

STATE OF WISCONSIN
TAX APPEALS COMMISSION

SAPUTO CHEESE USA, INC.,		DOCKET NOS.
	(Alto)	15-M-110, 16-M-144, 17-M-086, 18-M-092, 19-M-052
	(Lena)	15-M-112, 16-M-143, 17-M-085, 18-M-091, 19-M-053
	(Black Creek)	15-M-114, 16-M-140, 17-M-082, 18-M-093, 19-M-054
	(Fond du Lac)	15-M-115, 16-M-141, 17-M-083, 18-M-090, 19-M-055
	(New London)	15-M-116,
	(Turtle Lake)	16-M-142, 17-M-084, 18-M-034, 19-M-056

DCI CHEESE, INC.,	(Suamico)	DOCKET NOS.
		17-M-087, 18-M-094, 19-M-057

Petitioners,

vs.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent,

CITY OF FOND DU LAC,	(Fond du Lac)	DOCKET NO. 15-M-148
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Cross-Appellant.

RULING AND ORDER

LORNA HEMP BOLL, COMMISSIONER:

This case comes before the Commission for decision on Cross-Motions for Summary Judgment. The Petitioners, Saputo Cheese USA, Inc. ("Saputo"), and DCI Cheese, Inc. ("DCI"), appear by Attorneys Alan Marcuvitz and Adam S. Bazelon of von

Briesen & Roper, s.c., Milwaukee, Wisconsin. The Respondent, the Wisconsin Department of Revenue ("the Department"), is represented by Attorney Kelly A. Altschul. Both parties have filed materials in support of their respective positions. Because we find the Clean-in-Place equipment is not used directly in the cheese production process, we find it does not qualify for exemption under Wis. Stat. § 70.11(27).

FACTS

Jurisdictional Facts

This case involves 29 assessments over several years involving property owned by Petitioners held at 7 locations. The Department assessed various items of Saputo and DCI's personal property in each of the plant locations at issue for purposes of personal property taxation. Assessment of Saputo and DCI's real property is not at issue in these cases. The parties have stipulated to the jurisdictional exhibits which indicate that these 29 cases are properly before the Commission. For simplicity, the Commission accepts, adopts, and incorporates the parties' Stipulation of Jurisdictional Facts as though fully set forth here.

Material Facts

The following facts are found in the parties' Stipulation of Undisputed Facts ("Stip.):

1. Saputo is a U.S. subsidiary of Saputo, Inc., a Canadian dairy company. As part of its cheese manufacturing and distribution operations, Saputo operates facilities at locations in Wisconsin, including the Black Creek, Fond du Lac,

Alto/Waupun, Almena/Turtle Lake, New London, and Lena plants, where the Clean-In-Place ("CIP") equipment at issue is located. (Stip. ¶ 1.)

2. Saputo acquired DCI in 2011. DCI owns the cheese plant at issue in Suamico. (Stip. ¶ 2.)

3. Saputo manufactures various types of cheese at its Saputo and DCI Wisconsin plants for profit. Saputo does not manufacture cleaning chemicals or cleaning products for profit at any of the plants that are at issue in this litigation. (Stip. ¶¶ 3 and 4.)

4. These cases involve personal property assessments. The only type of personal property that remains at issue is Saputo and DCI's CIP equipment which Saputo and DCI claim is exempt from personal property tax. (Stip. ¶ 6.)

5. For purposes of these cases, the cheese manufacturing operations are substantially similar at each plant at issue. The parties have agreed to use the Alto plant as the test case, whereby the facts and descriptions of the CIP equipment at that plant will be considered and the decision reached at the conclusion of the appeal process for the Alto personal property will apply to the Petitioners' other CIP personal property at issue. (Stip. ¶ 7.)

6. Saputo is required by food safety laws to clean its cheese production equipment regularly. Therefore, the facilities have multiple CIP systems connected to the production equipment that cycle between manufacturing runs. (Stip. ¶¶ 8 and 9.)

7. The cleaning process maintains the integrity of the product and protects the public. The CIP equipment increases plant efficiency. (Stip. ¶ 20.)

8. The cleaning cycles run several times each day. The intake CIP system is required to run every time a milk truck is emptied, and, after each production line has completed a batch run of cheese, the CIP equipment runs its programmed cleaning cycle. (Stip. ¶¶ 9 and 11.)

9. The CIP equipment is physically attached to the manufacturing equipment by piping, using a diverter plate or valve to direct chemicals to clean specific sections of the production equipment. (Stip. ¶¶ 10 and 16.)

10. The cheese-making vats, as well as all vats and tanks holding any raw materials, have "showerheads" inside of, and attached to, the vats. These showerheads are necessary to distribute the cleaning agents and are vital to the functioning of the system. (Stip. ¶ 17.)

11. The CIP equipment utilizes various cleaning chemicals to clean the cheese production equipment between manufacturing runs. These chemicals are added/mixed at different points in the CIP process. Each CIP system has at least one tank, each of which is dedicated separately to caustic soda, nitric acid, chlorine, rinse water, and a sanitizer mixture. (Stip. ¶ 13.)

12. The cleaning chemicals used by the CIP equipment are required to be mixed in precise measurements. Some of the conditions that will determine the use concentration of the chemicals include: (1) The nature of the soil being removed; (2) Water conditions at the plant; and (3) Length of cheese production runs. (Stip. ¶ 14.)

13. The cleanser chemical concentrate must be combined with precise amounts of water in order to be effective and safe. Either ingredient by itself could not accomplish the cleaning required. (Stip. ¶ 20.)

14. On the Alto CIP systems, the tanks require dedicated computers to monitor the composition and alter water/chemical based on concentration levels. (Stip. ¶ 15.)

15. A sample of the CIP Production Process can be summarized as follows (Stip. ¶ 19.):

- Phase One is a general rinse to remove larger remnants left in the pipes of a production run. When the CIP cycle is initiated, a water flush begins.
- Phase Two is a rinse cycle from the "recovery" tank. The recovery tank contains the caustic water collected from the previous CIP cycle after the caustic tank is filled. This cycle runs for approximately 3 minutes at a temperature of 80 - 120 degrees.
- Phase Three is an additional fresh water flush similar to the first water flush. This rinse cycle will run at 80 - 120 degrees for about 3-5 minutes.
- Phase Four is a caustic rinse. This flush begins from the caustic recovery tank. The caustic solution flows from the tank through a conductivity sensor which measures and adjusts the concentrate of the caustic solution. During some CIP runs, chlorine will be added to the caustic water. The chlorine helps break down the leftover proteins and softens the waste adhering to equipment that the first two rinses did not remove. The caustic solution then passes through a heating element where the solution needs to be between 150-180 degrees. This solution then passes through another conductivity tester to ensure that the solution is within the temperature range of the program. This cycle will run for about 45-60 minutes adding caustic, reducing concentrate, adding chlorine, and raising or lowering the temperature. When the cycle is complete, the solution is deposited in the caustic recovery tank. Prior to deposit in the recovery tank, the solution is measured for concentrate, and caustic is added if necessary. Once the caustic recovery tank is full, the remaining solution will go into a recovery rinse tank used in the second phase of a cycle and the rest will go into the wastewater plant.

- Phase Five is a freshwater rinse to remove all caustic from the system prior to the acid wash. The rinse cycle will run at 80-120 degrees until the conductivity sensor measures 0% caustic in the caustic solution running through the production equipment. This is important because, if the caustic and acid mix, a dangerous gas will be released, potentially risking harm to employees.
- Phase Six is the acid wash. The acid wash starts with the acid recovery tank and flows to a mix tank where a conductivity sensor measures the concentrate level. Similar to the caustic cycle, acid or water is added to reach the desired concentrate level for the programmed CIP cycle. This cycle runs for about 20 minutes at 130-150 degrees.
- Phase Seven follows the acid wash. This step is another freshwater rinse similar to the rinse after the caustic cycle. This removes all acid from the production equipment. The rinse cycle will run at 80-120 degrees for about 3-5 minutes.
- Phase Eight, the final cycle, is a sanitizer wash. Generally, the sanitizer product used is Dictate. The sanitizer will run for 10 seconds to 3 minutes at a cool temperature.

16. The CIP equipment at issue does not operate while the cheese is being manufactured because the cleaning chemicals would contaminate the cheese. (Stip. ¶ 18.)

17. No raw materials used in cheese production travel through the CIP equipment at any point. (Stip. ¶ 21.)

DECISION

Petitioners assert that CIP equipment should be exempt from personal property taxation. The stipulated facts show that Petitioners' CIP equipment is intimately involved in the production of cheese. The CIP equipment makes it possible for the cheese to be produced in a clean environment and helps to ensure that the cheese is ultimately free from contamination. It is also required by food safety regulations.

There can be no question that the cleaning steps taken in food manufacturing are crucial, but that is not the standard for the manufacturing personal property tax exemption. In order to qualify for the exemption described in Wis. Stat. § 70.11(27), the CIP equipment must not simply be an important part of the cheese-making process, it must be used exclusively and directly in the production of cheese. We find the CIP equipment fails to qualify for the exemption.

*A. STATUTORY AUTHORITY - Wis. Stat. § 70.11(27)
CIP Equipment Fails "Used Directly" Requirement*

When interpreting a statute, we presume that the legislature's intent is expressed in the statutory language. Statutory interpretation "begins with the language of the statute. If the meaning of the statute is plain, we ordinarily stop the inquiry." *State ex rel. Kalal v. Circuit Court*, 271 Wis. 2d 633, 663, 681 N.W.2d 110 (2004).

Under Wis. Stat. § 70.11, certain types of property are exempt from property tax. Items exempt under the manufacturing personal property tax exemption are described in Wis. Stat. § 70.11(27)(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. (emphasis added)

To be entitled to a tax exemption, the taxpayer must fall within the exact terms of the exemption statute. *Wausau Paper Mills Co. v. Dep't of Revenue*, Wis. Tax Rptr.

(CCH) ¶ 400-375 (Cir. Ct. 1998). The statute must be given a strict but reasonable construction in favor of taxation. *Wauwatosa Avenue United Methodist Church v. City of Wauwatosa*, 2009 WI App 171, 321 Wis. 2d 796, 776 N.W.2d 280. While all exemptions must be strictly construed, this particular exemption includes this final sentence: "The exemption under this paragraph shall be strictly construed." The legislature has made it abundantly clear that the Petitioner must put itself clearly within the terms of this exemption.

The manufacturing personal property tax exemption presents many hurdles. Petitioner must clear them all in order to qualify for the exemption. In this case, we will focus on the requirement that the CIP equipment be "used directly" in the production process.

Since the passage of 1991 Act 39, Wis. Stat. § 70.11(27) has included a laundry list of definitions. Pertinent to this case, the manufacturing personal property tax exemption statute specifically defines the term "used directly":

Wis. Stat § 70.11(27)(a). "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.

As explained more fully in the following section, something "used" in manufacturing, however crucial to the process, is not necessarily "used directly" in production process.

Petitioners stress that the CIP equipment is part of the "production process." This is not an unreasonable position because Wis. Stat. § 70.11(27)(a)5 defines the "production process" to include "quality control activities," but this assertion ignores

the exemption's requirement that the CIP be "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."

Petitioners focus on the physical or chemical change aspect, describing how the chemicals dissolve the soil and residue left on the manufacturing equipment. In doing so, Petitioners gloss over the requirement that the physical change must be "in raw materials." The parties have stipulated that the CIP equipment does not cause any physical or chemical change in the raw materials. Any physical change caused by the CIP systems involves waste products, residue of the cheese production process. We further note that any movement caused by the CIP equipment involves only waste and residue, not raw materials, not work in progress, and not finished products.

Under the clear language of the statute, we find that Petitioners' CIP equipment is not "used directly" in the production of cheese.

The Commission is tempted to finish here, but we believe it is important to illustrate the soundness of this decision vis-à-vis the contentions and caselaw offered by the parties.

B. Logic and the Statutory Requirement

The purpose of the CIP equipment is to ensure that waste products do not contaminate the cheese, so the CIP process is certainly related to, even "used" in, cheese production. The exemption language, however, requires that the equipment be "used directly" which in turn requires that it must interact "directly" with the raw materials or

with the cheese at some stage in its production. If the cleaning chemicals were to do so, though, the cheese would be contaminated by the cleaning chemicals.

C. Caselaw involving Wis. Stat. § 70.11(27)

Older caselaw often lumps the manufacturing personal property exemption of Wis. Stat. § 70.11(27) in with examinations of the manufacturing sales tax exemption of Wis. Stat. § 77.54(6)(a).¹ Prior to 1991, such analogies were appropriate, as we will discuss below. However, as the law currently stands, we note that the sales tax exemption and the manufacturing personal property exemption are two different exemptions in different chapters of the statutes, which are now drafted with vastly different levels of specificity.

At least one decision by the Commission has noted this distinction. In 2001, in the sales tax exemption case of *J.W. Winco, Inc. v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 400-533 (WTAC 2001), the Commission declined to comment on the effect of the relatively recent addition of more specific language in the manufacturing personal property tax exemption, noting that the sales tax exemption must be decided on caselaw and Administrative Rules, rather than by analogizing to the "more detailed property tax exemption language in Chapter 70." *Id.* Conversely, this Commission finds that, in the presence of the more detailed language in Chapter 70, we should not go looking for a definition of "used directly" in older caselaw applicable to the sales tax exemption of Wis. Stat. § 77.54(6)(a).

¹ Later renumbered as Wis. Stat. § 77.54(6)(am) per 2013 Wis. Act 324.

Since 1991, the term “used directly” is specifically and unambiguously defined in the manufacturing property tax exemption language of Wis. Stat. § 70.11(27). The most frequently cited pre-1991 case involving the manufacturing personal property tax exemption is the 1984 court of appeals decision of *Manitowoc Co, Inc., and City of Sturgeon Bay v Dep’t of Revenue*, Wis. Tax Rptr. (CCH) ¶ 202-534 (Ct. App. Dec. 1984). This case involved graving docks used in a shipbuilding business, which the court of appeals held were eligible for the manufacturing personal property tax exemption.

The court of appeals looked at three issues. First, the court found that the docks were used exclusively in the shipbuilding/repair process, holding that incidental other incidental use did not disqualify the taxpayer from claiming the exemption. Second, the court of appeals found that the docks were “machines” because they performed the work of floating, moving, and hoisting the boats. Citing *Dep’t of Revenue v. Greiling*, 112 Wis. 2d 602, 607, 334 N.W.2d 118, 121 (1983), which defined a “machine” as a structure “whose utility is principally and primarily a significantly contributive factor in the actual manufacture or production of the product itself,” the court of appeals concluded, even more simply, that a structure is a machine if it performs work, thus the docks were machines. *Manitowoc*, Wis. Tax Rptr. (CCH) ¶ 202-534 (Ct. App. 1984).²

Third, the court of appeals addressed the issue of whether the docks were “used directly” in manufacturing. Noting specifically that Wis. Stat. § 70.11(27) contained

² The CIP equipment performs the work of moving waste substances and washing away cleaning chemicals; therefore, under the second prong of *Manitowoc*, the CIP equipment is to be regarded as machinery. We reject Petitioners’ subsequent logical leap to the assertion that “performing work” is somehow synonymous with “used directly.”

no definition of “directly” at the time, the court of appeals rejected the “physical change” requirement argued by the Department and looked again to the *Greiling* test, declaring “machines used directly in manufacturing are ‘principally and primarily a significantly contributive factor’ in the manufacturing process.” The court of appeals then adopted what it coined the “integrated plant test”³ to hold that “machinery that is integrated into a synchronized system of manufacturing is used directly in manufacturing whether or not it actually causes a physical change in raw materials.”

Apparently, the legislature disagreed with this proposition. The “physical change” language, which the *Manitowoc* court of appeals noted to be missing from the statute, was added to the exemption language in 1991. The current “used directly” definition does require physical or chemical change. Insofar as the *Manitowoc* case conflicts with the current statutory language, which did not exist at the time that case was decided, we find it and its progeny inapplicable to the manufacturing personal property exemption.

Petitioners cite one post-*Manitowoc* manufacturing personal property exemption case, *Dep’t of Revenue v. Cardox*, 184 Wis. 2d 402 (Ct. App. 1994). The *Cardox* case, however, involved Wis. Stat. § 70.11(27) as it existed in the 1987-88 edition of the

³ As a side note, we observe that the court of appeals believed *Manitowoc*’s “integrated plant test” dovetailed with the *Greiling* test: “a structure whose utility is principally and primarily a significantly contributive factor in the actual manufacture or production of the product itself” is a machine. The word “actual” in this sentence appears to strengthen the requirement that the item at issue be used directly in the activity and not in a related activity that might be tangentially part of the process, such as cleaning. This distinction is explored below through the discussion of the *Johnsonville* and *Heins/Baker* cases.

Wisconsin Statutes, prior to the addition of the definitions which are conclusively applicable to this case. Hence, like *Manitowoc*, *Cardox* is inapplicable to the case at hand.

D. "Used Directly" Cases from the Sales Tax Realm

Although the sales tax is distinct from the manufacturing personal property tax, before the tax revisions of 1991, the cases were somewhat analogous because the statutes were similarly vague. We will address two sales tax exemption cases argued by the parties, which have strikingly similar facts to the cases at hand to show that our holding is in harmony.

In 1982, the Commission specifically considered whether cleaning equipment was exempt from sales tax in *Johnsonville Sausage v. Dep't of Revenue*, Wis. Tax Rptr. (CCH) ¶ 202-073 (WTAC 1982). In its decision, the Commission recognized the importance or, more accurately, necessity of cleaning before, during, and after production and noted that such cleaning is even legally required. Nevertheless, the Commission concluded that the sanitation equipment was not used directly in the step-by-step process of manufacturing. The Commission noted that most of the cleaning machinery "does not touch any of the materials as sausage is being manufactured. Instead, the machinery cleans the machines used directly in manufacturing." The Commission clarified the distinguishing factor: "The issue, however, in the tax exemption statute is not whether the machinery is critical or crucial to the process. The standard is whether the machinery is used 'directly' in manufacturing." The Commission concluded cleaning equipment was not used "directly."

Hein/Bakers Equipment Corp. v. Dep't of Revenue, Wis. Tax Rptr. ¶ 202-406 (WTAC 1984) also involved facts very similar to those at issue here. Although also decided prior to *Manitowoc*, this sales tax case is instructive on the issue of cleaning activities. *Heins/Baker* involved the question of whether sinks and pot and pan washers, which the petitioner sold to bakeries, were exempt from sales tax under Wis. Stat. § 77.54(6)(a). The Commission noted that "the sinks and pot and pan washers cleaned debris off pots and pans after these have been used in the manufacturing process. This occurred both during and after bakeries' manufacturing processes, but not when the baking product was in the pots and pans." Finding that the sinks and pot and pan washers were not "used directly" in manufacturing, the Commission pointed out that "the machinery and equipment are not used in the step-by-step process of manufacturing. As an indication, they neither touch any of the materials being manufactured nor the containers holding the materials being manufactured. Instead, the sinks and pot and pan washers clean items used directly in manufacturing The cleaning is not a step in the production of baked goods."

In the absence of a specific definition, these cases make it clear that "used directly" in the production process has historically been viewed as something different from a simple question of whether the item is essential, crucial, critical to, or even legally required for the process. Of course, the legislature has since provided a definition within the manufacturing personal property exemption statute. That clear and unambiguous statutory language guides our decision.

E. Wisconsin Property Assessment Manual

The Wisconsin Property Assessment Manual (“WPAM”) contains potential guidance. However, the language of this section of WPAM is not fully consistent with the Wisconsin Statutes. WPAM Chapter 18 contains a section describing the “Exempt Machinery and Equipment (M&E) Classification.” Beginning at WPAM 18-18, the Manual presents explanations of the definitions provided in Wis. Stat. § 70.11(27)(a). Under the heading “Definition of Specific Processing Equipment,” WPAM correctly quotes the statutory definition of “specific processing equipment” but then proceeds to describe what it refers to as “exempt specific processing equipment” apparently regardless of use. Among the items in the list is “equipment used to clean food processing equipment between batches which is embedded within and part of the production machine.” WPAM 18-18 & 18-19 Definitions.⁴

The section of the manual conflates “specific processing equipment” with “exempt specific processing equipment,” ignoring the requirement that “specific processing equipment” must still be “used directly” in the production process, as that term is defined in the statutes. If, instead, the definition of specific processing equipment incorporates an assumption that all such items are used exclusively and directly, then the definition of “directly used” would be superfluous and anything that could be described as specific processing equipment would be exempt. We reject that conclusion as contrary to statute.

⁴ It is also unclear to what extent this language would be here. These cases involve the 2014-2018 tax years, and this WPAM language, described as “rev. 12/15,” first appeared in the 2017 publication of the WPAM.

The Wisconsin Supreme court has affirmed that 70.32(1) requires adherence to the Wisconsin Property Assessment Manual absent conflicting law. *Walgreen Co. v. City of Madison*, 2008 WI 80, 311 Wis. 2d 158, 752 N.W.2d 687, 690. Common law which accurately reflects the state of the law and the language of the statutes themselves, not the Manual, control. *West Bend v. Continental IV Fund Ltd. P'ship*, 193 Wis. 2d 481, 487, 535 N.W.2d 24 (Ct. App. 1995). To the extent that WPAM conflicts with the requirement expressed in Wis. Stat. § 70.11(27)(a)(7), the statute controls. Specific processing equipment must be “used directly” in the production process, in order to qualify for the Wis. Stat. § 70.11(27) exemption.

F. Wisconsin Administrative Code

Finally, the Administrative Code, specifically, Wis. Admin. Code, § Tax 11.40(2)(c), defines “used directly” but only in the context of the sales tax. The Code states, “The [manufacturing sales tax] exemption shall not apply if machines and processing equipment are not used directly in the step-by-step processes by which an end product results, even though the machine and equipment are indirectly related to the step-by-step processes.”

Even if this sales tax-related code provision were applicable to the current version of the manufacturing personal property tax exemption, the Code confirms that exempt items must be a “step” in the production process. As noted above, the sales tax cases have specifically held that cleaning is not a “step” in baking (*Hein*) or sausage-making (*Johnsonville*). Because those two cases predate *Manitowoc*, we decline to opine further. Instead, we note that Chapter 11 of the Administrative Code, true to its name

“Sales and Use Tax,” applies to the sales tax of Wis. Stat. § 77.54. With a statutory definition readily available within the confines of the manufacturing personal property exemption of Wis. Stat. § 70.11(27), we decline to analogize from unrelated code sections designed to explain other areas of law.

CONCLUSIONS OF LAW

1. No material facts are in dispute and, therefore, this case is ripe for summary judgment.

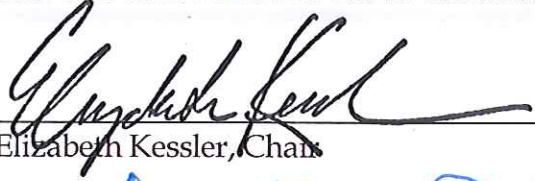
2. Because Petitioners’ CIP equipment does not cause a physical or chemical change in raw materials or cause a movement of raw materials, work in process, or finished products, Petitioners’ CIP is not “used directly” in manufacturing.

3. Because Petitioners’ CIP equipment is not used directly in manufacturing, it does not qualify for exemption under Wis. Stat. § 70.11(27).

IT IS ORDERED that Petitioners’ Motion for Summary Judgment is denied, and the Department’s Motion for Summary Judgment is granted. Accordingly, the Petitions for Review are dismissed.

Dated at Madison, Wisconsin, this 4th day of August, 2020.

WISCONSIN TAX APPEALS COMMISSION



Elizabeth Kessler, Chair



Lorna Hemp Boll, Commissioner



David L. Coon, Commissioner

ATTACHMENT: NOTICE OF APPEAL INFORMATION

WISCONSIN TAX APPEALS COMMISSION
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NOTICE OF APPEAL INFORMATION

NOTICE OF RIGHTS FOR REHEARING, OR JUDICIAL REVIEW, THE TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT

A taxpayer has two options after receiving a Commission final decision:

Option 1: PETITION FOR REHEARING BEFORE THE COMMISSION

The taxpayer has a right to petition for a rehearing of a final decision within 20 days of the service of this decision, as provided in Wis. Stat. § 227.49. The 20-day period commences the day after personal service on the taxpayer or on the date the Commission issued its original decision to the taxpayer. The petition for rehearing should be filed with the Tax Appeals Commission and served upon the other party (which usually is the Department of Revenue). The Petition for Rehearing can be served either in-person, by USPS, or by courier; however, the filing must arrive at the Commission within the 20-day timeframe of the order to be accepted. Alternately, the taxpayer can appeal this decision directly to circuit court through the filing of a petition for judicial review. It is not necessary to petition for a rehearing first.

AND/OR

Option 2: PETITION FOR JUDICIAL REVIEW

Wis. Stat. § 227.53 provides for judicial review of a final decision. Several points about starting a case:

1. The petition must be filed in the appropriate county circuit court and served upon the Tax Appeal Commission and the other party (which usually is the Department of Revenue) either in-person, by certified mail, or by courier, within 30 days of this decision if there has been no petition for rehearing or, within 30 days of service of the order that decides a timely petition for rehearing.
2. If a party files a late petition for rehearing, the 30-day period for judicial review starts on the date the Commission issued its original decision to the taxpayer.
3. The 30-day period starts the day after personal service, or the day we mail the decision.
4. The petition for judicial review should name the other party (which is usually the Department of Revenue) as the Respondent, but not the Commission, which is not a party.

For more information about the other requirements for commencing an appeal to the circuit court, you may wish to contact the clerk of the appropriate circuit court or, the Wisconsin Statutes. The website for the courts is <https://wicourts.gov>.

This notice is part of the decision and incorporated therein.