

WISCONSIN PROPERTY TAX

Joseph A. Pickart

Douglas A. Pessefall

John C. Healy

Jenn Jin

§ 50-000. INTRODUCTION. All real and tangible personal property (*i.e.*, “general property”) with a tax situs in Wisconsin is subject to property taxation unless statutorily exempt from taxation. General property is assessed as of the close of January 1 of each year and, accordingly, the status and value of property is fixed on that date. Nonmanufacturing property is assessed in the town, village or city in which such property has a tax situs. Manufacturing property, property of telephone companies and other “utility property,” is assessed by the Wisconsin Department of Revenue (the “Department of Revenue”) to ensure the uniform and equal treatment of all manufacturers in the state. Tax bills, whether relating to nonmanufacturing property or manufacturing property, are issued by the town, village or city in which the property has a tax situs.

§ 50-100. DEFINITIONS AND CITATIONS.

§ 50-110. Definitions of Terms Used in Chapter.

§ 50-111. Assessment Date. All general property in Wisconsin is assessed as of the close of January 1 of each year. Accordingly, the status and value of general property is fixed on that date. Wis. Stat. § 70.10.

§ 50-112. Assessor. It is the assessor’s duty to discover, list and value all taxable real and personal property. Wis. Stat. §§ 70.05 and 70.34.

§ 50-113. Board of Assessors. The first class city of Milwaukee, second class cities (with a population between 39,000 and 149,999), and the Department of Revenue provide for a board of assessors. The board of assessors is the first forum in which a taxpayer may protest the assessed valuation of its property. A taxpayer dissatisfied with the board of assessors’ determination may appeal to a board of review. Wis. Stat. §§ 70.07 and 70.075.

§ 50-114. Board of Review — Non-Manufacturing Property. All taxation districts provide for a board of review. A board of review meets to review the assessment roll, to hear complaints by a taxpayer regarding the valuation of its property, and to hear appeals from determinations by a board of assessors. A taxpayer dissatisfied with the board of review’s determination may

appeal that determination as described under § 50-500 below.

§ 50-115. County Assessor System. The county assessor system, which was initially intended to “improve and modernize” the property tax assessment system in Wisconsin, has been discontinued.

§ 50-116. General Property. “General Property” includes all taxable real and personal property. Wis. Stat. § 70.02. *See* §§ 50-212 and 50-213 below.

§ 50-116.1. Federal Property. “General property” includes property owned by the federal government where the government has consented to its taxation. Wis. Stat. § 70.177.

§ 50-117. Agricultural Land. “Agricultural land” is defined as “land, exclusive of buildings and improvements and the land necessary for their location and convenience, that is devoted primarily to agricultural use, as defined by rule.” Agricultural land is assessed at its value-in-use as opposed to its full market value. *See* Wis. Stat. § 70.32(2)(c) and (2r). Agricultural land that is converted to a non-qualifying use and is no longer eligible for such classification may be subject to a Conversion Charge, pursuant to Wis. Stat. § 74.485.

§ 50-118. Manufacturing Property. All manufacturing property is assessed by the Department of Revenue. *See* § 50-360 below.

§ 50-119. Tax Appeals Commission. The quasi-judicial body hears all appeals relating to manufacturing property assessments. *See* § 50-550 below.

§ 50-120. Taxation District. A “taxation district” is generally defined as any town, village or city in which general property taxes are levied and collected. Wis. Stat. § 70.045.

§ 50-121. Tax Bill. A bill sent by the taxation district (typically in December) for both non-manufacturing and manufacturing property which sets forth the amount of taxes assessed against the taxpayer’s property. Common terms found on the tax bill include:

§ 50-121.1. Total Assessed Value. A dollar value placed on property for purposes of determining the amount of taxes due.

§ 50-121.2. Average Assessment Ratio. A value determined by the Department of Revenue which shows the relationship between the assessed value of all taxable property in a community and the estimated market value of that property.

§ 50-121.3. Estimated Fair Market Value. A property's total assessed value divided by the average assessment ratio.

§ 50-122. Owner. The term "owner" has several meanings under Wisconsin common and statutory law. Accordingly, "owner" means more than the mere holder of bare legal title; the term also includes "beneficial owners." *See* Wis. Stat. § 70.20(1); Wisconsin Property Assessment Manual, p. 15-3.

§ 50-130. Citations to Statutes, Regulations and Cases Cited.

§ 50-130.1. Wisconsin Statutes (Wis. Stat. (2007-8)).

§ 50-130.2. Wisconsin Administrative Code (Rule Section Tax 12.____).

§ 50-130.3. Wisconsin Property Assessment Manual (Manual).

§ 50-130.4. Northwestern Reporter, 2d Series (N.W.2d).

§ 50-130.5. 1987 Standard Industrial Classification Manual (SIC Manual).

§ 50-200. CLASSIFICATION AND VALUATION OF PROPERTY.

§ 50-210. Classification of Property. All property in Wisconsin falls within one of four basic categories: (i) "general property" subject to taxation under Wis. Stat. ch. 70 (discussed herein); (ii) property subject to special "occupational taxes" under Wis. Stat. §§ 70.37 to 70.421 (briefly discussed herein); (iii) property of public utilities and insurers subject to taxation under Wis. Stat. ch. 76 (not discussed herein); and (iv) certain "forest croplands" and managed forest land described under Wis. Stat. ch. 77 (not discussed herein). For purposes of general property taxation under Wis. Stat. ch. 70, Wisconsin has two basic subcategories—real property and personal property. Wis. Stat. § 70.02.

§ 50-211. General Property. Property taxes are levied upon all general property in Wisconsin except property that is specifically exempt from such taxation. Wis. Stat. § 70.01. General property includes all taxable real and

personal property, as defined below. Wis. Stat. § 70.02. Such real and personal property includes "agricultural land" (subject to assessment at its value-in-use), and manufacturing property subject to assessment under Wis. Stat. § 70.995; the assessment of manufacturing property is the responsibility of the Department of Revenue. *See* § 50-360.

§ 50-212. Real Property. The terms "real property," "real estate" and "land" include not only the land itself, but all buildings and improvements thereon, and all fixtures, rights and privileges appertaining thereto. Wis. Stat. § 70.03. *But see* § 50-212.1 (regarding time-share property).

§ 50-212.1. Time-Share Property. For purposes of time-share property, as defined in Wis. Stat. § 707.02(32), real property does not include "recurrent exclusive use and occupancy on a periodic basis or other rights, including, but not limited to, membership rights, vacation services and club memberships." Wis. Stat. § 70.03. *See* Wis. Stat. § 70.095 for rules regarding methods for allocating real property taxes among time-share owners.

§ 50-212.2. Mobile Home as Real Property. A mobile home is deemed an improvement to real property if it is connected to utilities and is "set upon a foundation" on land which is owned by the mobile home owner. A mobile home is "set upon a foundation" if it is off its wheels and is set upon some other support. Wis. Stat. § 70.043. *See* § 50-213.5, below, for mobile homes as personal property.

§ 50-213. Personal Property. Personal property includes the following:

§ 50-213.1. Goods, Wares, Etc. All goods, wares, merchandise, chattels, and effects, of any nature or description, having any real or marketable value which are not taxable as real property. Wis. Stat. § 70.04.

§ 50-213.2. Toll Bridges, Etc. Toll bridges; private railroads and bridges; saw logs, timber and lumber, either upon land or afloat; steamboats, ships and other vessels, whether at home or abroad; ferry boats; ice cut and stored for use, sale or shipment; manufacturing machinery and equipment. Wis. Stat. § 70.04(1).

§ 50-213.3. Farming Irrigation Implements. Irrigation implements used by a farmer, including pumps, power units to drive pumps, transmission units, sprinkler devices and sectional piping. Wis. Stat. § 70.04(2).

§ 50-213.4. Property of Certain Light, Heat, and Power Companies. The entire property of "light, heat and power companies," as defined in Wis. Stat. § 76.28(1), is deemed to be personal property where such property is located entirely within one taxation district. Wis. Stat.

§ 70.04(1). Otherwise, such property is assessed by the Department of Revenue in accordance with Wis. Stat. Ch. 76.

§ 50-213.5. Mobile Home as Personal Property. A mobile home is deemed to be personal property if either: (i) the land upon which it is located is not owned by the mobile home owner; or (ii) the mobile home is not “set upon a foundation” or connected to utilities. Wis. Stat. § 70.043(2). See § 50-212.2 for treatment of mobile homes as real property.

§ 50-214. Intangible Property. Money and all intangible personal property, such as credit, checks, share drafts, other drafts, notes, bonds, stocks and other written instruments are exempt from taxation. Wis. Stat. § 70.112(1).

§ 50-215. Manufacturing Property. Property used in manufacturing establishments is included in the definition of “general property.” Wis. Stat. § 70.04(1). Such manufacturing property, however, is subject to assessment by the Department of Revenue. See § 50-360 below.

§ 50-216. Fixed Assets. For a discussion on the methods for valuing fixed assets (*i.e.*, assets with relatively long useful lives used in the operation of the business and not for resale), see Manual, p. 16-1.

§ 50-217. Real Property Versus Personal Property Classification Guide. See Manual, pp. 15-9 through 15-14.

§ 50-220. Valuation of Property. The method by which property generally is valued depends upon whether the property is real property or personal property.

§ 50-221. Valuation of Real Property. Pursuant to Wis. Stat. § 70.32(1), the assessor must value real property at the “full value which could ordinarily be obtained therefor at private sale.” Wis. Stat. § 70.32(1) further provides that assessors must assess property “in the manner specified in the Wisconsin property assessment manual.” The recognized methods of valuing real property (in order of hierarchy) are: (i) recent arm’s-length sales of the property; (ii) recent arm’s-length sales of reasonably comparable properties; and (iii) all factors that, according to professionally accepted appraisal practices, affect the value of the property to be assessed, including the cost (reproduction or replacement) approach and the income approach. Wis. Stat. § 70.32. See Wis. Stat. § 70.32(1g) and (1m) for factors (including, among others, zoning restrictions and environmental impairment) that an assessor must consider when valuing real property. See Wis. Stat. § 70.327 for valuation of property with contaminated wells or water systems.

§ 50-221.1. Non-Assessability of Internal Revenue

Code § 42 Low-Income Housing Tax Credits. An assessor “may not consider the effect on the value of the property of any federal income tax credit that is extended to the property owner under section 42 of the Internal Revenue Code.” See Wis. Stat. § 70.32(1g).

§ 50-222. Valuation of Personal Property. “All articles of personal property shall, as far as practicable, be valued by the assessor upon actual view at their true cash value[.]” Wis. Stat. § 70.34. See Manual, pp. 15-28 through 15-29, for rules regarding the valuation of leased equipment.

§ 50-223. Valuation of Agricultural Land. In 1995, the Wisconsin Legislature effectively revised the manner in which agricultural land is assessed for Wisconsin property tax purposes, replacing the fair market value standard with the use value standard (under which agricultural land is assessed at its use value as agricultural land).

§ 50-223.1. Penalty for Conversion of Agricultural Land. A taxpayer who owns land that has been valued under Wis. Stat. § 70.32(2r) as agricultural land and who thereafter changes the use of the land so that the land is no longer assessed as agricultural land, must pay a penalty equal to the number of acres converted multiplied by the difference between the average per acre fair market value of agricultural land sold in the county in the previous year, and the average per acre equalized value of agricultural land in the county in the previous year, multiplied by 5% if the conversion is of more than 30 acres, 7.5% if the conversion is of 10 to 30 acres or 10% if the conversion is of less than 10 acres.

§ 50-300. ASSESSMENT PROCEDURE BY ASSESSING AUTHORITY. All general property taxes are assessed by either: (i) the local assessor of the “taxation district” (*i.e.*, the town, city or village where the property is subject to taxation); or (ii) the Department of Revenue when the property to be assessed is manufacturing property or other “utility” property. Depending upon the population thereof, cities are further classified as cities of first, second, third, or fourth class, and, depending upon that classification, different procedures for assessment, review and abatement may apply.

§ 50-310. Local Assessment of Non-Manufacturing Property — Generally.

§ 50-311. Assessment Date. Real and personal property are taxable as of the close of January 1 of each year. Accordingly, the status and value of all property is fixed on that date. Wis. Stat. § 70.01. Except as provided in certain first and second class cities that have a board of assessors, the assessment shall be completed before the first Monday in April. Wis. Stat. § 70.10.

§ 50-312. Discovery of Non-Manufacturing

Property.

§ 50-312.1. Real Property. A taxpayer is not required to report non-manufacturing real property holdings; rather, the assessor is responsible for the discovery of all such real property.

§ 50-312.2. Personal Property. All articles of personal property shall, as far as practicable, be valued by the assessor upon actual view. Wis. Stat. § 70.34. The assessor, however, is authorized either: (i) to examine taxpayers under oath regarding taxable personal property; or (ii) to require certain property owners to furnish, by March 1 of each year, information on personal property returns. Wis. Stat. § 70.35. A property owner who refuses to testify under oath or who fails, neglects or refuses to file a personal property tax return will be denied any right of abatement (regarding the valuation thereof) unless the form is filed with the board of review together with a statement of the reasons for failure to file in a timely manner. Wis. Stat. § 70.35(4). Returns generally are not required from farmers or any person, firm or corporation whose personal property is not used for the production of income. Wis. Stat. § 70.35(6). If good cause exists, the assessor may allow a reasonable extension of time for filing the return. Wis. Stat. § 70.35(3). See Wis. Stat. § 70.36 for penalties imposed for filing false returns.

§ 50-313. Where Property Assessed.

§ 50-313.1. Real Property. Taxable real property generally is assessed in the assessment district where it lies. Wis. Stat. § 70.12.

§ 50-313.2. Personal Property. Personal property is assessed in the assessment district where the same is located or customarily kept except as otherwise specifically provided. Wis. Stat. § 70.13(1). A change in the location or sale of property after January 1 does not affect the assessment. Wis. Stat. § 70.13(6). Personal property in transit within Wisconsin on January 1 is assessable in the district in which the property is intended to be kept or located. Personal property having no fixed location is assessable in the district where the owner or possessor resides, except as otherwise statutorily provided. For this purpose, the residence of an incorporated company is the district in which the principal office or place of business is located. Wis. Stat. § 70.14. See Wis. Stat. § 70.13(2), (3) and (7), for special rules regarding assessment of saw logs and timber.

§ 50-314. To Whom Property Is Assessable.

§ 50-314.1. Real Property. Real property taxes are assessable against either the owner (including “beneficial” owners), if known to the assessor, or to the occupant thereof, if ascertainable. See Wis. Stat. § 70.17 for exceptions.

§ 50-314.2. Personal Property. Personal property taxes are assessable against the owner (including “beneficial owner”) or against some other person who is in charge or possession of the personal property. See Wis. Stat. § 70.18(1). When personal property taxes are assessed against a non-owner, that person is personally liable for the tax on the property; however, that person has a personal right of action against the owner or person beneficially entitled to the property for the amount of the taxes. Wis. Stat. §§ 70.19 and 70.20. Personal property owned by a partnership is assessable against the persons comprising such partnership. Wis. Stat. § 70.21. Personal property of a limited liability partnership is assessable in the name of the partnership and each partner is liable for the taxes levied thereon to the extent permitted under Wis. Stat. § 70.21, 178.12. See Wis. Stat. § 70.21. Personal property belonging to the estate of a person deceased generally is assessable against the personal representative(s) of the estate. See Wis. Stat. §§ 70.21 and 70.22.

§ 50-314.3. Improvements on Government-Owned Land. Improvements made by any person on land owned by the United States are assessable as either real or personal property to the person making the improvements, if ascertainable, and otherwise to the occupant thereof or the person receiving the benefits therefrom. Wis. Stat. § 70.174.

§ 50-315. Notice to Taxpayer — Non-Manufacturing Property.

§ 50-315.1. Real Property. When an assessor places a valuation on any taxable real property (or on any improvements taxed as personal property under Wis. Stat. § 77.84(1) (relating to taxation of buildings on managed forest land)), and arrives at a different total than the previous year’s assessment, the assessor must, at least 15 days prior to the meeting of the local board of review (or before the meeting of the board of assessors in first class cities and in second class cities that have a board of assessors), notify the taxpayer in writing of such different total. See Wis. Stat. § 70.365. Otherwise, generally no notice is required. If the assessor fails to give the proper notice, the owner may bring a claim for excessive assessment in circuit court without first going before the board of review. See § 50-526.3.

By Wis. Act. 210, first effective to property tax assessments of January 1, 2008, notice must also be provided to taxpayers in cases where the assessor has determined that land which was previously assessed as agricultural land is no longer eligible for such classification and, as such, may be subject to a Conversion Charge, as described in § 50-117.

§ 50-315.2. Personal Property. Taxation districts are not required by law to furnish taxpayers with individual notices setting forth the assessed value of their non-man-

ufacturing personal property. Assessment rolls setting forth such valuations, however, must be made available for public inspection.

§ 50-316. Notice to Taxpayer — Manufacturing Property. See § 50-366.6 below.

§ 50-317. Omitted Property — Non-Manufacturing Property. In cases where non-manufacturing property (either real or personal) is omitted from assessment, such property may be assessable as omitted property. The assessor is authorized to assess any property omitted from taxation in the next preceding two years. An assessor must provide to the taxpayer written notice concerning the discovery of property omitted from assessment and concerning that taxpayer's appeal rights to the board of review. There is no statutory provision which allows for the assessment of penalties or interest on omitted property assessments. Wis. Stat. § 70.44. See also Wis. Stat. §§ 70.52 and 70.53.

§ 50-318. Omitted Property — Manufacturing Property. See § 50-366.3 below.

§ 50-319. Tax Liens. Real estate and personal property taxes are deemed levied when the tax roll in which they are included has been delivered to the local treasurer. Once levied, such taxes are a lien on the property; that lien is generally superior to all other liens against the property, and is effective as of January 1 in the year in which the taxes are levied. Wis. Stat. § 70.01.

§ 50-320. Assessment of Property in First Class Cities.

§ 50-321. First Class Cities — Defined. Cities of one hundred and fifty thousand population and over constitute first class cities. Wis. Stat. § 62.05(1)(a).

§ 50-322. City Commissioner; Appointment of Assessors. The city commissioner of assessments is responsible for the assessment of property taxes in first class cities. The commissioner may appoint, among others, a chief assessor, supervising assessors, supervising assessor assistants, property appraisers and other expert personnel who, along with the assessment analysis manager, will constitute the board of assessors (the body responsible for certification of the assessment roll). Wis. Stat. §§ 70.055 and 70.06.

§ 50-323. Delivery of Assessment Roll. The local assessor must deliver the assessment roll to the commissioner of assessments once such roll is completed. Wis. Stat. § 70.45.

§ 50-324. Notice to Taxpayer. Shortly after receiving the assessment roll from the assessors, the commissioner will publish a notice that, on the days named, the assessment roll for the city will be open for examination by

the taxpayers. Wis. Stat. § 70.45.

§ 50-325. Objections to Assessment. See § 50-510 below for a discussion of appeals of tax assessments.

§ 50-330. Assessment of Property in Second Class Cities with Board of Assessors. The common council of all cities of the second class may establish a board of assessors. In such cases, the following procedures apply.

§ 50-331. Second Class Cities — Defined. Cities of thirty-nine thousand or more and less than one hundred and fifty thousand population constitute second class cities. Wis. Stat. § 62.05(1)(b).

§ 50-332. Delivery of Assessment Roll. The local assessor typically will deliver the assessment roll on or before the first Monday in May to the city clerk. Wis. Stat. § 70.50.

§ 50-333. Notice of Examination of Assessed Values by Taxpayers. In those cases where a board of assessors has been established, the local assessor must publish notice that, on the days named in the notice, the assessment of values for the city will be open for examination by the taxpayers. Wis. Stat. § 70.45.

§ 50-334. Objections to Assessment. See §§ 50-520 and 50-530 below for a discussion of appeals of tax assessments.

§ 50-340. Assessment of Property in Taxation Districts without Board of Assessors. The assessment procedures in districts which have not provided for boards of assessors are generally similar to those procedures in cities which have provided for such boards except that a taxpayer does not have the opportunity to appeal its assessment to the board of assessors prior to going before the board of review.

§ 50-350. Assessment of Property Under County Assessor System. The county assessor system, which was intended to "improve and modernize" the property tax assessment system in Wisconsin, has been discontinued.

§ 50-360. State Assessment of Manufacturing Property. All manufacturing property in Wisconsin is assessed by the Department of Revenue rather than by local taxation districts. Wis. Stat. § 70.995. Assessment by the Department attempts to ensure the uniform treatment and equal assessment of all manufacturers in Wisconsin.

§ 50-361. Manufacturing Defined.

§ 50-361.1. Relevance of SIC Manual. All of the major manufacturing activities set forth in the Standard

Industrial Classification Manual, 1987 edition (the “SIC Manual”), generally qualify as manufacturing. Wis. Stat. § 70.995(2). Conversely, activities classified as non-manufacturing in the SIC Manual generally do not qualify as manufacturing. Wis. Stat. § 70.995(1)(d). Finally, Wis. Stat. § 70.995(2) provides a list of activities which are classified in the SIC Manual as non-manufacturing but which nevertheless qualify as manufacturing for Wisconsin property tax purposes, including (among other activities), mining, photofinishing laboratories, scrap processing, waste paper processing, and hazardous waste facilities.

§ 50-361.2. Entire Process as Manufacturing. “Manufacturing” includes the entire productive process and includes such activities as the storage of raw materials, the movement thereof to the first operation thereon, and the packaging, bottling, crating or similar preparation of products for shipment. Wis. Stat. § 70.995(3).

§ 50-361.3. Activities Which are Statutorily Excluded from the Definition of Manufacturing. By statute, “manufacturing” does not include: (i) processing on farms if the raw materials are grown on the farm; (ii) custom gristmilling; or (iii) threshing and cotton ginning. Wis. Stat. § 70.995(1)(c).

§ 50-361.4. Other Manufacturing and Non-Manufacturing Activities. For a listing of other activities which may or may not qualify as “manufacturing,” see Wis. Stat. § 70.995(1), (2).

§ 50-362. Classification Procedures.

§ 50-362.1. Notification to the Department of Revenue by First-Time Manufacturers. A taxpayer who may qualify as a manufacturer (for the first time) must contact in writing, by March 1 of the assessment year, the manufacturing office in the district where the property is located. This procedure does not apply to taxpayers previously classified as manufacturers or to taxpayers previously classified as manufacturers that simply have a change in ownership, name, or location. Wis. Stat. § 70.995(5).

§ 50-362.1.1. Effect of Manufacturing Classification. Only taxpayers who have been classified as manufacturers by the Department are entitled to the exemptions described below in § 50-365.

§ 50-362.1.2. Appeal of Department of Revenue’s Denial of Manufacturing Classification. A taxpayer may appeal the Department of Revenue’s denial of manufacturing classification to the State Board of Assessors. See § 50-550 below for appeal procedures.

§ 50-363. Manufacturing Property Defined. The term “manufacturing property” includes the following types of property.

§ 50-363.1. Lands, Buildings, Etc. All lands, buildings, structures and other real property used in manufacturing, assembling, processing, fabricating, making or milling tangible personal property for profit. Wis. Stat. § 70.995(1)(a).

§ 50-363.2. Personal Property. All personal property owned or used in manufacturing. Examples of personal property used in manufacturing include machinery and equipment, furniture and fixtures, computers and supplies. See Wis. Stat. § 70.995(1)(a).

§ 50-363.3. Leased Personal Property. Property leased to a manufacturer and used by the lessee in manufacturing.

§ 50-363.4. Warehouses, Office Structures, Etc. Warehouses, storage facilities and office structures when the predominant use thereof is in support of the manufacturing property. Wis. Stat. § 70.995(1)(a).

§ 50-363.5. Prima Facie Manufacturing Property. Property listed under Wis. Stat. § 70.995(2).

§ 50-364. Manufacturing Property Used For Non-Manufacturing Purposes. When property is used for both manufacturing and non-manufacturing purposes, the Department of Revenue, in its discretion, may assess the property as manufacturing property provided the manufacturing use of the property is “substantial.” Wis. Stat. § 70.995(4). If the property’s predominant use is non-manufacturing, that property will be assessed locally.

§ 50-365. Exempt Manufacturing Property.

§ 50-365.1. Property Eligible for Exemption. Manufacturing “machinery,” “specific processing equipment,” and repair parts, replacement machines, safety attachments and special foundations for that machinery and equipment are exempt from taxation provided such property is “used exclusively and directly” in the production process in manufacturing tangible personal property. See Wis. Stat. § 70.11(27).

§ 50-365.1.1. Exempt Property Return. See § 50-366.2 below.

§ 50-365.1.2. Exempt Machinery and Equipment Opinion Request Form. Manufacturers may request from the Department of Revenue its opinion on the taxability of new equipment purchases by filing the Opinion Request Form with the Bureau of Property Tax Manufacturing and Utility Section, Mail Stop 6-9, P.O. Box 8971, Madison, WI 53708. This form is for the taxpayer’s convenience and is not mandatory for all new acquisitions.

§ 50-365.2. Manufacturers’ Materials and Finished Products. Manufacturers’ materials and finished products

are exempt from taxation. Wis. Stat. § 70.111(17).

§ 50-366. Assessment Procedures.

§ 50-366.1. Assessment Date. The Department of Revenue must assess all manufacturing property as of the close of January 1 of each year. Wis. Stat. § 70.995(5). All property must be assessed in the same manner as non-manufacturing property.

§ 50-366.2. Manufacturing Property Form. All manufacturers whose property is assessed by the Department of Revenue as manufacturing property must file a manufacturing property form for each real estate parcel and each personal property account on or before March 1 of each year (unless granted an extension to April 1 under Wis. Stat. § 70.995(12)(b)). The following forms are used to report manufacturing property: (i) M-R (manufacturing real property), (ii) M-P (manufacturing personal property), and (iii) M-L (used by lessors to report personal property leased to a manufacturer). Wis. Stat. § 70.995(12).

§ 50-366.2.1. Penalties for Failure to File. A taxpayer who refuses to submit the return will be denied any right of abatement and may be assessed penalties. Wis. Stat. § 70.995(12)(a) and (c). Penalties shall only apply, however, if the Department of Revenue assessed the property during the previous year. Furthermore, the Department may refund all or part of any penalty if it finds reasonable grounds for late filing. Wis. Stat. § 70.995(12)(c).

§ 50-366.3. Omitted Property. In cases where property (either real or personal) is omitted from assessment, such property is assessable as omitted property. The Department of Revenue is authorized to assess any property omitted from taxation in the next preceding five years. Interest at a rate of 0.0267% per day is charged on omitted property, commencing with the date the return was due. Wis. Stat. § 70.995(12)(a).

§ 50-366.3.1. Interest on Omitted Property and Interest on Underpayments Compared. Whereas interest on “omitted property” is assessed at the rate of 0.0267% per day, interest on underpayments determined after an objection has been filed is added at the average annual discount interest rate determined by the last auction of 6-month U.S. treasury bills before the objection per day for the period of time between the date when the tax was due and the date when it is paid. Wis. Stat. § 70.995(12)(a).

§ 50-366.4. Entry of State Assessment Roll. All manufacturing property is entered on the state manufacturing property assessment roll for each municipality that has manufacturing property assessed by the Department of Revenue. Wis. Stat. § 70.995(7)(a).

§ 50-366.5. On-Site or Field Investigation. At least

once every five years, the Department of Revenue must complete a field investigation or on-site appraisal at “full value” of all manufacturing property in Wisconsin. Wis. Stat. § 70.995(7)(b).

§ 50-366.6. Notification of Department’s Assessment. Each year the Department of Revenue must notify, in writing, each manufacturer assessed and each municipality in which the manufacturing property is located of the full value of all real and personal property owned by the taxpayer.

§ 50-366.7. Collection of Taxes. Property taxes for manufacturers are collected by the municipality in the same manner and at the same rates as non-manufacturers.

§ 50-367. Appeals Regarding Manufacturing Property. See § 50-550 below.

§ 50-400. ASSESSMENT PRACTICE BY TAXPAYERS.

§ 50-410. The Property Tax Case Summarized. The activities listed below may be helpful when contesting an assessment.

§ 50-411. A Review of Record Cards for Taxpayer’s Property. A taxpayer should first examine the record card and assessor’s file for information relating to the assessment of that taxpayer’s property (*e.g.*, a description of the property, the assessed value thereof, and information regarding the method(s) of valuation used by the assessor). The record card and assessor’s file (excluding proprietary financial information) are public records and may be reviewed by anyone.

§ 50-412. A Review of Record Cards for Similar Properties. The taxpayer should also review record cards and the assessor’s files for other properties that may be similar to the taxpayer’s property.

§ 50-413. List of Property Transfers. When real estate is transferred, the grantor and grantee are required to file a Real Estate Transfer Return which includes, among other things, the grantor and grantee names, a brief description of the real estate transferred, the total value of the real estate and the transfer tax assessed on that transfer (based on the total value of the total estate). Such returns are often useful in determining sales of comparable properties.

§ 50-414. Appraisal. A taxpayer interested in protesting the assessed valuation of its property should consider having the property appraised by an expert.

§ 50-415. Presentation. Generally, it is in the taxpayer’s best interest to attempt to resolve all valuation disputes with the assessor prior to the assessment being

placed on the assessment roll. It often makes sense (both strategically and economically) to present at that informal meeting an opinion letter from the expert appraiser indicating a range of values for the property which could (if necessary) be supported by a full appraisal.

§ 50-416. The Appraiser. Though not required, the appraiser may accompany the taxpayer at any meeting with the assessor.

§ 50-417. The Attorney. The taxpayer may be represented by an attorney at any meeting with the assessor.

§ 50-418. Consultant. The taxpayer may have a consultant appear with the taxpayer at an informal conference with the assessor.

§ 50-419. Other Persons. Generally, there is no restriction as to who may represent the taxpayer or appear with the taxpayer at an informal conference with the assessor.

§ 50-500. APPEAL OF TAX ASSESSMENT.

§ 50-510. Appeals of Assessments in Cities of First Class.

§ 50-511. Objections to Assessment. All objections to the amount or valuation of real or personal property must be made in writing and filed with the commissioner of assessments on or before the third Monday in May. Wis. Stat. § 70.47(16). Such objections are then investigated by the local Board of Assessors.

§ 50-511.1. Presumption. The assessor's value is presumed to be valid; accordingly, it is the taxpayer's burden to illustrate that the assessor's valuation is erroneous. Wis. Stat. § 70.47(8)(i).

§ 50-512. Board of Assessors. In first class cities, the board of assessors is the first avenue of appeal. The board is responsible for investigating and ruling on all taxpayer objections to valuation. Wis. Stat. § 70.47(16).

§ 50-513. Notice to Taxpayer of Board of Assessors' Changes. No notice need be given to the owner of the property assessed (or that owner's agent) of any corrections or changes in assessment which are made prior to the day(s) fixed for examination by the taxpayers of the roll (as discussed above in § 50-324). However, any changes made thereafter and before the assessment roll is delivered to the board of review generally can only be made upon notice by first class mail to the owner (or owner's agent). Wis. Stat. § 70.07(4).

§ 50-514. Taxpayer Objections to Board of Assessors' Changes. A taxpayer who has received notice of a board of assessors' determination will be deemed to have

accepted that determination unless the taxpayer notifies the Commissioner of Assessments in writing, within 15 days from the date that the notice of determination was issued, of the desire to present testimony before the board of review. Wis. Stat. § 70.07(6).

§ 50-515. Board of Review.

§ 50-515.1. Board's Duty. It is the board's duty to carefully examine the assessment roll and correct all apparent errors. The board may not raise or lower the assessment of any property except after hearing, as discussed below. Wis. Stat. § 70.47(6).

§ 50-515.2. Membership. *See* Wis. Stat. § 70.46.

§ 50-515.2.1. Training. The board must include one voting member who has attended a training session provided or approved by the Department of Revenue within two years of the board's first meeting. Wis. Stat. § 70.46(4).

§ 50-515.2.2. Removal of Member. A taxpayer may request the removal of a board member, except in first or second class cities, who has a conflict of interest or bias with regard to the taxpayer's objection. *See* Wis. Stat. § 70.47(6m) for related procedural requirements.

§ 50-515.3. Taxpayer's Duties and/or Obligations.

§ 50-515.3.1. Notice of Intent to File Objection. At least 48 hours prior to a board's first meeting, a taxpayer must provide to the board's clerk written or oral notice of intent to file an objection. Limited exceptions apply. *See* Wis. Stat. §§ 70.47(3)(a)4 and 70.47(7)(a).

§ 50-515.3.2. Form for Objections. Objections to real and personal property assessments generally are filed on Form PA-115A and PA-115B, respectively.

§ 50-515.3.3. Time for Objections. Objections must be filed before or within the first two hours of the board's first scheduled meeting.

§ 50-515.3.4. Content of Objection. Objections must include "stated valuations" of the property. Wis. Stat. § 70.47(7)(a).

§ 50-515.3.5. Disclosure of Income and Expense Information. A taxpayer must provide the assessor with requested income and expense information if either the assessor or objector uses the income method to value the property. Failure to comply with the assessor's request will result in the affirmation of the assessment. Wis. Stat. § 70.47(7)(af).

§ 50-515.4. Other Matters.

§ 50-515.4.1. Clerk. The municipal clerk and, in cities

of first class, the commissioner of assessments (or any other person on the commissioner's staff designated by the commissioner) shall serve as the clerk of the local board of review and must keep an accurate record of all proceedings of the board. Wis. Stat. §§ 70.46(2) and 70.47(5).

§ 50-515.4.2. Proceedings. A board shall meet annually at any time during the 30-day period beginning on the second Monday in May. Wis. Stat. § 70.47(1). The assessor or the assessor's authorized representative is required to attend all hearings before a board. Wis. Stat. § 70.48. For locations and rules regarding quorums, see Wis. Stat. § 70.47(1).

§ 50-515.4.3. "Good Faith" Presentation by the Taxpayer. In *Walgreen Co. v. City of Madison*, Case No. 2004-CV-001564 (Wis. Cir. Ct., Dane County, June 26, 2006), the Dane County Circuit Court concluded that the taxpayer must make a good faith effort in presenting its objection at the board of review hearing or the taxpayer will not be entitled to appeal an adverse board decision.

§ 50-515.4.4. Notice of Hearing. At least 15 days before the first meeting of a board, the clerk must publish a class 1 notice, place a notice of the meeting in at least three public places, and place a notice on the door of the town hall, village hall, council chambers, or city hall of the time and place of the first meeting. Wis. Stat. § 70.47(2).

§ 50-515.4.5. Open Hearings. All board meetings are open to all citizens. No formal action of any kind shall be introduced, deliberated upon or adopted at any closed session or meeting of a board. Wis. Stat. § 70.47(2m).

§ 50-515.4.6. Sessions. Taxpayers may appear and examine the assessment roll and other assessment data and be heard in relation to the assessment. If the assessment roll is not completed by the date of the first meeting, a board shall adjourn for such time as is necessary to complete the roll, and shall post a written notice stating to what time the meeting is adjourned. See Wis. Stat. § 70.47(3).

§ 50-515.4.7. Records. See Wis. Stat. § 70.47(5).

§ 50-515.4.8. Notice of Decision. Prior to final adjournment, a board must provide the taxpayer with notice of the amount of the assessment as finalized and an explanation of the taxpayer's appeal rights. Wis. Stat. § 70.47(12).

§ 50-516. Appeal of Board of Review's Decision. After a board of review hearing and determination, a taxpayer may appeal the board of review's determination in the following ways:

§ 50-516.1. Direct Appeal to Circuit Court. Taxpayers may appeal the determination of a board of review by filing with the circuit court, no later than 90 days after the taxpayer receives notice of a board's determination, an action for certiorari to set aside the assessment. Wis. Stat. §§ 70.47(13) and (16). The circuit court is limited to reviewing the record produced at the board of review hearing.

§ 50-516.2. Appeal to Department of Revenue. A taxpayer may, no later than 20 days after a board of review's determination, file a written complaint with the Department of Revenue alleging that the assessment of one or more items or parcels of property in the taxation district (the value of which does not exceed \$1,000,000) is "radically" out of proportion to the general level of assessment of all other property in the district and request that the Department "revalue" the subject property. A taxpayer filing such a complaint must pay a filing fee of \$100 to the Department of Revenue. See Wis. Stat. § 70.85.

§ 50-516.2.1. Standard for Revaluation by Department of Revenue. The Department of Revenue may revalue the subject property and adjust the assessment of the property to the assessment ratio of other property within the taxation district, if the Department determines that: (i) the assessment of the property is not within 10% of the general level of assessment of all other property in the taxation district, (ii) the revaluation of the property can be satisfactorily completed without a reassessment of all other property within the taxation district, and (iii) the revaluation can be accomplished before November 1 of the year in which the assessment was made or within 60 days of receipt of the complaint, whichever is later. Wis. Stat. § 70.85.

§ 50-516.2.2. Appeal of Department of Revenue's Determination. A taxpayer may appeal the Department of Revenue's determination by filing with the circuit court of the county in which the property is located an action for certiorari to set aside the assessment. Wis. Stat. § 70.85(4)(c).

§ 50-516.3. Appeal to Taxation District for Excessive Assessment. See § 50-526.3 below of a discussion of this method of appeal.

Wisconsin Act 86 (Act 86), effective retroactively to assessments as of January 1, 2008, significantly limits this appeal method in municipalities which have adopted the new limitations by local ordinance. See § 50-526.3.6 below of a discussion of this method of appeal.

§ 50-520. Appeals of Assessments in Cities of the Second Class Which Have Provided for a Board of Assessors. The common council of all cities of the second class may establish a board of assessors. In such cases, the following appellate procedures apply.

§ 50-521. Examination of Assessed Values by Taxpayers. In those cases where a board of assessors has been established, the local assessor must publish notice that, on the days named in the notice, the assessment of values for the city will be open for examination by the taxpayers. *See* Wis. Stat. § 70.075.

§ 50-522. Board of Assessors. On the second Monday of May, the local assessor will call together the local board of assessors which will review the assessments, review any protests filed by taxpayers regarding valuation, and make all corrections and all other just and necessary changes to arrive at the true value of the property within the city. Wis. Stat. § 70.075(1) and (3).

§ 50-522.1. Presumption. The assessor's value is presumed to be valid; accordingly, it is the taxpayer's burden to illustrate that the assessor's valuation is erroneous. Wis. Stat. § 70.47(8)(i).

§ 50-523. Notice to Taxpayer of Board of Assessor's Changes. No notice need be given to the owner of the property assessed (or that owner's agent) of any corrections or changes in assessment which are made prior to the day or days fixed for examination by the taxpayers of the rolls (as discussed above in § 50-333). However, any changes made thereafter and before the assessment roll is delivered to the board of review generally can only be made upon notice by first class mail to the owner (or owner's agent). Wis. Stat. § 70.075(4).

§ 50-524. Taxpayer Objections to Board of Assessors' Changes. A taxpayer will be deemed to have accepted a board of assessors' determination unless that taxpayer notifies the local assessor in writing, within 10 days, of the desire to present testimony before the board of review. Wis. Stat. § 70.075(6).

§ 50-525. Board of Review. *See* § 50-515 for a discussion of boards of review.

§ 50-526. Appeal of Board of Review's Decision. After a board of review hearing and determination, a taxpayer may appeal the board of review's determination in the following three ways:

§ 50-526.1. Direct Appeal to Circuit Court. *See* § 50-516.1 above for a discussion of this method of appeal.

§ 50-526.2. Appeal to Department of Revenue. *See* § 50-516.2 above for a discussion of this method of appeal.

§ 50-526.3. Appeal to Taxation District for Excessive Assessment. Taxpayers may file a claim with the clerk of the taxation district to recover the amount of any tax that was imposed because the assessment of the property was excessive. Wis. Stat. § 74.37. The taxpayer is not

limited to the record produced at the board of review hearing. But *see* § 50-526.3.6 for a discussion on lobbying efforts to limit the appeal to the record produced at the board of review hearing.

§ 50-526.3.1. Limitation. Wis. Stat. § 74.37(6) initially restricted the application of this type of appeal to property located in counties with a population of less than 500,000; the effect being that this appeal alternative was not available to Milwaukee County residents. The claim procedure under Wis. Stat. § 74.37 is now available in every municipality in Wisconsin.

§ 50-526.3.2. Claim – General. A claim filed against the taxation district under Wis. Stat. § 74.37 must: (i) be in writing; (ii) state the alleged circumstances giving rise to the claim; (iii) state as accurately as possible the amount of the claim; (iv) be signed by the claimant or his agent; and (v) be served on the clerk of the taxation district by January 31 of the year in which the tax based upon the contested assessment is payable. Wis. Stat. § 74.37(2).

§ 50-526.3.3. Claim – Conditions. In general, no claim or action for an excessive assessment may be brought unless (i) the taxpayer has objected to the assessment before the board of review (if the assessor fails to give proper notice of the change in assessment from the prior year, the owner is not required to appeal with the board of review), (ii) the tax for which the claim is filed (or any authorized payment thereof) is timely paid, and (iii) the taxpayer has not appealed the board's determination by filing an action for certiorari or appealing the board's determination to the Department of Revenue (as described above under § 50-526.2). Wis. Stat. § 74.37(4).

§ 50-526.3.4. Action on Claim. If the taxation district disallows the claim (either by denying the claim or by failing to take any action on the claim within 90 days after the claim has been filed), the claimant may commence an action in circuit court to recover the amount of the claim not allowed. The claimant must commence this action within 90 days after the taxation district disallows the claim. *See* Wis. Stat. § 74.37(3).

§ 50-526.3.5. Trial to Jury. In *Sundaran v. City of Milwaukee*, Case No. 2006-CV-005293 (Wis. Cir. Ct., Milwaukee County, Jan. 23, 2007), the court concluded that taxpayers had a right to a jury trial in a section 74.37 action.

§ 50-526.3.6. Circuit Court Can Not Raise the Assessment on Review. In *Trailwood Ventures, LLC v. Village of Kronenwetter*, 2009 WI APP 18 (December 2, 2008), the Wisconsin Court of Appeals concluded that circuit courts could not *increase* assessments when a taxpayer appeals an excessive assessment under Wis. Stat. § 74.37.

§ 50-526.3.7. Excessive Assessment Appeal Method is Limited under Certain Conditions, Effective January 1, 2008. Wis. Act 86 was determined by Milwaukee County Circuit Court to be in violation of the Equal Protection Clause. *Metropolitan Associates v. Milwaukee City*, Case No. 08CV009866, Mil. Co. Cir. Ct. (Honorable Judge Jean W. DiMotto presiding.) **At the time of publication, the impact of the decision on a taxpayer's appeal rights is unclear, though it would be reasonable to assume that the "old" Excessive Assessment Claim procedures would apply, as described in the preceding sections.** Wisconsin Act 86 (Act 86), effective retroactively to assessments as of January 1, 2008, limits non-manufacturing property owners' options for challenging property tax assessments in municipalities that adopt ordinances allowing taxpayers to obtain a 60-day postponement of board review hearings. Act 86 effectively eliminates the §74.37 option for appeal as long as the municipality has adopted an ordinance that gives property owners the right to request a 60-day postponement of the board of review hearing. Taxpayers wishing to take advantage of this extension must pay a \$100 fee. Extensions beyond the 60-day period are available upon showing good cause. Act 86 also makes a number of other procedural changes of note in municipalities that adopt the extension ordinance, including:

- Both the taxpayer and the assessor are required to present "all evidence" at the board of review hearing.
- The taxpayer and assessor must simultaneously exchange reports and other exhibits they intend to submit at least 10 days prior to the hearing.
- The board of review may compel witnesses to provide depositions prior to the hearing.
- Certiorari review standards under §70.47 are modified.

In addition, regardless of whether the municipalities adopt the extension ordinance, Act 86 makes a number of other procedural changes:

- Requires boards of review to allow "a sufficient amount of time for a hearing" to allow both the taxpayer and assessor to present their evidence.
- Boards of review may require attendance of witnesses at hearings upon request of the taxpayer or assessor.
- In situations where subsequent year's assessment has not been resolved at the time of §70.47 action, the court may review the subsequent year's assessment in the same action without additional hearing by the board of review.

§ 50-530. Appeals of Assessments in Cities of the Second Class Which Have Not Provided for a Board of Assessors and in All Other Taxation Districts.

§ 50-531. Objections to Assessment. Objections to the amount or valuation of real or personal property must (unless waived by a board) be made in writing and filed with the clerk prior to adjournment of the public hearings by the board of review. The board may require that such objections to be submitted on forms approved by the Wisconsin Department of Revenue. Wis. Stat. §70.47(7).

§ 50-531.1. Presumption. The assessor's value is presumed to be valid; accordingly, it is the taxpayer's burden to demonstrate that the assessor's valuation is erroneous.

§ 50-532. Board of Review. See § 50-515 above for a discussion of Boards of Review.

§ 50-533. Appeal of Board of Review's Decision. After a board of review hearing and determination, a taxpayer may appeal the board of review's determination in any one of the three ways discussed above in § 50-526.

§ 50-540. Appeals Under the County Assessor System. The county assessor system has been discontinued.

§ 50-550. Appeals Regarding Manufacturing Property. The following appeals procedures apply to *all* manufacturing appeals including appeals made with respect to valuation, exemption, classification, or late filing penalties.

§ 50-551. Objections; Filing Forms and Fees; Time and Place for Filing. All objections must be made in writing on a form prescribed by the Department of Revenue. The protester generally must file a \$45 protest fee. See Wis. Stat. §70.995(8)(c) and (d). The objector must specify the reasons for the objection, the objector's estimate of the correct assessment, and the basis under Wis. Stat. §70.32(1) of the objector's estimate of the correct assessment. Wis. Stat. §70.995(8)(c)1. A separate form and fee generally is required for each parcel at issue.

The objections to valuation, amount or taxability must be filed with the State Board of Assessors within 60 days of issuance of the notice (of valuation or other determination) by the Department. Wis. Stat. §70.995(8). If a municipality files an objection to the amount, valuation, taxability, or change from assessment and the person assessed does not file an objection, the person assessed may file an appeal within 15 days after the municipality's objection is filed. See Wis. Stat. §70.995(8)(b)2. Conversely, if the person that is assessed files an objec-

tion and the municipality has not filed an objection, the municipality affected may file an appeal to that objection within 15 days after the person's objection is filed.

§ 50-552. Supplemental Information in Support of Objection. A taxpayer who files an objection "may" file supplemental information to support its objection within 60 days from the date the objection is filed. Wis. Stat. § 70.995(8)(c)2.

§ 50-553. State Board of Assessors. The State Board of Assessors is charged with the responsibility of investigating all taxpayer objections. Upon receiving an objection, the State Board will assign an appraiser to the taxpayer's property and then, without the aid of a hearing, will review the appraiser's recommendation and make its determination. Such determination must be made by April 1 of the year after the filing of the objection. The State Board must notify the taxpayer and the appropriate municipality of its determination by first class mail or electronic mail.

§ 50-553.1. Presumption. The assessor's value is presumed to be valid; accordingly, it is the taxpayer's burden to demonstrate that the assessor's valuation is erroneous.

§ 50-554. Appeal of State Board of Assessors' Determination. The taxpayer or the municipality shall be deemed to have accepted the determination unless that party, within 60 days after receipt of the board's decision, files a Petition for Review with the Wisconsin Tax Appeals Commission. Wis. Stat. § 70.995(8).

§ 50-554.1. Appeal by Municipality. If the assessment is reduced by the board, the municipality affected may either: (i) file an appeal seeking review of the reduction or (ii) within 30 days after the taxpayer files a Petition for Review, file a cross-appeal with the Wisconsin Tax Appeals Commission even though the municipality did not file an objection to the assessment with the board of assessors. In addition, in those cases where the board fails to overrule a change from assessment by the State to assessment by the local taxation district, the affected municipality may also file a Petition for Review with the Tax Appeals Commission. Wis. Stat. § 70.995(8). If a municipality files an objection to the amount, valuation, taxability, or change from assessment and the person assessed does not file an objection, the person assessed may file an appeal within 15 days after the municipality's objection is filed. *See* Wis. Stat. § 70.995(8)(b)2.

§ 50-554.2. Appeal by Taxpayer. If an assessment is increased by the board, the taxpayer may either: (i) file an appeal seeking review of the increase; or (ii) within 30 days after the municipality files a Petition for Review, file a cross-appeal, before the Tax Appeals Commission even though the taxpayer did not file an objection

to the assessment with board of assessors. Wis. Stat. § 70.995(8).

§ 50-555. Appeal of Wisconsin Tax Appeals Commission's Determination. Any aggrieved party may appeal a determination by the Wisconsin Tax Appeals Commission to the Circuit Court for Dane County under Wis. Stat. § 73.015. Wis. Stat. § 70.995(9).

§ 50-560. Appeals Regarding Exempt Property. In general, all taxpayer protests with respect to property taxes involve a valuation issue (the procedures applicable thereto are described above), an issue as to the validity of the tax, or both. A property tax is invalid, or "unlawful," under Wis. Stat. § 74.33 if: (i) the property is exempt by law from taxation, (ii) a clerical error was made regarding either the computation of the tax or the description of the property being taxed, (iii) the assessment included real property improvements which did not exist on January 1, (iv) the property is not located in the taxation district which imposed the tax, (v) a double assessment was made, or (vi) an arithmetic, transpositional, or similar error occurred. The manner in which a taxpayer may protest the "lawfulness" (as opposed to valuation) of a tax on its property is discussed below.

§ 50-561. Claim — General. A refund claim filed against the taxation district under Wis. Stat. § 74.35 must: (i) be in writing, (ii) state the alleged circumstances giving rise to the claim (including the reason the tax is alleged to be "unlawful"), (iii) state as accurately as possible the amount of the claim, (iv) be signed by the claimant or his agent, and (v) be served on the clerk of the taxation district by January 31 of the year in which the tax based upon the contested assessment is payable. Wis. Stat. § 74.35(2).

§ 50-562. Action on Claim. If the taxation district disallows the claim in whole or part (either by denying the claim or by failing to take any action on the claim within 90 days after the claim has been filed), the claimant may commence an action in circuit court to recover the amount of the claim not allowed. The claimant must commence this action within 90 days after the taxation district disallows the claim. *See* Wis. Stat. § 74.35(3).

§ 50-563. Limitations on Bringing Claim. The following limitations apply to a claim filed under Wis. Stat. § 74.35.

§ 50-563.1. Timeliness of Claim — Generally. Except as discussed in § 50-563.2, all claims must be filed by January 31 of the year in which the tax is payable.

§ 50-563.2. Timeliness of Claim — Exception. A claim for the recovery of taxes paid to the wrong taxation district must be filed within 2 years after the last date specified for timely payment of the tax (as set forth in Wis. Stat. §§ 74.11, 74.12 or 74.87).

§ 50-563.3. Timely Payment of Taxes. No claim may be made under Wis. Stat. § 74.35 unless the tax for which the claim has been filed, or any authorized installment payment thereof, has been timely paid.

§ 50-563.4. Inapplicable to Certain Exemptions. A claim under Wis. Stat. § 74.35 may not be made with respect to property that is allegedly exempt as manufacturing machinery and equipment (under Wis. Stat. § 70.11(27)) or as treatment plant or pollution abatement equipment (under Wis. Stat. § 70.11(21)(a)). Wis. Stat. § 74.35(2m).

§ 50-600. EXEMPTION FROM TAXATION.

§ 50-610. Exempt Property. All general property is subject to taxation unless specifically exempt from such taxation. Exemptions shall be strictly construed in every instance with a presumption that the property in question is taxable, and the burden of proof is on the person who claims the exemption. Wis. Stat. § 70.109.

§ 50-611. Property Exempt from Taxation and General Requirements that the Taxpayer Timely File Property Tax Exemption Application. The property described as exempt under Wis. Stat. § 70.11 will qualify for exemption *only if*: (i) it is exempt under subparagraphs (1) [property of the state], (2) [municipal property], (18) [housing authorities' property], (21) [pollution abatement/treatment property], (27) [manufacturing machinery and equipment] or (30) [crops]; (ii) if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; *or* (iii) if the property was taxable for the previous year; the use, occupancy or ownership of the property changed in a way that makes it exempt; and its owner, on or before March 1, files with the assessor a property tax exemption request. Exempt property under Wis. Stat. § 70.11 includes the following:

§ 50-611.1. Property of the State. Wis. Stat. § 70.11(1). Property owned by the State of Wisconsin generally is exempt from taxation. Certain property statutorily excluded from this exemption and, therefore, generally taxable includes: (i) land contracted to be sold by the State; (ii) land conveyed after September, 1933 to Wisconsin or for its benefit, while the grantor or others for the grantor's benefit are permitted to occupy the land or part thereof in consideration for the conveyance; (iii) land devised to Wisconsin or for its benefit while another person is permitted by the will to occupy the land or part thereof; (iv) property acquired by the Department of Veteran's Affairs pursuant to Wis. Stat. § 45.32(5) and (7); and (v) property of insurers undergoing rehabilitation or liquidation under Wisconsin State ch. 645. The exemption also covers general property owned by the State of Wisconsin which is leased to a private, nonprofit corporation that operates an Olympic ice training center (regardless of the use of the rental income).

§ 50-611.2. Municipal Property. Exempt property generally includes any property owned by any county, city, village, town, school district, technical college district, public inland lake protection and rehabilitation district, metropolitan sewerage district, municipal water district created under Wis. Stat. § 198.22, joint local water authority created under Wis. Stat. § 66.0823, family care district under Wis. Stat. § 46.2895 or town sanitary district; lands belonging to cities of any other state used for public parks; and land tax-deeded to any county or city before January 2. Any residence located upon property owned by the county for park purposes that is rented out by the county for a nonpark purpose shall not be exempt from taxation. The exemption generally does not apply to land conveyed after August 17, 1961 to a governmental unit or for its benefit while the grantor or others for his or her benefit are permitted to occupy the land or part thereof in consideration for the conveyance. Leasing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable. Wis. Stat. § 70.11(2).

§ 50-611.3. Property Leased or Subleased to School Districts. Wis. Stat. § 70.11(2m) exempts property owned or leased by a nonprofit I.R.C. § 501(c)(3) entity that is leased or subleased to school districts for no or nominal consideration for use by an educational institution that offers regular courses for 6 months in a year.

§ 50-611.4. Colleges and Universities. Generally exempt from property taxation are the grounds of any incorporated college or university, not exceeding 80 acres. Wis. Stat. § 70.11(3). In addition to the "exempt leases," as described below under § 50.611.52, a university or college may also lease property for educational or charitable purposes without making it taxable if it uses the income derived from the lease for charitable purposes.

§ 50-611.5. Buildings at the Wisconsin Veterans Homes. See Wis. Stat. § 70.11(3a).

§ 50-611.6. Educational Institutions (which offer regular courses at least six months per year); Religious and Benevolent Institutions (excluding certain health maintenance organizations); Women's Clubs; Domestic, Incorporated Historical Societies; Certain Fraternal Societies Operating Under a Lodge System; and Domestic, Incorporated Free Public Library Associations. Property that is (i) owned and (ii) "used exclusively by" any above-listed organization, is, generally, exempt from taxation; however, land, which is "necessary for location and convenience of buildings" in excess of 10 acres generally is not exempt. Wis. Stat. 70.11(4).

In addition to the above-listed organizations, this exemption covers property owned and used exclusively by (i) benevolent nursing and retirement homes for the aged

and (ii) property owned and used for housing pastors and their ordained assistants, etc., whether or not contiguous to and a part of other property owned and used by otherwise exempt associations or churches. Property that is exempt under this section and is leased is exempt only if, in addition to the requirements discussed under § 50-611.52, the lessee does not discriminate on the basis of race. Land owned by churches or religious associations is not subject to the 10-acre limitation but is instead subject to a 30-acre limitation, provided the land is used for educational purposes. Statutorily excluded from exemption (and, therefore, generally taxable) includes property owned and used exclusively by (i) university, college and high school fraternities and sororities, (ii) nonstock, nonprofit corporation which services guaranteed student loans for others or on its own account, and (iii) health maintenance organizations.

§ 50-611.7. Real Property Held for Rehabilitation or Future Construction and Later Sale to Low-Income Persons. *See* Wis. Stat. § 70.11(4g).

§ 50-611.8. Nonprofit Hospitals. Wis. Stat. § 70.11(4m). Property exempt from taxation includes real property owned and used, and personal property used, exclusively for the purposes of any hospital of 10 beds or more devoted primarily to the diagnosis, treatment or care of the sick, injured, or disabled provided that the hospital: (i) is owned and operated by a corporation, voluntary association, foundation or trust (not including certain health maintenance organizations), no part of the net earnings of which inures to the benefit of any shareholder, member, director or officer; and (ii) is *not* operated principally for the benefit of or principally as an adjunct of the private practice of a doctor or group of doctors. Dormitories of 12 or more units which house nursing students enrolled in state accredited schools of nursing that are affiliated with the hospital generally qualify for exemption under this section. Wis. Stat. § 70.11(4m)(a). Real property leased by an entity described above is exempt provided that the real property is leased from a nonprofit organization or nonprofit hospital that is exempt from taxation and that uses the income derived from the lease only for the maintenance of the leased property or construction debt retirement of the leased property or both. Wis. Stat. § 70.11(4m)(b). The above-listed exemptions do not apply to property used for commercial purposes or as a doctor's office or to property used as a "health and fitness center." Wis. Stat. § 70.11(4m)(a) and (b).

§ 50-611.9. Agricultural Fairs. *See* Wis. Stat. § 70.11(5).

§ 50-611.10. Fire Companies. *See* Wis. Stat. § 70.11(6). Exempt from taxation is property of any fire company used exclusively for its purposes.

§ 50-611.11. Land of Military Organizations. *See* Wis. Stat. § 70.11(7).

§ 50-611.12. Memorials. All memorial halls, the real estate upon which the same are located, and personal property owned by certain organizations of United States war veterans generally are exempt from property taxation. Wis. Stat. § 70.11(9). The renting of such halls or buildings for public purposes does not render the property taxable, provided that all income derived therefrom is used for the upkeep and maintenance thereof. Where such hall or building is used in part for exempt purposes and in part for pecuniary profit, it will be assessed for taxation to the extent of such use for pecuniary profit, as set forth below in § 50-611.53.

§ 50-611.13. Certain Lands and Buildings of YMCA and YWCA. Wis. Stat. § 70.11(10), which exempted from taxation certain property of YWCA and YMCA organizations, was repealed and replaced by Wis. Stat. § 70.11(12)(a). *See* § 50-611.16 below.

§ 50-611.14. Property of Certain Nonprofit Lions Foundation Camps for Visually Handicapped Children. *See* Wis. Stat. § 70.11(10m).

§ 50-611.15. Property of Certain Bible Camps. *See* Wis. Stat. § 70.11(11).

§ 50-611.16. Certain Charitable Organizations. Exempt from taxation is property owned by units which are organized in Wisconsin of the following organizations: the Salvation Army, Goodwill Industries (not exceeding 10 acres of property in any municipality), the Boy Scouts of America, the Boys' Clubs of America, the Girl Scouts, Camp Fire Girls or any person as trustee for them of property used for the purposes of those organizations, provided no pecuniary profit results to any individual owner or member. Wis. Stat. § 70.11(12). Also exempt is property of the YWCA and YMCA, not exceeding 40 acres, for property that is located outside the limit of any incorporated city or village, and not exceeding 10 acres, for property that is located inside the limit of any incorporated city or village.

§ 50-611.17. Cemeteries. *See* Wis. Stat. § 70.11(13).

§ 50-611.18. Certain Archaeological Sites. *See* Wis. Stat. § 70.11(13m).

§ 50-611.19. Art Galleries. Property of any art gallery is exempt if such property is used "exclusively" for art exhibits and art teaching, provided that public access to such gallery is free for not less than three days in each week. Wis. Stat. § 70.11(14).

§ 50-611.20. Manure Storage Facilities. Any manure storage facility used by a farmer, whether the facility is deemed real or personal property, is exempt. Wis. Stat. § 70.11(15).

§ 50-611.21. Secondary Containment Structures. Secondary containment structures used to prevent leakage of liquid fertilizer or pesticides are exempt from taxation. Wis. Stat. § 70.11(15m).

§ 50-611.22. Property Owned and Used Exclusively by Certain Nonprofit Labor Organizations. *See* Wis. Stat. § 70.11(16).

§ 50-611.23. Property of Certain Farmers' Temples. Exempt from taxation is property owned and used exclusively for social and educational purposes and for meetings by any corporation, all of whose members are farmers, provided that no pecuniary profit results to any member. Wis. Stat. § 70.11(17).

§ 50-611.24. Property Owned by Certain Housing Authorities. *See* Wis. Stat. § 70.11(18).

§ 50-611.25. Property of Institutions and Centers for Dependant Children and Persons Who Have Developmental Disabilities. All real and personal property owned by, and used for the purposes of, any residential care center for children and youth that is licensed under Wis. Stat. § 48.60 for the care of dependent, neglected or delinquent children or of any nonprofit institution that is subject to examination under Wis. Stat. § 46.03(5) and that has a full-time population of at least 150 individuals who have developmental disabilities, is exempt from taxation. Wis. Stat. § 70.11(19).

§ 50-611.26. Certain Property Held in Trust in Public Interest. *See* Wis. Stat. § 70.11(20).

§ 50-611.27. Treatment Plants and Pollution Abatement Equipment. Exempt from taxation is property purchased or constructed as a waste treatment facility and used exclusively and directly to remove, store, or cause a physical or chemical change in industrial wastes (as defined in Wis. Stat. § 70.11(21)(ab)(2)) or air contaminants (as defined in Wis. Stat. § 285.01(1)). Wis. Stat. § 70.11(21)(am).

§ 50-611.28. Certain Camps for Persons With Disabilities. *See* Wis. Stat. § 70.11(22).

§ 50-611.29. Nonprofit Medical Research Foundations. Property owned by an entity, exempt from federal taxation under I.R.C. § 501(c)(3), is exempt from taxation if such property is used exclusively for the purposes of: (i) certain medical and surgical research; (ii) providing instruction for practicing physicians, etc.; or (iii) providing diagnostic facilities and treatment for certain "deserving" destitute individuals. *See* Wis. Stat. § 70.11(25).

§ 50-611.30. Property of Industrial Development Agencies. *See* Wis. Stat. § 70.11(26).

§ 50-611.31. Manufacturing Machinery and Specific Processing Equipment. Manufacturing "machinery," "specific processing equipment," and repair parts, replacement machines, safety attachments and special foundations for that machinery and equipment are exempt from taxation provided such property is "used exclusively and directly" in the "production process" in manufacturing tangible personal property. This exemption does not apply to "buildings" (*i.e.*, structures used primarily for sheltering people, machinery, animals or plants; storing property; or working, office, parking, sales or display space). Wis. Stat. § 70.11(27).

§ 50-611.32. Property of Humane Societies. *See* Wis. Stat. § 70.11(28).

§ 50-611.33. Property of Nonprofit Radio Stations. *See* Wis. Stat. § 70.11(29).

§ 50-611.34. Property of Nonprofit Theaters. *See* Wis. Stat. § 70.11(29m).

§ 50-611.35. Nonprofit Outdoor Theaters. *See* Wis. Stat. § 70.11(29p).

§ 50-611.36. Crops. All perennial plants that produce an annual crop are exempt from taxation. Wis. Stat. § 70.11(30).

§ 50-611.37. Certain Sports and Entertainment Facilities. *See* Wis. Stat. § 70.11(31).

§ 50-611.38. Certain Property of Railroad Historical Societies. Right-of-way and rolling stock owned by railroad historical societies are exempt from taxation. Wis. Stat. § 70.11(31m).

§ 50-611.39. Property of Nonprofit Youth Hockey Associations. Land, not in excess of 13 acres, owned or leased by, and buildings located thereon and personal property owned by, a nonprofit youth hockey association generally are exempt from taxation provided the property is used exclusively for the purposes of such association. Wis. Stat. § 70.11(32). Leasing all or a portion of the property does not render it taxable provided that all the leasehold income is used for the maintenance of the leased property.

§ 50-611.40. Camps for Mentally or Physically Disabled Persons. *See* Wis. Stat. § 70.11(33).

§ 50-611.41. Historic Properties. *See* Wis. Stat. § 70.11(34).

§ 50-611.42. Cultural and Architectural Landmarks. *See* Wis. Stat. § 70.11(35).

§ 50-611.43. Professional Sports and Entertainment Home Stadiums. *See* Wis. Stat. § 70.11(36).

§ 50-611.44. **Local Exposition Districts.** See Wis. Stat. § 70.11(37).

§ 50-611.45. **Property Owned or Leased by the University of Wisconsin Hospitals and Clinics Authority.** See Wis. Stat. § 70.11(38).

§ 50-611.46. **Computers and Related Equipment.** Provided that the taxpayer fulfills certain reporting requirements under Wis. Stat. § 70.35 (see § 50-312.2), property exempt from taxation includes: mainframe computers, minicomputers, personal computers, networked personal computers, servers, terminals, monitors, disk drives, electronic peripheral equipment, tape drives, printers, basic operational programs, systems software, prewritten software and custom software. Excluded from exemption are automatic teller machines, certain fax machines, copiers, equipment with embedded computerized components or telephone systems, including equipment that is used to provide telecommunications services. Wis. Stat. § 70.11(39). 2001 Wisconsin Act 16, § 2108q, amended Wis. Stat. § 70.11(39) to specifically exclude “custom software” from that exemption. Custom software, however, is not subject to tax because of its intangible nature. First effective January 1, 2003, cash registers and fax machines (excluding fax machines that are also copiers) will also qualify for exemption.

§ 50-611.47. **Local Cultural Arts District.** See Wis. Stat. § 70.11(40).

§ 50-611.48. **Fox River Navigational System.** See Wis. Stat. § 70.11(41).

§ 50-611.49. **Air Carrier Hub Facilities.** Property owned by an air carrier company that operates a hub facility in Wisconsin is exempt from taxation provided that the property is used in the operation of the air carrier company. Wis. Stat. § 70.11(42). The constitutionality of this exemption was challenged in *Northwest Airlines, Inc. v. Wisconsin Dep’t of Revenue* (Dane County Circuit Court, Case No. 02CV3533), where the Circuit Court found that Wis. Stat. § 70.11(42) violated the dormant Commerce Clause of the United States Constitution. On July 7, 2006, the Wisconsin Supreme Court reversed the Dane County Circuit Court. *Northwest Airlines, Inc. v. Wisconsin Dep’t of Revenue and Midwest Airlines, Inc.*, 293 Wis. 2d 202, 717 N.W. 2d 280 (Wis. 2006).

§ 50-611.50. **Arts and Arts Education Centers.** Effective January 1, 2005, property owned or leased by arts or arts education centers satisfying certain conditions qualifies for exemption. See Wis. Stat. § 70.11(43).

§ 50-611.51. **Health Insurance Risk-Sharing Plan Authority.** See Wis. Stat. § 70.11(41m).

§ 50-611.52. **Exempt Property That is Leased to Others.** Leasing a part of the property exempt under any

of the preceding sections does not render such property taxable provided, in addition to the specific requirements (if any) regarding leasing under each such section, that: (i) the lessor uses all of the leasehold income for maintenance of the leased property, construction debt retirement of the leased property or both; and (ii) except for residential housing if the lessee would be exempt from taxation if it owned the property. Wis. Stat. § 70.11 (intro).

The exception for residential property in the second requirement stems from *Columbus Park Hous. Corp. v. City of Kenosha*, 267 Wis. 2d 59, 671 N.W.2d 633 (Wis. 2003), in which the Wisconsin Supreme Court concluded that the taxpayer, a nonprofit organization that acquired blighted property, rehabilitated the property, and made the property available for rent to qualified low-income families, did not meet this second requirement—that the lessee would be exempt from taxation if it owned the property—because the lessees (individuals) would not qualify for exemption under the Wis. Stat. § 70.11 if they owned the property (as Wis. Stat. § 70.11 only exempts certain organizations and institutions, not individuals). This decision was legislatively overruled by 2003 Wisconsin Act 195 (first applies to the property tax assessments as of January 1, 2002), which added the exception for residential property from the requirement that lessees would be exempt from taxation if they owned the property.

§ 50-611.53. **Olympic Ice Training Center.** See Wis. Stat. § 70.11(44).

§ 50-611.54. **Exempt Property Used, in Part, for Non-Exempt Purposes.** Property that is otherwise exempt under one of the preceding sections, and that is used in part in a trade or business for which the owner is subject to federal income taxation under I.R.C. §§ 511-515 (the unrelated business taxable income provisions), is subject to property taxation on that portion of the fair market value of the property that is attributable to the part of the property that is used in the unrelated trade or business. This section does *not* apply to property that is leased by an exempt organization to another person or property that is exempt under Wis. Stat. § 70.11(34) (discussed in § 50-611.40). Wis. Stat. § 70.1105(1). 2001 Wisconsin Act 16 amended Wis. Stat. § 70.1105 to provide that property (excluding land) that is owned or leased by certain corporations that provide services to an affiliated light, heat, and power company is taxable on the portion of the fair market value of the property that is not used to provide such services. See Wis. Stat. § 70.1105(2).

§ 50-612. **Additional Personal Property Exempt from Taxation.** See Wis. Stat. § 70.111.

§ 50-612.1. **Jewelry, Household Furnishings and Apparel.** Personal property exempt from taxation includes, among other items, personal ornaments and

jewelry, household furniture, apparel, and bicycles, provided such items are kept for personal use by the owner. Wis. Stat. § 70.111(1).

§ 50-612.2. Animals. Farm poultry and farm animals, bees, bee equipment and other fur-bearing animals listed in Wis. Stat. § 70.111(2) are exempt from taxation.

§ 50-612.3. Boats. Watercraft employed regularly in interstate traffic, watercraft laid up for repairs, all pleasure watercraft used for recreational purposes, commercial fishing boats and equipment that is used by commercial fishing boats, charter sailboats and charter boats, other than sailboats, that are used for tours are exempt from taxation. Wis. Stat. § 70.111(3); Manual, p. 15-19. Such watercraft may, however, be subject to the provisions of Wis. Stat. § 70.15, which imposes a fee on such watercraft equal to one cent per net ton of the registered tonnage of the vessel. See Wis. Stat. § 70.15(2) for procedures applicable to tonnage fee.

§ 50-612.4. Charter Sport Fishing Boats. Motorboats, and the equipment used thereon, which are regularly employed in carrying persons for hire for sport fishing on certain waters, rivers and tributaries are exempt provided the owner and all operators are properly “licensed” to operate the boat for that purpose. Wis. Stat. § 70.111(3m); Manual, p. 15-19.

§ 50-612.5. Crops. See Wis. Stat. § 70.111(4). Growing and harvested crops, and the seed, fertilizer and supplies used in their production or handling, in the hands of the grower, generally are exempt from taxation.

§ 50-612.6. Family Supplies. Exempt from taxation are provisions and fuel to sustain the owner’s family. Wis. Stat. § 70.111(5). Persons paying board are not deemed members of a family.

§ 50-612.7. Feed. Feed and feed supplements owned by the operator or owner of a farm and used in feeding on the farm (and not for sale) are exempt. Wis. Stat. § 70.111(6).

§ 50-612.8. Horses, Wagons, Carriages, Etc. All horses, mules, wagons, carriages, sleighs and harnesses are exempt from taxation. Wis. Stat. § 70.111(7).

§ 50-612.9. Certain Tools and Garden Machines. See Wis. Stat. § 70.111(9).

§ 50-612.10. Farm Machinery and Equipment. Exempt from property taxation are tractors and machines, including accessories, attachments, fuel and repair parts therefor, whether owned or leased, provided such property is “used exclusively and directly” in farming. Wis. Stat. § 70.111(10). This section does not exempt personal property that is attached to, fastened to, connected to or built into real property or that becomes an

addition to, component part or capital improvement to real property.

§ 50-612.11. Cheese. See Wis. Stat. § 70.111(11).

§ 50-612.12. Milkhouse Equipment. Milkhouse equipment used by a farmer, whether deemed real property or personal property, is exempt from taxation. Wis. Stat. § 70.111(14).

§ 50-612.13. Merchants’ Inventory, Etc. Merchants’ inventory, manufacturers’ materials and finished products and livestock are exempt from taxation. Wis. Stat. § 70.111(17).

§ 50-612.14. Solar and Wind Energy Systems. Solar and wind energy systems, as defined in Wis. Stat. § 70.111(18), are exempt from taxation.

§ 50-612.15. Camping Trailers and Recreational Mobile Homes. See Wis. Stat. § 70.111(19).

§ 50-612.16. Logging Equipment. Property exempt from taxation includes all equipment used to cut trees, to transport trees in logging areas or to clear land for trees for the commercial use of forest products. Wis. Stat. § 70.111(20).

§ 50-612.17. Temporary Ginseng Structures. See Wis. Stat. § 70.111(21).

§ 50-612.18. Rented Personal Property. Certain personal property held for rental for periods of one month or less to multiple users for their temporary use is exempt from taxation provided: (i) the property is not rented with an operator; (ii) the owner is not a subsidiary or affiliate of any other enterprise which is engaged in any business other than personal property rental; (iii) the owner is classified in group number 735, industry number 7359 of the 1987 SIC Manual; and (iv) the property is equipment (not including, among others, automotive and computer-related equipment, cameras, tools, etc.). Wis. Stat. § 70.111(22); Manual, pp. 15-29 and 15-30.

§ 50-612.19. Vending Machines. Machines that automatically dispense soda water beverages and other food items generally are exempt from taxation. Wis. Stat. § 70.111(23).

§ 50-612.20. Motion Picture Theater Equipment. Projection equipment, sound systems and projection screens that are owned and used by a motion picture theater are exempt from taxation. Wis. Stat. § 70.111(24).

§ 50-612.21. Digital Broadcasting Equipment. Digital broadcasting equipment owned and used by a radio station, television station, or a cable television system, as defined in Wis. Stat. § 66.0419(2)(d) is exempt from taxation. Wis. Stat. § 70.111(25).

§ 50-612.22. **Printers.** Exempt from tax are high density sequencing systems that move printed material from one place to another within the production process, organizes materials for optimal staging, or stores and retrieves the materials to facilitate the production or assembly of such materials. *See* Wis. Stat. § 70.111(26).

§ 50-613. **Property That Is Exempt From Taxation Because of Special Tax.** *See* Wis. Stat. § 70.112.

§ 50-613.1. **Money and Intangible Personal Property.** Money and all intangible personal property, such as credit, checks, share drafts, other drafts, notes, bonds, stocks and other written instruments are exempt from taxation under Wis. Stat. ch. 70. Wis. Stat. § 70.112(1).

§ 50-613.2. **Special Property and Gross Receipts Taxes or License Fees.** Property of (i) certain “public utilities,” assessed under Wis. Stat. §§ 76.01-76.26 (the “public utilities” assessed under these sections are defined in Wis. Stat. § 76.02 and include air carrier companies, pipeline companies, and railroad companies), (ii) light, heat and power companies, assessed under Wis. Stat. § 76.28, provided the property is used to provide those services (*see* Wis. Stat. § 70.1105(2)), and (iii) car line companies or electric cooperative associations generally are exempt from taxation under Wis. Stat. ch. 70, provided the property is used and useful in the operation of the business or association. *See* Wis. Stat. § 70.112(4)(a). Real or personal property used more than 50% in the operation of a telephone company that is subject to tax under Wis. Stat. § 76.81 (the telephone company tax that is administered by the Department) is exempt from local property taxation under Wis. Stat. ch. 70. Conversely, property used less than 50% in the operation of the telephone company is subject to local assessment under Wis. Stat. ch. 70 and, therefore, will not be subject to tax under Wis. Stat. § 76.81.

§ 50-613.3. **Motor Vehicles, Bicycles, Snowmobiles, and Other Similar Motor Vehicles.** Motor vehicles, bicycles, snowmobiles, and other similar motor vehicles, or trailer or semitrailer used in connection therewith are exempt from taxation under Wis. Stat. ch. 70. Wis. Stat. § 70.112(5).

§ 50-613.4. **Aircraft.** *See* Wis. Stat. § 70.112(6).

§ 50-613.5. **Mobile Homes.** Every mobile home subject to a monthly parking fee, pursuant to Wis. Stat. § 66.0435, is exempt from taxation. Wis. Stat. § 70.112(7).

§ 50-620. **Exempt Taxpayers.** [Reserved]

§ 50-630. **Constitutional Issues.** Issues involving the constitutionality of certain property taxes arise under both the Federal and State Constitutions.

§ 50-631. **Federal Constitution.** [Reserved]

§ 50-632. **State Constitution.** [Reserved]

§ 50-632.1. **The State Uniformity Clause.** The Uniformity Clause (Article VIII, Section 1) provides that “[t]he rule of taxation shall be uniform” The uniform basis of assessment for Wisconsin property tax purposes is the property’s full value that could ordinarily be obtained at a private sale. A frequently asked question in this context is whether taxpayers may have their properties reassessed at less than full market value if the assessor has underassessed other taxpayers’ residential or commercial properties. Under “old law” (*Walthers v. Jung*, 175 Wis. 58, 183 N.W. 986 (1921)), taxpayers were entitled to have their properties reassessed *only* when they showed that at least 2% of the other properties were underassessed. In *Levine v. Village of Fox Point*, 191 Wis. 2d 363, 528 N.W.2d 424 (1995), and *Noah’s Ark Family Park v. Board of Review of the Village of Lake Delton*, 216 Wis. 2d 387, 573 N.W.2d 852 (1998), taxpayers were entitled to a reduction in their full value assessments based on Uniformity Clause arguments notwithstanding their failure to meet the *Walthers* 2% threshold.

§ 50-640. **Practice and Procedure [Exemptions].**

§ 50-641. **Tax Exemption Reports; Real Property.** By March 31 of *each even-numbered year*, the owner of any parcel of land that is exempt pursuant to Wis. Stat. § 70.11 must file with the clerk of the taxation district in which the property is located a tax exemption report containing the information set forth in Wis. Stat. § 70.337. This requirement does not apply to the State, cities or other taxation districts. *See* Wis. Stat. § 70.337(7) for other exceptions to filing such reports.

§ 50-642. **Tax Exemption Reporting Requirements; Property Owned By Entities Exempt From Federal Income Tax.** By March 15 of *each year*, any owner exempt from federal income taxation, and who used the property in a trade or business for which the owner was subject to tax under I.R.C. §§ 511-515, must file with the clerk of the taxation district in which the property is located a tax exemption report containing the information set forth in Wis. Stat. § 70.339.

§ 50-700. **MISCELLANEOUS ITEMS.**

§ 50-710. **Current Issues and Topics.**

§ 50-711. **Beneficial Ownership.** In *Milwaukee Reg’l Med. Ctr., Inc. v. City of Wauwatosa*, 2007 WI 101, 735 N.W.2d 156, the Wisconsin Supreme Court held that the lessee of county land was beneficial owner of property where lease ran 50 years, lessee has exclusive occupancy of property, legal title to improvements was vested in lessee, and the lessee make token rental payment and county had no control over daily operations.

§ 50-712. Tax Deeds. In *Jackson County v. Wisconsin Dep't of Natural Res.*, 2006 WI 96, 717 N.W.2d 713, the Wisconsin Supreme Court held that a county could not unilaterally rescind a tax deed and return the property to the original owner without that original owner's consent.

§ 50-713. Comparable Sales Approach. In *Krukowski v. Village of Greendale*, 2007 AP330, the Court of Appeals held that depreciation and obsolescence were not proper factors to be used in applying the comparable sales approach to evaluate residential property.

§ 50-714. Assessor's Presumption of Correctness. In *Wisconsin v. Village of Menomonee Falls*, Case Nos. 2006AP1874, 2005CV3104, a circuit court held that the board of review applied incorrect standard of "overwhelming evidence" and was not entitled to presumption of correctness where it failed to deliberate or indicate on the record that it considered the evidence presented.

§ 50-715. Benevolent Association Exemption. In *Ridge Side Coop. v. City of Madison*, 2007 WI App. 130, 731 N.W.2d 383, the Court of Appeals held that a residential cooperative was not exempt as benevolent association where departing residents could sell their occupancy rights for a sum equal to their transfer fee plus a 5% annual gain thereon.

§ 50-716. Environmentally-Contaminated Properties. In *Milwaukee County v. Collision*, Appeal No. 2005AP431 (Wis. Ct. App., April 25, 2006), the Court of Appeals held that the taxpayers failed to exhaust special administrative remedies in challenging the excessive assessment of environmentally contaminated property.

§ 50-717 Assessor Improperly Considered Long-Term, Above-Market Rate Leases When Valuing Commercial Property. In *Walgreen Co. v. City of Madison*, 311 Wis. 2d 158, 752 N.W.2d 687 (July 8, 2008), the Wisconsin Supreme Court reversed the Wisconsin Court of Appeals and concluded that the City of Madison Assessor improperly considered long-term, above-market rate leases when valuing commercial property.

§ 50-718. Comparable Sales. In *Northland Whitehall Apts., LP v. City of Whitehall*, 2006 WI App. 60, 713 N.W.2d 646, the Court held that the assessor failed to show that comparison sales were recent arm's length sales of reasonably comparable property.

§ 50-719. Constitutional Ban on Private Legislation (Exemptions). In *Lake Country Racquet & Athletic Club, Inc. v. Morgan*, 2006 WI App. 25, 710 N.W.2d 701 (Wis. Ct. App. 2006), the Wisconsin Court of Appeals held that the property tax exemption for YMCAs did not violate the constitutional ban on private legislation.

§ 50-720. Cost Approach. In *Nestle USA, Inc. v. Wis.*

Dep't of Revenue, Case No. 2006-CV-004401 (Dane County Cir. Ct., November 26, 2007), the Circuit Court upheld the assessor's use of the cost approach to a whole protein powdered infant formula manufacturing facility with limited deductions for obsolescence.

§ 50-721. Exemption for Computer. In *Xerox Corp. v. Wisconsin Dep't of Revenue* (Dane County Cir. Ct., September 21, 2007), the Court held that multifunction copier and scanners linked to computers were not exempt from property tax. In *City of LaCrosse v. Wisconsin Department of Revenue*, 2008 Wisc. Tax LEXIS 19 (June 9, 2008), the Wisconsin Tax Appeals Commission ruled that certain medical devices and equipment used by a medical clinic qualified as exempt computer equipment under Wis. Stat. § 70.11(39).

§ 50-722. Jury Trials. In *Sundaram v. City of Milwaukee*, Case No. 2006-CV-005293 (Milwaukee County Cir. Ct., January 23, 2007), the Court held that property owner had a constitutional right to a jury trial.

§ 50-723. Waste Treatment Exemption. In *City of Green Bay v. Wis. Dep't of Revenue*, Docket No. 06-M-146 (Wis. Tax App. Comm'n, December 21, 2007), the Commission limited the property tax exemption for waste treatment facilities where that property is also used for other types of purposes or facilities.

§ 50-724. List of Forms. See list at end of Chapter.

§ 50-800. OTHER.

§ 50-810. Assessment of Certain Vessels; Tonnage Assessment in Lieu of Property Taxes. All steam vessels, barges, boats or other watercraft, owned within or hailing from Wisconsin, and employed regularly in interstate traffic, are subject to, in lieu of personal property taxes, a tonnage assessment of one cent per ton of the registered tonnage thereof. Wis. Stat. § 70.15.

§ 50-820. Forced Sale; Assessment Freeze. The local legislative body of any municipality may by ordinance provide for the granting of an assessment freeze on property acquired by the owner for the purpose of replacing other property which had belonged to such owner and which was either conveyed by such owner under the threat of condemnation or which was condemned for the benefit of a public entity to be used for public purposes. Wis. Stat. § 70.105.

§ 50-830. Occupational Taxes. Because the general rules regarding the assessment of property do not necessarily "fit" all circumstances, the Legislature has made special provision with respect to certain industries and subjects those industries to "occupational taxes." See Manual, pp. 15-41 and 15-42. See also Wis. Stat. § 70.38 (reports, appeals, estimated liability); Wis. Stat. § 70.385 (collection of tax); Wis. Stat. § 70.39 (collection

of delinquent tax); Wis. Stat. § 70.395 (distribution and apportionment of tax); and Wis. Stat. § 70.396 (use of metalliferous mining tax payments by counties).

§ 50-831. Occupational Tax on Persons Extracting Metalliferous Minerals in Wisconsin. *See* Wis. Stat. § 70.37.

§ 50-832. Occupational Tax on Mining of Metallic Minerals. *See* Wis. Stat. § 70.375.

§ 50-833. Occupational Tax on Iron Ore Concentrates. *See* Wis. Stat. § 70.40.

§ 50-834. Occupational Tax on Grain Storage. *See* Wis. Stat. § 70.41.

§ 50-835. Occupational Tax on Coal. *See* Wis. Stat. § 70.42.

§ 50-836. Occupational Tax on Petroleum and Petroleum Products. *See* Wis. Stat. § 70.421.

§ 50-837. Oil and Gas Severance Tax. *See* Wis. Stat. § 70.397.

WISCONSIN PROPERTY TAX

**BUREAU OF PROPERTY TAX
SELECTED STATE PRESCRIBED FORMS**

| FORM NAME | STATUTE# | FORM# | FORM NAME | STATUTE# | FORM# |
|--|-----------------|--------------|--|-----------------|--------------|
| Report of Net Proceeds Occupation Tax on Mining of Metallic Minerals | § 70.38 | MT-001 | Omitted Property Roll | § 70.44 | PA-5/659 |
| Occupational Tax on Operators of Iron Ore Concentrates Docks | § 70.40 | PA-002 | Correction of Errors by Assessors | § 70.43 | PA-5/661 |
| Statement of Personal Property | § 70.35(2) | PA-003 | Agricultural Work Card | § 70.09(3) | PA-703 |
| Summary Computer Exemption Report | § 70.11(39) | PA-004 | Summary of Board of Review Proceedings | § 70.47 | PA-800 |
| Summary by TIF District—Summary Computer Exemption Report | § 70.11(39) | PA-004A | Tax Exemption Report | § 70.337 | PC-220 |
| Occupational Tax on Operators of Grain Elevators and Warehouses | § 70.41 | PA-005 | Multi-Parcel Tax Exemption Report | § 70.337 | PC-220A |
| Occupational Tax on Operators of Coal Docks | § 70.42 | PA-006 | Taxation District Exemption Summary Report | § 70.337 | PC-226 |
| Occupational Tax on Petroleum Products Refined in Wisconsin | § 70.421 | PA-014 | Unrelated Business Income Report | § 70.339 | PC-227 |
| Cable Television Systems Annual Property Report | § 70.35 | PA-016 | Criteria for a Completed Real Estate Transfer Return | § 70.22 | PE-100 |
| Assessor's Final Report | § 73.03(5) | PA-100T | Fixed Asset Schedule | — | PE-106 |
| Assessor's Final Report Work Sheet Supplement | — | PA-110 | Wisc. Real Estate Transfer Return | § 77.22 | PE-500 |
| Objection Form For Real Property Assessment | § 70.47(7) | PA-115A | Wisc. Real Estate Transfer Return – Instructions | § 77.22 | PE-500A |
| Objection Form For Personal Property Assessment | § 70.47(7) | PA-115B | Real Estate Transfer Fee Transmittal | § 77.24 | P-520 |
| Mobile Home Valuation Worksheet | § 66.0435 | PA-117 | Property Tax Exemption Request | § 70.11 | PR-230 |
| Mobile Home Statement of Monthly Parking Permit Fee | § 66.0435 | PA-118 | Notice of Personal Property Assessment | § 70.365 | PR-299 |
| Residential Property Record Card | § 70.09 (3) | PA-500 | Notice of Assessment | § 70.365 | PR-301A |
| Statement of Assessment | — | PA-521 | Notice of Board of Review Determination | § 70.47(12) | PR-302 |
| Assessor's Affidavit | § 70.49 | PA-533 | Request for Exemption of Renewable Energy System | § 70.111(18) | PR-303 |
| Real Estate Assessment Roll | § 70.45 | PA-539-2 | Notice of Change to Reported Exempt Computers | § 70.35 | PR-307 |
| Personal Property Worksheet | — | PA-595 | Gross Annual Property Expenses Report | — | PR-323 |

