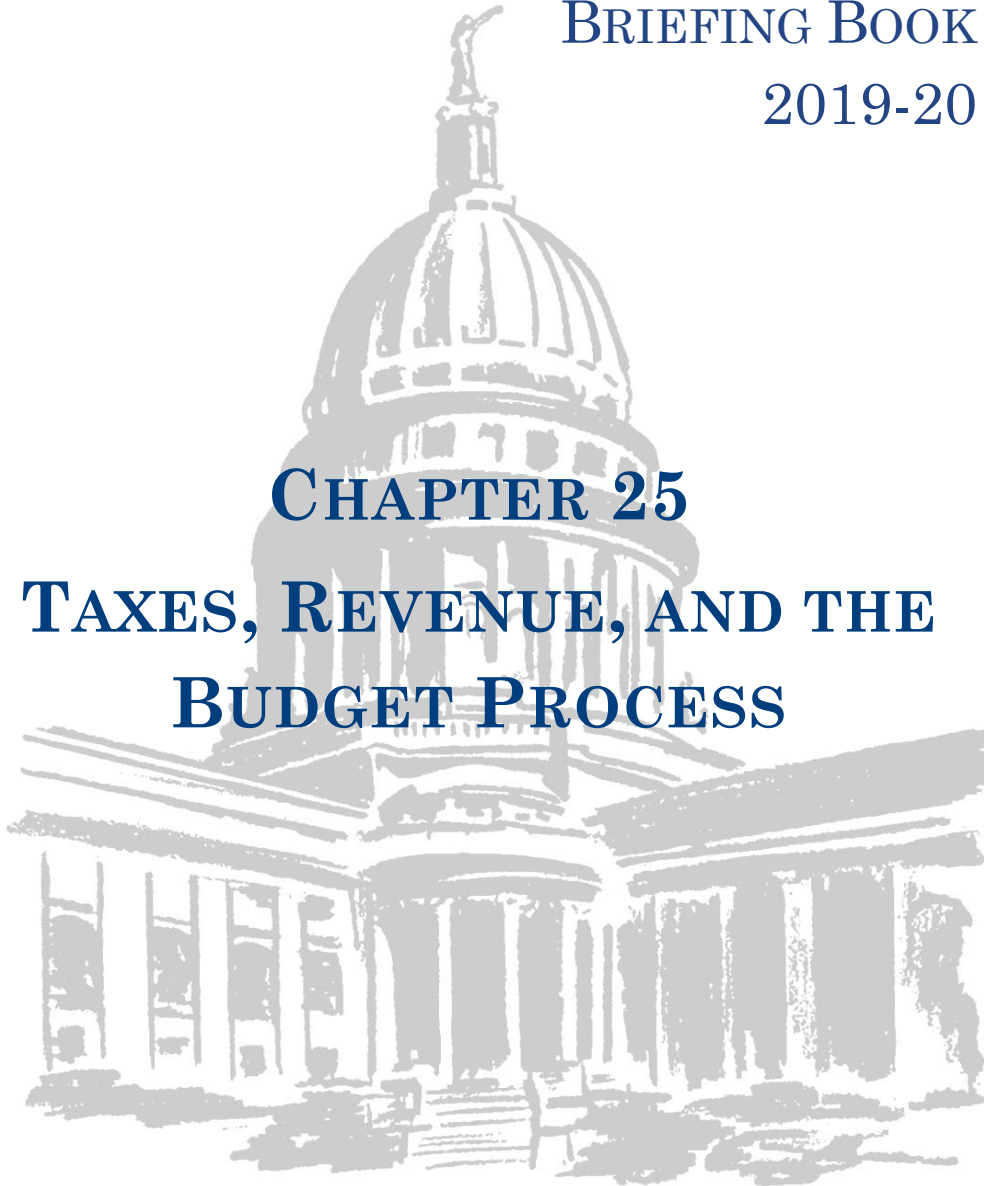


WISCONSIN LEGISLATOR
BRIEFING BOOK
2019-20

CHAPTER 25
TAXES, REVENUE, AND THE
BUDGET PROCESS



Scott Grosz, Principal Attorney and Rachel E. Snyder, Staff
Attorney
Wisconsin Legislative Council



TABLE OF CONTENTS

INTRODUCTION.....	1
PROPERTY TAX.....	1
Wisconsin Constitution, Article VIII, Section 1, “the Uniformity Clause”.....	1
Property Tax Administration.....	2
Tax Incremental Financing.....	2
Public Utilities.....	2
INCOME TAX.....	2
Individual Income Tax.....	2
Corporate Income Tax.....	3
Taxation of Insurance Companies.....	3
SALES TAX.....	3
General State Sales Tax.....	3
County and Special Purpose District Sales Taxes.....	4
OTHER TAXES AND REVENUES.....	4
Excise and Occupational Taxes.....	4
Real Estate Transfer Fee.....	4
Municipal Taxes and Fees.....	4
BIENNIAL BUDGET.....	5
EXECUTIVE BRANCH PREPARATION AND PRESENTATION OF BUDGET BILL.....	5
LEGISLATIVE BRANCH CONSIDERATION OF BUDGET BILL.....	6
Joint Committee on Finance Review.....	6
Joint Survey Committee Reports.....	7
Party Caucuses.....	7
Floor Debate.....	7
Conference Committee and Report.....	8
GOVERNOR’S PARTIAL VETO AUTHORITY; LEGISLATURE’S VETO OVERRIDE AUTHORITY.....	8
Partial Veto Authority.....	8
Override of Partial Veto.....	9
KEY CONCEPTS RELATED TO STATE BUDGET PROCESS.....	9
Continued Operation in Case of Delay.....	9
Appropriations in Ch. 20, Stats.....	9
Program Budget.....	9
Incremental Budgeting.....	10
Fiscal Years.....	10
Interim Changes in the Authorized Budget.....	10
Non-Budget Fiscal Bills.....	10
ADDITIONAL REFERENCES.....	10
GLOSSARY.....	11

Copies of the Wisconsin Legislator Briefing Book are available at:
<http://www.legis.wisconsin.gov/lc>

INTRODUCTION

This chapter provides a brief overview of taxes and revenue sources for the state, cities, villages, towns, and counties. These taxes and revenue sources include the property tax, individual and corporate income taxes, sales tax, excise taxes, and various fees. This chapter also provides an overview of the state biennial budget process. The state budget is the most comprehensive bill that the Legislature passes during the biennium. The budget bill affects all state agencies and involves significant interplay between the executive and legislative branches.

PROPERTY TAX

Wisconsin Constitution, Article VIII, Section 1, “the Uniformity Clause”

The property tax constitutes Wisconsin’s largest single source of state or local revenue. The foundation for the structure of Wisconsin’s property tax is derived from the Wisconsin Constitution. In particular, art. VIII, s. 1, of the Uniformity Clause, specifies:

The rule of taxation shall be uniform but the legislature may empower cities, villages or towns to collect and return taxes on real estate located therein by optional methods. Taxes shall be levied upon such property with such classifications as to forests and minerals including or separate or severed from the land, as the legislature shall prescribe. Taxation of agricultural land and undeveloped land, both as defined by law, need not be uniform with the taxation of each other nor with the taxation of other real property.... Taxes may also be imposed on incomes, privileges and occupations, which taxes may be graduated and progressive, and reasonable exemptions may be provided.

Courts have interpreted the Uniformity Clause and the state’s property tax statutes on numerous occasions. In doing so, a few key themes emerge, including the general requirement that property must be either fully taxed or wholly exempt from property taxation, and that property taxes must be levied on property in accordance with the market value of the property. Over the years, the Uniformity Clause has been amended, most notably to create an exception for agricultural property regarding the requirement of uniformity. Under this exception, property taxes on agricultural property are levied in accordance with the rental value of the property for agricultural use. [ch. 70, Stats.]

Except for agricultural property, the Uniformity Clause requires assessments according to market value.

Property Tax Administration

Primary administration of the state property tax system occurs at the local level, with oversight provided by the state Department of Revenue (DOR). Using statewide assessment practices prescribed by DOR, a property’s value is determined by a local assessor, followed by aggregate review and “equalization” by DOR. Several local entities may levy property taxes, including counties, cities and villages, school districts, and technical college districts, as well as certain other special purpose districts. For an individual property subject to property tax, the total tax due is calculated by applying the mill rate of each taxing jurisdiction to the assessed value of the property. [ch. 74, Stats.]

Tax Incremental Financing

Many Wisconsin municipalities utilize tax incremental financing (TIF) to rehabilitate blighted areas and otherwise encourage growth, particularly industrial growth. Under TIF law, a municipality, with the permission of the other underlying taxation districts, may designate a portion of the community as a TIF district. Following this designation, the taxable value of the district is frozen for a period of time as it relates to the taxes collected by the underlying taxation districts. The municipality creating the district may make investments in the district to encourage growth or rehabilitate blight, with the funding for these investments coming from the taxes generated on new growth (the “tax increment”) in the district during its lifespan. [s. 66.1105, Stats.]

Public Utilities

In lieu of a general property tax, public utilities in Wisconsin are subject to separate taxes, which are levied based on measures of value of company property (*ad valorem*) or measures of the company’s profits (gross receipts). Examples of public utilities subject to *ad valorem* utility taxation include: airline carriers, municipal electrical companies, pipeline companies, railroad companies, and telephone companies. Examples of public utilities subject to gross receipts utility taxation include: electric cooperatives, and municipal and private heat, power, and light companies. [ch. 76, Stats.]

INCOME TAX

Individual Income Tax

After the property tax, individual income and corporate income and franchise taxes are the second largest source of revenue in Wisconsin, with individual income tax collections responsible for the vast majority of income tax revenue. Generally,

Wisconsin individual income taxes are computed by beginning with a taxpayer’s federal adjusted gross income and applying any applicable adjustments that are specified under state law. Marginal individual income tax rates range from 4.0% to 7.65%. Prior to

Property tax, income tax, and sales tax are the three primary revenue sources in Wisconsin.

determining a taxpayer’s final tax liability, certain credits may be applied. Examples of these credits include credits for property taxes or rent, credits related to certain business pursuits, Wisconsin’s earned income tax credit, and a homestead tax credit available for certain low-income households. [subch. I of ch. 71, Stats.]

Corporate Income Tax

Determination of corporate income taxes begins with computation of income, a process that may require analysis of a business’ in-state and out-of-state activities, business expenses, and relationships between a business and other related business entities. The base corporate income tax rate is 7.9%. As with the individual income tax, prior to determining a business’s final corporate tax liability, certain credits may be applied. [subch. IV of ch. 71, Stats.]

Taxation of Insurance Companies

Calculation of Wisconsin taxes for domestic and foreign insurance companies requires consideration of both the corporate income tax, as well as a separate insurance premiums tax, depending on the type of insurance issued. As with other corporate income taxes, the taxation of insurance company income, when applicable, is administered by DOR. The Office of the Commissioner of Insurance administers and collects applicable insurance premium taxes. [subch. VII of ch. 71, and subch. III of ch. 76, Stats.]

SALES TAX

General State Sales Tax

Wisconsin law prescribes a statewide sales tax of 5% on the sale of goods and services in the state.

Generally, sales of goods are presumed to be subject to sales tax, except as provided by law, while services subject to sales tax are only those identified by statute. Sales tax is typically collected by retailers and remitted to DOR. In situations where a taxable sale occurs, but no sales tax is collected by a retailer,

state law levies a “use” tax. State law specifies that the consumer must remit use taxes at the time of income tax filing, although compliance with this procedure is known to be minimal. The issue of use tax collection most typically arises in the context of collection of tax on Internet sales and the policy debate surrounding the effect of Internet sales on local “brick and mortar” businesses. Pursuant to the recent U.S. Supreme Court case, *South Dakota v. Wayfair, Inc.*, DOR began collecting sales tax from most out-of-state retailers on October 1, 2018. [subch. II of ch. 77, Stats.; 585 U.S. __ (2018).]

The state, counties, and certain special-purpose districts all have the authority to levy sales taxes.

County and Special Purpose District Sales Taxes

In addition to the statewide sales tax, state law authorizes counties to impose a 0.5% general sales tax. Sixty-six counties in Wisconsin have adopted the county sales tax. Additionally, in Southeastern Wisconsin, the Southeast Wisconsin Professional Baseball Park District (Miller Park District) levies a 0.1% sales tax in five counties, to be used for assisting in the development of Miller Park. Current law specifies the sunset of the district sales tax once certain obligations of the district are satisfied.

In addition to the stadium district, state law authorizes sales tax to be collected by certain exposition districts and premier resort areas. The taxing authority of these entities, however, is limited to sales of certain products or to sales relating to certain industries.

OTHER TAXES AND REVENUES

Excise and Occupational Taxes

State law places excise taxes on consumers who purchase certain products as well as occupational taxes on persons who engage in certain occupations. Examples of excise and occupational taxes in Wisconsin include the taxes placed on cigarettes, tobacco products, fermented malt beverages, intoxicating liquor, motor vehicle fuel, coal, oil refineries, grain storage, iron ore, and metalliferous mining.

Real Estate Transfer Fee

The state imposes a tax of \$3 per \$1,000 of real estate value on many types of transfers of real estate. Eighty percent of revenue from the transfer tax is paid to the state, while the remaining 20% is paid to the county where the real estate is located. The tax is administered at the local level by the register of deeds and is collected at the time a transfer of property is recorded.

Statutes relating to other taxes and revenues include ch. 70 (metalliferous mining taxes), ch. 77 (real estate transfer fee and room taxes), ch. 78 (motor vehicle fuel taxes), ch. 139 (alcohol and tobacco taxes), and s. 341.35, Stats. (wheel taxes).

Municipal Taxes and Fees

In addition to the property tax and local sales tax, certain other taxes are authorized at the local level. These taxes include “wheel” taxes, imposed on vehicles registered in a particular municipality, as well as “room” taxes, imposed on establishments that provide short-term lodging to the public.

BIENNIAL BUDGET

The state’s budget is a biennial budget, covering a two-year period (“fiscal biennium”) starting July 1 of an odd-numbered year and ending June 30 of the next odd-numbered year (e.g., July 1, 2017 through June 30, 2019).

The state budget is the legislative document that establishes:

- The level of authorized state expenditures for the fiscal biennium in Wisconsin.
- The level of revenues derived from taxes and other sources projected to be available to pay for those expenditures.

**Current Fiscal Biennium:
July 1, 2017 to June 30,
2019**

**Next Fiscal Biennium:
July 1, 2019 to June 30,
2021**

The establishment of a state budget is required by the Wisconsin Constitution. Wisconsin Constitution, Article VIII, Section 2 provides that: “No money shall be paid out of the treasury except in pursuance of an appropriation by law.” Section 5 of Article VIII contains what is commonly referred to as the “balanced budget requirement.” Section 5 of Article VIII states that:

The legislature shall provide for an annual tax sufficient to defray the estimated expenses of the state for each year; and whenever the expenses of any year shall exceed the income, the legislature shall provide for levying a tax for the ensuing year, sufficient, with other sources of income, to pay the deficiency as well as the estimated expenses of such ensuing year.

The state budget is the most significant and comprehensive bill the Legislature passes during the biennium, covering the major fiscal and operational aspects of all state agencies and local government entities (municipalities, schools, and others).

EXECUTIVE BRANCH PREPARATION AND PRESENTATION OF BUDGET BILL

At the start of the budget process, the State Budget Office in the Department of Administration (DOA) instructs state agencies to submit their budget requests for the next biennium, consistent with any fiscal policy directives the Governor directs agencies to follow in developing budget requests. The requests include estimates of the costs to continue or improve current agency services or to create new programs or services. The requests must also include alternative budget proposals that assume no increase in state funding and a 5% decrease in state funding per fiscal year in the succeeding biennium. Agencies must submit their budget requests to the State Budget Office no later than

September 15 of each even-numbered year (that is, the year before the budget is enacted). [s. 16.42, Stats.]

By November 20 of each even-numbered year, the DOA Secretary must provide the Governor, or the Governor-elect, and each member of the next Legislature with a document compiling the total amount of each state agency's biennial budget request, as well as summary information on actual and estimated revenues for the current and forthcoming biennium. [s. 16.43, Stats.]

On or before the last Tuesday in January of each odd-numbered year (unless a later date is agreed upon by the Governor and both houses of the Legislature), the Governor must deliver the biennial budget message to the Legislature. With the message, the Governor must also provide a biennial state budget report, the executive budget bill, and suggestions for the best methods for raising the needed revenues. [s. 16.45, Stats.]

EXECUTIVE BRANCH BUDGET DEADLINES

September 15 (even-numbered year): Agencies submit budget requests to State Budget Office in DOA.

November 20 (even-numbered year): Secretary of DOA provides a report to the Governor and legislators detailing agency budget requests.

January, last Tuesday (odd-numbered year): the Governor delivers biennial budget message to the Joint Session of the Legislature.

LEGISLATIVE BRANCH CONSIDERATION OF BUDGET BILL

Joint Committee on Finance Review

In connection with the delivery of the Governor's budget message, the Governor prepares budget recommendations and incorporates them into an executive budget bill. The bill is drafted by the Legislative Reference Bureau (LRB), with the assistance of DOA. The executive budget bill must be introduced, without change, into one of the two houses of the Legislature, or in both houses as companion bills, by the Legislature's Joint Committee on Finance (JFC). Upon introduction, the bill must be referred to JFC for review. [s.16.47 (1m), Stats.] The nonpartisan Legislative Fiscal Bureau (LFB) staffs JFC and assists the committee in its budget deliberations. [s. 13.95, Stats.]

As part of its review, JFC may hold public hearings on the proposed budget with representatives of the state agencies involved (informational hearings) and hearings open to the general public (public hearings). Other standing committees of the Legislature may also hold hearings to review provisions of the budget. These hearings, conducted at the discretion of the standing committee chairs, inform the committee's members of those parts of the budget that may impact or affect matters dealt with by the committee.

After the public hearings, JFC begins executive sessions on the recommended budget, deciding whether certain provisions in the budget should be modified or deleted and whether additional provisions are needed. LFB drafts budget motions requested by the committee to modify provisions of the bills.

Joint Survey Committee Reports

Depending on its content, the budget bill may also be referred to one or more joint survey committees, such as the Joint Survey Committee on Retirement Systems or the Joint Survey Committee on Tax Exemptions. No bill or amendment that creates or modifies a public retirement system may be acted on by the Legislature until the Joint Survey Committee on Retirement Systems has submitted a written report on the bill or amendment. [s. 13.50 (6), Stats.] No bill that affects any existing statute or creates any new statute relating to the exemption of any property or person from taxation may be considered by either house of the Legislature until the Joint Survey Committee on Tax Exemptions has submitted a written report on the bill. [s. 13.52 (6), Stats.]

Party Caucuses

Once JFC has completed its action on the budget, the house in which the budget bill was introduced generally moves to commence party caucuses on the budget. If companion bills were introduced, each house may act concurrently. During this and subsequent phases of revising the budget bill, any changes proposed for consideration by the full Assembly or Senate must be offered by legislators as formally drafted amendments to the bill.

Floor Debate

After the individual caucuses have finished deliberations on the budget, the majority party budget package is introduced and scheduled for floor debate as a special order of business.

KEY LEGISLATIVE STEPS IN BUDGET PROCESS*

Executive budget bill introduced by JFC



JFC hearings and executive sessions on bill



Bill referred to first house; parties caucus on JFC version.



Majority party version of budget bill introduced.



First house debates, amends, and passes budget bill.



Second house debates, amends, and passes its version.



If necessary, conference committee resolves any differences between the two versions.

* The process may vary in some respects, particularly if companion bills are introduced and the two houses act concurrently, rather than sequentially.

A budget bill is adopted by a majority vote of each house. Differences between the two versions are then resolved so that the same bill is ultimately passed by both houses, as described below.

Conference Committee and Report

If the two houses pass different versions of the budget, a conference committee may be convened. The conference committee consists of a specified number of members from each house, as designated by their respective houses, to represent that house and meet as a bargaining committee. The goal of the bargaining committee is to produce a report reconciling the differences between the two versions of the budget. Once the conference committee procedure is completed, a conference report is submitted to each house as an unamendable document. Each house then votes on the conference report. [Joint Rule 3.]

GOVERNOR’S PARTIAL VETO AUTHORITY; LEGISLATURE’S VETO OVERRIDE AUTHORITY

Partial Veto Authority

Once the Legislature passes a final budget bill, the bill is prepared for the Governor’s consideration. The bill is not officially sent to the Governor until the Governor calls for it. The delay allows the Governor time to consider possible partial vetoes of the bill. Under the Wisconsin Constitution, the Governor has an extensive partial veto power, with the authority to partially veto any item in an appropriation bill, including the biennial budget bill. [Wis. Const. art. V, s. 10.] Thus, instead of having to accept or reject a bill in its entirety (as is the case with nonappropriation bills), the Governor may selectively delete provisions of the budget bill, vetoing either language or dollar amounts, or both, in any given provision, as follows:

The Governor may selectively delete provisions of a bill that includes an appropriation. The resulting provisions must relate to the same subject matter as the vetoed provision.

- Although the Governor may exercise the partial veto only on bills that include an appropriation, nonappropriation parts of appropriation bills may be partially vetoed.
- The part of the bill remaining after a partial veto must constitute a complete, entire, and workable law.
- The provision resulting from a partial veto must relate to the same subject matter as the vetoed provision.

- Entire words and individual digits may be stricken; however, individual letters in words may not be stricken.
- Appropriation amounts may be stricken and a new, lower amount may be inserted to replace the stricken amount.
- The Governor may not create a new sentence by combining parts of two or more sentences of the enrolled bill.

Override of Partial Veto

The budget bill, minus any items deleted by the Governor’s partial veto, becomes the state’s fiscal budget document for the biennium. However, as in the case of the Governor’s veto of a bill in its entirety, the Legislature is permitted to review the Governor’s partial vetoes and may, with a two-thirds vote by each house, enact any partially vetoed portion into law, notwithstanding any gubernatorial objection. [Wis. Const. art. V, s.10.]

KEY CONCEPTS RELATED TO STATE BUDGET PROCESS

Continued Operation in Case of Delay

Because the state’s biennial budget cycle begins on July 1 of the odd-numbered year, the budget law should, technically, be enacted and in effect by that date. However, if there is a delay in the process and the budget does not take effect by that date, state agencies may continue to operate at the same appropriation levels from the preceding budget until the new budget law takes effect. [s. 20.002 (1), Stats.]

Appropriations in Ch. 20, Stats.

The Wisconsin Constitution allows money to be paid out of the State Treasury pursuant only to a legislative appropriation. [Wis. Const. art. VIII, s. 2.] Most appropriations are codified into a single schedule in ch. 20, Stats. This schedule is termed the “Chapter 20” schedule because the listing of those appropriations is published biennially in that statutory chapter.

Program Budget

The budget in Wisconsin is termed a “program budget.” This means that the structure of both the appropriations schedule and the individual appropriations are generally based on specific “programs” in state government. Individual state agencies are placed under a general functional heading, such as education or transportation. Under each functional heading, agencies are set forth in alphabetical order and appropriations for the agency are then set forth under the agency heading, with one or more appropriations for the programs under that agency.

Incremental Budgeting

The general budget process in Wisconsin is an incremental budget process. Agencies develop their budgets by identifying requested changes from the existing budget level (referred to as “the base budget”). Thus, the budget decision items in agency requests represent increments of change over the existing level of spending.

Fiscal Years

The biennial state budget incorporates two annual periods or fiscal years. Fiscal years run from July 1 to June 30. The biennial budget period runs from July 1 of the odd-numbered year to June 30 of the subsequent odd-numbered year. The biennial budget thus involves appropriations for both fiscal years (for example, fiscal year 2017-18 and fiscal year 2018-19).

Interim Changes in the Authorized Budget

Once adopted, the biennial budget may be modified in the following ways:

- **Separate legislation.** By separate legislation authorizing an additional appropriation or eliminating or modifying an existing appropriation.
- **Budget adjustment bill.** By request of the Governor for introduction of a budget adjustment bill to make changes in the adopted biennial budget.
- **Action of JFC.** By JFC, under a number of statutory provisions that allow the JFC to modify or supplement agency budgets and position authorizations. A list of these may be found in Appendix III to the LFB Informational Paper on the JFC, available at http://www.legis.wisconsin.gov/misc/lfb/information_papers.

Non-Budget Fiscal Bills

During the legislative session, there are bills other than the biennial budget bill that request funds for specific limited purposes, such as for a new program or to modify the operation of an existing program. These bills, introduced during the regular legislative session, are termed fiscal bills and have specific requirements related to them as they proceed through the legislative process. As described in detail in Chapter 2, each fiscal bill must be accompanied by a fiscal estimate predicting the cost of the bill to the state and its political subdivisions. [s. 13.093 (2) (a), Stats.] Each fiscal bill must also be referred to JFC before being passed. [s. 13.093 (1), Stats.]

ADDITIONAL REFERENCES

1. At the beginning of each biennial legislative session, the Legislative Fiscal Bureau publishes Informational Papers on a variety of topics related to taxes, revenue, and the

budget process. The Informational Papers are available at:
http://www.legis.wisconsin.gov/misc/lfb/informational_papers.

2. For information on the assessment of property, see DOR’s Wisconsin Property Assessment Manual, at: <https://www.revenue.wi.gov/documents/wpam18.pdf> and DOR’s Guide for Property Owners, at: <https://www.revenue.wi.gov/DOR%20Publications/pb060.pdf>.
3. For information on the appeal of property taxes, see DOR’s Property Assessment Appeal Guide, at: <http://www.revenue.wi.gov/DOR%20Publications/pb055.pdf>.
4. For information on general sales taxes, as well as sales tax issues related to specific business operations, see the sales tax publications of DOR, at: <http://www.revenue.wi.gov/Pages/HTML/taxpubs.aspx#sales>.
5. For information on the fiscal effect of the state’s tax exemptions, see DOR’s Summary of Tax Exemption Devices, at: <http://www.revenue.wi.gov/DORReports/17sumrpt.pdf>.
6. For information on Wisconsin’s TIF Laws, see DOR’s “City/Village Tax Incremental Finance Manual,” at: <http://www.revenue.wi.gov/pages/Publications/sif-tif-cvmanual.aspx>.

GLOSSARY

Ad valorem: Latin for “according to value.” In Wisconsin, property taxes are generally levied in accordance with the value of the property or *ad valorem*.

Excise tax: A tax on the sale, consumption, or production of a particular good or service, typically levied in a different amount or measure than the ordinary sales tax.

Levy limit: A cap on the maximum amount of money that a taxing district may raise through property taxation.

Mill rate: A figure representing the amount per \$1,000 of the assessed value of property. Property tax is calculated by multiplying the assessed taxable property value by the mill rate, and then dividing that sum by 1,000.

Tax incremental financing (TIF): A local economic development tool that allows a municipality to allocate increases in the tax base to specific infrastructure investments.

Use tax: a companion to the sales tax; use taxes are levied on the consumption of goods and services for which a sales tax is due but not collected at the time of sale.

Use value: A term of art that relates to property taxation for agricultural property, which is subject to taxation in accordance to its value as rental property for agricultural purposes.

Wisconsin Legislative Council

One East Main Street, Suite 401
 Madison, WI 53703-3382
 Phone: (608) 266-1304