

# Wisconsin Tax Appeals Commission Decision Has Important Implications for Manufacturing Companies with Out-of-State Property

Feb 23 2018

Practice Area: Business and Corporate Law & Tax

---

A recent State of Wisconsin Tax Appeals Commission (the "Appeals Commission") decision has important implications for companies with manufacturing property located outside of Wisconsin. The Appeals Commission held that Modine Manufacturing Company's ("Modine") real property in Racine is manufacturing property under Wis. Stat. § 70.995 even though the property serves primarily as a global headquarters.

## **Wisconsin Statutes Section 70.995**

Property tax assessments in Wisconsin are generally conducted by municipal assessors. However, under Wis. Stat. § 70.995, Wisconsin's Department of Revenue (the "Department") is responsible for assessing manufacturing property.<sup>1</sup> The statute's definition of "manufacturing property" contains two categories of property relevant to this article.<sup>2</sup> The first category ("Category One") encompasses property that is directly involved in manufacturing. Category One manufacturing property includes "all lands, buildings, structures and other real property used in manufacturing, assembling, processing, fabricating, making or milling" products.<sup>3</sup>

The second category ("Category Two") includes "warehouses, storage facilities and office structures when the predominant use of the warehouses, storage facilities or offices is in support of the manufacturing property."<sup>4</sup> Property is considered to be Category Two manufacturing property if its primary function is supporting other manufacturing property through activities such as administration, management, accounting, advertising, research and development, and maintenance/repair of equipment.<sup>5</sup>

## ***Modine Manufacturing Company v. Wisconsin Department of Revenue***

In 2014, Modine filed a request with the Department to have its global headquarters and manufacturing facility in Racine ("Racine Property") classified as manufacturing property for tax purposes. The Department denied Modine's classification request and subsequently denied Modine's petition for redetermination. Modine challenged the Department's denials before the Appeals Commission.<sup>6</sup>

The dispute before the Appeals Commission centered on the § 70.995 definition of manufacturing property. Modine contended that its Racine Property should be categorized as manufacturing property because it consists entirely of Category One and Category Two manufacturing property. The Department argued that the Racine Property is not manufacturing property because, as a global headquarters, the Racine Property primarily supports Modine's manufacturing activities at locations outside of Wisconsin. From the Department's view, support property should not fit within Category Two if it supports manufacturing property outside Wisconsin.

The Appeals Commission concluded that Modine's Racine Property is properly considered manufacturing property despite the fact that the Racine Property primarily supports manufacturing property outside the state. The Appeals Commission rejected the Department's view because the statute does not say that Category Two manufacturing property must support other manufacturing property within Wisconsin. The statute only defines the type of property that Category Two manufacturing property must support, and it does not speak to where the supported property must be located.

### **Implications**

Modine's victory is beneficial for manufacturing companies headquartered in Wisconsin and other companies with real property in Wisconsin used to support manufacturing properties elsewhere. This decision means that real property in Wisconsin—that is primarily used to support manufacturing property—is properly classified as manufacturing property under § 70.995, and it does not matter if the supported property is not in Wisconsin. Accordingly, more companies will be able to benefit from property assessments conducted by the Department.

---

<sup>1</sup> Wis. Stat. § 70.995(5).

<sup>2</sup> § 70.995(1)(a).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> This is not an exhaustive list of activities that are considered support functions.

<sup>6</sup> See *Modine Mfg. Co. v. Wis. Dep't of Revenue*, Docket No. 14-M-248 (Jan. 3, 2018).

---

von Briesen & Roper Legal Update is a periodic publication of von Briesen & Roper, s.c. It is intended for general information purposes for the community and highlights recent changes and developments in the legal area. This publication does not constitute legal advice, and the reader should consult legal counsel to determine how this information applies to any specific situation.