



Office of the County Executive

Bob Ziegelbauer, County Executive

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May 5, 2020

Manitowoc County Property Tax Deferral

The Wisconsin Legislature as part of their response to the COVID-19 crisis passed Wisconsin Act 185 which authorizes taxing districts to waive interest and penalties on 2020 property tax payments due and payable after April 1, 2020 provided certain conditions are met. These include adoption of a resolution authorizing such a waiver by both the County Board and the local municipal taxing districts (Cities, Villages & Towns). It's a two step process.

We have prepared such a resolution for the County and a sample resolution for the local taxing district.

This new law gives the County Board a choice as to whether to apply the deferral "generally" or on a "hardship" basis. We have chosen to apply it "generally" to all taxpayer rather than on an individual "case by case" basis.

The net effect of this resolution is the 2020 property tax installment payments that are due and payable after April 1, 2020 are deferred until Oct. 1, 2020 for all property taxpayers in the taxing districts that have passed these resolutions. Interest and penalties kick back in after that time and are calculated from Oct. 1, 2020. Also interest and penalties that were imposed because of a missed property tax payment before April 1, 2020 continue to accrue normally until the property tax bill is paid. This waiver program is good only for this year's tax roll.

You should note that Manitowoc County takes all of the risk of this change. Every tax season the County cashes in all the unpaid tax payments due to municipalities in August and we collect all the remaining taxes. Delaying tax payments to Oct. 1, 2020 and calculating interest and penalties from Oct. 1, 2020 instead of Feb. 1, 2020 will reduce these payments and delays the final settlement until September 20, 2020. The deferral schedule costs the County substantial interest and penalties that we would normally collect and it will cost us programming changes to collect the taxes correctly. This could amount to over \$100,000.

Nevertheless, I believe that we should do this. In this time of serious need in our local economy we can give our taxpayers a break. I am recommending this to the Finance Committee and the County Board for passage.

Contact me anytime.

Sincerely,

A handwritten signature in black ink that reads "Bob Ziegelbauer". The signature is written in a cursive style with a large, looped "B" and "Z".

Bob Ziegelbauer
Manitowoc County Executive



MANITOWOC COUNTY
CORPORATION COUNSEL
1010 SOUTH EIGHTH STREET
MANITOWOC, WISCONSIN 54220

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MEMORANDUM

DATE: Tuesday, April 21, 2020

TO: Manitowoc County Board of Supervisors

FROM: Peter J. Conrad, Corporation Counsel

SUBJECT: Temporary Waiver of Interest and Penalties on Property Tax by Local Taxing District

In response to COVID-19 pandemic, the Wisconsin Legislature adopted Wisconsin Act 185 (the "Act") on April 15, 2020, which authorizes taxing districts to waive interest and penalties on 2020 property tax installment payments due and payable after April 1, 2020, provided certain conditions are met. Those conditions include the adoption of a resolution authorizing such waiver by both the County Board and the local taxing district. To that end, Manitowoc County has prepared a resolution that authorizes its local taxing districts to permit such a waiver. The County has also produced a sample resolution that a taxing district may use to approve the waiver at the local level.

As part of passing a resolution that permits the waiver of interest and penalties, the Act requires that a finding of "hardship" be made. Hardship may be found either on a "general" or "case-by-case" basis. In preparing its resolution, Manitowoc County found a "general" hardship exists countywide due to the unprecedented number of businesses being required to suspend operations, causing high levels of unemployment coupled with the potential for an unparalleled number of permanent business closures throughout the County.

The net effect of this resolution is that local taxing districts have the option to waive interest and penalties on 2020 property tax installment payments that are due and payable after April 1, 2020. However, this waiver is only good until October 1, 2020. Interest and penalties kick back in after that time. Additionally, the waiver does not, and cannot, apply retroactively. What that means is that interest and penalties that were imposed because of a missed property tax payment before April 1, 2020, continue to accrue until the property tax bill is paid.

Finally, it is worth noting, that by adopting a resolution authorized by the Act, the County will adjust the usual settlement timeline. The normal settlement date of August 20 still applies,

but only to “taxes, interest, and penalties collected on or before July 31, 2020.” Those amounts must be distributed proportionally to all the underlying taxing jurisdictions. There is to then be a second settlement date of September 20, 2020, which is when the County must settle the remaining unpaid taxes, interest, and penalties. Therefore, the final “settle up” date will be delayed by one month.

If you have questions in regards to this matter please feel free to contact me.



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2019 WISCONSIN ACT 185
Q & A REGARDING PROPERTY TAX INSTALLMENT PAYMENTS
April 20, 2020

On April 15, 2020, Governor Evers signed 2019 Wisconsin Act 185 (“Act 185”) into law, with an effective date of April 17, 2020. Act 185 provides a number of relief measures addressing the ongoing COVID-19 pandemic. One relief measure that particularly impacts counties is the provision in Section 105(25) of Act 185 that allows a taxation district (city, village or town) to waive interest and penalties on property tax installment payments due on April 1 or after so long as the payments are made on or before October 1. The waiver is only available if both a county and a taxation district adopt a resolution authorizing the waiver. Importantly, if a county adopts a resolution authorizing the waiver, the August 20 settlement is not for the full amount of taxes owed each taxing jurisdiction (every entity authorized by law to impose a tax), but only those amounts actually collected by July 31. As one might imagine, a delay in property tax installment payments and the statutory August settlement impacts other statutory deadlines and requirements.

The Wisconsin Counties Association and its general counsel, von Briesen & Roper, s.c., have received many questions surrounding Act 185’s implementation. As well, the Association has engaged in extensive discussions with our counterparts at the League of Wisconsin Municipalities and the Wisconsin Towns Association, as well as the Department of Revenue. Our general counsel has prepared the Q & A below to provide information related to Section 105(25) of Act 185. Based upon the discussions with the Department of Revenue, the Association expects the Department to agree with the analysis below. The Association would like to thank the League and Towns Association for their work in collaborating on the analysis.

This information below should be reviewed carefully with corporation counsel to ensure county compliance with other applicable laws and regulations, including its own policies and procedures.

Q: What does Act 185 say with respect to waiving interest and penalties on property tax installment payments?

A: *The language is found in Section 105(25), Nonstatutory Provisions, on page 23 of Act 185 and provides as follows:*

(25) INTEREST ON LATE PROPERTY TAX PAYMENTS. Notwithstanding ss. 74.11, 74.12, and 74.87, for property taxes payable in 2020, after making a general or case-by-case finding of hardship, a taxation district may provide that an installment payment that is due and payable after April 1, 2020, and is received after its due date shall not accrue interest or penalties if the total amount due and payable in 2020 is paid on or before October 1, 2020. Interest and penalties shall accrue from October 1, 2020, for any property taxes payable in 2020 that are delinquent after October 1, 2020. A taxation district may not waive interest and

penalties as provided in this subsection unless the county board of the county where the taxation district is located first adopts a resolution authorizing such waiver and establishing criteria for determining hardship, and the taxation district subsequently adopts a similar resolution. A county that has adopted a resolution authorizing the waiver of interest and penalties under this subsection shall settle any taxes, interest, and penalties collected on or before July 31, 2020, on August 20, 2020, as provided under s. 74.29 (1), and settle the remaining unpaid taxes, interest, and penalties on September 20, 2020. The August 20, 2020, settlement shall be distributed proportionally to the underlying taxing jurisdictions.

Q: Is the waiver available to all property taxpayers or only those who can show “hardship?”

A: *The provision allows communities to make a “general or case-by-case finding of hardship” and on that basis provide that late installment payments due and payable after April 1, 2020, do not accrue interest or penalties as long as the total amount owed is paid by October 1, 2020. Accordingly, the decision to waive interest and penalties can be applied “generally” across the entire community or for individual taxpayers on a case-by-case basis. As noted below, however, the Association is strongly urging counties seeking to authorize the waiver to authorize only a general (across-the-board) waiver because case-by-case waiver present significant legal and administrative challenges.*

Q: May a city, village or town unilaterally determine to waive interest and penalties on late property tax installment payments due after April 1 without any action by the county board?

A: *No. A municipality can only choose to waive interest and penalties if the county board in which the property is located first adopts a resolution that allows for such a waiver. The county resolution must identify criteria to determine hardship justifying the waiver. A city, village or town that wants to waive interest and penalties on a late installment payment must then adopt a similar resolution. It is important to note that Act 185 requires approval from both the county and the “taxation district,” which is defined as the city, village or town. Even though Act 185 impacts all “taxing jurisdictions,” (defined as those entities, including school districts, authorized to impose a tax) all taxing jurisdictions need not approve the waiver for the waiver to become effective.*

Q: Is it better for a county to authorize a general waiver or a case-by-case waiver?

A: *While Act 185 allows a county to authorize a city, village or town to engage in a case-by-case determination of hardship that would qualify a property taxpayer for the waiver, the Association recommends against waiving interest and penalties on a case-by-case basis. In addition to the administrative burdens associated with the application and evaluation process associated with a case-by-case approach, there are constitutional concerns surrounding tax uniformity and application of principles of equal protection under the law.*

Q: In communities that have not adopted a multiple installment option under Wis. Stat. § 74.12, where a taxpayer has chosen to pay his or her taxes in two equal installments (one on January 31 and the remainder on July 31), does the waiver provision in Act

185 allow a community to waive interest and penalties on the July 31 installment payment?

A: *Yes. Section 74.11 is the statute allowing a property taxpayer to pay in two equal installments (January 31 and July 31.) Act 185 explicitly identifies Wis. Stat. §74.11 as a section subject to Act 185's waiver provision. Therefore, the July 31 second payment is considered an "installment" that is eligible for delay under Act 185. However, it is important to note that Act 185 does not apply to installments due prior to April 1 and does not excuse prior or existing delinquencies.*

Q: **May a property taxpayer that missed or was late paying a property tax payment installment due prior to April 1 have the interest and penalties that have accrued as a result of the delinquency waived or refunded?**

A: *No. Act 185 does not apply retroactively to missed or late payments for installment payments due and payable prior to April 1. The interest and penalties on those delinquencies cannot be waived and continue to accrue until the property tax bill is paid.*

Q: **If a county adopts a resolution authorizing a taxation district (city, village or town) to waive interest and penalties on late property tax installment payments due after April 1, what happens to the required August 20 settlement when the county treasurer distributes property tax revenues to the other taxing jurisdictions?**

A: *A county that has adopted a resolution authorizing the waiver of interest and penalties must settle any taxes, interest, and penalties collected on or before July 31 on August 20, the usual settlement date, as provided under Wis. Stat. § 74.29 (1). The August 20 settlement must be distributed proportionally to all the underlying taxing jurisdictions based upon the payments actually received by July 31. The county must then settle the remaining unpaid taxes, interest, and penalties on September 20. While Act 185 does not specifically provide that a county may, in its discretion, choose to settle on the full tax roll on August 20 as would be the normal procedure, there seems to be little to no risk in doing so if that is what a county chooses to do. No matter what process is chosen, counties are encouraged to consult with all taxing jurisdictions in the county to understand the ramifications associated with modifying the August settlement procedure.*

Q: **What happens if a county adopts a resolution authorizing the waiver, but one or more taxation districts do not grant the waiver?**

A: *If a taxation district does not adopt a resolution authorizing the waiver similar to the county's resolution, property taxes on properties within that taxation district are due according to the normal schedule. However, the county's resolution will trigger the change in the August 20 settlement such that the county will be required to settle on only those property tax payments collected on or before July 31. The balance of taxes will then be settled on September 20. The delay in settlement could cause cash flow issues for taxing jurisdictions in the county.*

- Q:** If a property taxpayer takes advantage of the interest and penalties waiver authorized under Act 185 (and the county and municipal resolutions) and pays an installment(s) by October 1, but after the previously-established deadline, are the property taxes still considered “delinquent” because they were not received by the previously-established deadline?
- A:** *Act 185 provides that for property tax payments delayed as authorized in Act 185, “an installment payment that is due and payable after April 1, 2020, and is received after its due date shall not accrue interest or penalties if the total amount due and payable in 2020 is paid on or before October 1, 2020.” Act 185 does not address delinquencies or the tax certificate process in Wis. Stat. § 74.57(1), which states that “[a]nnually, on September 1, the county treasurer shall issue to the county a tax certificate which includes all parcels of real property included in the tax roll for which real property taxes, special charges, special taxes or special assessments remain unpaid at the close of business on August 31.” While the statutory language is mandatory in that a county treasurer “shall” issue the certificate on September 1, including in the certificate those parcels for which tax payments have been delayed as authorized under Act 185, doing so would frustrate the purpose of Act 185. Therefore, despite the seemingly plain language of Wis. Stat. § 74.57(1), the Association believes that a county treasurer would be authorized to omit those parcels from the tax certificate issued on September 1.*
- Q:** What options exist for counties to address short-term cash flow needs as a result of the delay in property tax payments?
- A:** *The Association is working with von Briesen & Roper, s.c., financial professionals, BCPL and the State Treasurer’s office to review options for cash flow and short-term borrowing. The Association will keep you apprised as those discussions unfold.*

**RESOLUTION WAIVING INTEREST AND PENALTIES ON PROPERTY
TAXES**

TO THE MANITOWOC COUNTY BOARD OF SUPERVISORS:

1 WHEREAS, on March 12, 2020, the State of Wisconsin declared a public health
2 emergency due to an outbreak of COVID-19, a contagious, and at times fatal, respiratory disease;
3 and
4

5 WHEREAS, the Manitowoc County Executive issued a proclamation declaring a public
6 health emergency in Manitowoc County due to the COVID-19 on March 16, 2020, which was
7 subsequently ratified by the Manitowoc County Board Supervisors on March 17, 2020; and
8

9 WHEREAS, in response to COVID-19 pandemic, the Wisconsin Legislature adopted
10 Wisconsin Act 185 ("Act 185") on April 15, 2020, which was signed by Governor Evers on April
11 16, 2020; and
12

13 WHEREAS, Section 105(25) of Act 185 authorizes, *inter alia*, Manitowoc County to adopt
14 a resolution enabling taxation districts in the County to waive interest and penalties until October
15 1, 2020 on 2020 property tax installment payments due and payable after April 1, 2020; and
16

17 WHEREAS, a resolution authorizing the above referenced waiver must also make either a
18 general or case-by-case finding of hardship; and
19

20 WHEREAS, Manitowoc County's authorization for a taxation district to implement the
21 above referenced waiver is contingent upon a taxation district adopting a resolution in similar form
22 and content as to the County's resolution;
23

24 NOW THEREFORE BE IT RESOLVED that the Board of Supervisors of the County of
25 Manitowoc finds that a general hardship exists in the County given the unprecedented number of
26 businesses being required to suspend operations, causing high levels of unemployment coupled
27 with the potential for an unparalleled number of permanent business closures throughout the
28 County; and
29

30 BE IT FURTHER RESOLVED that contingent upon a taxation district adopting a
31 resolution that is similar in form and content to this Resolution, the County of Manitowoc
32 authorizes each taxation district in Manitowoc County to waive interest and penalties on
33 installment payments that are due and payable after April 1, 2020, but are received after the due
34 date, if the total amount due and payable in 2020 is paid on or before October 1, 2020; and
35

36 BE IT FURTHER RESOLVED that if a taxation district permits the waiver authorized by
37 this Resolution, it must offer the waiver to all property taxpayers in the taxation district; and
38

39 BE IT FURTHER RESOLVED that as further provided in § 105(25) of Act 185,
40 Manitowoc County shall deviate from the settlement procedure set forth in Wis. Stat. § 74.29 and,
41 instead the County shall settle property taxes, interest, and penalties collected on or before July
42 31, 2020, on August 20, 2020, and such settlement shall be distributed proportionally to the
43 underlying taxing jurisdictions as provided under Wis. Stat. § 74.29(1); and
44

45 BE IT FURTHER RESOLVED that Manitowoc County shall settle the remaining unpaid
46 taxes, interest, and penalties on September 20, 2020.

Dated this 19th day of May 2020.

Respectfully submitted by the
Finance Committee

Paul Hansen, Chair

FISCAL IMPACT: The preliminary estimate to update the County Treasurer's Tax Receipting Program to handle the additional calculation on a municipality-by-municipality basis is \$7,500.

Indeterminable cost resulting from settling in September before final payments are due on October 1. Settling before final payments are made will result in a collection gap for the County for the period between the September 20 settlement date and the October 1 final collection deadline with the municipalities.

Indeterminable cost of lost interest and penalties that would otherwise accrue and become due and payable.

FISCAL NOTE: Reviewed and approved by Comptroller. _____

LEGAL NOTE: Reviewed and approved as to form by Corporation Counsel. _____

APPROVED:

Bob Ziegelbauer, County Executive

Date

**RESOLUTION WAIVING INTEREST AND PENALTIES ON PROPERTY
TAXES**

1 WHEREAS, on March 12, 2020, the State of Wisconsin declared a public health emergency
2 due to an outbreak of COVID-19, a contagious, and at times fatal, respiratory disease; and
3

4 WHEREAS, the Manitowoc County Executive issued a proclamation declaring a public health
5 emergency in Manitowoc County due to the COVID-19 on March 16, 2020, which was subsequently
6 ratified by the Manitowoc County Board Supervisors on March 17, 2020; and
7

8 WHEREAS, in response to COVID-19 pandemic, the Wisconsin Legislature adopted
9 Wisconsin Act 185 ("Act 185") on April 15, 2020, which was signed by Governor Evers on April 16,
10 2020; and
11

12 WHEREAS, Act 185 authorizes, *inter alia*, a taxing district to adopt a resolution waiving
13 interest and penalties until October 1, 2020 on 2020 property tax installment payments due and payable
14 after April 1, 2020; and
15

16 WHEREAS, Act 185 provides that a taxation district may not waive interest and penalties
17 unless the county board first adopts a resolution authorizing such waiver and establishing criteria for
18 determining hardship; and
19

20 WHEREAS, Manitowoc County adopted a resolution that found a general hardship exists in
21 Manitowoc County and authorized each of its taxation districts to waive interest and penalties on
22 installment payments that are due and payable after April 1, 2020, but are received after the due date;
23

24 NOW THEREFORE BE IT RESOLVED that a general hardship exists in the
25 [City/Village/Town] of _____ given the unprecedented number of businesses
26 being required to suspend operations, causing high levels of unemployment coupled with the
27 potential for an unparalleled number of permanent business closures throughout the County; and
28

29 BE IT FURTHER RESOLVED that the [City/Village/Town] of _____
30 waives interest and penalties on installment payments that are due and payable after April 1, 2020, but
31 are received after the due date, if the total amount due and payable in 2020 is paid on or before October
32 1, 2020; and
33

34 BE IT FURTHER RESOLVED that the [City/Village/Town] of _____
35 shall offer the waiver to all property taxpayers in the [City/Village/Town] of _____;
36 and

Dated this _____ day of _____ 2020.

MEMORANDUM OF UNDERSTANDING

WHEREAS, on March 12, 2020, the State of Wisconsin declared a public health emergency due to an outbreak of COVID-19, a contagious, and at times fatal, respiratory disease; and

WHEREAS, in response to the COVID-19 pandemic, the Wisconsin Legislature adopted 2019 Wisconsin Act 185 (“Act 185”) on April 15, 2020, which was signed by Governor Evers on April 16, 2020; and

WHEREAS, Act 185 authorizes, *inter alia*, a taxing district to adopt a resolution waiving interest and penalties until October 1, 2020 on 2019 property tax installment payments due and payable after April 1, 2020 if the county board first adopts a resolution authorizing such waiver and establishing criteria for determining hardship; and

WHEREAS, on March 17, 2020, Mayor Nickels issued a Proclamation that delayed the March 31 property tax installment payment for City of Manitowoc (the “City”) taxpayers until May 31 and waived any interest that would have otherwise accrued during that period; and

WHEREAS, Manitowoc County (the “County”) intends to adopt a resolution that authorizes the waiver of interest and penalties by its taxation districts pursuant to Act 185 and finds that a general hardship exists in Manitowoc County; and

WHEREAS, the City intends to adopt a resolution approving the waiver of interest and penalties by the City as authorized by the County under Act 185; and

WHEREAS, by adopting a resolution as authorized by Act 185, the County will adjust the usual settlement timeline from a final settlement date of August 20 to a two-step settlement of August 20 and a second final settlement date of September 20, 2020; and

WHEREAS, settling on September 20 would cause complications and other problems when taxpayers have until October 1, 2020 to pay their tax bills;

NOW, THEREFORE, in consideration of the premises set forth above, and the mutual agreements and understandings set forth below, the parties enter into this Memorandum of Understanding and agree as follows:

1. SETTLEMENT.

a. Pursuant to Act 185, the City will perform an “initial” settlement with the County for taxes collected on or before July 31, 2020, on August 20, 2020 (the “August Settlement”). The August Settlement shall be distributed proportionally to the underlying taxing jurisdictions.

b. The City and the County agree that the September 20, 2020 settlement will not be performed as of that date, but rather shall be conducted after October 1, 2020 (the "Final Settlement"). The Final Settlement will be completed by October 15, 2020 and shall settle the remaining unpaid taxes, interest, and penalties.

c. Due to reliance on the Mayor's Proclamation, all City taxpayers who made their January 31 payment on time will have their final payment due date deferred until October 1. Additionally, interest will be charged from October 1 rather than February 1 for City taxpayers who made their January 31 payment but failed to pay their taxes in full by October 1.

2. TAX CERTIFICATES. The City agrees to provide the County with a data file on September 1, 2020 that shows all unpaid taxes as of the close of business on August 31, 2020 so that the County may issue tax certificates consistent with its statutory duty under Wis. Stat. § 74.57.

3. SIGNATURE AUTHORITY. The persons signing this Memorandum warrant that they have been authorized to enter into this Memorandum by and on behalf of their respective parties and that they have full and complete authority to bind their respective parties by executing this Memorandum.

MANITOWOC COUNTY

CITY OF MANITOWOC

By: _____
Amy Kocian
Manitowoc County Treasurer

By: _____

Date: _____

Date: _____

By: _____
Bob Ziegelbauer
Manitowoc County Executive

By: _____

Date: _____

Date: _____