



**LEGISLATIVE
FISCAL BUREAU**

STATE OF WISCONSIN

JANUARY 2023

Informational Paper #9

Miscellaneous Taxes

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Miscellaneous Taxes

Wisconsin imposes a number of taxes and fees collectively categorized as miscellaneous taxes. These taxes include the real estate transfer fee, court-related fees, a mining tax, an oil and gas severance tax, and occupational taxes on operators of coal docks and oil refineries. Most of these taxes and fees are collected at the county or municipal level, with the state receiving a statutorily determined share.

In fiscal year 2021-22, the real estate transfer fee represented 89.6% of total state miscellaneous tax receipts, court-related fees accounted for 10.4%, and less than 0.1% was provided by the occupational tax on coal.

Miscellaneous Tax Collections

Table 1 shows the state share of miscellaneous tax collections for fiscal years 2013-14 through 2021-22. Certain occupational taxes that provide solely local revenues are not included in this table. As shown in Table 1, the total state share of miscellaneous tax collections for fiscal year 2021-22 was \$135.5 million, which represented 0.66% of total general fund tax collections.

Summary of Miscellaneous Tax Provisions

A brief summary of each of the miscellaneous taxes levied in Wisconsin is presented in the following sections.

Real Estate Transfer Fee

The Wisconsin real estate transfer fee is imposed upon the grantor of real estate at a rate of \$3.00 per \$1,000 of value. The determination of the "value" of real estate for purposes of the fee depends upon the type of transfer being conducted. In the case of a sale of property, value equals the full amount of consideration paid or to

Table 1: General Fund Share of Wisconsin Miscellaneous Tax Collections (\$ in Millions)

Source of Revenue	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22
Real Estate Transfer Fee	\$51.18	\$57.82	\$65.13	\$70.55	\$76.60	\$77.39	\$77.43	\$106.10	\$121.38
% Change	6.59%	12.97%	12.65%	8.32%	8.57%	1.03%	0.05%	37.02%	14.41%
Court-Related Fees	\$14.60	\$14.22	\$14.49	\$14.40	\$14.80	\$15.02	\$14.26	\$13.39	\$14.13
% Change	-1.86%	-2.56%	1.87%	-0.64%	2.76%	1.54%	-5.06%	-6.11%	5.53%
Occupational Tax--Coal*	\$0.07	\$0.07	\$0.07	\$0.07	\$0.05	\$0.05	\$0.00	\$0.08	\$0.03
% Change	5.97%	0.00%	2.82%	1.37%	-32.43%	-4.00%	-100.00%	N/A	-65.48%
TOTAL	\$65.85	\$72.11	\$79.69	\$85.02	\$91.45	\$92.46	\$91.69	\$119.57	\$135.54
% Change	4.59%	9.52%	10.51%	6.69%	7.55%	1.11%	-0.83%	30.41%	13.35%
Total as a Percentage of General Fund Taxes	0.47%	0.50%	0.53%	0.55%	0.57%	0.53%	0.52%	0.61%	0.66%

*Revenues assessed in 2019-20 were received in the following fiscal year. Therefore, no revenues are listed for the coal tax in 2019-20, and 2020-21 revenues reflect two years of collections.

be paid, including any liens on the property. If the property is transferred as a gift, value is equal to the prevailing market value.

The real estate transfer fee was first established October 1, 1969, at a rate of \$1.00 per \$1,000 of value pursuant to Chapter 154, Laws of 1969. The county retained 50% of the revenues and remitted the remaining 50% to the state. Chapter 20, Laws of 1981, increased the fee to its current rate, effective for transfers occurring on or after July 1, 1982. Chapter 20 changed the distribution of transfer fee revenues such that the county retains 20% of revenues and remits the remaining 80% to the state. Neither the fee rate nor the distribution of revenues has been altered since.

To pay the real estate transfer fee, a return is filed electronically and the fee is collected at the county level by the register of deeds when the deed or other instrument of conveyance is submitted for recording. Fiscal year 2021-22 collections totaled \$151.7 million, of which \$121.4 million accrued to the state.

Certain conveyances of real property are exempt from the real estate transfer fee. Counties, towns, cities, and villages may not impose their own fee on these exempt conveyances. For example, transfers from federal, state, or local units of government and transfers by gift to federal, state, or local governments are not subject to the fee. Transfers of property valued at \$1,000 or less and sales of real estate for delinquent taxes are also exempt, as are transfers between a husband and wife, between domestic partners, or between a parent and child for little or no consideration.

Unless a specific exception applies, a transfer return claiming an exemption must be filed for exempt conveyances. More detailed information about exemptions from the real estate transfer fee is provided in the Appendix.

Court-Related Fees

Wisconsin currently receives a percentage of various court fees charged at the municipal and circuit court levels. Prior to 1981, two separate fees were charged in court actions: a clerk's fee, which was retained by the county or municipality in which the proceeding was held; and a state fee or suit tax, retained by the state. However, in an attempt to streamline and simplify Wisconsin's user fee structure and to have fees more accurately reflect the costs of operating the court system, the fee structure was revised under Chapter 317, Laws of 1981. Under the fee structure established by this legislation, a single court fee was imposed, with fees split between the municipality or county and the state, as opposed to the imposition of separate fees as under prior law. Additionally, many of the previous fees were raised and some were abolished.

Since the enactment of the 1981 law, court fees have increased, in general, and a number of additional fees have been created. Current court-related fees vary widely, depending upon the type of action involved. Additionally, certain fees are retained entirely by the municipality or county in which they are collected. A list of specific court fees is included in the Legislative Fiscal Bureau's informational paper entitled, "Wisconsin Court System."

Court-related fees are collected by the municipal judge in a municipal action and by the clerk of courts in a circuit court proceeding. State receipts from these collections are deposited in the general fund. In the 2021-22 fiscal year, the state share of court-related fee collections totaled \$14.1 million. Certain court fees that are deposited to the general fund as departmental revenues, rather than tax receipts, are not included in this total.

Occupational Taxes

Wisconsin levies occupational taxes, in lieu of personal property taxes, on various businesses for the privilege of operating in the state. Occupational taxes are intended to result in fairly predictable

levies, as opposed to the fluctuating property tax burdens that would otherwise result from changing inventory levels.

Generally, the occupational tax base is the volume of material handled by a specific business in a given year, such as coal tonnage handled by a dock operator. Materials subject to occupational taxes generally are exempted from property taxes. The occupational taxes are assessed and collected on the local level, as are property taxes. Proceeds are divided among the state, county, municipality, and special funds according to tax-specific formulas.

Occupational tax payments are due at the local level on January 31 of each year for activities during the year ending on the December 31 which was two years prior to the payment due date (thus, the January, 2023, payment is for activity occurring during the 2021 calendar year). Revenues generally must be remitted to the state by the February 15 following the payment due date. Persons or organizations subject to an occupational tax must provide annual statements to municipal assessors detailing the amounts and types of material handled during the preceding year as a basis for determining the tax liability. Any taxpayer knowingly furnishing an incorrect or false statement is subject to a fine not to exceed \$1,000.

Coal Tax. The coal occupational tax is imposed upon the operators of coal docks in the state at the rate of 5¢ per ton of bituminous and subbituminous (soft) coal and related products, and 7¢ per ton of anthracite (hard) coal and related products handled by the docks each year. An exemption is provided for docks that handle coal solely in connection with an individual industry. The tax is distributed among the state, county, and municipality, which respectively receive 10%, 20%, and 70% of total annual collections. In fiscal year 2021-22, the state share of coal tax collections was \$29,500.

Oil Refinery Tax. Operators of Wisconsin

crude oil refineries are charged an occupational tax of 5¢ per ton of all oil handled annually. The tax is retained entirely by the municipalities in which it is collected. In April, 2018, Wisconsin's only oil refinery, located in the City of Superior, suffered an explosion. Since that time, the refinery has been under reconstruction, and is scheduled to reopen in early 2023. As a result, no oil refinery taxes were due on January 31, 2022.

Metalliferous Mining Tax

Wisconsin imposes a net proceeds occupational tax on state metalliferous mining operations. Because the tax is based on net proceeds rather than on the amount of material handled, it is considered distinct from the other occupational taxes for purposes of this paper. The mining tax is imposed using a progressive, bracket-based rate structure (to which fixed rates apply in statute) that is indexed to the annual change in the gross national product deflator for June of the current year compared to June of the previous year, subject to a maximum yearly increase of 10%. Persons mining metalliferous minerals must file a report with, and remit taxes to, the Department of Revenue on or before June 15 reflecting net proceeds and metalliferous mining taxes due for the prior calendar year. Table 2 shows the tax rates and bracket structure for 2021 mining activity, payable in fiscal year 2021-22.

Table 2: Mining Tax Rate Structure

Net Proceeds Brackets for 2021-22	Rate
\$0 to \$626,500	0%
626,501 to 12,533,400	3
12,533,401 to 25,066,400	7
25,066,401 to 37,600,200	10
37,600,201 to 50,133,900	13
50,133,901 to 62,666,700	14
62,666,701 or more	15

The tax base is determined by adding together the gross proceeds from mining and subtracting allowable deductions. Allowable deductions include

the actual costs of labor and supplies in mining, costs of extracting and processing the ore, costs of mining related services, federal and state taxes paid, and site reclamation and restoration costs. Proceeds from the mining tax are first deposited in the Investment and Local Impact Fund (ILIF). However, 40% of mining tax revenues generated in excess of certain statutory payment amounts are deposited into the general fund. The ILIF was established in 1977 to provide financial assistance to local units of government experiencing social, educational, environmental, or economic impacts associated with metalliferous mining. The most recent mining operation in the state was the Flambeau mine in Rusk County. As a result of this mining activity, the state collected net proceeds taxes of \$0.44 million in 1993-94, \$6.13 million in 1994-95, \$6.41 million in 1995-96, \$1.07 million in 1996-97, and \$0.30 million in 1997-98. The mine closed its operations in 1997 and the mine site was reclaimed in 1998. Consequently, no revenues were generated from this mine after 1997-98.

Oil and Gas Severance Tax

The state imposes a severance tax upon each producer who severs oil or gas from the soil or water in this state. The tax is imposed at a rate of 7% of the market value of the total production of oil or gas. If more than one producer severs oil or gas at the same location, the tax owed by each producer is proportionate to each producer's ownership interest. However, the person in charge of production is liable for the entire amount of the tax due, but can withhold the amount of tax imposed on each producer. Proceeds from the tax are deposited into the general fund.

The tax was established January 1, 1992, pursuant to 1991 Act 262. Since that time, no oil or gas wells have been operated in this state; therefore, no revenues have been generated from the tax.

Estate Tax

The Wisconsin statutes imposed an estate tax upon the transfer of all property that was subject to a federal estate tax and that had a taxable situs in this state. The Wisconsin estate tax was equal to the federal credit for state death taxes allowed under the federal estate tax. This type of tax is known as a "gap" or "pick-up" tax because it allows the state to "pick-up" a share of taxes that would otherwise be paid to the federal government, without increasing the estate's overall tax liability. Wisconsin had generally used this method of estate taxation since 1992. However, beginning with deaths occurring on January 1, 2008, Wisconsin no longer collects an estate tax because federal law does not allow a credit for state death taxes. In addition, 2013 Act 20 specified that the estate tax does not apply to deaths occurring after December 31, 2012, unless the federal estate tax law is modified to provide a federal estate tax credit for state death taxes.

Since January 1, 2008, Wisconsin has still collected a small amount of estate tax reflecting revenues associated with lawsuits, audits, and amended returns attributed to deaths occurring prior to the elimination of the federal credit for state death taxes. Table 3 shows estate tax collections since 2011-12. In fiscal year 2021-22, the state collected \$2,600 in estate tax revenue.

Table 3: Estate Tax Collections (\$ in Millions)

Fiscal Year	Amount
2011-12	\$0.33
2012-13	0.31
2013-14	-0.08
2014-15	-0.11
2015-16	1.75
2016-17	0.43
2017-18	-0.03
2018-19	0.01
2019-20	0.04
2020-21	<0.01
2021-22	<0.01

APPENDIX

Exemptions From the Real Estate Transfer Fee

The following conveyances of real property are exempt from the real estate transfer fee:

- Transfers from federal, state, or local units of government
- Transfers by gift to units of federal, state, or local government
- Dedications of land for certain public purposes and transfers to governmental units for the purpose of a road, street, or highway
- Transfers for little or no consideration that correct or reform a previously recorded transfer
- Sales of real estate for delinquent taxes or assessments
- Transfers on partition
- Transfers made pursuant to a merger of two or more corporations, nonstock corporations, limited liability companies (LLCs), limited partnerships (LPs), or other entities, or any combination thereof
- Transfers pursuant to a partnership filing (or canceling) a statement of qualification to become a limited liability partnership
- Transfers pursuant to an interest exchange for the acquisition of all of one or more classes or series of interests of an entity by a domestic partnership, LP, corporation, or LLC
- Transfers pursuant to the conversion of a business entity to another form of business entity if, after the conversion, the ownership interests in the new entity are identical with the ownership interests in the original entity immediately preceding the conversion
- Transfers from a subsidiary corporation to its parent corporation for little or no consideration
- Transfers made pursuant to domestication of a domestic partnership, LP, corporation, or LLC as a non-U.S. entity or a non-U.S. entity as a domestic partnership, LP, corporation, or LLC
- Transfers between a parent and child, stepparent and stepchild, parent and son-in-law, or parent and daughter-in-law for little or no consideration
- Transfers between husband and wife
- Transfers between domestic partners
- Transfers between an agent and principal or from a trustee to a beneficiary without actual consideration
- Transfers made in order to provide or release security for a debt if the debt was not incurred as the result of a conveyance
- Transfers made solely to designate a transfer-on-death (TOD) beneficiary

- Transfers by will, descent, or survivorship
- Nonprobate transfers on death to TOD beneficiaries
- Transfers made pursuant to, or in lieu of, condemnation
- Transfers of property valued at \$1,000 or less
- Transfers under a foreclosure, or a deed in lieu of foreclosure, to a mortgage holder or to a seller under a land contract
- Certain transfers between family-owned corporations, partnerships, or LLCs and their respective shareholders, partners, or members. Such transfers must be for: (a) no consideration except the assumption of debt or stock of the corporation; or (b) the assumption of debt or an interest in the partnership or LLC
- Transfers to a trust if a transfer from the grantor to the beneficiary of the trust would be exempt
- Transfers of a deed executed in fulfillment of a land contract if the proper fee was paid when the land contract was recorded
- Transfers to a local exposition district
- Transfers from a fiduciary for a nonprofit association to convey the vested estate or interest to the nonprofit association in its own name
- Certain transfers of transmission facilities or land rights to an electric transmission company (as defined in the statutes concerning public utility regulation) in exchange for securities