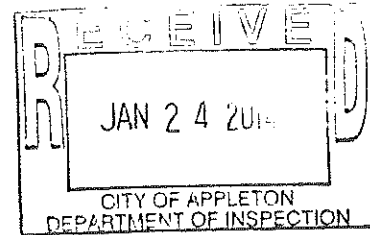


MEMO: 2013 Claims for Unlawful Personal Property Tax
DATE: 03/12/14
TO: Finance Committee
FROM: DeAnn Brosman, City Assessor

Winnebago Dental Lab – Account # 31-5-4316-00

This business located at 3420 N. Association Dr. is claiming tax exemption on a piece of new equipment under WI Statute 70.11(27)(b) as manufacturing equipment. In order to receive this exemption, the business needed to apply for and be assessed as a manufacturer by the WI Department of Revenue for 2013. This did not occur. The last time Winnebago Dental Lab applied for this classification was in 1995 but it was denied because it did not meet the DOR's definition as "manufacturing". The local assessor can not apply this exemption to locally assessed, non-manufacturing property. See the attached DOR denial letter and applicable statutes. **We do not have authority to grant this exemption, so the claim should be denied.**

*****A notice was mailed to all claimants on March 6th notifying them of the dates/times for the Finance Committee meeting and City Council meeting.**



TS

CLAIM FOR RECOVERY OF UNLAWFUL TAXES

(Wisconsin State Statute Section §74.35)

Limitation of Bringing Claim – A claim under §74.35 must be filed by January 31 of the year in which the tax is payable.

I hereby file a claim for the recovery of unlawful taxes levied and assessed against the following property: <u>Winnebago Dental Lab</u>					
Name of property owner:		<u>Craig Goerckle</u>			
Street Address:		<u>3420 Association Drive Appleton</u>			
Parcel Number: <u>31-315-994316-00</u>		Amount of Claim: <u>\$1874.51</u>			
Basis of Claim (§74.33(1)) (Please check appropriate section)					
<input type="checkbox"/>	a	A clerical error has been made in the description of the property or in the computation of the tax.			
<input type="checkbox"/>	b	The assessment included real property improvements which did not exist on the date under §70.10 for making the assessment.			
<input checked="" type="checkbox"/>	c	The property is exempt by law from taxation, except as provided by the exception below.			
<input type="checkbox"/>	d	The property is not located in the taxation district for which the tax roll was prepared.			
<input type="checkbox"/>	e	A double assessment has been made.			
<input type="checkbox"/>	f	An arithmetic, transposition or similar error has occurred. (Please explain below)			
EXCEPTION: The Common Council may not refund or rescind any tax under this section if the alleged error is solely that the assessor placed a valuation on the property that is excessive or that the property is exempt from taxation under §70.11(21) or (27).					
State the circumstances for the claim: <u>Charged a tax that was property tax that should have been exempt according to statute under Sec. 70.11(27)(B)</u>					
Signature: <u>Craig Goerckle</u>		Date: <u>1/24/14</u>			
Mailing Address: <u>1332 Bradford Ct Neenah WI</u>		Phone #: <u>920-727-0039</u>			
Email: <u>Rad405@gmail.com</u>		<u>Office 920-735-1208</u>			
NOTE: In order to be valid, this claim must be served on the City Clerk in the manner prescribed in §801.11(4). Example: an 18-year-old adult resident of the county (including claimant) must hand this claim to the City Clerk (§74.35(2)(b)(5)).					
FOR OFFICE USE					
REQUIREMENTS OF §74.35(2)(b)			Yes	No	
Were all blanks on this form completed?					
Was the claim served upon the Clerk prior to January 31 of the collection year?					
Has the tax for which the claim is filed been paid timely (§74.35(5)(c))?					
Claim meets statutory requirement to be eligible for a hearing at Finance Committee?					
FINANCE COMMITTEE			Approved	Disallowed	Partial
Date of Finance Committee: / /		Date Taxpayer notified: / /			
The city must notify the claimant by certified mail whether the claim is allowed or disallowed within 90 days after the claim is filed (§74.35(3)(b)). Allowed claims are payable within 90 days of the allowance (§74.35(3)(c)).					
NOTE: If disallowed, the claimant may commence an action in Circuit Court within 90 days after the claimant received notice by certified mail that the claim is disallowed (§74.35(3)(d)).					
§74.35(5)(b) allows two years to recover taxes paid to the wrong taxation district.					
City Clerk – Please route copies of the claim to the Director of Finance and City Assessor for processing.					
H:\Forms\CLAIM FOR RECOVERY OF UNLAWFUL TAXES.doc					



State of Wisconsin • DEPARTMENT OF REVENUE

DIVISION OF STATE-LOCAL FINANCE • MANUFACTURING PROPERTY ASSESSMENT OFFICE-NORTHEASTERN DISTRICT • GREEN BAY, WI

ADDRESS MAIL TO:

200 N. JEFFERSON STREET, SUITE 628
GREEN BAY, WI 54301-5100

TELEPHONE: (414) 448-5181
FAX: (414) 448-6210

February 21, 1995

Robert D. Zemple, CPA
Schumaker, Romenesko & Associates
2323 E. Capitol Drive
P.O. Box 2459
Appleton, WI 54913-2459

Dear Mr. Zemple:

I am in receipt of your letter of February 14, 1995 concerning Winnebago Dental Lab, Inc.

In your letter it would appear that you are seeking classification for your client as a manufacturer for property tax purposes, but you cite administrative codes and the statutes that pertain to sales tax rather than property tax. Classification for property tax is governed by Chapter 70 of the Wisconsin Statutes, not Chapter 77. Businesses that qualify for manufacturing status under Chapter 70 do not necessarily qualify under Chapter 77 and vice-versa. Also, although a business may hold an exemption certificate for sales tax, it has no bearing on status for property tax. In fact, the sales tax exemption certificate contains a disclaimer stating that property tax status and exemptions are a separate and distinct issue.

However, the sales tax question aside, I will respond to your letter as if it were intended for property tax only. Findings in this situation are as follows:

1. Section 70.995(2), Wisconsin Statutes, states that...."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 section, any other property described in this subsection shall also be deemed manufacturing property and eligible for assessment under this section."

The statute then proceeds to list 22 major business groups from the SIC Manual as "manufacturing". They are sections 10, 14, and 20 through 39.

A dental lab is not listed in one of the SIC Manual's 22 Major Groups.

2. In addition, Section 70.995(2) lists three (3) other businesses that qualify as "manufacturing". These include photofinishing laboratories; scrap processors of iron, steel or nonferrous scrap metal; and processors of waste paper, fibers or plastics.

A dental lab is not included in these three additional manufacturers.

Robert D. Zemple, CPA
Page 2
February 21, 1995

3. Section 70.995(2) also lists one other business that qualifies as "manufacturing". Any hazardous waste treatment facility as defined in s. 144.61(14) of the statutes qualifies as a manufacturer. To be classified as a hazardous waste treatment facility under this section the business must be licensed as such by the Department of Natural Resources.

Winnebago Dental Lab, Inc. is not licensed by the DNR as a hazardous waste treatment facility and therefore does not qualify as a manufacturer under this section.

4. Dental laboratories are found in Major Group 80 in the Standard Industrial Classification Manual - Health Services. More specifically, dental laboratories are classified as industry group number 8072 within Major Group 80.

8072 Dental Laboratories

"Establishments primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession."

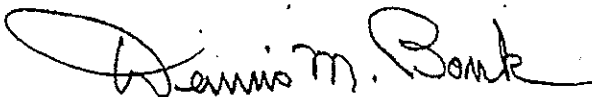
Major Group 80 is not one of the Major Groups from the SIC Manual listed in s. 70.995(2) Wis. Stats. as being prima facie manufacturing.

For these reasons, collectively, Winnebago Dental Lab, Inc. does not qualify as "manufacturing" for property tax purposes in the State of Wisconsin.

As a non-manufacturer, Winnebago Dental Lab, Inc. will be assessed by the local assessor for property tax purposes and no exemptions for manufacturers apply. All personal property, as of course the real estate, will be assessed by the local assessor and all will be taxable.

If you or your client do not agree with this determination, appeal rights are available. An appeal may be filed with the State Board of Assessors within sixty (60) days from the date on this letter. A prescribed Objection Form is enclosed. The completed Objection Form and a \$45 filing fee must be submitted to: State Board of Assessors, P. O. Box 8933, Madison, WI 53708.

Sincerely,



Dennis M. Bonk, Supervisor
Manufacturing Property Assessments
Northeastern District

DMB:ne

Enclosure

cc: Dawn Washatka, Assessor, City of Appleton
Craig Gorectke, Winnebago Dental Lab, Inc.

WISCONSIN STATUTES PERTAINING TO WINNEBAGO DENTAL LAB'S CLAIM FOR EXEMPTION

70.11 Property exempted from taxation

(27) MANUFACTURING MACHINERY AND SPECIFIC PROCESSING EQUIPMENT.

In this subsection: **"Manufacturing" means engaging in an activity classified as manufacturing under s. 70.995.**

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.

70.995 State assessment of manufacturing property

(4) 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.

(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.

The Dept. of Revenue denied Winnebago Dental Lab classification as manufacturing property, therefore their personal property is not tax exempt under WI Statute 70.11 (27).

70.11 Property exempted from taxation. The property described in this section is exempted from general property taxes if the property is exempt under sub. (1), (2), (18), (21), (27) or (30); if it was exempt for the previous year and its use, occupancy or ownership did not change in a way that makes it taxable; if the property was taxable for the previous year, the use, occupancy or ownership of the property changed in a way that makes it exempt and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes or if the property did not exist in the previous year and its owner, on or before March 1, files with the assessor of the taxation district where the property is located a form that the department of revenue prescribes.

Winnebago Dental Labs also would not qualify for exemption under any other statute because they did not file for exemption.