



3.7 TAXES AND TAX PRORATION

3.7.1 Prorating Rules

The Disposition of Real Estate Taxes (RE1616) is used to prorate taxes for parcel acquisitions and is required for all acquisitions, regardless of value, except for temporary limited easements, permanent limited easements, and highway easements. Procedures for using this form are the same whether the acquisition is by deed or award. There may be situations when the owner agrees that tax proration is not necessary, which should be clearly documented in the diary. Consider using a purchase agreement and either striking out the statement referring to tax proration, or stating in the special conditions that the department will not prorate taxes. Also review:

49 CFR Sec. 24.106 Expenses incidental to transfer of title to the Agency.

- (a) *The owner of the real property shall be reimbursed for all reasonable expenses the owner necessarily incurred for:*
- (1) *Recording fees, transfer taxes, documentary stamps, evidence of title, boundary surveys, legal descriptions of the real property, and similar expenses incidental to conveying the real property to the Agency. However, the Agency is not required to pay costs solely required to perfect the owner's title to the real property; and*
- (2) *Penalty costs and other charges for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and*
- (3) *The pro rata portion of any prepaid real property taxes which are allocable to the period after the Agency obtains title to the property or effective possession of it, whichever is earlier.*
- (b) *Whenever feasible, the Agency shall pay these costs directly so that the owner will not have to pay such costs and then seek reimbursement from the Agency.*

3.7.2 Delinquent Taxes and Special Assessments

Delinquent taxes or assessments are liens against the property and remain in force until paid even though fee ownership may change. It is, therefore, important that such taxes or assessments, which are directly applicable to the acquisition area, be paid. The county treasurer should be contacted for a calculation of this amount. If the owner states that the taxes or assessments have been paid, the agent should request evidence of such payment and include it in the file. If no evidence is received, this amount must be deducted from the consideration prior to payment and shown as a deduction on the closing statement. If the amount to be paid the property owner is not sufficient to cover these delinquent taxes/assessments, no deductions should be made. Instead, the county treasurer must be named on the check as a party of interest. For current and future special assessments, tax records may indicate that all taxes to date have been paid, but special assessments for street work, sewers or water mains may be outstanding even though they are not yet due for payment. Agents should be careful about the possibility of future special assessments, especially if:

- They appear on current tax bill.
- Agent becomes aware of actual or planned municipal improvements within project area that could generate special assessments.

Agents should contact the taxing unit and obtain, in writing, a calculation of the amount of special future assessments due on the acquisition area. If the owner cannot provide evidence

that the assessments have been paid, a satisfactory amount must be withheld from the consideration prior to payment and shown as a deduction on the closing statement. Copies of the computations, statement of current and future assessments outstanding and Real Estate Payment Request (RE1630) are submitted to the Bureau of Technical Services-Real Estate (BTS-RE)/Finance for payment to the local treasurer. After total settlement has been made with the owner, agents should obtain a statement from the local treasurer indicating that the portion of the special assessments applicable to the new right of way has been paid.

3.7.3 Tax Liens

Outstanding state and federal income taxes can become liens against property. Amounts of such unpaid taxes can be found in judgment books filed with the Clerk of Courts. A separate check is cut to the Internal Revenue Service (IRS) for the unpaid taxes when the partial acquisition compensation amount is sufficient to pay off the debt. If the compensation is insufficient, the IRS must be named on the check to owner. The same process applies for state taxes except, that check is made out to the Wisconsin Department of Revenue (DOR) or lienholders are named on the check to the owner. When whole acquisitions are involved, forms for explaining the situation may be obtained from the director of Internal Revenue in Milwaukee (for federal income taxes) and from the Wisconsin DOR in Madison (for state taxes due). Wisconsin DOR correspondence and/or check payments should be sent to: Wisconsin Department of Revenue, Attn: Brian Dischler, MS: 4-SDC, PO Box 8901, Madison, WI 53708-8901.

3.7.4 Completing Disposition of Real Estate Taxes

The top part of the Disposition of Real Estate Taxes (RE1616) is to be completed for any type of tax proration. Information for completing this section is typically found within the title report. If a credit has been applied to the total taxes (i.e., lottery credit), this amount should be the net tax after the credit has been applied.

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DISPOSITION OF REAL ESTATE TAXES
RE1616 04/2015

Wisconsin Department of Transportation

Attach this form to each copy of Closing Statement, Deed or Award, but do not record.

Owner name	Total tax \$
Tax key	Assessed land value \$
Taxing unit (city, town, village)	Assessed improvements value \$
County	Assessed total value \$
Conveyance date	Mill (tax) rate (carry to 5 places) per \$ of assessed value

Note: In all cases, use previous year or current year amounts (if available)

Mill Rate:	Total tax + Total assessment \$ <u> </u>	= Mill rate (carry to 5 places) \$
A. Total Acquisition		
	Total tax + 365 \$ /365	x Days elapsed from January 1 st to conveyance date days = Owner's share tax \$ *
<i>* Transfer amount to Closing Statement as deduction from purchase price</i>		

- Part A: Total Acquisition - This part is used for buyout of an entire property or tax parcel. The calculated amount is transferred to the closing statement as a deduction to the compensation paid the owner. The tax bill is sent to the department for payment at the end of the year.
- Part B: Partial Acquisitions - Complete this part of the form for partial takings that include the acquisition of both land and buildings. The calculations include the value of the buildings acquired and the value of the land acquired. Severance damages, cost to cure items, landscaping, etc. are not considered in the proration. It should be noted that Part B calculates both the state's share of taxes and the owner's share of the taxes in the bottom computations. The state's share of taxes is transferred to the closing statement as a credit to the owner.

B. Partial Acquisition		
Tax on Land Acquired		
<i>Step #1 - Land assessment</i> \$	\times Mill rate (carry to 5 places) \$	= Land tax \$
<i>Step #2 - Acquisition area ÷ Total property area (both from appraisal)</i> /_	= % of land acquired (carry to 3 places) %	
<i>Step #3 - Land tax</i> \$	\times % of land acquired %	= Land prorated tax \$
Tax on Improvements (Buildings, etc.) Acquired		
<i>Step #1 - Value of improvements acquired ÷ Value of all improvements (both from appraisal)</i> \$ _	= % of improvement value acquired (carry to 3 places) %	
<i>Step #2 - Assessed value of all improvements</i> \$	\times Mill rate \$	= Improvements tax \$
<i>Step #3 - Improvements tax</i> \$	\times % of improvement value acquired %	= Improvements prorated tax \$
Taxes to be Prorated		
Land \$	$+$ Improvements \$	= Total prorated tax \$
State's Prorated Share		
<i>Days remaining from conveyance date to year end ÷ 365</i> /365	\times Total prorated tax \$	= State's prorated share \$ **
<i>** Transfer amount to Closing Statement as addition to purchase price</i>		
Owner's Prorated Share (deducted from Award amount for condemnation)		
Total prorated tax \$	$-$ State's prorated share \$	= Owner's prorated share \$ ***
<i>*** Transfer amount to Closing Statement as deduction from purchase price</i>		

Project ID

Parcel No.