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Wisconsin Tax Appeals Commission

Drew Fox - Clerk

STATE OF WISCONSIN

TAX APPEALS COMMISSION

LFTD PARTNERS INC. **DOCKET NO. 25-I-135**

Petitioner,

v.

WISCONSIN DEPARTMENT OF REVENUE,

Respondent.

RULING AND ORDER

JESSICA ROULETTE, COMMISSIONER:

This case comes before the Commission for decision on a Motion for Summary Judgment. The Petitioner, LFTD Partners Inc., appears by William Jacobs. The Respondent, the Wisconsin Department of Revenue ("the Department"), is represented by Attorney Nicole Pellerin. The parties filed a Joint Stipulation of Facts with nine attached, stipulated exhibits. The Department has filed a Motion for Summary Judgment, with a Brief in support of its Motion, as well as a Reply Brief. Petitioner has filed a Brief in Opposition to the Department's Motion for Summary Judgment and a Supporting Affidavit with eight additional attached exhibits. For the reasons stated below, we grant the Department's Motion for Summary Judgment and dismiss this appeal.

STIPULATED FACTS

1. All facts relate to the Audit Period, which consists of the 2021, 2022, and 2023 tax years, unless otherwise noted. (Joint Stipulation of Facts ("JSOF").)

2. LFTD Partners Inc., which generates no sales itself, is the publicly traded holding corporation of wholly-owned subsidiary Lifted Liquids, Inc. (JSOF, ¶ 9.)

3. Lifted Liquids, Inc. operates in Wisconsin, and its manufacturing, warehouse, and office space is located at 5511 95th Avenue in Kenosha, Wisconsin ("5511 95th"). (JSOF, ¶ 10.)

4. LFTD Partners Inc. files a Form 6 – Wisconsin Combined Corporate Franchise or Income Tax Return of which Lifted Liquids, Inc. is a member. (JSOF, ¶ 11.)

5. LFTD Partners Inc. and Lifted Liquids, Inc. are referred to as "LFTD" in the parties' Joint Stipulation of Facts. (JSOF, ¶ 12.)

6. LFTD is a manufacturer and distributor of primarily intoxicating hemp-derived products, such as vapes and gummies. (JSOF, ¶ 13.)

7. LFTD moved its operations to 5511 95th, from Zion, Illinois on January 1, 2021. (JSOF, ¶ 14.)

8. No agricultural activities occurred at 5511 95th during the Audit Period. (JSOF, ¶ 32.)

9. During the Audit Period, 5511 95th was zoned "M-2 HEAVY MANUFACTURING" and classified by Kenosha County as "G2-COMMERCIAL." (JSOF, ¶ 15.)

10. LFTD is required by Wisconsin law to hold both a Tobacco/Vapor Products Manufacturer permit and Tobacco/Vapor Products Distributor permit (together, the "Permits") to operate. (JSOF, ¶ 16.)

11. The Excise Tax Unit of the Department handled the permitting process. (JSOF, ¶ 17.)

12. Permits are designated to a specific business address and may not be transferred from one premises to another. (JSOF, ¶ 18.)

13. During each year of the Audit Period, Wisconsin treated hemp-derived vapor products the same as nicotine vapor products for excise tax purposes. (JSOF, ¶ 33.)

14. LFTD's real and personal property located at 5511 95th are critical to LFTD's ability to store, process, manufacture, package, sell, and ship consumer goods, including the products covered by the Permits. (JSOF, ¶ 43.)

15. Subsequent to LFTD's move to Wisconsin, its president, William C. Jacobs, contacted the Department to notify it of LFTD's move and to initiate the permitting process, which required submission of a completed Form CTP-129, a site visit, and approval of the form of invoice that LFTD would use. (JSOF, ¶¶ 19, 20; Ex. D).

16. During the permitting process, the Department and LFTD had communication, and a Department representative toured 5511 95th and witnessed LFTD's manufacturing process, including storing, packaging, and shipping of products. (JSOF, ¶¶ 22, 23.)

17. During the permitting process, the Department reviewed and recommended changes to LFTD's form of invoice, and, in May of 2021, the Department issued the Permits. (JSOF, ¶¶ 24, 25.)

18. LFTD paid the excise taxes required to be paid monthly to the Department under the Permits based upon the milliliters of vapor product manufactured. (JSOF, ¶ 27.)

19. The manufacturing classification process is handled by the Manufacturing & Utility Bureau. (JSOF, ¶ 30.)

20. To have its property classified as manufacturing, a business must contact its local Manufacturing & Utility Bureau District Office by March 1 of the assessment year and submit a completed Questionnaire for Potential Manufacturers ("Form PA-780") and a fixed asset list detailing all personal property assets owned or leased by the business. (JSOF, ¶ 31.)

21. LFTD did not submit Form PA-780 for assessment year 2021 until April 25, 2025. (JSOF, ¶¶ 34, 35, Ex. F.)

22. LFTD's property was not classified as manufacturing for the 2021 assessment year. (JSOF, ¶ 36.)

23. LFTD did not submit Form PA-780 for assessment year 2022 until April 25, 2025. (JSOF, ¶¶ 37, 38, Ex. G.)

24. LFTD's property was not classified as manufacturing for the 2022 assessment year. (JSOF, ¶ 39.)

25. LFTD did not submit Form PA-780 for assessment year 2023 until April 25, 2025. (JSOF, ¶¶ 40, 41, Ex. H.)

26. LFTD's property was not classified as manufacturing for the 2023 assessment year. (JSOF, ¶ 42.)

27. LFTD filed a completed Form PA-780 for the 2025 assessment year and obtained a manufacturing classification for the 2025 assessment year on February 20, 2025.

28. During the Audit Period, LFTD employed Crowe LLP as its tax advisor and tax preparer, and Crowe LLP prepared LFTD's 2021, 2022, and 2023 tax returns. (JSOF, ¶¶ 45, 46.)

29. The Manufacturing Tax Credit was not claimed in LFTD's 2021, 2022, or 2023 income tax returns at the time they were filed. (JSOF, ¶ 47.)

30. After the Audit Period, LFTD hired PPG Partners, who then submitted on LFTD's behalf amended 2021, 2022, and 2023 returns, making a claim for refund of $175,284.00, $320,342.00, and $101,746.00 to the Department for the 2021, 2022, and 2023 tax years, respectively. (JSOF, ¶¶ 1, 48.)

31. On March 5, 2025, the Department sent an email to Ben Johnson at PPG Partners regarding the amended 2021, 2022, and 2023 returns and calculation of the Manufacturing Tax Credit. (JSOF, ¶ 49, Ex. I.)

32. On March 13, 2025, the Department denied LFTD's claim for refund for the 2021, 2022, and 2023 tax years. (JSOF, ¶¶ 2, 3; Ex. A.)

33. On April 30, 2025, the Department received LFTD's timely filed Petition for Redetermination. (JSOF, ¶¶ 4, 5; Ex. B.)

34. On September 10, 2025, the Department denied LFTD's Petition for Redetermination. (JSOF, ¶¶ 6, 7; Ex. C.)

35. On November 7, 2025, LFTD timely filed a Petition for Review with the Commission. (Commission file.)

36. On December 9, 2025, the Department timely filed an Answer with the Commission. (Commission file.)

INTRODUCTION

This case concerns a Wisconsin business which seeks a Manufacturing Tax Credit on the Wisconsin income tax due from it for the 2021, 2022, and 2023 tax years. The business does not argue that it followed the procedure for claiming the tax credit as that procedure is set forth in the statutes. The business instead argues three points: 1) that it would have been eligible to claim the credit under the statute if its previously hired tax preparer had completed and filed the form required by the statute by the deadline set forth in the statute, 2) that the Commission should overcome the presumption of correctness which applies to Department determinations, and 3) that the Commission should grant the business the credit for the 2021, 2022, and 2023 tax years.

APPLICABLE LAW[1]

PROCEDURAL STATUTE

Wis. Stat. § 802.08 Summary judgment.

> . . .
>
> (2) MOTION: . . . The judgment sought shall be rendered if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. . . .

[1] The 2017-2018 and 2019-2020 versions of the Wisconsin Statutes are applicable to this appeal. There were no changes to the applicable portions of the relevant statutes between the 2017-2018 and 2019-2020 versions of the Wisconsin Statutes.

SUBSTANTIVE TAX STATUTES

Wis. Stat. § 70.995 State assessment of manufacturing property.

(1) Applicability.

(a) In this section "manufacturing property" includes all lands, buildings, structures and other real property used in manufacturing, assembling, processing, fabricating, making or milling tangible personal property for profit. Manufacturing property also includes warehouses, storage facilities and office structures when the predominant use of the warehouses, storage facilities or offices is in support of the manufacturing property owned or used by any person engaged in this state in any of the activities mentioned, and used in the activity, including raw materials, supplies, machinery, equipment, work in process and finished inventory when located at the site of the activity. . . .

. . .

(2) Further classification. In addition to the criteria set forth in sub. (1), property shall be deemed prima facie manufacturing property and eligible for assessment under this section if it is included in one of the following major group classifications set forth in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget. For the purposes of this subsection, any other property described in this subsection shall also be deemed manufacturing property and eligible for assessment under this section:

. . .

(c) 20 - Food and kindred products.

(d) 21 - Tobacco manufacturers.

. . .

(v) 39 - Miscellaneous manufacturing industries.

. . .

(3) For purposes of subs. (1) and (2) "manufacturing, assembling, processing, fabricating, making or milling" includes the entire productive process and includes such activities as the storage of raw materials, the movement thereof to the first operation thereon, and the packaging, bottling, crating or similar preparation of products for shipment.

(4) Whenever real property or tangible personal property is used for one, or some combination, of the purposes mentioned in sub. (3) and also for other purposes, the department of

revenue, if satisfied that there is substantial use in one or some combination of such processes, may assess the property under this section. For all purposes of this section the department of revenue shall have sole discretion for the determination of what is substantial use and what description of real property or what unit of tangible personal property shall constitute "the property" to be included for assessment purposes, and, in connection herewith, the department may include in a real property unit, real property owned by different persons. . . . In those specific instances where a portion of a description of real property includes manufacturing property rented or leased and operated by a separate person which does not satisfy the substantial use qualification for the entire property, the local assessor shall assess the entire real property description and all personal property not exempt under s. 70.11(27). The applicable portions of the standard manufacturing property report form under sub. (12) as they relate to manufacturing machinery and equipment shall be submitted by such person.

(5) The department of revenue shall assess all property of manufacturing establishments included under subs. (1) and (2) as of the close of January 1 of each year, if on or before March 1 of that year the department has classified the property as manufacturing or the owner of the property has requested, in writing, that the department make such a classification and the department later does so. A change in ownership, location, or the name of the manufacturing establishment does not necessitate a new request. . . .

(6) Prior to February 15 of each year the department of revenue shall notify each municipal assessor of the manufacturing property within the taxation district that, as of that date, will be assessed by the department during the current assessment year.

(7)

(a) Each manufacturing property assessed by the department of revenue shall be entered on a state manufacturing property assessment roll for each municipality that has manufacturing property as set forth in subs. (1) and (2). Notification of the individual manufacturing property assessments contained in the roll shall be furnished by the department to the municipal clerk.

. . .

(12)

(a) The department of revenue shall prescribe a standard manufacturing property report form that shall be submitted annually for each real estate parcel and each personal property account on or before March 1 by all manufacturers whose property is assessed under this section. . . . Failure to submit the report shall result in the denial of any right of redetermination by the state board of assessors or the tax appeals commission. . . .

(b) The department of revenue shall allow an extension to April 1 of the due date for filing the report forms required under par. (a) if a written application for an extension, stating the reason for the request is filed with the department on or before March 1.

. . .

(14)

(a) Beginning with the property tax assessments as of January 1, 2003, the department of revenue shall annually impose on each municipality in which manufacturing property is located a fee in an amount that is equal to the equalized value of the manufacturing property located in the municipality multiplied by a rate that is determined annually by the department so that the total amount collected under this paragraph is sufficient to pay for 50 percent of the budgeted costs to the department in the current state fiscal year associated with the assessment of manufacturing property under this section. Except as provided in par. (b), each municipality that is assessed a fee under this paragraph shall collect the amount of the fee as a special charge against the taxable property in the municipality, except that no municipality may apply the special charge disproportionately to owners of manufacturing property relative to owners of other property.

. . . .

Wis. Stat. § 71.23 Imposition of tax.

(1) Income Tax. For the purpose of raising revenue for the state and the counties, cities, villages and towns, there shall be assessed, levied, collected and paid a tax as provided under this chapter on all Wisconsin net incomes of corporations that are not subject to the franchise tax under sub. (2) and that own property within this state . . . .

Wis. Stat. § 71.28 Credits.

. . .

(5n) Manufacturing and agriculture credit.

(a) *Definitions.* In this subsection:

. . .

2. "Claimant" means a person who files a claim under this subsection.

3. "Direct costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible as business expenses under the Internal Revenue Code and identified as direct costs in the claimant's managerial or cost accounting records.

4. "Indirect costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible business expenses under the Interna; Revenue Code, other than cost of goods sold and direct costs, and identified as indirect costs in the claimant's managerial or cost accounting records.

5.

a. "Manufacturing property factor" means a fraction, the numerator of which is the average value of the claimant's real and personal property assessed under s. 70.995, owned or rented and used in this state by the claimant during the taxable year to manufacture qualified production property, and the denominator of which is the average value of all the claimant's real and personal property owned or rented during the taxable year and used by the claimant to manufacture qualified production property.

b. For purposes of subd. 5.a., property owned by the claimant is valued at its original cost and property rented by the claimant is valued at an amount equal to the annual rental paid by the claimant, less any annual rental received by the claimant for sub-rentals, multiplied by 8.

c. For purposes of subd. 5.a., the average value of property is determined by averaging the values at the beginning and ending of the taxable year, except that the secretary of revenue may require the averaging of monthly values during the taxable year, if such averaging is reasonably required to properly reflect the average value of the claimant's property.

d. For purposes of subd. 5.a., a claimant who the department approves to be classified as a manufacturer for purposes of s. 70.995, but who is not eligible to be listed on the department's manufacturing roll until January 1 of the following year, may claim the credit in the year in which the manufacturing credit is approved.

6. "Production gross receipts" means gross receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property.

7. "Production gross receipts factor" means a fraction, the numerator of which is production gross receipts and the denominator of which is all gross income from whatever source, except for those items specifically excluded under the Internal Revenue Code as adopted by this state and otherwise excluded under Wisconsin law. For purposes of the denominator, income includes gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross income from pass-through entities, and all other gross receipts that are included in income, before apportionment for Wisconsin tax purposes under s. 71.25(6).

8. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, the direct costs that are allocable to such receipts, and the indirect costs multiplied by the production gross receipts factor. "Qualified production activities income" does not include any of the following:

. . .

e. Income from the sale of food and beverages prepared by the claimant at a retail establishment.

. . .

9. "Qualified production property" means either of the following:

a. Tangible personal property manufactured in whole or in part by the claimant on property that is assessed as manufacturing property under s. 70.995.

. . .

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, an amount equal to one of the following percentages of the claimant's eligible qualified production activities income in the taxable year.

. . .

4. For taxable years beginning after December 31, 2015, 7.5

> percent.
>
> . . .
>
> (d) *Administration.*
>
> . . .
>
> 2. Except as provided in subd. 3., for purposes of determining a claimant's eligible qualified production activities income under this subsection, the claimant shall multiply the claimant's qualified production activities income from property manufactured by the claimant by the manufacturing property factor . . . .
>
> 3. The amount of the eligible qualified production activities income that a claimant may claim in computing the credit under par. (b) is the lesser of the following:
>
> a. The eligible qualified production activities income determined under subd. 2.
>
> b. Income apportioned to this state under s. 71.25(5), (6), and (6m),
>
> c. Income determined to be taxable under s. 71.255(2).
>
> . . . .

ANALYSIS

A motion for summary judgment will be granted if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Wis. Stat. § 802.08(2). In addition, the Department's assessments are presumed to be correct, and the burden is on the Petitioner to prove by clear and satisfactory evidence that the Department erred and in what respects. *See Edwin J. Puissant, Jr. v. Dep't of Revenue*, Wis. Tax Rpt. (CCH) ¶ 202-401 (WTAC 1984). Finally, tax credits are a matter of legislative grace and construed strictly against the taxpayer. *L & W Const. Co. v. Dept. of Revenue*, 149 Wis. 2d 684, 690, 439 N.W.2d 619, 621 (Ct. App. 1989), citing *Ramrod, Inc. v. Dept. of Revenue*, 64 Wis. 2d 499, 504, 219 N.W.2d 604, 607 (1974).

As part of the parties' Joint Stipulation of Facts, Petitioner and Respondent stipulated that Petitioner first submitted form PA-780 for assessment years 2021, 2022, and 2023 on April 25, 2025. The parties further stipulated that Petitioner's property was not used for agricultural purposes at any time, and that Petitioner's property was first classified as manufacturing property by the Department on February 20, 2025, which was timely for the property to be considered manufacturing property for the 2025 assessment year.

The parties have stipulated that, beginning in 2021, the Excise Tax Unit of the Department issued manufacturing and business permits to Petitioner and collected excise taxes from Petitioner. Petitioner argues that the issuance of manufacturing and distribution permits by the Department creates genuine issues of material facts as to whether the Department classified Petitioner's property as manufacturing property, and so the Department's motion for summary judgment must be denied. A careful reading of Wis. Stats. §§ 70.995 and 71.28(5n) reveals that Petitioner's argument reflects a misreading of the pertinent statutes.

Wis. Stat. § 71.28(5n) refers repeatedly to property assessed under Wis. Stat. § 70.995 in its detailed outline of how to calculate the credit which Petitioner seeks in this appeal. Wis. Stat. § 70.995(5) directs that the Department "shall assess all property of manufacturing establishments . . .as of the close of January 1 of each year, if on or before March 1 of that year the department has classified the property as manufacturing or the owner of the property has requested, in writing, that the department make such a classification and the department later does so. . . ."

Wis. Stat. § 70.995(6) directs that "[p]rior to February 15 of each year the department of revenue shall notify each municipal assessor of the manufacturing property within the taxation district that, as of that date, will be assessed by the department during the current assessment year." Wis. Stat. § 70.995(7)(a) directs that "[e]ach manufacturing property assessed by the department of revenue shall be entered on a state manufacturing property assessment roll for each municipality that has manufacturing property. . . . Notification of the individual manufacturing property assessments contained in the roll shall be furnished by the department to the municipal clerk." Finally, Wis. Stat. § 70.995(12)(a) directs "[t]he department of revenue shall prescribe a standard manufacturing property report form that shall be submitted annually for each real estate parcel . . . on or before March 1 by all manufacturers whose property is assessed under this section. . . ."

In order to be classified as manufacturing property under Wis. Stat. § 70.995, the property owner must submit annually, on or before March 1, the completed form which Wis. Stat. § 70.995(12)(a) requires the Department to prescribe. The parties stipulated that Petitioner did not submit a completed Form PA-780 for 2021, 2022 or 2023 until April 25, 2025. Petitioner argues that this is not the end of the inquiry, but rather, that the Commission must examine whether Petitioner's property met the criteria set forth in Wis. Stat. § 70.995 to be classified as manufacturing property. The substantive inquiry urged by Petitioner is not required to resolve the appeal here, because Wis. Stat. § 70.995(12) does require the annual submission of Form PA-780, on or before March 1 of each year, by any manufacturer whose property is assessed as manufacturing property by the Department.

Petitioner asks the Commission to determine whether Wisconsin law requires that form PA-780 be filed by a taxpayer in order for that taxpayer to claim a manufacturing property tax credit. Petitioner argues that the plain language of Wis. Stat. § 70.995(5): "(5) The department of revenue shall assess all property of manufacturing establishments included under subs. (1) and (2) as of the close of January 1 of each year, if on or before March 1 of that year the department has classified the property as manufacturing or the owner of the property has requested, in writing, that the department make such a classification and the department later does so" demonstrates that the Department has the authority to classify property as manufacturing on its own, absent a written request from the property owner. Confusingly, Petitioner stipulated both that "[t]o have its property classified as manufacturing, a business must contact its local Manufacturing & Utility Bureau District Office by March 1 of the assessment year and submit a completed Questionnaire for Potential Manufacturers ("Form PA-780") and a fixed asset list detailing all personal property assets owned or leased by the business," and that LFTD first submitted the Form PA-780 for 2021, 2022, and 2023 on April 25, 2025. (JSOF, ¶¶ 21, 23, 25, and 31.) Petitioner's argument asks the Commission to ignore Petitioner's own stipulation to the facts in this appeal.

Petitioner appears to argue further that the Commission must examine whether Petitioner's property could have been assessed as manufacturing property, based on information available to the Department through the manufacturing and distributing permitting process. However, Petitioner has not offered sworn evidence which would allow the Commission to review whether the property could have been assessed as manufacturing property. The Commission has reviewed the completed forms attached as Exhibit D to the Joint Stipulation of Facts to examine the information Petitioner was required to provide to various representatives of the State of Wisconsin during the permitting process. The Commission cannot find that the State of Wisconsin had all of the information it would have needed to classify Petitioner's property as manufacturing until Petitioner completed and submitted Form PA-780 for the first time in 2025.

Wis. Stat. § 70.995(4) vests discretion in the Department as to whether property is classified as manufacturing property for assessment purposes:

> [w]henever real property . . . is used for one, or some combination, of the purposes mentioned in sub. (3) and also for other purposes, the department of revenue, if satisfied that there is substantial use in one or some combination of such processes, may assess the property under this section. For all purposes of this section the department of revenue shall have sole discretion for the determination of what is substantial use and what description of real property . . . shall constitute 'the property' to be included for assessment purposes . . . .

Critically, Wis. Stat. § 70.995(4) plainly states that the Department determines, in its sole discretion, what is "substantial use" of the property. Additionally, even where the Department determines there is substantial use in manufacturing, Wis. Stat. § 70.995(4) uses "may" and not "shall" when outlining the Department's responsibility to assess such property as manufacturing property. The Commission sees no statutory directive that would allow the Commission to replace the Department's sole discretion to determine what is substantial use in manufacturing in Petitioner's property, nor to require the

Department to assess Petitioner's property as manufacturing property.

Petitioner has stipulated that it obtained both manufacturing and distributing permits, which were finally approved in May of 2021. Petitioner argues that when it went through the process of obtaining both a Tobacco/Vapor Products Manufacturer Permit and a Tobacco/Vapor Products Distributor permit, through a process involving multiple contacts with the Department of Revenue's Exise Tax Unit, it supplied all of the information the Department needed to classify the property as manufacturing property. A comparison of the forms submitted during the process of Permit issuance to the forms required for classification of property as manufacturing property shows that the Department requests and receives very different information for the two distinct processes.

The forms[2] submitted as part of the Excise Tax Unit's permitting process show questions relating to the identities of the individuals involved in the business, the criminal history of those individuals, and the state of residence of those individuals. The form also contains questions about the State under whose laws the business was formed, as well as where products will be purchased from and where products will be warehoused.

In contrast, the form[3] required during the Audit Period by the Manufacturing & Utility Bureau of the Department to classify a property as manufacturing property requires a description of the step-by-step manufacturing

[2] Form CTP-129 (Exhibit D to the JSOF).
[3] Form PA-780 (Exhibits F, G, and H to the JSOF).

activities conducted at the property, as well as an itemized list of the machinery and equipment used in production at the property. The completed forms provided as exhibits to the Joint Stipulation of Facts do not support Petitioner's contention that the Department had the information it needed to classify the property as manufacturing property from the Permit issuance process.

The Department's position is that, under Wis. Stat. § 70.995, by March 1 of the assessment year, either 1) the Department must have classified the property as manufacturing property, or 2) the owner must have requested, in writing, that the property be classified as manufacturing property by the Department. In other words, Wis. Stat. § 70.995 sets a relevant deadline for the property to be classified as manufacturing property by the Department, or for the owner to have formally initiated the reclassification process. The only time that the credit can be claimed for property tax paid on property not classified as manufacturing property by March 1 of the assessment year, is when the property owner has, prior to March 1 of the assessment year, requested that the Department classify the property as manufacturing property, and the Department later does so classify the property.

The Commission reads Wis. Stat. § 70.995 as the Department does. Petitioner stipulated that, in order for property to be classified as manufacturing property under Wis. Stat. § 70.995, the owner must complete Form PA-780 and submit it to the Manufacturing & Utility Bureau District Office by March 1 of the assessment year for which the classification is sought. Petitioner stipulated that it did not submit a completed Form PA-780 for assessment years 2021, 2022, and 2023 until April 25, 2025. Petitioner's argument that the Department could have, or even should have, spontaneously collected information provided to various state actors and classified Petitioner's property as manufacturing property under Wis. Stat. § 70.995, thereby entitling Petitioner to the income tax credit under Wis. Stat. § 71.28(5n), does not overcome the plain language of the statutes and the presumption of correctness enjoyed by the Department.

The Wisconsin Supreme Court has held that tax exemptions are to be strictly construed. "Tax exemption statutes are strictly construed against granting an exemption." *Southwest Airlines Co. v. Dept. of Revenue*, 960 NW 2d 384, 389 (2021); *Covenant Healthcare Sys. v. City of Wauwatosa*, 800 N.W.2d 906 (2011). While a tax credit and a tax exemption are distinct statutory tools used by the legislature, they are similar in many respects. In both cases, the general body of ordinary taxpayers is divided and has a subset of taxpayers who are treated differently from the rest in order to achieve a specific public policy goal. In both cases, the broad public policy goal of funding the work of the state government is balanced against another specific public policy goal set forth in that tax credit or tax exemption. And in both cases, there are a wide range of different procedural requirements that the legislature has set forth for particular types of taxpayers to qualify for particular benefits. It therefore makes sense to construe tax credits as strictly as we construe tax exemptions.

In this case, Petitioner did not fulfill the basic first step of the procedural requirement for property to be classified as manufacturing property under Wis. Stat. § 70.995, of completing Form PA-780 and submitting it to the Manufacturing & Utility Bureau District Office, until April 25, 2025. While this appears to have been an unfortunate oversight on the part of the Petitioner's previous tax preparers, there is no statutory provision available to waive the requirements or deadlines of Wis. Stat. § 70.995. The Commission cannot find filing Form PA-780 on April 25, 2025, sufficient to classify the property as manufacturing property for 2021, 2022, or 2023, which in turn prevents Petitioner from qualifying for the income tax credit under Wis. Stat. § 71.28(5n) for those years.

The Commission also does not find that the statutory framework requires the Department to review information submitted by manufacturers as part of the manufacturing permitting process to determine whether it has the information it needs to assess property as manufacturing property. Absent such a requirement, the Petitioner's arguments that the Department could have done so does not rebut the presumption of correctness that applies to the Department's determination here.

CONCLUSIONS OF LAW

1. A property cannot be classified as manufacturing property under Wis. Stat. § 70.995 unless either 1) the owner has requested that the property be classified as manufacturing property by the Department, in writing, by March 1 of the year at issue, or 2) the Department has classified the property as manufacturing property.

2. The Petitioner failed to meet its burden of proof with clear and satisfactory evidence to overcome the presumption of correctness of the Department's denial of Petitioner's claim for income tax credit under Wis. Stat. § 71.28(5n) during the Audit Period.

ORDER

Based on the foregoing, the Commission orders as follows:

1. The Department's Motion for Summary Judgment is granted, and its denial of the income tax credits sought by Petitioner is upheld.

Dated in Madison, Wisconsin, this 21st day of August, 2026.

WISCONSIN TAX APPEALS COMMISSION

Elizabeth Kessler, Chair

Jessica Roulette, Commissioner

ATTACHMENT: **NOTICE OF APPEAL INFORMATION**

WISCONSIN TAX APPEALS COMMISSION
101 E Wilson St, 5th Floor
Madison, Wisconsin 53703

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 mailed 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.