Chapter 16

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.

The Wisconsin Constitution establishes uniformity of taxation, however, 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 highlight laws that impact the taxation or assessment of special property. Since most of these laws are quite detailed and managed by a variety of state agencies, a brief discussion is included with links to appropriate resources within the corresponding agencies. The assessor should contact the Supervisor of Equalization or corresponding oversight agency if there are any problems involving these respective areas.

Forest Lands

Forest land can be taxed under one of two programs: Forest Crop Law (FCL) or Managed Forest Law (MFL). FCL 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 All lands in the program will continue to be taxed under the program until their contracts expire or are withdrawn or converted.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 MFL.

The Department of Natural Resources is statutorily tasked with managing these programs. Questions on the qualification of forest land for 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

FCL is a landowner incentive program that encourages long-term, sustainable management of private woodlands. In exchange for following an FCL management schedule outlining forest practices, the landowner pays reduced property taxes. FCL was enacted in 1927 and enrollment was closed on January 1, 1986. FCL information is on the DNR website.

Managed Forest Law

MFL is a landowner incentive program that encourages sustainable forestry on private woodlands. Together with landowner objectives, the law incorporates timber harvesting, wildlife management, water quality and recreation to maintain a healthy and productive forest. To participate in the MFL program, landowners designate property as "Open" or

"Closed" to public access for recreation, and commit to a 25 or 50 year sustainable forest management plan. The plan sets the schedule for specific forestry practices which landowners must complete. In return, MFL participants make a payment in lieu of regular property taxes. MFL information can be found on the DNR website.

Assessor Responsibility

Although not subject to the general property tax on an annual basis, the assessor must determine the assessed value of MFL. 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 MFL and FCL programs make a payment in lieu of regular property taxes.

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 TIDs are described in three separate Wisconsin Statutes - Regular TIDs in sec. 66.1105,Wis. Stats; ER TIDs in sec. 66.1106, Wis. Stats.; and town TIDs 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 TIDs, and Town 60.85 TIDs, but not the ER TIDs

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.
- 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 TID 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.

The most recent TID matrix can be found on the DOR website.

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 DOR.

Definitions

- Waste: that which is left over as superfluous, discarded or fugitive material

- Industrial waste (sec. 281.01(5), Wis. Stats.): liquid or other wastes, resulting from any process of industry, manufacture, trade, business, or the development of any natural resource.
- Air contaminant (sec. 285.01(1), Wis. Stats.): dust, fumes, mist, liquid, smoke, other particulate matter, vapor, gas, odorous substances, or any combination thereof but shall not include uncombined water vapor.
- Treatment: 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: 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: 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: 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 not 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 9, for a more complete discussion of depreciation.