Chapter 15

Personal Property Assessment

Section 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."

Section 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 machinery, tools, and patterns.
- 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 21-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 21). 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 15-2 is included to aid the assessor in planning the work schedule.

Where Personal Property Assessed

Section 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.

Section 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 (WPAM Chapter 21) 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 at http://www.revenue.wi.gov/forms/govasr/spflist.html. 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	Mail 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)
May 1	Deadline to file a Computer Exemption Report (PA-004) with the DOR. The form is available on DOR's website and must be filed electronically. Failure to file the electronic form by midnight, May 1 will result in taxation districts forfeiting the opportunity to receive a municipal or TID computer exemption reimbursement.
1st Monday in May	Assessment roll completed and submitted to municipal clerk. Assessment roll open for public inspection.
2nd Monday in May	Assessor signs affidavit in assessment roll and attends Board of Review (BOR).
August 1	Deadline to amend the electronic Computer Exemption Report provided the original report was timely filed by May 1. Amendments are accomplished by printing "Amended" across the top of a printed copy of the initial report, printing the correct amounts next to each entry, and mailing the amended form to the appropriate equalization district office.
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. Section 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

Section 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

Section 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."

Section 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 (1912) that such property can be assessed against the executors.

Some Other Person in Charge or Possession

Section 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

Section 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…" This is a requirement which should be followed as much as possible. There is no good substitute for a personal viewing of the property. A personal visit often discloses 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 has a beneficial effect on property tax administration work in general as well as from a public relations standpoint.

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 including the fair market value of property exempt under sec. 70.11(39), Wis. Stats. Section 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 mailed 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."

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.

Whether the statements are mailed or hand-delivered, 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. In such cases, there may be very little information upon which to base the assessment; however, this does not relieve the assessor of responsibility for making the assessment. In fact, 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.

The process of making an assessment without actually viewing the property or receiving the taxpayer's declaration of personal property is known as a "doomage assessment." This term dates back to the days of early England when property owners were required to declare the extent and value of their holdings which were recorded in the "Doomsday Book." Any landowners who did not report their holdings by the designated "Doomsday" were given what was called a "doomage assessment."

A notice of doomage assessment, although not required by statute, should be sent to the property owner. Many districts, as a matter of good public relations, send out notices showing current assessed values in any case. This procedure is highly recommended. The DOR prescribes an assessment notice form for personal property. A sample copy of the form is included in WPAM Chapter 17. Copies of the notice form can be obtained from the county clerk.

Section 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.

On the other hand, assume an appraisal firm operating out of an office building has desks, tables, and file cabinets. If this firm goes out of business, and if this furniture is not converted to an exempt use it remains assessable.

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."

Additionally, sec. 70.36(1m), Wis. Stats., says, "Any person, firm or corporation that fails to include information on property that is exempt under s. 70.11(39), on the report under s. 70.35, shall forfeit $10 for every $100 or major fraction thereof that is not reported."

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 exempt under secs. 70.11(39) or (39m), Wis. Stats. All forfeitures collected under the provisions of secs.70.36(1) and 70.36(1m), 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 often a gray area and is discussed more fully in WPAM Chapter 21. The important point is that both the assessor and the taxpayer know the classification of various items for report purposes. Misunderstandings between the assessor and the taxpayer can lead to double assessments and omitted property.

For example, the assessor may have considered the heating system boiler to be part of the real property and assessed it as such while the taxpayer carried this boiler as personal property on the company books and included it on the personal property return as machinery and equipment. The result would be double assessment.

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., would be assessable on the personal property roll as Furniture and Fixtures or Machinery and Equipment.

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. Stat., 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 that can be drawn 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 not 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.

Personal property includes all process machinery and equipment, furniture, fixtures, and inventory.

Testing to Determine Classification

Wisconsin case law (please see the Fixtures Section in WPAM Chapter 21) 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 <u>and</u> 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.

Personal property includes all process machinery and equipment, furniture, fixtures and inventory not classified as realty.

Section 70.03, Wis. Stats., defines real property as the land, buildings, improvements, and fixtures thereon. Section 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 Section 21.5 of the *Wisconsin Property Assessment Manual* (WPAM) 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 – billboard permit value	Real *
	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 – tellervue	Personal
	Window – walk-up	Real
Beauty shop	Built-in basins and sinks used in conjunction with business	Real

* Billboards offer a unique circumstance for the assessor. Although the actual billboard can be personal property, the assessor should review the recent Court of Appeals and Supreme Court cases on this topic. See *Adams Outdoor Advertising Ltd* vs. *City of Madison,* 2006 WI 104, 294 Wis. 2d 441, 717 N.W. 2d 803 (income attributable to billboard permits is included in real property tax assessment, not personal property tax assessment), and see also the follow up case, *Adams Outdoor Advertising Ltd* vs. *City of Madison,* 2010 WI app 120, 329 Wis. 2d 270, 789 N.W.2d 754 (city could not include portion of permit value in billboard assessments). The court in the latter case did not address the city's argument that part of the permit value was taxable to the plaintiff as stand-alone real property, because that was not what the city did.

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.

Traditionally, there has been difficulty getting taxpayers to properly complete and return the statement of personal property; however, this is not the only alternative available to the assessor. Where it is anticipated that a personal property statement will not be returned, or returned with insufficient data, the assessor should consider examining the taxpayer under oath as to the items of personal property and the taxable value instead of sending the taxpayer a statement of personal property to complete. By doing this, the assessor can ask the taxpayer questions about types of equipment, dates acquired, original acquisition costs, etc. The taxpayer can be examined at the same time the assessor views the personal property.

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 a “doomage” assessment, based on the 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 information on audit procedures is provided to assist the assessor in preparing to meet 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

      1) 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.
      2) 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.
      3) 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.
      4) 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.
      5) 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.

6) 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, 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.

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 machinery and equipment account. Your primary concern is acquisition cost and the year acquired. Review credit entries to the equipment accounts. Verify that all scrapped, fully depreciated, or sold items have been disposed of. If they are still in use, they are assessable. Be sure that all new acquisitions have been posted (some companies don't do it until several months after purchase). Be sure to find out if the company expenses or capitalizes equipment. If the equipment is expensed, the investment in equipment will be understated if the total is taken from the machinery and equipment account.

D. Leasehold improvements and building accounts should be reviewed for items that qualify as machinery and equipment.

E. Verify the amounts reported and the year acquired as shown on the property statement against the detail equipment ledger.

F. Remember that the asset costs of acquisition as listed on the books are historical costs.

Listing of Personal Property

Section 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* in WPAM Chapter 21, "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

Section 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.

Section 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 the Wisconsin 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.

The statutes require the 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:

Manufacturing & Utility Bureau
Mail Stop 6-97
PO Box 8971
Madison, WI 53708-8971

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

Any public utilities assessed by the 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 the 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 the DOR, municipality, and utility so an equitable assessment can be made.

While part of a general structure may be assessed locally and part by the 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, (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 the 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 additional land other than land under the structure then the excess land must be weighted in relation to the land under the structure in order 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, both the land and 48% of improvement value can be entered 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 nonoperating 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 nonoperator is subject to local assessment and so is property on right-of-way easements.

Machinery, Tools and Patterns

This category includes machinery, tools, patterns, dies, jigs, equipment, and implements not exempt from taxation. Among others, the list includes the machinery, tools, implements, etc. of:

- Commercial warehouses (i.e., forklifts)
- Contractors
- Heating and air conditioning companies
- Landscapers
- Plumbers
- Repair or fix-it shops
- Welding shops

There are some items of machinery which are exempt from taxation. Section 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.

Section 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. Any questions on manufacturing properties should be directed to the Manufacturing/Utility Office. The address for each manufacturing office is listed in the Appendix.

Local dealers and manufacturers should be contacted to obtain information on the value of machinery and implements. The assessor may also find it helpful to attend auctions where machinery and implements are being sold.

As an aid in the valuation of this property, the statement of personal property has a schedule where the original costs of machinery, by year of acquisition are to be reported. Historical costs of machinery acquired at various times and varying price levels without adjustment, will not in most cases reveal the actual market value of the machinery, except where it may be all new or recently purchased. The use of price indexes as discussed in WPAM Chapter 16 is the method recommended by the DOR for adjusting acquisition costs to current replacement cost levels.

Small tools may be valued by the assessor according to the book value if depreciation charges seem reasonable, as the time consumed in valuing hundreds of small items could be better spent on some other phase of the assessment process.

Furniture, Fixtures, and Office Equipment

This class contains a wide variety of personal property items such as furniture, fixtures, and office equipment of all kinds not classified as machinery, tools, and patterns. The list includes:

- Adding, calculator machines
- Amusement devices
- Architects furniture and drafting materials
- Beauty parlor equipment
- Bowling alley equipment
- Broadcasting equipment
- Cash registers
- Check writers
- Cigarette machines
- Data processing 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
- Photographers' equipment
- Pool or billiard tables
- Pop machines
- Postage meters
- Restaurant furniture and equipment such as dishes and silverware
- Safes
- Scales
- Store furniture
- Telephones and phone systems
- Time clocks
- Typewriters

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

Section 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" if the owner fulfills the requirement under sec. 70.35, Wis. Stats., to report the fair market value of all such equipment. 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." Custom software should not be reported.

Computer exemption guidelines can be found in WPAM Chapter 22 and on the DOR website at: http://www.revenue.wi.gov/pubs/slf/compexgd.pdf

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. These items range from bowling alley equipment, signs and scales, business machine equipment and data processing equipment, to machinery in factories. 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.

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 at: http://www.revenue.wi.gov/slf/decbal.pdf

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 16.

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)

Videotapes

The rapid growth of video recorders created a strong demand for the rental of videotapes. Videotapes may be rented from special stores whose main business is videotape rental. In addition, supermarkets, drug stores, convenience stores, and other stores rent videotapes as a part of their business.

Videotapes held solely for sale are exempt as merchants' stock. Videotapes held for rental only or being rented until sold are assessable.

Videotapes experience rapid obsolescence. There is a strong demand for newly released tapes. This demand decreases after several months because most people have seen the videotape and other newer releases are available. Except for certain "classic" videotapes, there is little demand for tapes that are older than 3 years.

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

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

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 16.

Leased Property Not Previously Classified

Leased equipment is subject to the property tax. Most equipment that is leased to manufacturing or commercial establishments will be classified as either Machinery, tools, and patterns or Furniture, fixtures, and equipment.

This category consists of personal property held for rental that is not classified in either of the above 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. Therefore, most personal property leased by a non-exempt business to an exempt organization is taxable. For example, a copy machine leased by a non-exempt business to an exempt church is taxable, since the machine is owned by the non-exempt business. An exception is personal property leased to a non-profit hospital which is exempt under sec. 70.11(4m)(a), Wis. Stats.

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:

- *F.F. Mengel Co. v. Village of North Fond du Lac, 25 Wis. 2d 611*
- *City of Milwaukee v. Shoup Voting Machine Corp., 54 Wis. 2d 549*
- *Mitchell Aero, Inc. v. City of Milwaukee, 42 Wis. 2d 656*
- *General Motors Corp. v. Oak Creek, 49 Wis. 2d 299*

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, 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

Section 70.111(22), Wis. Stats., exempts certain personal property held for rental. To qualify for exemption, all of the following conditions must be met.

1. The property must be personal property.

2. The property must be rented for periods of one month or less to multiple users for temporary use.

3. The rented property must not include an operator. For example, rented construction equipment that includes someone to operate the equipment is not exempt.

4. The owner must not be an affiliate or subsidiary of any other enterprise which is engaged in any business other than personal property rental.

5. The owner must be classified in group number 735, industry number 7359 of the Standard Industrial Classification (SIC) manual. This industry number is the SIC code for establishments primarily engaged in Equipment Rental and Leasing, Not Elsewhere Classified. The SIC codes are used by the federal government to classify businesses according to their various activities. These codes are also used by the businesses for income tax reporting.

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), 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.

Section 70.111(22), Wis. Stats., lists specific rented personal property that is not exempt. These items are 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.

To qualify for exemption, the business must be classified under SIC Code 7359 and the equipment must be specifically listed under either SIC Code 7359 or sec. 70.111(22), Wis. Stats. If either of these requirements is not met, the equipment is not exempt. This is in addition to the requirements that the equipment be rented for periods of one month or less to multiple users for temporary use and does not include an operator. 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), 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 that may be consumed in the operation of a company, but are not embodied in, or delivered with the product itself are supplies.

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 21, 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

Section 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.

Section 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 by must send the owner a Notice of Assessment at least 15 days prior to the BOR.

Improvements on Leased Land

Section 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

Section 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 which are 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. City of Milwaukee* and *Skubitz v. Town of 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 15-1.

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 15-1

	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.

Manufactured and Mobile Homes

Note: 2007 Wisconsin Act 11 revised the terminology related to mobile homes, manufactured homes, modular homes, manufactured buildings, recreational vehicles, and mobile and manufactured home communities, and changes that apply to monthly fees collected by certain local governmental units. The Act may be viewed at http://www.legis.state.wi.us/2007/data/acts/07Act11.pdf

The assessment of manufactured and mobile homes is a challenge for assessors for a number of reasons. Under Wisconsin Statutes, mobile homes may be classified for assessment and taxation purposes as real or personal property; may be subject to a monthly municipal permit fee; or may be exempt from permit fees and property tax.

The Wisconsin Supreme Court Case, *Ahrens, et al. vs. the Town of Fulton*, case number 99-2466 (2002), validated mobile home assessment practices while providing statutory interpretation, including clarification of the phrase "set upon a foundation" (sec. 70.043, Wis. Stats.)

In *Ahrens, et al. vs. the Town of Fulton*, the Supreme Court held "... a mobile home is 'set upon a foundation' when the home is resting for more than a temporary time, in whole or in part, on some other means of support than its wheels."

> "In this case, the stipulated facts reveal that 19 of the 20 representative owners have 'some form of stabilizer under the unit, whether it be concrete blocks, cinder blocks or screw jacks...' The use of these support mechanisms effectively took some of the weight of the home off its wheels. The remaining mobile home ... did not have any stabilizers under it. This mobile home did, however, have additional structures that were caulked to the unit. The additional structures included a 385 square foot screened-in room and a 104 square foot porch. Both structures rest on footings." The Town argued that, when this addition is considered, the mobile home would not be completely supported by its wheels. The Supreme Court agreed with this interpretation.

The DOR publishes the *Property Tax Guide for Wisconsin Manufactured & Mobile Home Owners* which can be found on the DOR website under Quick Links – Publications – Government – Property Tax.

Units meeting the above definition are mobile homes for the purpose of property taxation. The assessor must distinguish between mobile homes and items such as camping trailers and recreational mobile homes that are treated differently for property tax purposes.

The Wisconsin Court of Appeals, District IV in *Ahrens et al v. the Board of Review, Town of Fulton*, case number 99-2466, (2000), clarified the definitions of additions and attachments for assessors. The Court of Appeals decision stated in part, “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.”

Freestanding structures (appurtenances) should not be included in the mobile home area calculation. Garages, sheds, and other freestanding structures (if they are so affixed to the real estate so as to become a part of it) should be assessed as real estate if the mobile home owner owns the land or as personal property if the mobile home owner does not own the land.

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. A copy of the worksheet (form PA-117) is included in WPAM Chapter 17. The physical attributes to collect 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."

The length and width should not include the excess measurements caused by the protrusion of corner caps and end caps as this could influence the exemption determination. Freestanding structures (appurtenances) should not be included in the mobile home area calculation. Garages, sheds, and other freestanding structures (if they are so affixed to the real estate so as to become a part of it) should be assessed as real estate if the mobile home owner owns the land or as personal property if the mobile home owner does not own the land.

Few manufactured and mobile home sales in the municipality may necessitate the use of sales from neighboring municipalities in order to perform 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.

Square footage disagreements should first be discussed with the assessor. If the property owner asserts the mobile home is exempt the property owner 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.

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.

Camping Trailers and Recreational Mobile Homes

Section 70.111(19)(a), Wis. Stats., define **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."

Section 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 ~~are~~ *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.

Section 70.111(19)(a), Wis. Stats., defines camping trailers as found in Chapter 340 of the Statutes. In sec. 340.01(6m), Wis. Stats., a camping trailer is defined as "a vehicle with a collapsible or folding structure designed for human habitation and towed upon a highway by a motor vehicle."

Effective January 1, 2008, 2007 Wisconsin Act 11 modified sec. 70.111(19)(b), Wis. Stats., defining recreational mobile homes as, "Recreational mobile homes, as defined in s. 66.0435(1)(hm), and recreational vehicles, as defined in s. 340.91 (48r). The exemption under this paragraph also applies to steps and a platform, not exceeding 50 square feet, that lead to a doorway of a recreational mobile home or recreational vehicle, but does not apply to any other addition, attachment, or patio." (sec. 66.0435(3)(cm), Wis. Stats.)

Under sec. 70.111(19)(b), Wis. Stats., recreational mobile homes and recreational vehicles, defined in sec. 66.0435(1)(hm), Wis. Stats., were granted an exemption of 50 square feet applying only to steps and a platform, not exceeding 50 square feet, leading to a doorway of the recreational mobile home or vehicle under sec. 66.0435(3)(cm), Wis. Stats. The additional exemption of 50 square feet does not apply to any other addition, attachment, deck or patio.

The sec. 66.0435 (3)(cm), Wis. Stats., exemption allows 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 assessor must first determine if the unit meets the requirements of sec. 66.0435, Wis. Stats. Additions or attachments are not included when determining the size of the recreational mobile home. If the unit meets the definition of a recreational mobile home or vehicle then the recreational mobile home or vehicle is exempt regardless of any additions or attachments.

The assessor will then locate the doorway and measure the steps and platform leading to the doorway. Steps and platform not exceeding 50 square feet leading to a doorway of the

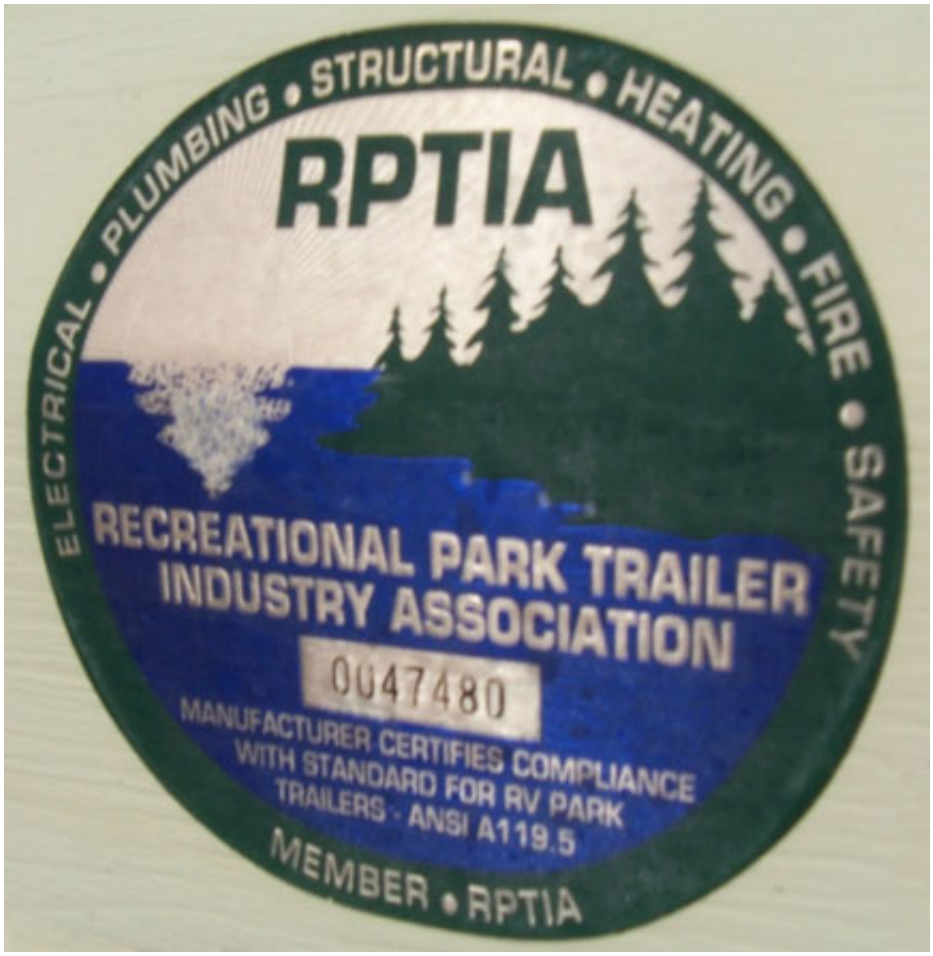
recreational mobile home are exempt. The steps and platform leading to a recreational mobile home or recreational vehicle must be open to qualify for the additional 50 square foot exemption under sec. 66.0435(3)(cm), Wis. Stats.

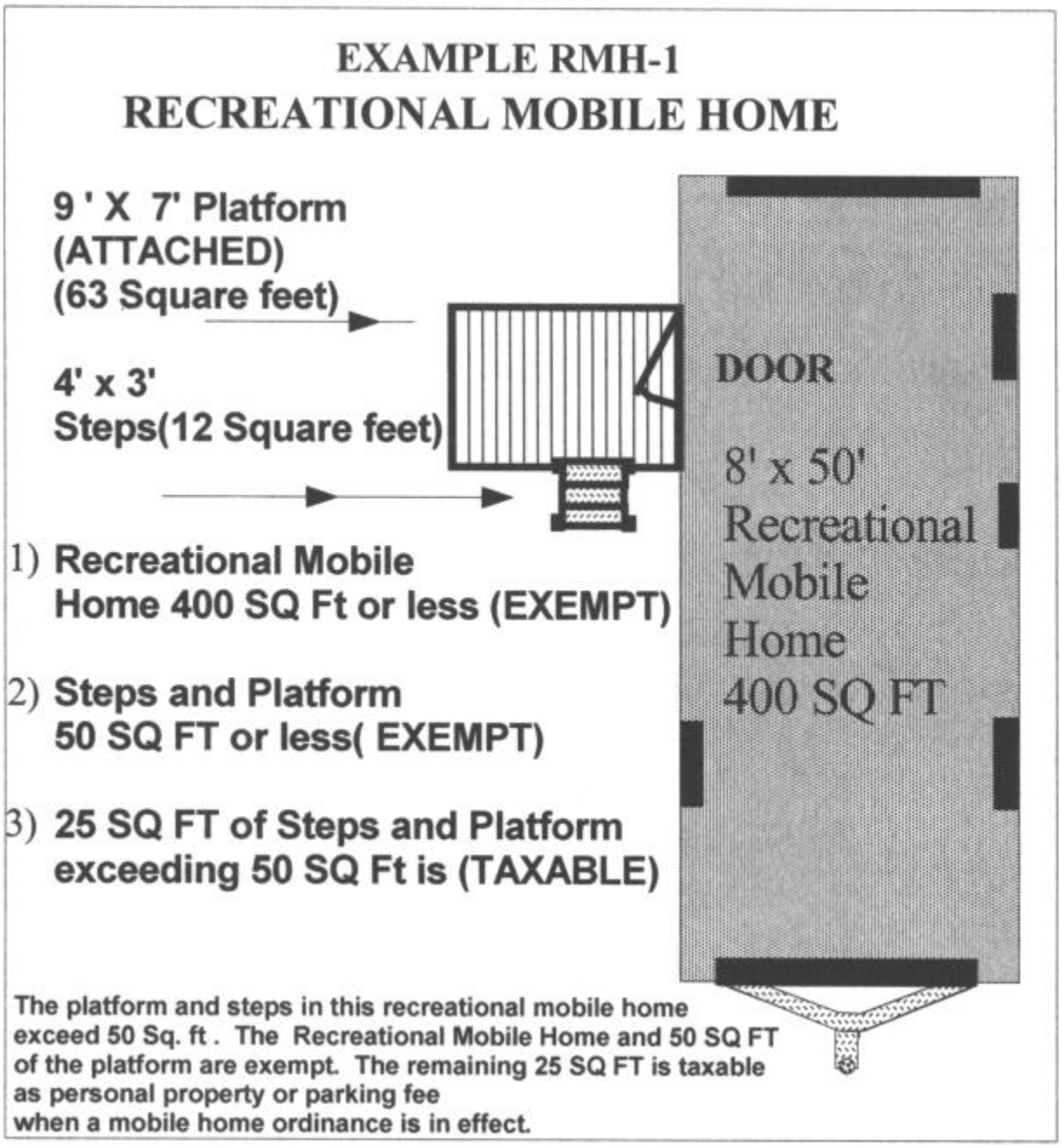
When the steps and platform exceed 50 square feet, the square footage exceeding the allowable 50 square feet is taxable as personal property. The assessor should subtract 50 square feet from the total measurement of the steps and platform. The area remaining after the subtraction is taxable as personal 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 a 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.

The recreational mobile home does not become taxable when the steps and platform exceed 50 square feet.

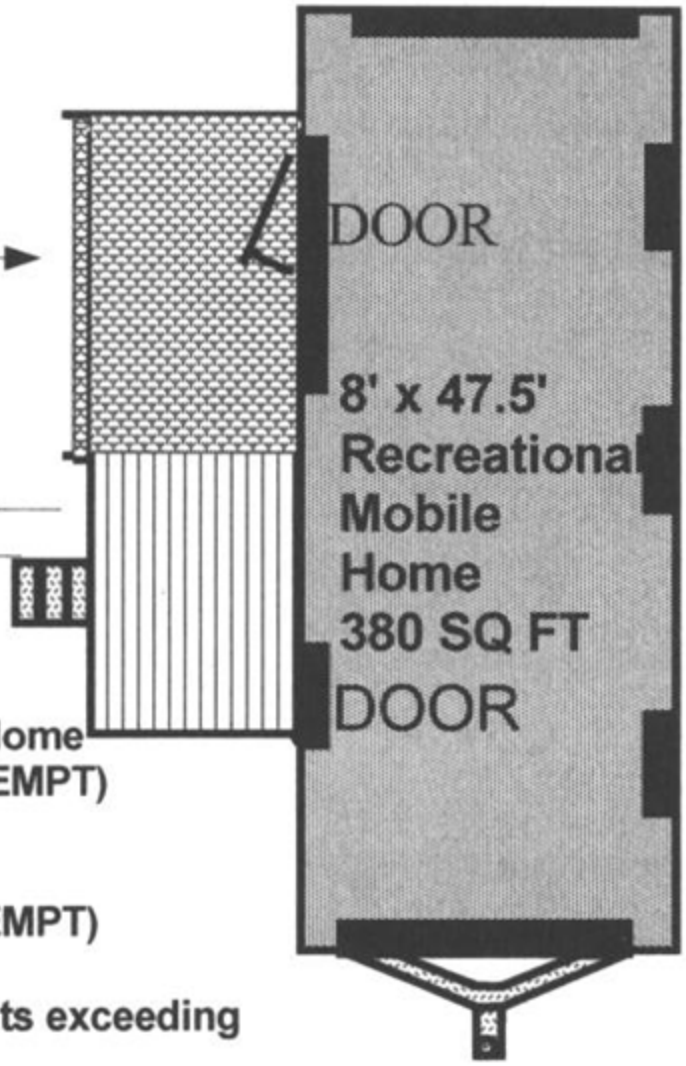
Figure 15-2




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.

Exemption Status

Section 70.111(19), Wis. Stats., exempts camping trailers, recreational mobile homes, and recreational vehicles from personal property taxation. Camping trailers must meet the definition in sec. 340.01(6m), Wis. Stats., as described above, to be exempt. Recreational mobile homes and recreational vehicles are exempt if they meet the definition of personal property in sec. 70.043(2), Wis. Stats., are no larger than 400 square feet (including attachments) and are used "as temporary living quarters". The exemption applies to recreational mobile homes or manufactured homes that are second or vacation residences, not to mobile homes used as the primary residence. The ordinary and common meaning of "temporary living quarters" should be the basis for determining the occupancy of the mobile home. If necessary, the assessor should ask the owner about the nature of the occupancy of the unit.

Attached wheels are not the sole criterion for exemption. First, to be entitled to an exemption, the mobile home must be classified as *personal property* (sec. 70.043(2), Wis. Stats.) Secondly, the unit must meet the definition of a "recreational" mobile home found in the Statutes.

Section 70.112(5), Wis. Stats., exempts 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.

Section 70.112(7), Wis. Stats., exempts from property taxation "unit, as defined in s. 66.0435(1)(j), that is subject to a monthly municipal permit fee under s. 66.0435(3)". Municipalities which have established a manufactured and mobile home community under sec. 66.0435, Wis. Stats., 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., and recreational mobile homes and camping trailers as defined in sec. 70.111(19), Wis. Stats. The permit fee is collected either directly by the municipality or, by ordinance, through the manufactured or mobile home community operator.

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.

Merchant's Stock

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.

Real Property vs. Personal Property

Section 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.

Section 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*." Section 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. the Town of Fulton*, the Supreme Court held "... a mobile home is 'set upon a foundation' when the home is resting for more than a temporary time, in whole or in part, on some other means of support than its wheels."

> "In this case, the stipulated facts reveal that 19 of the 20 representative owners have 'some form of stabilizer under the unit, whether it be concrete blocks, cinder blocks or screw jacks...' The use of these support mechanisms effectively took some of the weight of the home off its wheels. The remaining mobile home, ..., did not have any stabilizers under it. This mobile home did, however, have additional structures that were caulked to the unit. The additional structures included a 385 square foot screened-in room and a 104 square foot porch. Both structures rest on footings."

The Town argued that, when this addition is considered, the mobile home would not be completely supported by its wheels. The Supreme Court agreed with this interpretation.

Recreational Motor Homes

Section 70.112(5), Wis. Stats., exempts motor vehicles from property taxation. This statute exempts items such as "Winnebago" motor homes, Ford campers, and other motorized vehicles known as "RV's." Licensed vehicles and trailers are not considered mobile homes.

Section 66.0435, Wis. Stats., 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.

Effective January 1, 2008, 2007 Wisconsin Act 11 created sec. 66.0435 (3) (c) 9, Wis. Stats., regarding the taxation of mobile homes. The section states "No monthly municipal permit fee may be imposed on a financial institution, as defined in sec. 69.30 (1) (b), Wis. Stats., that relates to a vacant unit that has been repossessed by the financial institution."

Section 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.)

Occupancy

As stated above, sec. 70.111(19), Wis. Stats., exempts recreational mobile homes and recreational vehicles "that are used primarily as temporary living quarters". Occupancy is also an issue with certain units located in manufactured and mobile home community. Section 66.0435(3)(c), Wis. Stats., states that a municipality cannot impose the permit fee:

> "a mobile home accompanied by an automobile for an accumulating period not to exceed 60 days in any 12 months if the occupants of the mobile home are tourists or vacationists."

Section 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.

Figure 15-3

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 underassessed 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 15-4.

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 coal docks, grain elevators or warehouses, and petroleum refineries the assessor enters in the assessment roll the name of the operator and the number of tons or bushels.

By law, persons subject to occupational taxes on grain, 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 coal, petroleum, and grain. 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 15-4

Occupational Taxes

Type	**Statute**	**Tax Rate**	**Apportionment of Tax**		
			Local	**County**	**State**
Grain storage	70.41	½ mill/bu. wheat & flax 1/4 mill/bu. all other grain	100%	—	—
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.