

CHAPTER 74

COLLECTION OF TAXES

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

History: 1977 c. 29 s. 1646 (3)

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

74.025 Timely payment. Except as provided in ss. 74.03 (10) (e) and 74.79 (3), whenever in this chapter or in ch. 75 a payment is required to be made by a taxpayer on or before a certain date, payment shall be considered timely made if mailed in a properly addressed envelope with postage pre-paid, which envelope is postmarked before midnight of the last date prescribed for the making of the payment and

received by the proper official to whom directed within 5 days of the prescribed date. If the requirements set forth in the preceding sentence are not fulfilled due only to delay or administrative error on the part of the U.S. postal service, the payment shall be considered timely.

History: 1977 c. 418; 1979 c. 158; 1985 a. 21.

74.03 Semiannual payment of taxes. (1g) DEFINITIONS. In this section:

(a) "Net levy" means an amount equal to the levy minus all credits applied to the levies of that district under s. 79.10 (9), except credits determined under s. 79.10 (7m), or zero, whichever is greater.

(b) "Offset" means the sum of the following amounts:

1. The local taxes levied or the amount of credit determined under ss. 79.015 (2) (a) and 86.30 (10) (a) which was applied to tax bills, whichever is less.

2. The county taxes levied or the amount of credit determined under ss. 79.015 (2) (b) and 86.30 (10) (b) which was applied to tax bills, whichever is less.

3. The school district taxes levied or the amount of credit determined under s. 121.008 which was applied to tax bills, whichever is less.

NOTE: Sub. (1g) is created by 1985 Wis. Act 29, eff. 1-1-88.

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

(2) SEMIANNUAL PAYMENTS. Each and every person or corporation charged with real estate taxes on a tax roll in the

hands of the town, city or village treasurer shall pay to such treasurer the full amount thereof on or before the last day of February next following the receipt of such tax roll by such treasurer, or he may pay the same in 2 equal instalments as follows:

(a) The first instalment shall be paid to the town, city or village treasurer on or before January 31. The governing body of any town, village or city may by resolution adopted by two-thirds of its membership not later than December 15 of the preceding year, fix a later date for the payment of the first instalment, which may be at a date not later than the last day of February. The resolution shall remain in effect for each subsequent year until repealed by the governing body by resolution adopted by a majority of its membership. A repealing resolution shall not take effect until 75 days after its adoption.

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

(c) Such first instalment shall not be less than \$50 if the total tax exceeds \$50, nor less than the total amount of the tax if the same does not exceed \$50. In towns this paragraph shall apply to the total tax levied against any one person and not to individual parcels or descriptions.

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

(4) **DELINQUENT FIRST INSTALMENT; INTEREST; PENALTY.** If the first instalment of the real estate taxes or special assessments so charged is not paid on or before January 31, the whole amount of those real estate taxes or special assessments become due and shall be collected, together with unpaid personal property taxes, on or before the last day of February by the town, city or village treasurer. All those taxes or assessments that become due on the last day in February and that remain unpaid on March 1 are delinquent and shall be returned to the county treasurer as provided in s. 74.17. Those delinquent taxes and special assessments shall be collected by the county treasurer with interest and penalty as provided under s. 74.80 from the preceding January 1.

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

(am) The town, village or city treasurer shall first set aside and pay in full to the appropriate school district treasurer any amounts received under s. 79.10 (3).

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

(d) 1. Out of the remaining general property taxes collected the town, village or city treasurer shall first set aside and pay to the state treasurer the full amount due on state trust fund loans under s. 24.61 (3), except loans to school districts, levied on the property in the town, city or village, unless the governing body of the municipality has extended the date of payment of trust fund loans under s. 24.70 (5).

2. The town, village or city treasurer next shall set aside and pay over to each appropriate school district treasurer the

full amount due on state trust fund loans to the school district.

3. The town, city or village treasurer shall then pay to each metropolitan sewerage district treasurer, school district treasurer and vocational, technical and adult education district treasurer the proportions of the net levy of the district as the balance of the general property taxes collected in the town, city or village bears to the total general property tax levy therein for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes, state special charges, the offset and school district levies offset by school aid credits paid under s. 79.10 (3).

NOTE: Subd. 3 is shown as amended by 1985 Wis. Act 29. The act's treatment of subd. 3 in respect to the addition of "net" and "the offset" takes effect 1-1-88.

4. The town, village or city treasurer shall pay to the county treasurer a like proportion of the county school tax, other county taxes and county special charges, and shall retain a similar proportion for the town, city or village.

5. The county treasurer shall remit state taxes and state special charges to the state treasurer as provided in s. 74.26, and likewise remit the county school moneys as provided by law.

(6) **DELINQUENT 2ND INSTALMENT; INTEREST; PENALTY.** Except as provided in s. 74.025, the 2nd instalment of real estate taxes or special assessments remaining unpaid on August 1 are delinquent and are subject to interest and penalty under s. 74.80 from the preceding January 1 until paid or until the property upon which those taxes or special assessments are levied is sold at the next tax sale.

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

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

(d) All interest collected by the county treasurer on other taxes and special assessments both prior and subsequent to the tax sale shall be retained by the county treasurer for the use of the county, except as otherwise required by s. 75.01 or sub. (9) (a).

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

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

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

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

(f) Out of the remaining proceeds of the general taxes collected for each town, city or village, the county treasurer shall first set aside and pay to the state treasurer the balance due on state trust fund loans. The county treasurer shall then pay to each town, city, village, special purpose district, school district or vocational, technical and adult education district treasurer or to the treasurer of a metropolitan sewerage district created under ss. 66.88 to 66.918 such proportions of the balances due on levies for special purpose district pur-

poses, for school purposes, for vocational, technical and adult education district purposes, for metropolitan sewerage district purposes and for town, city or village purposes that the balance of the general taxes collected in such town, city or village bears to the total balance then due on all general levies. The county treasurer shall retain like proportions of the balances due on county school tax, other county taxes and county special charges. The county treasurer shall remit state taxes and state special charges to the state treasurer as provided in s. 74.26, and likewise remit the amount retained for county school taxes as provided by law.

NOTE: Par. (f) is shown as amended by 1985 Act 39. Par. (f) is amended by 1985 Acts 29, 39 and 332 eff. 1-1-88 to read:

"(f) Out of the remaining proceeds of the general taxes collected for each town, city or village, the county treasurer shall first set aside and pay to the state treasurer the balance due on state trust fund loans. The county treasurer shall then pay to each town, city, village, special purpose district, school district or vocational, technical and adult education district treasurer or to the treasurer of a metropolitan sewerage district created under ss. 66.88 to 66.918 such proportions of the balances due on net levies for special purpose district purposes, for school purposes, for vocational, technical and adult education district purposes, for metropolitan sewerage district purposes and for town, city or village purposes that the balance of the general taxes collected in such town, city or village bears to the total balance then due on all general levies, exclusive of the offset. The county treasurer shall retain like proportions of the balances due on county school tax, other county taxes and county special charges. The county treasurer shall remit state taxes and state special charges to the state treasurer as provided in s. 74.26, and likewise remit the amount retained for county school taxes as provided by law."

(g) The county board of any county may authorize and direct its county treasurer to settle in full for all taxes, or special assessments, or both, within one month after the return of such taxes and special assessments pursuant to s. 74.17. The county treasurer shall settle in full for all taxes levied by a metropolitan sewerage district created under ss. 66.88 to 66.918 within one month after the return of the taxes under s. 74.17. Such settlements shall be made with interest for special assessments levied for public improvements and benefits and for taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89, 1965 stats., as it existed prior to January 1, 1965). Settlements for all other taxes and special assessments shall be made without interest.

(9) SUBSEQUENT SETTLEMENTS BY COUNTY TREASURER. (a) Subsequent to the settlement provided in sub. (8), the county treasurer shall on the 20th day of each month make payments to the treasurer of the state and of each town, city or village out of the proceeds of the delinquent taxes and special assessments of such town, city or village, other than those referred to in par. (h), collected by him or her up to and including the last day of the preceding month which have not been included in a previous settlement, until the state and each town, city, village or school district shall have received in full their net levies for that year on the property of such town, city or village. Such payments of taxes shall be made by the county treasurer out of the taxes collected for each town, city or village in the order of preferences set forth in pars. (b) to (g). On those days the county treasurer shall also pay to every taxing jurisdiction for which it collects delinquent taxes that jurisdiction's share, based on its proportion of the delinquent taxes collected by the county, of the interest collected by the county under s. 74.80 and not previously paid to those jurisdictions.

NOTE: Par. (a) is shown as amended by 1985 Wis. Act 29, eff. 1-1-88, which adds "net" preceding "levies for" and as amended by 1985 Wis. Acts 160 and 332 eff. 1-1-87.

(b) He shall first set aside and pay to the proper treasurers any balances due on state trust fund loans.

(c) He shall next set aside and pay to the state treasurer the balances due on state taxes and state special charges in the order named. In the event that the amounts so set aside and applied on state taxes and state special charges are insuffi-

cient to pay such taxes and charges in full by November 20, the county treasurer shall advance at that time the balance on state forestry taxes and state special charges. Thereafter, he shall retain for county purposes amounts set aside pursuant to this paragraph.

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

(e) He shall next retain for the county the balance due on county taxes levied for social security under s. 49.19.

(f) The county treasurer shall next pay to the treasurer of each school district and vocational, technical and adult education district the proportion of the balance due on school levies and vocational, technical and adult education district levies that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until each district has received its total levy on that property. The county treasurer shall then pay to the treasurer of each town, city, village or special purpose district the proportion of the balance due on town, city, village or special purpose district taxes that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until the town, city, village or special purpose district has received its total levy on that property.

NOTE: Par. (f) is shown amended by 1985 Act 39. Par. (f) is amended by 1985 Acts 29, 39 and 332 eff. 1-1-88 to read:

"(f) The county treasurer shall next pay to the treasurer of each school district and vocational, technical and adult education district the proportion of the balance due on school net levies and vocational, technical and adult education district net levies that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until each district has received its total levy on that property. The county treasurer shall then pay to the treasurer of each town, city, village or special purpose district the proportion of the balance due on town, city, village or special purpose district net levies that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until the town, city, village or special purpose district has received its total levy on that property."

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

NOTE: Par. (g) is amended by 1985 Acts 29 and 332, eff. 1-1-88, to read:

"(g) The treasurer shall finally retain any balance due on account of other county net levies and charges."

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

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

(a) On or before February 25, the city treasurer shall return the duplicate county tax roll to the county treasurer. The delinquent city taxes and special assessments shall be collected by the city treasurer as provided in the city charter, except that the city treasurer shall certify all delinquent taxes levied by a metropolitan sewerage district that is created under ss. 66.88 to 66.918 to the county treasurer for collection.

(b) On or before February 25, the city treasurer shall pay to the county treasurer all taxes and charges collected on the duplicate county tax roll, and all taxes and charges collected on the city tax roll shall be retained by the city treasurer. Immediately upon receipt of the credits under s. 79.10, the city treasurer shall pay to the county treasurer the total tax credits applicable to the duplicate county tax roll.

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

(d) The governing body of any city that retains and collects its delinquent real estate taxes may by ordinance extend the time for payment without interest of all or a portion of the personal property taxes levied by the city for a period of time not exceeding 9 months from the January 31 following the tax levy year. Personal property taxes, at the option of the taxpayer, may be paid in 10 equal instalments, each of which shall be paid on or before the last day of each month from January through October if on or before January 31 of the year during which the tax becomes due the taxpayer has first paid to the city treasurer the full amount of all personal property taxes for all purposes except city purposes. The taxpayer shall exercise the option to pay the taxes in 10 equal monthly instalments by making the first instalment payment on or before January 31 of the year in which the taxes become due. If one instalment only is not paid on the due date it shall not be deemed delinquent or to render the unpaid balance delinquent, but the instalment shall be collected, with interest and penalty as provided under s. 74.80, from the day following the due date. If a 2nd instalment is not paid on the due date, the city treasurer shall declare the unpaid balance delinquent and the taxes shall be collected, with interest and penalty as provided under s. 74.80, from the preceding January 1. If the final payment is not made in the month following the due date, the delinquent unpaid balance shall be collected, with interest and penalty as provided under s. 74.80, from the preceding January 1.

(e) A payment shall be considered timely made under this subsection if mailed by the taxpayer in a properly addressed envelope and received by the city treasurer with postage duly prepaid, which envelope is postmarked before midnight of the last date prescribed for making the payment or if payment is received by the city treasurer by mail or otherwise within 5 days of the prescribed date.

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

History: 1971 c. 125 s. 521; 1971 c. 154, 262, 307, 314; 1973 c. 147; 1975 c. 39, 211; 1977 c. 174; 1979 c. 34, 158, 221; 1981 c. 20, 167, 169, 282, 317; 1981 c. 390 ss. 119, 252; 1983 a. 275, 395, 538; 1985 a. 29, 39, 135, 160, 261, 332.

Cross Reference: See 74.79 relative to instalment payment of taxes in Milwaukee.

Second tax payment may be made next secular day when July 31 is on Saturday and office hours unofficial. 60 Atty. Gen. 411.

Interest charges under this section may not be waived even when reassessment is not completed until shortly before due date. 68 Atty. Gen. 163.

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

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

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

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

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

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

(6a) METHOD OF COMPUTING INTEREST ON INSTALMENT PAYMENTS. In either of the cases provided for by subs. (5) and (6), payments may be made on account of the delinquent taxes and special assessments in instalments of not less than \$20 and in any multiple of \$5. The portion of such payment to be applied as principal shall be ascertained by dividing the amount of the payment by the sum of one plus a figure which is the product of .01 multiplied by the number of months of delinquency, counting any part of a month as a full month. Such amount of principal shall be deducted from the amount offered in payment and the remainder thereof shall be the interest accrued from January 1 next succeeding the year of the tax levy on that portion of the tax which is offered to be paid. Interest on any new balance of principal sum shall be figured from January 1 next succeeding the year of the tax levy.

(7) COLLECTION BY BANKS, SAVINGS AND LOAN ASSOCIATIONS OR CREDIT UNIONS. The treasurer of any city, village or town, subject to approval by the governing body, may designate banks, savings and loan associations and credit unions to which taxpayers may pay instalments of taxes and may provide for the remuneration of the banks, savings and loan associations and credit unions. Notice of this fact with the names and location of the banks, savings and loan associations and credit unions shall be given by publication as a class 1 notice, under ch. 985. A receipt of any bank, savings and loan association or credit union designated in the notice shall protect the taxpayer to the same extent as a receipt signed by the treasurer in person.

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

(am) The town, village, or city treasurer shall first set aside and pay in full to the appropriate school district treasurer any amounts received under s. 79.10 (3).

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

(d) 1. Out of the remaining general property taxes collected the town, village or city treasurer shall first set aside and pay to the state treasurer the full amount due on state trust fund loans under s. 24.61 (3), except loans to school districts, levied on the property in the city, village or town.

2. The town, village or city treasurer next shall set aside and pay over to each appropriate school district treasurer the full amount due on state trust fund loans to the school district.

3. The city, village or town treasurer shall then pay to each metropolitan sewerage district treasurer, school district treasurer and vocational, technical and adult education district treasurer the proportions of the net levy of the district as the balance of the general property taxes collected in the city, village or town bears to the total general property tax levy therein for all purposes included in the tax roll, exclusive of levies for state trust fund loans, state taxes, state special charges, the offset as defined in s. 74.03 (1g) (b) and school district levies offset by school aid credits paid under s. 79.10 (3).

NOTE: Subd. 3 is shown as amended by 1985 Wis. Act 29. The act's treatment of subd. 3 in respect to the addition of "net" and "the offset" takes effect 1-1-88.

4. The town, village or city shall pay to the county treasurer a like proportion of the county school tax, other county taxes and county special charges and shall retain a similar proportion for the city, village or town.

5. The county treasurer shall remit such state fund loans, state taxes and state special charges to the state treasurer as provided in s. 74.26 and likewise remit the county school moneys on March 22 and August 20 as provided by law.

(9) DELINQUENT TAXES RETURNED. The city, village or town treasurer shall retain the tax roll and make collections thereon to and including July 31. On or before August 15 he shall return the tax roll to the county treasurer as provided by s. 74.17. The county board of any county may authorize and direct its county treasurer to settle in full for all taxes, or special assessments, or both, within one month after the return of such taxes and special assessments to the county. The county treasurer shall settle in full for all taxes levied by a metropolitan sewerage district created under ss. 66.88 to 66.918 within one month after the return of the taxes under s. 74.17. Such settlements shall be made with interest for special assessments levied for public improvements and benefits and for taxes and assessments levied pursuant to ch. 88 (or ch. 88 or 89, 1965 stats., as it existed prior to January 1, 1965). Settlements for all other taxes and special assessments shall be made without interest.

(10) COLLECTION BY COUNTY. All taxes returned as delinquent shall be collected by the county treasurer, with interest and penalty as provided under s. 74.80, and all actions and proceedings commenced and pending for the collection of any personal property tax shall be prosecuted and judgments in them shall be collected by the county treasurer. Any city, village or town may retain for collection the delinquent personal property taxes as provided by s. 74.19, in which case such taxes shall be included as fully paid in arriving at the proportions to be paid in the final settlement under sub. (8).

(11) COUNTY TREASURER'S SETTLEMENTS. (a) The county treasurer shall on the 20th day of each month make payments to the treasurer of the state and of each city, village or town out of the proceeds of the delinquent taxes and special assessments of such city, village or town, other than those referred to in par. (h), collected by him or her up to and including the last day of the preceding month which have not been included in a previous settlement, until the state and each city, village, town, vocational, technical and adult education district or school district has received in full their levies for that year on the property of such city, village or town. Such payments of taxes shall be made by the county treasurer out of the taxes collected for each particular city, village or town in the order of preference set forth in pars. (b) to (g). On those days the county treasurer shall also pay to every taxing jurisdiction for which it collects delinquent taxes that jurisdiction's share, based on its proportion of the delinquent taxes collected by the county, of the interest collected by the county under s. 74.80 and not previously paid to those jurisdictions.

(b) The county treasurer shall first set aside and pay to the state treasurer any balances due on state trust fund loans held by the county.

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

(e) He shall next retain for the county the balance due on county taxes levied for social security under s. 49.19.

(f) The county treasurer shall next pay to the treasurer of each school district and vocational, technical and adult education district the proportion of the balance due on school levies and vocational, technical and adult education district levies that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until each district has received its total levy on that property. The county treasurer shall then pay to the treasurer of each town, city, village or special purpose district the proportion of the balance due on city, village, town or special purpose district taxes that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until the town, city, village or special purpose district has received its total levy on that property.

NOTE: Par. (f) is shown as amended by 1985 Act 39. Par. (f) is amended by 1985 Acts 29, 39 and 332, eff. 1-1-88, to read:

"(f) The county treasurer shall next pay to the treasurer of each school district and vocational, technical and adult education district the proportion of the balance due on school net levies and vocational, technical and adult education district net levies that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until each district has received its total levy on that property. The county treasurer shall then pay to the treasurer of each town, city, village or special purpose district the proportion of the balance due on city, village, town or special purpose district net levies, as defined in s. 74.03 (1g) (a), that the balance of the general taxes collected since the last settlement in the town, city or village minus amounts due under pars. (a) to (e) has to the total balance then due on all general levies on the property of that town, city or village until the town, city, village or special purpose district has received its total levy on that property."

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

NOTE: Par. (g) is amended by 1985 Act 29, eff. 1-1-88 to read:

"(g) He or she shall finally retain any balance due on account of other county net levies, as defined in s. 74.03 (1g) (a), and charges."

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

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

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

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

(e) All interest collected by the county treasurer on other taxes and special assessments both prior and subsequent to the tax sale shall be retained by the county treasurer for the use of the county, except as otherwise required by s. 75.01 or sub. (11) (a).

(13) OTHER STATUTES MODIFIED. Whenever any city, village or town shall provide for the instalment payment of real estate taxes pursuant to this section, then s. 74.03 shall not be

applicable to such city, village or town but shall be superseded by the provisions of this section. Any other conflicting statutory provision is hereby modified to the extent required to make this section operative.

History: 1971 c. 154, 262, 307; 1973 c. 147; 1975 c. 198, 211; 1979 c. 221; 1981 c. 20, 167, 169, 282, 317; 1981 c. 390 s. 252; 1983 a. 275, 368, 395; 1985 a. 29, 39, 135, 160, 332.

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

(2) The part-time treasurer of any town, city or village may designate banks, savings and loan associations and credit unions to which taxpayers may pay the advance deposits. A notice containing the names and locations of the designated banks, savings and loan associations and credit unions shall be published as a class 1 notice, under ch. 985. A receipt from a designated bank, savings and loan association or credit union shall protect the taxpayer to the same extent as a receipt signed by the treasurer in person.

History: 1983 a. 368.

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

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

74.05 Officers not to buy orders. No town, city, village or county treasurer, or other town, city, village or county officer shall, either directly or indirectly, purchase or receive in exchange or in payment for taxes or otherwise, in any manner whatever, any county, city, village or town order, or any

demand against his county, city, village or town for a claim allowed by the proper board or council during his term of office for a less amount than that expressed on the face of such order or demand; and any such person so offending shall for each offense forfeit not less than twenty-five dollars nor more than two hundred and fifty dollars.

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

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

74.08 Blank tax receipts; use thereof. (1) The county clerk of each county, unless a different official is designated by the county board, shall prepare and furnish to each town, city and village treasurer of the county tax receipts and duplicates as prescribed under s. 70.09 (3) for each current year. Every town, city and village treasurer shall use only the receipts so furnished. Notwithstanding any other provisions of law, all city, town and village treasurers shall enter in each receipt given by the county clerk for the payment of taxes the name of the person paying the taxes if that person is not the owner of the property taxed, the date of payment, and the aggregate amount of taxes paid.

(2) Tax receipts shall be signed by the treasurer and a duplicate kept by the treasurer, and after noting the payment of taxes upon the tax roll the treasurer shall deliver the receipt to the appropriate person.

History: 1973 c. 90; 1981 c. 79 s. 17; 1983 a. 275; 1985 a. 12.

74.09 Comparison of stub book with tax rolls; book as evidence. Every such treasurer shall each year compare the stub book of receipts with the tax roll of his town, city or village as to the description of land or other property upon which taxes have or have not been paid and as to the amount

of money received for taxes; and the treasurer shall certify on such stub book that he has made such comparison, and that the stub book and tax roll correspond; and the stub book thus certified shall be returned with the tax roll to the county treasurer, who may destroy such duplicate receipts and stub books after the taxes recorded therein have outlawed pursuant to s. 75.20. Such stub book or a certified copy thereof shall have the same effect as evidence as the original receipt.

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

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

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

74.11 Action to collect tax on personal property. (1) HOW BROUGHT. If the treasurer is unable to collect any tax assessed upon personal property the treasurer may file with the circuit court of the county an affidavit showing that there is such tax upon personal property, the amount thereof and the name of the person against whom assessed, that the treasurer has demanded payment thereof and is unable to collect the same. Chapter 799 shall apply so far as applicable. The judge of the circuit court shall thereupon issue a summons directed to such person, commanding the person to appear forthwith to answer under oath and show cause why the person does not pay the tax. Such summons may be served by the treasurer or any constable in the county on the person to whom the summons is directed as required for the exercise of personal jurisdiction under ch. 801 in a civil action in a court of record; upon its appearing by the affidavit of the officer or person serving the summons that the same was duly served upon such person to whom it was directed, and that the person has failed or neglected to appear before the judge for 24 hours after the service of the summons, the judge shall issue a warrant, directed to the sheriff or any constable of the county, commanding the sheriff or constable to forthwith arrest and bring such person before the judge.

(2) JURISDICTION; COMPLAINT; REMOVAL; ARREST. The judge before whom such person appears or is brought shall enter

the cause under ss. 799.07 and 799.10, as an action wherein the town, city or village in which the tax is assessed shall be plaintiff and the person against whom the tax is assessed shall be defendant; and the affidavit of the treasurer shall be deemed the complaint.

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

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

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

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

(4) **TRANSCRIPT OF JUDGMENT; LIEN; EXECUTION.** The treasurer may file a transcript of judgment rendered against the defendant in any such action in the office of the clerk of the circuit court of any county, and it shall be docketed by such clerk in the same manner as other transcripts of circuit court judgments, and when so docketed it shall be a lien on all the real estate of the defendant in every county in which it is docketed. The clerk of any circuit court in which any such transcript is filed and docketed may issue execution thereon, and no real estate or personal property of the defendant shall be exempt from seizure and sale on such execution; and upon the sale of any real estate of the defendant by virtue of such execution the sheriff selling it shall make, execute and deliver to the purchaser thereof a deed thereto, and the defendant shall have no right to redeem the real estate after the sale thereof; and such deed shall be absolute to convey all the interest of the defendant in such real estate so sold, and the sheriff shall proceed in the sale of the real estate as upon sale on execution in other cases.

(5) **APPEAL AND RETURN.** Except as provided in sub. (8), either party may, within the time period specified in s. 808.04 (1), appeal to the court of appeals. Prior to filing a notice of appeal, a defendant shall execute and deliver to the circuit court judge an undertaking to the town, city or village, with one or more sureties approved by the judge, conditioned to pay the judgment the court of appeals may render against him or her in the action.

(6) **EXECUTION UPON JUDGMENT.** The district attorney of the county shall appear for the plaintiff whenever so requested by the county treasurer. Execution shall issue upon the judgment against the property of all the defendants in such judgment, and no property belonging to the defendant in the action may be exempt from seizure and sale on the execution.

(7) **SUPPLEMENTARY PROCEEDINGS.** If execution in any such action upon a judgment is returned unsatisfied in whole or in part, the proper treasurer may institute proceedings supple-

mentary to execution to collect the judgment. All laws applicable to supplementary proceedings upon other judgments are made applicable to the judgment specified in this subsection.

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

History: Sup Ct. Order, 67 W (2d) 774; 1975 c. 218; 1977 c. 187; 1977 c. 449 s. 497; 1979 c. 32 s. 92 (16); 1979 c. 175 s. 50; 1983 a. 219.

Judicial Council Note, 1983: Sub. (5) is amended to replace the appeal deadline of 20 days after entry of judgment by the standard time specified in s. 808.04 (1), stats., for greater uniformity. Language requiring the trial judge to certify the record and specifying its contents is repealed as unnecessary in light of s. 809.15, stats. [Bill 151-S]

74.12 Action of debt or attachment to collect tax. (1) In addition to the other remedies provided in this chapter an action of debt or an action of attachment shall lie in the name of the town, city or village, and, after the tax is returned as delinquent, in the name of the county, for any tax assessed against any person upon personal property remaining unpaid after February 28. Summons or warrants in such action shall issue at the request of the treasurer of the town, city, village or county except that the warrant of attachment shall be issued on the making and filing of an affidavit by the proper treasurer that such taxes are delinquent. Such summons or warrant shall be served as required for the exercise of personal jurisdiction under ch. 801. Such summons or warrant shall state that it is issued for the collection of a tax and judgment may be entered and execution issued as provided in this chapter.

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

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

History: Sup. Ct. Order, 67 W (2d) 774; 1977 c. 449; 1979 c. 110 s. 60 (13)

74.13 Action for collection of taxes against public utilities. In addition to the other remedies provided by law for the

collection of taxes against real estate, an action of debt shall lie in the name of the town, city or village, and, after the tax is returned as delinquent, in the name of the county, for any tax heretofore or hereafter levied upon and extended against the property of any public service corporation as defined in s. 184.01, which property is subject to taxation like the property of individuals, and which tax remains unpaid after January 31 in any year. Summons in such action shall issue at the request of the treasurer of the town, city, village or county, as the case may be; shall be served as provided in s. 801.11, and such action shall be subject to all of the rules of law and practice in this state applicable to actions of debt. The complaint in such action shall be served with the summons. Judgment in such action shall be entered and execution issued thereon as in other actions of debt. The judgment shall bear interest at the rate of 12% per year from the date of entry until paid.

History: Sup. Ct. Order, 67 W (2d) 774; 1975 c. 211, 422; 1979 c. 110 s. 60 (13).

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

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

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

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

city or village treasurer shall be any evidence of such payment in favor of such town, city or village treasurer unless the same be first countersigned by the county clerk.

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

County treasurer has duty to collect personal property tax returned delinquent by the town, but may charge tax back to the town after one year. Collection methods discussed. 63 Atty. Gen. 204.

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

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

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

(3) (a) All taxes returned delinquent and postponed and all delinquent taxes or instalments certified under s. 74.03 (10) (a) shall be collected by the county treasurer, with the interest thereon; and all actions and proceedings commenced and pending for the collection of any personal property tax shall be thereafter prosecuted and judgments therein be collected by the county treasurer.

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

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

History: 1975 c. 324; 1981 c. 282.

74.20 Certificate of delinquent taxes. The county treasurer shall, at the time the town, city or village treasurer returns the delinquent and postponed taxes aforesaid, make and deliver to such town, city or village treasurer and the county clerk a certificate of the amount of the delinquent and postponed taxes so returned by such town, city or village treasurer, specifying separately the amount delinquent and postponed on real estate and the amount delinquent on personal property; and no county treasurer shall indorse the bond of such town, city or village treasurer, filed in his or her office, as satisfied and paid until such certificate is delivered to the county clerk and filed in his or her office as specified in this section.

History: 1975 c. 324, 421.

74.21 Satisfaction of treasurer's bond. Upon filing this certificate by the town, city or village treasurer and upon payment to the county treasurer of the full amount of state trust fund loans held by the county, unless extended under s. 24.70 (5), and the proportionate amounts of state taxes, state special charges, county school tax, other county taxes and county special charges, the county treasurer shall endorse the bond of the town, city or village treasurer, filed in his or her office, as satisfied and paid. This endorsement operates as a full discharge of the town, city or village treasurer and his or her sureties from the obligations of the bond unless it afterwards appears that the return of the town, city or village treasurer was false; in which case the bond shall continue in force, and that treasurer and his or her sureties are liable to be prosecuted thereon for all deficiencies and for all damages occasioned by the false return.

History: 1979 c. 221; 1981 c. 169.

74.22 Penalty for failure to settle taxes. If any town, city or village treasurer shall fail to make settlement of the taxes included in the tax roll within the time required by law the county treasurer shall charge such town, city or village treasurer 5% damages and 12% interest per year from the day payment should have been made on the balance of unsettled taxes due; and if any town, city or village treasurer shall withhold the payment of any public moneys collected or received, after the same should be paid and shall have been demanded, such treasurer shall pay 10% damages and 12% interest, as above specified, on such moneys; which moneys,

damages and interests may be collected by action upon such town, city or village treasurer's bond.

History: 1975 c. 211, 421; 1979 c. 110 s. 60 (13).

Right to impose penalties under this section rests solely with county treasurer. 74 Atty. Gen. 84.

74.23 Warrant; levy; breach of bond. If any town, city or village treasurer shall neglect or refuse to pay to the county treasurer the sums in his hands required by law to be paid to him, or if he shall neglect or refuse to account for moneys required by law to be collected and paid by him to the county treasurer, such county treasurer shall issue a warrant under his hand, directed to the sheriff of the county, commanding him to levy such sum, specifying the amount thereof, as shall remain unpaid or unaccounted for, with interest and damages as specified in s. 74.22, together with his fees for collecting the same, of the goods and chattels, lands and tenements of such town, city or village treasurer, and pay the same to the county treasurer, and return such warrant within sixty days from the date thereof and deliver the same to the sheriff, who shall immediately cause the same to be executed and make return thereof within the time therein specified, and pay to such county treasurer the amount required by such warrant or so much thereof as he shall have collected thereon; and such sheriff shall be entitled to collect and receive the same fees as are allowed by law to sheriffs on execution. Nothing in this section shall prohibit prosecution of such treasurer's bond in case of a breach thereof.

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

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

74.26 Payments by county treasurer. (1) TO STATE TREASURER. On or before March 22 in each year each county treasurer shall pay to the state treasurer the amounts due for state taxes and state special charges certified by the department of administration to that county under s. 70.60. On or before the date specified under s. 24.70 (4) or (5) the county treasurer shall pay to the state treasurer the amount due on any state trust fund loan held by the county.

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

(3) ADDITIONAL LIABILITY. Whenever any county treasurer shall fail to pay into the state treasury any moneys in his

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

History: 1973 c. 90, 336; 1979 c. 221, 355; 1981 c. 169

74.27 Penalties upon counties. When any county shall fail, neglect or refuse to pay to the state treasurer the whole or any part of the state tax lawfully apportioned to and levied upon such county at the time and in the manner required by law such county shall pay to the state treasurer, in addition to the amount so due and unpaid on such tax, interest at the rate of 12% per year from the time such tax was due and payable, until the same, together with such interest thereon, shall be fully paid. The department of administration shall annually, at the time it is by law directed to apportion the state tax, add to the amount charged to each county respectively all amounts which may be due the state and unpaid from such county on any former tax, together with interest thereon at the rate aforesaid up to the first day of January following such apportionment; and the amount so found shall be the amount of the state tax to be paid by such county for the year, and shall be certified, levied, collected and paid into the state treasury as provided by law; and any money in the state treasury or which may come therein at any time prior to the payment of such delinquent tax by such county, on account of any appropriation made to such county by the legislature or otherwise, except money belonging to the school fund income, shall be retained by the state treasurer, who shall apply the same, or such part thereof as may be necessary, to fully pay such delinquent tax, with interest thereon.

History: 1975 c. 211, 421; 1979 c. 110 s. 60 (13).

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

74.29 Delinquent personal tax. (1) The county treasurer shall annually, within 30 days after the several town treasurers have made their returns of delinquent taxes as provided by law, make a schedule of all the taxes on personal property in his county so returned delinquent and which remain unpaid at the time of making the schedule. The schedule shall also contain all taxes on personal property in the county returned by the town treasurers as unpaid for the 2 years next preceding those last returned and which have remained uncollected at the date thereof, and may be in the following form:

Schedule of taxes assessed on personal property for the years 19... , 19... and 19... , and which were returned as provided by law by the several town treasurers of the county of ... , as delinquent and unpaid and which remain unpaid on this ... day of ... , 19... (This should be followed by 3 columns headed "Names of Persons Taxed", "Amount of taxes due" and "Years for which taxes are due".)

(2) The county treasurer shall, within the time aforesaid, annex to such schedule a warrant under the treasurer's hand, directed to the sheriff of the county, commanding the sheriff to collect from each of the persons and corporations named in said schedule the amount of the unpaid taxes set down in such schedule opposite to their respective names, with interest at one percent per month or fraction thereof from the first day of January next preceding the time when such taxes were returned unpaid, together with the fees for collecting the

same, of the goods and chattels, lands and tenements of said persons and corporations respectively, and to pay the same to the county treasurer, and to make return of such warrant within 60 days after the date thereof; and such treasurer may issue a special warrant or warrants, in any convenient or proper form, to the sheriff of any other county commanding the collection of the delinquent personal property tax of any one person or of several persons in the discretion of the treasurer; and such last-named warrants may be issued at any time while such tax remains unpaid. The county treasurer may renew, by indorsement thereon, such general or special warrants from time to time, either before or after the return thereof, for 60 days at one time and not longer than one year after the date thereof.

History: 1975 c. 211, 421.

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

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

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

74.31 Charging tax to municipality. The county treasurer, after one year from the time any delinquent personal property tax shall have been returned to his office by the treasurer of any town and upon filing in his office the affidavit of the sheriff, his deputy or undersheriff, stating that such tax is uncollectible, shall charge the same back to such town, city or village and certify the same to the county clerk, who shall add

the same to the next county tax apportioned thereto and send a list of the individual taxes comprising the same to the clerk of such town, city or village; but if any such tax shall be thereafter collected by the county treasurer the amount so collected shall be credited to such town, city or village.

74.32 Taxes, interest; payment on share or part to county treasurer; notice. (1) Any person may discharge the taxes on any parcel of land returned to the county treasurer as delinquent or on any part or undivided share of it by paying them with interest and penalty as provided under s. 74.80 from January 1 of the year after the tax levy and all lawful charges thereon to the county treasurer at any time before the land is sold. Upon such payment the treasurer shall execute duplicate receipts showing the name of the person making the payment, the date of the receipt, the description of the property on which the tax was paid and the aggregate amount of taxes, interest, penalty, costs and charges paid. One copy shall be delivered to the person and the other filed by the county clerk. When an application is made to the county treasurer for the payment of the taxes upon any divided portion of any part of any lot or parcel of land the treasurer shall give notice of the proposed payment to any person other than the applicant having a recorded ownership, mortgage or land contract interest in the land that may be affected by the application and afford such person a hearing. This notice shall be given in the manner provided in s. 75.12 for giving notice of applications for a tax deed, and the costs of giving this notice shall be paid by the person making the application. The time for the hearing shall be fixed at not less than 10 days after service of the notice. The treasurer shall then determine the true proportion of taxes chargeable to the part on which the taxes are sought to be paid, and that amount shall be deemed to be the amount of the taxes chargeable to it.

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

History: 1975 c. 211, 421; 1981 c. 167.

74.325 Delinquent taxes; payment in instalments. The tax on any parcel of land returned to the county treasurer as delinquent may be paid in instalments of not less than \$20 and in any multiple of \$5. The portion of that payment to be applied as principal shall be ascertained by dividing the amount of the payment by the sum of one plus a figure that is the product of either .01 or a decimal that reflects the applicable percentage under s. 74.80, multiplied by the number of months of delinquency, counting any part of a month as a full month. That amount of principal shall be deducted from the amount offered in payment and the remainder shall be the interest accrued from January 1 of the year after the tax levy on that portion of the tax which is offered to be paid. Interest shall be computed only on the unpaid balance of the principal and shall be figured from that January 1, and the land against which such tax or special assessment is a lien shall be sold for the amount of unpaid balance plus interest.

History: 1975 c. 211; 1981 c. 167.

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

(2) (a) He shall prepare and cause to be published a notice stating that so much as may be necessary of each tract of land upon which the taxes have been returned as delinquent and

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

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

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

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

PAY YOUR TAXES NOW

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

.... (Name of treasurer)

County Treasurer

.... County

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

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

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

PAY YOUR TAXES NOW

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

**THIS SALE IS NOT OPEN TO THE PUBLIC.
THE COUNTY WILL PURCHASE THESE DELINQUENT TAXES.**

..... County Treasurer

..... County

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

History: 1975 c. 200.

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

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

74.39 Sale of real estate. On the day designated in the notice of sale the county treasurers shall begin the sale of those lands on which the taxes, penalty and interest have not been paid and shall continue every day, Sundays excepted, until enough of each parcel has been sold to pay the taxes, interest and penalty as provided under s. 74.80 upon the amount of such taxes from January 1 of the next year after the tax levy. Of the proceeds of the sale, an amount equal to the actual costs of the sale and the taxes, penalty and interest shall be paid into the county treasury, any special assessments owed and penalties and interest in respect to those assessments shall be sent to the unit of government to which they are owed and the remainder of the proceeds shall be paid to the person whose property was sold. If the treasurer discovers before the sale that because of irregular assessment or any other error any of the lands ought not to be sold, the treasurer shall not offer them for sale but shall report the lands withheld from sale and the reasons for withholding them to the county board at its next session.

History: 1975 c. 211, 421; 1981 c. 167; 1985 a. 153.

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

interest and charges on any such tract of land for a portion thereof then the whole of such tract shall be sold.

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

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

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

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

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

assigned by the city treasurer by direction of the common council of such city.

History: 1977 c. 29 s. 1646 (3); 1979 c. 110 s. 60 (13).

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

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

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

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

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

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

request that such assessor make and file with such treasurer an affidavit correctly describing said lands. Such assessor shall make and file such affidavit upon such request being made.

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

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

NOTICE OF CORRECTING TAX SALE CERTIFICATE
STATE OF WISCONSIN,
.... County.

To (Record owner or owners)

.... (Mortgagee or Mortgagees of record)

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

Date

Treasurer of (....)

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

(5) When no objection to such correction shall have been made within the time hereinabove provided, or when after objection, the correction has been permitted by such governing body, the county treasurer or such city treasurer, as the case may be, shall correct the real estate description in the tax sale certificate so as to conform to the proper description as set forth in the affidavit of the assessor. The fact of such correction will thereafter be indorsed by the proper treasurer on such tax sale certificates and on the record of tax sales and such indorsement shall be dated and signed by such treasurer in his official capacity. Any such tax sale certificate so corrected and any tax deed issued thereon shall be as valid

and effectual as if the proper real estate description for such lands had appeared in such tax sale certificate when first issued and in the assessment and tax roll, and in the duplicate tax roll and statement of unpaid taxes and list of delinquent lands provided for in the charter, pursuant to ss. 74.17 and 74.03 (10) (a).

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

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

74.46 Certificate of sale; may be assigned and recorded.

(1) (a) The county treasurer shall give to each purchaser on the payment of the purchaser's bid, and if it is struck off to the county then to the county, a certificate dated the day of the sale, describing the lands purchased and stating the original amount of the tax, the rate of interest and penalty and the date from which the interest and penalty accrues and the time when the purchaser will be entitled to a deed. This certificate shall be substantially in the following form:

STATE OF WISCONSIN,

.... County.

County Treasurer's Office,, 19...

I,, county treasurer of the county of, in Wisconsin, certify that I did at public auction, under notice given as required by law, on this day of, sell to A. B. (or the county of) the lands described here for dollars and cents, this sum being the amount due and unpaid for taxes, on this land for the year 19...; that A. B., his or her heirs or assigns (or the county or assigns), will, therefore, be entitled to a deed of conveyance of these lands in 3 years from this date, unless they are redeemed earlier from the sale according to law, and the rate of interest in case of redemption shall be (one percent) (...%) per month or fraction of a month from January 1, 19... These lands are described as follows, with sums for which each tract was sold set opposite to each description: (Here insert description, and separately the amount bid on each tract).

A. B. County Treasurer.

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

(c) Whenever in any county lands are bid in for delinquent taxes for the county, the county treasurer may, instead of executing separate tax certificates on every parcel of land to the county, prepare and execute one master certificate to include lands in each town, city or village sold for delinquent general taxes, special assessments, drainage assessments levied as specified in ch. 88 (or ch. 88 or 89, 1965 stats., as it existed prior to January 1, 1965) and special improvements bonds and trust items. This certificate shall be in substantially the form as provided in this paragraph and shall incorporate by reference to appropriate numbering in the treasurer's tax sales record the description of each separate parcel and the amount of delinquent tax and charges intended to be included in the tax certificate. Thereafter when any person desires to purchase the tax certificate on any individual parcel included in either of the master certificates the county treasurer shall execute a single tax certificate to the county in the form prescribed in this subsection, and the

county treasurer shall endorse it and add the official character. Then the procedure prescribed in sub. (2) shall apply. Whenever one or more single certificates are executed on parcels included in a master certificate that fact shall be noted on the master certificate by reference to the item number of the parcel. If after the issue of any master certificate any delinquent tax item included is redeemed, the fact, date and amount of redemption shall be noted on the master certificate by reference to the items of the parcel. The form of the master certificate shall be substantially as follows:

STATE OF WISCONSIN,

.... County.

County Treasurer's Office,, 19...

I,, county treasurer of the county of, in the state of Wisconsin, certify there was sold at public auction, under notice given as required by law, on the day of, 19..., to the county of, the lands described and listed in volume number, town of, record of sales and assignments, the item numbers of which are set forth below. The record is on file in the office of the county treasurer of county and is hereby made a part of this certificate. The sum listed below is the amount due and unpaid for taxes on the lands for the year 19... The county of or assigns will therefore be entitled to a deed of conveyance of the lands in 3 years from this date, except that when razing costs incurred by any city or village are included in the amount due for taxes the period of redemption shall be one year from the date of the certificate, at the expiration of which the county or its assigns shall be entitled to a deed, unless redeemed from sale according to law. The rate of interest in case of redemption shall be (one percent) (...%) per month or fraction of a month from January 1, 19... The lands, together with the sum for which they are sold, are more particularly shown in volume number, town of, record of sales and assignments numbers, and

...., County Treasurer.

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

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

History: 1977 c. 174; 1981 c. 167; 1981 c. 390 s. 252.

See note to 75.01, citing 63 Atty. Gen. 592.

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

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

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

74.57 Lands acquired by state are not subject to tax sale.

(1) It shall not be lawful for any county, city or village treasurer to sell any lands which shall have been acquired by the state after the taxes become a lien thereon. When such lands shall have been returned delinquent to the county treasurer he shall certify to the board of commissioners of public lands a description thereof together with the amount

of taxes charged against each separate description. The board of commissioners of public lands within 10 days after the receipt of such certificate from the county treasurer shall consider the question of whether such taxes are just and legal, and if it so finds shall order the same paid. It shall transmit a certified copy of its order to the department of administration, and upon its audit and warrant drawn upon the state treasurer the amount of said taxes shall be paid out of the appropriation provided for carrying out the purposes of this section.

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

(3) Whenever, in any action brought by the state to set aside tax deeds outstanding on lands owned by the state, the court shall, as a condition of relief, order a certain amount to be paid by the state, the board of commissioners of public lands may order that the amount required by the order of the court as a condition of relief shall be paid from the state treasury. A certified copy of its order shall be filed with the department of administration, and upon its audit thereof and its order drawn on the state treasurer the amount shall be paid to the clerk of the proper court or such other person as directed by the order of the court.

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

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

74.58 Personal liability for delinquent taxes and other costs. (1) In this section:

(a) "City" means a city authorized by law to collect and sell its own taxes.

(b) "Property owner" means:

1. Any person who owns real property on which real estate taxes or special assessments are delinquent during the period to which the delinquency applies.

2. Any person who owns real property that is razed by a city under s. 66.05 (2), (5) or (8)(b).

3. Any person who owns real property on which an excavation is located that is filled by a city under s. 66.05 (6).

4. Any person who owns real property on which a public nuisance is abated under s. 823.04 or 823.22.

(2) A 1st class city may proceed against any real property, the property owner or both to collect delinquent real estate taxes and other costs.

(3) (a) A city may bring a civil action against a property owner to recover any of the following costs:

1. Delinquent real estate taxes and special assessments. A property owner is personally liable for the payment of delinquent real estate taxes and special assessments to the extent that the delinquency applies to taxes and assessments owed for the period during which the property owner owned the property.

2. The cost of razing property incurred under s. 66.05 (2), (5) or (8) (b).

3. The cost of filling an excavation incurred under s. 66.05 (6).

4. The cost of abating a public nuisance under s. 823.04 or 823.22.

(b) If real property is owned simultaneously by more than one person, the owners are jointly and severally liable for the payment of these costs, subject to this section.

(4) If a city proceeds against both the real property and the property owner to collect these costs, the city may not recover more than the amount owed, plus applicable interest and penalties.

History: 1983 a. 476; 1985 a. 90.

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

History: 1971 c. 154.

74.60 Neglect to elect officers; how taxes collected.

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

74.62 Taxes; payment by grantor and grantee. As between grantor and grantee of any land, when there is no express

agreement as to which shall pay the taxes assessed thereon for the year in which the conveyance is made, the grantor shall be chargeable with and pay to the grantee an amount thereof equal to one-twelfth of the taxes assessed against such land for the preceding calendar year multiplied by the number of months in the current calendar year which have elapsed prior to the date of the conveyance, including the month in which the conveyance is made if such conveyance occurs after the fifteenth day thereof.

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

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

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

74.66 Loss by officers. All losses that may be sustained by the default of any officer of any town, city or village in the discharge of the duties imposed by chs. 70 to 79 shall be chargeable to such town, city or village; and all losses sustained by the default of any county officer in the discharge of such duties shall be chargeable to such county; and the county board shall add all such losses to the next year's taxes of such town, city or village, or county, as the case may require.

History: 1979 c. 89.

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

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

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

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

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

(a) Any past due or defaulted principal or interest of a prior lien.

(b) Any interest or amortized instalment due under a prior lien.

(c) Premiums and assessment on insurance policies necessary to protect the security of the lienor making such payments or of any prior lien and authorized under the terms of either such lien.

(d) Taxes or special assessments due and unpaid on any realty covered by the lien with interest, penalties and costs.

(e) Any portion of a prior lien.

(f) Any charge for improvements or any other item authorized by statutes or by the terms of any prior lien.

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

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

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

(6) Section 74.695 shall not apply to any lien in existence on June 17, 1925.

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

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

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

74.73 Recovery of unlawful taxes and overassessments. (1g) In this section, "unlawful tax" means a tax in respect to which one or more errors under s. 74.135 (1) to (6) were made.

(1m) If a final judicial determination is made that a property tax levied and collected was void from the first assessment, any recovery of money shall be limited to property taxes collected on the basis of the 7 immediately preceding annual assessments.

(1r) Any person aggrieved by the levy and collection of any unlawful tax assessed against him may file a claim therefor against the town, city or village which collected such tax in the manner prescribed by law for filing claims in other cases. If it appears that the tax for which such claim was filed or any part thereof is unlawful and that all conditions prescribed by law for the recovery of unlawful taxes have been complied with, the town board, village board or common council may allow and the town, city or village treasurer shall pay such person the amount of the claim found to be unlawful and excessive. If any town, city or village fails or refuses to allow the claim, the claimant may have and maintain an action against the same for the recovery of all money so unlawfully levied and collected, together with interest at the legal rate computed from the date of filing the claim. Every such claim shall be filed, and every action to recover any money so paid shall be brought, within one year after such payment.

(2) If any town, city or village has paid such claim or any judgment recovered thereon after having paid over to the county treasurer the state, county and metropolitan sewerage area debt retirement tax levied and collected as part of such unlawful tax, or has paid any necessary expenses in defense of such action, the town, city or village shall be credited by the county treasurer, on the settlement with the proper treasurer for the taxes of the ensuing year, the whole amount of such state, county and metropolitan sewerage area debt retirement tax so paid into the county treasury and the county's, state's and metropolitan sewerage area debt retirement tax proportionate share of the taxable costs, interest and expenses of suit, unless such claim or judgment is the result of an error or defect, other than an error or defect of law, caused by the town, city or village or official thereof. The county treasurer shall also be allowed by the state treasurer the amount of state tax so illegally collected and the state's proportionate share of such taxable costs, interest and expenses of suit and shall be paid in his settlement with the state treasurer next after the payment of such claim or the collection of such judgment. If any part of such unlawful tax was paid over to any school district or vocational, technical and adult education district before the payment of such claim or judgment, the town shall charge the same to such district with the proportionate share of the taxable costs, interest and expenses of suit, and the town clerk shall add the same to the taxes of such district in the next annual tax.

(2m) No claim shall be allowed and no action shall be maintained under this section unless it appears that the plaintiff has paid more than his equitable share of such taxes.

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

(4) No claim may be filed and no action may be brought under this section which is based upon an allegedly excessive assessment except that in counties with a population of under 500,000 which have not adopted a county assessor system a claim may be filed and an action may be brought if the tax is paid on the contested assessment by January 10 of the year following the year of the assessment and a claim filed within 10 days thereafter and suit commenced within 30 days following the denial of the claim or within 90 days after the claim is filed if the municipalities fail to act on the claim.

History: 1971 c. 154; 1979 c. 51; 1981 c. 204; 1983 a. 225

Tax levy on tax exempt nursing home held void ab initio as beyond the taxing officers' jurisdiction; therefore, limitation of (1) is inapplicable and taxpayer is entitled to interest for entire period over which it was wrongfully deprived of funds. *Family Hosp. Nursing Home, Inc. v. Milwaukee*, 78 W (2d) 312, 254 NW (2d) 268.

Where allegedly excessive assessment is the result of unlawful valuation, action to recover excessive tax may be brought under (1) notwithstanding (4). *Bischoff v. Appleton*, 81 W (2d) 612, 260 NW (2d) 773.

Voluntary payment rule applied to tax assessed against exempt property. *Heileman Brewing Co. v. City of La Crosse*, 105 W (2d) 152, 312 NW (2d) 875 (Ct. App. 1981).

"Such taxes" in (2m) refers only to taxes under (1) complained of by taxpayer. *Marina Fontana v. Fontana-on-Geneva Lake*, 111 W (2d) 215, 330 NW (2d) 211 (1983).

See note to 38.16, citing OAG 2-86.

were so paid is void, the court, before entering judgment, shall continue the action for a sufficient time to permit a reassessment of the property affected by such void assessment, and such reassessment shall thereupon be made in accordance with the provisions of law. If from such reassessment when so made it shall appear that the sum or sums paid for taxes by the plaintiff are no greater than his equitable and just share of the taxes as so reassessed, judgment shall be entered for the defendant; and if from such reassessment it shall appear that the plaintiff has paid more than his equal and just share of the taxes judgment shall be entered in his favor for the excess only over such share. The validity of the reassessment herein provided for may be attacked and determined, and subsequent reassessments may be had as provided by s. 75.54; provided, that such reassessment shall in all cases be made by the assessor of the assessment district wherein the property to be reassessed is situated.

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

See note to 75.54, citing *Fontana v. Village of Fontana-on-Geneva Lake*, 107 W (2d) 226, 319 NW (2d) 900 (Ct. App. 1982), aff'd 111 W (2d) 215, 330 NW (2d) 211 (1983).

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

(2) A copy of the resolution with a statement of the amount and date paid and description of the property certified by the clerk of the paying municipality, may be recorded with the register of deeds of the proper county and the amount shall thereby become a lien upon the real property in favor of the paying municipality. A lien created under this section shall have priority over all other liens except tax certificates or prior liens created under this section for the amount paid, with legal interest. Upon transfer of title of the property by any means or if the council of any city or board of any town or village finds a person no longer to be a worthy indigent resident qualified under this section, the amount of taxes previously paid under sub. (1), or any portion thereof, and legal interest accrued may be extended upon the next available tax roll, or may be proportionately extended upon any number of the next available tax rolls, and when extended upon the tax roll shall be considered a delinquent tax against the property subject to all proceedings in relation to collection, return and sale of property for delinquent real estate taxes.

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

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

History: 1979 c. 34.

74.78 Recovery of taxes paid by wrong school district. Whenever any debt or tax owing by a school district is

74.74 Reassessment of plaintiff's taxes. (1) In any action for the recovery of any money paid as and for taxes levied either upon real or personal property, or both, if upon the trial it shall appear that the assessment upon which the taxes

assessed against and paid by another district, such tax plus six per cent shall be entered in the next tax roll against the taxable property in the debtor district, and when collected shall be paid to the treasurer of the district, against which the tax was so erroneously assessed.

Claim under this section was barred by lack of compliance with 893.80 (1) (a). *Elkhorn School Dist. v. East Troy School Dist.* 110 W (2d) 1, 327 NW (2d) 206 (Ct. App. 1982).

Mandamus was appropriate remedy under this section; notice and limitations statutes were not applicable. *Elkhorn Sch. Dist. v. E. Troy Dist.* 127 W (2d) 25, 377 NW (2d) 627 (Ct. App. 1985).

Action under 74.78 is subject to 6-year limitation under 893.19 (4) [now 893.93 (1) (a)] as well as requirements of 895.43 (1) [now 893.80 (1)]. 68 Atty. Gen. 389.

74.79 Instalment tax payments. (1) The common council of any city authorized by its charter to sell land for nonpayment of city taxes may by ordinance extend the time for payment without interest of all or a portion of the real estate taxes and special assessments of the city, except special assessments as to which no extension is allowed, for a period of time not exceeding 9 months from January 31 in one or more instalments under conditions set forth in the ordinance. Real estate property taxes, at the option of the taxpayer, may be paid in 10 equal instalments, each of which shall be paid on or before the last day of each month from January through October. The taxpayer must exercise the option of paying the taxes in 10 equal monthly instalments by making the first instalment payment on or before January 31 of the year in which the taxes become due. If one instalment only is not paid on the due date it shall not be deemed delinquent or to render the unpaid balance delinquent, but that instalment shall be collected together with interest and penalty as provided under s. 74.80 from the day following the due date. If a 2nd instalment is not paid on the due date the city treasurer shall declare the unpaid balance delinquent and the taxes and special assessments shall be collected together with interest and penalty as provided under s. 74.80 from the preceding January 1. If the final payment is not made in the month following the due date, the delinquent unpaid balance shall be collected together with interest and penalty as provided under s. 74.80 from the preceding January 1. On December 1, the treasurer shall begin the sale by public auction of all tracts and lots or parcels upon which instalments of city taxes and special assessments remain unpaid. This sale shall be conducted in the same manner in which land is required to be sold for nonpayment of city taxes.

(2) The common council of such city may by ordinance extend the time of payment without interest of a portion of all taxes and charges in the duplicate county tax roll or of any tax or charge levied by a metropolitan sewerage district under ss.

66.88 to 66.918 for a period of time not exceeding 6 months from January 31 in one or more instalments; the time of payment, interest and delinquency to be the same as provided for such city instalments.

(3) A payment shall be considered timely made under this section if mailed by the taxpayer in a properly addressed envelope and received by the city treasurer with postage duly prepaid, which envelope is postmarked before midnight of the last date prescribed for making the payment or if payment is received by the city treasurer by mail or otherwise within 5 days of the prescribed date. If the requirements set forth in the preceding sentence are not fulfilled due only to delay or administrative error on the part of the U.S. postal service, the payment shall be considered timely.

History: 1975 c. 211; 1977 c. 174, 418; 1979 c. 158; 1981 c. 167, 282; 1985 a. 21.

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

74.80 Interest and penalty on overdue and delinquent taxes. (1) The interest rate on overdue or delinquent real estate taxes, personal property taxes and special assessments is one percent per month or fraction of a month.

(2) (a) The board of any county or the city council of any city authorized by law to collect and sell its own taxes may by ordinance impose a penalty of up to 0.5% per month or fraction of a month, in addition to the interest under sub. (1), on any overdue or delinquent real estate taxes and special assessments. The governing body of any city, village or town may, by ordinance, impose a penalty of up to 0.5% per month or fraction of a month, in addition to the interest under sub. (1), on any overdue or delinquent personal property taxes.

(b) Any ordinance enacted under par. (a) may specify that the penalty under this subsection shall apply to any real estate taxes and special assessments, or to any personal property taxes, that are overdue or delinquent on the effective date of the ordinance. The ordinance may specify that the penalty under this subsection shall apply to any real estate taxes and special assessments, or to any personal property taxes, that become overdue or delinquent on or after January 1, 1982. The ordinance may specify that any or all of the real estate taxes and special assessments on an owner-occupied residence or farm is not subject to the penalty under this subsection. The ordinance may specify that the county treasurer shall exclude the additional revenue generated by the penalty from the distributions required by ss. 74.03 (7) and 74.031 (12) (c) and (d).

History: 1981 c. 167; 1983 a. 27.