



State of Wisconsin • DEPARTMENT OF REVENUE

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Tony Evers
Governor

Peter W. Barca
Secretary of Revenue

Dear Local Government Leader,

By August 15, 2020, we will be sending you a Personal Property Aid (PPA) letter regarding the payment which your municipality will receive in May 2021.

Because of a court-ordered correction to 2019 PPA payments, your projected May 2021 PPA payment may be lower or higher than you expected. Absent further legislative action (as outlined below), this amount will not change.

How did this occur? In 2017, the Legislature created both a new property tax exemption for locally assessed machinery, tools and patterns (MTP), and PPA to replace property taxes that you and other taxing jurisdictions would lose from that exemption. 2017 Wisconsin Act 59.

The Act required that PPA payments equal the amount of property taxes a taxing jurisdiction levied upon MTP in the 2017 tax year. Wis. Stat. §79.096. However, the Department's (DOR) implementation was complicated by the tight timeline to issue the first PPA payment estimates and the fact that detailed information about the actual 2017 levy of each taxing jurisdiction upon MTP was not then available.

PPA for 2019 calculated using ratio. Given these complications, DOR under Secretary Richard Chandler, used a ratio to approximate the actual taxes lost due to the exempted MTP. The ratio was then applied to each taxing jurisdiction's tax levy to calculate PPA, and the calculated amount of PPA was published in aid estimates in August 2018 and paid in May 2019.

Collection of actual data for calculation and court decision. Since that time, two important things have occurred:

- 1) I directed DOR staff to proactively collect the actual data rather than using a ratio going forward, and
- 2) Marathon County Circuit Court ordered DOR to use actual data rather than a ratio, and to correct the earlier May 2019 payment. *City of Mosinee v. Dept. of Revenue*, Case No. 18-CV-646 (June 27, 2019).

Correcting May 2019 overpayment and underpayments. Correction of the May 2019 payment must be done in the May 2021 payment. Wis. Stats. §79.08. The ratio-based formula overpaid some taxing jurisdictions and underpaid others. In 2021, the correction will, absent legislative action, reduce PPA payments to jurisdictions overpaid in 2019, and increase PPA payments to jurisdictions that were underpaid in 2019.

Note: May 2020 PPA payments are not affected by the court decision, because actual data was used to calculate those payment.

Possible legislative action may avoid "clawbacks" of overpayments. Various legislators and DOR have worked together to avoid a "clawback" of funds overpaid in May 2019.

Under Amendment 2 to Assembly Bill 753, passed unanimously by the Assembly:

- 1) If you were underpaid in May 2019, DOR will pay you the funds you should have received.
- 2) If you were overpaid in May 2019, DOR will not "claw back" the overpayment from you, reducing your May 2021 payment.

The Senate was scheduled to take up this bill during its March session, but this did not occur due to the COVID 19 pandemic. Should the Senate act on this bill and the Governor approve it, that would change your projected May 2021 PPA payment.

If there is no further legislative action, the August 15 notice of your estimated May 2021 PPA payment will be final.

We will certainly reach out to you if there is additional legislative action. In the meantime, if you have questions or concerns, please contact our Local Government Services Bureau at lgs@wisconsin.gov.

Respectfully,

Secretary Peter Barca