

Walgreens Tax Loophole Talking Points

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Municipal officials are asking the Legislature to reverse the 2008 Wisconsin Supreme Court decision in *Walgreens v. City of Madison* to avoid having even more of the property tax burden shift from commercial and manufacturing property to homeowners and small businesses.

- In 2008 the Wisconsin Supreme Court held in *Walgreens v. City of Madison* that an assessment using the income approach of commercial property leased at “above market” rents must be based on hypothetical “market rents” rather than the terms of Walgreen’s actual leases and that the value added by an “above-market” rent constitutes a contract right, rather than a real property right.
- The 2008 decision requires assessors to value Walgreens and other leased commercial and manufacturing properties substantially below the property’s actual recent sale price.
- Indeed, Walgreens, CVS and a growing number of other leased commercial and manufacturing properties are being assessed at less than half of the actual sale prices of the properties on the open market. See the attached chart.
- Walgreens, CVS and other leased stores claim recent sale prices as the value of the real estate on federal income tax forms, but insist on the lower value for property tax purposes.
- **Real World Example from Appleton:** The Court of Appeals found that a CVS property in Appleton should be valued at \$1.8 million, much less than the City’s \$4.4 million assessment, even though the higher value was based on an actual sale price.
- No other taxpayers receive similar special treatment. A homeowner, for example, could not claim that the assessed value of his or her home should be half the amount for which it was purchased.
- Courts in other states have rejected Walgreens low value argument.
- If the Legislature does not Act, more businesses will employ the *Walgreens* loophole, causing more of the property tax burden to homeowners and small businesses.
- A study of twelve communities showed that if the dark store and *Walgreens* tax loopholes were fully implemented, residential tax bills would increase on average by 8 percent.
- Homeowners already bear a disproportionate share of the statewide property tax burden in Wisconsin (68% of total statewide levy is paid by homeowners). This is much higher than in most other states. Homeowners in Minnesota, for example, pay only 50% of the property tax levy. In 1970, homeowners in Wisconsin also paid only 50% of the tax levy.
- **The Solution:** Pass legislation like 2017 Assembly Bill 387, clarifying that actual lease amounts are appropriately factored into the valuation of leased properties.
- If the bill is enacted local governments will not receive one dollar more in tax revenue due to levy limits, but a tax shift will be avoided.
- 46 percent of the Legislature co-sponsored the *Walgreen’s* reversal bill last session, but opposition from business groups relying on the *Walgreens* loophole killed the bill.