

Clearinghouse Rule 13-037

PROPOSED ORDER OF THE DEPARTMENT OF REVENUE REPEALING, RENUMBERING AND AMENDING, AND AMENDING RULES

The Wisconsin Department of Revenue proposes an order to: **repeal** Tax 13.05 (1) (b), 15.03 (2) (a) to (c), and 15.05 (5) **renumber and amend** Tax 13.05 (1) (intro.) and 15.03 (2) (intro.), and **amend** Tax 6.02, 6.40 (2) (a) and (b), and 6.50 (4) (b); **relating to** public utility taxation, investment and local impact fund, and real estate transfer fee.

The scope statement for this rule, SS 005-13, was approved by the Governor on January 17, 2013, published in Register No. 686 on February 14, 2013, and approved by the Secretary of Revenue on February 25, 2013.

Analysis by the Department of Revenue

Statute interpreted: s. 77.25 (14), Stats.

Statutory authority: ss. 15.03, 15.435, 70.395 (2) (hg), 76.07 (5) (b), and 77.30, Stats.

Explanation of agency authority: The Investment and Local Impact Fund Board, as created by s. 15.435, Stats., and attached to the department under s. 15.03, Stats., is required under s. 70.395 (2) (hg), Stats., to "...by rule, establish fiscal guidelines and accounting procedures for the use of payments under pars. (d), (f), (fm) and (g), sub. (3) and s. 293.65 (5)." These provisions apply to the proposed revision to s. Tax 13.05 (1) (b).

Section 76.07 (5) (b), Stats., provides "[t]he department shall promulgate rules relating to the general principles of the indicators of value..." This provision applies to the proposed changes to Chapter Tax 6.

Section 77.30, Stats., provides "[t]he secretary of revenue may adopt, pursuant to ch. 227, such rules as the secretary deems necessary in the administration of this subchapter..." This provision applies to the proposed repeal of ss. Tax 15.03 (2) (b) and (c) and 15.05 (5).

Related statute or rule: There are no other applicable statutes or rules.

Plain language analysis: The proposed rule makes the following changes:

- Amends s. Tax 6.50 (4) (b) to be consistent with national unit valuation standards.
- Updates department contact and form references throughout Chapter Tax 6.
- Revises s. Tax 13.05 (1) (b) to reflect the repeal of the Badger Fund by 1997 Wis. Act 27.
- Repeals ss. Tax 15.03 (2) (b) and (c) and 15.05 (5) to reflect the creation of s. 77.25 (14), Stats., by 1985 Wis. Act 39.

Summary of, and comparison with, existing or proposed federal regulation: There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Comparison with rules in adjacent states: The department is not aware of a similar rule in an adjacent state.

Summary of factual data and analytical methodologies: 2012 Executive Order 61 and 2011 Wisconsin Act 46 requires state agencies to work with the Small Business Regulatory Review Committee to review the agency's administrative rules that may be particularly onerous to small businesses in Wisconsin. In response, the department initiated a comprehensive review of all of its administrative rules. The changes described above were identified as part of that review. No other data was used in the preparation of this rule order or this analysis.

Analysis and supporting documents used to determine effect on small business: This rule order makes changes to reflect current law and current department policy. It makes no policy or other changes having an effect on small business.

Anticipated costs incurred by private sector: This rule order does not have a fiscal effect on the private sector.

Effect on small business: This rule order does not affect small business.

Agency contact person: Please contact Dale Kleven at (608) 266-8253 or dale.kleven@revenue.wi.gov, if you have any questions regarding this rule order.

Place where comments are to be submitted and deadline for submission: Comments may be submitted to the contact person shown below no later than the date on which the public hearing on this proposed rule order is conducted. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

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P.O. Box 8933
Madison, WI 53708-8933

SECTION 1. Tax 6.02 is amended to read:

Tax 6.02 **Returns for public utilities.** Forms that are used in the administration of the various taxes levied according to ch. 76, Stats., may be obtained from the Wisconsin Department of Revenue, ~~Bureau of Utility and Special Taxes~~ Division of State and Local Finance, P.O. Box ~~8933~~ 8971, Madison, WI 53708-8971.

SECTION 2. Tax 6.40 (2) (a) and (b) are amended to read:

Tax 6.40 (2) (a) Requests for approval by public utilities subject to taxation under s. 76.13, Stats., for each waste treatment facility shall be made by completing the form entitled "~~Application for Exemption of Report of Exempted~~ Waste Treatment Facility-Utility." All actual costs of purchase or construction of the facility must be reflected on this form. The completed form is due January 15 of each year and is to be filed annually except in years subsequent to

purchase or construction where no capital changes have occurred to the waste treatment facility, in which case a summary sheet may be submitted for these facilities. For good cause shown upon application by the applicant, the department may grant an extension of time not exceeding 120 days in which to file the application form.

(b) The completed form "~~Application for Exemption of Report of Exempted Waste Treatment Facility-Utility~~" should be sent to the ~~Bureau of Utility and Special Taxes~~ Division of State and Local Finance.

Note: The address for mailing the application form is Wisconsin Department of Revenue, ~~Bureau of Utility and Special Taxes~~, Division of State and Local Finance, PO Box 8971, Madison WI 53708-8971.

SECTION 3. Tax 6.50 (4) (b) is amended to read:

Tax 6.50 (4) (b) The department shall make adequate and reasonable allowances for loss of value due to all causes including physical depreciation, functional and economic obsolescence, regulatory required write-offs and utility plant acquisition adjustments. ~~The department shall also make required allowances for property which is not taxable under ch. 76, Stats., which includes but is not limited to, future use property, except when included in the rate base, approved waste treatment facilities, licensed motor vehicles, nonoperating property, property allocable outside the state and property leased to others.~~ The cost indicator for regulated public utilities shall recognize that an asset's value generally is limited by its value for ratemaking purposes. The cost indicator shall include construction work in-progress regardless of the treatment for ratemaking purposes.

SECTION 4. Tax 13.05 (1) (intro.) is renumbered 13.05 (1) and amended as renumbered to read:

Tax 13.05 (1) NET PROCEEDS TAX. Fifteen days after collection of the tax, the department of administration, upon certification of the department of revenue, shall transfer the ~~amount collected as follows:~~ first dollar payment and the taxes collected to the impact fund.

SECTION 5. Tax 13.05 (1) (b) is repealed

SECTION 6. Tax 15.03 (2) (intro.) is renumbered 15.03 (2) and amended as renumbered to read:

Tax 15.03 (2) Conveyances by means of a sheriff's sale: where the grantee is a third party with no prior interest in the deed or mortgage.

SECTION 7. Tax 15.03 (2) (a) to (c) are repealed

SECTION 8. Tax 15.05 (5) is repealed

SECTION 9. Effective date. This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22 (2) (intro.), Stats.

Initial Regulatory Flexibility Analysis

This rule order does not affect small businesses.

DEPARTMENT OF REVENUE

Dated: _____

By: _____

Richard G. Chandler
Secretary of Revenue

E:Rules/SBRRB (SLF 6) Proposed Order