Chapter 6

Real Property Assessment – Special

The items included in this section are taxed or assessed differently than real property that is subject to the general tax rate.

While the cardinal rule of taxation under the Wisconsin Constitution is uniformity, exceptions have been made by the legislature. Some exceptions, such as the taxation of forest lands, are specifically mentioned in the Constitution.

The purpose of this section is to bring to the assessor's attention the special laws that affect the taxation or assessment of special property. Since most of these laws are quite detailed, only a brief discussion will be given in the following pages. The assessor should contact the Supervisor of Equalization if there are any problems involving these areas.

Forest Lands

Forest land can be taxed under one of two programs: Forest Crop Law or Managed Forest Law. Forest Crop Law applies to land entered under the program prior to January 1, 1986. All lands in the program will continue to be taxed under the program until their contracts expire or are withdrawn or converted. As of January 1, 1986, all new applications for taxation of forest land are subject to the Managed Forest Land (MFL).

Questions regarding the qualification of forest land under any of these programs should be directed to:

Department of Natural Resources
Forest Tax Section
P.O. Box 7963
Madison, Wisconsin 53707

608-266-3545 or 608-266-8019

Forest Crop Law

The Forest Crop Law was passed in 1927 to encourage sound forestry practices and to stimulate the economies of the northern counties. Prior to 1927, forest land was assessed on the value of the land plus the value of the standing timber crop. This method encouraged premature cutting of timber and discouraged long-term investment in forestry. Under the Forest Crop Law (secs. 77.01 to 77.14, Wis. Stats.), forest land which has been entered under the law is taxed at a constant annual rate while the timber is taxed according to its value when harvested.

In order to be classified as forest cropland the property owner must petition the Department of Natural Resources (DNR) and the following requirements must be met:

1. The land must be an entire quarter-quarter section, fractional lot, or government lot as determined by the U.S. Government survey plat.

2. The highest and best use of the land must be for growing timber and other forest crops.

3. Any improvements must be minimal and must be related to forestry use. NOTE: Buildings on forest cropland are assessed as personal property.

4. Non-productive land cannot exceed 20% of the total area, except under unusual circumstances.

5. All persons holding encumbrances upon the land must join in the petition to have the land classed as forest cropland.

The DNR will investigate the petition. If all the requirements are met, the petition is granted on the condition, that all unpaid taxes against the property are paid within 30 days. If the taxes are not paid within the 30 days, the request is denied. All orders issued by the DNR on or before November 20 of any year take effect on January 1 of the following calendar year.

The granting of the petition creates a contract between the DNR and the owner with the following conditions:

1. The contract runs for 25 or 50 years at the option of the owner, at the time the petition is filed.

2. The contract remains in force if the land ownership changes.

3. The owner agrees to allow the public to hunt and fish on the land subject to regulations of the DNR; to practice sound forest management; to file a notice of intent to harvest timber at least 30 days prior to cutting; and to file a report of products harvested within 30 days of completion of cutting.

The owner may voluntarily withdraw the land from the program; however, if the owner fails to honor the contract, the DNR may cancel the contract. In either case, the owner must pay back taxes on the land. The back taxes are determined by the Department of Revenue (DOR) based on what the taxes would have been if the property had been subject to general property taxes. This is why the assessor must value the forest cropland property each year on the assessment roll. When any forest cropland is withdrawn, the property is subsequently assessed and taxed as if the property had never been under this category.

Section 77.88(5g), Wis. Stats., provides that, as of September 1, 2010, a property owner may request an estimate of the amount of withdrawal tax they would owe if the property owner would decide to remove property from the MFL program. By submitting this form, a property owner is not committing to removing the property from the MFL program. There is a nonrefundable fee, payable to the DOR, equal to the greater of $100 or $5 times the number of whole and partial acres included in the request. To receive an estimate, the property owner must complete and submit Form PR-296 (Request for Estimate of Withdrawal Tax for Managed Forest Land (MFL)), along with the nonrefundable fee. No estimate will be issued without the receipt of both a properly completed request and the correct fee amount.

The assessor is notified of the orders of entry, withdrawal, and changes of ownership of forest cropland by the DNR. The order will show the effective date of the order, usually January 1 following the issuance of the order. It is only after receiving the order that the assessor can reclassify forest cropland. There are three classifications of land under this law:

Regular Classification (10 cents per acre)

This classification includes land entered into forest cropland prior to January 1, 1972. The land must be located within a forest protection district, meet the requirements of the law, and be 40 or more acres of forest land. The owner pays a tax of 10 cents per acre each year to the taxation district treasurer. The DNR pays 20 cents per acre annually to the taxation district treasurer. In addition, the owner pays a tax of 10 percent of the stumpage value of the timber (when it is cut) to the DNR, which is shared with the town and county.

There is a column in the assessment roll for Private Forest Croplands. The assessor enters code 1 for land entered prior to 1972, the number of acres, and the value of this acreage.

Regular Classification ($2.52 per acre)

This classification includes land entered in forest cropland after December 31, 1971. The land must meet the same requirements as the land taxed at 10 cents per acre. Currently, the owner pays a tax of $2.52 per acre each year to the taxation district treasurer. The charge per acre can be recalculated every 10 years by the DOR to generate revenue more consistent with current conditions. The DNR pays 20 cents per acre annually to the taxation district treasurer. The owner pays a severance tax of 10 percent of the stumpage value of the harvested timber to the DNR which is shared with the town and county.

This land is entered on the assessment roll under Private Forest Croplands. The assessor enters code 2 for land entered after December 31, 1971, the number of acres, and the value of this acreage.

Special Classification (20 cents per acre)

In 1949, the legislature created a special classification of forest cropland. This includes forest land that meets all the requirements of the law but is outside a forest protection district. The owner pays a tax of 20 cents per acre each year to the taxation district treasurer. The owner does not pay any tax for harvesting timber and the DNR does not pay any money to the town or village. No lands are currently being entered under this classification because all such land is now in a forest protection district. However, there are lands that are still under contract as special classification and must be taxed under this provision.

These lands are also entered on the assessment roll under Private Forest Croplands. The assessor enters these lands under code 3 for special classification, the number of acres, and the value of this acreage.

Managed Forest Law

The Managed Forest Law (secs. 77.80 to 77.91, Wis. Stats.) was created in 1985 to replace the Forest Crop and Woodland Tax laws. Existing Forest Crop and Woodland Tax contracts and taxation procedures will continue until expiration of the contracts. All new land or any land from expired contracts must be entered under the Managed Forest Law to receive special taxation. The land entered under the Managed Forest Law is taxed at a constant rate per acre. The owner pays a yield tax of 5 percent of the stumpage value of any harvested timber to the DNR.

NOTE: 2013 Wisconsin Act 54 repealed sec. 77.16, Wis. Stats., which governed the Woodland Tax Law. Assessors should review their municipalities to determine if they have any properties classified as enrolled in the Woodland Tax program.

NOTE: 2013 Wisconsin Act 81 created or amended statutes relating to public access to managed forest land that is located in a proposed ferrous mining site. Property owners, assessors and municipal officials should review this act if they have proposed ferrous mines in their municipality.

In order to qualify for the Managed Forest Law, the land must meet the following conditions:

1. Be at least 10 contiguous acres in a single municipality.

2. At least 80 percent of the parcel must be producing or be capable of producing a minimum of 20 cubic feet of merchantable timber per acre per year.

A parcel that is developed for commercial recreation, industry, human residence, or any other use determined by the DNR to be incompatible with the practice of forestry is not eligible for taxation under this law. The DNR will investigate the application for land to be placed under the Managed Forest Law. Any order issued on or before November 20 is effective on January 1 of the following calendar year.

MFL is open to public access for the purpose of hunting, fishing, hiking, sightseeing and cross-country skiing. The owner may choose to designate an area as closed to public access

consisting of one of the following options:

1. A maximum of two quarter quarter sections, government lots, or fractional lots; or

2. A maximum of 80 acres per municipality. An owner may designate only one closed area in a municipality.

Some landowners were closing lands to the public, then leasing them to private individuals for recreations purposes which defeated the purpose of Managed Forest Laws, which intent was to provide public access to Wisconsin's forest resources. Effective January 1, 2008, the law does not allow closed lands under the MFL program to be leased for recreational activities. If lands are leased or other compensation is received for allowing recreational activities, the land is at risk of being removed from the Managed Forest Law program.

Non-profit organizations are exempt from this requirement if the lease has consideration or compensation solely for reasonable membership fees and is approved by the DNR.

Note: It is possible for a landowner to have additional closed land under special circumstances.

2013 Act 20 amended sec. 77.88(3g) and (8)(b), Wis. Stats. to allow for the removal of certain acres from the MFL contract for a building site. Requirements that need to be met before the withdrawal will be allowed are the following:

- The land must have been designated MFL prior to October 11, 1997
- Can only withdraw acreage once per parcel
- Maximum withdrawal is three acres, unless a zoning ordinance establishes a minimum lot size greater than three acres, in which case the withdrawal is limited to the minimum lot size requirement.

Parcel means contiguous acreage under the same ownership, described in original application for MFL.

The Department of Natural Resources cannot order further withdrawal unless the remaining acreage fails to meet the 10 acre minimum parcel size for enrollment into MFL.

Although not subject to the general property tax on an annual basis, the assessor must value the land in the same manner as similar land. This valuation is subject to the same review as other property. The assessor enters the number of acres and the value in the assessment roll under MFL. The assessor must split the land between open and closed in the assessment roll. Any buildings on MFL are assessed and taxed as personal property.

Assessors are able to verify the current charges per acre on the DNR website. Current charges are also listed on the municipality's Statement of Assessment.

Landowners with land in the Managed Forest Law (MFL) and Forest Crop Law (FCL) programs pay MFL and FCL tax rates in lieu of regular property tax rates. The following rates are effective from 2013 through 2017.

MFL tax rates (per acre) for land entered before 2005 (1987 - 2004)

Open land (acreage share tax):	$ 0.79
Closed land (acreage share tax plus $.90 closed acreage fee):	$ 1.87

MFL tax rates (per acre) for land entered after 2004 (2005 and later)

Open land (acreage share tax*):	$ 2.14
Closed land (acreage share tax plus $6.67 closed acreage fee**):	$ 10.68

* Acreage share tax = 5% of average statewide tax on productive forest land ($42.70/acre)
** Closed acreage fee = 20% of average statewide tax on productive forest land ($ 42.70/acre)

FCL tax rates (per acre) for land entered:

Before 1972:	$0.10 (does not change)
After 1972:	$2.52 (effective through 2017)
As special class:	$0.20 (does not change)

Last Revised: Tuesday November 20 2012

The 2003 Wisconsin Act 228 revised the Managed Forest Law. The following Fact Sheet was prepared by the DNR.

2003 Wisconsin Act 228
Managed Forest Law Revision
Fact Sheet

2003 Wisconsin Act 228 was signed by Governor Doyle on April 13, 2004. This Act implements revisions to the Managed Forest Law (MFL) which came directly from recommendations made by the Governor's Council on Forestry's December 2002, Review of Wisconsin's Managed Forest Law report. Most of the changes included in the revision are effective immediately but some have a delayed effective date. These delays were provided to allow the department time to create the programs/process to go with the revisions or to plan for revenue changes in the forestry account.

The changes enacted in this Act are described below. They have been divided into sections based on the effective date of the change.

I. CHANGES EFFECTIVE IMMEDIATELY

A.) **New MFL Application Deadline set at July 1** (18 months prior to the effective date of entry) for owners of less than 1,000 acres. This deadline replaces the former January 31 deadline. All complete applications received by July 1 will be processed for entry effective the second January 1 (e.g., a complete application received by July 1, 2004 is eligible for entry effective January 1, 2006). There will be a second application date as well for landowners who submit their application with an approved management plan. See Section III. B.

B.) **MFL Application Fee raised to $300**. A $300 fee must accompany the application. Complete applications submitted prior to publication with a $100 application fee will be accepted as is. The application fee for applications submitted with an approvable management plan package remains at $20. The application fee for additions remains at $20 but there are other restrictions on additions covered below.

C.) **Deed(s) submitted with the application must be recorded.** A copy of the *recorded* legal instrument (e.g., deed, land contract, etc.) showing ownership of the land applied for entry must accompany the application. Documents that have not been recorded will not be accepted as proof of ownership for entry.

D.) **Additions to NEW MFL entries (entered January 1, 2005 or later) will be allowed.** The rules for these additions will be same as in the past (minimum of 3 acres, contiguous to the MFL entry, same ownership and municipality)

E.) **Additions to old MFL entries (entered prior to January 1, 2005) will not be allowed.** Two provisions have been provided for cases when an owner was considering adding contiguous lands to an old MFL entry.

1) If the new land being considered for entry is 10 or more acres and meets the entry requirements for MFL it must be entered under a NEW and separate order.

2) If the new land being considered for entry is less than 10 acres or it does not meet the entry requirements for MFL the owner has an option to withdraw the old entry and re-enter with the new land. The entire old MFL entry contiguous to the new parcel is withdrawn without penalty. Then the original acres along with the new acres would be entered under a NEW and separate order. All acres would be taxed under the new MFL tax rates described later in this fact sheet.

F.) ***Closed* Acreage allowed increased to 160 for new enrollees**. Anyone entering land under managed forest law effective January 1, 2005 or later may have up to 160 acres closed to public access per municipality (city, town, village). No more than 80 of the 160 acres may have been entered in 2004 or earlier.

G.) **MFL Tax Rates are changing for NEW MFL entries.** Beginning with MFL entries effective January 1, 2005 a new formula will be used to calculate MFL rates. The rates for use in 2005 – 2007 are listed below. Rates are scheduled to be recalculated for 2008 and every 5th year thereafter. The new formula sets the acreage share tax at 5% of the average statewide tax on forest land and the closed acreage fee at 20% of this average. Lands

designated as *open* to public access pay the acreage share tax and lands designated as *closed* pay the acreage share tax plus the closed acreage fee. The rates calculated for old MFL orders will continue to be calculated based on the old formula. All acreage share taxes are split between the municipality (80%) and county (20%) where the land is located.

Table 1: Old and New MFL Rates

	Current Rates Old entries	New rates
Open Lands*	$0.83	$1.46
Closed Lands ŧ	$1.95	$7.28

* Rates on *open* lands = acreage share tax

ŧ Rates for *closed* lands = acreage share tax plus closed acreage fee

H.) **The *open/closed* designation of MFL land may be modified up to 2 times**. The designation of open and closed lands may be modified up to two times per MFL entry. This applies to all MFL entries (old and new). Any modifications to the open and closed designation must follow statutory and administrative code guidelines. The open and closed designation may be modified in conjunction with a transfer or withdrawal as well.

I.) **The Transfer Fee set at $100.** This is the fee required when land currently under the managed forest law is transferred to another ownership. The revised fee will be required on any transfer received after *April 27, 2004.*

J.) **$300 Withdrawal Fee is created.** The withdrawal fee will be added to the withdrawal tax assessed when land is removed from managed forest law designation early (before the 25 or 50 year order period is completed). The fee will be assessed on all withdrawals received after *April 27, 2004*.

K.) **$250 non-compliance penalty provision is established**. The non-compliance penalty will be assessed when an owner fails to carry out mandatory forestry practices covered in the MFL management plan. The penalty will be used to gain compliance when necessary and will be billed and collected by the municipality where the land is located. The penalty will be shared between the municipality (80%) and county (20%).

L.) **No Yield Tax in first 5 years of NEW MFL entries**. The 5% yield tax assessed on timber harvested from MFL land will be waived for the first 5 years of NEW MFL orders. This 5-year waiver does not apply when an FCL contract is converted to MFL prior to the expiration of the contract or to renewals of expiring MFL orders.

M.) **Withdrawal for delinquent personal property tax.** If the personal property tax assessed against a building on land designated as MFL is delinquent the land will be withdrawn from MFL designation. And a withdrawal tax and withdrawal fee will be assessed against it.

N.) **Qualifying forested lands with in a *city* are eligible for entry.** Formerly only lands in towns or villages were eligible for entry.

II. CHANGES EFFECTIVE July 1, 2004

A.) Change in the distribution of Yield Tax collections. Beginning July 1, 2004 100% of all yield taxes collected will be split between the municipality (80%) and the county (20%) where the MFL land is located. The state will no longer retain 50% of the yield tax.

B.) Change in the distribution of Withdrawal Tax collections. Beginning July 1, 2004 100% of all withdrawal taxes collected will be split between the municipality (80%) and the county (20%) where the MFL land is located. The state will no longer retain 50% of the withdrawal tax.

III. CHANGES EFFECTIVE (in 18 months)

A.) **All management plans must be prepared by a Certified Plan Writer or the DNR Forester**. Beginning *November 1, 2005* all MFL plans must be prepared by a plan writer certified by the department. The delayed effective date of this provision was provided to allow the department time to establish a certified plan writer process.

B.) **Second application deadline created – May 15,** (7 ½ months prior to effective date of entry). Beginning in 2006 there will be a second deadline for filing MFL applications. **Complete applications submitted with a completed management plan package by May 15** will be considered for entry effective the first January 1 (e.g., completed application with completed plan received May 15, 2006 is eligible for entry January 1, 2007.) This provision does not eliminate the July 1 deadline; it merely provides an opportunity for landowners to have a shorter period between the application deadline and the effective date of the entry if they can supply a completed management plan package. The management plan package must include, on department forms, 1) forest stand data, 2) map(s) of land being entered,
3) legal description and acreage information for land being entered, and 4) a written plan. The written plan must be prepared by a Certified Plan Writer (provision above) and be approved by the department before submission with the application.

Tax Incremental Finance

Tax Incremental Finance (TIF) is an economic development tool used to expand the tax base by providing public improvements necessary to promote development. It was approved by the Wisconsin Legislature in 1975 as a financial tool cities and villages could use to promote tax base expansion targeting eliminating blighted areas, rehabilitating areas declining in value, and promoting industrial development. The Legislature made changes in the years that followed and then more substantial changes in March 2004. In 1997, TIF was expanded to include Environmental Remediation Tax Incremental Finance (ER TIF) which specifically deals with cleanup of environmental contamination parcels by towns, villages, cities, and counties. In 2004, TIF was expanded to include specific projects for Towns, as well as targeting mixed-use development and many other changes to the Regular TID law.

When creating a Tax Incremental District (TID), numerous conditions must be met and are distinctive to the specific kind of TID and the type of targeted area. Procedures for creating TID's are described in three separate Wisconsin Statutes - Regular TID's in sec. 66.1105,Wis. Stats; ER TID's in sec. 66.1106, Wis. Stats.; and town TID's in sec. 60.85, Wis. Stats. The DOR is in the process of developing three separate manuals for each of these. The procedures include holding public hearings, adopting a project plan, getting local legislative and joint review board approval, and gathering any information necessary for establishing the TID. There are also specific equalization valuation and area type limitations.

The appendix in this manual contains a supplemental TID Criteria Matrix, which identifies the criteria for Regular 66.1105 TID's, and Town 60.85 TID's, but not the ER TID's

Annual Administrative Fee

- Act 312 amended secs. 60.85(6)(am), 66.1105(6)(ae), and 66.1106(&)(am), Wis. Stats., regarding the annual TID fees.
- The DOR will not authorize a tax increment for any municipality that fails to remit the $150 annual administrative fee to DOR by May 15.
- As an example, if a municipality fails to submit a 2011 annual fee for TID #1 by May 15, 2011, TID #1 will not receive a 2011 increment.
- TID administrative fee payment information is available through My Tax Account.

Tax Incremental District Creations and Amendments

1. Act 312 amended the due date for TID creations and amendment forms under sec. 66.1105(5)(b). See the DOR website.
   - The clerk must complete the DOR prescribed forms to create a TID and submit to DOR on or before October 31 of the year the TID is created.
   - Similarly, if amending a TID, the clerk must complete the DOR prescribed forms to amend a TID and submit to DOR on or before October 31 of the year that the changes to the project plan take effect.
2. Act 312 amended the 12% limit calculation under sec. 66.1105(4)(gm)4.c., Wis. Stats and created secs.66.1105(10)(c) and 66.1105(12), Wis. Stats.
   - DOR will exclude any parcel in a newly created or amended TID that is located in an existing (overlapped) district when determining compliance

with the 12% limit.

- If DOR determines that a municipality exceeds the 12% limit, DOR notifies the municipality of their noncompliance not later than December 31 of the year that DOR receives the application or amendment.
- When DOR notifies a municipality that a TID creation or amendment does not comply with the 12% limit, the municipality must do one of the following:
  - ❖ Rescind its approval of the project plan resolution.
  - ❖ Remove parcels from the district, or proposed district, in order to comply with the 12% limit. The removal of parcels may not substantially alter the project plan or the resolution approved by the joint review board. Not later than **30** days after receiving DOR's notice of noncompliance, the clerk must submit to DOR an application that reflects the removal of parcels.

Joint Review Board (JRB) Meetings

- Act 312 created sec. 66.1105(4m)(e), Wis. Stats., regarding the JRB meetings.
- All JRB meetings require a class 1 public notice under ch. 985, Wis. Stats., at least 5 days prior to the meeting.

When a tax incremental district is created a "Tax Incremental Base" is determined. This base is the total value of all taxable property within the TIF district on the date the TID was created as equalized by the DOR. All Taxing Jurisdictions (municipality, special district, school, county, VTAE) continue to receive their share of the tax levy on the base value. As the Property Value over time increases, the growth above the "Base Value" is called "Incremental Value". The TIF receives taxes on the increment value at the combined rate of all taxing jurisdictions. These taxes must be retained in a separate TID fund. The mill rates are exactly the same for all property regardless of whether in the TID or not. TIF is not a tax freeze or a tax increase, but a special allocation method for taxes collected on property value increases within the district.

The TIF district continues to collect taxes on the incremental value until all the TID eligible project costs have been repaid or the maximum life of the TIF has been met, whichever comes first. After that time the incremental equalized value goes back to be shared with all the overlying taxing jurisdictions to complete the partnership promotion of expansion of the tax base.

Assessor's Duties

In the assessment roll, the assessor must identify all real estate parcels and personal property accounts in the tax incremental district by the name and number of the TID. Some businesses may have part of its personal property within the TID and part outside the district. In this case, a separate assessment must be created on the roll that includes only the personal property located in the TID.

If the municipality has a TID, the assessor must annually file an electronic TID Municipal Assessment Report to DOR no later than the second Monday of June. The report includes the

total assessed value of all real and personal property within the tax incremental district, by school district and any other special districts that may exist. The TID assessed values must also be included in the Municipal Assessment Report (MAR) for the municipality. Property within the TID is assessed in the same manner as all other taxable property in the municipality. If an assessor does not provide a TID Report by the second Monday of June, DOR will use the previous year's non-manufacturing certified Equalized Value. As a result, any non-manufacturing property value additions or corrections will be lost for the current year's computation of the increment.

Procedures described in sec. 66.46(4), Wis. Stats., are to be followed in creating a tax incremental district. The procedures include holding public hearings, adopting a project plan, getting local legislative and joint review board approval, and gathering any information necessary for establishing the TID.

Tax Incremental District (TID) Criteria Matrix

The most recent TID matrix, along with instructions and contact information, can be found on DOR's internet site.

Waste Treatment Facility

Certain facilities used for the treatment of waste are exempt from property taxes under sec. 70.11(21), Wis. Stats. A waste treatment facility is property (land, land improvements, building, machinery) used for the treatment of industrial waste or air contaminants as defined in secs. 281.01(5) and 285.01(1), Wis. Stats. Legislation included in the 2001 Wisconsin Act 16 changed the exemption approval process of industrial waste treatment property under sec. 70.11(21), Wis. Stats., effective January 1, 2002. DOR approval process and the PA-008 Application for Exemption of Waste Treatment Facility were eliminated for non-utility waste treatment property.

A company classified and assessed as a "manufacturer" by the DOR under sec. 70.995, Wis. Stats., will report waste treatment property on the manufacturing self-reporting forms. Waste treatment personal property costs must be reported on the M-P Wisconsin Manufacturing Personal Property Return, Schedule Y-P. Real estate costs related to waste treatment must be reported on the M-R Wisconsin Manufacturing Real Estate Return, Schedule Y-R, Part 1 and on Schedule R-6. Owners must retain a listing of assets classified as exempt waste treatment on these forms at their place of business for inspection by the DOR.

Definitions

"**Waste"** means that which is left over as superfluous, discarded or fugitive material….

"Industrial waste" is defined by reference to sec. 281.01(5), Wis. Stats., as liquid or other wastes, resulting from any process of industry, manufacture, trade, business, or the development of any natural resource.

"Air contaminant" is defined by reference to sec. 285.01(1), Wis. Stats., as dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof but shall not include uncombined water vapor.

"Treatment" means removing, altering, or storing waste. It is further defined as causing a physical or chemical change in sec. 70.11(21)(am), Wis. Stats.

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

"Waste Treatment Facility" means tangible property that is built, constructed, or installed as a unit so as to be readily identifiable as directly removing, altering, or storing leftover, superfluous, discarded, or fugitive material.

"Used exclusively" means to the exclusion of all other uses, except any of the following:

a. For other use not exceeding 5 percent of total use.
b. To produce heat or steam for a manufacturing process, if the fuel consists of either 95 percent or more industrial waste that would otherwise be considered superfluous, discarded, or fugitive material or 50 percent or more of wood chips, sawdust, or other wood residue from the paper and wood products manufacturing process, if the wood chips, sawdust, or other wood residue would otherwise be considered superfluous, discarded, or fugitive material.

Exceptions

This exemption does not extend to the following per Chapter Tax 12.40(3)(4)(b, c, d):

> (3)(b) The exemption for industrial waste treatment facilities does not extend to "unnecessary siltation resulting from operations such as the washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges or gross neglect of land erosion" as provided in s. 281.01 (7), Stats.
> (3)(c) The exemption for industrial waste treatment facilities does not apply to conversion of an industrial furnace from one type of fuel to another type of fuel, or to the increased height of a smoke stack to diffuse emissions over a wide area or increments to property held for the production of income but which may be indirectly related to pollution abatement. However, the installation of a scrubber or electrostatic precipitator in a smoke stack could qualify for exemption.
> (3)(d) The exemption for industrial waste treatment facilities does not apply to monitoring equipment that is not a component or integral part of a waste treatment facility.

Section 70.11(21)(am), Wis. Stats. states, "All property purchased or constructed as a waste treatment facility used exclusively and directly to remove, store, or cause a physical or chemical change in industrial waste or air contaminants for the purpose of abating or eliminating pollution of surface waters, the air, or waters of the state if that property is not used to grow agricultural products for sale and, if the property's owner is taxed under ch. 76, if the property is approved by the department of revenue. The department of natural resources and department of health services

shall make recommendations upon request to the department of revenue regarding such property. All property purchased or upon which construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats."

Common Waste Treatment Exemption Property

This list serves as a guide for determining waste treatment facilities.

Land

Land used to:

- Spread treated wastewater if the land is not used to grow agriculture products for sale. If the cover crop is given away or not harvested at all, the land would qualify for the exemption as long as the rest of the statutory requirements are met.
- Land containing industrial wastewater ridge and furrow systems and holding ponds.
- Store industrial waste.

Land Improvements

Land improvements used to:

- Hold industrial wastewater such as ridge & furrow systems.

Building Structures

Building structures used to:

- Exclusively house equipment performing a waste treatment process.
- Buildings with mixed use of any kind do <u>not</u> qualify.

Equipment

Equipment used to:

- Treat industrial waste from plating and etching operations.
- Recover gasoline vapor at gas stations.
- Clean air contaminants from spray painting stations or booths. Note: paint heaters are taxable.
- Recover and recycle Freon.
- Eliminate contaminates like grease and oil.
- Provide for groundwater remediation. This includes such items as telemetry systems, soil vapor extraction units, ground water aeration units, granular activated carbon units & recovery, injection wells, air stripping units, and liquid phase carbon units.
- Recover waste oil.

- Burn gasses produced by industrial landfill operations. This includes such items as turbines and compressors.
- Remove and store contaminated liquids such as transfer pumps and tanks.
- Treat drained contaminants such as radiator fluid.
- Treat fly ash such as a precipitator and handling system.
- Gasify wood waste.
- Control emissions.
- Remove and store waste such as electrical, piping, and tanks.
- Collect dust.
- Control fumes such as fume hoods.
- Treat contaminated water before released into ground water—commonly referred to as remediation systems.
- Clean and sanitize medical re-useable waste containers.
- Spread treated waste over land.
- Extract and recycle radiator fluid.
- Vacuum asbestos.
- Chip and grind scrap wood into sawdust.
- Incinerate solid waste.
- Recycle paint thinner.
- Recover petroleum.
- Remove, recover, or reclaim chemicals.
- Pump sludge.
- Separate water from oil.
- De-ionize or filter water prior to using it in a process.

Supplies

- Consumable supplies used in waste treatment facilities.

Property Specifically Excluded From Exemption

Land

- Land used to dispose of industrial waste and used to grow agricultural products that are sold.
- Land used to store post-consumer waste, sewage treatment, and garbage handling such as municipal sanitary landfills.

Land Improvements

- Monitoring wells located around the perimeter of industrial landfills that monitor seepage from the landfill.

Building Structures

Building structures used to:

- House equipment performing non-waste treatment functions in addition to waste treatment operations.

Equipment

- Equipment used to:
- Convert a furnace for a different fuel type.
- Treat uncombined water vapor such as steam.
- Deal with siltation resulting from operations such as washing of vegetables or raw food products, gravel washing, stripping of lands for development of subdivisions, highways, quarries and gravel pits, mine drainage, cleaning of vehicles or barges, or gross neglect of land erosion.
- Increase the height of a smokestack to diffuse emissions over a wider area.
- Monitor if it is not a component or integral part of a waste treatment facility (to be an integral or component part of a waste treatment facility, monitoring equipment must cause a reaction to take place that results in a physical or chemical change to the waste.)
- Monitor employee safety.
- Monitor the amount of discharge for reporting purpose or for charge backs such as the amount of wastewater flowing to municipal water treatment systems.
- Burn petroleum coke or tires including boilers.
- Reduce chlorine dioxide or chlorine.
- Crush, compact, or bale waste to reduce volume for ease of transportation.
- Detect leaks.
- Replace PCB filled transformers with non-PCB units.
- De-ionize or filter water.

Valuation of Property With a Contaminated Well

Section 70.327, Wis. Stats., states: "In determining the market value of real property with a contaminated well or water system, the assessor shall take into consideration the time and expense necessary to repair or replace the well or private water system in calculating the diminution of the market value of real property attributed to the contamination." This means that the market value should reflect the cost to cure the problem; that is, the cost to either repair or replace the well or private water system. Assume that the assessor is valuing a property with a contaminated well and it would cost $3,000 to drill a new well. The assessor has analyzed sales of comparable new properties with good water supplies and determined that the subject property would sell for $66,000 if it had a good water system. The assessor would then subtract the $3,000 cost of the new well from the $66,000 to arrive at a replacement cost new of $63,000 for the subject property.

This reflects the action of purchasers in the marketplace. If a purchaser can purchase a comparable property for $66,000, the purchaser will not spend $66,000 for the subject property plus an additional $3,000 for a new well. However, a purchaser could be expected to spend $63,000 for the property and then pay $3,000 to drill a new well.

NOTE: When dealing with other than new properties, an estimate of the effective age of the well and total property must be made and the dollar values added or subtracted accordingly. See WPAM, Volume I, Chapter 7, for a more complete discussion of depreciation.