

NOTICE OF PROPOSED GUIDANCE DOCUMENT

Property Assessment and Taxation

Pursuant to s. 227.112, Wis. Stats., the Wisconsin Department of Revenue is hereby seeking comment on the following proposed Property Assessment and Taxation guidance.

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PUBLIC COMMENTS AND DEADLINE FOR SUBMISSION

Comments may be submitted to Wisconsin Department of Revenue until May 25, 2020 by:
Emailing bapdor@wisconsin.gov

LOCATION OF PROPOSED GUIDANCE

The final version of the guidance documents will be posted at
<https://www.revenue.wi.gov/Pages/home.aspx> to allow for ongoing comment.

AGENCY CONTACT PERSON

Scott Shields
scott.shields@wisconsin.gov

Certification Statement

As the Secretary of the Wisconsin Department of Revenue (DOR), I have reviewed this guidance document or proposed guidance document and I certify that it complies with secs. 227.10 and 227.11, Wis. Stats. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE

A handwritten signature in black ink, reading "Peter W. Barca". The signature is written in a cursive style with a large initial "P" and a distinct "Barca" at the end.

Peter Barca

Secretary of Revenue

The following is the Wisconsin Department of Revenue's (DOR) response to local government questions on property assessment and taxation due to the public health emergency declared for COVID-19. This information is per state statutes and was updated for [2019 Wisconsin Act 185](#) published on April 16, 2020.

A. Assessment Activities

1. Does COVID-19 delay 2020 assessments?

- Not at this time. Current laws remain in effect unless action is taken by the state legislature and governor.
- Assessors should discuss assessment work and the type of 2020 assessment (e.g., maintenance, full revaluation) with the municipality

2. How should an assessor complete property inspections?

- Assessors should discuss assessment work with the municipality and determine contract changes as appropriate
- State law ([sec. 70.32, Wis. Stats.](#)), requires assessments based on actual view, or the best information available
- If inspections cannot be completed, consider using other data sources described in the [Wisconsin Property Assessment Manual \(WPAM\)](#), see page 9-21, Data Collection Section in Chapter 9

3. How does COVID-19 impact January 1, 2020 assessments?

- COVID-19 does not impact the value and classification determinations for 2020 assessments
- State law ([sec. 70.10, Wis. Stats.](#)), provides the annual assessment date of January 1. The 2020 assessments are effective as of January 1, 2020 and are based on the property's status as of January 1, 2020.
- Example: Use of the property during 2019 and the status of the property as of January 1, 2020 determines whether the property qualifies for agricultural classification
- Assessors must send assessment notices as required by state law ([sec. 70.365, Wis. Stats.](#))

4. Should current revaluations be postponed?

- Not at this time. Assessors should proceed with the assessment; however, they should discuss the 2020 assessment type with the municipality and determine any contract changes as appropriate
- The assessor and municipality may determine a 2020 maintenance assessment is appropriate versus a revaluation
- Municipalities who received a second notice of non-compliance on November 1, 2019, under state law ([sec. 70.05 Wis. Stats.](#)), are required to meet compliance in the 2020 assessment year. For more information, contact the [Equalization Supervisor](#) in your district.

5. Does COVID-19 impact the 2020 Municipal Assessment Report (MAR) June 8, 2020 filing deadline?

- No, there is no change to the June 8, 2020 deadline for the 2020 MAR
- Assessors should file MARs with the best information available
- File amended MARS when new information is available

6. Will DOR rely on the estimated MAR similar to prior years or will they rely on the final MAR? With BOR being held later, there could be changes made between the MAR filing deadline and submission of the final MAR.

- DOR will use the MAR submitted by the filing deadline (June 8, 2020) to develop the 2020 Equalized Values, TIF district values, and net new construction. These values are certified on August 15, 2020.
- Estimated MAR submissions should provide an assessor's best estimate of the local assessment changes as of January 1, 2020

- Final MAR submissions received after June 8, 2020, will be used to calculate corrections to be applied to 2021 Equalized Values, TID values, and net new construction

B. Property Tax Payments

1. Does COVID-19 impact 2020 property tax payments?

- For property taxes payable in 2020, 2019 Act 185 provides a way for local governments to waive interest and penalties, after adopting the appropriate county and municipal resolutions and after making a general or case-by-case finding of hardship, for property tax installment payments due and payable after April 1, 2020 if the total amount due and payable in 2020 is paid on or before October 1, 2020
- Property tax payment due dates remain the same for December 2019 property tax bills, payable in 2020
 - All taxes on personal property, except those on improvements on leased land, special charges, special assessments and special taxes were due on or before January 31, 2020
 - All taxes on real property and on improvements on leased land must be paid in full on or before January 31, 2020, or in two equal installments, with the first installment payable on or before January 31, 2020 and the second installment payable on or before July 31, 2020. **Note:** If the total is less than \$100, it must be paid in full on or before January 31, 2020.
 - Under [sec. 74.12, Wis. Stats.](#), a municipality may enact an ordinance to authorize the payment of taxes on real property and improvements on leased land or special assessments or both those taxes and assessments in three or more installments, with the final payment being no later than July 31, 2020.
 - Under [sec. 74.87, Wis. Stats.](#), a city may enact an ordinance to permit payment in 10 equal installments (without interest) of the following:
 - General property taxes
 - Special charges and special assessments of the city
 - Exclusion: Special assessments that do not allow payment extensions

2. What are the requirements for local government authority to waive interest and penalties?

- 2019 Act 185 provides the following requirements:
 - County board first adopts a resolution authorizing a waiver and establishing criteria for determining hardship
 - Municipality adopts a similar resolution
- Both the county and municipality must adopt a resolution to waive interest and penalties
- If both the county and municipality do not adopt resolutions, interest and penalties must be imposed, unless removed by a municipality or county due to the payment being determined timely and/or delayed solely due to a delay or administrative error on the part of the U.S. postal service

3. Can local governments waive interest and penalties on property tax installment payments due before April 1, 2020?

- 2019 Act 185 did not provide additional authority for local governments to waive interest and penalties on property tax installment payments due and payable prior to April 1, 2020
- Interest and penalties imposed on delinquent property tax payments due prior to April 1, 2020 will continue to be delinquent and accrue until the property taxes are paid
- Payments are considered timely if received by the proper official:
 - On or before five working days after the due date, **or**
 - Regardless of when received if mailed in a properly addressed envelope, postmarked before midnight of the prescribed due date for making the payment with postage prepaid

- Under [sec. 74.69, Wis. Stats.](#), any person required to pay interest or penalty may file a written request with the county treasurer requesting that the county board find the late payment was timely because the sole reason it was not timely was a delay or administrative error on the part of the U.S. postal service.
 - The county board must act on the request within 30 days after receipt of the request by the treasurer
 - **Note:** this process does not apply to cities authorized under [sec. 74.87, Wis. Stats.](#)

4. How does the 2019 Act 185 impact the property tax settlement process?

- If a county adopts a resolution authorizing the waiver of interest and penalties, the county must settle:
 - On August 20, 2020 – any taxes, interest, and penalties collected on or before July 31, 2020, as provided under [sec. 74.29\(1\), Wis. Stats.](#) This settlement must be distributed proportionally to the underlying taxing jurisdictions.
 - On September 20, 2020 – remaining unpaid taxes, interest, and penalties
- If a county does not adopt a resolution authorizing the waiver of interest and penalties, the existing settlement procedures under [sec. 74.29, Wis. Stats.](#) must be followed

C. Open Book and Board of Review (BOR)

1. Should assessors and municipalities hold Open Book and BOR?

- Current state law requires an Open Book ([sec. 70.45, Wis. Stats.](#)) and BOR ([sec. 70.47, Wis. Stats.](#))
- State law requires BOR to meet between April 27 and June 10, 2020 ([sec. 70.47\(1\), Wis. Stats.](#))
- **For 2020 assessment only** – 2019 Act 185 created a new state law, [sec. 70.47\(3\)\(aL\)2., Wis. Stats.](#) Under the new law, regardless if the 2020 assessment roll is completed at the time of the 45-day period beginning on the fourth Monday of April, the BOR may publish a class 1 notice under ch. 985 stating the BOR has adjourned and will proceed under [sec. 70.47\(2\), Wis. Stats.](#), when the BOR conducts the first session.
- Assessors and municipalities should discuss when it is appropriate to hold Open Book and BOR. The Governor's Emergency Orders currently set forth a variety of steps to mitigate the spread of COVID-19. See the [State COVID-19 website](#) and [Department of Health Services \(DHS\) website](#) for additional information. The Wisconsin Department of Justice also provides information on [open meetings](#) to consider.

Note: Your county and municipality may have additional information available specific to the area.
- DOR recommends municipalities and assessors work together to determine a schedule, post notices:
 - State law does not require any action to reschedule Open Book, unless Notice of Assessments (NOAs) were distributed. If NOAs were sent and Open Book or BOR will not occur, resend notices with the Open Book and BOR dates and times as "TBD." Send a third notice when dates are known, per [sec. 70.365, Wis. Stats.](#)

2. Can a municipality conduct Open Book now?

- DOR recommends postponing Open Book
- If a municipality and assessor decide not to postpone Open Book, it must comply with current law ([sec. 70.45, Wis. Stats.](#)):
 - Post class 1 notice under [ch. 985](#)
 - Name the days the assessment roll will be open for examination by the taxable inhabitants
 - Assessor shall be present for at least two hours while the roll is open for inspection
 - Instructional material under [sec. 73.03\(54\), Wis. Stats.](#), shall be available at the meeting
- If adjustments are made for adhering to current COVID-19 restrictions, the municipality and assessor can consider the following options based upon that municipality's taxable inhabitants:

- Remote access to assessment roll, assessor and instructional material:
 - Post the roll on the municipality's website
 - Establish a minimum two-hour time when the assessor is available to property owners by phone, email, video conference or other remote process
 - Post a link on the municipality's website to DOR's instructional material
 - In-person access
 - Establish a time, place and process adhering to the COVID-19 restrictions
 - The roll is available
 - The assessor is present for a minimum two hours
 - The DOR instructional materials are available (e.g., regular mail upon request by phone or letter)
 - Explain the municipality's Open Book on the class 1 notice under [ch. 985](#):
 - Remote: (1) date(s) and website location when roll is posted on website to open for examination (2) date(s), the minimum two-hour time period when the assessor is present and the contact information and process (3) link to DOR website with instructional material
 - In person: (1) date(s), location and process for a person to examine the roll in person (2) the two hours when assessor is present (3) DOR instructional material is available
 - Encourage the remote access
3. **Can Open Book be held prior to the 'Safer at Home' order expiring or must municipalities wait until after the order expires to hold the required two-hour period?**
 - An assessor and municipality may hold Open Book now
 - See the process outlined in the answer to "2. Can a municipality conduct Open Book now?"
 4. **Does the assessor have to be physically present for at least two hours while the assessment roll is open for inspection or is it sufficient for the assessor to be immediately available?**
 - An assessor must be present, but does not need to be physically present for Open Book
 - An assessor can be present by several ways (e.g., in person, phone, video conference)
 - Upon request, the assessor should make reasonable accommodations for taxpayers without Internet or phone access
 5. **Does the assessment roll have to be available for inspection as a physical paper roll or can the values of the assessment roll be available for inspection by the public in a digital format?**
 - The assessment roll can be available on the Internet and without a physical paper version
 - However, upon request, the municipality should make reasonable accommodations for taxpayers without Internet access
 6. **To conduct Open Book and BOR in person, what is required regarding the use and availability of personal protective equipment (PPE), the limit of people in the room, and required spacing of people in the room?**
 - The Governor's Emergency Orders currently set forth a variety of steps to mitigate the spread of COVID-19
 - See the [State COVID-19 website](#) and [Department of Health Services \(DHS\) website](#) for additional information
 - DHS provides specific information on [Personal Protective Equipment](#)
 - The Wisconsin Department of Justice also provides information on [open meetings](#) to consider
 7. **If the municipality decides to conduct BOR, what options are available?**

Under [sec 70.47\(8\), Wis. Stats.](#), the BOR may accept sworn information over the telephone or a sworn written statement:

 - See *Request to Testify by Telephone or Submit a Sworn Written Statement (PA-814)*
 - BOR determines whether it will accept information in writing or over the phone

- BOR reviews requests during the first meeting of the BOR
- Property owner must provide the 48-hour notice of intent to appeal
- Property owner must complete the *Objection Form for Real or Personal Property* ([PA-115A](#) or [PA-115B](#))
- Considerations – written information does not allow for cross examination, audibility for information over the phone, identification of speakers

Note: See the [Guide for Board of Review Members](#) for additional information.

8. Can a municipality conduct BOR now?

- DOR recommends postponing BOR given state law ([sec. 70.47\(2m\), Wis. Stats.](#)), requires all meetings of the BOR be publicly held and open to all citizens at all times. No formal action of any kind shall be introduced, deliberated upon or adopted at any closed session or meeting of a BOR.
- If a municipality and assessor decide to no longer postpone and conduct a BOR, it must comply with all current BOR laws (sec. 70.46, 70.47, etc. Wis. Stats.)
- A municipality may consider conducting an in-person and remote access BOR to reduce the number of people attending in person:
 - Conduct the BOR at a location where public attendance can be accommodated and in agreement with the COVID-19 restrictions
 - Include information on the BOR notice how the public can attend in person and how the public can attend remotely (e.g., instructions on teleconference dial-in, video link, access codes)
 - Explain how forms, information and any other material may be submitted to the BOR and how information will be shared with those attending remotely
 - BOR members, such as the BOR Chair and BOR Clerk, need to be on-site to facilitate the in-person and remote BOR process
 - Consider accepting information in writing or over the phone as provided by state law ([sec 70.47\(8\), Wis. Stats.](#))
 - Consider waiving complex appeals to circuit court as provided by state law ([sec. 70.47\(8m\), Wis. Stats.](#)). See the *Request for Waiver of BOR Hearing* ([PA-813](#)).

9. Can the information contained in the assessment roll be provided to BOR members for their review prior to the first BOR meeting? If so, should they then state for the record the assessment roll was reviewed prior to adjournment of the proceedings?

- BOR members may view the assessment roll in advance of the BOR meeting. However, discussion of the roll by BOR members must generally be reserved for the BOR meeting, in accordance with state open meeting laws.
- The BOR process is provided by state law and needs to be conducted in agreement with the state law requiring all meetings of the BOR be publicly held and open to all citizens at all times
- [Sec. 70.47\(6\), Wis. Stats.](#), requires the BOR to examine the roll or rolls and correct all apparent errors in description or computation, and shall add all omitted property as provided in sub. (10). The board shall not raise or lower the assessment of any property except after hearing as provided in subs. (8) and (10).
- [Sec. 70.47\(2m\), Wis. Stats.](#), requires all meetings of the Board of Review be publicly held and open to all citizens at all times

10. Do municipalities need to wait until after the 'Safer at Home' order expires to hold BOR sessions and hearings?

- A municipality may hold Board of Review now
- See the process outlined in the answer to "7. If the municipality decides to conduct BOR, what options are available?"

- State law ([sec. 70.47\(1\), Wis. Stats.](#)) requires a minimum of seven days in between Open Book and Board of Review

11. Is BOR training available?

- See the DOR [Board of Review Training](#) web page for updated training options
- 2020 BOR training materials are available through the [UW-Local Government Center](#)