26 so set aside has been paid and not refunded, the payment so made shall be applied upon the reassessment upon the property, and the reassessment of taxes to that extent shall be deemed to be satisfied. When the tax roll on the reassessment is completed and delivered to the secretary of administration, the department shall immediately notify by certi-
fied mail each of the several companies taxed to pay the amount of the taxes extended on the tax roll within 30 days.


76.16 Separate valuation of repair facilities, docks, piers, wharves, ore yards, elevators, car ferries and oil pipeline terminal facilities. After the property of a company is first valued as a whole, if any repair facilities, docks, ore yards, piers, wharves, grain elevators or car ferries used in transferring freight or passengers between cars and vessels or transfer of freight cars located on car ferries, or if any oil pipeline terminal facilities shall be included in such valuation, then for the purpose of accounting to the proper taxation districts, the department shall make a separate valuation of such each repair facility, dock, ore yard, pier, wharf, grain elevator, including the approaches thereto, or car ferries and of each oil pipeline terminal facility. As used herein, an approach shall be an immediate access facility commencing at the switching point which leads primarily to the terminal facility. For the purpose of defining the oil pipeline terminal facilities affected by this section, such facilities shall begin where the incoming pipeline enters the terminal storage facility site.


76.17 Immaterial irregularities. No tax assessed upon any of the general property of the state and no average rate determined by said department as herein required, shall be held invalid on account of any assessment or tax roll not having been made or proceedings had within the time required by law, or on account of the property having been assessed without the name of the owner, or in the name of any corporation or person other than the owner, or on account of any other irregularity, informality or omission, if the method and manner of ascertaining and determining the average rate of taxation on property in this state is in substantial accordance with law.

76.18 Presumption of regularity. The proceedings of the department shall be presumed to be regular and the determination of the department shall not be impaired, vitiated or set aside by any court upon any grounds not affecting the substantial justice of the tax. The provisions in this subchapter prescribing a date or period and manner of ascertaining and determining the average rate of taxation on property in this state is in substantial accordance with law.

76.22 Tax lien; sale. (1) The taxes levied upon and extended against the property of any company defined in s. 76.02, after the same become due, with interest thereon, shall become a lien upon the property of such company within the state prior to all other liens, debts, claims or demands whatsoever, except as provided in ss. 292.31 (8) (i) and 292.81, which lien may be enforced in an action in the name of the state in any state court of competent jurisdiction against such company and against the property of such company within the state. The place of the trial shall not be changed from the county in which any such action is commenced, except upon consent of parties.

(2) The action to recover taxes and interest and to enforce the same as a lien shall be an action in equity and shall be commenced and carried on and judgment entered according to the laws of the state and the rules and practice of courts of equity so far as applicable. No reference shall be made to take testimony or to hear, try and determine the issues of fact in the action. The judgment shall fix the amount of taxes and interest, adjudge the same a lien on the property of the company and provide for the sale of such property in 90 days after the entry of judgment upon publication of the notice of sale as a class 3 notice, under ch. 985. The judgment shall bear interest at the rate of 10 percent per year from the date of entry until finally paid.

(3) The secretary of administration for and in the name of the state may bid at the sale and the state may become the purchaser of the property of any such company under a judgment for its sale for taxes, interest, and costs.

History: 1977 c. 135; 1979 c. 110 s. 60 (13); 1993 a. 453; 1995 a. 227; 1997 a. 27; 2003 a. 33.

76.23 Exemption from other taxation. The taxes imposed by this chapter upon the property of the companies defined in s. 76.02 shall be in lieu of all other taxes on such property necessarily used in the operation of the business of such companies in this state, except that the companies shall be subject to special assessment for local improvements in cities, villages and towns. If a general structure is used in part for operating the business of any company defined in s. 76.02 and in part for nonoperating purposes, that general structure shall be assessed for taxation under this chapter at the percentage of its full market value that fairly measures and represents the extent of its use for operating purposes and the balance shall be subject to local assessment and taxation, except that the entire general structure is subject to special assessments for local improvements. All property not necessarily used in operating the business of any company defined in s. 76.02 is exempted from taxation under this chapter and is subject to local assessment and taxation. The taxes so imposed and paid by such companies shall also be in lieu of all taxes on the shares of stock of such companies owned or held by individuals of this state and such shares of stock in the hands of individuals shall be exempt from further taxation.


Freight houses constructed on railroad property by a railroad that were used by various companies for unloading and loading freight cars, where no storage place, were necessarily used in the operation of the railroad and were not subject to local assessment, Chicago, Milwaukee, St. Paul & Pacific Railroad Co. v. City of Milwaukee, 47 Wis. 2d 88, 176 N.W.2d 580 (1970).

76.24 Distribution of revenue. (1) All taxes collected from companies defined in s. 76.02 under this subchapter shall be transmitted by the department to the secretary of administration and become a part of the general fund for the use of the state, except that taxes paid into the state treasury by any air carrier or railroad company shall be deposited in the transportation fund.

(2) (a) All taxes paid by any railroad company derived from or apportionable to repair facilities, docks, ore yards, piers, wharves, grain elevators, and their approaches, or car ferries on the basis of the separate valuation provided for in s. 76.16, shall be distributed annually from the transportation fund to the towns, villages, and cities in which they are located, pursuant to certification made by the department of revenue on or before August 15. Beginning with amounts distributed in 2024, the amount distributed to any town, village, or city under this paragraph may not be less than the amount distributed to it in 2023 under this paragraph. Beginning with amounts distributed in 2025, the amount distributed to any town, village, or city under this paragraph may not be less than the amount distributed in 2024.

(1) 1. All taxes paid by any pipeline company derived from or apportionable to oil pipeline terminal facilities on the basis of the separate valuation under s. 76.16, shall be distributed annually from the apportionment under s. 20.855 (4) (bm) to the towns, villages, and cities in which the facilities are located, pursuant to certification made by the department of revenue no later than November 1.

2. If a municipality received a distribution under subd. 1. in 2011, the amount that the municipality receives under subd. 1. in 2013, and in each year thereafter, shall be no less than the amount received in 2011, except that, if the annual amount of the tax paid under this subchapter by the pipeline company with oil pipeline terminal facilities in the municipality is less than 200 percent of
the amount of the payment the municipality received in 2011 attributable to the pipeline company, the amount shall be no less than an amount equal to 50 percent of the annual total tax paid under this subchapter by the pipeline company with oil pipeline terminal facilities in the municipality.

(b) If the state is compelled to refund in whole or in part any of the taxes which have been distributed to municipalities under par. (a), such municipalities shall repay to the state for deposit in the transportation fund the amount of such tax so received by them, and the department of administration shall certify the amounts to be repaid to the state to the county clerks of the counties in which such municipalities are located for levy and collection from the municipalities as other state taxes are levied and collected.

(bm) If the state is compelled to refund in whole or in part any of the taxes which have been distributed to municipalities under par. (am), the municipalities shall repay to the state, for deposit in the general fund, the amount of such tax received by them, and the department of administration shall certify the amounts to be repaid to the state to the county clerks of the counties in which the municipalities are located for levy and collection from the municipalities as other state taxes are levied and collected.

(c) If an error in any past distribution roll is discovered, the same may be corrected by making the proper addition to or subtraction from any of the 3 subsequent distribution rolls.

History: 1971 c. 125; 1973 c. 90; 1973 c. 243 s. 82; 1973 c. 333; 1975 c. 39; 1977 c. 29; 142; 272; 418; 1979 c. 34; 1979 c. 102 s. 236 (1); 1981 c. 20; 2001 a. 16; 2003 s. 33; 2005 s. 25; 2011 s. 32; 2013 s. 20; 2023 s. 12.

76.24 Experts and employees. The department is authorized and empowered to employ expert engineers, expert accountants and such clerks and assistants as may be necessary to properly perform the duties imposed by this subchapter and in the work of the valuation and taxation of the property of the companies.

History: 1979 c. 102 s. 236 (1).

76.26 Court fees. The fees of the sheriff and one deputy, and of the clerk of the court and one deputy, for attendance upon the court for the trial of any action under ss. 76.01 to 76.26 shall be audited by the department of administration upon the certification of said clerk and approval by the attorney general, paid out of the state treasury and charged to the appropriation for circuit courts.

History: 1971 c. 125 s. 521.

76.28 License fee for light, heat and power companies. (1) Definitions. In this section:

(a) “Apportionment factor” means a fraction the numerator of which is the sum of the property factor, the payroll factor and the denominator of which is the number 3.

(b) “Book cost of utility plant” has the meaning set forth in the uniform system of accounts established by the public service commission.

(c) “Department” means the department of revenue.

(d) “Gross revenues” for a light, heat and power company other than a qualified wholesale electric company or a transmission company means total environmental control charges paid to the company under a financing order issued under s. 196.027 (2) and total operating revenues as reported to the public service commission and deductions from the sales and use tax under s. 77.61 (4), except that the company may subtract from revenues either the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company, that purchases under federal or state approved wholesale rates more than 50 percent of its electric power from a person other than an affiliated interest, as defined in s. 196.52 (1), if the revenue from that purchased electric power is included in the seller’s gross revenues or the follow-

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(c) “Department” means the department of revenue.

(d) “Gross revenues” for a light, heat and power company other than a qualified wholesale electric company or a transmission company means total environmental control charges paid to the company under a financing order issued under s. 196.027 (2) and total operating revenues as reported to the public service commission and deductions from the sales and use tax under s. 77.61 (4), except that the company may subtract from revenues either the actual cost of power purchased for resale, as reported to the public service commission, by a light, heat and power company, except a municipal light, heat and power company, that purchases under federal or state approved wholesale rates more than 50 percent of its electric power from a person other than an affiliated interest, as defined in s. 196.52 (1), if the revenue from that purchased electric power is included in the seller’s gross revenues or the follow-

(e) “Light, heat and power companies” means any person, association, company or corporation, including corporations described in s. 66.0813, qualified wholesale electric companies and transmission companies and except only business enterprises carried on exclusively either for the private use of the person, association, company or corporation engaged in them, or for the private use of a person, association, company or corporation owning a majority of all outstanding capital stock or who control the operation of business enterprises and except electric cooperatives taxed under s. 76.48 that engage in any of the following businesses:

1. Generating and furnishing gas for lighting or fuel or both.
2. Supplying water for domestic or public use or for power or manufacturing purposes.
3. Generating, transforming, transmitting or furnishing electric current for light, heat or power.
4. Generating and furnishing steam or supplying hot water for heat, power or manufacturing purposes.
5. Transmitting electric current for light, heat or power.

(eg) “Municipal utility” has the meaning given in s. 16.957 (1) (q).

(em) “Net production of electricity” means the total of electric power generated minus the power used to operate the generating plant.

(f) “Payroll factor” means a fraction the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period, except that compensation solely related to the production of nonoperating revenues shall be excluded from the numerator and denominator of the payroll factor and except that compensation related to the production of both operating and nonoperating revenue shall be partially excluded from the numerator and denominator of the payroll factor so as to exclude as near as possible the portion of compensation related to the production of nonoperating revenue. Compensation is paid in this state if the individual’s service is performed entirely within this state, or if the individual’s service is performed both within and outside this state but the service performed outside this state is incidental to the individual’s service within this state, or if some of the service is performed in this state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state.
state or the base of operations or the place from which the service is directed or controlled is not in any state in which part of the service is performed and the individual’s residence is in this state. In this paragraph, “compensation” includes management and service fees paid to an affiliated service corporation pursuant to 15 USC 79.

(g) “Property factor” means a fraction the numerator of which is the average book cost of utility plant located in this state for the tax period and the denominator of which is the average book cost of utility plant located everywhere for the tax period. The average book cost of utility plant shall be determined by averaging the beginning and year end balances at original cost, including construction work in progress, but the secretary of revenue may require the averaging of monthly book costs during the tax period if that is reasonably required to reflect properly the average value of the taxpayer’s property.

(9m) “Qualified wholesale electric company” means all of the following:

1. Any person that owns or operates facilities for the generation and sale of electricity to a public utility, as defined in s. 196.01 (5), or to any other entity that sells electricity directly to the public, except that “qualified wholesale electric company” does not include any person that sells less than 95 percent of its net production of electricity or that does not own, operate, or control electric generating facilities that have a total power production capacity of at least 50 megawatts.

2. A wholesale merchant plant, as defined in s. 196.491 (1) (w), that has a total power production capacity of at least 50 megawatts.

(gr) “Retail electric cooperative” has the meaning given in s. 16.957 (1) (t).

(h) “Sales factor” means a fraction the numerator of which is the taxpayer’s total sales of electricity, gas, water and steam in this state reported to the public service commission for the tax period and the denominator of which is the taxpayer’s total sales of electricity, gas, water and steam everywhere as reported to the public service commission for the tax period.

(i) “Tax period” means the calendar year preceding the year for which the license fee is assessed.

(j) “Transmission company” has the meaning given in s. 196.485 (1) (ge).

(2) IMPOSITION. (a) Except as provided in s. 76.29, there is imposed on every light, heat and power company an annual license fee to be assessed by the department on or before May 1, 1985, and every May 1 thereafter measured by the gross revenues of the preceding year; excluding for the tax period, as defined in s. 76.29 (1) (f), gross revenues that are subject to the license fee under s. 76.29; at the rates and by the methods set forth under pars. (b) to (d). The fee shall become delinquent if not paid when due and when delinquent shall be subject to interest at the rate of 1.5 percent per month until paid. Payment in full of the May 1 assessment constitutes a license to carry on business for the 12-month period commencing on the preceding January 1.

(b) For private light, heat and power companies, for 1985, an amount equal to the apportionment factor multiplied by the sum of:

1. Gross revenues from the sale of gas services multiplied by 0.47 percent; and
2. All other gross revenues multiplied by 1.63 percent.

(c) Except as provided under par. (e), for private light, heat and power companies for 1986 and thereafter, an amount equal to the apportionment factor multiplied by the sum of:

1. Gross revenues from the sale of gas services multiplied by 0.97 percent; and
2. All other gross revenues multiplied by 3.19 percent.

(d) Except as provided under par. (e), for municipal light, heat and power companies, an amount equal to the gross revenues, except gross revenues from operations within the municipality that operates the company, multiplied by the rates under par. (b) or (c).

(e) For transmission companies, an amount equal to the gross revenues multiplied by the rates under par. (c).

(3) PAYMENTS. (a) On or before May 10, 1985, each light, heat and power company shall pay to the department a license fee for 1985 as imposed under sub. (2).

(b) Beginning with calendar year 1985, a portion of the license fees imposed under sub. (2) shall be paid to the department on an estimated basis. Payment of 45 percent of the total estimated liability of the May 1, 1986, assessment is due on or before May 10, 1985. The remainder of the May 1, 1986, assessment is due on or before November 10, 1985. Settlement for overpayments and underpayments of the May 1, 1986, assessment shall be made by the methods under par. (c).

(c) Beginning with calendar year 1986, the license fees prescribed by sub. (2) shall be paid to the department on an estimated basis. Remittances of semiannual installments of the total estimated payments for the then current calendar year shall be due on or before May 10 and November 10 of the current year. With respect to the license fee assessment under sub. (2) (a), each light, heat and power company shall, on each May 10, pay or be credited an amount which is equal to the difference between the May 1 assessment and the sum of the semiannual installment payments made in the preceding calendar year. The additional amount shall be added to the semiannual installment due on May 10; if there has been an overpayment the amount of the overpayment shall be credited to the semiannual installment due May 10. If any light, heat and power company that has a liability for the current year fails to make semiannual payments of at least 55 percent of the assessed liability for the current calendar year or 50 percent of the assessed liability for the subsequent calendar year, any amounts not paid when due shall become delinquent and shall be subject to interest at the rate of 1.5 percent per month.

(d) Light, heat and power companies with a liability under this section of less than $2,000 are not required to make an installment payment but shall pay the full amount of the license fees due on or before May 10 of the year of assessment.

(4) REDETERMINATION. (a) If after filing the reports specified in sub. (7) and after the department’s computation and assessment of license fees under sub. (2) it is determined that the amount of gross revenues reported is in error, the department shall compute the additional license fee to be paid or the amount of the overpayment of license fee to be refunded, as the case may be. If an additional license fee is due, the department shall give notice to the light, heat and power company against whom the license fee is to be levied. All such additional assessments and claims for refunds for excess license fees paid are subject to the same procedure for review and final determination as additional income or franchise tax assessments and claims for refunds under ch. 71 as far as the same may be applicable, except that appeals of denials of claims for refunds shall be made directly to the tax appeals commission and except that the additional license fees shall become delinquent 60 days after notice provided in this subsection or, if review proceedings are held, 60 days following final determination of the review proceedings. All additional license fees shall bear interest at the rate of 12 percent per year from the time they should have been paid to the date on which the additional fees shall become delinquent if unpaid.

(b) In the case of overpayments of license fees by any light, heat and power company under par. (a), the department shall certify the overpayments to the department of administration, which shall audit the amount of the overpayments and the secretary of administration shall pay the amounts determined by means of the audit. All refunds of license fees under this subsection shall bear interest at the annual rate of 3 percent from the date of the original payment to the date the refund is made. The time for making additional levies of license fees or claims for refunds of excess
license fees paid, in respect to any year, shall be limited to 4 years after the time the report for such year was filed.

(5) Remedies. Delinquent license fees of any light, heat and power company, together with penalties and interest, for a lien upon all property of such company prior to all other liens, claims and demands, which lien may be enforced in an action in the name of the state in any court of competent jurisdiction against the property of such company within the state as an entirety. The remedies for nonpayment of taxes specified in s. 76.14 apply to nonpayment of license fees, penalties and interest referred to under this section.

(6) Administration. (a) The records, books, accounts and papers of any light, heat and power company are subject to inspection and examination by the secretary of revenue or by the person that the secretary designates for that purpose.

(b) If any light, heat and power company that is required under this section to file a report fails to file the report within the time prescribed by law or as extended under sub. (7), and upon a showing by the department under s. 73.16 (4), there shall be added to the amount required to be shown as license fees on the report 5 percent of the amount of such fees if the failure is for not more than one month, with an additional 5 percent for each additional month or fraction thereof during which the failure continues, not exceeding 25 percent in the aggregate.

(c) If any light, heat and power company fails to make a report as required by sub. (7) within the time required, the department may enter an assessment against such company in a sum representing the approximate amount of the license fees, together with penalties and interest, for which such company may be liable as estimated by the department. Notice of such assessment shall be given by certified mail, and unless a report conforming to the requirements of this section is filed within 15 days of such notice, such estimated assessment shall become final. Thereafter the light, heat and power company assessed shall be forever barred from questioning the correctness of the same in any action or proceeding.

(7) Statements. Every light, heat, and power company shall, on or before March 1 in each year, make and return to the department, in the form and upon the forms that the department prescribes, a true statement of the operation of the company’s business during the preceding calendar year, including provision of the “amount shown in the account plus leased property” for purposes of the payment to municipalities and counties under s. 79.04. The statement shall be certified by the president and treasurer of the company or 2 of the company’s principal officers. For sufficient reason shown, the department may, upon written request, allow any further time for making and filing the statement that the department considers necessary but not to exceed 3 months. If any company fails to file the statement within the time prescribed or as extended under this subsection, the department shall add to the taxes due from that company $25, and no company may contest the imposition of that penalty in any action or proceeding.

(8) Transfer of Ownership. If any light, heat or power company discontinues service through sale, merger or abandonment of its property or otherwise, the company acquiring that property or undertaking to provide service in the area of the former company shall assume the license fees due under this section, but shall be subject to local assessment and taxation.

(9) Property Subject to Local Tax. The license fees imposed by this section upon the gross revenues of light, heat and power companies as defined in sub. (1) (e) shall be in lieu of all other taxes on all property used and useful in the operation of the business of such companies in this state, except that the same shall be subject to special assessments for local improvements. If a general structure is used and useful in part in the operation of the business of those companies in this state and in part for nonoperating purposes, the license fees imposed by this section are in place of the percentage of all other taxes on the property that fairly measures and represents the extent of the use and usefulness in the operation of the business of those companies in this state, and the balance is subject to local assessment and taxation, except that the entire general structure is subject to special assessments for local improvements. Property under s. 76.025 (2) shall not be taxed under this section, but shall be subject to local assessment and taxation.

(10) Standing to Challenge Assessment. In case any light, heat or power company fails to make a report as required by sub. (7) within the time required, the department may enter an assessment against that company in a sum representing the approximate amount of the license fees, together with penalties and interest, for which that company may be liable as estimated by the department. Notice of that assessment shall be given by certified mail, and unless a report conforming to the requirements of this section is filed within 15 days of that notice, that estimated assessment shall become final. Thereafter the light, heat or power company assessed shall be forever barred from questioning the correctness of the assessment in any action or proceeding.

(11) Payment Before Contesting. No action or proceeding, except a petition for redetermination under sub. (4), may be brought by a light, heat or power company against this state to contest any assessment of a tax under this section unless the taxpayer first pays to this state the amount of tax assessed. If the taxpayer prevails in an action or proceeding, this state shall settle with the taxpayer, including payment of interest at 3 percent per year on the amount of the money paid from the date of payment until the date of judgment.

76.29 License fee for selling electricity at wholesale.

(1) Definitions. In this section:

(a) “Apportionment factor” has the meaning given in s. 76.28 (1) (a).

(b) “Department” means the department of revenue.

(c) “Electric cooperative” has the meaning given in s. 76.48 (1g) (c).

(d) “Gross revenues” means total revenues from the sale of electricity for resale by the purchaser of the electricity.

(e) “Light, heat, and power companies” has the meaning given in s. 76.28 (1) (e).

(f) “Tax period” means each calendar year or portion of a calendar year.

(2) Imposition. There is imposed on every light, heat, and power company and electric cooperative that owns an electric utility plant, an annual license fee to be assessed by the department on or before May 1, 2005, and every May 1 thereafter, measured by the gross revenues of the preceding tax period in an amount equal to the apportionment factor multiplied by gross revenues multiplied by 1.59 percent. The fee shall become delinquent if not paid when due and when delinquent shall be subject to interest at the rate of 1.5 percent per month until paid.

(3) Administration. Section 76.28 (3) (c) and (4) to (11), as it applies to the fee imposed under s. 76.28 (2), applies to the fee imposed under this section.

not prohibit the department from publishing statistics classified so as not to disclose the identity of particular taxpayers. This subsection does not prohibit employees or agents of the department from offering or submitting any return, claim, schedule, exhibit, writing or audit report or a copy of, and any information derived from, any of those documents as evidence into the record of any contested matter involving the department in proceedings or litigation on state tax matters if that evidence has reasonable probative value.

(2) PERSONS QUALIFIED TO EXAMINE RETURNS FOR SPECIFIED PURPOSES. Subject to sub. (3) and to rules of the department, any information under sub. (1) is open to examination by only the following persons and the contents thereof may be divulged or used only as follows:

(a) The secretary of revenue or any officer, agent or employee of the department.

(b) The attorney general and department of justice employees.

(c) Members of any legislative committee on organization or its authorized agents provided the examination is approved by a majority vote of a quorum of its members and the tax return or claim information is disclosed only in a meeting closed to the public. The committee may disclose information to the senate or assembly or to other legislative committees if the information does not disclose the identity of particular returns, claims or reports and the items thereof. The department shall provide assistance to the committees or their authorized agents in order to identify returns and claims deemed necessary by them to accomplish the review and analysis of tax policy.

(d) Public officers of the federal government or other state governments or the authorized agents of such officers, where necessary in the administration of the tax laws of such governments, to the extent that such government accords similar rights of examination or information to officials of this state.

(e) The person who filed or submitted the information, or to whom the information relates or by the person’s authorized agent or attorney.

(f) Any person examining information pursuant to a court order duly obtained upon a showing to the court that the information is relevant to a pending court action or pursuant to a subpoena signed by a judge of a court of record ordering the department’s custodian of returns or claims to produce information in open court in a court action pending before the judge.

(g) Employees of the legislative fiscal bureau to the extent that the department considers the examination necessary for those employees to perform their duties under contracts or agreements between the department and the bureau relating to the review and analysis of tax policy and the analysis of state revenue collections.

(h) Employees and members of the public service commission, and employees of the department of transportation, to the extent that the department of revenue considers the examination necessary for those members and employees to perform their duties.

(i) The secretary of revenue and employees of that department for the purposes of preparing and maintaining the list of persons whose property is exempt from taxation under s. 73.03 (62) so that the list of such persons is available for public inspection.

(j) An assessor employed by a local unit of government if the department determines that providing the information is necessary to verify whether real or personal property located in a taxing jurisdiction is subject to the taxes and fees imposed under this subchapter or to general local property taxes.

(3) RESTRICTION ON USE OF INFORMATION. The use of information obtained under sub. (2) is restricted to the discharge of duties imposed upon the persons by law or by the duties of their office or by order of a court as provided under sub. (2) (f).

(4) CHARGE FOR COSTS. The department may charge for the reasonable cost of divulging information under this section.

(5) DISTRICT ATTORNEYS. District attorneys may examine information under sub. (1) as follows:

(a) Such information may be examined for use in preparation for any judicial proceeding or any investigation which may result in a judicial proceeding involving the taxes under this subchapter if any of the following applies:

1. The taxpayer is or may be a party to such proceeding.

2. The treatment of an item reflected in such information is or may be related to the resolution of an issue in the proceeding or investigation.

3. The information relates or may relate to a transactional relationship between the taxpayer and a person who is or may be a party to the proceeding which affects or may affect the resolution of an issue in such proceeding or investigation.

(b) When the department allows examination of information under par. (a):

1. If the department has referred the case to a district attorney, the department may make disclosure on its own motion.

2. If a district attorney requests examination of information relating to a person, the request must be in writing, clearly identify the requester and the person to whom the information relates and explain the need for the information. The department may then allow the examination of information so requested and the information may be examined and used solely for the proceeding or investigation for which it was requested.

(c) Such information may be examined for use in preparation for any administrative or judicial proceeding or an investigation which may result in such proceeding pertaining to the enforcement of a specifically designated state criminal statute not involving tax administration to which this state or a governmental subdivision thereof is a party. Such information may be used solely for the proceeding or investigation for which it was requested.

(d) The department may allow an examination of information under par. (c) only if a district attorney petitions a court of record in this state for an order allowing the examination and the court issues an order after finding all of the following:

1. There is reasonable cause to believe, based on information believed to be reliable, that a specific criminal act has been committed.

2. There is reason to believe that such information is probative evidence of a matter in issue related to the commission of the criminal act.

3. The information sought to be examined cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the information constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

(e) If the department determines that examination of information ordered under par. (d) would identify a confidential informant or seriously impair a civil or criminal tax investigation, the department may deny access and shall certify the reason therefor to the court.


76.31 Determination of ad valorem tax receipts for hub facility exemptions. Annually, by July 1, the department shall determine the total amount of the tax imposed under subch. I of ch. 76 that was paid by each air carrier company, as defined in s. 76.02 (1), whose property is exempt from taxation under s. 76.074 (2) for the most recent taxable year that the air carrier company paid the tax imposed under subch. I of ch. 76. The total amount determined under this section shall be transferred under s. 20.855 (4) (fm) to the transportation fund.

History: 2001 a. 16; 2023 a. 12.
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SUBCHAPTER II
CAR LINE COMPANIES; ELECTRIC COOPERATIVE ASSOCIATIONS

76.39 Car line taxes. (1) For the purposes of this section:
   (am) “Average net rate of taxation” means the average net rate
determined under s. 76.126 as of June of the year prior
to the assessment.
   (b) “Car line company” means any person, not operating a rail-
road, engaged in whole or in part in the business of leasing or fur-
nishing car line equipment to a railroad.
   (c) “Car line equipment” means any railroad car or other
equipment used in railroad transportation under an agreement
providing for rental of such car or other equipment.
   (cm) “Department” means the department of revenue.
   (d) “Gross earnings” means all receipts by a car line company
from operation of car line equipment.
   (e) “Gross earnings in this state” means all gross earnings on
intrastate business of a car line company from operation of car line
equipment, and also gross earnings on interstate business in the
province that the Wisconsin car miles are of the total car miles
of such interstate business. The gross earnings not based on mile-
age shall be allocated to this state in the ratio of each carrier’s aver-
age annual freight car miles in Wisconsin to the carrier’s total
freight car miles in all states.
   (2) There is levied annually a gross earnings tax in lieu of all
property taxes on the car line equipment of a car line company
equal to the gross earnings in this state multiplied by the average
net rate of taxation. Every railroad company operating in this state
shall, upon making payment to each car line company for use of
its cars, withhold the amount of the tax imposed under this subsec-
tion on the car line company.
   (3) Every railroad company operating in this state shall file
annually within the department, on or before April 15, on a form pre-
pared by the department, a true and accurate statement of all rent-
als paid to each car line company during the previous calendar
year and shall remit to the department the amount of the tax
required to be withheld under sub. (2). Every car line company,
which during the previous calendar year has received gross earn-
ings in this state from a source other than a railroad company oper-
ating in this state, shall, on or before April 15, on a form prepared
by the department, file with the department a true and accurate
statement of such gross earnings in this state and the name of the
company from which received and shall remit to the department
the amount of the tax imposed under sub. (2) on such gross earn-
ings in this state. The payment dates provided for in sub. (3a) shall
apply. Upon written request received by the department before
April 15, the department may grant an extension of not to exceed
30 days for the filing of the report and the payment of the taxes lev-
ied in this section. If any railroad company or car line company
fails to file such report when due, or as extended by the department,
and upon a showing by the department under s. 73.16 (4), there
shall be added to the amount required to be shown as gross earn-
ings tax on the report 5 percent of the amount thereof if the failure
is for not more than one month, with an additional 5 percent
for each additional month or fraction thereof during which the
failure continues, not exceeding 25 percent in the aggregate. If
any railroad company or car line company fails to pay all taxes due
within the time prescribed or as extended by the department, the
unpaid taxes shall be delinquent, and shall be subject to interest
under sub. (4). All taxes, late filing fees, penalties and interest
shall be deposited in the general fund.
   (3a) The tax due under this section shall be paid to the depart-
ment. Payments of semiannual installments of the total liability
for the calendar year shall be due on or before September 10 of the
year prior to the assessment and on April 15 of the year of the
assessment. If any railroad company or car line company fails to
pay on or before September 10 at least 50 percent of the tax liabil-
ity for the current calendar year or 50 percent of the tax liability
for the subsequent calendar year, the amount not paid is delin-
quent and is subject to interest under sub. (4) (c). If any railroad
company or car line company fails to pay on or before April 15 the
difference between the current year’s assessment and the amount
paid toward that assessment, the amount not paid is delinquent
and is subject to interest under sub. (4) (c). Companies with a tax li-
bility under this section of less than $2,000 are not required to
make semiannual payments but shall pay the full amount of taxes
due on or before April 15 of the year of the assessment.
   (4) (a) The records, books, leases and all accounts pertaining
to the car line business of any railroad or car line company shall be
subject to audit by the department. In any case in which it is
determined that the amount of tax paid was in error, the depart-
ment shall determine the additional tax or refund, as the case may
be.
   (b) Additional assessments and claims for refund shall be
subject to the same procedure for review and final determination
as is provided with respect to additional assessments and refunds
of income or franchise taxes in chs. 71 and 73, except that appeals
of denials of claims for refunds shall be made directly to the tax
appeals commission and except as the same may conflict with this
section. Delinquent taxes shall be subject to interest at the rate of
1.5 percent per month until paid.
   (d) All refunds shall be certified by the department to the
department of administration which shall audit the amount of the
refunds and the secretary of administration shall pay the amount,
together with interest at the rate of 3 percent per year from the date
payment was made. All additional taxes shall bear interest at the
rate of 12 percent per year from the time they should have been
paid to the date upon which the additional taxes shall become
delinquent if unpaid.
   (5) Delinquent taxes, penalties, interest and late filing fees
shall be a lien upon the property of any railroad company or car
line company prior to all other liens, claims and demands, except
as provided in ss. 292.31 (8) (i) and 292.81, which lien may be
enforced in any action in the name of the state in any court of com-
petent jurisdiction. All provisions of law for enforcing payment of
delinquent income or franchise taxes under ch. 71 or enforcing
payment of delinquent taxes based on the value of property under
this chapter shall be available to collection of taxes on gross
receipts in this state levied under this section.


Cross-reference: See also ch. TA 1, Wis. admn. code.

76.46 Powers of investigation. (1) The department may,
whenever in its opinion such action is necessary, examine or cause
to be examined the books and records of any railroad company or
any railroad company in order to verify the accuracy of the reports
submitted to the department.
   (2) If any railroad company defined in s. 76.02, or any car line
company defined in s. 76.39, refuses or neglects to make any
reports required under subch. I, or refuses or neglects to permit an
examination of its books and records, accounts and papers, when
requested so to do by the department, or refuses or neglects to
appear before the department in obedience to its summons, it shall
be estopped to question or impeach the action or determination of
the department, or validity of any assessment made by the depart-
ment.
76.48 License fees, electric cooperatives. (1g) In this section:

(a) “Apportionment factor” has the meaning under s. 76.28 (1).

(b) “Book cost of utility plant” has the meaning set forth in the uniform system of accounts prescribed by the U.S. rural electrification administration in bulletin 181–I, dated January 1, 1978.

(c) “Electric cooperative” means a cooperative association organized under ch. 185 that carries on the business of generating, transmitting or distributing electric energy to its members at wholesale or retail.

(d) “Gross revenues” means total operating revenues, except revenues for interdepartmental sales and for interdepartmental rents, less deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric cooperative that purchases more than 50 percent of the power it sells, less the actual cost of power purchased for resale by an electric cooperative, if the revenue from that purchased electric power is included in the seller’s gross revenues or if the electric cooperative purchased more than 50 percent of the power it sold in the year prior to January 1, 1988, from a seller located outside this state.

(e) “Municipal utility” has the meaning given in s. 16.957 (1) (q).

(f) “Property factor” has the meaning under s. 76.28 (1) (f).

(g) “Sales factor” means a fraction the numerator of which is the electric cooperative’s total sales of electricity in this state, not including sales to out-of-state purchasers that are delivered to transmission facilities in this state, for the tax period and the denominator of which is the electric cooperative’s total sales of electricity for the tax period.

(h) “Tax period” has the meaning under s. 76.28 (1) (i).

(3) No such company shall be allowed in any action or proceeding to question the assessment and taxation of its property as determined by the department, unless it has made and filed with such department a full and complete report of the facts and information prescribed by law and called for by the department.

History: 1979 c. 102 s. 237.

76.48 License fees, electric cooperatives. (1g) In this section:

(a) “Apportionment factor” has the meaning under s. 76.28 (1) (a).

(b) “Book cost of utility plant” has the meaning set forth in the uniform system of accounts prescribed by the U.S. rural electrification administration in bulletin 181–I, dated January 1, 1978.

(c) “Electric cooperative” means a cooperative association organized under ch. 185 that carries on the business of generating, transmitting or distributing electric energy to its members at wholesale or retail.

(d) “Gross revenues” means total operating revenues, except revenues for interdepartmental sales and for interdepartmental rents, less deductions from the sales and use tax under s. 77.61 (4) and, in respect to any electric cooperative that purchases more than 50 percent of the power it sells, less the actual cost of power purchased for resale by an electric cooperative, if the revenue from that purchased electric power is included in the seller’s gross revenues or if the electric cooperative purchased more than 50 percent of the power it sold in the year prior to January 1, 1988, from a seller located outside this state.

(e) “Municipal utility” has the meaning given in s. 16.957 (1) (q).

(f) “Property factor” has the meaning under s. 76.28 (1) (f).

(g) “Sales factor” means a fraction the numerator of which is the electric cooperative’s total sales of electricity in this state, not including sales to out-of-state purchasers that are delivered to transmission facilities in this state, for the tax period and the denominator of which is the electric cooperative’s total sales of electricity for the tax period.

(h) “Tax period” has the meaning under s. 76.28 (1) (i).

(3) No such company shall be allowed in any action or proceeding to question the assessment and taxation of its property as determined by the department, unless it has made and filed with such department a full and complete report of the facts and information prescribed by law and called for by the department.

History: 1979 c. 102 s. 237.
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Cross-reference: See also ch. TA 1, Wis. adm. code.

76.54 Motor carriers and urban transit companies; municipal taxation. No city, village or town shall impose a license tax upon either of the following:

(1) Any common motor carrier of property or of passengers, any contract motor carrier or any private motor carrier on account of any operation of a motor vehicle which is subject to registration or taxation under ch. 341.

(2) Any corporation or other person engaged in urban mass transportation of passengers as defined in s. 71.38.

SUBCHAPTER III
INSURERS

76.60 Fire, travel, and marine insurers; license fees. Every insurer doing a fire, travel, or marine insurance business, other than domestic insurers and insurers excepted under s. 76.61, shall pay to the state, in respect to travel or marine insurance a tax of 0.5 percent and in respect to fire insurance a tax of 2.375 percent on the amount of its gross premiums, as calculated under s. 76.62.

In case any insurer discontinues business in this state and repossesses the whole or a part of its risks without making payment of this tax, the insurer accepting such reinsurance shall pay the tax. If several insurers make such reinsurance the tax shall be apportioned among the insurers in proportion to the original premiums upon the business in this state so reinsured by each such insurer. Upon the payment of the tax provided in this section, and the fees required by s. 601.31, such insurer may be licensed to transact its business until May 1 in the ensuing year, unless before then its license is revoked or forfeited according to law. In the case of travel insurance, the premiums subject to tax under this section are the premiums for travel insurance, as defined in s. 632.977 (1) (g), paid by an individual who is a resident of this state and who purchases travel insurance coverage under an individual or group policy or paid by a person who is a resident of or has a principal place of business in this state and who purchases blanket travel insurance, as defined in s. 632.977 (1) (a).

History: 1971 c. 125; 1979 c. 102 s. 20; Stats. 1979 s. 76.60; 1989 a. 31; 2021 a. 111.

76.61 Town mutual insurers; taxes, charges, dues and license fees. No town mutual insurer organized under or subject to ch. 612 shall be required to pay any taxes, charges, dues or license fees to the state except those charges and dues provided for in ss. 601.31, 601.32, 601.45 and 601.93.

History: 1971 c. 125; 1973 c. 243; 1975 c. 372; 1979 c. 102 ss. 21, 236 (3), (4); Stats. 1979 s. 76.61.

76.62 License fees; calculation of. All license fees and taxes levied under any provision of law upon gross premiums other than life insurance premiums against any insurer shall be uniformly calculated on the amount of gross premiums received for direct insurance less return premiums and cancellations and returns from savings and gains on all insurance other than reinsurance by the insurer during the preceding year in this state.

History: 1979 c. 102 s. 22; Stats. 1979 s. 76.62; 1989 a. 31.

76.63 Casualty insurance; license fees. (1) Every insurer doing a casualty or surety business, other than domestic insurers and insurers excepted under s. 76.61, shall pay to the state 2 percent of its gross premiums, as calculated under s. 76.62, on all policies or contracts which have been written on the lives of residents or on property in this state.

(2) Every domestic stock insurer which insures against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate shall pay to the state on or before March 1 in each year 2 percent of its gross premiums, as calculated under s. 76.62, on all policies or contracts which have been written on the lives of residents or on property in this state.

History: 1971 c. 125; 1975 c. 372; 1979 c. 102 s. 23; Stats. 1979 s. 76.63; 1989 a. 31.

76.635 Credit for investment in certified capital companies. (1) DEFINITIONS. In this section:

(a) “Certified capital company” has the meaning given in s. 560.29 (1) (a), 2009 stats.
(b) “Certified capital investment” has the meaning given in s. 560.29 (1) (b), 2009 stats.
(c) “Investment date” has the meaning given in s. 560.29 (1) (d), 2009 stats.
(d) “Investment pool” has the meaning given in s. 560.29 (1) (e), 2009 stats.
(e) “Qualified investment” has the meaning given in s. 560.29 (1) (g), 2009 stats.

(2) CREDIT. An insurer that makes a certified capital investment may credit against the fees due under s. 76.60, 76.63, 76.65, 76.66 or 76.67, for 10 years beginning with the year of the investment, either 10 percent of that investment or the amount by which the sum of the insurer’s certified capital investments and the insurer’s qualified investments exceeds the insurer’s qualified investments in the taxable year before the insurer first claimed the credit under this section, whichever is less.

(3) CARRY-FORWARD. If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66 or 76.67 otherwise due, the unused balance may be carried forward and credited against those fees in the following years to the extent that it is not offset by those fees otherwise due in all the years between the year in which the investment was made and the year in which the carry-forward credit is claimed.

(4) RECAPTURE. (a) If a certified capital company is decertified, or an investment pool is disqualified, under s. 560.37, 2005 stats., before the certified capital company fulfills the investment requirement under s. 560.34 (1m) (a) 1., 2005 stats., with respect to the investment pool, any insurer that has received a credit under this section with respect to that investment pool shall repay that credit to the commissioner of insurance, for deposit in the general fund, and may not claim more credit in respect to that investment pool.

(b) If a certified capital company fulfills the investment requirement under s. 560.34 (1m) (a) 1., 2005 stats., with respect to an investment pool but the certified capital company is decertified, or an investment pool is disqualified, under s. 560.37, 2005 stats., before the certified capital company fulfills the investment requirement under s. 560.34 (1m) (a) 2., 2005 stats., for that investment pool, any insurer that has received a credit under this section with respect to that investment pool shall repay all credits that were claimed for taxable years after the taxable year that includes the 3rd anniversary of the investment date of the investment pool and may claim no more credits for taxable years after the taxable year that includes the 3rd anniversary of the investment date of the investment pool.

(5) SALE OF CREDIT. An insurer may sell a credit under this section to another insurer that is subject to taxation under this subchapter if the insurer notifies the commissioner of insurance of the sale and includes with that notification a copy of the transfer documents.

(6) NULLIFICATION OF CREDIT PRECLUDED. This state may not impose a new tax or change an existing tax in order to nullify the credit created under this section.

76.636 Credit for certain development zone activities. (1) DEFINITIONS. In this section:
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(a) “Brownfield” means an industrial or commercial facility in which expansion or redevelopment is complicated by environmental contamination.

(b) “Development zone” means any of the following:
1. A development zone under s. 238.30 or s. 560.70, 2009 stats.
2. A development opportunity zone under s. 238.395 or s. 560.795, 2009 stats.
3. An enterprise development zone under s. 238.397 or s. 560.797, 2009 stats.
4. An agricultural development zone under s. 238.398 or s. 560.798, 2009 stats.
(c) “Environmental remediation” means removal or containment of environmental pollution, as defined in s. 299.01 (4), and restoration of soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in a brownfield if that removal, containment, or restoration fulfills the requirement under s. 71.47 (1d) (a) 1., 2013 stats., unless an investigation of the property determines that remediation is required and that remediation is not undertaken.

(d) “Full−time job” has the meaning given in s. 238.30 (2m).
(e) “Member of a targeted group” means any of the following, if the person has been certified in the manner under s. 49.141 (1) (n):
1. A person who resides in an area designated by the federal government as an economic revitalization area.
2. A person who is employed in an unsubsidized job but meets the eligibility requirements under s. 49.145 (2) and (3) for a Wisconsin Works employment position.
3. A person who is employed in a trial job, as defined in s. 49.141 (1) (n), 2011 stats., or in a trial employment match program job, as defined in s. 49.141 (1) (n).
4. A person who is eligible for child care assistance under s. 49.155.
5. A person who is a vocational rehabilitation referral.
6. An economically disadvantaged youth.
7. An economically disadvantaged veteran.
8. A supplemental security income recipient.
9. A general assistance recipient.
10. An economically disadvantaged ex−convict.
11. A qualified summer youth employee, as defined in 26 USC 51 (d) (7).
12. A dislocated worker, as defined in 29 USC 2801 (9).
13. A food stamp recipient.

(2) CREDITS. Except as provided in s. 73.03 (35), and subject to s. 238.385 or s. 560.785, 2009 stats., for any taxable year for which an insurer is entitled under s. 238.395 or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 2009 stats., to claim tax benefits or certified under s. 238.397 (4), or s. 238.398 (3) or s. 560.765 (3), 2009 stats., that person may not do any of the following:
(a) Claim credits under this section for any of the following:
1. The taxable year that includes the day on which the certification is revoked.
2. The taxable year that includes the day on which the person becomes ineligible for tax benefits.
3. Succeeding taxable years.
(b) Carry over unused credits from previous years to offset the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 for any of the following:
1. The taxable year that includes the day on which certification is revoked.
2. The taxable year that includes the day on which the person becomes ineligible for tax benefits.
3. Succeeding taxable years.

(5) CARRY−OVER PRECLUDED. If a person who is entitled under s. 238.395 (3) or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 238.397 (4), or 238.398 (3) or s. 560.765 (3), 2009 stats., or s. 560.795 (3), 2009 stats., is revoked, or if the person becomes ineligible for tax benefits under s. 238.395 (3) or s. 560.795 (3), 2009 stats., that person may not do any of the following:
(a) Claim credits under this section for any of the following:
1. The taxable year that includes the day on which the certification is revoked.
2. The taxable year that includes the day on which the person becomes ineligible for tax benefits.
3. Succeeding taxable years.

(6) ADMINISTRATION. Any insurer who claims a credit under sub. (2) shall include with the insurer’s annual return under s. 76.64 a copy of its certification for tax benefits and a copy of its verification of expenses from the department of commerce or the Wisconsin Economic Development Corporation.

76.637 Economic development credit. (1) DEFINITION. In this section, “claimant” means an insurer who files a claim under this section and is certified under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and authorized to claim tax benefits under s. 238.303 or s. 560.703, 2009 stats.

(2) FILING CLAIMS. Subject to the limitations under this section, ss. 238.301 to 238.306, and ss. 560.701 to 560.706, 2009 stats., for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the fees due under s. 76.60,
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76.637, 76.65, 76.66, or 76.67 the amount authorized for the claimant under s. 238.303 or s. 560.703, 2009 stats.

(3) LIMITATIONS. No credit may be allowed under this section unless the insurer includes with the insurer’s annual return under s. 76.64 a copy of the claimant’s certification under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and a copy of the claimant’s notice of eligibility to receive tax benefits under s. 238.303 (3) or s. 560.703 (3), 2009 stats.

(4) ADMINISTRATION. If an insurer’s certification is revoked under s. 238.305 or s. 560.705, 2009 stats., or if an insurer becomes ineligible for tax benefits under s. 238.302 or s. 560.702, 2009 stats., the insurer may not claim credits under this section for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the insurer becomes ineligible for tax benefits; or succeeding taxable years and the insurer may not carry over unused credits from previous years to offset the fees imposed under ss. 76.60, 76.63, 76.65, 76.66, or 76.67 for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the insurer becomes ineligible for tax benefits; or succeeding taxable years.

History: 2009 a 2; 2011 a 32.

76.638  Early stage seed investment credit. (1) DEFINITIONS. In this section, “fund manager” means an investment fund manager certified under s. 238.15 (2) or s. 560.205 (2), 2009 stats.

(2) FILING CLAIMS. (a) For taxable years beginning after December 31, 2008, subject to the limitations provided under this section and s. 238.15 or s. 560.205, 2009 stats., and except as provided in par. (b), an insurer may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67, 25 percent of the insurer’s investment paid to a fund manager that the fund manager invests in a business certified under s. 238.15 or s. 560.205 (1), 2009 stats.

(b) In the case of a partnership, limited liability company, or tax−option corporation, the computation of the 25 percent limitation under par. (a) shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity’s organizational documents. The entity shall provide to the department of revenue and to the department of commerce or the Wisconsin Economic Development Corporation the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

(2m) LIMITATIONS. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this section, but the eligible for, and the amount of, the credit are based on their payment of amounts under sub. (2). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents.

(3) INVESTMENT BASIS. The Wisconsin adjusted basis of any investment for which a credit is claimed under sub. (2) shall be reduced by the amount of the credit that is offset against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67.

(4) CARRY−FORWARD. If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance may be carried forward and credited against those fees for the following 15 years to the extent that it is not offset by those fees otherwise due in all the years between the year in which the expense was made and the year in which the carry−forward credit is claimed.

History: 2009 a 2; 2011 a 32; 2019 a 61.

76.639  Low−income housing credit. (1) DEFINITIONS. In this section:

(a) “Allocation certificate” means a statement issued by the authority certifying that a qualified development is eligible for a credit under this subsection and specifying the amount of the credit that the owners of the qualified development may claim.

(b) “Authority” means the Wisconsin Housing and Economic Development Authority.

(c) “Claimant” means an insurer who has an ownership interest in a qualified development and who files a claim under this section.

(d) “Compliance period” means the 15−year period beginning with the first taxable year of the credit period.

(e) “Credit period” means the period of 6 taxable years beginning with the taxable year in which a qualified development is placed in service. For purposes of this paragraph, if a qualified development consists of more than one building, the qualified development is placed in service in the taxable year in which the last building of the qualified development is placed in service.

(f) “Qualified basis” means the qualified basis determined under section 42 (c) (1) of the Internal Revenue Code.

(g) “Qualified development” means a qualified low−income housing project under section 42 (g) of the Internal Revenue Code that is financed with tax−exempt bonds, pursuant to section 42 (i) (2) of the Internal Revenue Code, and located in this state.

(2) FILING CLAIMS. Subject to the limitations provided in this section and in s. 234.45, for taxable years beginning after December 31, 2017, a claimant may claim as a credit against the fees imposed under s. 76.60, 76.63, 76.65, 76.66, or 76.67 the amount allocated to the claimant by the authority under s. 234.45 for each taxable year within the credit period.

(3) LIMITATIONS. No insurer may claim the credit under sub. (2) unless the claimant includes with the claimant’s return a copy of the allocation certificate issued to the qualified development.

(4) RECAPTURE. (a) As of the last day of any taxable year during the compliance period, if the amount of the qualified basis of a qualified development with respect to a claimant is less than the amount of the qualified basis as of the last day of the immediately preceding taxable year, the amount of the claimant’s tax liability under s. 76.60, 76.63, 76.65, 76.66, or 76.67 shall be increased by the recapture amount determined by using the method under section 42 (j) of the Internal Revenue Code.

(b) In the event that the recapture of any credit is required in any taxable year, the taxpayer shall include the recaptured proportion of the credit on the return submitted for the taxable year in which the recapture event is identified.

(5) CARRY−FORWARD. If the credit under sub. (2) is not entirely offset against the fees under s. 76.60, 76.63, 76.65, 76.66, or 76.67 otherwise due, the unused balance may be carried forward and credited against those fees for the following 15 years to the extent that it is not offset by those fees otherwise due in all the years between the year in which the expense was made and the year in which the carry−forward credit is claimed.

History: 2017 a 176.

76.64  Quarterly installments. Insurers shall pay installments of the total estimated payment under ss. 76.60, 76.63, 76.65 and 76.66 on or before April 15, June 15, September 15 and December 15. Every insurer shall make a return for the preceding calendar year on or before March 1 setting forth the information that the commissioner of insurance reasonably requires, on forms prescribed by the commissioner. On or before March 1, the insurer shall pay any additional amount due for the preceding calendar year. Overpayment will be credited on the amount due April 15.

History: 1979 c 102 a 24; Stats. 1979 s. 76.64; 1981 c 20; 1985 a 29; 1989 a 31.

76.645  Penalties. (1) LATE PAYMENT. An insurer that fails to make quarterly payments under s. 76.64 of at least 25 percent of either the total tax paid for the previous calendar year or 80 percent of the actual tax for the current calendar year is liable, in addition to the taxes due, to the department of revenue for a penalty not to exceed the lesser of 5 percent of the taxes due or $10,000. Penalties are due on the date the payment becomes due.

History: 2021 a 32.
TAXATION OF UTILITIES AND INSURERS

76.67

76.65  Life insurers; license fee.  Every insurer doing a life insurance business within this state, except fraternals as defined in s. 614.01, shall pay into the state treasury as an annual license fee for transacting such business the amounts following:

(1)  DOMESTIC INSURERS.  (a) If such insurer is organized under the laws of this state, it shall pay as an annual license fee 3.5 percent upon its gross income from all sources for the preceding calendar year except interest required to provide and maintain reserves according to the laws of this state, and except premiums collected on policies of insurance and contracts for annuities.  No domestic insurer shall, however, in any year pay in the aggregate for license fee as prescribed in this paragraph an amount in excess of the annual license fee which would have been payable by it in such year under sub. (2).

(b)  In computing the fee under par. (a), the amount of such gross income shall, after deducting the excepted portions thereof, be multiplied by a fraction the numerator of which is the net investment income applicable to life insurance and annuities and the denominator of which is the total net investment income, as set forth in the annual statement forms for such year as approved by the commissioner of insurance.

(2)  FOREIGN INSURERS.  If any such insurer is organized outside of this state, it shall pay into the state treasury, as such annual license fee, 2 percent upon the excess of the gross premiums received in money or otherwise during the preceding calendar year on all policies or contracts of insurance on the lives of residents of this state which were issued during the annual distribution of profits, savings, earnings or surplus which before the expiration of the calendar year next succeeding such apportionment have been either paid in cash or applied in part payment of premiums.

History: 1971 c. 215; 1975 c. 373; 1979 c. 102 s. 25; Stats. 1979 s. 76.65; 1991 c. 25.

Life insurance policy dividends left with the insurance company to accumulate at interest beyond the expiration of the calendar year are not to be treated as dividends “paid in cash” under s. 76.34 (2) [now s. 76.65].  Because of long-standing administrative construction, current dividends applied to purchase additional paid-up insurance are not reportable as gross premiums and thus, not taxable under s. 76.34 (2).  Accumulated dividends so applied are reportable and taxable.  59 Atty. Gen. 152.

76.655  Health Insurance Risk–Sharing Plan assessments credit.  (1)  DEFINITIONS.  In this section, “claimant” means an insurer, as defined in s. 149.10 (5), 2011 stats., who files a claim under this section.

(2)  FILING CLAIMS.  Subject to the limitations provided under this section, for taxable years beginning after December 31, 2005, and before January 1, 2015, a claimant may claim as a credit against the fees imposed under ss. 76.60, 76.63, 76.65, 76.66 or 76.67 an amount that is equal to the amount of assessment under s. 149.13, 2011 stats., that the claimant paid in the claimant’s taxable year, multiplied by the percentage determined under sub. (3).

(3)  LIMITATIONS.  (a)  The department of revenue, in consultation with the office of the commissioner of insurance, shall determine the percentage under sub. (2) for each claimant for each taxable year.  The percentage shall be equal to $5,000,000 divided by the aggregate assessment under s. 149.13, 2011 stats., and shall not exceed 100 percent.  The office of the commissioner of insurance shall provide to each claimant that participates in the cost of administering the plan the aggregate assessment at the time that it notifies the claimant of the claimant’s assessment.  The aggregate amount of the credit under this subsection and ss. 71.07 (5g), 71.28 (5g), and 71.47 (5g) for all claimants participating in the cost of administering the plan under ch. 149, 2011 stats., shall not exceed $5,000,000 in each fiscal year.

(b)  The amount of any credits that a claimant is awarded under this section for taxable years beginning after December 31, 2005, taxable year beginning January 1, 2008, may first be claimed against the fees imposed under ss. 76.60, 76.63, 76.65, or 76.67 for taxable years beginning after December 31, 2007, and in the manner determined by the department of revenue.

(4)  CARRY-FORWARD.  If the credit under sub. (2) is not entirely offset against the fees imposed under ss. 76.60, 76.63, 76.65, 76.66, or 76.67 that are otherwise due, the unused balance may be carried forward and credited against those fees in the following 15 years beyond the expiration of the calendar year in which the assessment was made and the year in which the carry-forward credit is claimed.

(5)  SUNSET.  No credit may be claimed under this section for taxable years beginning after December 31, 2014.  Credits under this section for taxable years that begin before January 1, 2015, may be carried forward to taxable years that begin after December 31, 2014.


76.66  Retaliatory taxation of nondomestic insurers.  (1)  In this section, “taxes” means the taxes imposed on nondomestic insurers under ss. 76.60, 76.63, 76.65 (2) and 601.93 less offsets allowed against those taxes under s. 646.51 (7) or the amounts imposed on domestic insurers by another state or foreign country for similar purposes.

(2)  If any state or foreign country requires a domestic insurer doing business in that state or country to pay taxes greater in the aggregate than the aggregate amount of taxes that a nondomestic insurer doing business in this state would pay, each insurer domiciled in that state or foreign country shall pay to this state for the same year the amount that a domestic insurer doing a similar business would be required to pay to the other state or foreign country.

History: 1979 c. 102 s. 26; Stats. 1979 s. 76.66; 1983 a. 27; 1989 a. 31.  Section 646.51 (7) is applicable to franchise taxes, income taxes, and fire department dues.  Only Wisconsin’s assessments are used for offsets against Wisconsin credits.  If assessments are reimbursed, the tax credit should be recaptured.  72 Atty. Gen. 17.

76.67  Reciprocal taxation of foreign insurers.  (1)  In this section, “taxes” means the taxes imposed on foreign insurers under ss. 76.60, 76.63, 76.65 (2) and 601.93 less offsets allowed against those taxes under s. 646.51 (7) or the amounts imposed on domestic insurers by another state for similar purposes.

(2)  If any domestic insurer is licensed to transact insurance business in another state, this state may not require similar insurers domiciled in that other state to pay taxes greater in the aggregate than the aggregate amount of taxes that a domestic insurer is required to pay to that other state for the same year less the credits under ss. 76.635, 76.636, 76.637, 76.638, and 76.655, except that the amount imposed shall not be less than the total of the amounts
due under ss. 76.65 (2) and 601.93 and, if the insurer is subject to
s. 76.60, 0.375 percent of its gross premiums, as calculated under
s. 76.62, less offsets allowed under s. 646.51 (7) or under ss.
76.635, 76.636, 76.637, 76.638, 76.639, and 76.655 against that
total, and except that the amount imposed shall not be less than the
amount due under s. 601.93.
History: 1975 c. 372 s. 41; 1979 c. 34; 1979 c. 102 s. 26; 1979 c. 177; Stats. 1979
s. 76.67; 1983 a. 27; 1989 a. 31; 1999 a. 30; 2005 a. 74, 259; 2009 a. 2, 26; 2017 a. 176.

76.68 License; issuance; collection of fees. (1) Every license
issued under this subchapter and chs. 600 to 646 shall cer-
tify that payment of the license fee or tax and the fee required by
s. 601.31 (1) (6) has been made, be signed by the commissioner of
insurance and be in a form approved by the attorney general.
(2) No suit may be brought to restrain or enjoin the collection
of any license fee or tax imposed or provided for by this sub-
chapter, and the fees required by s. 601.31. Any action to recover
any license fee or tax imposed or provided for by this subchapter
or any fee required under s. 601.31.
(3) No action may be commenced to compel the issuance of the
certificate of authority provided for by chs. 600 to 646 until the
license fee imposed by this subchapter and the fees under
s. 601.31 have been fully paid.
(4) The attorney general shall institute in the circuit court
for Dane County to recover any license fees or tax not paid within
the time prescribed by this subchapter, and the fees required by s.
601.31.
History: 1971 c. 40 s.93; 1971 c. 260; Sup. Ct. Order, 67 Wis. 2d 585, 773 (1975); 1973
s. 339; 1979 c. 32 s. 92 (b); 1979 c. 89 s. 543; 1979 c. 102 ss. 26, 237; 1979 c.
177; Stats. 1979 s. 76.68; 2007 a. 170.

SUBCHAPTER IV
TELEPHONE COMPANY TAX

76.80 Definitions. In this subchapter:
(1) “Department” means the department of revenue.
(2) “Qualified broadband service property” means tangible
personal property that meets any of the following standards:
(a) The property is installed in a rural area prior to January 1,
2020, and is used to provide Internet access service to the rural
area at actual speeds that are at least a download speed of 25 mega-
bits per second and an upload speed of 3 megabits per second.
(b) The property is installed in a rural or underserved area after
December 31, 2019, and is used to provide Internet access service
to the rural or underserved area at actual speeds that meet or
exceed the higher of the following thresholds:
1. A download speed of 25 megabits per second and an upload
speed of 3 megabits per second.
2. The download and upload speed benchmarks for fixed ser-
ices as designated by the federal communications commission in
its inquiries regarding advanced telecommunications capability
under 47 USC 1302 (b)
(2m) “Rural area” means an area in this state that is located
outside a federal metropolitan statistical area or is located in a city,
village, or town with a population of not more than 14,000 and a
population density of not more than 2,500 per square mile. For
purposes of sub. (2) (a), the determination of whether an area
meets the criteria of this subsection shall be made on the basis of the
2010 federal decennial census, except that the determination of
population density shall be made using the 2017 population
density per square mile by municipality estimates available from
the department of administration.
(3) “Telecommunications services” means the transmission
of voice, video, facsimile or data messages, including telegraph
messages, except that “telecommunications services” does not
include video service, as defined in s. 66.0420 (2) (y), radio, one-
way radio paging or transmitting messages incidental to transient
occupancy in hotels, as defined in s. 97.01 (7).
(4) “Telephone company” means any person that provides to
another person telecommunications services, including the resale
of services provided by another telephone company. “Telephone
company” does not include a person who operates a private shared
telecommunications system, as defined in s. 196.201 (1), and who
is not otherwise a telephone company.
(5) “Underserved area” means an area in this state in which
Internet access service at the highest speed threshold described in
sub. (2) (b) is not available from at least 2 wired providers.
128; 2021 a. 240 s. 30.

76.81 Imposition. There is imposed a tax on the real property
of, and the tangible personal property of, every telephone
company, excluding property that is exempt from the property tax
under s. 70.11 (39) and (39m), motor vehicles that are exempt
under s. 70.112 (5), property that is used less than 50 percent in the
operation of a telephone company, as provided under s. 70.112 (4)
(b), treatment plant and pollution abatement equipment that is
exempt under s. 70.11 (21), and qualified broadband service prop-
erty. Except as provided in s. 76.815, the rate for the tax imposed
on each description of real property and on each item of tangible
personal property is the net rate for the prior year for the tax under
ch. 70 in the taxing jurisdictions where the description or item is
located. The real and tangible personal property of a telephone
company shall be assessed as provided under s. 70.112 (4) (b).

76.815 Combined reporting. For taxes payable in 1998 and
1999, telephone companies that have more than 150,000 access
lines in this state may submit a combined report of their items of
personal property. Any company that does so shall pay the tax on
those items at a rate that reflects the company’s weighted average
property tax rate based on the value and location of its real prop-
erty in this state.
History: 1995 a. 351.

76.82 Assessment. The department, using the valuation
methods prescribed in s. 70.32 (1) and s. 70.34, 2021 stats., shall
assess the property that is taxable under s. 76.81 at its value as of
January 1.
History: 1995 a. 351; 2023 a. 12.

76.83 Report; payment. On or before March 1, every tele-
phone company shall send to the department a completed form
that the department prescribes. Upon written request, the depart-
ment may extend the time for filing the report by no more than 30
days. The requirements for payment of taxes under s. 76.13 (2a), as
they apply to the tax under subch. I, apply to the tax under this
subchapter.
History: 1995 a. 351.

76.84 Administration. (1) On or before October 1, the
department shall notify each telephone company that is subject to
the tax under s. 76.81 of the assessed value of its property.
(2) On or before November 1, the department shall notify
each telephone company that is subject to the tax under s. 76.81
of the amount of that tax.
(4) Sections 76.03 (4), 76.05, 76.06, 76.075, 76.08, 76.09,
76.13 (1), (2) and (3), 76.14, 76.18, 76.22, 76.23, 76.25 and 76.28
(4) to (6), as they apply to the tax under subch. I, apply to the tax
under this subchapter.
(5) Section 71.91, as it applies to the collection of delinquent
taxes under ch. 71, applies to the collection of delinquent taxes
under this subchapter.