

2023 Wisconsin Act 12 – Personal Property Exemption

The Wisconsin Department of Revenue (DOR) distributed a notification of [2023 Wisconsin Act 12](#) (Act 12) on July 12, 2023. The notification included an [overview](#) with a summary of the significant statewide changes.

The following is DOR's responses to questions on personal property exemption that is effective January 1, 2024.

General

1. When is personal property exempt?

The exemption applies starting with the January 1, 2024, assessment. Exempt personal property will not have a 2024 assessment or 2024 property tax bill.

2. What personal property is exempt?

- Act 12 created sec. [70.111\(28\)](#), Wis. Stats.
- Exemption applies to:
 - a. Personal property as defined in sec. [70.04](#), Wis. Stats.
 - b. Steam and other vessels, furniture, and equipment
- Exemption does not apply to:
 - a. Real property as defined in sec. [70.03](#), Wis. Stats.
 - b. Buildings, improvements and fixtures on leased land, exempt land, forest croplands and managed forestland assessed as real property under sec. [70.17\(3\)](#), Wis. Stats.
 - c. Sec. [70.17\(3\)](#), Wis. Stats., also requires real property assessment of manufactured and mobile homes unless subject to a parking permit fee under sec. [66.0435\(3\)](#), Wis. Stats., or otherwise exempt under a state law
 - d. Utility property subject to state taxation under sec. [76.025\(2\)](#), Wis. Stats.

3. Does the exemption impact 2023 and prior personal property taxes?

- No, state law remains in effect to distribute and collect 2023 personal property tax bills payable in 2024
- State law also remains in effect for collection of personal property taxes in the event of omitted personal property assessments (sec. [70.44](#), Wis. Stats.) and correction of personal property errors (sec. [70.43](#), Wis. Stats.)

4. Are Statements of Personal Property (PA-003) required for local assessment in 2024?

- Form PA-003 is not required for 2024
- Act 12 amended sec. [70.35\(3\)](#), Wis. Stats. to end collection of the PA-003 with the 2023 assessment – *For assessments made before January 1, 2024, each return shall be filed with the assessor on or before March 1 of the year in which the assessment provided by s. 70.10 is made...*

Qualifying Property

5. How do you determine if property is taxable real property or exempt personal property?

- Whether property is taxable real property or exempt personal property is determined by first applying state law (secs. [70.03](#), [70.04](#), and [70.17\(3\)](#), Wis. Stats.) and then applying state court cases to property not specifically classified by state law.

State court cases provide a three-factor test to determine real property:

- a. Actual physical annexation to the real estate
 - Is the property attached to the walls and foundation of a structure, and/or built into the structure?
 - Is the property interconnected through electrical systems, plumbing?
- b. Application or adaptation to the use or purpose to which the realty is devoted
 - Is the building and property in question adapted to the same purpose of the real property?
- c. Intention on the part of the person creating the annexation to make the item a permanent part of the realty
 - Would the average person under similar circumstances intend to make the property permanent? The "intent" is judged by how the added property is adapted to the principal use of the land and buildings.
 - Is the objective and presumed intent, of an ordinary person, that the structure and integrated equipment are permanent parts of the real property?

- Cases applying the three-factor test include:
 - *Premonstratensian Fathers v. Badger Mut. Ins. Co.*, 46 Wis.2d 362, 175 N.W.2d 237 (1970)
 - *DOR v. A.O. Smith Harvestore Products, Inc.*, 72 Wis. 2d 60, 240 N.W.2d 357 (1976)
 - *Pulsfus Poultry Farms, Inc. v Town of Leeds*, 149 Wis. 2d 797, 440 N.W.2d 329 (1989)
 - *All City Comm. Co. v. DOR*, 263 Wis. 2d 394, 661 N.W.2d 845 (2003)

6. Is the same approach to determine taxable real property applied to all property types and situations?

Yes, apply state law and the three-factor test to determine taxable real property.

7. What is the definition of an improvement?

An improvement is a 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 include buildings, structures, fixtures and any alterations, attachments or annexations to land that are intended to remain so permanently attached or annexed, such as sidewalks, trees, roads and drive ways, parking lots, tunnels, watermain access, drains, sewers and septic systems, electrical access and other utility access, landscaping including clearing, draining, grading, and the creation of berms, embankments, terraces and ponds.

8. What is the definition of leasehold improvements and are they taxable?

- Leasehold improvements are improvements, additions and renovations made to a leased real property by the lessee
- Leasehold improvements may be taxable real property or exempt personal property. Apply the three-factor test to the property.

9. What is the definition of a fixture?

A fixture is an 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.

10. Is taxability of an article impacted by a lease?

- It depends. First, use the three-factor test to determine if the article is real property.
- If the article is determined to be real property, the article is taxable unless specifically exempted by a separate state law. Sec. [70.17\(3\)](#), Wis. Stats., requires real property assessment for buildings, improvements and fixtures on leased real property.
- If the article is determined to be personal property, the article is exempt

11. How does a property owner contest real property taxability determinations?

- The process to contest taxability starts with filing a claim of unlawful tax under sec. [74.35](#), Wis. Stats.
- See pages 29-30 of DOR's [Guide for Property Owners](#) for unlawful tax claim process information
- Note: The local Board of Review only hears appeals on valuation and does not have the authority to determine whether property is taxable or exempt.

Assessment of Real Property Previously Assessed as Personal Property

12. Can an improvement on leased land still be assessed separately as personal property?

No, Act 12 amended sec. [70.17\(1\)](#), Wis. Stats. and removed the option of assessing improvements on leased land as personal property.

13. How are real property buildings, improvements and fixtures previously assessed as personal property, assessed in 2024?

- State law provides two processes to list and value 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
 - a. Under sec. [70.03](#), Wis. Stats. – update the existing parcel's listing and value to include all buildings, improvements, and fixtures
 - b. Under secs. [70.17\(3\)](#) or [70.27](#), Wis. Stats. – create a separate parcel for the buildings, improvements, and fixtures

14. How are buildings, improvements, and fixtures assessed when located on property in a Wisconsin Department of Natural Resources (DNR) forest program (ex: Managed Forest Land-MFL)?

- Act 12 created sec. [70.17\(3\)](#), Wis. Stats., which requires real property assessment of buildings, improvements, and fixtures on forest cropland and MFL
- Act 12 also amended secs. [77.04\(1\)](#) and [77.84\(1\)](#), Wis. Stats. to require real property assessment of buildings on forest cropland and real property assessment of buildings, improvements, and fixtures on MFL
- State laws provide two processes to list and value buildings, improvements, and fixtures that are on forest cropland or MFL
 - a. Under sec. [70.03](#), Wis. Stats. – update the existing parcel's listing and value to include all buildings, improvements, and fixtures
 - b. Under sec. [70.17\(3\)](#) or [70.27](#), Wis. Stats. – create a separate parcel for the buildings, improvements, and fixtures

15. How are buildings, improvements, and fixtures assessed when on exempt land?

- Act 12 created sec. [70.17\(3\)](#), Wis. Stats., which requires real property assessment of taxable buildings, improvements, and fixtures on exempt land
- State law provides two processes to list and value buildings, improvements, and fixtures that are on exempt land
 - a. Under sec. [70.03](#), Wis. Stats. – update the existing parcel's listing and value to include all buildings, improvements, and fixtures
 - b. Under secs. [70.17\(3\)](#) or [70.27](#) – Wis. Stats., create a separate parcel for the buildings, improvements, and fixtures

16. Which laws provide an assessor with the authority to update an existing parcel's listing and value to include all buildings, improvements, and fixtures located on the parcel?

- State law (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...*
- State law (secs. [70.12](#), [70.17](#), [70.23](#), and [70.32](#) Wis. Stats.) – requires the assessor to list each parcel of real property on the assessment roll

17. How is a parcel created?

- When either the property owner or the municipality create a parcel, the following steps apply:
 - a. The document with a parcel description is recorded with the county register of deeds
 - b. The county real property lister creates the parcel according to the recorded document, establishes a parcel number
 - c. The assessor lists and values each parcel on the assessment roll
- State law (sec. [70.27](#), Wis. Stats.) provides a process for the municipality to create a parcel through an assessor's plat
 - a. Assessor's plat is an existing process under state law for a municipality to create a plat recorded with the register of deeds (ROD) containing separate parcel numbers and legal descriptions for each property identified in the plat
 - b. 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
- Property owners may create parcels through a metes and bounds description, certified survey map, subdivision plat, or condominium plat that contain parcel descriptions and are recorded with the ROD
 - a. Contact the local zoning and land information offices for regulations and restrictions that may impact the process to create separate parcels for buildings, improvements, and fixtures
 - b. After recording at the ROD, the county real property lister provides a parcel number and then the assessor lists and values each parcel separately on the assessment roll
- Building (s), fixture (s), or improvement (s) recording document
 - a. Available for sec. [70.17\(3\)](#) Wis. Stats., and:
 - Creating a new parcel for the building(s), fixture(s), and/or Improvement(s)
 - Transferring building(s), fixture(s), and/or improvement(s)
 - Adding building(s), fixture(s), and/or improvement(s)
 - Removing building(s), fixture(s), and/or improvement(s)
 - b. See Register of Deeds Association [website](#) for the statewide template
 - c. Contact the County Real Property Lister with questions

18. How is a parcel listed on the roll with only an improvement assessed value?

- List the improvement only parcel on the real property roll ([PA-539-2](#)) in the district where the improvement is located as required by sec. [70.12](#), Wis. Stats.
- List the assessed value as required by state law (secs. [70.32\(2\)\(a\)](#), [70.53](#), [70.65\(2\)\(a\)](#), Wis. Stats.)
 - a. Note: Sec. [70.17\(3\)](#), Wis. Stats. provides for a real property assessment with only an improvement value – list the improvement's assessed value and a \$0 land value
- The remaining real property roll information requirements under state law apply to a parcel with only an improvement assessed value
 - a. Property owner – secs. [70.17](#), [70.65\(2\)\(a\)](#), Wis. Stats.
 - b. Parcel number – secs. [70.337\(1\)\(b\)](#), [70.09\(3\)\(a\)](#), Wis. Stats.
 - c. School district – sec. [70.53](#), Wis. Stats.
 - d. Special district – sec. [70.09\(3\)\(a\)](#), Wis. Stats.
 - e. Tax incremental district – secs. [60.85\(5\)\(h\)](#), [66.1105\(5\)\(f\)](#), Wis. Stats.
 - f. Description/location of property – secs. [70.23](#), [70.25](#), [70.65\(2\)\(a\)](#), Wis. Stats.
 - g. Classification – secs. [70.32\(2\)\(a\)](#), [70.53](#), Wis. Stats.

19. What are the requirements for the parcel's description?

- State law (sec. [706.05\(2m\)\(a\)](#), Wis. Stats.) provides the following as complete legal descriptions:
 - a. **Metes and bounds require at a minimum** – Quarter Section, Section, Township, Range and metes and bounds description associated with the Public Land Survey System or Private Claim or Government Lot (sec. [66.0217\(1\)\(c\)](#), Wis. Stats.)
 - b. **Plat/subdivisions require at a minimum** – are a land division and describe the property by Lot, Outlot, and Block number (as applies) and the Plat/subdivision name (sec. [236.28](#), Wis. Stats.) including the description reference to "County Plat," "Town Plat," or "Municipal Plat" (sec. [236.45\(2\)\(am\)](#), Wis. Stats.)
 - c. **Certified survey maps require at a minimum** – are a land division and describe the property by Lot or Outlot number, Map number, Volume and Page, if assigned, **and** Document number where map is recorded and County name (sec. [236.34\(3\)](#), Wis. Stats.)
 - d. **Condominiums require at a minimum** – Unit number, Condominium name and appurtenance number (sec. [706.01\(7r\)\(b\)](#), Wis. Stats.).
 - e. **Assessor's plats require at a minimum** – are a land division and describe the property by Lot or Outlot number, Block number (as applies) and Assessor's Plat name (sec. [70.27\(3\)\(a\)](#), Wis. Stats.).
- Note: Act 12 created sec. [706.05\(2m\)\(b\)3](#), Wis. Stats. that allows for abbreviated legal description for descriptions of property specified under sec. [70.17\(3\)](#), Wis. Stats. A recommended abbreviated description contains town, range, section, quarter section, quarter-quarter, or Government Lot number and reference to the land parcel number/document where the improvement is located.

20. What if municipal and county assessment and taxation information technology systems and applications do not provide the functionality to implement the exemption?

- DOR provides requirements to implement assessment law changes in the WPAM
- Software vendors are expected to make system updates as necessary to comply with the requirements. This also applies to local governments with proprietary software.

Correction of Errors and Assessment of Omitted Property

21. What if an error is discovered with a 2023 assessment of personal property?

- Act 12 amended sec. [70.43](#), Wis. Stats. – *If the assessor discovers a palpable error in the assessment of a tract of real estate or an item of personal property, for personal property assessments made before January 1, 2024...*
- The amendment allows the correction of a 2023 personal property error on the 2024 assessment roll

22. What if personal property omitted from the 2022 or 2023 assessment is discovered?

- Act 12 amended sec. [70.44](#), Wis. Stats. – *Real property omitted from assessment in any of the 2 next previous years or personal property assessments made before January 1, 2024, and omitted from any of the 2 next previous years...*
- The amendment allows assessment of personal property on the:
 - 2024 roll that was omitted from the 2022 or 2023 assessment rolls
 - 2025 roll that was omitted from the 2023 assessment roll

Manufactured and Mobile Homes

23. What is the impact to mobile homes?

- Act 12 repealed the real and personal property definitions specific to manufactured and mobile homes under sec. 70.043, Wis. Stats., and created sec. [70.17\(3\)](#), Wis. Stats., that requires real property assessment of manufactured and mobile homes
- Sec. [70.17\(3\)](#), Wis. Stats. – requires manufactured and mobile homes to be assessed as real property unless they are subject to a parking permit fee or qualify for exemption under state law

24. What mobile homes are exempt?

- Secs. [70.111\(19\)\(b\)](#) and [66.0435\(1\)\(hm\)](#), Wis. Stats. – exempt Recreational Mobile Homes (RMH) no larger than 400 square feet whether or not the RMH is attached to the real estate. The exemption also applies to 50 square feet for steps and a platform leading to the doorway of a recreational mobile home or recreational vehicle. The steps and platform may be physically attached or directly adjacent to the doorway of a recreational mobile home or recreational vehicle. The steps and platform must allow direct access to the doorway. The exemption does not apply to any other addition, attachment, deck or patio.
- Other mobile home related exemptions
 - a. Sec. [70.111\(19\)\(a\)](#), Wis. Stats. – exempts camping trailers, which are vehicles with a collapsible or folding structure designed for human habitation and towed upon a highway by a motor vehicle
 - b. Sec. [70.112\(5\)](#), Wis. Stats. – exempts motor vehicles and applies to buses and vans
 - c. Sec. [70.111\(17\)](#), Wis. Stats. – exempts merchant's stock and applies to vacant units held for sale by a dealer

25. What is the mobile home parking permit fee?

- 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
- Assessor – is responsible for placing a fair market value on the manufactured/mobile home(s)
- Clerk – is responsible for calculating the annual and monthly municipal permit fees

26. Did Act 12 change the parking permit fee laws?

Act 12 did not change the parking permit fee laws; the process remains an option for municipalities.

27. How do municipalities implement the mobile home parking permit fee?

- State law requires the municipality to pass a mobile home parking permit fee ordinance
- Discuss the ordinance and implementation with the municipal attorney

28. Is there a sample ordinance to implement the mobile home parking permit fee?

- DOR does not provide a sample ordinance
- Municipalities may consider contacting the [Wisconsin Towns Association](#) along with the [League of Wisconsin Municipalities](#) in consultation with the municipal attorney

29. How is the parking permit fee calculated and collected?

- Mobile home parking permit fee is applied using the municipality's net property tax rate
- The mobile home park owner collects the monthly fee and provides to the municipality by the 10th of every month under sec. [66.0435\(3\)\(c\)\(5\)](#), Wis. Stats.
 - a. Under sec. [66.0435\(8\)](#), Wis. Stats., the licensing authority may retain 10 percent of the monthly municipal permit fees collected in each month, without reduction for any amounts deducted under sub. [\(3m\)](#), to cover the cost of administration.
 - b. The licensing authority shall pay to the school district in which the community is located, within 20 days after the end of each month, such proportion of the remainder of the fees collected in the preceding month as the ratio of the most recent property tax levy for school purposes bears to the total tax levy for all purposes in the licensing authority.
 - c. If the community is located in more than one school district, each district shall receive a share in the proportion that its property tax levy for school purposes bears to the total school tax levy.
- See DOR's [Guide to Municipal Permit Fee and Lottery and Gaming Credit for Manufactured/Mobile Homes](#)