

Office of Technical and Assessment Services

(OTAS)



Technical and Assessment Services

- ▷ Assessor certification and education
- ▷ Tax incremental finance
- ▷ Technology and application support



Technical and Assessment Services

▷ Assessor certification and education

- Contact: Mark Paulat – bapdor@wisconsin.gov
- Property assessment manual, guides, forms
- Assessor certification, education, exams and review practices
- Board of Review training, affidavit and calendar
- Farmland Advisory Council – agricultural use-value assessment
- Customer service – DOR, assessors, property owners, local officials, Boards of Review



Technical and Assessment Services

▷ Tax Incremental Finance (TIF)

- Kristin Filipiak and Tod Ericson
- Contact – tif@wisconsin.gov
- Process Tax Incremental District (TID) creations, boundary changes, project plan changes, terminations
- Impose fees – annual, creation and boundary modification
- Collect and post TID annual reports
- Customer service – DOR, municipalities, consultants, property owners



Tax Incremental Finance

- ▷ TIF website – revenue.wi.gov/Pages/SLF/tif.aspx
 - Reports
 - Forms and documents
 - Common questions and answers
 - Manuals/resources

- ▷ Videos – on "Govt" tab – revenue.wi.gov/Pages/VideoCenter/videos-home.aspx
 - Video 1 – TIF Basics (5 minutes)
 - Video 2 – Roles and Responsibilities (4 minutes)
 - Video 3 – Creating a Tax Incremental District (TID) (7 minutes)
 - Video 4 – Web Resources (5 minutes)



Technical and Assessment Services

▷ Technology and Applications

- Lauren Franklin (Supervisor), Carrie Cusick, Stacy Leitner, Valerie Thompson, James Walker
- Contact – otas@wisconsin.gov
- Support for State and Local Finance bureaus of MFG, LGS and EQ
- Maintain systems, test and implement upgrades
- Maintain documentation (system manuals, process trackers)
- Customer service – DOR, software vendors, MyDORGov



DOR Listening Sessions

April 2023



DOR Listening Sessions

▷ **Assessment practices**

- Interior inspections
- Sales/eRETR/Pad
- Sale inspections/interior inspections
- Standardize property record card data
- Change in funding for revaluations
- Maintaining good relationships with municipal officials
- Struggles with gaining entry



DOR Listening Sessions

- ▶ **WPAM and DOR guidance**
 - Deadlines
 - Exemptions
 - DOR guidance
 - Clarification of guidance



DOR Listening Sessions

▷ Standardization – technology

- CAMA systems
- Property records
- GIS and mapping
- Parcel numbers



DOR Listening Sessions

▷ Board of Review

- Notices
- Deadlines
- Municipal officials/training
- Waivers



DOR Listening Sessions

- ▶ **Assessment profession**
 - Turnover/retention/recruiting
 - Assessor contracts
 - Training and education requirements
 - Changing the negative view of assessment



Personal Property Exemption





Personal Property Exemption

WI Dept of Revenue | State and Local Finance Division
Internal Training | November 14, 2023

Presenter

▶ **Scott Shields**

Scott.Shields@wisconsin.gov

Agenda

- ▷ Personal property exemption
- ▷ Taxable real or exempt personal
- ▷ Listing – existing parcel or separate parcels
- ▷ Timeline
- ▷ Resources
- ▷ Take survey

Personal Property Exemption



2023 WI Act 12

- ▷ 2023 AB 245
- ▷ Signed into law June 20, 2023
- ▷ <https://docs.legis.wisconsin.gov/2023/related/acts/12.pdf>

Personal Property Exemption

- ▷ Effective – January 1, 2024
- ▷ Exempts personal property from taxation beginning with assessments as of January 1, 2024
- ▷ Maintains personal property assessment and taxation laws for:
 - 2023 personal property tax collections during 2024
 - 2023 personal property error corrections on the 2024 assessment roll
 - Assessment of omitted personal property from the 2022 and 2023
 - On the 2024 assessment roll *or*
 - Omitted from 2023 and on the 2025 assessment roll

Personal Property Exemption

- ▷ Establishes a process for municipalities to request DOR adjust the base values of Tax Incremental Districts (TIDs) for personal property
- ▷ Provides a process for manufacturing establishments that do not own real property in this state to continue claiming the manufacturing income tax credit
- ▷ Moves the airline hub exemption from Ch 70 to Ch 76
- ▷ Creates aid payments to taxing jurisdictions for the loss of property tax revenue

2023 WI Act 19

- ▷ 2023 AB 70
- ▷ State Biennial Budget
- ▷ Signed into law July 5, 2023
- ▷ <https://docs.legis.wisconsin.gov/2023/related/acts/19.pdf>

Shared Revenue Programs

- ▷ Various appropriations – local government fund accounts
 - County and municipal aid
 - Expenditure restraint
 - Tax exempt property
 - Personal property tax exemption
 - Repeal of personal property taxes
 - Video service provider fee
 - Municipal services (DOA)
 - Supplemental county and municipal aid
 - Innovation grants
 - Community youth and family aids

Personal Property Repeal – Contact Info

- ▷ Property assessment – bapdor@wisconsin.gov
- ▷ Manufacturing
 - Income tax credit – DORFranchise@wisconsin.gov
 - Property assessment – contact the [district office](#) where the property is located
- ▷ Airlines, railroads, telecommunications and utilities – utility@wisconsin.gov
- ▷ Aid payments, local government finance – lgs@wisconsin.gov
- ▷ Tax incremental finance (TIF) – tif@wisconsin.gov

Taxable Real or Exempt Personal

Presumption of Taxability

- ▷ Sec. 70.109, Wis. Stats.
 - Exemptions under this chapter shall be strictly construed in every instance with a presumption that the property in question is taxable, and the burden of proof is on the person who claims the exemption.

Exempt Personal Property

- ▷ Sec. 70.111(28), Wis. Stats.
 - Not listed under 70.11 – no requirement to file an exemption request (PR-230)
 - Notice of Personal Property not required when 2023 taxable personal is exempt
 - Exemption applies to:
 - Personal property as defined in sec. 70.04, Wis. Stats.
 - Steam and other vessels, furniture, and equipment

- ▷ Sec. 70.04, Wis. Stats. – definition of personal property. In chapters 70 to 79, "personal property" includes all the following:
 - (1g) 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," as defined in s. 70.03

Exempt Personal Property

- ▷ Sec. 70.04, Wis. Stats. – definition of personal property. In chapters 70 to 79, "personal property" includes all the following:
 - (1r) Saw logs, timber, and lumber, either upon land or afloat; steamboats, ships, and other vessels, whether at home or abroad; ferry boats, including the franchise for running the same; ice cut and stored for use, sale, or shipment; and manufacturing machinery and equipment, as defined in s. 70.11 (27)
 - (2) Irrigation implements used by a farmer, including pumps, power units to drive the pumps, transmission units, sprinkler devices, and sectional piping
 - (3) An off-premises advertising sign. In this subsection, "off-premises advertising sign" means a sign that does not advertise the business or activity that occurs at the site where the sign is located

Taxable Real Property

- ▷ Exemption does not apply to real property as defined in sec. 70.03, Wis. Stats.
 - (1) Chs. 70 to 76, 78, and 79, "real property," "real estate," and "land" include not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto, except as provided in sub. (2) and except that for the purpose of time-share property, as defined in s. 707.02 (32), real property does not include recurrent exclusive use and occupancy on a periodic basis or other rights, including, but not limited to, membership rights, vacation services, and club memberships
 - (2) "Real property" and "real estate" do not include any permit or license required to place, operate, or maintain at a specific location one or more articles of personal property described under s. 70.04 (3) or any value associated with the permit or license

Taxable Real Property

- ▷ Exemption does not apply to real property under sec. 70.17(3), Wis. Stats.
 - Manufactured and mobile homes (not otherwise exempt)
 - Buildings, improvements, fixtures on
 - leased lands
 - exempt lands
 - forest croplands
 - managed forest lands

Mobile Homes

- ▷ Act 12 repealed real/personal property mobile home definitions (sec. 70.043, Wis. Stats.)
- ▷ Act 12 created sec. 70.17(3), Wis. Stats. that requires real property assessment for manufactured and mobile homes starting January 1, 2024, unless subject to a parking permit fee or qualify for exemption under state law

Mobile Homes

▷ Exemptions

- Secs. 70.112(7) and 66.0435(3), Wis. Stats. – exempt mobile homes subject to parking permit fee
- Secs. 70.111(19)(b), and 66.0435(1)(hm), Wis. Stats. – exempt recreational mobile homes (RMH) whether personal property or real property
- Sec. 70.111(19)(a), Wis. Stats. – exempts camping trailers (340.01(6m))
- Sec. 70.112(5), Wis. Stats. – exempts motor vehicles (buses and vans)
- Sec. 70.111(17), Wis. Stats. – exempt vacant units held for sale by dealer

Billboards

- ▷ Exempt personal property sec. 70.111(28), Wis. Stats.
 - Personal property definition (sec. 70.04(3), Wis. Stats.) includes off-premises advertising signs
 - An off-premises advertising sign. In this subsection, "off-premises advertising sign" means a sign that does not advertise the business or activity that occurs at the site where the sign is located
- ▷ Taxable real property
 - Sign that advertises the business or activity that occurs at the site where the sign is located

Definitions

- ▷ Building – any structure partially or wholly above ground designed to shelter people, animals or goods.
- ▷ Fixture – article that was once personal property but has been installed in, or attached to, land or buildings in some more or less permanent manner so that such article is regarded in law as part of the real estate.

Definitions

- ▷ Improvement – permanent addition to or betterment of real property that enhances its capital value, involves the expenditure of labor or money, and is designed to make the property more useful or valuable as distinguished from ordinary repairs
- ▷ Examples – buildings, structures, fixtures and any alterations, attachments or annexations to land that are intended to remain permanent, such as:
 - Sidewalks, trees, roads and driveways; parking lots, tunnels
 - Watermain access, drains, and sewers and septic systems
 - Electrical access and other utility access
 - Landscaping including clearing, draining, grading, and the creation of berms, embankments, terraces and ponds

Buildings, Improvements and Fixtures

- ▷ Starting January 1, 2024, sec. 70.17(3), Wis. Stats., requires real property assessment for buildings, improvements and fixtures when located on:
 - **Leased lands** – the landowner leases the land to a tenant who owns a building, improvement or fixture on that land
 - **Exempt lands** – taxable building, improvements and fixtured on exempt land:
 - Sec. 70.174 – provides that improvements on land owned by the United States shall be assessed as real as provided under sec. 70.17(3), Wis. Stats.
 - **Forest croplands and managed forest lands (MFL)** –
 - Sec. 77.04(1) – buildings on forest crop land shall be assessed as real property
 - Sec. 77.84(1) – building, improvements, fixtures on MFL is subject to taxation as real property

Leasehold Improvements

- ▷ Leasehold improvements are additions, renovations and similar improvements made to a leased property by the lessee
 - May be real property or personal property
 - Apply state law (secs. 70.109, 70.03, 70.17(3), Wis. Stats.) and state case law
 - Sec. 70.109 – presumption of taxability
 - Sec. 70.03 – defines real property – land and all buildings, improvements, fixtures
 - Sec. 70.17(3) – requires real property assessment for buildings, improvements, fixtures
 - State court cases provide a three-factor test

Case Law – Real or Personal Property

State court cases apply a three-factor test to determine if property is real or personal

- ▷ **First factor: Annexation** – when property is physically attached to the real estate
 - Attachment may be by:
 - Physical connection to the real estate
 - Integrated to the real estate
 - Examples
 - Wiring, plumbing, HVAC interconnected/integrated into the real estate
 - Structures, machinery, equipment that is interconnected, attached to or built into the building-bolted to a concrete foundation, connected to wiring or piping that is a part of the real estate

Case Law – Real or Personal Property

State court cases apply a three-factor test to determine if property is real or personal

- ▷ **Second factor: Intent** – the objective, presumed, intention of a hypothetical ordinary, reasonable, person to make the article a permanent part of the real estate
 - Would an ordinary, reasonable, person consider this article a permanent fixture to the real estate?
 - Degree of annexation of the article to the real estate
 - Installed with the intent to remove?
 - Would removal of the article cause material damage to the article or real estate?

Case Law – Real or Personal Property

State court cases apply a three-factor test to determine if property is real or personal

- ▷ **Third factor: Adaptation** – relationship of the article with the real estate
 - Permanent physical attachment is not always necessary for personal property to become a fixture to the real estate – is the article adapted to the use of the real estate or become an integral piece of the real estate?
 - Examples – storms windows and screens fit to installed windows; building and equipment adapted to same purpose as real property (see Pulsfus case)

Listing

Existing Parcel or Separate Parcels

Listing – Existing Parcel

- ▷ Laws for adding buildings assessed as personal property to the existing parcel where the building is located
 - **Sec. 70.03, Wis. Stats.** – defines real property as "...not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto..."
 - **Secs. 70.12, 70.17, 70.23 and 70.32, Wis. Stats.** – require the assessor to list and value each parcel of real property on the assessment roll

Listing – Existing Parcel

- ▷ Discover and determine a parcel's taxable real property
- ▷ Update the existing parcel's real property listing and valuation to include
 - **Sec. 70.03, Wis. Stats.** – all buildings, improvements, fixtures and rights and privileges appertaining thereto
 - **Sec. 70.17(3), Wis. Stats.** – include with the listing and valuation all:
 - Manufactured and mobile homes (unless subject to parking permit fee or otherwise exempt under state law)
 - Buildings, improvements, and fixtures on leased lands, exempt lands, forest croplands, managed forest lands

Listing – Existing Parcel

- ▷ Parcel owner or owner's agent has the authority to appeal the parcel's assessment
- ▷ Parcel owner receives the property tax bill: responsible for timely payment of tax

Listing – Multiple Parcels

- ▶ **Sec. 70.17(3), Wis. Stats.** – allows creation of a separate parcel for the building, improvement, fixture:
 - If buildings, improvements, and fixtures, but not the underlying land, are leased to a person other than the landowner
 - *or* -
 - If the buildings, improvements, and fixtures are owned by a person other than the landowner

Listing – Multiple Parcels

- ▶ State law parcel requirements for real property assessment and taxation
 - Parcel description (recorded document with ROD)
 - Assessment use – secs. 70.09(2)(a)2., 70.23, 70.25, 70.337(1)(b), Wis. Stats.
 - Taxation use – secs. 70.65(2)(a), 74.09(3)(a), 74.57(4)(b)1., 74.59(3)(b), 75.144(2)(c), 75.521(3)(am), Wis. Stats.
 - Parcel number
 - Assessment use – secs. 70.09(3)(a), 70.12, 70.337(1)(b), Wis. Stats.
 - Taxation use – sec. 74.09(2), Wis. Stats.

Listing – Multiple Parcels

- ▶ State law parcel requirements for real property assessment and taxation
 - Parcel value
 - Assessment use – secs. 70.12, 70.32(2)(a), 70.53, Wis. Stats.
 - Tax use – secs. 70.65(2)(a), 74.09(3)(b), Wis. Stats.
 - County land information use – sec. 59.72(2)(a), Wis. Stats.

Listing – Multiple Parcels

▷ Options to create a parcel

- Assessor's plat – sec. 70.27, Wis. Stats.
 - Existing process for a municipality to create a plat recorded with the ROD containing separate parcel numbers and legal descriptions for each property in the plat
 - Act 12 amended sec. 70.27, Wis. Stats. – to allow this process for buildings, improvements, and fixtures that are on leased land, exempt land, forest cropland and managed forest land along with mobile homes not subject to a parking permit fee or otherwise exempt
 - Allows for separate parcels, assessments, appeals and tax bills for the land and each building, improvement, fixture owner

Listing – Multiple Parcels

▷ Options to create a parcel

- Other existing processes with parcel descriptions and recorded with the ROD
 - Metes and bounds – quarter section, section, township, range and metes and bounds description associated with public land survey, private claim, gov lot (66.0217(1)(c))
 - Plat/subdivisions – lot, outlot, and block number (as applies), plat/subdivision name (236.28) including reference to plat (236.45(2)(am))
 - Certified survey maps – lot or outlot number, map number, volume and page, if assigned, document number where map is recorded, county name (236.34(3))
 - Condominiums – unit #, condominium name, appurtenance # (706.01(7r)(b))

Listing – Multiple Parcels

- ▷ **NEW**: Building(s), fixture(s), or improvement(s) recording document
 - Being finalized by RPLs, RODs, county treasurers
 - Available for:
 - Create a new PIN for the building(s), fixture(s), and/or Improvement(s)
 - Transfer building(s), fixture(s), and/or improvement(s)
 - Add building(s), fixture(s), and/or improvement(s)
 - Remove building(s), fixture(s), and/or improvement(s)
- ▷ Final version available late October on ROD forms page: wrdaonline.org/forms
 - Contact RPL with questions, if new parcel needed before document is available

Listing – Multiple Parcels

- ▷ Compelling parcel creation – taxable building on exempt land
 - Example – Native American tribal land not subject to taxation with buildings not owned by the tribe and subject to taxation:
 - Requires separate parcels since the property tax delinquency process is not possible for a parcel owned by a Native American tribe
 - Complete the assessor's plat process under sec. 70.27, Wis. Stats. – if the property owners do not create separate parcels in these situations

Listing – Multiple Parcels

- ▷ Compelling parcel creation – taxable building on exempt land
 - If the assessor's plat is not complete by the January 1 assessment date – sec. 70.323, Wis. Stats., allows for the assessment of a divided parcel
 - Existing one parcel's value determined as of the January 1 assessment date
 - The established January 1 value is used to attribute to each new parcel its value for the year of division: \$0 for the land parcel (assuming an exempt entity owns the land) and taxable value of building for building parcel

Listing – Multiple Parcels

▷ After parcel creation

○ Sec. 70.17(3), Wis. Stats.

- Provides real property assessment for parcels with only a building, improvement, fixture
- Allows for the building, improvement, fixture only parcel to have a \$0 land value

○ Remaining real property roll requirements under state law apply to a parcel with only an improvement assessed value

- Sec. 70.12, Wis. Stats. – list on the real property roll (PA-539-2) in the district where the property (land / building) is located

Listing – Multiple Parcels

- ▷ After parcel creation – remaining real property roll requirements under state law apply to a parcel with only an improvement assessed value
 - Property owner (secs. 70.17, 70.65, Wis. Stats.)
 - Parcel number (sec. 70.337(1)(b), 70.09(3)(a), Wis. Stats.)
 - School district (sec. 70.53, Wis. Stats.)
 - Special district (sec. 70.09(3)(a), Wis. Stats.)
 - Tax incremental district (secs. 60.85(5)(h), 66.1105(5)(f), Wis. Stats.)
 - Property description (secs. 70.23, 70.25, 70.65(2)(a), Wis. Stats.)
 - Classification and value (secs. 70.32(2)(a), 70.53, 70.65(2)(a), Wis. Stats.)

Timeline



Timeline

▷ 2023

- Review personal property assessment information (ex: rolls, forms)
- Determine real property remaining subject to tax (ex: PA-003 Schedule E)
- Contact property owners with taxable real property where the land and buildings, improvements and fixtures have different owners
 - Provide DOR personal property exemption CQ
 - State law provides for real property assessment of the land and all buildings, improvements and fixtures located on the land
 - Exception is when the property owners proceed to split the parcel and create separate parcels for the land and the buildings, improvements and fixtures located on the land

Timeline

▷ 2024

- Update listings and valuations for property as of January 1, 2024
- Distribute Notices of Changed Assessment for properties with a change in value from 2023 to 2024
- Appealing assessed values continue to be heard by the Board of Review – sec. 70.47, Wis. Stats.
- Contesting taxability continues to be a claim of unlawful tax filed with the municipality after distribution and timely payment of the tax bill – sec. 74.35, Wis. Stats.

Resources



Resources



- ▷ WI Act 12 Information – DOR overview/summary of act revenue.wi.gov/Documents/2023-Act12-Information.pdf
- ▷ WI Act 12 – Personal Property Exemption information – DOR overview/summary revenue.wi.gov/Documents/2023-Act12-PersonalPropertyExemption.pdf
- ▷ WI Act 19 Information – DOR overview/summary of act revenue.wi.gov/Documents/2023-Act19-Information.pdf

Thanks!
Any questions?



70.17(3) and the Three-Factor Test



Using the Three Factor Test

- ▷ **State court cases apply a three-factor test to determine if property is real or personal**
 1. Actual physical annexation to the real estate
 2. Application or adaptation to the use or purpose to which realty is devoted
 3. Intention of person creating annexation to make the item a permanent part of the realty



Case Law – Real or Personal Property

First factor: Annexation – when property is physically attached to the real estate

- ▷ Annexation is the act of attaching or affixing personal property to real property so the item becomes a fixture
 - Examples of items built in or annexed indefinitely
 - Siding, windows and doors installed on a building
 - Built in generators or air conditioning units installed on a property

- ▷ Annexation – considerations
 - Weight of the object
 - If removed, will it render the principal part unfit for use
 - Will it cause damage to the real estate



Case Law – Real or Personal Property

Second factor: Adaptation – relationship of the item with the real estate

- ▷ Permanent physical attachment is not always necessary for personal property to become a fixture to the real estate
 - Is the item adapted to the use of the real estate?
 - Has the item become an integral piece of the real estate?

- ▷ Examples
 - Drive up window equipment, theatre seats bolted to the floor of theatre (see Pulsfus case)



Case Law – Real or Personal Property

Third factor: Intent – the objective, presumed, intention of a hypothetical ordinary, reasonable, person to make the article a permanent part of the real estate

- ▷ Would an ordinary, reasonable, person consider this article a permanent fixture to the real estate?
 - Item is intended to remain where affixed until worn out or replaced by another item that is more suitable for the purpose
 - Permanence is not equated to "perpetuity"



Application of the Three-Factor Test

Three-Factor test aids the assessor in identifying whether an item is taxable as real estate or exempt as personal property

▷ Example

- Air conditioner (window unit)
 - May be removed without causing damage to the real estate
 - Does not pass the first factor of annexation
- Exempt as personal property



Application of the Three-Factor Test

Three-Factor test aids the assessor in identifying whether an item is taxable as real estate or exempt as personal property

▷ Example

- Central air conditioning system (building)
 - Annexation – the item cannot be removed without damage to the existing real property
 - Intention – it was installed with the intent for it to work as intended until it wears out or is replaced by a more suitable unit.
 - Adaptation – if it is removed, it cannot be used and enjoyed as designed
- Taxable as real property



Application of the Three-Factor Test

▷ Example

- Plumbing, fire sprinkler protection and the water heater in a building
 - These items cannot be removed without damage to the existing real property
 - Property cannot be used and enjoyed as intended on their own
 - Installed with the intent to work as intended until they wear out or are replaced
- All these items are characterized as real property



Questions received

on specific types of properties



Assessment of Towers

- ▷ How do you assess towers?
 - Buildings, improvements or fixtures
 - Sec 70.03 Wis. Stat.
 - Sec 70.17(3) Wis. Stat.
 - Utilize the three-factor test to identify characteristics of the property being assessed
 - Support information with:
 - Term of lease
 - Construction type (permanency)
 - Identify towers on land owned by the tower owner
 - Identify telco/state assessed towers



Mobile Homes

- ▷ How do municipalities implement the mobile home parking permit fee?
 - Discuss the ordinance and implementation with the municipal head of government and the municipal attorney
 - Sample Ordinances are included in the Resource section of our instructions
- ▷ Under sec. 66.0435(3), Wis. Stats., the Manufactured/Mobile Home Monthly Municipal Permit Fee (MHPF) is a substitute for property taxes on manufactured/mobile homes not taxed as real property or personal property under current law
 - Act 12 did not change the parking permit fee laws; the process remains an option for municipalities.



Questions



Questions from Other Conferences

1. How will reporting of personal property that is now included as real estate be handled for TIDs and non-TIDs?
 - For TIDS if requesting an adjustment for removal of personal property from the base value – complete the [Personal Property Removal Workbook](#) and email it to tif@wisconsin.gov
 - For all personal property – LGS will provide a form in the spring of 2024 to be filled out by the clerk
2. Will the reporting be different for overlapping TIDS?
 - No, complete the same form for each TID



Questions from Other Conferences

3. Is standing timber now personal property by definition?

o Sec. 70.04 (1r), Wis. Stats. – was updated with Act 12 as follows:

- 70.04 **(1r)** ~~Toll bridges; private railroads and bridges; saw~~ Saw logs, timber, and lumber, either upon land or afloat; steamboats, ships, and other vessels, whether at home or abroad; ferry boats, including the franchise for running the same; ice cut and stored for use, sale, or shipment; ~~beginning May 1, 1974, and~~ and manufacturing machinery and equipment as defined in s. 70.11 (27), ~~and entire property of companies defined in s. 76.28 (1), located entirely within one taxation district.~~

o Timber has not changed



Questions from Other Conferences

5. Are locally assessed towers exempt?
 - As with any other property, use the three factor test to determine if it is taxable as real estate or exempt as personal property
 - There is no one size fits all

6. Are cell towers on leased lands that are not state assessed exempt? What about the building and surrounding fencing?
 - Use the three-factor test to determine if it is real estate or personal property. This may include reviewing the lease to determine intent.



Questions from Other Conferences

7. Are recreational mobile homes exempt?
 - Manufactured and mobile homes, not otherwise exempt, are real estate under Sec. 70.13(3) Wis. Stats.
 - Sec. 70.111(19)(b), recreational mobile homes as defined in s.66.0435(1)(hm) and recreational vehicles as defined in s. 340.01(48r) are still exempt



Questions from Other Conferences

8. Are you confident 70.27 Assessor Plat, can legally be used to create parcels for buildings, improvements and fixtures exclusive of any land without legislative amendment to the statute?
 - o Act 12 Section 96 . 70.27 (3) (a) of the statutes is amended to read:
70.27 (3) (a) Reference to any land **or land and the buildings, improvements, and fixtures on that land** as **the reference** appears on a recorded assessor's plat is deemed sufficient for purposes of assessment and taxation.



Questions from Other Conferences

9. Is DOR suggesting that assessors use the [Wisconsin's Building\(s\), Fixture\(s\) and /or improvements](#) document where there is no actual conveyance, just a creation of a tax key?
 - o The instructions on the form indicate the PURPOSE OF THE DOCUMENT:
Pursuant to §70.17(3) of the Wisconsin Statutes, this form is to be used to Create, Transfer, Add, and/or Remove Building(s), Fixture(s), and/or Improvement(s) on the Real Estate Assessment and Tax Roll.
10. Does the legal description of the property need a certified Survey?
 - o Review the Section 2 instructions on the [Wisconsin's Building\(s\), Fixture\(s\) and /or improvements](#) document



Questions from Other Conferences

11. Does this [Wisconsin's Building\(s\), Fixture\(s\) and /or improvements](#) document need to be recorded through RETR if the improvement sold?
 - The conveyance/sale of improvements on leased land has – and continues to be – subject to the filing of a transfer return and the payment of a transfer fee.

12. For those assessors who previously didn't assess all improvements to the land, in their commercial property record cards, when do they have to update their records and how is DOR going to help them complete that work for their municipalities?
 - The new statutes take effect on 1/1/2024. DOR has offered guidance in the [2024 WPAM](#) and [2023 Wisconsin Act 12 Personal Property Exemption Common Questions](#)



Court Cases Supporting the Three-Factor Test



Case Law – Real or Personal Property

State court cases apply a three factor test to determine if property is real or personal

- ▷ *DOR v. A.O. Smith Harvestore Products, Inc.*, 72 Wis. 2d 60, 240 N.W.2nd 357 (1976)
- ▷ *Pulsfus Poultry Farms, Inc. v Town of Leeds*, 149 Wis. 2d 797, 440 N.W.2d 329 (1989)
- ▷ *Premonstratensian Fathers v. Badger Mut. Ins. Co.*, 46 Wis.2d 362 (1970)



Case Law – Real or Personal Property

Wisconsin Department of Revenue v. A.O. Smith Harvestore Products, Inc., 72 Wis.2d 60 (1976)

- ▷ Department of Revenue appealed from an order of the Circuit Court, Dane County, which affirmed a determination of the Tax Appeals Commission that a prefabricated metal silo was personal property and that sales of the silo's component parts by the manufacturer to dealers were not subject to the sales tax



Case Law – Real or Personal Property

Wisconsin Department of Revenue v. A.O. Smith Harvestore Products, Inc., 72 Wis.2d 60 (1976)

- ▷ The Supreme Court held that where the prefabricated, glass-walled silo structure stood 70 feet high and was 20 feet around, the silo weighed 35,000 pounds, the silo was attached and affixed to a concrete foundation set in the ground specifically for that purpose, the silo was used to process fodder into silage, and thus was clearly adapted to the use to which farm realty is devoted, and the average farmer intends to make a permanent accession to their farm realty when purchasing such a silo



Case Law – Real or Personal Property

Pulfus Poultry Farms, Inc. V Town of Leeds, 149 WIS.2D 797 (1989)

- ▷ Egg producer commenced an action seeking declaration that layer house was improperly assessed as real property for purpose of taxation
- ▷ Annexation – system in the facility attached to the walls and foundation of the structure
- ▷ Adaptation – the building and the equipment inside it were adapted to the purpose to which the realty is devoted
- ▷ Intention – the average farmer when purchasing a layer house would intend to make it permanent accession to the farm realty



Case Law – Real or Personal Property

Premonstratensian Fathers v. Badger Mut. Ins. Co., 46 Wis.2d 362 (1970)

- ▶ This case involved an action to recover upon a fire insurance policy, the coverage clause of which provided: "when insurance under this policy covers a building, such insurance shall cover on the building, ...and all permanent fixtures." The insurance company paid out for the loss suffered to the building by the fire but refused to pay for loss of coolers.
- ▶ The property was used as a retail grocery business. The items in question were five Hussman walk-in coolers which were situated around the building, including two meat coolers, a produce cooler, and a dairy cooler.



Case Law – Real or Personal Property

Premonstratensian Fathers v. Badger Mut. Ins. Co., 46 Wis.2d 362 (1970)

- ▷ "Fixtures" are realty and they pass by transfer of title to land unless specifically reserved in the writing
- ▷ Generally, an object will not acquire the status of a "fixture" unless it is in some manner or means, albeit slight, attached or affixed, either actually or constructively, to the realty



Case Law – Real or Personal Property

Premonstratensian Fathers v. Badger Mut. Ins. Co., 46 Wis.2d 362 (1970)

- ▷ Removability of personal property without material damage to building is only one of factors which is to be considered in determination of whether personal property is a "fixture"
- ▷ In law of fixtures, "adaptation" is the relationship between chattel and use which is made of the realty to which the chattel is annexed



2023-2024 Assessor

Action Items



Personal Property Action Items

- ▷ Distribute letters to improvement and landowners as appropriate – contact:
 - Owners of buildings on leased land
 - Mobile home park owners
 - Campground owners

- ▷ Identify exempt personal property and real property
 - Utilize the three-factor test to assist you in identifying fixtures as real property
 - Review TIF base values and identify and quantify exempt personal property
 - Review leasehold improvements to precisely assess improvements to avoid double assessments



2023 Court Case



2023 Court Case

2023 Lowe's Home Centers, LLC V. City of Delavan

- ▷ Supreme Court affirmed lower courts and upheld the city's assessments
 - The assessments were properly afforded a presumption of correctness under sec. 70.49(2), Wis. Stats.
 - Presumption attaches when the assessor files the assessment with the required affidavit
 - If the failure to follow the WPAM results in an excessive assessment under sec. 74.37, Wis. Stats., then the presumption is overcome



2023 Court Case

2023 Lowe's Home Centers, LLC V. City of Delavan

- ▷ Assessments were not excessive, valuation was consistent with sec. 70.32, Wis. Stats., and the WPAM
 - Lowe's appraised value was determined using sales of six properties:
 - Sale numbers one, three and six were properties in receivership when sold
 - Sale numbers two, four and five were vacant for multiple years prior to sale (two years, four years and four years respectively)
 - The Supreme Court rejected Lowe's appraisal:
 - The subject Lowe's property was an occupied, operating property
 - The sales were not comparable – vacant beyond the normal time frame for the area, i.e., dark and distressed properties under receivership



2023 Court Case

2023 Lowe's Home Centers, LLC V. City of Delavan

- ▷ City's appraisal applied occupied properties at the time of sale with market-rate leases in place
 - Sales had no duress, none were bank-owned or in bankruptcy, and none were exposed to the market
 - Adjustments were reasonable, sufficient, and credible



2023 Court Case

2023 Lowe's Home Centers, LLC V. City of Delavan

- ▷ The city's approach was consistent with sec. 70.32, Wis. Stats. and the WPAM
 - Sales Comparison Approach, pages 9-23 to 9-24 (2023 WPAM) – this approach is based on the premise that similar properties will sell for similar prices on the open market. Comparable sales refer to properties that are similar to the subject property in age, condition, use, type of construction, location, design, physical features and economic characteristics. The more similar the sold property is to the subject, the more reliable the sale price is as an indicator of the value of the subject property.



2023 Court Case

2023 Lowe's Home Centers, LLC V. City of Delavan

- ▷ Sales Comparison Approach, page 13-12 to 13-13 (2023 WPAM)
 - When valuing properties, the assessor should choose comparable sales exhibiting a similar highest and best use and similar placement in the commercial real estate marketplace. The assessor should avoid using sales of improved properties that are vacant or distressed as comparable sales unless the subject property is similarly vacant or distressed. Vacant or non-operating stores are often referred to as "dark" stores. A recent court case stated distressed properties are not seen as meaningfully comparable to operating properties.



2024

Property Assessment Manual and Forms



Summary of 2024 WPAM Updates

- ▷ 2023 WI Act 12 – Personal property exemption updates
 - Chapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 16, 18, 19, 20, 21, 22, Forms, Glossary
- ▷ Chapter 7 rewrite – complete chapter reorganization and update with SLF partners
 - Added reference to standard parcel data file – contact/discussion with assessment software vendors during 2023 – posting initial XML standard parcel data file on DOR website in December 2023 – DOR will post assessment software vendors who provide a compliant XML parcel data file on the DOR website
 - Thank you to – Jolene Plautz, Kelly Owen, Michelle Laube, Mark Brown, Nick Gamroth, Troy Everson, Cindy Wisinski, Renee Schoen, April Schoolcraft, Megan Lukens, Rocco Vita



Summary of 2024 WPAM Updates

▷ Other updates

- Chapter 14, Appendix B – revised agricultural use-values for 2024
- Chapter 14, Tax 18 Conservation Programs – revised program information that can qualify for agricultural classification
- Chapter 22 – added Lowe's Home Centers, LLC v. City of Delavan case summary



Summary of 2024 WPAM Updates

- ▶ 2024 Wisconsin Property Assessment Manual posted on December 15, 2023
 - Email sent to certified assessors, municipal and county clerks, treasurers, real property listers and registers of deeds
 - 2024 updates listed in detail on the linked email
 - [2024 Wisconsin Property Assessment Manual \(WPAM\)](#)



Summary of 2024 Form Changes

▷ Annual updates

- Statement of Personal Property (PA-003), Fixed Asset Schedule (PE-106), are removed for 2024

▷ Format, reference updates

- PA-117: Manufactured and Mobile Home Valuation Worksheet – removed "Unit Assessed as Personal Property"
- PA-533: Assessor's Affidavit – changed "all real and personal property" to "all property"
- PR-800
 - Pages 4, 6, 8 – updated/removed personal property information
 - Page 7 – annual updates



Summary of 2024 Form Changes

- PR-402 Notice of Changed Assessment
 - Assessment information section, assessment change chart
 - Moved "PFC/MFL" down a row
- PA-533 Assessor's Affidavit
 - Changed "all real and personal property" to "all property"
- PR-301 Notice of Changed Assessment
 - Assessment information section, assessment change chart
 - Removed column heading "Bldgs. on Leased Land"
 - Moved "PFC/MFL" down a row



State Prescribed Forms

- ▷ DOR form updates announced November 1
- ▷ Changes to state prescribed forms based on changes to state law, annual updates, user feedback
- ▷ Sec. 70.09(3), Wis. Stats. – requires approval by DOR if using a version other than the state-prescribed version
 - Send to bapdor@wisconsin.gov
- ▷ Requesting notices or rolls from the county?
 - Submit to the county 10 business days in advance



Annual Assessor Requirements



Review Before Becoming the Assessor

- ▷ Review records
 - Compare to WPAM requirements
 - Determine impact for contract with municipality
 - Assessor who signs assessment roll responsible for assessment process and records compliance with state law and WPAM
- ▷ Request prior year roll, Open Book, Board of Review
- ▷ Determine last revaluation – assessment compliance issues?
- ▷ Experience with property types – commercial, waterfront, downtown, recreational, etc.



Maintain Certification

Continuing Education Requirements by Certification Level

Certification Level	Appraisal	Property Tax Law or Supervisory/Management	Total Program Hours Required
Assessment Technician	0	0	0
Property Appraiser	20	0	20
Assessor 1	15	15	30
Assessor 2	15	15	30
Assessor 3	3	27	30



Annual Assessment Requirements

- ▶ Real property valuation and inspections
 - New construction, demolitions, remodeling, annexations, exemptions
 - State laws – 70.10, 70.12, 70.32
 - WPAM – Ch 4, 7, 9, 20



Annual Assessment Requirements

- ▶ 70.32 requires assessments based on actual view or the best information available
 - Interior and exterior view provides the most accurate information
 - Requesting interior view of a property
 - State law requires Request to View Property Notice (PR-300); DOR recommends regular mail, allow 14 calendar days for a response
 - If no response-DOR recommends certified letter (PR-300) with 14 calendar days to respond
 - Maintain list of denials-update property record
 - If inspections cannot be completed, consider other data sources: view from a public area; request data form property owner, obtain sales listing, building permits, etc.
 - WPAM – Ch 5, 9



Annual Assessment Requirements

- ▷ Real property classification
 - Physically inspect each year
 - Collect additional information if necessary: questionnaire, interview property owner
 - Determine eligibility – agricultural, agricultural forest, undeveloped, drainage ditch
 - Conservation Programs-WPAM – Ch 4, 7, 14, 14 Appendix D, (Tax 18 Conservation Programs) revenue.wi.gov/DOR%20Publications/tax18.pdf



Annual Assessment Requirements

- ▶ Sales – review each real estate transfer return
 - Inspect each property that sold – review characteristics at time of sale
 - Collect additional information – ex: questionnaires, interviews
 - Report to DOR – validate usability of sales, verify sales attributes
 - State laws – 70.32, 70.57, 73.03
 - WPAM – Ch 4, 7, 9, 10



Annual Assessment Requirements

- ▷ Complete assessment roll – 70.50
- ▷ Sign affidavit – 70.49
- ▷ Attend Board of Review – 70.47 and 70.48
 - BOR required to meet during the 45-day period beginning on fourth Monday of April, but no sooner than seven days after Open Book (70.45)
- ▷ Complete and finalize reports
 - Municipal Assessment Report to DOR – 73.03, 66.1105(6)
 - Agricultural Conversion Report to county treasurer – 74.485



Property Record-Requirements

- ▷ Parcel
 - Parcel number, legal description, owner name and address, acres by class (dimensions if <1), total acres, land value by class, total land value, imp value by class, total imp value, total value, value determination, land sketch or parcel identified on map

- ▷ Major buildings
 - Height, type, exterior wall, age, basement, heating/air, condition, other features, quality of construction, attachments, sq ft, sketch with dimensions, interior view date/who, exterior view date/who

- ▷ See WPAM Ch 4, 7, 8



Resources



Email Updates

- ▷ Stay informed!
- ▷ Receive email updates about law changes, filing reminders, updated reports and notifications
- ▷ To subscribe
 - Open lists – revenue.wi.gov/pages/html/lists.aspx
 - Restricted lists – email: otas@wisconsin.gov



Websites

- ▷ DOR – revenue.wi.gov
- ▷ Annual calendar – revenue.wi.gov/DORReports/tvccal.pdf
- ▷ Publications – revenue.wi.gov/Pages/HTML/govpub.aspx
 - Wisconsin Property Assessment Manual
 - Manufacturing Property Assessment
 - Property Owner Guides
- ▷ Agricultural Use Values - [2024 Use-Value Guidelines for Agricultural Assessment](#)



Websites

- ▷ Online videos – see DOR Video Center
 - revenue.wi.gov/Pages/VideoCenter/videos-home.aspx
 - Select "Government"
 - Example: My Tax Account, eRETR, assessment topics, tax incremental finance

- ▷ How to assess solar utility projects – <https://youtu.be/-7kKrsWxSil>



Websites

- ▷ Reports – revenue.wi.gov/Pages/Report/Home.aspx
- ▷ Forms – revenue.wi.gov/Pages/HTML/formpub.aspx
- ▷ Common questions – revenue.wi.gov/Pages/FAQS/home-pt.aspx
 - Board of Review
 - Property tax credits
 - Tax Incremental Finance
 - Agricultural assessment
- ▷ SLF newsletters – revenue.wi.gov/Pages/SLF/SLF-Newsletters.aspx



Personal Property Resources

- ▷ Wisconsin Register of Deeds Association, Building(s), Fixture(s) and or Improvement(s) Document – <https://www.wrdaonline.org/forms>
- ▷ Tax Incremental Finance (TIF) forms – revenue.wi.gov/Pages/HTML/formpub.aspx
- ▷ TIF Common Questions – revenue.wi.gov/Pages/FAQS/slf-tif-pp-exemption.aspx
- ▷ Personal Property Common questions – revenue.wi.gov/Documents/2023-Act12-Information.pdf





Mission

Strengthen Wisconsin through fair tax and lottery administration, while educating and serving the public, our customers and communities.

Vision

To be the premier agency in providing innovative, accessible resources, and exceptional customer service built on a foundation of trust, inclusivity and creativity.

Values

- Integrity
- Innovation
- Inclusivity
- Knowledge
- Empathy
- Security

Thanks!
Any questions?

