Chapter 19

Personal Property Assessment

Sec. 70.34, Wis. Stats., requires that "All articles of personal property shall, as far as practicable, be valued by the assessor upon actual view at their true cash value." The term "personal property" as defined in sec. 70.04, Wis. Stats., includes all goods, wares, merchandise, chattels, and effects, of any nature or description, having any real or marketable value, and not included in the term "real property."

Sec. 70.30, Wis. Stats., states that "Every assessor shall ascertain and set down in separate columns prepared for that purpose on the assessment roll and opposite to the names of all persons assessed for personal property the number and value of the... items of personal property assessed to such person, which shall constitute the assessed valuation of the several items of property therein described..." The items of personal property with which the assessor must be concerned are:

- The number and value of steam and other vessels (boats and watercraft).
- The value of furniture, fixtures, and equipment.
- The value of all other personal property except such as is exempt from taxation.

These basic items will be more fully described later in this chapter.

To properly perform the personal property assessments, the assessor must be able to distinguish between real and personal property. The correct classification of property as realty or personalty is important, for in some cases it determines whether the property is taxed at all. The question of whether a particular kind of property is assessed as real or personal property is not a question of optional choice on the part of the assessor. It is a matter of definition as written in the statutes and as clarified by interpretation of the courts. There will be cases where it is not clear whether a property is realty or personalty; therefore, the assessor must have a sound understanding of the law of fixtures and applicable court cases and opinions which may prove helpful in making the distinction. These have been discussed in detail in WPAM Chapter 22-Legal Reference.

Another area that sometimes poses problems for the assessor is how to distinguish merchants' stock-in-trade and manufacturers' materials and finished products (which are exempt) from the various items of personal property which are assessable. This issue has also been addressed in some detail in the Legal Reference (WPAM Chapter 22). The assessor should carefully study that section.

When Assessment Made

The rule for the assessment of personal property is the same as that for real property, that is, as of the close of January 1. The timetable on page 19-2 is included to aid the assessor in planning the work schedule.

Where Personal Property Assessed

Sec. 70.13(1), Wis. Stats., says "All personal property shall be assessed in the assessment

district where the same is located or customarily kept except as otherwise specifically provided. Personal property in transit within the state on the first day of January shall be assessed in the district in which the same is intended to be kept or located, and personal property having no fixed location shall be assessed in the district where the owner or the person in charge or possession thereof resides, except as provided in subsection (5) of this section." Thus, the tax situs of personal property may or may not be the tax district in which it happened to be physically present as of the close of January 1.

Sec. 70.13, Wis. Stats., would appear to establish a very strong presumption in favor of the assessment district where the personal property is located at the close of the first day of January. However, if other facts can be established which overcome that presumption, then the property may be legally assessed in another assessment district. But, if no one comes forth with facts to rebut this presumption, then the physical location of the property on January 1 is the assessment district where the property should be assessed for that year. In most cases the assessor will have no problem in this respect; however, the law has provided rules for the exceptional cases. See the legal section (Chapter 22) for further definition.

Assessor's Timetable – Personal Property Assessment

Period or Date	Activities or Comment
September-October	Obtain personal property forms from County Clerk or refer property owners to the online form available on Wisconsin Department of Revenue's (DOR's) website. The online form is an excel spreadsheet that computes totals from the values entered by the property owner. City, town or village forms that vary from the state prescribed form must be approved by the DOR.
September-December	Occupancy Check: Prepare names and addresses of personal property accounts for next year's roll. Add new accounts, do address changes, and remove accounts that moved out of district or went out of business. Make note of vacant business locations.
December	Distribute personal property returns timely so taxpayer has receipt of forms prior to January 1.
January 1 thru March 1	Receive, date, and office audit all forms as they are returned. Note any address and/or owner changes.
February 1	Send delinquent notice to occupational tax accounts.
March 1	Personal property filing due date. Mailing a delinquency notice to non-filers is advised. Contact filers of unacceptable reports for additional information.
March-April	Finalize value and enter into the roll. Mail notice of assessment to the following: • Doomages

	• New Accounts • All Accounts (Highly Recommended)
On or before 1st Monday in May	Assessment roll completed and submitted to municipal clerk. Assessment roll open for public inspection.
On or after 4th Monday in April	Assessor signs affidavit in assessment roll and attends Board of Review (BOR).
Year-Round	Review of media reports, telephone book, city directory, newspaper ads, etc. for new accounts or deletion of old accounts.

When No Fixed Location

When personal property is determined to have no fixed location, sec. 70.13(1), Wis. Stats., says it "...shall be assessed in the district where the owner or the person in charge or possession thereof resides, except as provided in subsection (5) of this section." Subsection (5), Wis. Stats., says, "As between school districts, the location of personal property for taxation shall be determined by the same rules as between assessment districts; provided, that whenever the owner or occupant shall reside upon any contiguous tracts or parcels of land which shall lie in two or more assessment districts, then the (personal property)... of such owner or occupant used, kept, or being upon such contiguous tracts or parcels of land, shall be assessed in the assessment district where such personal property is customarily kept."

When in Transit

Saw logs: sec. 70.13(2), Wis. Stats., "Saw logs or timber in transit, which are to be sawed or manufactured in any mill in this state, shall be deemed located and shall be assessed in the district in which such mill is located..."

To Whom Personal Property is Assessable

Personal property may be assessed to the owner or to some other person who is in charge or in possession of the personal property. Frequently, leases state whether the owner or the lessee is responsible for the personal property taxes. The assessor may wish to consider the lease provisions when determining who to assess for the personal property. The following material discusses the provisions of Chapter 70 relating to whom personal property is assessable.

To Actual Owner

Normally, "Personal property shall be assessed to the owner thereof, except that when it is in the charge or possession of some person other than the owner it may be assessed to the person so in charge or possession of the same…", as provided by sec. 70.18(1), Wis. Stats.

When a Person is Considered to be an "Owner"

Since the term "owner" has several meanings such as legal, equitable, complete, and beneficial, it is necessary to know what the legislature meant by the term "owner". A strong clue to the legislative meaning of "owner" can be found in sec. 70.19, Wis. Stats., which equates the term "owner" to the person beneficially entitled to the property. Therefore, the term "owner" means more than the mere holder of the bare legal title.

When "Owner" is a Partnership

Sec. 70.21, Wis. Stats., says, "The personal property of a partnership may be assessed in the names of the persons composing such partnership, so far as known or in the firm name or title under which the partnership business is conducted, and each partner shall be liable for the taxes levied thereon…"

When "Owner" is Deceased

Sec. 70.21, Wis. Stats., says, "Undistributed personal property belonging to the estate of a person deceased shall be assessed to the executor or administrator if one shall have been appointed and qualified, on the first day of January in the year in which the assessment is made; otherwise it may be assessed to the estate of such deceased person, and tax thereon shall be paid by the executor or administrator if one be thereafter appointed, otherwise by the person or persons in possession of such property at the time of the assessment."

Sec. 70.22(1), Wis. Stats., lists several alternate ways in which personal property of an estate which is being administered may be assessed by the local assessor. In case one or more of the executors of a will, or administrators or trustees of the estate are no longer residents of the state, the taxable personal property of the estate is assessed to the executors, administrators or trustees residing in the state. If there are two or more executors, administrators, or trustees residing in the state but in different assessment districts, the assessment of the personal property is in the name of all such executors, administrators or trustees. When none of the executors, administrators or trustees live in the state, the personal property assessment is in the name of either the estate, or the executors, administrators, or trustees.

For personal property which a deceased person owned but was omitted from the assessment roll, it was held in the case of *Bogue v. Laughlin*, 149 Wis. 271, 136 N.W. 606 (1912), that such property can be assessed against the executors.

Some Other Person in Charge or Possession

Sec. 70.18(1), Wis. Stats., also provides that "Telegraph and telephone poles, posts, railroad ties, lumber, and all other manufactured forest products shall be deemed to be in the charge or possession of the person in occupancy or possession of the premises upon which the same shall be stored or piled, and the same shall be assessed to such person, unless the owner or some other person residing in the assessment district, shall be actually and actively in charge and possession thereof, in which case it shall be assessed to such resident owner or other person so in actual charge or possession; but nothing contained in this clause shall affect or change the rules prescribed in s. 70.13 respecting the district in which such property shall be assessed."

When personal property is assessed to someone other than the "owner", then, according to sec. 70.19(2), Wis. Stats., "The person so assessed is personally liable for the tax on the property. The person has a personal right of action against the owner or person beneficially entitled to the property for the amount of the taxes and has a lien for that amount upon the property with the rights and remedies for the preservation and enforcement of that lien provided in sections 289.45 and 289.48 and is entitled to retain possession of the property until the owner or person beneficially entitled to the property pays the tax on the property or reimburses the person assessed for the tax if paid by that person."

However, by virtue of the language in sec. 70.20(1), Wis. Stats., an "owner" of personal property can have a personal property tax liability even though the property was assessed to a different person who was "in charge or possession" on January 1. Section 70.20(1), Wis. Stats. says, "When personal property shall be assessed to some person in charge or possession thereof, other than the owner, such owner as well as the person so in charge or possession shall be liable for the taxes levied pursuant to such assessment; and the liability of such owner may be enforced in a personal action as for a debt. Such action may be brought in the name of the town, city or village in which such assessment was made… ."

Discovery of Personalty

Personal property, as a class, presents problems in discovery and valuation that are not present in real estate. The many items to be valued, the movable nature of the property owned or leased, and the fact that property owners are not required to come to the assessor, requires that the assessor be alert and resourceful to be certain that all taxable property has been discovered, valued and listed on the assessment roll. Chapter 70 should be reviewed regularly for statutory changes affecting taxation or exemption of personal property.

When preparing to assess personal property, one of the first things to be done each year is to draw up a list of personal property owners as of January 1, using the previous year's personal property assessment roll as a beginning. The alert assessor will have made observations during the past year as to those opening a new business or a business that has changed hands or has been discontinued and can make additions or deletions to the list as necessary. Additional personal property may also be located when visiting business locations, or by checking telephone listings, a street address directory, license lists, building permits, newspaper ads, trade directories, professional directories, and private rating companies (i.e., Dunn & Bradstreet). A check should also be made of exempt institutions since they may contain assessable personal property owned by others. When making a check to locate personal property, it is recommended that a record be maintained of vacant locations, exempt institutions, and construction in progress for future reference.

Actual View

Sec. 70.34, Wis. Stats., states in part that "all articles of personal property shall, as far as practicable, be valued by the assessor upon actual view…"A personal visit may disclose facts which an office examination of the return does not reveal. Additional new accounts may be discovered, claims for obsolescence and depreciation may be discounted after discussion with the owners. The property owners may also have questions to be answered. The personal visit may have a beneficial effect on property tax administration work in general as well as from a public relations standpoint. However, notice requirements included in Chapter 5-10 must be considered prior to achieving actual view.

Personal Property Returns

It may not always be practical for the assessor to view all personal property in the district. The legislature, as an aid to the assessor, has authorized the assessor to require certain property owners to furnish information on a personal property form as to the value of the personal property, owned by them and in their possession. Sec. 70.35(1), Wis. Stats., states in part "To determine the amount and value of any personal property for which any person, firm or corporation should be assessed… the assessor may require such person, firm or corporation to submit a return of such property and of the taxable value thereof. There shall be annexed to such return the declaration of such person or of the managing agent or officer of such firm or corporation that the statements therein contained are true."

The personal property form, called the "Statement of Personal Property," is not required from farmers, firms, or corporations assessed under Chapter 76 (utilities), or any person, firm, or corporation whose personal property is not used for the production of income in industry, trade, commerce, or professional practice. Any property owner required to file a statement of personal property who fails to do so shall be denied any right of abatement at the BOR hearing unless the form is filed at that time with a statement of the reasons for failure to file in the manner required.

The form of the personal property statement is described by sec. 70.35(2), Wis. Stats., and reads as follows: "The return shall be made and all the information therein requested given by such person on a form prescribed by the assessor with the approval of the department of revenue which shall provide suitable schedules for such information bearing on value as the department deems necessary to enable the assessor to determine the true cash value of the taxable personal property, and of the personal property that is exempt under s. 70.11(39) or (39m), that is owned or in the possession of such person on January 1. The return may contain methods of deriving assessable values from book values and for the conversion of book values to present values, and a statement as to the accounting method used. No person shall be required to take detailed physical inventory for the purpose of making the return required by this section."

The personal property forms are available from the county clerk and should be distributed or delivered to owners of property shortly before January 1. This should allow property owners enough time to properly complete the forms and return them by the March 1 statutory due date as provided in sec. 70.35(3), Wis. Stats. It states: "Each return shall be filed with the assessor on or before March 1 of the year in which the assessment… is made. The assessor, for good cause, may allow a reasonable extension of time for filing the return. All returns filed under this section shall be the confidential records of the assessor's office, except that the returns shall be available for use before the board of review as provided in this chapter. No return required under this section is controlling on the assessor in any respect in the assessment of any property." Filings received on or before March 1 by electronic filing, fax, mail or physical delivery are timely. If March 1 is a Saturday or Sunday, state law (sec. 990.001(4), Wis. Stats.), allows taxpayers to file on the next day that is not a Saturday or Sunday. Under this situation, filings received on or before the next day that is not a Saturday or Sunday by electronic filing, fax, mail or physical delivery are timely.

The assessor may find it practical to personally deliver the statements to personal property owners. By doing so, the assessor can more readily discover address changes, changes in

existing accounts, new accounts, accounts which no longer exist, and can be sure that each taxpayer required to file a statement of personal property actually receives the statement.

The assessor should follow-up on any which are not returned in a timely manner. This will help to avoid delay in completion of the assessment roll and BOR proceedings.

When a personal property return is received by the assessor, it should be checked for accuracy in arithmetic and procedure by someone familiar with accounting principles and property tax laws. This must not be neglected. The return should be signed and dated. The correct name of the owner is important. Trade names such as "Jack's Tap" should not be used for a sole proprietorship, rather the owner's name, should be used.

There may be times when the assessor is unable to determine the amount of personal property owned by a taxpayer. This may be due to the taxpayer's failure to file the statement of personal property, improper completion of the statement, and/or inability or unwillingness on the part of the taxpayer to submit to examination under oath or to allow the assessor to view the personal property for the purpose of making an assessment. When this happens, it will be necessary for the assessor to arrive at an assessment independent of these means, from whatever information is available. Resources available for setting the value in these circumstances includes, but is not limited to: (1) prior year filings, (2) comparison to similar businesses, (3) site visit to determine an estimate on site, and/or (4) percent increase over the prior year. . If the assessor is reasonably certain that unreported personal property exists, it is a procedural error to omit that property from assessment. The intentional omission of any property could result in revocation of certification proceedings on the basis of misconduct or negligence.

DOR prescribes an assessment notice form for personal property. Providing a Notice of Personal Property Assessment (DOR Form PR-299) is considered a best practice and highly recommended. Sec. 70.35(6), Wis. Stats., states in part, "The return required by this section shall not be demanded by the assessor from… any person, firm or corporation whose personal property is not used for the production of income in industry, trade, commerce, or professional practice." If an individual or firm owns personal property for the purpose of producing gross income, the owner must file a return even though the business may have operated at a loss for the year.

This means the assessor cannot require a return for personal property owned by individuals for their personal use or by individuals or entities exempt under secs. 70.11, 70.111, or 70.112, Wis. Stats. If an individual or firm owns personal property for the purpose of producing gross income, the owner must file a return even though the business may have operated at a loss for the year. Returns should also be required from seasonal operations that are closed on January 1.

Personal property must meet the statutory criteria, primarily secs. 70.11, 70.111, and 70.112, Wis. Stats., to be exempt. If the property is converted to an exempt use, such as a personal use of a hobby, it may qualify for exemption. However, if the property is used for business purposes, it is assessable. For example, a real estate appraisal firm operating out of the owner's home uses office furniture which is assessable. If the firm goes out of business and the furniture is converted to personal, non-business use, it would be exempt as household furnishings.

If an appraisal firm with desks, tables, and file cabinets goes out of business, the furniture remains assessable if this is not converted to an exempt use.

Forfeitures

Section 70.36 (1), Wis. Stats., defines a forfeiture for "Any person, firm, or corporation in this state owning or holding personal property of any nature or description, ..., which property is subject to assessment, who shall intentionally make a false statement to the assessor of that person's, firm's, or corporation's assessment district or to the board of review thereof with respect to such property, or who shall omit any property from any return required to be made under s. 70.35, with the intent of avoiding the payment of the just and proportionate taxes thereon, shall forfeit the sum of $10 for every $100 or major fraction thereof so withheld from the assessor or board of review."

Under sec. 70.36(2), Wis. Stats., it is the duty of the district attorney to investigate complaints made by the assessor or by a member of a BOR regarding an owner of personal property subject to assessment, who intentionally make a false statement to the assessor regarding that property, or who fails to report information on property under secs. 70.35, Wis. Stats. All forfeitures collected under sec. 70.36(1), Wis. Stats., are paid to the treasury of the taxation district in which such property had its situs for taxation.

Classification of Property

As part of the discovery process, the assessor should be sure that all items are properly classified as real or personal property. This is discussed in Chapter 22. The important point is that both the assessor and the taxpayer know the classification of various items for reporting purposes. Misunderstandings between the assessor and the taxpayer can lead to double assessments and omitted property.

To help prevent this from happening, the assessor must carefully review the taxpayer's personal property return and all notes made during the actual view of the property. The assessor must review this schedule with the owner and resolve any items on which the assessor and the taxpayer disagree. Problems can be resolved either by the assessor adjusting the assessment to coincide with the taxpayer's return or by the taxpayer changing the way the items are reported. For some items there is no choice (see sec. 70.04, Wis. Stats.) as the Legislature has defined them as personal property and they must be assessed as such.

Leasehold Improvements

According to IAAO Standard on Valuation of Personal Property, leasehold improvements are defined as, "Items of personal property, such as furniture and fixtures associated with a lessee (the tenant), that have been affixed to the real property owned by a lessor."

Tenant leasehold improvements should be included in the personal property assessment.

1. The reporting of leasehold improvements on personal property returns is necessary so that the leasehold improvements in question can be identified in order to avoid taxation of these items both as real and personal property.
2. Specialized equipment such as dental chairs, laboratory fixtures, etc., may be assessable

on the personal property roll.
3. It should be recognized that items other than basic real estate items may have limited value to subsequent tenants.

The assessor should, at the very least, include "White Boxed" items in the real estate assessment. White Box is a term used to describe the condition a landlord delivers rentable premises. The term can have different meanings for different landlords or different commercial real estate brokers. For real estate assessment purposes the term shall include the following:

- Four walls, including two demising walls, ready for paint and/or wall covering.
- Finished floor system, to include concrete floor and floor covering.
- Finished ceiling system, to include drop ceiling system and panels or drywall ceiling.
- Standard electrical system with adequate output capacity and adequate/standard lighting.
- Standard plumbing system to include restroom(s) which are fully functional and to code.
- Standard HVAC system to include ductwork for heating/cooling and air conditioning system with adequate output capacity.
- Fire sprinklers.
- All work exterior to the rentable premises completed, to include storefront entries commensurate with the quality of the development, and rear employee/ delivery entrances.

This definition <u>does not</u> include wall coverings, interior partitions and trade fixtures.

Classification Guide – Real vs. Personal

In most cases, a particular piece of property is obviously either personal property or real property. In some instances, however, the lines appear blurred. When this happens, distinguishing between real and personal property becomes a significant challenge.

Definitions

Real property as described in sec. 70.03, Wis. Stats., includes not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto.

Personal property as defined in sec. 70.04, Wis. Stats., includes all goods, wares, merchandise, chattels, and effects, of any nature or description, having any real or marketable value and not included in the term "real property".

The conclusion from these two definitions is that classification as real estate is the primary focus for the assessor, as personal property is defined by the statutes as those items <u>not</u> included in the term real property. The thought process that the assessor should give primary consideration to classifying assets as real estate is consistent with established practices and Wisconsin case law.

The basic factors for determining whether an item should be classified as real or personal property are designed use and purpose. Normally, the land and all permanent structures on the land, all mechanical and other features within the structures designed for the safety and

comfort of the occupants, and all permanent land improvements added for the utilization of the land are considered real estate.

Land improvements generally considered real property include retaining walls, piling and mats for general improvements of the site, private roads, paved areas, culverts, bridges, viaducts, subways, tunnels, fencing, reservoirs, dikes, dams, ditches, canals, private storm and sanitary sewers, private water lines for drinking, sanitary and fire protection, fixed wharves and docks, permanent standard gauge railroad tracks, and yard lighting.

Building components generally considered real property include foundations, walls, floors, roof, insulation, stairways, catwalks, skywalks, partitions, loading and unloading platforms and canopies, systems designed for occupant comfort such as heating, lighting, air conditioning, ventilating, sanitation, fixed fire protection, plumbing and drinking water, elevators, and escalators.

Testing to Determine Classification

Wisconsin case law (please see the Fixtures Section in WPAM Chapter 22) suggests three tests to determine whether a piece of property should be classified real or personal.

First test – Annexation. Is the method of attachment such that removal from the real estate will not damage the article being removed or to the realty from which it is removed? (Damage implies loss in value). Attachment may be by:

- Gravity or weight of the object itself.
- Physical connection.
- Incorporation to the real estate.

Examples of physical attachment include: water pipes, electrical wiring, linoleum, heavy industrial machinery kept in place by their own weight.

Second test – Intention of the parties. Is the article attached with the intention of making it a permanent part of the building? Would the average person consider this article a permanent fixture?

For example, wall-to-wall carpeting, whether hardwood, concrete slab or Masonite is underneath, is generally considered part of the real estate.

Third test – Relationship of the property. Is there any special adaptation between the article and the premises? Personal property designed for and used in the "normal use" of a parcel of land may be classified as real property. Permanent physical attachment is not always necessary for personal property to become a fixture to the real estate.

Examples include storms and screens, specifically built for a house, a built-in oven which merely sits in a cabinet specifically built to hold it, house keys, and church pews.
In summary, in order to decide whether items are assessable as real estate, you must ask the following questions:

- How attached is this article to the real estate?
- Would there be damage to the article and/or the real estate if the article were removed?
- What would the typical owner's intent be in installing this article? Would it remain as an

integral part of the real estate if sold?
- Was this article specifically adapted to this particular real estate?

It should be recognized in classifying items, that a particular property may have unique characteristics and circumstances. The unique characteristics and circumstances may make your decision as to real or personal property different than in other instances where there are no unique characteristics and circumstances. Buildings on leased land may be one of those instances.

The assessor should also be aware that the use of a particular valuation approach does not automatically preclude classification as real or personal property. For example, leasehold improvements are appropriately classified as real estate for all the above stated rationale and the assessor uses a market rent for improved space when using an income approach. If a cost approach is used, items can be costed out for real estate as well as personal property.

Real Property vs. Personal Property Classification Guide

The use and purpose determine whether items should be classified as real or personal property. Normally, the land and all permanent structures on the land and all permanent land improvements are considered real estate.

For example, land improvements generally considered real property include retaining walls, piling and mats for general improvements of the site, private roads, paved areas, culverts, bridges, viaducts, subways, tunnels, fencing, reservoirs, dikes, dams, ditches, canals, private storm and sanitary sewers, private water lines for drinking, sanitary and fire protection, fixed piers, fixed wharves, and fixed docks, permanent standard gauge railroad tracks, and yard lighting.

Building components generally considered real include foundations, walls, floors, roof, insulation, stairways, catwalks, skywalks, partitions, loading and unloading platforms and canopies, systems designed for occupant comfort such as heating, lighting, air conditioning, ventilating, sanitation, fixed fire protection, plumbing and drinking water, elevators, and escalators.

Sec. 70.03, Wis. Stats., defines real property as the land, buildings, improvements, and fixtures thereon. Sec. 70.04, Wis. Stats., defines personal property as all goods, wares, merchandise, chattels, and effects that are not real property.

The following guidelines contain recommendations for classifying individual items. The assessor should also consider the specific facts of each situation when determining the classification of individual items. However, the rationale as described in this section, clarifies that some items, such as tavern bars and back bars, gas station pumps and tanks, safety deposit boxes, apartment furnishings and appliances, are properly classified as real property. The assessor should also refer to their real estate costing manuals for guidance and Chapter 22 for relevant court cases and Attorney General Opinions concerning this subject.

Category	Item	Classification
Buildings	Air conditioning – central	Real
	Air conditioning – wall	Real
	Air conditioning – window	Personal
	Security system (cameras, monitors, alarms)	Personal
	Boiler – for heating building	Real
	Cold storage – built-in	Real
	Cold storage – walk-in coolers	Personal
	Cold storage – free standing	Personal
	Cold storage – movable (knock-down type)	Personal
	Dock leveler	Real
	Door – automatic	Real
	Dumbwaiter	Real
	Elevator	Real
	Escalator	Real
	Man lift	Real
	Internal wiring for sound, intercom, surveillance & music systems	Real
	Equipment for sound, intercom & music systems – free standing	Personal
	Sidewalk lift	Real
	Sprinkler system	Real
	Cooking range – free standing	Personal
	Cooking range – built-in	Real
	Furnace – free standing	Personal
	Furnace – built-in	Real
	Surveillance equipment – free standing	Personal
	Water heaters – general purpose	Real
	Water heaters – special purpose only (Laundromats, car wash)	Personal
Yard items	Loading docks	Real
	Bulkheads	Real
	Fencing	Real
	Incinerator	Real
	Overhead walkway	Real
	Satellite dish	Personal
	Satellite receiver	Personal
	Scale house	Real
	Scale – platform – built-in	Real
	Scale – platform – portable	Personal
	Sign – attached to building	Personal
	Sign – billboard	Personal*
	Sign – pylon (sign face)	Personal
	Sign – pylon (footing, foundation, pole structure)	Real
	Tower – communication	Personal
	Tower – radio station	Personal
	Tower – television station	Personal
	Railroad siding	Real

	Tunnel	Real
	Skywalk	Real
	Utility shed	Real
Bowling lanes	Lane and return	Real
	Pinspotter	Personal
Car washes	Equipment	Personal
	Plumbing, piping & wiring	Real
Commercial greenhouses	Glass on framing	Real
	Plastic on framing	Real
	Heating system	Real
Commercial fishing	Nets	Personal
	Boat hoists (portable)	Personal
	Boat hoists (fixed)	Real
	Processing tables or benches	Personal
Manufactured or Mobile home	In community**,** check local ordinances	Personal
	Owner's lot, permanent foundation & utilities	Real
Manufactured or Mobile home community	Laundry building, bathhouse, swimming pool, etc.	Real
	Poles and lighting	Real
	Sewer system	Real
	Water system	Real
	Walk, driveway and parking area, streets	Real
Oil bulk & refining	Loading rack (frame and canopy)	Real
	Oil storage tank	Real
	Piping	Real
Restaurants & Bars	Bar and back bars – built-in	Real
	Equipment	Personal
	Sink used in conjunction with business operation – built-in	Real
Theaters - indoor	Equipment	Personal
	Seats	Personal
Theaters - outdoor	Concession stand & other buildings	Real
	Screen	Real
	Speaker, post and underground wiring	Real
Special items	Craneway – independent of building structure	Personal
	Craneway – integrated with building structure	Real
	Crane motor and mechanism	Personal
	Grain elevator	Real
	Kiln	Real

	Silo – farm only	Real
	Swimming pool – in-round	Real
	Tank – storage – above ground	Personal
	Tank – storage – underground	Real
Auto services	Compressor	Personal
	Lift/Hoist – built-in	Real
	Lift/Hoist – surface mounted	Personal
	Pump	Personal
	Service station yard lighting	Real
	Tank – above ground	Personal
	Tank – underground	Real
Apartments	Carpeting – installed and attached	Real
	Appliances – built-in (ranges, dishwashers, etc.)	Real
	Appliances – freestanding	Personal
Banks	Counter – built-in	Real
	Alarm systems	Personal
	Night depository	Real
	Safe – built-in	Real
	Safe – movable	Personal
	Safe deposit boxes	Real
	Surveillance system	Personal
	Vault	Real
	Vault door	Real
	Window – walk-up	Real
Beauty shop	Built-in basins and sinks used in conjunction with business	Real

Advertising Signs - Billboards

Advertising signs (billboards) offer a unique circumstance for the assessor. Sec. 70.03 (2), Wis. Stats., states that real estate and real property do not include the permits and the value of the permits required for personal property under sec. 70.04 (3), Wis. Stats. Sec. 70.04 (3), Wis. Stats., states that personal property includes off-premises advertising signs. Off–premises advertising signs do not advertise the site where the sign is located.

Consideration of the following guidance regarding advertising signs is necessary for accurate assessments:

1. **Categorize as Real Estate or Personal Property**
   - Real estate:
     - Advertising signs attached to land owned by the owner of the advertising sign
     - Advertising signs attached to buildings owned by the owner of the advertising sign
   - Personal Property:
     - Off premise advertising signs, not advertising any activity done on the site of the sign

  - On premise advertising signs per activity on the premises and the sign is on leased land
  - The sign could be an on premises advertising sign, owned by the owner of the business, but be assessed as personal property by nature of the rental agreement

2. **Real Estate Classification**
   - Commercial: land necessary for location and convenience of the improvement, advertising sign.
   - Remainder of parcel: classification does not change. Classify according to the requirements of sec. 70.32, Wis. Stats., and the standards in the Manual.
3. **Advertising Sign Valuation**
   - State law provides the requirements for valuation of real estate (sec. 70.32, Wis. Stats.) with sales providing the best indicator of value and personal property (sec. 70.34, Wis. Stats.) according to true cash value with a depreciated cost typically providing the best indicator of value.
   - If personal property or real estate, regardless of permit ownership, there is no value attached to the permit for assessment purposes
   - Income produced by holding the permit cannot be capitalized

Chapters 9 and 13 provide information on the approaches to value.

Data Collection and Review

To aid the assessor in determining the amount and value of personal property for which any person, firm, or corporation should be assessed, sec. 70.35 Wis. Stats., gives the assessor the authority to examine such person or the managing agent or officer of any firm or corporation under oath as to all such items of personal property and the taxable value. In the alternative, the assessor may require such person, firm, or corporation to submit a personal property return.

If the taxpayer refuses to discuss the amount and value of personal property, or to allow the assessor to view the personal property, the assessor is forced to make an assessment on the next best information available. When the BOR meets, whether or not the taxpayer appeals the assessment, the assessor may then request the BOR to subpoena from the taxpayer the production of all books, inventories, appraisals, documents, and other data which may throw light upon the value of property as provided by sec. 70.47(8)(d), Wis. Stats. Keep in mind that at this point, the assessor has signed the assessment roll and cannot impeach the affidavit. It would then be up to the BOR to call upon the assistance of an expert to review the taxpayer's books, come up with an opinion of market value, and then present sworn testimony to the Board regarding the value of the property. The taxpayer must be given proper notice as required by sec. 70.47(10), Wis. Stats., and be given an opportunity to present testimony if so desired.

In cases where the taxpayer is willing to meet and provide information on the property or even allow access to the books, the assessor must be prepared to ask the right questions and know what to look for when reviewing the taxpayer's books and viewing the property. The following on audit procedures is provided to assist the assessor in meeting with the taxpayer.

Audit Procedures

1. Contact the taxpayer and find out where the accounting records are located and the name of the person to contact.
2. Contact the taxpayer ahead of time so the taxpayer has time to prepare and gather together all of the necessary records.
3. During the initial contact, specify exactly what records you want to see and for what time period.
4. Prior to beginning the audit, hold an interview with the contact person to get general types of information:
   A. Capitalization policy
      - Does the company expense or capitalize asset purchases? If the assets are recorded as expenses, they will not show up on the personal property form. The assessor will have to add these items to the asset accounts to get a true valuation of the assets.
      - Does the company expense or capitalize sales and use taxes and freight charges? These items are a normal part of the acquisition cost of the assets and should be added to the assets cost.
      - Does the company write off fully depreciated assets? Assets may be fully depreciated for accounting purposes and still be used. Therefore, the value of fully depreciated assets must be included with other assets.
      - What is the company policy for writing off scrapped or sold assets? The assessor must make sure that scrapped or sold assets have been disposed of prior to the assessment date. If these items are still located on the company's premises, the assessor should include them in the valuation of assets.
      - Does the company capitalize or expense equipment repairs? Any repair that increases the value of the asset, i.e., lengthens its life or improves its productivity, must be capitalized or added to the value of the asset. Normal maintenance, such as minor adjustments or tune-ups, may be expensed.
      - What is the company policy for trade-in allowances? The trade-in allowance should be used to offset the salvage value of the asset traded in. It should not be a deduction from the value of the asset purchased.

   B. Is there a reconciliation schedule between book amounts and the amounts reported on the statement of personal property? The amounts reported on the personal property statement should be the original cost of acquisition. Any differences should be closely scrutinized to verify their validity.

   C. Are purchases recorded as goods are received, as goods are ordered, or as goods are invoiced? The assessor is required to assess the property that is located at the company as of January 1. If the purchases are recorded as goods are ordered, the asset may be on the books but not at the company as of January 1. If the purchases are recorded as goods are invoiced, they may be at the company and in use but not on the books.

   D. Find out if the company is carrying assets on the books that are normally located outside of the municipality (be sure that assets which are located in another municipality are not assessed in your district).

   E. Ask general questions about the company including: number of employees, how long the company has been in operation, sources of supplies and types of equipment used.

5. After the interview and with any required notice given (see Chapter 5-10), take a tour of the company's facilities and view property to verify condition. Ask questions. Try to find out the age, type of equipment, whether there have been improvements to that type of equipment which would render the present equipment obsolete. Observe smaller items that may have been expensed at the time of purchase and do not appear on the books--they are assessable. When viewing property, ask which equipment, if any, is leased (be sure that it is assessed to the proper person). When viewing the property, it will be helpful to use some type of data collection form on which to record information.

   During the tour, select some very old and some very new equipment for tracing through the records to determine whether the old equipment is on the books or written off. Trace new equipment to the invoices to determine whether the date received coincides with the date entered in the records. Trace a sampling of the more expensive pieces of equipment to the purchase invoices to verify that the recorded costs incorporate taxes (including sales taxes) and freight. Be sure that installation costs are also included.

6. Following the interview and tour of facilities, begin the audit. There are a number of different types of records you may encounter:
   A. General ledger–This is used by the company to prepare financial statements.
   B. Subsidiary ledger–Supports the general ledger.
   C. Books of original entry–These are the sales, purchases, cash disbursements and general journals from which the ledger entries are derived.
   D. Primary source documents–i.e., invoices.
   E. Substantiating Documentary Evidence–Sales orders, shipping records, bills of lading, sales contracts, purchase orders, receiving records, etc.
   F. External Evidences–Tax returns, fire insurance policies, statements for credit reports.
   G. Company policies and practices–Minutes of board meetings, budgets, accounting procedures.
   H. Computer generated records.

7. Select one year to audit and request a chart of accounts, financial statements prepared around January 1, the general ledger, and the supporting ledgers. Using these documents, verify the accuracy of the property statement.

   A. Be sure that all purchases received prior to January 1 and any goods purchased but in-transit on January 1 are included (this may require a check of suppliers invoices and the purchase journal). Verify that all purchases have been reported. Remember that inventories are exempt from property taxes.
   B. Be sure that supplies are not included as exempt inventory. Supplies may be charged to a separate inventory account or they may be expensed as they are purchased. Supplies on hand are assessable.
   C. Verify the amounts reported and the year acquired as shown on the property statement against the detail equipment ledger.
   D. Remember that the asset costs of acquisition as listed on the books are historical costs.

Listing of Personal Property

Sec. 70.29, Wis. Stats., says, "The assessor shall place in one distinct and continuous part of the assessment roll all the names of persons assessed for personal property, with a statement

of such property in each village in his assessment district, and foot up the valuation thereof separately; otherwise he shall arrange all names of persons assessed for personal property on his roll alphabetically so far as he conveniently can. He shall also place upon the assessment roll, in a separate column and opposite the name of each person assessed for personal property, the number of the school district in which such personal property is subject to taxation."

The assessor should take special note of sec. 70.19(1), Wis. Stats., which relates to listing personal property which is to be assessed to some person in charge or possession who is not the owner or person beneficially entitled to the property. It says, "...the assessment thereof shall be entered upon the assessment roll separately from the same person's assessment of the person's own personal property, adding to the person's name upon such roll words briefly indicating that such assessment is made to the person as the person in charge thereof as occupant or possessor of the premises on which such property is stored or piled or as the spouse, agent, lessee, occupant, mortgagee, pledgee, executor, administrator, trustee, assignee, receiver or other representative of the owner or person beneficially entitled thereto; but a failure to enter such assessment separately or to indicate the representative capacity or other relationship of the person assessed shall not affect the validity of the assessment."

Valuation of Personal Property

The statutory standard for the valuation of personal property is true cash value. In view of the fact that many districts assess property at some fraction of full value, the assessor must exercise particular care so that the assessments of personal property as a class bear the same relation to statutory value as real property as a class. Of note: The assessor is not limited to using the value submitted by the property owner. If the assessor has sales or rental income on like property, that information can be used to determine value. In the case of rented boat slips and airplane hangers, if there are sales or rent information available, it may be the best evidence of value. See *State ex rel. Berg Equipment Corp. v. Board of Review, Town of Spencer*, 53 Wis.2d 233, 191 N.W.2d 892 in WPAM Chapter 22, "Tax assessment must be based on market value and not on depreciated book value." The personal property has value if it is still in use regardless of the accounting book value. To assist the assessor in determining the relationship between real and personal property, the DOR makes available to local assessor's information on the level of assessments.

Boats and Other Watercraft – Not Exempt

Sec. 70.111(3), Wis. Stats., exempts watercraft employed regularly in interstate traffic, watercraft laid up for repairs, all pleasure watercraft used for recreational purposes, and 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. Outboard motors used for recreational purposes are also exempt. Recreational purposes do not include renting boats or watercraft to others for their recreational use, nor use by businesses for customer pleasure.

Sec. 70.111(3m), Wis. Stats., exempts motor boats, and the equipment used on them, which are regularly employed in carrying persons for hire for sport fishing in and upon outlying waters as defined in sec. 29.001(63), Wis. Stats., and the rivers and tributaries specified in sec. 29.2285(2)(a) 1 and 2, Wis. Stats., if the owner and all operators are licensed guides under

sec. 29.512, Wis. Stats. or sec. 29.514, Wis. Stats. or both, and are licensed by the U.S. Coast Guard to operate the boats for this purpose. "Outlying waters" means Lake Superior, Lake Michigan, Green Bay, Sturgeon Bay, Sawyers Harbor, and the Fox River from its mouth up to the dam at De Pere. "Rivers and tributaries" are any river or stream tributary of Lake Michigan or Green Bay, except the Kewaunee River, from its mouth upstream to the first dam or lake; and the Kewaunee River from its mouth upstream to the CTH "C" bridge in the southeast quarter of Section 29, township 24 north, range 24 east.

Boats that are laid up for repairs are exempt; boats that are out of the water and receiving normal maintenance are taxable. Due to the winter weather, most if not all boats are out of the water on the assessment date. It is at this time that major repairs and normal maintenance are done to prepare the boat for the next season. Black's Law Dictionary, 4th Edition, defines repair as "To mend, remedy, restore, renovate; to restore to sound or good state after decay, injury, dilapidation, or partial destruction." Maintain is defined as "acts to prevent a decline, lapse, or cessation from existing state or condition". Repairs involve acts necessary to return a boat to usable condition. Maintenance involves acts that keep the boat in a usable condition and prevent it from needing repairs. A boat with a tear in the hull or in need of a complete engine overhaul that prevents the boat from operating is laid up for repairs and exempt. A boat that is having the hull repainted or the engine tuned up is receiving normal maintenance and is not exempt. The determination of the extent of the damage and thus, the assessable status is the responsibility of the assessor. The taxpayer should be prepared to justify any claim that the boat is laid up for repairs and not for normal maintenance.

Boats employed regularly in interstate traffic are also exempt from the property tax. Instead of the property tax, the owner pays a sum of one cent per net ton of registered tonnage. The emphasis in this statute appears to be on the word "regularly". Regularly is defined in the American Heritage Dictionary as "customary; usual, or normal". From this definition, it would appear that only those watercraft that were "usually" or "normally" engaged in interstate traffic could pay the one cent per net ton fee and be exempt from other taxes. For example, a ferry service between ports in Wisconsin and other states, such as Michigan, would be regularly employed in interstate traffic and exempt from property taxes. However, a boat that traveled between Wisconsin ports and only occasionally made trips to ports in other states (not as part of a "regular" run) would appear to be taxable. The use of the word regularly would seem to contemplate something more than incidental or occasional trips to ports in another state.

Again, the decision of whether or not to exempt property is to be made by the local assessor. To help determine the true cash value of taxable boats, local boat dealers should be contacted for cost and sales data.

Public Utilities (Locally Assessed)

This category of personal property includes the property and franchise of a public utility company whose property is all within one taxation district. Because this type of property is not commonly bought or sold, sales information is, for the most part, non-existent. It is suggested that assessors having utility property to assess do so in cooperation with the Supervisor of Equalization for that district.

Whenever the property of a public utility extends into more than one taxation district, it becomes assessable under Chapter 76, Wisconsin Statutes, by DOR. The courts in Wisconsin have determined that these properties must be assessed as a whole and going concern. This is necessary to guarantee a uniform and equitable assessment of utility property.

State law requires DOR to annually assess all the property, both real and personal, owned or leased, used by railroads, electric and gas utilities, telegraph, conservation and regulation, airlines and pipeline companies in the State of Wisconsin. Therefore, the Manufacturing & Utility Bureau not only assesses property owned by the utilities (if located in more than one taxation district) but also assesses personal property leased to utilities. A list of utility companies assessed by the state is provided to assessors in the annual Supplement. If any leasing companies submit a statement of personal property leased to an electric, gas, pipeline, railroad, telegraph, airline, conservation and regulation company, the return should be forwarded to the Manufacturing & Utility Bureau.

State vs. Local Assessment When Used in Part for Non-Utility Purposes

Any public utilities assessed by DOR under Chapter 76 are exempt from property taxes EXCEPT in cases where a general structure (this DOES NOT include land) is used in part for the operation of a public utility and in part for non-operating purposes of a utility. In such cases, the general structure is assessed by the local assessor at the percentage of its full market value that fairly measures and represents the extent of its use for non-operating purposes (sec. 70.112(4), Wis. Stats.)

Where DOR has knowledge of utility properties that are used in part for non-utility purposes it will annually notify assessors of this fact and of the percentage of non-utility use as estimated by the utility company if available. The assessor will be asked to investigate the use of such properties to determine if the property is used for both utility and non-utility purposes, and to determine if the percentage allocation estimated by the utility company is accurate. The procedure to estimate the proportional use of a structure follows.

Determine Proportional Use of General Structure

Only the general structure (improvement) is considered. If the structure is homogeneous in construction and economic rental value, appraise the total structure as you do others of its kind in your taxation district. Then take that figure times the percentage of the structure that represents non-utility use based upon area (sq. ft. or cubic ft.).

If the structure is not homogeneous, identify the part used for non-utility and the part used for utility purposes and value each part separately by cost, income, gross rent multiplier, etc.

Utility Portion		$ XXX		
Non-Utility Portion		$ YYY		
Total Structure		$ ZZZ		
Proportion of Utility Use	=	$ XXX	÷	$ ZZZ
Proportion of Non-Utility	=	$ YYY	÷	$ ZZZ

In cases where the utility company and the local assessor disagree on the percentage of the

structure that is utility vs. non-utility, the discrepancy must be resolved by DOR, municipality, and utility so an equitable assessment can be made.

While part of a general structure may be assessed locally and part by DOR, this is not the case with land. In cases where a property is used in part for the operation of a public utility and in part for non-operating purposes, the land is either completely exempt from local taxation, or entirely subject to local taxation, depending upon the predominant use. This method of assessing the land according to its predominant use has been upheld in *TDS Real Estate Investment Corp. and Central State Telephone Co.* v. *City of Madison,* 151 Wis.2d 530, 445 N.W.2d 53 (1989).

Determine Predominant Use of Land

Analyze the land and divide it between (a), the land under the general structure necessary for the location and convenience of the structure and (b), any additional or excess land included in the parcel under consideration.

With respect to (a), the land under the structure, the percent utility and percent non-utility use would follow the same proportions determined for the general structure itself.

Example: If there is no excess or additional land, then the predominant use of the land is determined by looking to the proportions found for the general structure. For example, if utility use is found to be 52% for the general structure and non-utility use is found to be 48%, then the predominant use of the land is utility, assessable by DOR, and hence should not be entered in the local assessment roll. The assessed value of the non-utility portion of the general structure would then be entered in the local assessment roll as personal property (the same as a building on leased land).

Conclusion:

- Land: Predominant use is utility, hence no land is to be assessed locally
- General Structure: 48% non-utility; assessed locally as personal property; 52% utility; assessed by State.
- If there is excess land other than under the structure, weight the excess land in relation to the land under the structure to determine a "composite" proportion of land use

Example: Assume a situation where the general structure is 52% utility use and 48% non-utility use. The parcel under consideration includes a substantial amount of excess land so that the land under the general structure is 60% of the total land parcel and the excess land is 40% of the total land parcel. The excess land is 20% utility use and 80% non-utility use. The composite land use proportion is computed as follows:

	(1)	**(2)**	**(3)**	**(4)**	**(5)**
	Weight	**Utility use**	**(1) X (2)**	**Non-utility use**	**(1) X (4)**
Land Under Structure	60%	52%	31.2	48%	28.8
Excess Land	40%	20%	8.0	80%	32.0
			39.2		60.8

Conclusion:

- Land: Predominant use is non-utility (60.8%), hence all land is locally assessed.

- General Structure: 48% non-utility; assessed locally 52% utility; assessed by State
- Since land is assessed locally under the doctrine of predominant use, enter both the land and 48% of improvement value in the real estate section of the local assessment roll.

Telephone Companies and Equipment

The Manufacturing and Utility Assessment Section is responsible for the assessment of telephone companies.

Based on a law change effective for January 1, 1998 assessments, the taxation of telephone companies changed from a license fee to an ad valorem property tax. Taxes collected from telephone companies will continue to go to the state's general fund.

Property of telephone companies will be assessed in the same manner as manufacturing property under sec. 70.995, Wis. Stats. Taxable telephone property includes local exchanges, inter-exchanges, cellular, personal communication systems, and reseller companies.

Municipal assessors are to assess one-way radio paging and any non-operating telephone company property including retail stores selling phones.

Municipal assessors must also assess property under certain circumstances. Property owned by a telephone company and leased to a non-operator is subject to local assessment and so is property on right-of-way easements.

Machinery, Tools and Patterns

2017 Wisconsin Act 59, effective January 1, 2018, exempted machinery, tools and patterns. This is the property reported on Schedule C of the 2017 Statement of Personal Property. The exemption does not apply to manufacturing property.

There are some items of machinery which were already exempt from taxation. Sec. 70.111(9), Wis. Stats., exempts "The tools of a mechanic if those tools are kept and used in the mechanic's trade; and garden machines and implements and farm, orchard and garden tools if those machines, implements and tools are owned and used by any person in the business of farming or in the operation of any orchard or garden." Tractors and machines; including accessories, attachments, fuel and repair parts for them; whether owned or leased, that are used exclusively and directly in farming; including dairy farming, agriculture, horticulture, floriculture and custom farming services; but not including personal property that is attached to, fastened to, connected to or built into real property or that becomes an addition to, component of or capital improvement to real property and not including buildings or improvements to real property, regardless of any contribution that that personal property makes to the production process in them and regardless of the extent to which that personal property functions as a machine are exempted per sec. 70.111(10)(b), Wis. Stats. It also exempts farm machinery owned by a retailer when it is new or leased. Used farm machinery owned by a retailer and held for sale would be exempt as merchants' stock.

Sec. 70.11(27), Wis. Stats., exempts "Manufacturing machinery and specific processing equipment, exclusively and directly used by a manufacturer in manufacturing tangible

personal property." This exemption only applies to businesses classified as manufacturing by the DOR. Contact the Manufacturing/Utility Office with questions.

Furniture, Fixtures and Equipment

This class contains a wide variety of personal property items such as furniture, fixtures, and equipment of all kinds. The list includes:

- Architects furniture and drafting materials
- Beauty salon equipment
- Bowling alley equipment
- Dentist chairs and equipment
- Desks & chairs
- Doctors equipment, including instruments
- Filing cases
- Furniture in motels, hotels, and rooming houses; kitchen equipment such as dishes, utensils, etc., for use in hotels and motels; and bedding
- Laundromat equipment and furniture
- Office furniture and equipment
- Opticians furniture and equipment
- Pool or billiard tables
- Restaurant furniture and equipment such as dishes and silverware
- Safes
- Scales
- Store furniture

The valuation of this class of property follows the same general principles as applied to other classes of personal property. The statutory provision for assessing from actual view should be carried out whenever possible. In many cases it will be necessary for the assessor to rely on the owner's records since the time spent in viewing hundreds of items is impractical. There are times, however, when the only sound way to arrive at the value of the property is by a physical inventory. To value the furniture and fixtures found in taverns, bowling alleys, or restaurants, for example, a physical inventory may be necessary.

Computers

Sec. 70.11(39), Wis. Stats., exempts "mainframe computers, minicomputers, personal computers, networked personal computers, servers, terminals, monitors, disk drives, electronic peripheral equipment, tape drives, printers, basic operational programs, system software and prewritten software". The exemption in sec. 70.11(39), Wis. Stats., does not apply to "custom software, fax machines, copiers, equipment with embedded computerized components or telephone systems, including equipment that is used to provide telecommunications services, as defined in sec. 76.80(3), Wis. Stats." Sec. 70.11(39m), Wis. Stats., exempts cash registers and fax machines, excluding fax machines that are also copiers. Under 2017 Act 59, reporting of computer exemptions on the PA-003 is no longer required to receive exemption.

In 2003, the Tax Appeals Commission defined some of these terms in the case City of Lacrosse v. Wisconsin Department of Revenue, Gundersen Clinic, Ltd. V. Wisconsin Department of

Revenue, Tax Appeals Commission Cases Docket Nos. 03-M-134, 04-M-134, 04-M-139:

- Computer: a combination of central processing unit, memory, storage, and input and output interfaces that is designed to run programs under operator control.
- Electronic peripheral equipment: equipment that is not normally an integral part of a computer but which can be connected to a computer to add functionality, and which is not fully functional until connected directly to a computer.
- Embedded computerized equipment: a partial component of a computer such as a microprocessor that is integrated into a piece of equipment and is not directly accessible either physically or operationally through interactive commands by the user of the equipment.
- Peripheral equipment: equipment that works in conjunction with a computer but is not part of the computer itself.
- Server: A computer designed to interact with several users simultaneously by running an operating system like UNIX or a server version of Microsoft Windows or Apple Mac OS X.

Leased Equipment

The valuation of leased equipment owned by the manufacturer or commercial establishment, and in possession of the lessee, has presented considerable difficulty to the assessor. The leasing of equipment, rather than purchasing, has become widespread, with more items available for leasing. While some of this type of equipment is both leased and sold, others may be leased only. The assessor should be alert to discover this class of property by inquiry and investigation.

The following information should be gathered on leased equipment so the best possible valuation methods can be employed.

- Model
- Description
- Serial number
- Name of lessee
- Location of equipment
- Date of installation
- Year of manufacture
- Current list price new
- Annual and/or monthly rents

Having collected the necessary information, there are various methods which can be used for the valuation of leased equipment. The method used will be dependent on the data available.

The assessor should generally attempt to assess property to the person responsible for paying the taxes. This is usually specified in the lease agreement and the information can be obtained by contacting the lessor or lessee. Although sec. 70.18, Wis. Stats., permits the assessor to assess leased equipment to either the lessor or the lessee, there are several advantages to assessing property according to the lease agreement: 1) there is less possibility of a double assessment especially when both the lessor and lessee report the same equipment; 2) there is less possibility of confusion in collecting taxes, especially when the lessee expects to pay the tax as part of the lessee's tax and later receives a separate bill from the lessor for this equipment; and 3) the lessor and lessee are more likely to cooperate in providing

information about leased equipment if the assessor makes the assessment according to the lease agreement, the exclusivity of occupancy, who receives profits or revenues from the property and to what extent, etc.

If exemption turns on who "owns" leased property, the owner for property tax purposes is the owner who retains a beneficial interest in the property. Beneficial ownership is not the same thing as legal title. The beneficial owner may be either the lessee or the owner, depending on who has more rights in the property. This determination is highly fact-specific, and include, but is not limited to consideration of factors such as who controls the property and to what extent, who receives what revenue from the property, lease term and how much rent is paid, responsibility for construction, responsibility for maintenance and repairs, and who is reimbursed if the property must be torn down or condemned.

Current Selling Price

The current selling price as used here is the catalog list price less any normal trade allowances and discounts. To calculate normal depreciation on the selling price, use unindexed tables. Unindexed depreciation tables are available on the DOR website.

The value of leased equipment can be calculated by subtracting normal depreciation from the current selling price provided the subject model is similar to the current model or when functional obsolescence is minimal.

Advantages: The current selling price of the equipment is easily obtained. Little functional obsolescence needs to be determined.
Disadvantages: On items with a large amount of functional obsolescence the current selling price has little relationship to the original item of equipment.

Original Selling Price

The original selling price by year times an index factor incorporating the changes in price plus a depreciation factor can also be used. This method is discussed in detail in WPAM Chapter 17.

Advantages: It can be consistently applied, the data needed can be easily gathered, and the method can be readily understood.
Disadvantages: The determination of the correct useful life is very important to this method of valuation.

Gross Rent Multiplier

The gross rent multiplier is calculated by dividing the selling price by the gross monthly rent. By analyzing similar types of equipment where this information is available, a representative multiplier for that type of equipment can be developed. By applying the gross rent multiplier to a gross monthly rent on similar equipment a value can be determined.

Advantages: When a gross rent multiplier has been determined all that is necessary to value similar equipment is the gross monthly rent. It is fast and easily understood.
Disadvantages: Care must be taken to use a gross rent multiplier only on similar

equipment. This method does not take into consideration differences in age or obsolescence of equipment.

Capitalization of Income

The annual Net Operating Income can be divided by the capitalization rate to arrive at a value for the item of equipment. Data necessary to use this method includes lease terms, economic life expectancy, rate of return of the investment, maintenance costs, service costs, insurance, advertising, taxes, and management.

Advantages: The value arrived at by this method is the present worth of the income stream. It is dictated by the market through rents and return on investments (profit).
Disadvantages: Use of this method requires a large amount of data relative to changing market conditions. It also requires many judgments by the assessor.

Manufacturing Cost

Manufacturing cost plus a mark-up to arrive at estimated selling prices can also be used in the valuation of leased equipment. This estimated selling price must then be factored to arrive at a current estimated selling price. This amount is then reduced for depreciation and obsolescence to arrive at a value for the equipment.

Advantages: The manufacturer would have this information readily available.
Disadvantages: Items included in manufacturing costs differ from manufacturer to manufacturer.
Note: Experience indicates that the residual value should not be less than 25% of the selling price new.

All Other Personal Property

This class includes every item of taxable personal property having a market value and not included in any of the previously enumerated classes. It includes such items as:

- Abstract records
- Buildings on exempt land (if assessed as personal property)
- Buildings on forest crop or managed forest land
- Buildings on leased land (if assessed as personal property)
- Bulk oil tanks on leased land
- Cheese hoops
- Gas drums
- Law libraries
- Leased equipment not previously classified
- Leasehold improvements on Leased Lands (assessed as personal property)
- Locally assessed utilities
- Logs and other forest products
- Milk cans
- Mink pens
- Mobile homes (if assessed as personal property)
- Private railroads
- Rats and mice (bred and raised for commercial purposes)

- Satellite TV dishes
- Sign boards
- Supplies--including office and professional supplies and other supplies not kept for sale and not included in merchants' or manufacturers' stock
- Toll bridges
- Videotapes
- Whey tanks (if not owned by a factory owner)

Satellite TV

Satellite TV boxes are assessable and do not qualify for the digital broadcasting exception. Digital broadcasting exemption requires ownership and use of the equipment by a radio station, television station, or video service network. Satellite TV providers are not a radio or television station and fail to meet the video service network definition (Sec. 66.0420(2)(zb), Wis. Stats.).

Rented Digital Video Discs (DVDs) and Videotapes

DVDs, Blu-ray discs and videotapes may be rented from special stores whose main business is rental. In addition, supermarkets, drug stores, convenience stores, and other stores offer DVD, Blu-ray and video tape rental as a part of their business.

DVDs, Blu-ray discs and videotapes held solely for sale are exempt as merchants' stock. DVDs, Blu-ray discs and videotapes held for rental only or being rented until sold are assessable.

This equipment experiences rapid obsolescence. There is a strong demand for new releases. This demand decreases after several months because most people have seen the video and other newer releases are available. Except for certain "classic" videos, there is little demand for videos that are older than 3 years.

There are two ways to value. One method is the market approach, and the other method is the cost approach.

The market approach values the videos at the prices at which the stores can purchase the videos from each other or from their suppliers. Prices vary depending on the age and type of video (DVD, Blu-ray, tape). Typically, first release videos and blue ray command the highest prices. Stores can purchase re-release videos for much less. Subject matter, such as education, children, documentary, entertainment, etc., directly affects the value.

When there are not enough sales to support the market approach, the assessor should use the cost approach. This approach multiplies the acquisition cost times the appropriate 3-year Composite Conversion Factors. These factors are found in WPAM Chapter 17.

Leased Property Not Previously Classified

Leased equipment is subject to the property tax. This category consists of personal property held for rental that is does not fit in other categories. This includes personal property of rental

services that rent their property for short-term use either to businesses or individuals.

In most cases, secs. 70.11 and 70.111, Wis. Stats., require personal property to be owned by the exempt organization to qualify for exemption. An exception is personal property leased to a non-profit hospital which is exempt under sec. 70.11(4m)(a), Wis. Stats. Ultimately, most personal property leased by a non-exempt business to an exempt organization is taxable. The assessor should attempt to assess property to the person responsible for paying the taxes. This is usually specified in the lease agreement and the information can be obtained by contacting the lessor or lessee. Although sec. 70.18, Wis. Stats., permits the assessor to assess leased equipment to either the lessor or the lessee, there are several advantages to assessing property according to the lease agreement: 1) there is less possibility of a double assessment especially when both the lessor and lessee report the same equipment; 2) there is less possibility of confusion in collecting taxes, especially when the lessee expects to pay the tax as part of the lessee's tax and later receives a separate bill from the lessor for this equipment; 3) the lessor and lessee are more likely to cooperate in providing information about leased equipment if the assessor makes the assessment according to the lease agreement. There may be situations, however, where the assessor may want to make the assessment contrary to the lease agreement, such as when a taxable lessor leases equipment to an exempt lessee.

Another exception would be when the lessor has legal title to the rented personal property but the lessee has enough of the ownership rights to be considered the beneficial, or true owner. Some of the questions to be considered in determining beneficial ownership are the following:

- Who is responsible for providing insurance?
- Who receives the proceeds from insurance?
- Who controls the use?
- Who suffers the risk of loss for damage or destruction?
- Who is responsible for repairs and maintenance?
- Can the lessor sell the property?

Exactly what combination of rights less than the full bundle constitutes ownership depends on the specific facts of each situation. The assessor may wish to review the following court cases dealing with the issue of beneficial ownership:

- *C Milwaukee v. Shoup Voting Machine Corp.,* 54 Wis.2d 549, 196 N.W.2d 694 (1972)
- *Mitchell Aero, Inc. v. C Milwaukee,* 42 Wis.2d 656, 168 N.W.2d 183 (1969)
- *General Motors Corp. v. Oak Creek,* 49 Wis.2d 299, 182 N.W.2d 481 (1971)

Another example of beneficial ownership concerns conditional sales contracts in which the rental payments apply to the purchase of the property and the lessee gets title to the property for nominal or no additional consideration at the end of the lease. These are similar to land contracts for the sale of real estate where the vendee is considered the beneficial owner. For example, a copy machine leased by a non-exempt business to an exempt church under a conditional sales contract would be considered exempt since the church is the beneficial owner.

In *Menomonee Falls* v. *Falls Rental World*, 135 Wis.2d. 393, 400 N.W.2d 478 (Ct. App. 1986), the court ruled that a firm engaged in the short-term rental of personal property is a service and not a merchant, as the word is commonly defined. Therefore, the personal property of

the firm is not exempt as merchants' stock-in-trade and must be assessed. This case does not apply to rented personal property exempt under sec. 70.111(22), Wis. Stats.

Exempt Rented Personal Property

Sec. 70.111(22), Wis. Stats., exempts certain personal property held for rental. The 2015-2017 state budget bill, 2015 Act 55 amended the general property tax exemption for rented personal property under sec. 70.111(22), Wis. Stats.:

- See page 354 of 2015 Act 55
- Deleted: "which is engaged in any business other than personal property rental"
- Added: "and the owner is engaged in the rental of the property subject to the exemption to the other enterprise."
- Legislative Fiscal Bureau summary (see #7 on page 691):
  - Eligible for exemption: personal property of companies that primarily rent equipment and may also provide ancillary services
  - Not eligible for exemption: personal property of companies with a subsidiary company that leases or rents equipment to the parent company
- The budget bill provides a retroactive effective date - to the January 1, 2014 assessments for this amendment

Exemption Requirements

Paragraph (a):

1. personal property held for rental for periods of one month or less
2. to multiple users for their temporary use
3. if the property is not rented with an operator
4. if the owner is not a subsidiary or affiliate of any other enterprise and the owner is engaged in the rental of the property subject to the exemption to the other enterprise
5. if the owner is classified in group number 735, industry number 7359 of the Standard Industrial Classification (SIC)manual
6. if the property is equipment, including construction equipment but not including automotive and computer-related equipment, television sets, video recorders and players, cameras, photographic equipment, audiovisual equipment, photocopying equipment, sound equipment, public address systems and video tapes; party supplies; appliances; tools; dishes; silverware; tables; or banquet accessories.

Paragraph (b):

1. Personal property held primarily for rental for periods of 364 days or less
   a. "Primarily" is defined as greater than fifty percent (50%)
2. to multiple users for their temporary use
3. if the property is not rented with an operator
4. if the owner is not a subsidiary or affiliate of any other enterprise and the owner is engaged in the rental of the property subject to the exemption to the other enterprise
5. if the owner is classified under 532412 of the NAICS
6. if the property is heavy equipment used for construction, mining, or forestry, including bulldozers, earthmoving equipment, well-drilling machinery and equipment, or cranes.*

*Note: NAICS 532412 further includes construction form rental; construction machinery and equipment rental or leasing without an operator; and welding equipment rental or

leasing. This would include, but is not limited to, wheel loaders, hydraulic shovels, dump trucks, graders, concrete equipment, welders, lift trucks, portable lighting, trenchers and trench safety equipment, generators, portable HVAC, and air compressors.

Not all establishments engaged in equipment rental are classified under the 7359 SIC code. There are many SIC codes in which establishments are classified and only a few are classified in the 7359 code. The following is a list of rented personal property that is exempt either because it is specifically listed in sec. 70.111(22) (a), Wis. Stats., or because it is included in SIC code 7359:

Airplanes, appliances, coin-operated machines, construction equipment, electronic equipment, furniture, industrial trucks, oil field equipment, oil well drilling equipment, party supplies, pianos, live plants, dishes, silverware, tables, banquet accessories, portable toilets, tools, and vending machines.

Sec. 70.111(22) (a), Wis. Stats., lists specific rented personal property that is not exempt:

Automotive and computer-related equipment, television sets, video recorders and players, cameras, photographic equipment, audiovisual equipment, photocopy equipment, sound equipment, public address systems, and videotapes; party supplies; appliances; tools; dishes; silverware; tables; or banquet accessories.

The following examples illustrate the relationship between the business classification and the equipment.

Example 1: A hardware store is not classified under SIC Code 7359 and rents tools and construction equipment. Although the equipment meet the requirements, it is not exempt because the business is not classified under SIC Code 7359.

Example 2: A firm is classified under SIC Code 7359 and rents party supplies, tools, dishes, silverware, tables, television sets, costumes, formal wear, and medical equipment. Because the business is classified under SIC Code 7359 and the party supplies, tools, dishes, silverware, and tables are listed under either SIC Code 7359 or sec. 70.111(22)(a), Wis. Stats., they are exempt. The television sets, costumes, formal wear, and medical equipment are not exempt because they are not listed under either SIC Code 7359 or sec. 70.111(22), Wis. Stats.

Supplies

The term supplies cover a great variety of commodities that, though ordinarily not physically incorporated into the final product, render services to production and distribution. Supplies include those items which are not subject to resale by the taxpayer, but which are necessary in the conduct of business. Auxiliary materials are considered supplies if they are:

1. consumed in the operation of a company, but are not embodied in the product, or
2. delivered with the product itself

Supplies include:

- Professional Supplies
- Office Supplies
- Wrapping Materials
- Shipping Supplies

- Selling and Advertising Supplies
- Janitorial and Cleaning Supplies
- Automotive Supplies
- Other supplies necessary to the business which are not subject to resale

Supplies are not considered part of a merchant's or manufacturer's stock and are not exempt. The question of whether certain items of personal property are supplies or merchants' and manufacturers' stock has been an area of some confusion. Reference should be made to the personal property court cases and Attorney General opinions in WPAM Chapter 22, particularly *52 Opinion of Attorney General 387 (1963)* which provides the Attorney General's interpretation of what constitutes merchants' or manufacturers' stock.

Buildings on Forest Crop or Managed Forest Land

Sec. 77.04(1), Wis. Stats., says "...any buildings located on forest crop land shall be assessed as personal property, subject to all laws and regulations for the assessment and taxation of general property." Buildings on forest crop lands are assessed and listed in the assessment roll as all other personal property.

Sec. 77.84(1), Wis. Stats., says "...except that any building on managed forest land is subject to taxation as personal property under Ch. 70." Assessors who increase the value of improvements on Managed Forest Land must send the owner a Notice of Assessment at least 15 days prior to the BOR, except for any year that the taxation district conducts a revaluation under sec. 70.05, Wis. Stats., the notice shall be sent at least 30 days before the meeting of the BOR.

Improvements on Leased Land

Sec. 70.17, Wis. Stats., states that "...improvements on leased lands may be assessed either as real property or personal property." Where buildings on leased lands are assessed as real estate they are to be included as part and parcel of the land and assessed with it as a unit. Where they are assessed as personal property, they are valued separately from the land and listed in the personal property section of the assessment roll as all other personal property. A building on leased land cannot be assessed alone as real estate (without a land assessment). The reason for this is because real estate taxes represent a lien on the land. If the building only is assessed as real estate and the taxes are not paid, there is no land against which the lien can be held. The building could be sold in a tax sale for non-payment of taxes; however, this could be a problem since a building can be removed or destroyed prior to the tax sale.

Note: 1993 Wisconsin Act 330 added that payments of taxes on improvements on leased lands that are assessed as personal property shall be made to the taxation district treasurer as described in sec. 74.11, Wis. Stats. For purposes of reporting under this provision, improvements are defined as buildings on leased land.

Improvements on Government Owned Land

Sec. 70.174, Wis. Stats., provides that improvements made on land within this state owned by the United States may be assessed either as real or personal property to the person making the improvements if known, and otherwise to the occupant or the person receiving the benefits from the improvements. Any improvements on government owned land assessed as

personal property should be listed in the assessment roll as all other personal property.

Leasehold Improvements on Leased Lands

The following information applies to leasehold improvements found on leased lands only. It does not apply to other leasehold improvements. Please refer to the classification guide earlier in this chapter for assistance in determining the classification of leasehold improvements. The definition of "Vanilla Shell" includes items to be assessed as real property for assessment purposes.

Mindful of the Wisconsin Statutes, Attorney General opinions, and court decisions, particularly *Mitchell Aero, Inc. v. C Milwaukee* and *Skubitz v. T Menominee*, it would appear that the starting premise for valuation of leasehold improvements be, that whenever possible, they are to be included in the real property valuation rather than being valued separately as personal property. This does not apply to leasehold improvements on exempt land.

Although building improvements may be so attached as to become an integral part of the real estate, and ownership of these improvements passes to the lessor upon completion of the work, the assessor is not prevented from assessing the leasehold improvements to the lessee as personal property. This revolves around the question of beneficial ownership as evidenced by: 1) depreciation write-off, 2) remuneration to the extent of current book value in the event of eminent domain taking place, and 3) less rent in recognition of lessee's expenditure. Therefore, in multiple tenancy properties, the beneficial ownership criteria is the basis for separate valuation.

In the case of single tenant properties, there is no need for separate valuation; the lease may recite that the tenant is responsible for all taxes (based on the value of the leased fee as well as the leasehold improvements), or if the lease states that the tenant shall be responsible for added taxes incurred by improvements, the value for these improvements can be segregated. The assessor or appraiser must bear in mind that the capitalization of the annual rental indicates the value of the leased fee only.

When leasehold improvements are valued separately and placed on the personal property roll, they should be recorded in the name of the lessee and/or lessor. It is most advantageous to estimate the market rent for a particular space and its specific finish when physically viewing the property. Most generally the leasehold improvement cost is substantiated by the increased value, as estimated by capitalizing the net rent reflected by the market rent, for the space as physically viewed. The value of the leasehold improvements to be assessed to a tenant on the personal property roll can be estimated as shown in Figure 19-1.

Assume base rent (based on building standard) @ $10.00 per sq. ft.

The range of expenses, excluding real estate taxes, is from 35% on the newer high rise type buildings to 45% on the older remodeled buildings.

When estimating office space rent, one must bear in mind the base rent for a particular building as well as the relationship between a full floor rental rate and the multiple-tenancy floor rate. For instance, the rental rate may be $9.00 per square foot per year but if a tenant

occupies an entire floor that rate may be only $7.50 to $8.00 per square foot as it is not necessary to allocate a portion of the corridor and public area to each tenant. The owner wishes to get *X* number of dollars per floor, regardless of how it is split up. The lessee rent may have very little relationship to market rent, depending upon the dollar amount of tenant improvements. The relevance of this rent to the market rent is a critical element in this approach to value.

An exception to the case where cost substantiates the added value may be expected when office space is improved to a substantially greater degree than the rest of the building. It may be impossible to amortize the cost of this so-called intrinsic value to the tenant in the rent, due to dictates of the market.

The assessment of leasehold improvements does not lend itself to a rigid set of rules, but regardless of whether they are valued as real estate or personal property, they must first be discovered. By including the leasehold improvements in the real estate assessment, the burden is then placed on the property owner to reveal the extent of the tenant's participation in the building cost. This may afford the assessor the opportunity to obtain lease information which may not otherwise be available.

The fact that a tenant has vacated leased quarters in which improvements have been made does not terminate their assessability. The property must be inspected to determine if the new tenant is using these improvements and if they are reflected in a higher rental rate which in turn, capitalizes to a higher real estate value. If the tenant has reached the end of the initial lease term and continues to occupy the improved quarters, the depreciated value of the leasehold improvements should remain on the personal property assessment roll.

In the case of the tenant occupying the premises beyond the term of the initial lease, it stands to reason that the lessor cannot increase rent beyond what the market dictates; but if a new tenant had taken over the space, the owner would have conceivably realized a rent above the building base because of improvements made by the previous tenant. The improvements then would indicate a higher rental but the tenant is the beneficiary, and therefore, should be obligated for the tax.

Figure 19-1

	Building Standard		**Subject Space**
$ 10.00	Base Rent	$ 12.00	Estimated Market Rent
$ 3.50	Operating Expense (35%)	$ 4.20	Operating Expense (35%)
$ 6.50	Net Rent (before taxes, recapture, and depreciation)	$ 7.80	Net Rent (before taxes, recapture, and depreciation)
12.5%	Capitalization Rate	12.5%	Capitalization Rate
$ 52.00	Indicated Building Value/square foot	$ 62.40	Indicated Building Value/square foot

Difference - $10.40/square foot - Indicated value of leasehold improvement.

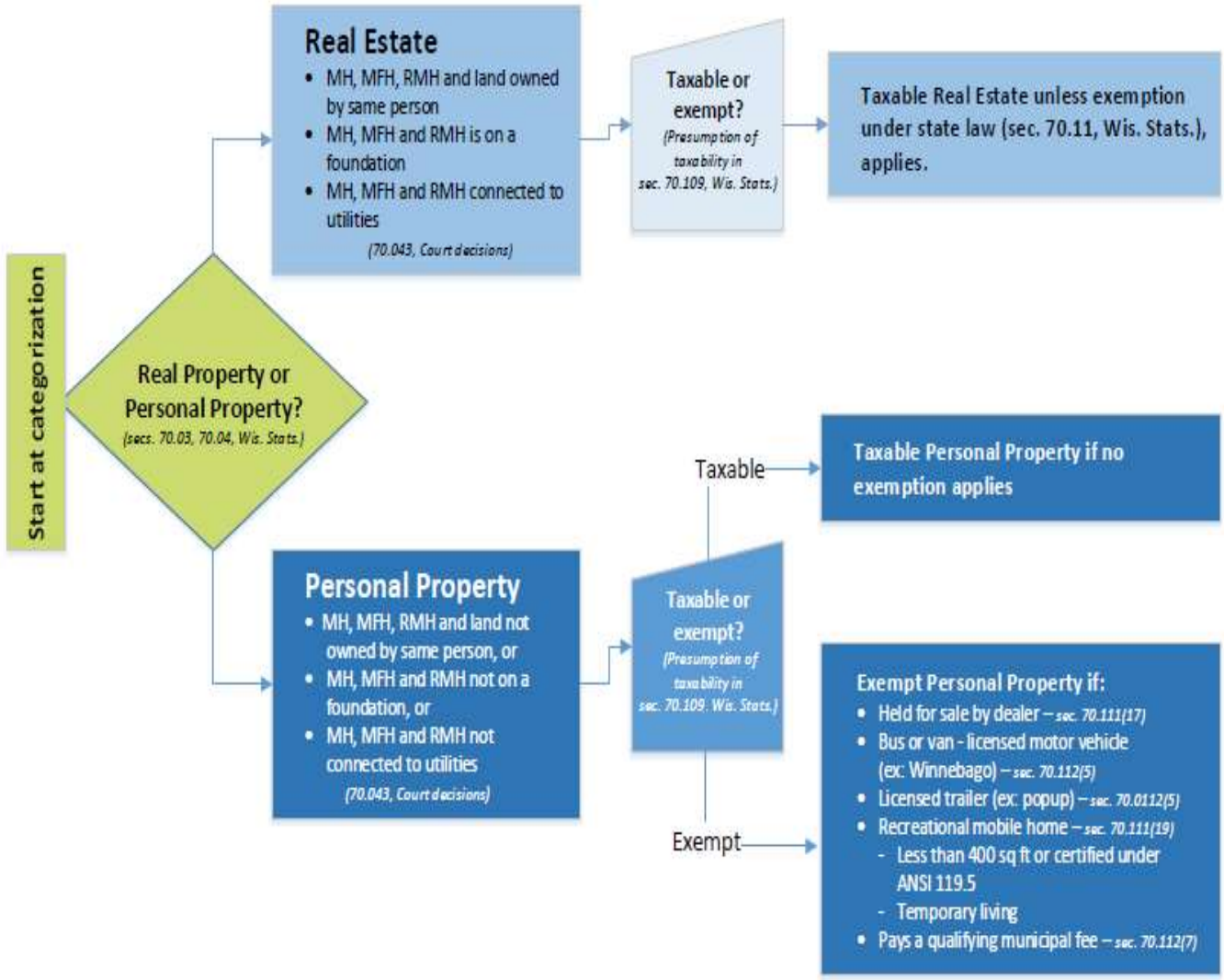
The value to be included on the statement of personal property is determined the first year, and that value is indexed by the composite number (reflecting increased cost as well as annual depreciation) in subsequent years. Justification for this indexing is related to rent escalator provisions contained in leases. Depreciation is extended over the term of the lease with a minimum of ten years, even though the lease may be for a shorter time. The remaining residual value after ten years is approximately 30%.

In certain instances some of the above may be included in real estate, if the owner owns the building and equipment. The valuation of this type of property would also follow the general principles previously discussed in the valuation of other personal property.

Logs and Other Forest Products

This category includes logs, timber, lumber, shingles, poles, posts, cordwood, pulpwood, bolts, lath, and other forest products. This property is exempt as merchants' or manufacturers' stock when belonging to persons or corporations whose principal activity is either the buying and selling or the buying and use for manufacture of such property. These products when not belonging to either merchants or manufacturers are assessed as all other personal property.

Mobile Homes (MH), Manufactured Homes (MFH), and Recreational Mobile Homes (RMH)



Real Property vs. Personal Property

Sec. 70.043(1), Wis. Stats., defines a mobile home meeting the requirements of sec. 66.0435(1)(d), Wis. Stats., as an improvement to real property:

> "if it is connected to utilities and is set upon a foundation upon land which is owned by the mobile home owner. In this section, a mobile home is "set upon a foundation" if it is off its wheels and is set upon some other support."

A unit connected to utilities, on a foundation and on land owned by the unit owner is an improvement to real property. Sec. 70.043(2), Wis. Stats., defines a mobile home meeting the requirements of sec. 101.91(10), Wis. Stats., or a manufactured home, as defined in sec. 101.91 (2), Wis. Stats., as personal property:

> "if the land upon which it is located is not owned by the mobile home owner or if the mobile home is not set upon a foundation or connected to utilities."

A manufactured or mobile home is personalty if the land is owned by someone other than the mobile home owner; or, if the unit is still on its wheels; or, if the mobile home is not connected to utilities.

If a manufactured or mobile home is to be assessed as an improvement to real property, it must be "*set upon a foundation*." Sec. 70.043(1), Wis. Stats., states that a mobile home is defined as "*set upon a foundation* if it is off its wheels and is set upon some other support." The assessor has the authority to determine if the cement blocks supporting the trailer meet this definition of "foundation."

In *Ahrens, et al. vs. Town of Fulton*, 2002 WI 29, 251 Wis.2d 135, 641 N.W.2d 423, the Wisconsin Supreme Court held that a mobile home is "set upon a foundation" when the mobile home is resting for more than a temporary time, in whole or in part, on some other means of support than its wheels. There must be some form of stabilizer under the mobile home, such as concrete blocks, cinder blocks or screw jacks, which effectively take some of the weight of the mobile home off its wheels. Additional structures, such as a screened-in room or porch, that are caulked to the mobile home and rest upon footings, may also be a factor in determining that a mobile home is "set upon a foundation" and not completely supported by its wheels. The Court said mobile homes must be sufficiently permanent in nature. Mobile homes that do not show any signs of permanency and are mobile should fall outside the definition of "set upon a foundation" and be regarded as personal property.

Exemptions

State law provides that exemptions to taxation shall be strictly construed in every instance with a presumption that the property in question is taxable. The burden of proof is on the person who claims the exemption.

State law provides for the following personal property exemptions:

- Held for sale by dealer
- Bus or van – licensed motor vehicle (ex. Winnebago)
- Licensed trailer (ex. pop-up)
- Recreational mobile home
- Pays a qualifying municipal fee

Held for Sale by Dealer

A vacant manufactured or mobile home held for sale by a dealer is considered merchant's stock under sec. 70.111(17), Wis. Stats. Although the unit will be used by the eventual purchaser for living quarters, the actual and intended use by the dealer is not "primarily for sleeping, eating, and living quarters." The dealer's primary purpose is to make a profit on the sale of the home. This use is consistent with the common understanding of the definition of merchant's stock-in-trade. Since the unit is more closely defined as merchant's stock-in-trade, it is not a "manufactured or mobile home" as defined under sec. 66.0435(1)(d), Wis. Stats., and is therefore not subject to fees imposed in sec. 66, Wis. Stats.

Recreational Motor Homes (Buses/Vans or Trailers)

Sec. 70.112(5), Wis. Stats., exempts licensed motor vehicles from property taxation. This

statute exempts items such as Winnebago motor homes and Ford campers. These units are not considered mobile homes for property taxation purposes. Also excluded from property taxation are pop-up campers and camper bodies. Pop-up campers are hauled behind a motor vehicle and expand into a tent-like structure at the campsite. Brand names include Coleman, StarCraft, Jayco and Bethany. Camper bodies slide into or are mounted on pick-up trucks.

Recreational Mobile Homes and Camping Trailers

Section 70.111(19), Wis. Stats. exempts camping trailers, recreational mobile homes, and recreational vehicles from personal property taxation. Mobile homes must be classified as personal property under sec. 70.043(2), Wis. Stats., to be entitled to an exemption.

Sec. 70.111(19)(a), Wis. Stats., defines **camping trailers** by reference to statutory vehicles (sec. 340.01(6m), Wis. Stats.) as "a vehicle with a *collapsible or folding structure* designed for human habitation and towed upon a highway by a motor vehicle."

Sec. 70.111(19)(b), Wis. Stats., defines **Recreational mobile homes**, by reference to sec. 66.0435(1) (hm), Wis. Stats. as "a prefabricated structure that is *no larger than 400 square feet,* or that is certified by the manufacturer as complying with the code promulgated by the American National Standards as ANSI A119.5, and that is designed to be towed and used primarily as temporary living quarters for recreational, camping, travel or seasonal purposes." (Emphasis added) Recreational mobile homes certified as complying with ANSI A119.5 are identified with a metal plate as shown on Exhibit 15-2. Please see Examples RMH-1 and RMH-2 for more information.

As stated above, sec. 70.111(19), Wis. Stats., exempts recreational mobile homes and recreational vehicles "that are used primarily as temporary living quarters". Rate of occupancy is an issue in determining whether the unit is "recreational" or falls into the exemption relating to manufactured and mobile home communities charging monthly municipal permit fees.

Monthly Municipal Permit Fee

The permit fee issued under sec. 66.0435, Wis. Stats., has been ruled to be in the nature of a local excise tax and not a general property tax by the Wisconsin Supreme Court. The fair market value of the manufactured or mobile home (excluding the tax-exempt household furnishings) is equated to the overall level of assessment from the prior year's assessment roll. This equated value is multiplied by the general property net tax rate from the preceding year's assessment. The result is the total annual permit fee. The annual fee, less any applicable lottery credit, is divided by 12 to calculate the monthly municipal permit fee.

Sec. 66.0435(3)(c), Wis. Stats., permits any municipality to assess monthly municipal permit fees on camping trailers and recreational mobile homes "regardless of whether or not the unit is occupied during all or part of the calendar year" except in the following situations: (1) the fee cannot be imposed on a unit located in a campground licensed by the Department of Health and Social Services; and, (2) the fee cannot be imposed on a unit located on land where the principle residence of the owner is located.

Sec. 70.112(7), Wis. Stats., exempts from property taxation "Every unit as defined in s.

66.0435(1)(j), that is subject to a monthly municipal permit fee under s. 66.0435(3)." A municipality may enact an ordinance to collect a monthly municipal permit fee from all units located within the municipality *except* for mobile homes that are improvements to *real property* as defined in sec. 70.043(1), Wis. Stats., and *recreational mobile homes* and *camping trailers* (sec. 70.111(19), Wis. Stats.) and except for recreational mobile homes located in campgrounds licensed under sec. 254.47, Wis. Stats., and mobile homes located on land where the principal residence home owner is located (sec. 66.0435(9), Wis. Stats.).

Sec. 70.112(7), Wis. Stats., exempts units (a single or manufactured or mobile home per. Sec. 66.0435(1)(j), Wis. Stats.) subject to a monthly municipal permit fee from property taxation. Municipalities that have established a manufactured and mobile home community shall collect a permit fee for all units in the park except for manufactured and mobile homes that are improvements to real property as defined in Sec. 70.043(1), Wis. Stats. The permit fee is collected either directly by the municipality or, by ordinance, through the manufactured or mobile home community operator.

Under sec. 66.0435 (3)(cm), Wis. Stats., an exemption is established for up to an additional 50 square feet for steps and a platform leading to the doorway of a recreational mobile home or recreational vehicle. The steps and platform may be physically attached or directly adjacent to the doorway of a recreational mobile home or recreational vehicle. The steps and platform must allow direct access to the doorway. The exemption does not apply to any other addition, attachment, deck or patio.

When the steps and platform exceed 50 square feet, the square footage exceeding the allowable 50 square feet is taxable as personal property. The assessor should subtract 50 square feet from the total measurement of the steps and platform. The area remaining after the subtraction is taxable as personal property. For example, the steps and platform leading to recreational mobile home or recreational vehicle measures 75 square feet. The assessor should subtract 50 from 75. The remaining 25 square feet is taxable as personal property. Please see Example RMH-1.
Attachments or additions such as enclosed porches or rooms are taxable personal property as well. The law does not provide an exemption for enclosed porches. The 50 square foot exemption under sec. 66.0435 (3)(cm), Wis. Stats., applies to steps and a platform and not any other addition, attachment or patio. Please see Example RMH-2.

Valuation of Manufactured and Mobile Homes

The DOR has developed a manufactured & mobile home valuation worksheet on which the assessor collects data regarding the unit (see: Manufactured & Mobile Home Valuation Worksheet). The physical attributes to consider include: manufacturer, model name, serial number, size, age, condition, and number of rooms. The form includes entries for extras like porches, patios, skirting, air conditioning and basement. The assessor should consult with dealers for current data on the cost of new units. These dealers should also have information on the sale value of used mobile homes. Mobile home "blue books" contain cost data on the resale value of various models of mobile homes. Several sources of blue books are included in the Appendix.

Typically, the manufacturer will provide the length and width measurements on the exterior

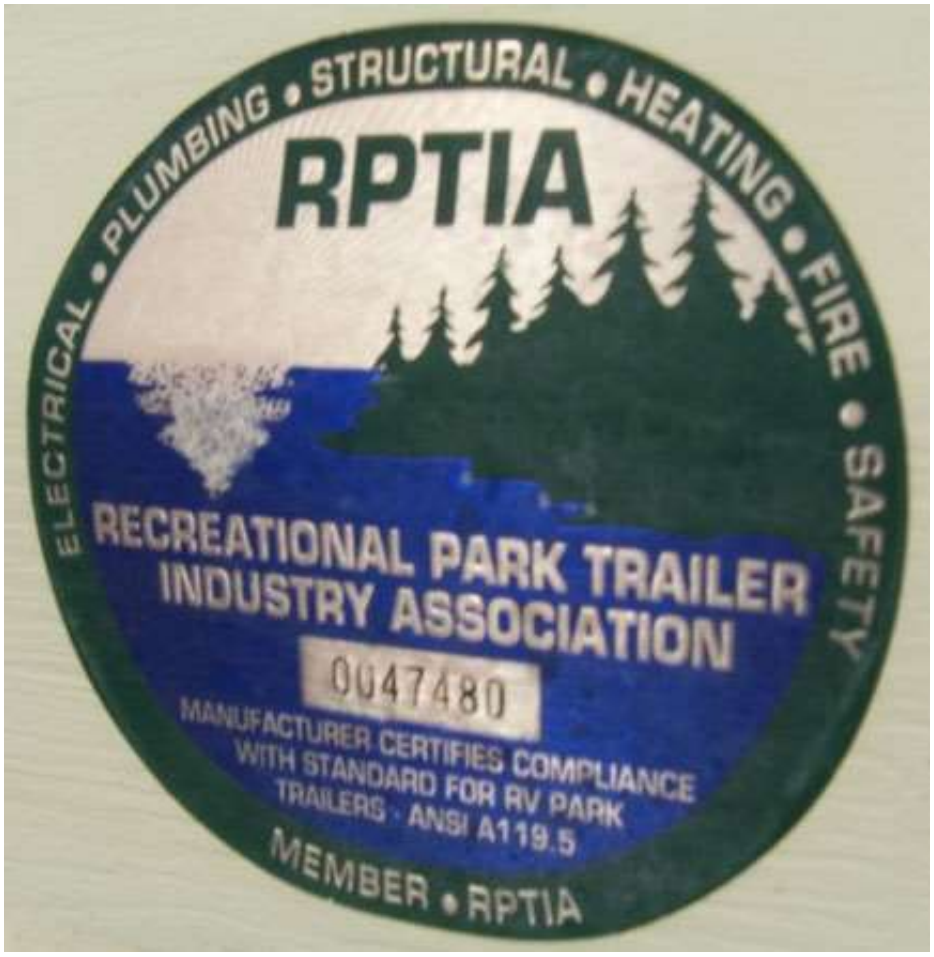
of the unit. If the measurements are not provided or if there are any modifications, additions, or attachments, the assessor will need to determine the length and width measurements. The total square footage (rounded to the nearest square foot) should be calculated using the outside length and width of the mobile home, including the area of any additions and attachments. It is important that only additions and attachments that are clearly attached to the recreational mobile home be included in the calculation of total square footage. The Wisconsin Court of Appeals, affirmed by the Supreme Court, in *Ahrens et al.* vs. *the Town of Fulton*, defined how the assessor should determine what is an addition and attachment. The court stated, "It seems clear from the forgoing that any rooms, porches, decks and the like, that are attached in any way to the basic unit are included within the definition of a mobile home."

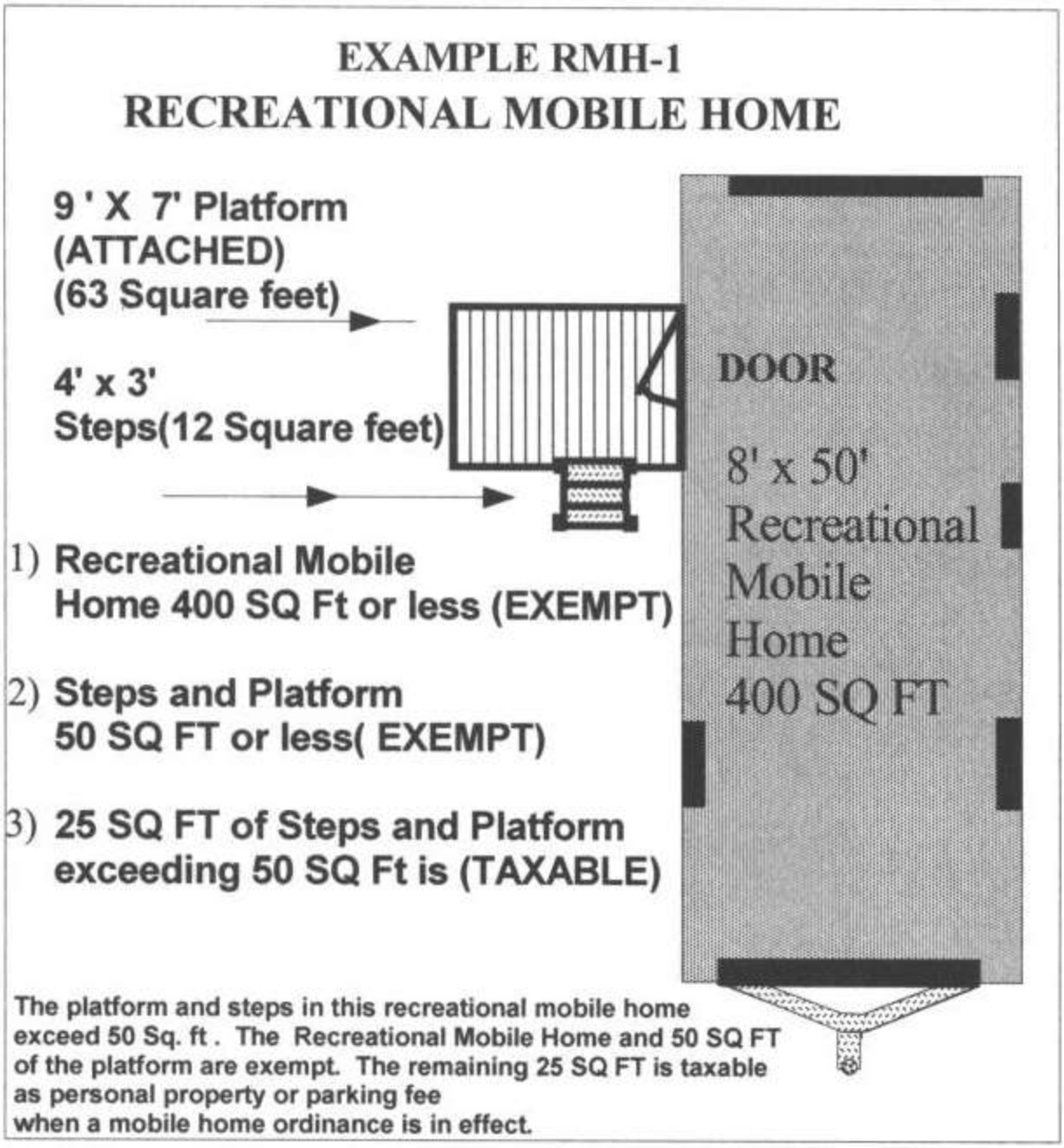
Depending upon the number of manufactured and mobile home sales in the municipality, use of sales from neighboring municipalities may be necessary to perform an accurate sales analysis. The assessor should be careful not to include any personal property when analyzing mobile home sales. Household furnishings are often included in mobile homes sales, but the value of these items should not be included in the analysis of mobile home sales.

Manufactured and mobile home assessments should be reviewed and adjusted annually. Unit values generally change at a different rate than other real estate in the municipality. Assessments on units should be checked to ensure that they are at the same level of assessment as the other property. DOR prescribes an assessment notice form for personal property. Providing a Notice of Personal Property Assessment (DOR Form PR-299) is considered a best practice and highly recommended.

Square footage disagreements should first be discussed with the assessor. Manufactured and mobile home assessments are appealed to the BOR in the same manner as other assessments. The unit owner may appeal the valuation placed on the mobile home by appearing before the local BOR and presenting sworn oral testimony as to its true and correct market value. This applies to a Mobile Home whether it is assessed as Real Estate, Personal Property, or subject to the municipal permit fee.
Disputes concerning exemption issues are not heard at the BOR. Property owners contesting exemption status may file a claim of unlawful tax with the municipality (sec. 74.35, Wis. Stats.). If the municipality rejects the claim, a direct appeal may be made to the Circuit Court of the county in which the property is located.

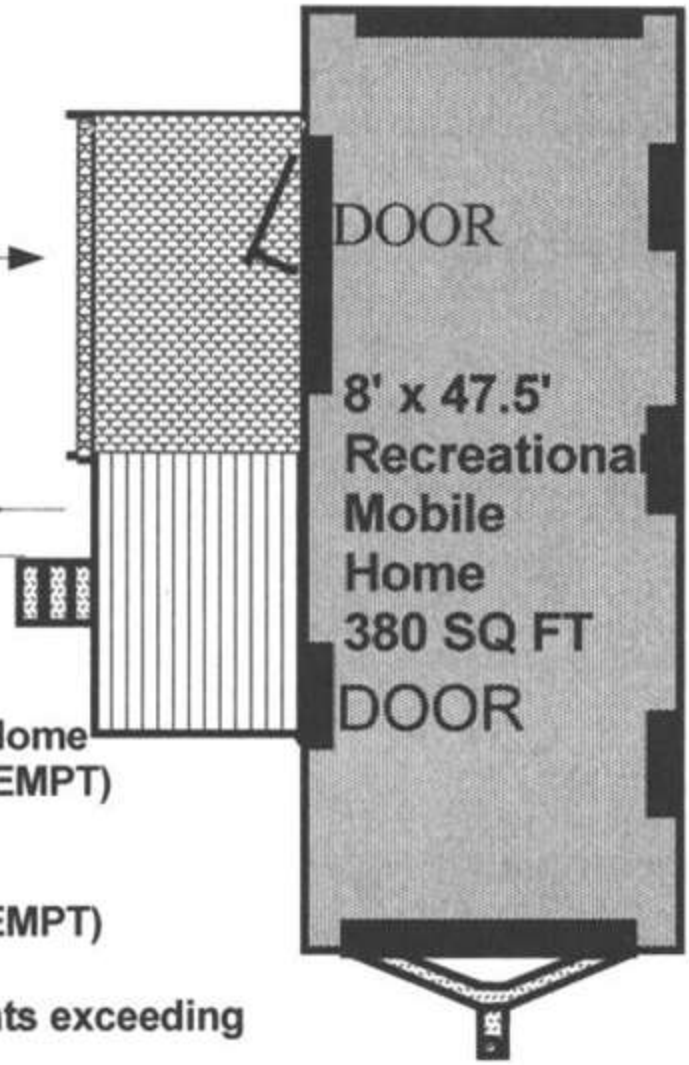
Figure 19-2


ELECTRICAL • PLUMBING • STRUCTURAL • HEATING • FIRE • SAFETY
RPTIA
RECREATIONAL PARK TRAILER
INDUSTRY ASSOCIATION
0047480
MANUFACTURER CERTIFIES COMPLIANCE
WITH STANDARD FOR RV PARK
TRAILERS · ANSI A119.5
MEMBER • RPTIA


EXAMPLE RMH-1
RECREATIONAL MOBILE HOME
9 ' X 7' Platform
(ATTACHED)
(63 Square feet)
4' x 3'
Steps(12 Square feet)
DOOR
8' x 50'
Recreational
Mobile
Home
400 SQ FT
1) Recreational Mobile
Home 400 SQ Ft or less (EXEMPT)
2) Steps and Platform
50 SQ FT or less(EXEMPT)
3) 25 SQ FT of Steps and Platform
exceeding 50 SQ Ft is (TAXABLE)
The platform and steps in this recreational mobile home
exceed 50 Sq. ft . The Recreational Mobile Home and 50 SQ FT
of the platform are exempt. The remaining 25 SQ FT is taxable
as personal property or parking fee
when a mobile home ordinance is in effect.

EXAMPLE RMH-2

RECREATIONAL MOBILE HOME



8' x 6 .25 ' Enclosed porch. (50 Square feet)

7' x 6' ATTACHED platform (42 Square feet) AND Steps (8 Square feet) = (50 Square Feet)

1) Recreational Mobile Home Under 400 SQ FT (EXEMPT)

2) Steps and Platform 50 SQ FT or less (EXEMPT)

3) Remaining attachments exceeding 50 SQ FT (TAXABLE)

The Recreational Mobile Home does not become taxable. The steps and platform under 50 SQ FT are exempt. The 50 SQ FT of enclosed porch are taxable as personal property or parking fee when a mobile home ordinance is in effect.

Figure 19-3

Overview of Manufactured & Mobile Home (Unit) Property Taxes

Item	Unit Per Sec. 66.0435, Wis. Stats	Subject to General Property Tax	Subject to Municipal Permit Fee	Comments
Unit of any size including additions, on a foundation, connected to utilities, land owned by unit's owner.	Yes	Yes, as real property	No	Meets definition in sec. 66.0435, Wis. Stats and real estate in sec. 70.043(1), Wis. Stats.
Unit of any size including additions either still on wheels, and/or not connected to utilities, and/or on land not owned by unit's owner.	Yes	Yes, as personal property unless subject to permit fee	Yes, if located in municipality with sec. 66.0435, Wis. Stats. permit fee	Meets definition in sec. 66.0435, Wis. Stats and personal property in sec. 70.043(2), Wis. Stats. Subject to permit fee if in sec. 66.0435, Wis. Stats. community; if subject to fee, exempt from personal property tax sec. 70.112(7), Wis. Stats.
Recreational mobile home or vehicle no larger than 400 square feet used as temporary living quarters.	Yes	Exempt under sec. 70.111(19)(b), Wis. Stats., to include steps and a platform, not exceeding 50 square feet leading to a doorway of a recreational mobile home, does not apply to any other addition, attachment, deck, or patio	No, by sec. 66.0435(3)(c), Wis. Stats.	Meets definition in sec. 66.0435(1)(hm), Wis. Stats., by size and use exempt from personal property tax under sec. 70.111(19)(b), Wis. Stats., exempt from permit fee under sec. 66.0435(3)(c), Wis. Stats.

Item	Unit Per Sec. 66.0435, Wis. Stats	Subject to General Property Tax	Subject to Municipal Permit Fee	Comments
Camping trailer designed to expand into a tent with built-in space for mattress and other fixtures	No	Exempt under sec. 70.111(19)(b), Wis. Stats.	No, by sec. 66.0435(3)(c), Wis. Stats.	"Pop-up" trailer meets definition of camping trailer in sec. 340.01(6m), Wis. Stats. as trailer with collapsible or folding structure towed on the highway.
Camper body installed or mounted on pick-up truck.	Yes	Exempt under sec. 70.111(19)(b), Wis. Stats.	No, by sec. 66.0435(3)(c), Wis. Stats.	Meets definition of mobile home in sec. 66.0435; Wis. Stats. if under 400 square feet exempt from personal property tax under sec. 70.111(19)(b), Wis. Stats.
Twin-sections units transported on wheels of dolly and assembled on site.	No	Yes	No	Not a unit under sec. 66.0435, Wis. Stats. Realty if located on land owned by unit's owner; otherwise, treated as personal property as a building on leased land.
Buses or vans	No	Exempt under sec. 70.112(5), Wis. Stats.	No	Motor vehicle exempt from property tax under sec. 70.112(5), Wis. Stats.
Vacant unit held for sale by a dealer	No	No	No	Considered merchant's stock under sec. 70.111(17), Wis. Stats.

Omitted Personal Property

The problem of omitted personal property is not uncommon. The movable nature of personal property and the many items to be valued, make it more difficult to discover personal property, which may result in its omission from the assessment roll. The fact that it may not be possible to determine the exact amount of personal property owned by a taxpayer does not mean that the account should be omitted from assessment. The only reason for omitted property is if the assessor is truly unaware of the existence of the property on the assessment date, or if the property is assumed to be exempt and it is later learned that it had a taxable status on the assessment date. Intentionally omitting any property from assessment could result in revocation of certification proceedings on the basis of misconduct or negligence.

There may be cases where a personal property account is under assessed because the taxpayer does not report all personal property or where a portion of that property is assumed to be exempt, and it is later learned that the property was taxable on the assessment date. In such cases, the question has been raised whether that portion of the property which was not assessed can be assessed the following year as omitted property under sec. 70.44, Wis. Stats., or whether the entire account must have been omitted before the property can be added to the roll as omitted property. It is the position of the DOR that it is not necessary that the assessor have failed to assess all of the personal property of the particular taxpayer in order to assess property under sec. 70.44, Wis. Stats. as omitted property. If it can be established that certain personal property was omitted from assessment, the assessor may go back two years, as provided in sec. 70.44, Wis. Stats., and assess any such property for each year of omission.

Omitted property is entered once for each year it was omitted from assessment, in a separate section of the assessment roll (called the omitted property assessment roll).

Occupational Taxes

As in the case of real estate, there are situations where the general rules regarding personal property do not apply and where special provisions have been made by the legislature. The occupational taxes are such a case. The various occupational taxes and the rate of each are listed in Figure 19-4.

In 1991, the U.S. 7th Circuit Court of Appeals invalidated the Wisconsin iron ore concentrates occupational tax by ruling that the tax was discriminatory under the federal Railroad Revitalization and Regulatory Reform Act of 1976 (the 4-R Act) because the tax burden applied to only one railroad—the Burlington Northern. As a result of this case, the tax is no longer imposed.

Taxpayers with property subject to occupational taxes are listed in a separate part of the assessment roll, which is called the Occupational Tax Assessment Roll. For iron ore concentrates, coal docks, and petroleum refineries the assessor enters in the assessment roll the name of the operator and the number of tons.

By law, persons subject to occupational taxes on iron ore concentrates, coal, and petroleum or petroleum products must, by February 1, furnish the assessor with a list or statement specifying the amounts of each handled during the preceding year. To aid in the reporting process, the DOR has designed occupational tax forms which are to be completed by persons subject to the occupational taxes on iron ore concentrates, coal, and petroleum. These forms are available from the county clerk.

The assessor is not required to accept the figures reported on the occupational tax forms. If the assessor or BOR has reason to believe that the form is incorrect, or when a person has failed or refused to furnish the form as required by law, the assessor or BOR may enter in the assessment roll such taxes as they feel are correct. If such a change is made by the assessor, the assessor must give a written notice of the amount of the assessment at least six days before the meeting of the BOR. If a change is made by the BOR, notice of the change must be given in time to allow the person to appear and be heard before the BOR in relation to the assessment.

Figure 19-4

Occupational Taxes

Type	**Statute**	**Tax Rate**	**Apportionment of Tax**		
			Local	**County**	**State**
Iron Ore Concentrates	70.40	5 cents/ton	70%		30%
Coal docks	70.42	5 cents/ton on bituminous prod. 7 cents/ton on anthracite prod.	70%	20%	10%
Crude oil refinery	70.421	5 cents/ton	100%	—	—

* The remaining 20% of the tax monies collected are turned over to the Investment and Local Impact Fund created under sec. 70.395(2), Wis. Stats.