



# This Week in State Tax (TWIST)

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## Wisconsin: Manufacturer not Eligible for Property Tax Exemption

A Wisconsin appellate court recently addressed whether a manufacturer qualified for a property tax exemption for machinery, tools, and patterns not used in manufacturing. The taxpayer manufactured cheese at a facility in Wisconsin. Under Wisconsin law, all property is subject to property taxation unless an exemption applies. While most property is assessed locally, manufacturing property is assessed by the Department of Revenue. While the Department assesses manufacturing property, it also administers an exemption for certain machinery and equipment that is exclusively and directly used in a manufacturer's production process. The dispute at issue addressed a different exemption found in Wis. Stat. § 70.111(27) that applied to "machinery, tools, and patterns, not including such items *used in manufacturing*." Specifically, the issue was whether the taxpayer was entitled to this exemption for machinery, tools and patterns that were used in manufacturing but that did not meet the "directly and exclusively" requirement. In other words, the taxpayer's position was that it could qualify for the exemption for property that did not qualify for the manufacturing property tax exemption. The Department, on the other hand, argued that the exemption for machinery, tools, and patterns not used in manufacturing applied to only non-manufacturing property that was subject to local assessment. The dispute eventually made its way to the appeals court. Before the court, the taxpayer argued that the Tax Appeals Commission correctly concluded that § 70.111(27) exempts machinery, tools and patterns, regardless of who owns or uses it, so long as it is not used in the manufacturing process.

The court concluded that the phrase "used in manufacturing" found in Wis. Stat. § 70.111(27) was ambiguous because it was undefined and was capable of being understood differently by reasonable people. On one hand, it could be interpreted to apply to property not directly used in the production process. It could also be interpreted to exclude any manufacturing property subject to assessment by the Department. Due to the ambiguous nature of the language, the court looked to the legislative history surrounding the enactment of the Wis. Stat. § 70.111(27) exemption and concluded that the exemption did not apply to machinery, tools and patterns assessed by the Department. Importantly, documents and affidavits drafted by the Legislative Fiscal Bureau had estimated the separate costs of extending the Wis. Stat. § 70.111(27) exemption to both Department assessed manufacturing property and locally assessed non-manufacturing property. This was important because the state was required to compensate local governments for lost property tax revenues resulting from the exemption. The documentation showed that the legislature ultimately opted to exempt non-manufacturing property only and the legislation adopting the exemption had the corresponding fiscal appropriation. The court concluded that the taxpayer did not qualify for the Wis. Stat. § 70.111(27) exemption. Please contact [John Vann](#) with questions on *Wisconsin Department of Revenue v. Master's Gallery Foods, Inc.*

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