

of the property conveyed for the purposes of determining the assessment freeze.

(k) This section shall be applicable independent of whether the real property is conveyed under threat of condemnation or condemnation or whether an easement is granted for the purposes set forth in par. (a) 3. in lieu of condemnation.

(4) FINDINGS AND CERTIFICATION. The local assessor or the commissioner of assessments in such municipality shall, upon application by an owner seeking an assessment freeze, make a thorough investigation to ascertain whether such application meets the requirements of the ordinance enacted by the local legislative body. The assessor or commissioner of assessments in the case may be, shall make findings to demonstrate that such application complies with the ordinance and shall submit a certification together with the assessor's or commissioner's findings to the local legislative body for approval. If the local legislative body determines from the commissioner of assessments' certification that an assessment freeze shall operate, the local legislative body shall by resolution provide for such assessment freeze. The local legislative body shall specify the period when such assessment freeze shall commence to operate and when new construction or remodeling of existing structures is required, shall specify the time within which such construction or remodeling shall be completed and the commencement date of the assessment freeze.

History: 1991 a. 156, 316; 1993 a. 112; 1999 a. 150 s. 672.

**70.109 Presumption of taxability.** 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.

History: 1997 a. 237.

**70.11 Property exempted from taxation.** The property described in this section is exempted from general property taxes if the property is exempt under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; if the property was taxable for the previous year, the use, occupancy or ownership of the property changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes or if the property did not exist in the previous year and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes. Leasing a part of the property described in this section does not render it taxable if the lessor uses all of the leasehold income for maintenance of the leased property or construction debt retirement of the leased property, or both, and, except for residential housing, if the lessee would be exempt from taxation under this chapter if it owned the property. Any lessor who claims that leased property is exempt from taxation under this chapter shall, upon request by the tax assessor, provide records relating to the lessor's use of the income from the leased property. Property exempted from general property taxes is:

(1) **PROPERTY OF THE STATE.** Property owned by this state except land contracted to be sold by the state. This exemption shall not apply to land conveyed after September, 1933, to this state or for its benefit while the grantor or others for the grantor's benefit are permitted to occupy the land or part thereof in consideration for the conveyance; nor shall it apply to land devised to the state or for its benefit while another person is permitted by the will to occupy the land or part thereof. This exemption shall not apply to any property acquired by the department of veterans affairs under s. 45.72 (5) and (7) or to the property of insurers undergoing rehabilitation or liquidation under ch. 645. Property exempt under this subsection includes general property owned by the state and leased to a private, nonprofit corporation that operates an Olympic ice training center, regardless of the use of the leasehold income.

(2) **MUNICIPAL PROPERTY AND PROPERTY OF CERTAIN DISTRICTS, EXCEPTION.** Property owned by any county, city, village, town,

school district, technical college district, public inland lake protection and rehabilitation district, metropolitan sewerage district, municipal water district created under s. 198.22, joint local water authority created under s. 66.0823, family care district under s. 46.2895 or town sanitary district; lands belonging to cities of any other state used for public parks; land tax-deeded to any county or city before January 2; but any residence located upon property owned by the county for park purposes that is rented out by the county for a nonpark purpose shall not be exempt from taxation. Except as to land acquired under s. 59.84 (2) (d), this exemption shall not apply to land conveyed after August 17, 1961, to any such governmental unit or for its benefit while the grantor or others for his or her benefit are permitted to occupy the land or part thereof in consideration for the conveyance. Leasing the property exempt under this subsection, regardless of the lessee and the use of the leasehold income, does not render that property taxable.

(2m) **PROPERTY LEASED OR SUBLEASED TO SCHOOL DISTRICTS.** All of the property that is owned or leased by a corporation, organization or association that is exempt from federal income taxation under section 501 (c) (3) of the Internal Revenue Code if all of that property is leased or subleased to a school district for no or nominal consideration for use by an educational institution that offers regular courses for 6 months in a year.

(3) **COLLEGES AND UNIVERSITIES.** (a) Grounds of any incorporated college or university, not exceeding 80 acres.

(b) The fact that college or university officers, faculty members, teachers, students or employees live on the grounds does not render them taxable. In addition to the exemption of leased property specified in the introductory phrase of this section, a university or college may also lease property for educational or charitable purposes without making it taxable if it uses the income derived from the lease for charitable purposes.

(c) All buildings, equipment and leasehold interests in lands described in s. 36.06, 1971 stats., and s. 37.02 (3), 1971 stats.

(3a) **BUILDINGS AT THE WISCONSIN VETERANS HOME AT KING OR IN SOUTHEASTERN WISCONSIN.** All buildings, equipment and leasehold interests in lands described in s. 45.38.

(4) **EDUCATIONAL, RELIGIOUS AND BENEVOLENT INSTITUTIONS; WOMEN'S CLUBS; HISTORICAL SOCIETIES; FRATERNITIES; LIBRARIES.** Property owned and used exclusively by educational institutions offering regular courses 6 months in the year; or by churches or religious, educational or benevolent associations, including benevolent nursing homes and retirement homes for the aged but not including an organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that offers a health maintenance organization or a limited service health organization and not including property owned by any nonstock, nonprofit corporation which services guaranteed student loans for others or on its own account, and also including property owned and used for housing for pastors and their ordained assistants, members of religious orders and communities, and ordained teachers, whether or not contiguous to and a part of other property owned and used by such associations or churches; or by women's clubs; or by domestic, incorporated historical societies; or by domestic, incorporated, free public library associations; or by fraternal societies operating under the lodge system (except university, college and high school fraternities and sororities), but not exceeding 10 acres of land necessary for location and convenience of buildings while such property is not used for profit. Property owned by churches or religious associations necessary for location and convenience of buildings, used for educational purposes and not for profit, shall not be subject to the 10-acre limitation but shall be subject to a 30-acre limitation. Property that is exempt from taxation under this subsection and is leased remains exempt from taxation only if, in addition to the requirements specified in the introductory

phrase of this section, the lessee does not discriminate on the basis of race.

**(4g) REAL PROPERTY HELD FOR REHABILITATION OR FUTURE CONSTRUCTION AND LATER SALE TO LOW-INCOME PERSONS.** Real property owned by a nonprofit organization if all of the following requirements are fulfilled:

(a) The nonprofit organization holds the property for the purpose of rehabilitating an existing structure or constructing a new structure on the property for sale to low-income persons for use as a personal residence.

(b) The nonprofit organization offers low-income persons loans to purchase the property for which no interest is charged.

(c) The nonprofit organization requires prospective purchasers to participate in the rehabilitation or construction of the property.

(d) The nonprofit organization acquired the property within 3 years before the assessment date.

**(4m) NONPROFIT HOSPITALS.** (a) Real property owned and used and personal property used exclusively for the purposes of any hospital of 10 beds or more devoted primarily to the diagnosis, treatment or care of the sick, injured, or disabled, which hospital is owned and operated by a corporation, voluntary association, foundation or trust, except an organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that offers a health maintenance organization or a limited service health organization, no part of the net earnings of which inures to the benefit of any shareholder, member, director or officer, and which hospital is not operated principally for the benefit of or principally as an adjunct of the private practice of a doctor or group of doctors. This exemption does not apply to property used for commercial purposes, as a health and fitness center or as a doctor's office. The exemption for residential property shall be limited to dormitories of 12 or more units which house student nurses enrolled in a state accredited school of nursing affiliated with the hospital.

(b) Real property leased by and used exclusively for the purposes of any hospital that has 10 beds or more, is devoted primarily to the diagnosis, treatment or care of the sick, injured or disabled and is owned and operated by a corporation, voluntary association, foundation or trust, except an organization that is organized under s. 185.981 or ch. 611, 613 or 614 and that offers a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3) or an organization that is issued a certificate of authority under ch. 618 and that offers a health maintenance organization or a limited service health organization, no part of the net earnings of which inures to the benefit of any shareholder, member, director or officer and is not operated principally for the benefit of or principally as an adjunct to the private practice of a doctor or group of doctors. This exemption applies only to real property leased from a nonprofit organization or nonprofit hospital that is exempt from taxation under this chapter and that uses the income derived from the lease only for maintenance of the leased property or construction debt retirement of the leased property or both. This exemption does not apply to property used for commercial purposes, as a health and fitness center or as a doctor's office.

(c) In this subsection, "health and fitness center" means an establishment the primary purpose of which is to provide recreational services or facilities that are purported to assist patrons in physical exercise, in weight control or in figure development, including but not limited to a health and fitness center, studio, salon or club. In this subsection, "health and fitness center" does not include a facility the primary purpose of which is to provide services or facilities that are primarily a part of a course of rehabilitation or therapy prescribed by a physician or physical therapist to treat a physical injury or dysfunction and that are aimed primarily at patients of the hospital or an affiliated entity and not at the

general public and that is located within the physical confines of a hospital.

**(5) AGRICULTURAL FAIRS.** Property owned and used exclusively by any state or county agricultural society, or by any other domestic corporation formed to encourage agricultural and industrial fairs and exhibitions and necessary for fairgrounds or for exhibition and sale of agricultural and dairy property, not exceeding 80 acres. The use of such property for celebrations or as places of amusement shall not render it taxable.

**(6) FIRE COMPANIES.** Property of any fire company used exclusively for its purposes.

**(7) LAND OF MILITARY ORGANIZATIONS.** Land owned by military organizations and used for armories, public parks or monument grounds but not used for private gain.

**(9) MEMORIALS.** All memorial halls and the real estate upon which the same are located, owned and occupied by any organization of United States war veterans organized pursuant to act of congress and domesticated in this state pursuant to the laws of this state, containing permanent memorial tablets with the names of former residents of any given town, village, city or county who lost their lives in the military or naval service of the state or the United States in any war inscribed thereon, and all personal property owned by such organizations, and all buildings erected, purchased or maintained by any county, city, town or village as memorials under s. 45.05 or 45.055. The renting of such halls or buildings for public purposes shall not render them taxable, provided that all income derived therefrom be used for the upkeep and maintenance thereof. Where such hall or building is used in part for exempt purposes and in part for pecuniary profit, it shall be assessed for taxation to the extent of such use for pecuniary profit as provided in s. 70.1105 (1).

**(10m) LIONS FOUNDATION CAMPS FOR CHILDREN WITH VISUAL IMPAIRMENTS.** Lands not exceeding 40 acres and the buildings thereon owned by the Wisconsin Lions Foundation and used as camps for children with visual impairments, so long as the property is used for such purposes and not for pecuniary profit of any individual.

**(11) BIBLE CAMPS.** All real property not exceeding 30 acres and the personal property situated therein, of any Bible camp conducted by a religious nonprofit corporation organized under the laws of this state, so long as the property is used for religious purposes and not for pecuniary profit of any individual.

**(12) CERTAIN CHARITABLE ORGANIZATIONS.** (a) Property owned by units which are organized in this state of the following organizations: the Salvation Army; the Boy Scouts of America; the Boys' Clubs of America; the Girl Scouts or Camp Fire Girls; the Young Men's Christian Association, not exceeding 40 acres for property that is located outside the limit of any incorporated city or village and not exceeding 10 acres for property that is located inside the limit of any incorporated city or village; the Young Women's Christian Association, not exceeding 40 acres for property that is located outside the limit of any incorporated city or village and not exceeding 10 acres for property that is located inside the limit of any incorporated city or village; or any person as trustee for them of property used for the purposes of those organizations, provided no pecuniary profit results to any individual owner or member.

(b) Real property not exceeding 40 acres and the personal property located thereon owned by units which are not organized in this state of the organizations listed in par. (a). No such unit which is not organized in this state may claim an exemption for more than a total of 80 rods of shoreline on lakes, rivers and streams.

**(13) CEMETERIES.** Land owned by cemetery authorities, as defined in s. 157.061 (2), and used exclusively as public burial grounds and tombs and monuments therein, and privately owned burial lots; land adjoining such burial grounds, owned and occupied exclusively by the cemetery authority for cemetery purposes;

personal property owned by any cemetery authority and necessary for the care and management of burial grounds; burial sites and contiguous lands which are cataloged under s. 157.70 (2) (a).

**(13m) ARCHAEOLOGICAL SITES.** Archaeological sites and contiguous lands identified under s. 44.02 (23) if the property is subject to a permanent easement, covenant or similar restriction running with the land and if that easement, covenant or restriction is held by the state historical society or by an entity approved by the state historical society and protects the archaeological features of the property.

**(14) ART GALLERIES.** Property of any public art gallery, if used exclusively for art exhibits and for art teaching, if public access to such gallery is free not less than 3 days in each week.

**(15) MANURE STORAGE FACILITIES.** Any manure storage facility used by a farmer. This exemption shall apply whether the facility is deemed personal property or is so affixed to the realty as to be classified as real estate.

**(15m) SECONDARY CONTAINMENT STRUCTURES.** Secondary containment structures used to prevent leakage of liquid fertilizer or pesticides.

**(16) LABOR TEMPLES.** Property owned and used exclusively by any labor organization or by any domestic corporation whose members are workmen associated according to crafts, trades or occupations or their authorized representatives or associations composed of members of different crafts, trades or occupations, provided no pecuniary profit results to any member.

**(17) FARMERS' TEMPLES.** Property owned and used exclusively for social and educational purposes and for meetings by any corporation, all of whose members are farmers; provided no pecuniary profit results to any member.

**(18) HOUSING.** Property of housing authorities exempt from taxation under s. 66.1201 (22).

**(19) INSTITUTIONS AND CENTERS FOR DEPENDENT CHILDREN AND PERSONS WHO HAVE DEVELOPMENTAL DISABILITIES.** The property of any residential care center for children and youth that is licensed under s. 48.60 for the care of dependent or neglected children or delinquent juveniles if that property is used for that purpose and the property of any nonprofit institution that is subject to examination under s. 46.03 (5) and that has a full-time population of at least 150 individuals who have developmental disabilities, as defined in s. 51.01 (5), if that property is used for that purpose.

**(20) PROPERTY HELD IN TRUST IN PUBLIC INTEREST.** Property that is owned by, or held in trust for, a nonprofit organization, if all of the following requirements are fulfilled:

(a) The property is used to preserve native wild plant or native wild animal life, Indian mounds or other works of ancient persons or geological or geographical formations of scientific interest.

(b) The property is open to the public subject to reasonable restrictions.

(c) No pecuniary profit accrues to any owner or member of the organization or to any associate of any such owner or member from the use or holding of the property.

(d) The county board of the county where the property is located has not determined that the property is not owned by, or held in trust for, a nonprofit organization and has not determined that at least one of the requirements under pars. (a) to (c) has not been fulfilled.

**(21) TREATMENT PLANT AND POLLUTION ABATEMENT EQUIPMENT.** (a) All property purchased or constructed as a waste treatment facility used for the treatment of industrial wastes, as defined in s. 281.01 (5), or air contaminants, as defined in s. 285.01 (1), but not for other wastes, as defined in s. 281.01 (7), for the purpose of abating or eliminating pollution of surface waters, the air, or waters of the state if that property is not used to grow agricultural products for sale and, if the property's owner is taxed under ch. 76, if the property is approved by the department of revenue. For the purposes of this subsection, "industrial waste" also includes wood

chips, sawdust, and other wood residue from the paper and wood products manufacturing process that can be used as fuel and would otherwise be considered superfluous, discarded, or fugitive material. The department of natural resources and department of health and family services shall make recommendations upon request to the department of revenue regarding such property. All property purchased or upon which construction began prior to July 31, 1975, shall be subject to s. 70.11 (21), 1973 stats.

(b) The books and records of owners of property covered by this subsection shall be open to examination by representatives of the department of natural resources, department of health and family services and department of revenue.

(c) A prerequisite to exemption under this subsection for owners who are taxed under ch. 76 is the filing of a statement on forms prescribed by the department of revenue with the department of revenue. This statement shall be filed not later than January 15 of the year in which a new exemption is requested or in which a waste treatment facility that has been granted an exemption is retired, replaced, disposed of, moved to a new location, or sold.

(d) The department of revenue shall allow an extension to a date determined by the department by rule for filing the report form required under par. (c) if a written application for an extension, stating the reason for the request, is filed with the department of revenue before January 15.

(f) If property about which a statement has been filed under par. (c) is determined to be taxable, the owner may appeal that determination under s. 76.08.

Cross Reference: See also s. Tax 12.40, Wis. adm. code.

**(22) CAMPS FOR PERSONS WITH DISABILITIES.** Lands not exceeding 10 acres and the buildings thereon owned by the Wisconsin Easter Seal Society for Crippled Children and Adults, Incorporated, and known as Camp Wawbeek, used for camps for children and adults with orthopedic impairments and not to exceed 371 acres of wooded and meadowland adjacent thereto used in connection therewith, excluding a caretaker's home and 10 acres of land in connection therewith, so long as the property is used solely for such purposes and not for pecuniary profit of any individual.

**(25) NONPROFIT MEDICAL RESEARCH FOUNDATIONS.** Property owned and operated by a corporation, voluntary association, foundation or trust, no part of the net earnings of which inure to the benefit of any shareholder, member, director or officer thereof, which property is used exclusively for the purposes of: medical and surgical research the knowledge derived from which is applied to the cures, prevention, relief and therapy of human diseases; providing instruction for practicing physicians and surgeons, promoting education, training, skill and investigative ability of physicians, scientists and individuals engaged in work in the basic sciences which bear on medicine and surgery; or providing diagnostic facilities and treatment for deserving destitute individuals not eligible for assistance from charitable or governmental institutions. Such corporation, voluntary association, foundation or trust must have received a certificate under section 501 (c) (3) of the internal revenue code as a nonprofit organization exempt for income tax purposes.

**(26) PROPERTY OF INDUSTRIAL DEVELOPMENT AGENCIES.** All real and personal property owned by an industrial development agency formed under s. 59.57 (2). Any such property subject to contract of sale or lease shall be taxed as personal property to the vendee or lessee thereof.

**(27) MANUFACTURING MACHINERY AND SPECIFIC PROCESSING EQUIPMENT.** (a) In this subsection:

1. "Building" means any structure used for sheltering people, machinery, animals or plants; storing property; or working, office, parking, sales or display space.

2. "Machinery" means a structure or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means, but "machinery" does not include a building.

3. "Manufacturing" means engaging in an activity classified as manufacturing under s. 70.995.

4. "Power wiring" means bus duct, secondary service wiring or other wiring that is used exclusively to provide electrical service to production machines that are exempt under par. (b). "Power wiring" does not include transformers.

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

6. "Specific processing equipment" means containers for chemical action, mixing or temporary holding of work in process to ensure the uninterrupted flow of all or part of the production process, process piping, tools, implements and quality control equipment.

6m. "Storage" means the holding or safekeeping of raw materials or components before introduction into the production process; the holding, safekeeping or preservation of work in process or of components outside the production process; and the holding or safekeeping of finished products or of components after completion of the production process; whether or not any natural processes occur during that holding, safekeeping or preservation; but "storage" does not include the holding for 3 days or less of work in process to ensure the uninterrupted flow of all or part of the production process.

7. "Used directly" means used so as to cause a physical or chemical change in raw materials or to cause a movement of raw materials, work in process or finished products.

8. "Used exclusively" means to the exclusion of all other uses except for other use not exceeding 5% of total use.

(b) Machinery and specific processing equipment; and repair parts, replacement machines, safety attachments and special foundations for that machinery and equipment; that are used exclusively and directly in the production process in manufacturing tangible personal property, regardless of their attachment to real property, but not including buildings. The exemption under this paragraph shall be strictly construed.

(28) HUMANE SOCIETIES. Property owned and operated by a humane society organized primarily for the care and shelter of homeless, stray or abused animals, on a nonprofit basis, no part of the net income of which inures to the benefit of any member, officer or shareholder, if the property is used exclusively for the primary purposes of the humane society.

(29) NONPROFIT RADIO STATIONS. Property owned by a radio station that is exempt from taxation under section 501 of the internal revenue code as amended to December 31, 1980, if the property is used for the purposes for which the exemption was granted.

(29m) NONPROFIT THEATERS. All of the property owned or leased by a corporation, organization or association exempt from taxation under section 501 (c) (3) of the internal revenue code, if all of the property is used for the purposes for which the exemption was granted, the property includes one or more buildings listed on the national register of historic places, the property includes one or more theaters for performing theater arts which have a total seating capacity of not less than 800 persons and the corporation, organization or association operates the theater or theaters.

(29p) NONPROFIT OUTDOOR THEATERS. All the property owned or leased by an organization that is exempt from taxation under section 501 (c) (3) of the Internal Revenue Code, as confirmed by a determination letter issued by the Internal Revenue Service no later than July 31, 1969, if all of the property is used for the purposes for which the exemption was granted, the property includes one or more outdoor theaters for performing theater arts which have a total seating capacity of not less than 400 persons, and the organization operates the theater or theaters.

(30) CROPS. All perennial plants that produce an annual crop.

(31) SPORTS AND ENTERTAINMENT FACILITIES. Real and personal property consisting of or contained in a sports and entertainment facility, including related or auxiliary structures, constructed by a nonprofit corporation for the purpose of donation to the state or to an instrumentality of the state, if the state indicates by legislative or executive action that it will accept the facility. This exemption shall apply during construction and operation if the facility is owned by a nonprofit corporation, the state or an instrumentality of the state.

(31m) RAILROAD HISTORICAL SOCIETIES. Right-of-way and rolling stock owned by railroad historical societies.

(32) NONPROFIT YOUTH HOCKEY ASSOCIATIONS. Land not exceeding 13 acres, the buildings on that land and personal property if the land is owned or leased by and the buildings and personal property are owned by, and all the property is used exclusively for the purposes of, a nonprofit youth hockey association, except that the exemption under this subsection does not apply to the property of a nonprofit youth hockey association if any of its property was funded in whole or in part by industrial revenue bonds unless that association's facilities were placed in operation after January 1, 1988. Leasing all or a portion of the property does not render that property taxable if all of the leasehold income is used for maintenance of the leased property.

(33) CAMPS FOR MENTALLY OR PHYSICALLY DISABLED PERSONS. Land, not exceeding 50 acres, and the buildings on that land used as a residential campground exclusively for mentally or physically disabled persons and their families as long as the property is used for that purpose and not for the pecuniary profit of any individual.

(34) HISTORIC PROPERTIES. (a) Real property all of which fulfills all of the following requirements:

1. Is listed on the national register of historic places in Wisconsin or the state register of historic places.

2. Is a public building, as defined in s. 101.01 (12).

3. Is owned or leased by an organization that is exempt from taxation under section 501 of the internal revenue code as amended to December 31, 1986.

4. Is used for civic, governmental, cultural or educational purposes.

5. Is subject to an easement, covenant or similar restriction running with the land that is held by or approved by the state historical society or by an entity approved by the state historical society, that protects the historic features of the property and that will remain effective for at least 20 years after January 1, 1989.

(35) CULTURAL AND ARCHITECTURAL LANDMARKS. Property described in s. 234.935 (1), 1997 stats.

(36) PROFESSIONAL SPORTS AND ENTERTAINMENT HOME STADIUMS. (a) Property consisting of or contained in a sports and entertainment home stadium, except a football stadium as defined in s. 229.821 (6); including but not limited to parking lots, garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, and other functionally related or auxiliary facilities and structures; including those facilities and structures while they are being built; constructed by, leased to or primarily used by a professional athletic team that is a member of a league that includes teams that have home stadiums in other states, and the land on which that stadium and those structures and facilities are located. Leasing or subleasing the property; regardless of the

lessee, the sublessee and the use of the leasehold income; does not render the property taxable.

(b) Property consisting of or contained in a football stadium, as defined in s. 229.821 (6), and related facilities and structures, including those facilities and structures while they are being built or constructed, primarily used by a professional football team described in s. 229.823, and the land, including parking lots, on which that stadium and those facilities and structures are located. Related facilities and structures are limited to improvements that share common structural supports with the stadium or are physically attached to the stadium. Using the property for garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, or other functionally related or auxiliary facilities does not render the property taxable. Leasing or subleasing the property; regardless of the lessee, the sublessee and the use of the leasehold income; does not render the property taxable.

(37) LOCAL EXPOSITION DISTRICT. The property of a local exposition district under subch. II of ch. 229.

(38) UNIVERSITY OF WISCONSIN HOSPITALS AND CLINICS AUTHORITY. Notwithstanding the provisions of s. 70.11 (intro.) that relate to leased property, all property owned by the University of Wisconsin Hospitals and Clinics Authority and all property leased to the University of Wisconsin Hospitals and Clinics Authority that is owned by the state, provided that use of the property is primarily related to the purposes of the authority.

(39) COMPUTERS. If the owner of the property fulfills the requirements under s. 70.35, mainframe computers, minicomputers, personal computers, networked personal computers, servers, terminals, monitors, disk drives, electronic peripheral equipment, tape drives, printers, basic operational programs, systems software, and prewritten software. The exemption under this subsection does not apply to custom software, fax machines, copiers, equipment with embedded computerized components or telephone systems, including equipment that is used to provide telecommunications services, as defined in s. 76.80 (3). For the purposes of s. 79.095, the exemption under this subsection does not apply to property that is otherwise exempt under this chapter.

(39m) If the owner of the property fulfills the requirements under s. 70.35, cash registers and fax machines, excluding fax machines that are also copiers.

(40) LOCAL CULTURAL ARTS DISTRICT. Property of a local cultural arts district under subch. V of ch. 229, except any of the following:

(a) Property that is not a part of the physical structure of a cultural arts facility, as defined under s. 229.841 (5), if that property is used for a retail business or a restaurant, unless the retail business or restaurant is operated by the local cultural arts district or by a corporation, organization or association described in section 501 (c) 3 of the Internal Revenue Code that is exempt from taxation under section 501 (a) of the Internal Revenue Code.

(b) A parking lot or parking structure that is not used to support the operation of a cultural arts facility, as defined under s. 229.841 (5).

(41) FOX RIVER NAVIGATIONAL SYSTEM AUTHORITY. All property owned by the Fox River Navigational System Authority, provided that use of the property is primarily related to the purposes of the authority.

(42) HUB FACILITY. (a) In this subsection:

1. "Air carrier company" means any person engaged in the business of transportation in aircraft of persons or property for hire on regularly scheduled flights. In this subdivision, "aircraft" has the meaning given in s. 76.02 (1).

2. "Hub facility" means any of the following:

a. A facility at an airport from which an air carrier company operated at least 45 common carrier departing flights each weekday in the prior year and from which it transported passengers to at least 15 nonstop destinations, as defined by rule by the department of revenue, or transported cargo to nonstop destinations, as defined by rule by the department of revenue.

b. An airport or any combination of airports in this state from which an air carrier company cumulatively operated at least 20 common carrier departing flights each weekday in the prior year, if the air carrier company's headquarters, as defined by rule by the department of revenue, is in this state.

(b) Property owned by an air carrier company that operates a hub facility in this state, if the property is used in the operation of the air carrier company.

**History:** 1971 c. 152, 154, 312; 1973 c. 90; 1973 c. 333 s. 201m; 1973 c. 335 s. 13; 1975 c. 39; 1975 c. 94 s. 91 (10); 1975 c. 199; 1977 c. 20 ss. 745m, 1646 (3), 1647 (5), (7); 1977 c. 83 s. 26; 1977 c. 273, 282, 391, 418, 447; 1979 c. 34 s. 2102 (39) (g); 1979 c. 221, 225; 1979 c. 310 s. 12; 1981 c. 20; 1983 a. 27 ss. 1177, 1178, 1179f; 1983 a. 189 s. 329 (16); 1983 a. 201, 327; 1983 a. 26, 29, 316, 332; 1987 a. 10, 27, 395, 399; 1987 a. 403 s. 256; 1989 a. 23, 31, 307; 1991 a. 37, 39, 269; 1993 a. 263, 307, 399, 490; 1995 a. 27 ss. 2344 to 3348m, 9126 (19); 1995 a. 201, 227, 247, 366; 1997 a. 27, 35, 134, 147, 164, 184, 237; 1999 a. 9, 32, 63, 65; 1999 a. 150 ss. 624, 672; 1999 a. 167, 185; 2001 a. 16, 38, 59, 103; 2003 a. 195, 291.

**Cross Reference:** For other exemptions from property taxation, see s. 1.04, U.S. sites; s. 70.112, specially taxed property; s. 70.41, stored grain; s. 70.42, condocks; s. 70.421, petroleum; s. 76.23, utilities.

A building used as a residence by various missionaries for rest and recreation falls within the housing exemption under sub. (4). *Evangelical Alliance Mission v. Williams Bay*, 54 Wis. 2d 187, 194 N.W.2d 646 (1972).

Voting machines leased by a city with an option to purchase are city property and exempt. *Milwaukee v. Shoup Voting Machine Corp.*, 54 Wis. 2d 549, 196 N.W.2d 694 (1972).

An educational institution under sub. (4) must be substantially and primarily devoted to educational purposes; the determination of which requires a careful analysis of the property's use. *National Foundation v. Brookfield*, 65 Wis. 2d 263, 222 N.W.2d 608 (1974).

"Owned" under sub. (2) cannot be equated with paper title only. When a corporate lessee was the beneficial and true owner of improvements made to a structure, the lessee was the owner for personal property assessment purposes. *State ex rel. Mitchell v. Bd. of Review*, 74 Wis. 2d 268, 246 N.W.2d 521 (1976).

"Used exclusively" under sub. (4m) means to physically employ the tangible characteristics of the property. Although medical equipment was leased commercially, it was "used exclusively" for hospital purposes and was exempt. *First National Leasing Corp. v. Madison*, 81 Wis. 2d 205, 260 N.W.2d 251 (1977).

Religious persons whose housing is exempt under sub. (4) include only those who have official leadership roles in the activities of the congregation. *Midtown Church of Christ v. City of Racine*, 83 Wis. 2d 72, 264 N.W.2d 281 (1978).

Indicia of true and beneficial ownership of leased property under sub. (1) are discussed. *Gebhardt v. City of West Allis*, 89 Wis. 2d 103, 278 N.W.2d 465 (1979).

The residence of a hospital chaplain was exempt under sub. (4) as housing for a pastor and under sub. (4m) because it was reasonably necessary for the hospital to have a priest located near the hospital to serve the spiritual needs of its patients and staff. *Sisters of St. Mary v. City of Madison*, 89 Wis. 2d 372, 278 N.W.2d 814 (1979).

To qualify as an educational association under sub. (4), an organization must be devoted to "additional" educational activities, which must include traditional charitable objectives and which must benefit the public directly and lessen the burden of government in some way. *International Foundation v. City of Brookfield*, 95 Wis. 2d 444, 290 N.W.2d 720 (Ct. App. 1980).

A "function or use" test, rather than a "physical appearance" test, was applied to determine whether building-like structures were eligible for the machinery and equipment exemption under sub. (27). *Ladish Malting Co. v. DOR*, 98 Wis. 2d 496, 297 N.W.2d 56 (Ct. App. 1980).

An organization that practices racial discrimination may not be granted preferential tax treatment. *State ex rel. Palleon v. Musolf*, 117 Wis. 2d 369, 345 N.W.2d 73 (Ct. App. 1984); affirmed 120 Wis. 2d 545, 356 N.W.2d 487 (1984).

Under an "integrated plant test" for classifying property directly used in manufacturing, graving docks were exempt under sub. (27). The exemption was not destroyed by incidental use of the dock for a nonexempt purpose. *Manitowoc Co., Inc. v. Sturgeon Bay*, 122 Wis. 2d 406, 362 N.W.2d 432 (Ct. App. 1984).

Sub. (4) is constitutional. *Evangelical Lutheran Synod v. Prairie du Chien*, 125 Wis. 2d 541, 373 N.W.2d 78 (Ct. App. 1985).

Property leased by an institution for the care of dependent children was not exempt under sub. (19). *Chileda Institute, Inc. v. La Crosse*, 125 Wis. 2d 554, 373 N.W.2d 43 (Ct. App. 1985).

A day care center devoted primarily to educational purposes was exempt under sub. (4). *Janesville Community Day Care v. Spoden*, 126 Wis. 2d 231, 376 N.W.2d 78 (Ct. App. 1985).

Property exempted under sub. (21) (a) need not have a "primary purpose" of eliminating pollution. *Owens-Illinois v. Town of Bradley*, 132 Wis. 2d 10, 392 N.W.2d 104 (Ct. App. 1986).

The burden of proving exempt status is on the taxpayer. *Waukhara County v. Graf*, 166 Wis. 2d 442, 480 N.W.2d 16 (1992).

Non-adjointing property may constitute "grounds" of a college or university under sub. (3) (a). *Indiana University v. Town of Rhine*, 170 Wis. 2d 293, 488 N.W.2d 128 (Ct. App. 1992).

A lease provision between a county-lessor and a lessee that the lessee was responsible for taxes was not determinative of the taxability of buildings constructed on the leased premises. The county, as beneficial owner of the property, was exempt from taxation. *City of Franklin v. Crystal Ridge*, 180 Wis. 2d 561, 509 N.W.2d 730 (1994).

A benevolent association under sub. (4) is not required to provide free services or to be affordable by all in the community and may pay its officers reasonable com-

