

Chapter 17

Manufacturing and Utility Assessment

The assessment of manufacturing property for the local property tax is the responsibility of the Wisconsin Department of Revenue (DOR). Manufacturing property is subject to the general property tax administered under Chapter [70](#), Wis. Stats.

Utility property is not subject to the general property tax. The assessment and taxation of utility property is administered under Chapter [76](#), Wis. Stats.

The Manufacturing & Utility Bureau (Bureau) assesses telephone company property in using methods similar to manufacturing property under sec. [70.995](#), Wis. Stats.

This chapter includes an overview of the assessment process, calendars of events, statutes, and standards. The laws and standards apply to classifying businesses, activities, and real property as manufacturing and telephone company properties, and to property valuations.

Overview of the Manufacturing Assessment Process

DOR classifies and assesses all manufacturing property statewide and annually furnishes municipalities with assessment rolls for property taxation. DOR administers the exemptions applicable to manufacturing property.

Annual Market Value Assessment

The basis for annual real estate assessments is an inspection (field audit) of each parcel once every five years or more often at DOR's discretion. In the intervening years, DOR adjusts assessments based on:

- changes reported on the Wisconsin Manufacturing Real Estate Form M-R
- sales, cost, and income information
- building permits
- subject property appraisals
- market changes

Assessment Notifications

- DOR sends a notice of assessment for property it assesses
- The notice indicates 100% full market value
- DOR issues penalties to late filers and non-filers of M-Forms
- DOR uploads assessment rolls to the website

Field Audit and Assessment

The inspection of real estate includes the following:

1. Interviewing the owner or agent, inspecting the property, reviewing, or completing a listing of the physical characteristics of the property, and estimating depreciation/obsolescence.

2. Completing an assessment of the property by considering and documenting the following:
 - a. sales of the subject property;
 - b. sales of reasonably comparable property;
 - c. all data relevant to the value of the property collectively, which may include: using a cost approach, a sale of similar property, an income approach, the actual costs, and other data
 - d. final value estimate assessor's proposed value, which takes into account the Markarian hierarchy and all relevant data listed above. See *Markarian v. City of Cudahy*, 45 Wis.2d 683, 173 N.W.2d 627 (1970).

If a property has sold, DOR assessors apportion the sale price between land value and improvement value. When, in the valuation of manufacturing property, the assessor applies the sales comparison method, DOR employs procedures consistent with accepted assessment methods, including the procedure outlined in *Property Assessment Valuation* published by the International Association of Assessing Officers (2010, Third Edition, Chapter 8 – The Sales Comparison Approach to Value, pages 218-219). This includes separately estimating value of the land and improvements. Adjustments are made to comparable sales using the cumulative percentage method. Percentage adjustments are calculated on the unit sales price (sale price per square foot) of comparable properties. Land and improvement values are listed separately on the manufacturing assessment roll according to sec. 70.32(2)(a), Wis. Stats.

Manufacturing Assessment Appeal Process

Property owners and municipalities may appeal manufacturing property assessments. Full value assessment notices are typically sent mid-June. If there is a question about the assessment, the first step is to contact the district office that established the assessment as soon as possible after receiving the assessment notice. In some cases, the question arises because of a mathematical error made either in completing or auditing the M-R return or because of a misunderstanding of the manufacturing assessment process. These situations can be resolved without the need for formal appeal. If not satisfied, or if the question concerns the valuation or taxability of the property, then the owner or municipality can go through the appeal process.

Manufacturers and municipalities may appeal the market value indicated on the assessment notice, or the taxability of the property, within sixty days of issuance of the notice. Appellants should submit their opinion of value and all supporting / supplemental data with the appeal if possible. All supporting or supplemental information must be filed with the objection or, upon request, within 60 days from the date the objection is filed. Sec. 70.995(8)(d), Wis. Stats., states "If the person assessed files an objection and the municipality affected does not file an objection, the municipality affected may file an appeal to that objection within 15 days after the person's objection is filed..." Appeals are filed with the State Board of Assessors (BOA) and a \$200.00 fee must be paid when the objection is filed. A separate objection form and fee is required for each property. BOA action includes the following steps:

1. Assignment of the appeal to the district where the property is located.
2. Assignment of a Property Assessment Specialist (PAS) to the appeal.
3. PAS investigation of the submitted objection and supporting / supplemental data submitted and preparation of a recommendation.
4. Supervisory review of the PAS recommendation and distribution to all BOA members.

5. Review of the PAS recommendation by all BOA members prior to board action.
6. Board ~~action-members vote~~ on the recommendation at a BOA meeting.
7. ~~Mailing the BOA~~ determination mailed to the appellant(s), who may be the property owner and/or municipality, and the agent(s), depending on who appealed. Either party may appeal the determination to the Wisconsin Tax Appeals Commission within sixty days of receipt.
8. Attend hearings before the Wisconsin Tax Appeals Commission, preparation of exhibits and written appraisals, and testimony at hearings and depositions in defense of assessments.

Calendar of Events for Manufacturing Assessment

Date	Activity
January 1	Date of assessment of manufacturing property.
February 15	Notification Rolls delivered to Municipal Assessors (via DOR website).
March 1	M-forms due <u>and</u> ; last day to submit <u>manufacturing classification</u> request to DOR for <u>property to be assessed in manufacturing classification and assessment for</u> the current <u>assessment</u> year.
March 1 – <u>May</u> ~~Mid-June~~	Processing of M-forms. ~~Determine a~~ Annual full value assessments <u>determined</u> .
~~March~~ – June	Full value assessment notices sent to owners and respective municipalities. Full value assessment rolls distributed via DOR website.
July 1	Last day to submit request to DOR for manufacturing classification and be guaranteed a determination <u>by from</u> DOR by December 31 of that year.
~~April-June~~ – August	Objection to assessment to be filed with State Board of Assessors within 60 days of issuance of assessment notice.
~~May-June~~ – April	Board of Assessor investigation of objections.
~~May-June~~ – January	~~Appraisal and audit~~ <u>Field review and site inspections</u> of manufacturing property.
October – November	Manufacturing assessment rolls equated to the local level of assessments and delivered to the municipal clerk (via DOR website).
December 31	<u>Deadline for</u> DOR ~~deadline~~ to issue a notice of determination for manufacturing classification requests received on or before July 1st.
On-going	Tax Appeals Commission work

Property Classification

Initial Classification

Cut-off Date for First Time Classification and Assessment

The due date for filing manufacturing property report forms (M-forms) is March 1 of each year. In order for an establishment to be classified manufacturing for the first time:

- Per sec. [70.995\(5\)](#), Wis. Stats., for an establishment to be assessed by DOR as manufacturing for that year, the establishment must submit a written request to DOR for manufacturing classification on or before March 1st and subsequently have been granted manufacturing classification for that year. A request ([PA-780](#)) submitted by the March 1 due date impacts the current year income tax filing for income tax purposes and current year property assessment for property tax purposes.
- Per sec. [70.995\(5n\)\(a\)](#), Wis. Stats., for an establishment to receive a determination from DOR regarding its manufacturing classification by December 31st of that year, the establishment must submit a written request for classification by July 1. A request ([PA-780](#)) submitted by the July 1 due date impacts the current income tax year filing and subsequent year property assessment for property tax purposes.

The above requirements do not apply to establishments previously classified manufacturing that simply have a change in ownership, a name change, or a change in location.

Business Classification

Specifically Classified Manufacturing by Law and the SIC Manual

Sec. [70.995\(2\)](#), Wis. Stats., states, “In addition to the criteria set forth in sub. (1), property shall be deemed prima facie manufacturing property and eligible for assessment under this section if it is included in one of the following major group classifications set forth in the Standard Industrial Classification (SIC) Manual, 1987 Edition, published by the U.S. Office of Management and Budget. For purposes of this section any other property described in this subsection shall also be deemed manufacturing property and eligible for assessment under this section.”

This section of the statutes lists all the major manufacturing groups in the SIC Manual, plus certain activities listed as non-manufacturing in the SIC Manual but classified as manufacturing for property tax purposes. Those activities are metal mining, mining, and quarrying of non-metallic minerals, photo finishing laboratories, scrap metal, wastepaper, and plastic processing, and hazardous waste facilities.

Sec. [70.995\(2\)\(w\)](#), Wis. Stats., classifies as manufacturing, #7384 - Photo finishing laboratories. The SIC Manual describes these as “Establishments primarily engaged in developing film and in making photographic prints and enlargements for the trade or for the general public.” This includes one-hour film processors, but does not include film pick-up or drop-off sites, commercial photography nor portrait photography studios.

Some photo finishing establishments are part of a retail store. They develop film (Manufacturing), serve as a film pick-up and drop-off site (Services) for film developed at an outside photo finishing laboratory, and sell photographic equipment and supplies (Retail Trade). They are classified manufacturing if, they meet all of the following criteria:

- The photo finishing laboratory is separate and distinct from the retail store and separate reports can be prepared on the sales or receipts, number of employees, their wages and salaries and other data.
- More than 50% of the revenue comes from on-site photo finishing versus off-site photo finishing and retail sales of photographic equipment and supplies.
- The photo finishing laboratory has at least one full-time employee totally dedicated to the photo finishing process. Retail sales and collecting film for outside processing does not count towards the one full-time employee requirement.
- Primary (more than 50%) employment is in developing film, versus retail selling and collecting and sending film to outside photo finishing laboratories.

Sec. [70.995\(2\)\(y\)](#), Wis. Stats., classifies as manufacturing, “Processors of waste paper, fibers or plastics using large machines for recycling purposes.” This includes establishments that sort, grade, compact or bale clean wastepaper, fibers or plastics, not mixed with other solid waste, for sale or use for recycling purposes. Establishments that collect waste paper, fibers or plastics or sort them from non-usable portions of solid wastes are not included. Therefore, the following are not classified as manufacturing:

- collecting and sorting waste paper, fibers or plastics from non-usable solid waste or compacting these materials by supermarkets or other places of business;
- collecting of waste paper, fibers and plastics at various collection points by processors and the transporting of the waste to the processing facility;
- handling, stockpiling or disposal of non-usable portions of solid waste at transfer stations or other places; nor
- storing processed material (a component of solid waste that has been collected, transported to a waste processing facility and prepared for sale to a broker, dealer or manufacturer) by a manufacturer who uses the processed materials as a raw material for producing a product that is known as “recycled material.”

Specifically Classified as Nonmanufacturing by Law and the SIC Manual

Sec. [70.995\(1\)\(d\)](#), Wis. Stats., states that “Except for the activities under sub. (2), activities not classified as manufacturing in the SIC Manual, 1987 edition, published by the U.S. Office of Management and Budget are not manufacturing for this section.”

The SIC Manual classifies many operations or activities under Retail Trade, Wholesale Trade, Services and Construction even though they may perform manufacturing type processes. For example, wholesale establishments may also physically assemble, sort, grade goods in large lots and break bulk and redistribute in smaller lots. Retail, service and construction establishments may have some form of processing that is incidental or subordinate to the primary activity of the business.

Sec. [70.995\(1\)\(b\)](#), Wis. Stats., says “Manufacturing production is usually carried on for the wholesale market, for interplant transfer, or to order for industrial users.” The SIC Manual on page 67 makes the same statement and adds, “rather than for direct sale to the domestic consumer.”

Retail Trade

The SIC Manual on page 68 regarding retail trade says, “Also included in Retail Trade are establishments primarily engaged in selling, to the general public, products produced on the same premises from which they are sold, such as bakeries, candy stores, ice cream parlors, and custom tailors.” Also, any production process involved in such retail activities as listed

above cannot be treated as separate and distinct establishments for classification purposes, because the SIC Manual includes the processes as part of the retail business.

Other examples of these types of retail businesses include, but are not limited to:

- wine producers who sell the wine primarily at or adjacent to the premises where it is produced;
- beer producers who sell the beer primarily at or adjacent to the premises where it is produced;
- slaughtering operations that sell meat primarily over the counter;
- ceramic shops that sell products primarily on the premises;
- cabinet shops primarily building custom cabinets for individual consumers;
- mattress makers making primarily custom mattresses for individual consumers or selling mattresses primarily at or adjacent to the place where they are produced;
- optical goods stores that also grind lenses;
- any establishment primarily making products to order for domestic consumers or the general public and sold from the premises where produced

Sec. [70.995\(1\)\(a\)](#), Wis. Stats., states, "Establishments engaged in assembling component parts of manufactured products are considered manufacturing establishments if the new product is neither a structure nor fixed improvement." Some construction related establishments do off-site prefabrication (manufacturing) and on-site installation of the materials (construction). They are classified manufacturing if, primary (more than 50%) employment is in off-site prefabrication.

The shop versus installation criteria also applies to the total employment of all closely related establishments owned by the same individual or the same group of individuals. The shop versus installation rule does not apply to cabinet shops that build custom cabinets to order for individual consumers, because the SIC Manual classifies those cabinet shops as retail trade (see Figure 17-1).

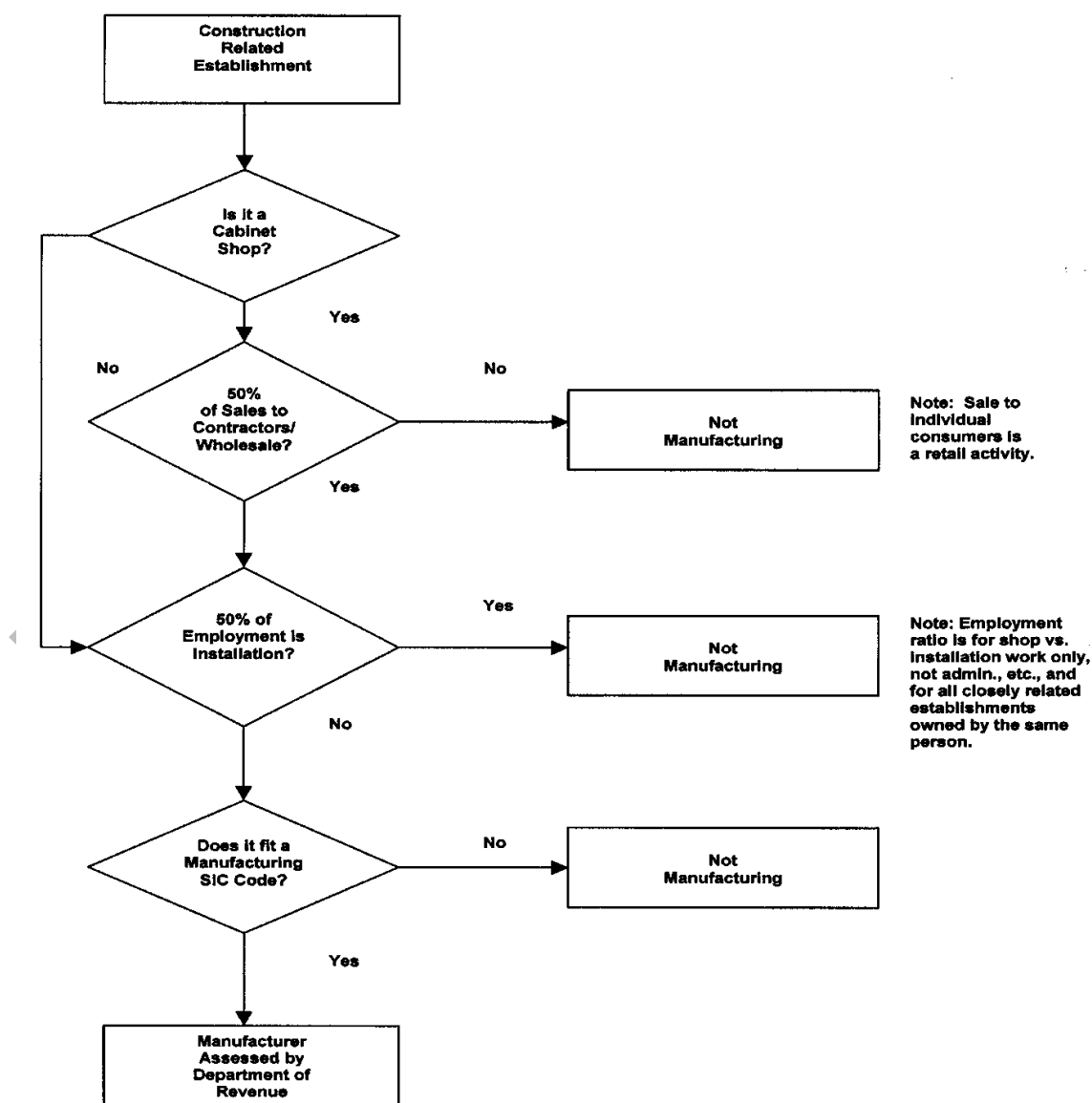
The basis for the shop versus installation rule comes from several references in the SIC Manual, including:

- Construction Division, page 54, "The installation of prefabricated building equipment and materials by general and special trade contractors is classified in this division. Similar installation work performed as a service incidental to sale by employees or an establishment manufacturing or selling pre-fabricated equipment and materials is classified according to the primary activity in the manufacturing or trade divisions."
- Construction Division, page 54, "Establishments primarily engaged in the distribution and construction or installation of equipment often present classification problems. Since the value added is not available for distinguishing the relative importance of sales versus installation for construction activities, payroll or employment may be used as measures yielding approximately the same results."
- Construction Division, page 61, "Special trade contractors for the most part perform their work at the site of construction, although they also may have shops where they perform work incidental to the site."
- Construction Division, page 68, "Fabricating operations performed at the site of construction by contractors are not considered manufacturing, but the prefabrication of

sheet metal, concrete, and terrazzo products and similar construction materials is included in the manufacturing division.”

- Manufacturing Division, page 107, “Woodworking in connection with construction, in the nature of reconditioning and repair, or performed to individual order, is classified in nonmanufacturing industries.”
- Manufacturing Division, page 109, Wood Kitchen Cabinets, “Establishments primarily engaged in manufacturing wood kitchen cabinets and bathroom vanities, generally for permanent installation. Establishments primarily engaged in manufacturing freestanding cabinets and vanities are classified in Major Group 25. Establishments primarily engaged in building custom cabinets for individuals are classified in Retail Trade, Industry 5712.”

Figure 17-1



Not Specifically Mentioned by Law or the SIC Manual

Sec. [70.995](#), Wis. Stats., and SIC Manual may not cover every type of business in existence. For those not mentioned in either place, the criteria and general definitions included in secs. [70.995\(1\)\(a\)](#) and [\(b\)](#), Wis. Stats., shall be considered, which include:

- Sec. [70.995\(1\)\(a\)](#), Wis. Stats., "...manufacturing, assembling, processing, fabricating, making or milling tangible personal property for profit."
- Sec. [70.995\(1\)\(a\)](#), Wis. Stats., "Establishments engaged in assembling component parts of manufactured products are considered manufacturing establishments if the new product is neither a structure nor other fixed improvement.";-and
- Sec. [70.995\(1\)\(b\)](#), Wis. Stats., "Materials used by a manufacturing establishment may be purchased directly from producers, obtained through customary trade channels or secured without recourse to the market by transfer from one establishment to another under the same ownership. Manufacturing production is usually carried on for the wholesale market, for interplant transfer or to order for industrial users rather than for direct sale to a domestic consumer."

Consider the following tThree questions ~~that should be asked to apply these criteria are~~for classification determinations:

1. Is the activity more similar to those specifically classified manufacturing by law and the SIC Manual, or more similar to those specifically classified nonmanufacturing by law and the SIC Manual?
2. Is the activity more closely aligned with the general description of producing, assembling, fabricating, making or milling by machinery and equipment of a new article with a different form, use and name from existing materials, or is it more aligned with the general activities involved with services as generally described in the SIC Manual, wholesale trade, retail trade, agriculture, or construction?
3. Does the activity produce products more for wholesalers, interplant transfer, to order for industrial users or more for direct sale to domestic consumers?

Activity Classification

Activities in Support of the Manufacturing Operation

Sec. [70.995\(5\)](#), Wis Stats., says, "The Department of Revenue shall assess all property of manufacturing establishments included under subs. (1) and (2), "except property not contiguous with or located within 1,000 feet of the parcel on which the production process, as defined in, s.[70.11\(27\)\(a\)\(5\)](#) occurs..."

Sec. [70.995\(1\)\(a\)](#), Wis. Stats., says in part, "Manufacturing property also includes warehouses, storage facilities and office structures in this state when the predominant use of the warehouses, storage facilities or offices is in support of the manufacturing property ..."

Sec. [70.995\(3\)](#), Wis. Stats., says, "For purposes of subs. (1) and (2) 'manufacturing, assembling, processing, fabricating, making or milling' includes the entire productive process and includes such activities as the storage of raw materials, the movement thereof to the first operation thereon, and the packaging, bottling, crating or similar preparation of products for shipment."

Some establishments are “in support of the manufacturing property,” (called auxiliaries in the SIC Manual). Others are part of “the entire productive process” described in sec. [70.995\(3\)](#), Wis. Stats., although not part of the exempt “production process” described in sec. [70.11\(27\)](#), Wis. Stats. Such establishments include but are not limited to the following:

1. Central administrative activities performing management and general administrative functions such as general management; accounting; computing, tabulating, or data processing; purchasing; engineering and systems planning; advertising; public relations or lobbying; and legal, financial, or related managerial functions.
2. Warehouses and storage activities including potato cellars.
3. Research, development and testing activities.
4. Maintenance and repair activities for machinery and equipment.

Activities Not in Support of the Manufacturing Operation

Activities that do not qualify as being “in support of the manufacturing property” under sec. [70.995\(1\)\(a\)](#), Wis. Stats., or as being part of “the entire productive process” under sec. [70.995\(3\)](#), Wis. Stats., include but are not limited to:

1. Sales branches and sales offices of manufacturing companies.
2. Transportation activities including but not limited to those of the following:
 - newspaper collection and pickup stations for carriers;
 - balers and collection containers for collecting and transporting waste paper, fibers, or plastics to a waste processing facility;
 - milk receiving stations for transporting milk to dairies;
 - airplane hangars; and
 - motor vehicle garages and repair shops.
3. Recreation activities, such as fitness centers, gymnasiums, golf courses, and swimming pools, maintained for the benefit of employees.
4. Establishments primarily engaged in news collection, editorial work, or advertising sales related to publishing activities, but who don't publish or print.

2023 Wisconsin Act 12 amended sec. [70.995 \(5\)](#), Wis. Stats., to read: "The department of revenue shall assess all property of manufacturing establishments included under subs. (1) and (2), except property not contiguous with or located within 1,000 feet of the parcel on which the production process, as defined in s. [70.11 \(27\) \(a\) 5.](#), occurs, as of the close of January 1 of each year if on or before March 1 of that year the department has classified the property as manufacturing or the owner of the property has requested, in writing, that the department make such a classification and the department later does so."

This statutory change limits department assessment of manufacturing property, including property whose predominant use is in support of manufacturing property under sec. [70.995\(1\)\(a\)](#), Wis. Stats., to manufacturing property or property whose predominant use is in support of manufacturing property in this state, that is contiguous with or within 1,000 feet of the parcel upon which the manufacturing production process occurs. Properties of manufacturing establishments that do not meet the proximity requirements in sec. [70.995\(5\)](#) Wis. Stats. shall be assessed by their local assessor.

Activities Done on Behalf of Primary Manufacturer

Establishments doing one part of the manufacturing process on behalf of the primary manufacturer are classified as manufacturing. Establishments manufacturing on the behalf of others include but are not limited to:

- metal cutting and finishing on a job basis for the primary manufacturer;
- balancing of manufactured parts such as pump impellers, blower wheels; motor rotors, fan blades and brake drums on a job basis for a primary manufacturer;
- packaging on a job basis for a primary manufacturer;
- aging of cheese.

Remanufacturing Activities vs. Repair Activities

Remanufacturing on a "factory basis" occurs where the activity resembles a production line or uses mass production techniques, while a repair activity does not. Usually, in remanufacturing, the customer receives a different rebuilt item from the one they brought in, while in repair, they receive the same item back. Two examples of remanufacturing where the customer receives a different item include barrel reconditioning and automotive starter rebuilding. Examples of remanufacturers where the customer receives the same item back, include:

- repair in conjunction with ship or boat building;
- rebuilding machinery, equipment, including automotive engines, on a factory basis;
- industrial machine shop manufacturing and repairing

Business Activity and Real Estate Parcel Classification

Business Activity Classification

Multiple Activities Are Separate and Distinct

For purposes of business classification, the SIC Manual defines an establishment as an economic unit, generally at a single physical location where business is conducted or where services or industrial operations are performed. It says where distinct and separate economic activities are performed at a single physical location, each activity should be treated as a separate establishment wherever all the following occur (also see Figure 17-2):

- no one SIC industry description includes such combined activities;
- employment in each such economic activity is significant; and
- separate reports can be prepared on the sales or receipts, number of employees, their wages and salaries and other establishment type data.

DOR defines the SIC Manual's criteria of "significant employment" as at least one full-time employee totally dedicated to the manufacturing activity.

DOR may classify the business of a separate and distinct manufacturing activity at the same location as a nonmanufacturing activity. Examples include, but are not limited to the following:

- a separate and distinct wastepaper, fiber or plastics processing activity (manufacturing) in a waste transfer station that also collects and transfers non-usable solid waste for disposal in a landfill or by incineration (nonmanufacturing);

- a separate and distinct flange fabricating activity (manufacturing) in a sheet metal contractor's shop (nonmanufacturing) (see Figure 17-2);
- a separate and distinct truss manufacturing activity (manufacturing) at a lumberyard (nonmanufacturing) (see Figure 17-3);
- a separate and distinct quarry operation, asphalt batching plant or crushing plant that crushes and recycles concrete or asphalt slabs or roadbeds into new crushed base course (manufacturing) performed by a road contractor (non-manufacturing).
- a separate and distinct printing-for-the-trade operation (manufacturing), in an advertising agency or other creative service (nonmanufacturing), when the two activities use different equipment; and
- a separate and distinct newspaper operation (manufacturing) that also provides an on-line computer news service (nonmanufacturing).

The SIC Manual says establishments with “physically dispersed operations” have permanent main offices and individual sites, projects, networks or systems for the dispersed operations. All are considered part of the total manufacturing establishment. An example is an establishment with large aluminum recycling machines dispersed throughout an area.

Multiple Activities Are Not Separate and Distinct

The SIC Manual classifies establishments by their primary activity. Principal product produced or distributed, or services rendered determines primary activity. “Value added” best determines principal product of the establishment. Other criteria to determine the primary activity are value of production, value of receipts or revenues, value of sales, and employment or payroll.

There are businesses with manufacturing and retail activities that are not separate and distinct. Manufacturing classification depends on the primary (more than 50%) source of revenue. Wholesale revenues are manufacturing, and retail revenues are not. Retail includes sales on the premises, by mail, or by the internet to domestic consumers. Examples of such businesses include, but are not limited to the following:

- bakeries whose sales occur both on a wholesale basis and over the counter (see Figure 17-3);
- beer or wine producers whose sales occur on a wholesale basis and also at or adjacent to the place where the product is produced; and
- photo finishing laboratories that also process film for their own commercial or portrait photography studio.

Examples where the nonmanufacturing activity is services or wholesale trade are the following:

- prototype makers (manufacturing) who also provide research and development services (services);
- water bottlers producing distilled water (manufacturing) and also bottling natural spring and mineral waters (wholesale trade);
- printers (manufacturing) who also provide direct mail advertising services (services); and
- printers (manufacturing) who also do writing and creating (services) with the same equipment.

Figure 17-2

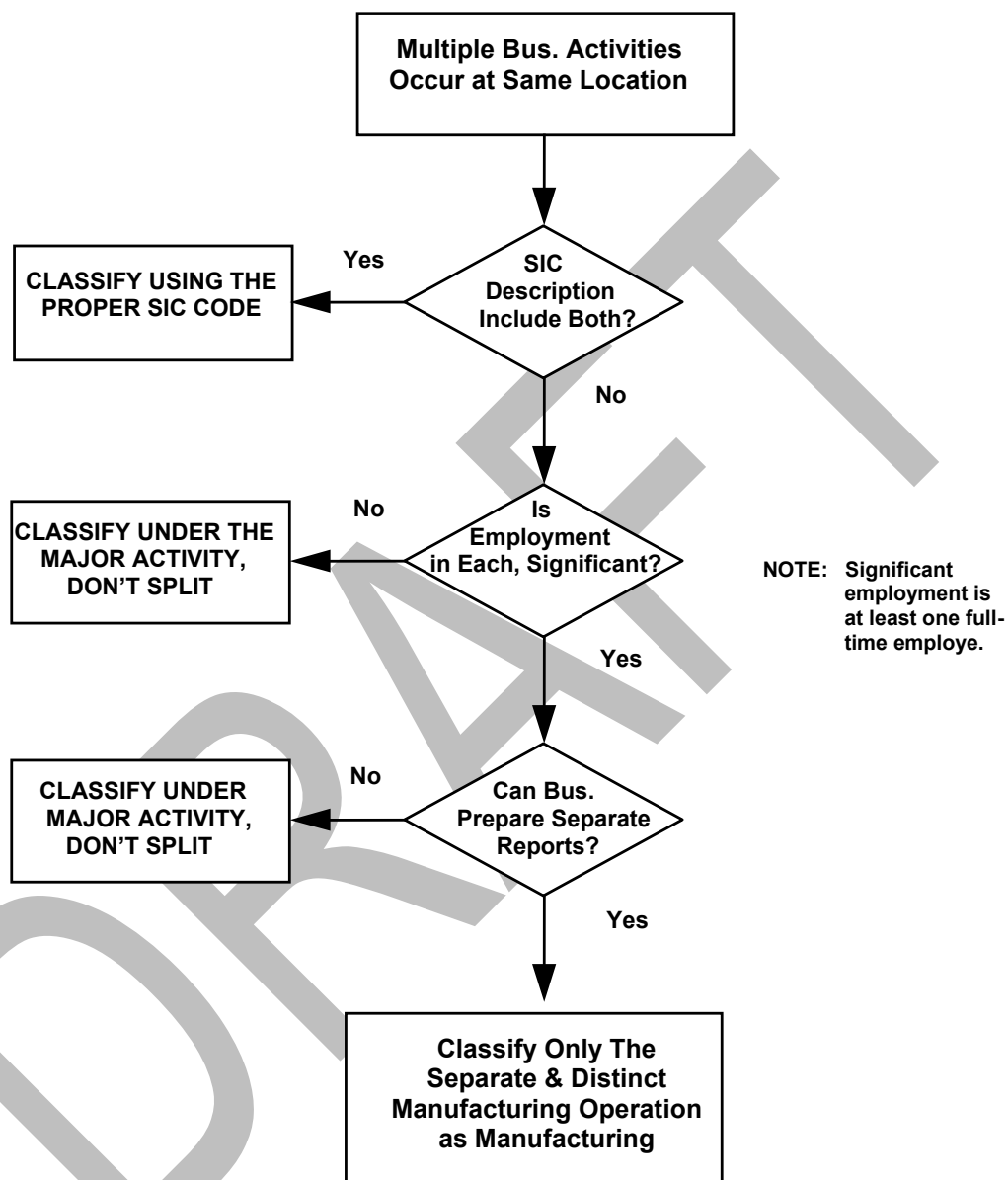
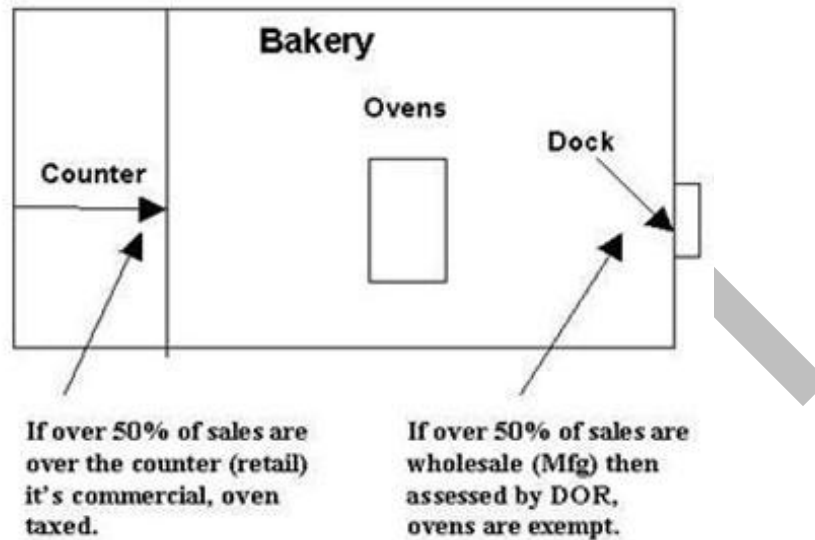


Figure 17-3

Multiple Activities Not Separate and Distinct



Real Estate Parcel Classification

Sec. [70.995\(1\)\(a\)](#), Wis. Stats., says, “In this section ‘manufacturing property’ includes all real property, as defined in s. [70.03](#), in this state, used in manufacturing, assembling, processing, fabricating, making or milling tangible personal property for profit. Manufacturing property also includes warehouses, storage facilities and office structures in this state when the predominant use of the warehouses, storage facilities and offices is in support of the manufacturing property.” Since the statute requires property to be “used” in manufacturing, idle quarries and mines are not classified manufacturing. Parcels representing future quarries or mines may not be classified manufacturing until overburden has been removed from more than 50% of the parcel.

2023 Wisconsin Act 12 amended sec. [70.995\(5\)](#), Wis. Stats., to exclude from DOR assessment property of manufacturing establishments that is not contiguous with or located within 1,000 feet of the parcel on which the production process occurs, as defined in s. [70.11 \(27\) \(a\) 5](#).

Sec. [70.995\(4\)](#), Wis. Stats., says in part, “Whenever real property is used for one, or some combination, of the processes mentioned in sub. (3) and also for other purposes, the department of revenue, if satisfied that there is substantial use in one or some combination of such processes, may assess the property under this section. For all purposes of this section the department of revenue shall have sole discretion for the determination of what is substantial use and what description of real property shall constitute ‘the property’ to be included for assessment purposes...”. For property used for a manufacturing activity and other activities “substantial use” is defined as majority use (more than 50%) of the area occupied. When separate and distinct manufacturing and nonmanufacturing activities occur

on an unimproved parcel, manufacturing classification depends on the majority use (more than 50%) of the acreage. When multiple uses occur in buildings, majority use of the floor area determines classification.

Property owned by a manufacturer, but not classified manufacturing by the Department, is under the jurisdiction of the municipal assessor. If the Department assesses the property the following year, it will not make an omitted assessment for the year under municipal jurisdiction.

Machinery and Equipment (M&E)

Section [70.11\(27\)\(b\)](#), Wis. Stats., provides for exemption of certain manufacturing machinery and equipment and states, “Machinery and specific processing equipment; and repair parts, replacement machines, safety attachments and special foundations for that machinery and equipment; that are used exclusively and directly in the production process in manufacturing tangible personal property, regardless of their attachment to real property, but not including buildings. The exemption under this paragraph shall be strictly construed.” Sec. [70.11\(27\)\(a\)](#), Wis. Stats., provides definitions of terms for the machinery and equipment exemption.

2023 Wisconsin Act 12 generally exempts personal property from taxation. The Act created sec. [70.111\(28\)](#), Wis. Stats., which, beginning with the property tax assessments applicable to January 1, 2024 assessment year, exempts personal property as it is defined in s. [70.04](#), including steam and other vessels, furniture, and equipment, but specifically excludes from this exemption property assessed as real property under s. [70.17\(3\)](#) and property subject to taxation under s. [76.025\(2\)](#).

The manufacturing machinery and equipment exemption at s. [70.11\(27\)](#) will still apply to manufacturing machinery and equipment that is classified as real property, improvements or fixtures, as real property is defined in sec. [70.03](#), Wis. Stats., that otherwise satisfy the language of the exemption.

Returning Property to Municipal Assessment

Sec. [70.995\(4\)](#), Wis. Stats., says in part, “Vacant property designed for use in manufacturing, assembling, processing, fabricating, making or milling tangible property for profit may be assessed under this section or s. [70.32\(1\)](#), and the period of vacancy may not be the sole ground for making that determination. In those specific instances where a portion of a description of real property includes manufacturing property rented or leased and operated by a separate person who does not satisfy the substantial use qualification for the entire property, the local assessor shall assess the entire real property description”

Property will be returned to local assessment under any of the following conditions:

- An individual parcel or ~~one of~~ multiple parcels owned by a manufacturing establishment ~~has had its where the~~ use ~~has~~ changed ~~and t~~ The new use is not manufacturing nor in support of the manufacturing operation
- The property is not contiguous with or located within 1,000 feet of the parcel on which the production process occurs, as defined in s. [70.11 \(27\) \(a\) 5](#).
- The ~~prior~~ manufacturing establishment has ceased manufacturing operations and nonmanufacturing use is likely

- The area of a building ~~for lease~~ that is rented to manufacturing lessees falls below 50% of the total floor area
- DOR discovers it ~~mistakenly~~ classified a business as manufacturing by mistake
- If after a written request, DOR is not permitted to view operations in order to verify continuing manufacturing ~~status~~operations from actual view after written request by DOR

After terminating manufacturing classification, or if DOR determines that manufacturing property is not located contiguously or within 1,000 feet of the parcel on which the production process occurs, DOR transfers copies of the real property valuation information to the municipal assessor. ~~If DOR transfers a mistakenly classified property to municipal assessment, it will not retroactively tax machinery and equipment exempted in prior years.~~

Termination of Manufacturing Classification for Business Operations Where Real Property is Locally Assessed

DOR will notify the business of manufacturing classification termination when the business operations no longer meets the definition of manufacturing property at secs. [70.995\(1\)](#) and [\(2\)](#), Wis. Stats.

Definition of “Manufacturing”

Sec. [70.11\(27\)\(a\)3](#), Wis. Stats., says “ ‘Manufacturing’ means engaging in an activity classified as manufacturing under s. [70.995](#).”

~~A business owned by a manufacturer, but not classified manufacturing by DOR does not qualify for the machinery and equipment exemption. It is not considered “classified as manufacturing under sec. 70.995, Wis. Stats.” If DOR does classify that business manufacturing in later years, it will not retroactively exempt machinery and equipment taxed in earlier years.~~

Definition of “Machinery”

Sec. [70.11\(27\)\(a\)2](#), Wis. Stats. states, “ ‘machinery’ means a structure or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means, but “machinery” does not include a building.”

Sec. [70.11\(27\)\(b\)](#), Wis. Stats. further clarifies the definition: “ ‘machinery includes ‘repair parts, replacement machines, safety attachments and special foundations for that machinery and equipment’”.

Case law has ruled the following to be machinery: power wiring for exempt machinery and equipment; brewery aging and fermentation cellars; malt aging silos, head houses, resting bins, attemporators, kilns and germination compartments; and graving docks.

Definition of “Power Wiring”

Sec. [70.11\(27\)\(a\)4](#), Wis. Stats., says “‘Power wiring’ means bus duct, secondary service wiring or other wiring that is used exclusively to provide electrical service to production machines that are exempt under par. (b). ‘Power wiring’ does not include transformers.”

Definition of “Specific Processing Equipment”

Sec. [70.11\(27\)\(a\)6](#), Wis. Stats., states, “‘Specific processing equipment’ means containers for chemical action, mixing or temporary holding of work in process to ensure the uninterrupted flow of all or part of the production process, process piping, tools, implements and quality control equipment.”

Electric motors, air compressors and computers used exclusively to power or operate exempt machines are considered part of the machine and also exempt. Machinery and specific processing equipment includes, but is not limited to the following unique or specialized property:

- packaging equipment, including equipment used for printing product labels and instructions for the product;
- spare machines and parts that when in use, meet the criteria for exemption, but not machinery in vacated plants that have been returned to local assessment; and
- refrigeration equipment cooling cheese during the aging process.

Exempt quality control equipment includes equipment that ensures the manufacturer’s processes are working properly, but not equipment used to measure or check raw materials received by the manufacturer.

Definition of “Building”

Sec. [70.11\(27\)\(a\)1](#), Wis. Stats., states, “‘Building’ means any structure used for sheltering people, machinery, animals or plants; storing property; or working, office, parking, sales or display space.”

Case law has ruled that a structure is a machine if it does work. The incidental or occasional presence of employees does not destroy the exemption, but permanent workstations would. One case said that steel columns supporting both a building and an exempt crane are taxable as part of the building. Unique or specialized type structures ruled to be classified exempt machinery and equipment by case law includes, but are not limited to the following:

- attemporators functioning as giant air conditioner/humidifier;
- malt aging silos that house an organic change;
- kilns functioning as giant ovens;
- beer aging/fermentation cellars;
- malt houses functioning as germinating compartments; and
- graving docks functioning as conveyors (launching), work platforms (like a hoist), and huge measuring instruments (plane for alignment of parts).

Parts of buildings can be exempt. Sec. [70.11\(27\)\(b\)](#), Wis. Stats., states in part, “Machinery and specific processing equipment; ... regardless of their attachment to real property, but not including buildings.” Sec. [70.11\(27\)\(a\)2](#), Wis. Stats., states in part, “Machinery” means a

structure or assemblage of parts...” Therefore, a machine can be a structure. An example of a machine being a structure and part of a building is a three-story building with the second-floor functioning as a germination compartment. The second floor is an exempt machine while the first and third floors are taxable as buildings.

The term “buildings” includes all structural and mechanical components as well as components used for sanitary requirements, human comfort, human safety, storage or necessary for the protection or operation of processing machinery and equipment. Building structural and mechanical components include heating, air conditioning, ventilating humidification and dehumidification components.

If an exempt machine has an external “skin” directly affixed to it, the “skin” is considered part of the machine and exempt, but if the machine is free standing within a structure, the structure is considered a taxable building.

Definition of “Production Process”

Sec. [70.11\(27\)\(a\)5](#), Wis. Stats., states, “ ‘Production process’ means the manufacturing activities beginning with conveyance of raw materials from plant inventory to a work point of the same plant and ending with conveyance of the finished product to the place of first storage on the plant premises, including conveyance of work in process directly from one manufacturing operation to another in the same plant, including the holding for 3 days or less of work in process to ensure the uninterrupted flow of all or part of the production process and including quality control activities during the time period specified in this subdivision but excluding storage, machine repair and maintenance, research and development, plant communication, advertising, marketing, plant engineering, plant housekeeping and employee safety and fire prevention activities; and excluding generating, transmitting, transforming and furnishing electric current for light or heat; generating and furnishing steam; supplying hot water for heat, power or manufacturing; and generating and furnishing gas for lighting or fuel or both.”

For purposes of defining the production process, a “plant” is a manufacturing facility at a single physical location. A “single physical location” is defined as one that receives material to be processed or stored via public street, airway, railway or waterway. A “single physical location” may be comprised of separate buildings on one parcel or several contiguous parcels (see Figure 17-4). However, when stored or processed material moves on a public street, airway, railway or waterway, regardless of type of vehicle, its destination is considered a “single physical location” different from its point of origin (see Figure 17-5). If a manufacturer has received permission from a municipality to move material across a public street by unlicensed vehicle, i.e., forklifts going across a dead-end street, then the “single physical location” would extend across that public street.

The beginning of the production process is illustrated by, but not limited to the following:

- in dairies, it begins where the unprocessed milk is moved from a storage tank. The act of adding a skim powder to the unprocessed milk is incidental to the primary purpose of the tank which is raw material storage;
- in mining, it begins with the stripping off of the overburden;
- in publishing and printing, it begins after the written material, artwork or photograph has been created and selected for printing;

- in typesetting, it begins with converting images into standardized letter forms of a certain style which are usually hyphenated, justified and indented automatically by mechanical or electronic means; and
- in plate making, it begins when camera ready copy is photographed.

The end of the production process is illustrated by, but not limited to the following:

- in magazine and catalog printing it ends with the packaging of the printed material in postal carrier order. Demographic or customer specific binding and ink-setting are included in the production process; and
- in industrial sand manufacturing it ends with the conveyance of the sand to point of first storage, usually to a storage silo

The production process does not include the removal of waste material from an exempt machine. Equipment performing this function would likely qualify as exempt waste treatment equipment (see Manufacturing Equipment Versus Waste Treatment Equipment later in this chapter).

“Research and development” means:

- developing a new product or improving an existing product, including manufacturing the sample product at pilot plants for employee or consumer testing (unless sold to consumers);
- designing specifications for products at testing labs;
- designing new products with computers or mainframe terminals; and
- creative work done by authors, reporters, artists, ad agencies, photographers and similar activities.

“Plant engineering” means designing products, producing blueprints, determining product specifications and determining manufacturing instructions, processes or steps by manual or electronic means.

“Plant communication” means delivering or transferring product specifications or instructions for the step-by-step flow of the production line. It may be done by manual, mechanical or electronic means.

“Research and development”, “plant engineering” and “plant communication”: activities listed below are considered manufacturing:

- reporters and ad takers at newspapers using mainframe terminals that replace typesetting equipment where little of the text is subsequently changed;
- processing of a photograph at a newspaper after it has been selected as the one to print;
- production of software that will be permanently imbedded in a computer as a component of a manufactured product such as an automobile or a computer numerically controlled machine product; and
- production of electronic templates or patterns for a specific machine by computer. The production of jigs, fixtures and patterns is a manufacturing process regardless of the method of production.

“Advertising” and “marketing” includes the printing of advertisements or brochures by a manufacturer who does not print material for the trade.

Definition of “Storage”

Sec. [70.11\(27\)\(a\)6m](#), Wis. Stats., states, “ ‘Storage’ means the holding or safekeeping of raw materials or components before introduction into the production process; the holding, safekeeping or preservation of work in process or of components outside the production process; and the holding or safekeeping of finished products or of components after completion of the production process; whether or not any natural processes occur during that holding, safekeeping or preservation; but ‘storage’ does not include the holding for 3 days or less of work in process to ensure the uninterrupted flow of all or part of the production process” (see Figure 17-6).

Only the normal workdays of a specific manufacturer’s normal workweek are considered in application of the 3-day rule for work in process.

Property used to store raw material or finished product is not part of the production process regardless of the length of time the material or product is stored (the 3-day rule only applies to storage of work in process).

“The holding or safekeeping of raw materials or components before introduction into the production process” may occur at the beginning or anywhere along a plant’s production line. Hopper-feed tanks directly affixed to an exempt machine are part of the machine and exempt. Directly affixed means bolted, welded or permanently fastened to the machine. It doesn’t mean connected by pipes, wires or hoses. A hopper-feed tank that is freestanding from the exempt machine is taxable raw material storage equipment. The production process begins where the conveyor begins movement of material from the freestanding tank.

Taxable storage equipment includes equipment used to create an artificial environment for preserving raw material, work-in-process more than three days and finished product. It also includes equipment used to maintain that material in a certain physical state (gas, liquid, solid, powder, etc.) and equipment for heating, cooling, freezing, humidifying, dehumidifying, etc. such material. Taxable storage equipment also includes structures or equipment used to dry grain for storage purposes.

Figure 17-4

Single Physical Location – Multiple Buildings

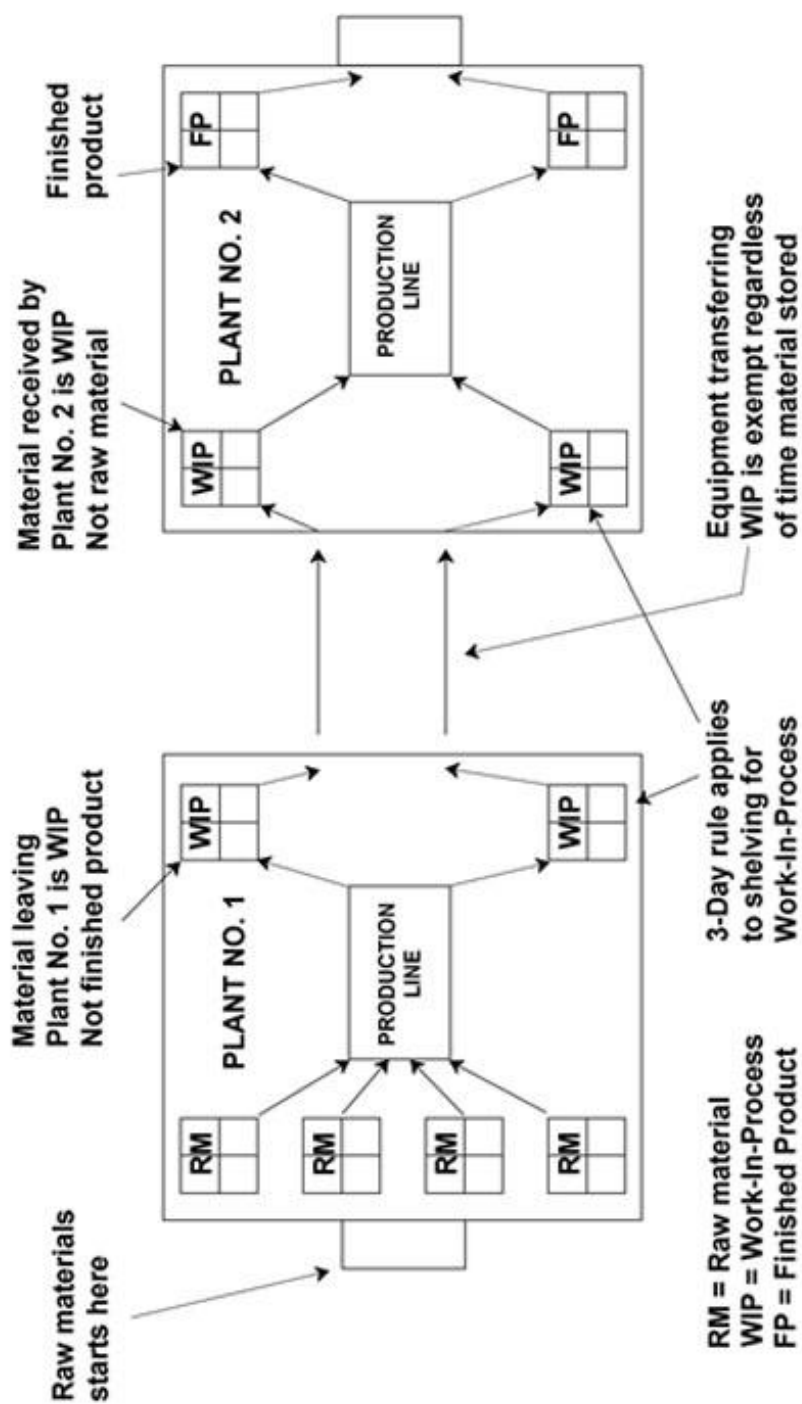


Figure 17-5

Two Physical Locations for One Manufacturer

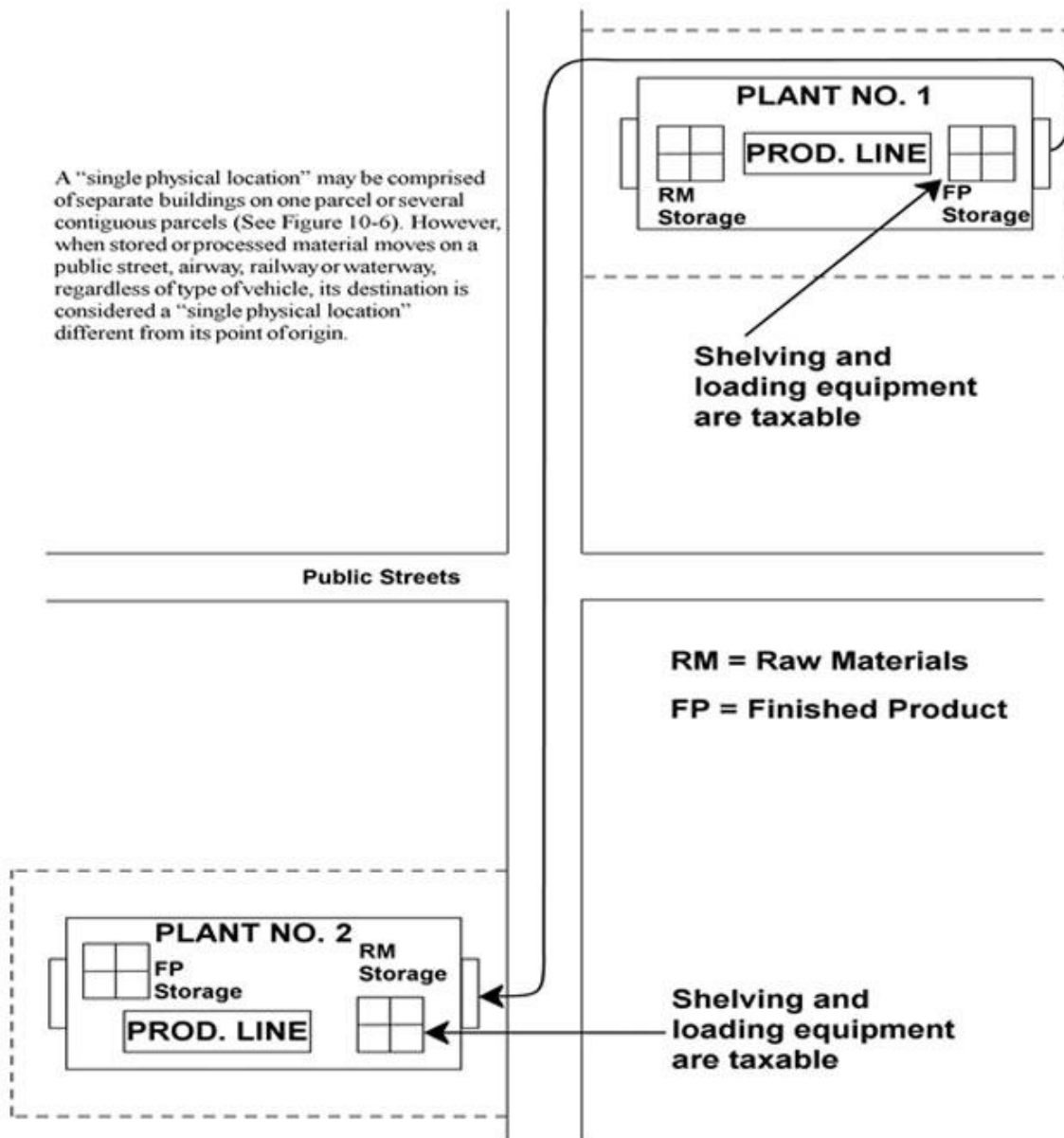
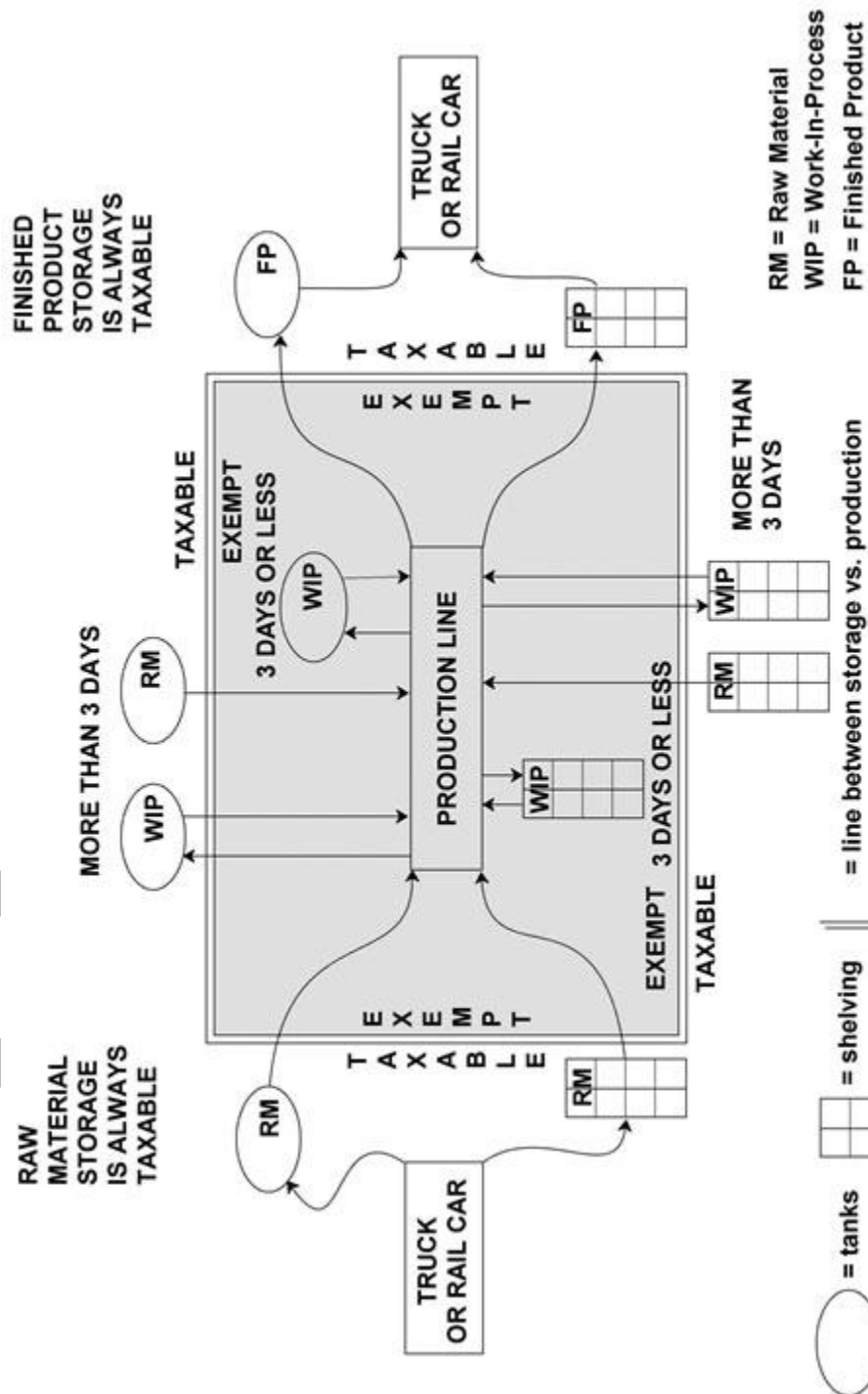


Figure 17-6

Interpreting sec. 70.11(27), Wis. Stats.

"3-day storage" for Work in Process



Definition of “Used Directly”

Sec. [70.11\(27\)\(a\)7.](#), Wis. Stats., states, “‘Used directly’ means used so as to cause a physical or chemical change in raw materials or to cause a movement of raw materials, work in process or finished products.”

Property used to create an artificial environment that directly causes necessary changes to work in process (value added) is “directly used”. Property that does not add value, but only maintains or preserves value is not “used directly,” but is taxable storage equipment. Examples of preservation include preventing spoilage, maintaining a specific physical state or preventing the occurrence of unnecessary natural processes. Property used to protect materials from the weather or elements is buildings or building components. “Directly used” to create an artificial environment that directly changes work in process (value added) includes, but is not limited to the following:

- kilns used for drying or heating bricks, lumber, malt, pottery or other material that is work-in-process;
- heating equipment that slowly dries lumber (pre-dryers) or that cures or smokes meat that is work in process;
- humidification/dehumidification equipment that causes a necessary change to work in process, such as the germination of malt, curing of meat, creating flexibility in wood necessary for the woodworking process, or reduces static electricity in materials used in the printing process;
- refrigeration equipment that controls the necessary fermentation or aging of beer, that causes the rigidity in foodstuffs necessary for the manufacturing process or that quick freezes food stuff as part of the packaging process;
- structures directly containing artificial environments such as those described above, when the use for sheltering people, machinery or for storing property is less than 5% of total use and there are no fixed or permanent workstations.

Property that preserves, maintains or protects, that is not “used directly” in the production process includes, but is not limited to the following:

- refrigeration equipment that preserves foodstuffs as work in process such as that found in meat packing plants, frozen food plants or canning plants;
- equipment maintaining work in process in the same gaseous or liquid state it was as raw material;
- clean in place (CIP) chemical storage vessels and CIP pumps and piping found in milk and cheese processing plants; and
- air filtering equipment that reduces air contamination of work in process from dust or foreign particles produced by a manufacturing process (may qualify under waste treatment exemption).

Definition of “Used Exclusively”

Sec. [70.11\(27\)\(a\)8.](#), Wis. Stats., states, “‘Used exclusively’ means to the exclusion of all other uses except for other use not exceeding 5% of total use.”

When equipment or structures are directly used to create an artificial environment to cause a necessary change to work in process (value added and exempt) and also storage (no value

added and taxable), taxability is determined by whether the taxable use is more than 5% of total use. Two criteria that can be used to apply the 5% rule are time and floor area.

If the equipment or structures perform the dual uses sequentially and not simultaneously, then time is the proper criterion. Two examples are the following:

- a freezer structure or room is used first for quick freezing a foodstuff (exempt) and then for frozen storage of the foodstuff (taxable). If the average unit produced spends more than 5% of total time in frozen storage, the refrigeration equipment would be taxable. The structure would be a taxable building; or
- a structure or room is used part of the year for pre-drying lumber (exempt) and part of the year for simple storage of the lumber. If it is used more than 5% of the year for storage as opposed to drying, the structure would be a taxable building. The heating equipment is taxable unless only operated during the pre-drying process, then it would meet the exclusivity test and be exempt.

If the equipment or structures perform dual uses simultaneously then floor area is the proper criterion. Two examples are the following:

- the taxable and exempt uses occur in separate and distinct areas of a structure. If the taxable use occupies more than 5% of the floor area, the equipment and structure are taxable. A structure divisible by walls or floors, is partially exempted.
- dual uses occur simultaneously, but not in separate and distinct areas. If taxable use occupies more than 5% of the floor area daily the equipment and structure are taxable.

Manitowoc Co. v. City of Manitowoc (Court of Appeals) (1985) regarding the taxability of steel columns that simultaneously supported both exempt cranes and the building said, “The court noted that the columns supporting the building cannot be segregated into ‘building columns’ and ‘crane columns.’ The columns used for the crane work also support the building. They are therefore part of the building and, hence, they are ‘building components’”. Therefore, when dual uses occur simultaneously and there is no unit of measure for the two uses, the property should be taxed.

Manufacturing Equipment Versus Waste Treatment Equipment

There is an exemption for property used to treat industrial waste described in sec. [70.11\(21\)](#), Wis. Stats. Chapter 16 provides waste treatment exemption information and definitions.

Sec. [70.11\(21\)\(am\)](#), Wis. Stats., states, “All property purchased or constructed as a waste treatment facility used exclusively and directly to remove, store, or cause a physical or chemical change in industrial waste or air contaminants for the purpose of abating or eliminating pollution of surface waters, the air, or waters of the state if that property is not used to grow agricultural products for sale and, if the property’s owner is taxed under Chapter 76, if the property is approved by the department of revenue...”

According to sec. [70.11\(21\)\(ab\)](#), Wis. Stats., “‘Industrial waste’ means waste resulting from any process of industry, trade or business, or the development of any natural resource, that has no monetary or market value, except as provided in subd. 3.b., and that would otherwise be considered superfluous, discarded or fugitive material. ‘Industrial waste’ does not include other wastes, as defined in sec. [281.01\(7\)](#), Wis. Stats.” It also states, “Used exclusively” means to the exclusion of all other uses except any of the following:

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

If a manufacturer's process produces waste, any property used to remove the waste from the production line, store it or treat it to cause a physical or chemical change is exempt waste treatment property.

If a manufacturing process produces waste which is processed into a by-product for sale or reuse by the manufacturer, property moving the waste from the primary production line or storing it prior to further processing is exempt waste treatment property. Property used to further process the material into a by-product and move it to storage is exempt machinery and equipment. Property used to store the by-product as raw material when it is re-used or as a finished by-product if it is sold, is taxable machinery and equipment. A hypothetical example could be a paper manufacturer who collects the waste sludge, completes a granulation process on the sludge (adds value) and then sells the resultant by-product as cat litter or as a carrier for agricultural chemicals. Processing a waste into a by-product which is sold it is manufacturing even if the activity does not turn a profit. This may occur when it's less expensive to process the waste into a by-product than it is to ship it to a landfill.

The compacting or baling of clean waste paper, not mixed with other solid waste, at the plant of a waste processor is an exempt manufacturing activity and not a waste treatment activity. Compacting or baling waste paper or cardboard at non-waste processing businesses or at collection points of waste processors, is not an exempt manufacturing activity or an exempt waste treatment activity. It is a transportation activity because the primary purpose is maximizing the load transported.

Manufacturing ~~Real Estate Form (M-R)~~ Property Valuation **~~Annual Market Value Assessment~~**

Annual assessment of manufacturing property is based on an analysis of self-reporting forms along with ~~cyclical audit~~, physical inspections ~~and appraisal~~. Self-reporting forms are used by manufacturers to report ~~property they own and~~ any changes that have taken place to the property they own since the last assessment date.

~~Manufacturing Real Estate Form (M-R)~~

Schedule A: Owners of manufacturing real estate report any changes in name and address; whether the property is vacant; leased; bought, sold or listed for sale; and if any appraisals or physical changes (new construction, remodeling, demolition) were completed in the last year by the owner or tenant.

~~Schedule YR: This schedule lists the real estate asset accounts for a parcel, such as land and buildings. The owner reports the original cost balance in each of these accounts as of the last assessment date, all additions and deletions, and the balance as of this assessment date.~~

~~Schedule YR, Part 2~~

~~The owner checks the appropriate box identifying certain items were reported as real estate or personal property. Items typically assessed as real estate should be reported by the owner as real estate. Items typically assessed as personal property should be reported as personal property. An example of a commonly misreported asset is a dock leveler. Dock levelers would likely sell with the real estate and should be reported with the other real estate costs.~~

Schedule R-1, Part 1: Report building and cost details for new construction as of the assessment date. Including construction in progress and any tenant updates.

Schedule R-2: List remodeling projects and costs for the existing structures, describing changes made, by the owner or tenant, and an estimate of the increase in value resulting from the remodeling.

Schedule R-3: Report in detail any demolition of real property by owner or tenant. Include the square footage affected, year built of the section, original cost and the cost to raze. A value change estimate should be provided.

Schedule R-4: Report new land improvements by owner or tenant including the costs for paving, landscaping, railroad siding, sewer and water systems, and other miscellaneous improvements to the land site, and an estimate of market value for the new improvements.

Schedule R-5: Report current business activity and tenant lease information.

Schedule R-6: Report changes in the status of waste treatment real estate items on the parcel. ~~It-This~~ may include new buildings, building additions or demolitions, change in area of land used for waste treatment, change in use of crops on vacant land or the fact that it is no longer being used for waste treatment.

Schedule R-7: Report all tenant owned building on leased land building, including size, business activity, original cost of the building and estimated current market value.

Schedule B: This schedule summarizes changes made to the real property. The cost and value opinion derived on each schedule ~~is carried~~ is ~~to the last page on~~ Schedule B.

Penalties

The law provides penalties for failure to file required forms by the due date or by any extension granted. Sec. [70.995\(12\)\(c\)](#), Wis. Stats., states, "...the taxpayer shall pay to the department of revenue a penalty of \$25 if the form is filed 1 to 10 days late; \$50 or 0.05% of the previous year's assessment, whichever is greater, but not more than \$250 if the form is filed 11 to 30 days late; and \$100 or 0.1% of the previous year's assessment, whichever is greater, but not more than \$750, if the form is filed more than 30 days late. Penalties are due and payable to the department 30 days after they are assessed and are delinquent if not paid on or before that date. The department may refund all or part of any penalty it assesses under this paragraph if it finds reasonable grounds for late filing." DOR will not enter a penalty if the department did not assess the property during the previous year.

Business and Property Classification Index

	Page(s)
Activities done on behalf of primary manufacturer.....	10
Activities in support of manufacturing.....	8
Activities NOT in support of manufacturing.....	9
Asphalt batching plant.....	11
Auxiliaries	9
Beer, wine producers	6, 11, 16, 23
Break bulk.	5
Cabinet shops	6, 7
Candy stores	5
Ceramic shops.....	6
Cheese aging.....	10, 16, 23
Construction... ..	5, 6, 7, 8, 26
Custom tailors	5
Cutoff date for classification	3, 4
Entire productive process.....	8-9
Establishment.....	4-14, 31-32
Factory basis.....	10
Crushing plant (gravel)	11
Hazardous waste facilities	4
Ice cream parlors	5
Incidental processing.....	5, 16-17
Mining.....	4, 18
Omitted property	14, 36
Optical goods.....	6
Over the counter sales.....	6, 11
Photo finishing.....	4-5, 11
Physically dispersed operations	5, 11
Primary activity.....	5-6, 11, 32
Prototype manufacturers	11
Quarry.....	4, 11, 13
Real estate parcel classification	10, 11
Remanufacturing vs. repair	10
Research & development services.....	11, 17-18
Retail trade.....	5-8
Road contractor.....	11
Scrap metal.....	4
Separate & distinct activities.....	10-13, 31-32
Services	10-11, 30-34
Sheet metal contractor	7, 11
Shop vs. installation rule	6
Slaughtering operations	6
Source of revenue rule.....	11, 32
Substantial use.....	13-14
Terminated, classification	14-15

Truss manufacturing activity.....	11
Vacant property.....	14
Value added.....	6, 11, 23-24, 32
Waste processors.....	25
Waste transfer stations.....	10
Water bottlers, distilled, spring.....	11
Wholesale trade.....	5, 8, 11

Exempt M&E Index

	Page(s)
3-day rule - work-in-process.....	19, 22
Advertising printing.....	9, 11
Air compressors.....	16
Air filtering equipment & building comp's.....	23
Artificial environment.....	19, 23
Attemporators.....	15-16
Brewery aging & fermentation cellars.....	15
Building.....	16-17
By-product.....	25
Columns - steel, dual use.....	16, 24
Computers.....	18, 31, 33-34
Dairies.....	9, 17
Dual use.....	24
Electric motors.....	16
Electronic templates and patterns.....	18
External "skin".....	17
Germination compartments.....	15-16, 23
Graving docks.....	15-16
Head houses.....	15
Hopper-feed tank.....	19
Humidification/dehumidification.....	17, 19, 23
Industrial waste.....	24-25
Kilns.....	15-16, 23
Machinery.....	8, 14-17
Mainframe terminals.....	18
Malt aging silos.....	15-16
Mining.....	4, 17
Packaging equipment.....	16
Plant.....	11, 16-19, 23
Plate making.....	17
Power wiring.....	15
Production process.....	8-9, 14-19
Publishing and printing.....	17
Quality control equipment.....	16-17
Refrigeration.....	16, 23-24
Retroactive exemption, not allowed.....	15
Retroactive taxing, not done.....	15

Single physical location	10, 17
Specific processing equipment	16
Storage.....	8, 13, 17-19, 23-25
Typesetting	17-18
Used directly.....	23
Used exclusively	14-16, 23-24
Waste treatment.....	18, 23-26

Telephone Company Assessment

Assessment Notices, Tax Bills, and the Appeal Process

Sec. [76.81](#), Wis. Stats., says “There is imposed a tax on the real property of, and the tangible personal property of, every telephone company... Except as provided in s. 76.815, the rate for the tax imposed ... is the net rate for the prior year for the tax under Chapter 70 in the taxing jurisdictions where the description or item is located.” Taxing jurisdictions consist of the municipality, county, state, school district, technical college district, town sanitary district, public inland lake protection and rehabilitation district, and metropolitan sewerage district.

The first step in the tax calculation process is equating the full-value assessments to the assessment level for all other property within the individual taxation district. Then the equated assessment is multiplied times the combined tax rate (based on assessed value) for the taxation district.

Assessment notices and tax bills are generally mailed to telephone companies by October 1. Payment of the tax bill is due November 10. DOR attaches a property list with all assessments to each company’s tax bill. Companies may appeal assessments. A company with a question about the assessment should first contact DOR. Sometimes, a question arises because of a mathematical error made either in completing or auditing the return or because of a misunderstanding of the assessment process. DOR can resolve these situations without the need for formal appeal. If not satisfied, or if the question concerns the valuation of the property, then the company can go through the appeal process. Companies may appeal the market value shown on the assessment notice to Dane County circuit court within 30 days of issuance of the notice.

Reference of Other Statutes in the Telephone Company Tax Sections

Sec. [76.84\(4\)](#), Wis. Stats., says, “Sections 76.03(4), 76.05, 76.06, 76.075, 76.08, 76.09, 76.13(1), (2) and (3), 76.14, 76.18, 76.22, 76.23, 76.25 and 76.28(4) to (6), as they apply to the tax under subchapter I, apply to the tax under this subchapter.” Subchapter I covers Public Utilities and Subchapter IV covers the Telephone Tax. Therefore, even though a cross-referenced section may say light, heat and power companies and not mention telephone companies, under sec. [76.84](#), Wis. Stats., that section applies to telephone companies.

Calendar of Events for Telephone Company Assessment

Date	Activity
January 1	DOR makes telephone property report form (T-forms) available in online filing system. Date of assessment of telephone company property.

- March 1 Completed T-forms must be filed with DOR. Last day for telephone company to request filing extension from DOR.
- March – Sept. DOR processes T-forms and determines annual assessments.
- May – Jan. Appraisal and field audit of telephone company property.
- Early Oct. Assessment notices and tax bill sent to telephone companies.
- Oct. – Nov. Appeals must be filed within 30 days of notice of assessment.

Definition of Telephone Company

Activities Included in the Definition of Telephone Company

Sec. [76.80\(4\)](#), Wis. Stats., states, “ ‘Telephone company’ means any person that provides to another person telecommunications services, including the resale of services provided by another telephone company.” Sec. [76.80\(3\)](#), Wis. Stats., states, “ ‘Telecommunications services’ means the transmission of voice, video, facsimile or data messages, including telegraph messages, ...” To qualify as a telephone company, a business must have “transmission facilities,” or provide “telecommunications facilities,” or provide “telecommunication services.” Telephone companies include local exchange, competitive local exchange, inter-exchange, digital subscriber line, commercial mobile service (cellular), reseller and pay phone companies. Also included as part of a “telephone company” are service centers, stores or kiosks they operate to provide customer service, in addition to selling telephones.

Subsidiary Activities in Support of the Telephone Company

A circuit court decision in *T. Pewaukee v. Ameritech Services Inc.*, case number 98CV646, said subsidiary support services done for a telephone company are included as telephone company operations. The decision said a subsidiary that “provides centralized computer, purchasing and other services for the benefit of the AOC telephone companies” is exempt from taxation pursuant to section 70.112(4) which includes property of a telephone company.” The court said these activities meet the standard of “used and useful” in the operation of the telephone companies business.

Activities Excluded from the Definition of Telephone Company

Sec. [76.80\(3\)](#), Wis. Stats., states, “ ‘Telecommunications services’ means ..., except that ‘telecommunications services’ does not include cable television, radio, one-way radio paging or transmitting messages incidentally to transient occupancy in hotels, and defined in s. 354.61(3).”

Sec. [76.80\(4\)](#), Wis. Stats., states, “ ‘Telephone company’ does not include a person who operates a private shared telecommunications system, as defined in s. 196.201(1), and who is not otherwise a telephone company.” Sec. [196.201\(1\)](#), Wis. Stats., states “In this section,

‘private shared telecommunications system’ means ... to provide telecommunications service through privately owned customer premises ...or ... where the cost of service is shared ... persons who are not affiliated interest under s. 196.52, and where ... not used to offer telecommunications service for sale directly or indirectly to the general public.” Therefore, a trucking company’s 2-way radio service used solely for its own business, is not a telephone company. Neither is a company providing 2-way radio service to trucking companies or others, unless interconnected with the public switched networks. To qualify as a “commercial mobile service” the system must interconnect with public switched networks.

Internet Service Providers (ISP) are not telephone companies and are subject to local assessment. An ISP provides content but not transmission. Examples of ISP’s include businesses like America On-Line (AOL), Excite, and Yahoo! Such things as computers, modems, and routers are exempt as computer equipment under sec. [70.11\(39\)](#), Wis. Stats. The exemption, however, terminates at the hub connecting the computer equipment to the transmission line. If a telephone company offers a separate and distinct ISP service, it should be locally assessed. A definition of “separate and distinct” follows under the description of Personal Property Account Classification. Other non-telephone company activities include but are not limited to:

- Service centers, stores or kiosks operated by non-telephone companies, franchisees or “Authorized Dealers,” (Radio Shack, etc.) on behalf of a telephone company;
- Printing and publishing telephone book yellow pages;
- Bars, restaurants and gas stations that secondarily own semi-public pay phones
- Towers owned by companies that do not provide telecommunication services

Personal Property Account Classification

Multiple Activities Are Separate and Distinct

DOR uses a 2-step process to classify the personal property of companies with multiple activities. The first step is to determine if the two activities are separate and distinct. For purposes of business classification, an establishment is defined as an economic unit, generally at a single physical location where business is conducted or where services are performed. Where distinct and separate economic activities are performed at a single physical location, each activity should be treated as a separate establishment wherever all the following occur:

- Employment in each economic activity is significant; and
- Separate reports can be prepared on the sales or receipts, number of employees, their wages and salaries and other establishment type data.

DOR defines “significant employment” as at least one full-time employee totally dedicated to the activity.

DOR will assess and tax the personal property of separate and distinct telecommunications activities at the same location as a non-telecommunication activity. Likewise, municipalities will tax separate and distinct non-telecommunication activities at the same location as a telephone company.

Examples include, but are not limited to the following:

- A separate and distinct internet service provider activity (non-telecommunications) at a

- telephone company (telecommunications) is taxed locally;
- A separate and distinct cable television activity (non-telecommunications) at a telephone company is taxed locally;
- A separate and distinct internet access provider activity (telecommunications) at a cable television company (non-telecommunications) is taxed by the State; and
- A separate and distinct telephone service activity (telecommunications) at a cable television company (non-telecommunications) is taxed by the State.

Multiple Activities Are Not Separate and Distinct

The Department classifies establishments by their primary activity. The principal service rendered determines primary activity. “Value added” best determines principal product of the establishment. Value added is rarely possible to obtain. Other criteria to determine the primary activity are value of production, value of receipts or revenues, value of sales, and employment or payroll.

There are businesses with telecommunications and non-telecommunications activities that are not separate and distinct (converged services). Telephone company classification depends on the primary (more than 50%) source of revenue. Examples of such businesses include, but are not limited to the following:

- Telephone companies who also provide cable television activity using the same distribution/transmission system;
- Telephone companies who also provide an internet service provider activity using the same equipment;
- Cable television companies who also provide telephone service using the same distribution/transmission system; and
- Cable television companies who also provide high-speed internet access using the same distribution/transmission system.

Assessment of Leased Property and Property on Easements

Sec. [76.03\(4\)](#), Wis. Stats. says, “Every person, company or companies, as defined in s.76.02, shall be the representative of every title and interest in the property so operated or used either as owner, lessee or otherwise, and notice to the operating and using company or companies shall be notice to all interests in the property for the purposes of taxation. The assessment and taxation of the property of any company in the name of the operating or using company or companies shall be deemed and held an assessment and taxation of all the title and interest in such property of any kind or nature.” According to *Wisconsin Telephone Company vs. Milwaukee*, 85 Wis.2d 447, 271 N.W. 2d 362 (1978), use is the criterion for classification as property subject to the telephone company tax, not ownership. Property owned by a telephone company and leased to a non-operator is not subject to the telephone tax. Where a telephone company is the lessee of personal operating property, the telephone company is listed on the state assessment roll, not the owner. Government property leased and used for operating property is taxable to the telephone company, except for property leased from a water utility formed under sec. [198.22](#), Wis. Stats.

Some telephone company property is on right-of-way easements. Such property is assessed to the telephone company as personal property and the land is assessed by the municipal assessor to the owner of the land.

Towers and other structures owned by a state-assessed "telephone company" are exempt from the general property tax and assessed by DOR (sec. [70.112\(4\)\(b\)](#), Wis. Stats.).

Taxable real property not owned by a state-assessed "telephone company" is locally assessed. A tower company that leases space to telephone companies for the location of transmission equipment does not provide "telecommunication services". Any state-assessed telephone company property located at or on the non-telco tower is exempt from local taxation and assessed by DOR as telephone company property.

Classification of Real Estate with a Combination of Uses

Sec. [70.112\(4\)\(b\)](#), Wis. Stats., states, "If real or tangible personal property is used more than 50%, as determined by the department of revenue, in the operation of a telephone company that is subject to the tax imposed under s. 76.81, the department of revenue shall assess the property and that property shall be exempt from the general property taxes imposed under this chapter. If real or tangible personal property is used less than 50%, as determined by the department of revenue, in the operation of a telephone company that is subject to the tax imposed under s. 76.81, the taxation district in which the property is located shall assess the property and that property shall be subject to the general property taxes imposed under this chapter."

Exemption for "Qualified broadband service property"

2019 Wisconsin Act [128](#) created an exemption for tangible personal property identified as "qualified broadband service property" in newly created sec [76.80\(2\)](#), [\(2m\)](#) and [\(5\)](#), Wis. Stats. Generally, telephone company personal property meeting the locational and minimum upload/download speeds specified in the new statutes is exempt from the telephone tax imposed by sec. [76.81](#) Wis Stats. The exemption applies to the property tax assessments for January 1, 2021, except that the treatment of s. 76.80(2)(a) first applies to the property tax assessments as of January 1, 2025.

Sec. [70.11\(39\)](#), Wis. Stats., Computer Exemption and Telephone Companies

Sec. [70.11\(39\)](#), Wis. Stats., exempts specific computers, including, "... mainframe computers, minicomputers, personal computers, networked personal computers, servers, terminals, monitors, disk drives, electronic peripheral equipment, tape drives, printers, basic operational programs, systems software and prewritten software."

The exemption under 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 s. 76.80(3)."

A computer may perform both telecommunications services (transmission) and non-telecommunications functions (administration). Computers used more than 50% for telecommunications services are taxable.

Internet Access Versus Internet Service Provider Equipment

Internet access provider equipment, whether digital subscriber line equipment used by telephone companies or similar equipment used by cable television companies, is taxable telecommunications equipment. Computer equipment such as servers and routers involved in the transmission of 2-way communications is taxable telecommunications equipment. At the customer's premises, the high-speed internet access telecommunications activity ends at the outside of the customer's building.

An internet service provider's, computers, modem banks, routers, etc. are exempt under sec. [70.11\(39\)](#), Wis. Stats., however that exempt activity ends at the hub which connects the computer equipment to a transmission line.

Assessment Procedures According to Sec. [70.995](#), Wis. Stats.

Sec. [76.82](#), Wis. Stats., states, "The department, using the valuation methods prescribed in s. 70.32 (1) and s. 70.31, 2021 stats., , shall assess the property that is taxable under s. 76.81 at its value as of January 1."

5-Year Cycle

Sec. [70.995\(7\)\(b\)](#), Wis. Stats., states, "Each 5 years, or more frequently if the department of revenue's workload permits and if in the department's judgment it is desirable; the department of revenue shall complete a field audit or on-site appraisal at full value under ss. 70.32(1) of all manufacturing real property in this state."

Self-Reporting Form and Penalty

Filing and Extensions

Sec. [76.83](#), Wis. Stats., states, "On or before March 1, every telephone company shall send to the department a completed form that the department prescribes. Upon written request, the department may extend the time for filing the report by no more than 30 days." Telephone companies will file separate self-reporting forms for real estate and personal property.

Penalty for Late Filing and Failure to File

Sec. [76.28\(6\)](#), Wis. Stats., applies to subchapter IV and says, "(a) The records, books, accounts and papers of any ... company are subject to inspection... (b) If any ... company ... fails to file a report within the time prescribed ... unless ... due to reasonable cause ... there shall be added ... 5% of the amount of such fees ... for not more than one month, with an additional 5% for each additional month or fraction thereof ... not exceeding 25% in the aggregate. (c) If any ... company fails to make a report ... the department may enter ... a sum representing ... the license fees [property tax], together with penalties and interest ... as estimated by the department. Notice ... shall be given by certified mail, and unless a report ... is filed within 15 days of such notice, such estimated assessment shall become final. Thereafter the ... company assessed shall be forever barred from questioning the correctness of the same in any action or proceeding."

No Appeal Without Filing

Sec. [76.05\(1\)](#), Wis. Stats., states "If any company ... shall refuse or neglect to make any reports required by s. 76.04 [s. 76.83] ... such company shall be estopped to question or impeach ...

the department except upon satisfactory proof of fraud or mistake injurious to the company.” (2) says, “No company shall be allowed in any action or proceeding ... unless such company ... filed ... a ... complete report of the facts and information prescribed by s.76.04 [s.76.83]...”

Statutes for Assessment Notices, Tax Bills, and Appeals

Sec. [76.84](#), Wis. Stats., states (1) “On or before October 1, the department shall notify each telephone company ... of the assessed value of its property. (2) On or before November 1, the department shall notify each telephone company ... of the amount of that tax.” Sec. [76.08](#), Wis. Stats. says, “Notice of the assessments ... shall be given by certified mail to each company ... on or before the assessment date...” On or before October 1, the department will notify each telephone company of the assessed value of its property. Tax bills will generally be included in that mailing. Payment of the tax bill is due November 10.

Failure of DOR to Meet Date of Mailing Notices Does Not Invalidate the Tax

Sec. [76.18](#), Wis. Stats., states “The provisions in this subchapter prescribing a date ... an act shall be performed ... by the department shall be deemed directory only, and no failure to perform any such act ... within the time prescribed therefore shall affect the validity of such act ... unless it appears that substantial injustice has resulted therefrom...”

Appeal Process

Sec. [76.84](#), Wis. Stats., applies the appeal process from sec. [76.08\(1\)](#), Wis. Stats., which says, “Any company aggrieved by the assessment ... may have its assessment ... redetermined by the Dane County circuit court if within 30 days after notice of assessment ... is mailed to the company... Upon the filing of the summons and complaint the court shall set the matter for hearing without a jury. ... The department may be named as the defendant ... on the request of the secretary of revenue, the attorney general may participate with or serve in lieu of departmental counsel.

Payment of Taxes

Sec. [76.13\(2a\)](#), Wis. Stats., states “taxes levied under this section shall be paid to the department in semiannual installments, on May 10 and November 10, on a partially estimated basis. The May 10 payment shall be at least 50% of the total tax assessed for the previous calendar year or 40% of the tax assessed for the current calendar year. Any amounts not paid when due shall become delinquent and shall be subject to interest under s.76.14. ... Companies with a tax liability under this section of less than \$2,000 are not required to make semiannual payments but shall pay the full amount of taxes due on or before November 10.”

Omitted Property

Sec. [76.09](#), Wis. Stats., states “Any property ... which has been omitted from assessment ... in any of the 5 next previous years ... shall be entered by the department upon its assessment and tax roll once additionally for each year so omitted...”

Utilities, Pipelines, Railroads, and Airlines

For purposes of property taxation, railroads and airlines are included under utilities, along with traditional utilities such as power and light companies, pipelines, and rural electric associations (REA).

DOR requires utility companies to identify whether property owned or leased is used in the operation of the utility. If it is operating property, it is exempted from the general property tax under Sec. [70.112\(4\)](#), Wis. Stats., and is instead taxed under various other statutes including those in sec. [76.01](#) to [76.26](#) and sec. [76.28](#), Wis. Stats.

Each utility determines whether a property is operating or non-operating and that determines how they report their taxable assets and/or gross receipts to the Department of Revenue. DOR requires the utility to report operating property on state prescribed form Operating Utility - Owned Real Property form ([UT-149O](#)) or Operating Utility, Leased Real Property form ([UT-149](#)). Property recorded on these two forms *should not be assessed locally*. Utility companies that own or lease real property but do not use it in their operations are required to complete the Non-Operating Utility Real Property form ([UT-149NO](#)). This property *should be locally assessed*.

If the assessor has questions regarding use of the property, whether based on inspection or other knowledge, the assessor should direct questions to the contact person shown on the form. The assessor should also monitor lease expiration dates on form [UT-149](#) to ensure that property no longer being leased is returned to the roll and assessed for property tax purposes.

In order to ensure that assessors have the needed information, the revised forms require that the utility provide the assessor with a copy of [UT-149](#) and/or [UT-149O](#). The forms should be filed by February 15 whenever there is a change in the status of real property (new purchase or lease, lease expiration, discontinued use). The exemption is effective even if the utility fails to meet the February 15 deadline. If discovered after the extension of the current year's tax roll, the assessor adjusts the late exemption discovery through a correction to the following year's assessment roll (sec [70.43](#), Wis. Stats.).

Administrative Structure of the Manufacturing & Utility Bureau

The Manufacturing & Utility Bureau is in the Division of State and Local Finance. The Bureau consists of four district offices. For more information, please see [Manufacturing and Utility Bureau](#).