

What error was created when the personal property assessed values in 2021?

When a revaluation is performed, all values are set at 100% of the market value. If a revaluation is not performed, assessed values need to be reduced by the average assessment level (equalized).

For 2021, a maintenance valuation was performed, not a revaluation

Locally assessed real property values remained at the same level as 2020 values (except for properties that changed physically)

Manufacturing real and personal properties were reduced by the average assessment ratio by the Department of Revenue i.e. equalized

Locally assessed personal property should have been equalized in the same manner as manufacturing property – this was not done

Are there statutorily approved methods for correcting errors?

If the city is going to reissue bills, the city should follow the process described in the statutes. (see the comments from the WI DOR below)

What is the financial impact on the City?

If the city decides to not issue corrected bills, the initial cost estimate is \$1,252,507.48

Why did this happen?

Revaluations have been performed every year for the last 20 years. When a revaluation is performed, equalizing locally assessed personal property is not required. Equalizing locally assessed personal property was not on anyone's radar in 2021.

The Assessor's office staff was not trained on this process by the CAMA vendor because when the software was purchased, there was no discussion about not performing annual revaluations.

The 2021 personal property values were established under the same processes employed for the last 20 years. I.e. valuing the accounts at 100% of market value.

When was this discovered?

On December 23, 2021, a representative from Northwestern Mutual contacted the Assessor's office to question the personal property tax bill his office received. This was noticeable because the large assessment (over \$26M) caused the error to be noticed.

At the time of discovery, who was notified?

The Assessor's Office notified the Budget office, the Comptroller, the Treasurer, the Mayor's office, the Wisconsin Department of Revenue, the President of the CAMA vendor, and Alderman Murphy

What guidance has been provided by the Wisconsin Department of Revenue?

Phone calls to the DOR were made on 12/23/2021 and 12/30/2021.

Emails were also exchanged with the DOR about this situation. The following information is from the DOR:

here are the options to rectify the current tax bills calculated with the incorrect value. Based upon consultation with Scott Shields, Administrative Manager of OTAS (Office of Technology and Assessment Services), and my Equalization Bureau Director, Mary Gawryleski, I concur with the following guidance.

Reissuing tax bills does not seem as though it is a viable option at this point in time, this would be best for the City Treasurer and City Attorney to address.

Options to consider:

- 1. Sec. 74.33 (1), Wis. Stats., allows the taxation district to refund or rescind in part any general property tax – this seems to apply as a clerical error and/or arithmetic error?*
- 2. Sec. 74.35, Wis. Stats., allows property owners to file a claim of unlawful tax and see a refund for the same errors. See page 29 of DOR's Guide for Property Owners:
<https://www.revenue.wi.gov/DOR%20Publications/pb060.pdf>*

Scott Shields

Thanks for the input, Scott. I agree correction under 70.43 or 74.35 are the best options at this point. Both may seem like a lot of work, but with the tax rate set, and financial reporting already occurring, it's the most straightforward path.

Whatever option they choose, communication with the affected property owners with an explanation of the issue and means to correct is necessary.

Mary Gawryleski

What information has the WI DOR requested?

Please explain how the city will take care of their collections? - this will be determined after the Finance & Personnel committee discusses this file

Will the city be receipting the incorrect tax amount and then refunding it? - this will be determined after the Finance & Personnel committee discusses this file

Will the city not receipt the incorrect tax amount, but then receipt the corrected amount? - this will be determined after the Finance & Personnel committee discusses this file

Will chargebacks be submitted for each of these tax bills? - this will be determined after the Finance & Personnel committee discusses this file

Who is responsible for not catching this?

The Assessor's Office has the responsibility of establishing assessed values. Any staff member or supervisor within the Assessor's Office could have questioned the personal property assessed values or raised the equalization issue. The 2021 valuation process was the same as what has been followed for the last 20 years. Staff shortages within the Assessor's Office and the higher than normal workloads contributed to this not being caught.

The CAMA vendor did not provide training on how to equalize values, however, because the training was not requested by the Assessor's office. Training has now occurred and the process has been tested in a test environment. The process can be implemented in future years.

When should this have been caught?

There were multiple opportunities.

If assessment notices had been mailed to personal property account holders, the equalization rate would have been noticed. Personal property assessment notices are not mailed since the personal property assessments are generally not finalized until September or October. The late finalization date relates to not having an adequate number of staff members of personal property technicians or appraisers.

Assessment notices for personal property are not required under state statutes.

This could have been noticed by any number of Assessor staff members, staff shortages contributed to this being overlooked.

In late November staff members from the Assessor's and Comptroller's office collaborated to determine the tax rate and finalize the assessed value. The findings of this collaboration are communicated to the Treasurer's office. Reviewing the assessment level including any equalization of locally assessed personal property has not been part of this process for the last 20 years. This type of review should be included in these discussions in future years.

If the decision is made to notify property owners of their personal property assessed values, what would be the cost of mailing notices to personal property account holders?

Finalizing the personal property values by the end of August would enable notices to be mailed the first week of September.

Costs would be broken down into the following categories:

1) Additional staff member (assessment technician) is needed to help process and value personal property

Cost estimate = \$50,000 plus benefits

2) Creating and mailing the notices by the vendor that creates the real estate notices:

Cost estimate = \$5,500

What is the proposed solution?

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A consensus of the internal city parties has been reached as to how to correct the affected 2021 personal property tax accounts. These accounts were over-billed due to a calculation error.

As approved by the Budget Office, the City Attorney's office and the City Comptroller, the Treasurer's office will post an assessment credit to each such account. These credits will be booked to the Omitted Taxes and Adjustments Account (904003), as is done with any other correction to the tax roll.

Additionally:

1. A resolution for immediate adoption by the Common Council at its January 18th meeting that authorizes the correction of the personal property tax roll as stated above.
2. A notice will be mailed to the affected owners regarding the correction being made to their 2021 personal property tax accounts.

Which Wisconsin statutes have been discussed as potential solutions?

74.35 Recovery of unlawful taxes.

- (1)** DEFINITIONS. In this section "unlawful tax" means a general property tax with respect to which one or more errors specified in s. [74.33 \(1\) \(a\)](#) to [\(f\)](#) were made. "Unlawful tax" does not include a tax in respect to which the alleged defect is solely that the assessor placed a valuation on the property that is excessive.
- (2)** CLAIM AGAINST TAXATION DISTRICT.
 - (a)** A person aggrieved by the levy and collection of an unlawful tax assessed against his or her property may file a claim to recover the unlawful tax against the taxation district which collected the tax.
 - (b)** A claim filed under this section shall meet all of the following conditions:
 1. Be in writing.
 2. State the alleged circumstances giving rise to the claim, including the basis for the claim as specified in s. [74.33 \(1\) \(a\)](#) to [\(e\)](#).
 3. State as accurately as possible the amount of the claim.
 4. Be signed by the claimant or his or her agent.
 5. Be served on the clerk of the taxation district in the manner prescribed in s. [801.11 \(4\)](#).
 - (2m)** EXCLUSIVE PROCEDURE. A claim that property is exempt, other than a claim that property is exempt under s. [70.11 \(21\)](#) or [\(27\)](#), may be made only in an action under this section. Such a claim may not be made by means of an action under s. [74.33](#) or an action for a declaratory judgment under s. [806.04](#).
- (3)** ACTION ON CLAIM.
 - (a)** In this subsection, to "disallow" a claim means either to deny the claim in whole or in part or to fail to take final action on the claim within 90 days after the claim is filed.
 - (b)** The taxation district shall notify the claimant by certified or registered mail whether the claim is allowed or disallowed within 90 days after the claim is filed.
 - (c)** If the governing body of the taxation district determines that an unlawful tax has been paid and that the claim for recovery of the unlawful tax has complied with all legal requirements, the governing body shall allow the claim. The taxation district treasurer shall pay the claim not later than 90 days after the claim is allowed.
 - (d)** If the taxation district disallows the claim, the claimant may commence an action in circuit court to recover the amount of the claim not allowed. The action shall be commenced within 90 days after the claimant receives notice by certified or registered mail that the claim is disallowed.

- (4) INTEREST. The amount of a claim filed under sub. (2) or an action commenced under sub. (3) may include interest computed from the date of filing the claim against the taxation district, at the rate of 0.8 percent per month.
- (5) LIMITATIONS ON BRINGING CLAIMS.
- (a) Except as provided under par. (b), a claim under this section shall be filed by January 31 of the year in which the tax is payable.
- (b) A claim under this section for recovery of taxes paid to the wrong taxation district shall be filed within 2 years after the last date specified for timely payment of the tax under s. [74.11](#), [74.12](#) or [74.87](#).
- (c) No claim may be filed or maintained under this section unless the tax for which the claim is filed, or any authorized installment payment of the tax, is timely paid under s. [74.11](#), [74.12](#) or [74.87](#). This paragraph does not apply to taxes due and payable in 2020 if paid by October 1, 2020, or by any installment date for which taxes are due after October 1, 2020, nor to taxes due and payable in 2021 if paid by October 1, 2021, or by any installment date for which taxes are due after October 1, 2021.
- (d) No claim may be made under this section based on the contention that the tax was unlawful because the property is exempt from taxation under s. [70.11 \(21\)](#) or [\(27\)](#).
- (6) COMPENSATION FOR TAXATION DISTRICT. If taxes are refunded under sub. (3), the governing body of the taxation district may proceed under s. [74.41](#).

History: [1987 a. 378](#); [1989 a. 104](#); [1991 a. 39](#); [1997 a. 237](#); [2007 a. 19](#); [2019 a. 185](#); [2021 a. 80](#).

This section only authorizes courts to determine whether a taxpayer is exempt from taxes already paid, not taxes that might be assessed in the future. Tax exempt status, once granted, is not automatic. It is subject to continuing review, a notion inconsistent with a declaration that property is exempt from future property taxes. *Northwest Wisconsin Community Services Agency, Inc. v. City of Montreal*, [2010 WI App 119](#), [328 Wis. 2d 760](#), [789 N.W.2d 392](#), [09-2568](#).

70.43 Correction of errors by assessors.

- (1) In this section, "palpable error" means an error under s. [74.33 \(1\)](#).
- (2) If the assessor discovers a palpable error in the assessment of a tract of real estate or an item of personal property that results in the tract or property having an inaccurate assessment for the preceding year, the assessor shall correct that error by adding to or subtracting from the assessment for the preceding year. The result shall be the true assessed value of the property for the preceding year. The assessor shall make a marginal note of the correction on that year's assessment roll.
- (3) The dollar amount of the adjustment determined in the correction under sub. (2) shall be referred to the board of review and, if certified by that board, shall be entered in a separate section of the current assessment roll, as prescribed by the department of revenue, and shall be used to determine the amount of additional taxes to be collected or taxes to be refunded. The dollar amount of the adjustment may be appealed to the board of review in the same manner as other assessments. The taxes to be collected or refunded shall be determined on the basis of the net tax rate of the previous year, taking into account credits under s. [79.10](#). The taxes to be collected or refunded shall be reflected on the tax roll in the same manner as omitted property under s. [70.44](#), but any such adjustment may not be carried forward to future years. The governing body of the taxation district shall proceed under s. [74.41](#).
- (4) As soon as practicable, the assessor shall provide written notice of the correction to the person assessed. That notice shall include information regarding that person's appeal rights to the board of review.

History: [1983 a. 300](#); [1987 a. 378](#); [1991 a. 39](#).

This section provides a taxpayer with a substantive right and procedure to recover unlawful taxes. *IBM Credit Corp. v. Village of Allouez*, [188 Wis. 2d 143](#), [524 N.W.2d 132](#) (Ct. App. 1993).

74.05 Correction of tax roll information.

- (1) DEFINITION. In this section, "error in the tax roll" means an error in the description of any real or personal property, in the identification of the owner or person to whom the property is assessed or in the amount of the tax or an error resulting from a palpably erroneous entry in the assessment roll.
- (2) DUTY TO CORRECT. If the taxation district treasurer discovers an error in the tax roll after the tax roll has been transferred under s. [74.03](#), the clerk of the taxation district shall correct the error. The clerk shall keep a record identifying the place on the tax roll where each correction is made, briefly describing the correction and specifying the date when the correction was made.

History: [1987 a. 378](#).

74.33 Sharing and charging back of taxes due to palpable errors.

- (1) GROUNDS. After the tax roll has been delivered to the treasurer of the taxation district under s. [74.03](#), the governing body of the taxation district may refund or rescind in whole or in part any general property tax shown in the tax roll, including agreed-upon interest, if:
 - (a) A clerical error has been made in the description of the property or in the computation of the tax.
 - (b) The assessment included real property improvements which did not exist on the date under s. [70.10](#) for making the assessment.
 - (c) The property is exempt by law from taxation, except as provided under sub. [\(2\)](#).
 - (d) The property is not located in the taxation district for which the tax roll was prepared.
 - (e) A double assessment has been made.
 - (f) An arithmetic, transpositional or similar error has occurred.
- (2) EXCEPTIONS. The governing body of a taxation district may not refund or rescind any tax under this section if the alleged error may be appealed under s. [70.995 \(8\) \(c\)](#) or if the alleged error is solely that the assessor placed a valuation on the property that is excessive.
- (3) CHARGING BACK AND SHARING TAXES. If an error under sub. [\(1\)](#) has been discovered, the governing body of the taxation district shall proceed under s. [74.41](#).

History: [1987 a. 378](#); [1991 a. 39](#); [1993 a. 307](#); [1995 a. 408](#).

A potential error in classifying a mobile home as real, not personal, property was not a clerical error under sub. (1) (a), nor could it be considered to be the inclusion of a real property improvement that did not exist under sub. (1) (b), as the property did exist.

Ahrens v. Town of Fulton, [2000 WI App 268](#), [240 Wis. 2d 124](#), [621 N.W.2d 643](#), [99-2466](#).

Affirmed on other grounds. [2002 WI 29](#), [251 Wis.2d 135](#), [641 N.W.2d 423](#), [99-2466](#).