



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 07-087

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

2. Form, Style and Placement in Administrative Code

a. In the rule preface, along with a description of how comments may be submitted, a deadline for the submission of the comments should be included. [See s. 1.02 (2) (a) 12., Manual.]

b. Sections Tax 61.02 (1m) and 61.08 (11) (j) refer to “policies and procedures maintained in an encompassing document” and conditions set by the administrator with regard to ticket validation, respectively. To the extent that any of these policies, procedures, or conditions meet the definition of the term “rule” in s. 227.01 (13), Stats., they should be promulgated as administrative rules and be placed in the Administrative Code.

c. Amendments to administrative rules are shown by striking through language to be removed and underscoring material that is to be added. [See s. 1.06, Manual.] SECTIONS 8, 9, 11, 14, 15, 16, 17, 20, 22, 23, 26, 27, and 28 of Clearinghouse Rule 07-087 do not conform to this requirement.

d. Only “billing” should be capitalized in s. Tax 61.02 (1m). [See s. 1.01 (4), Manual.] In addition, “and” should be substituted for the ampersand preceding “procedures.”

e. The material after the last comma in s. Tax 61.08 (13) (e) should be deleted.

f. In s. Tax 61.08 (13) (e), the phrase “In the event that” should be replaced by the word “If” [See, also, s. Tax 61.08 (17) (a) 4.]

g. The treatment clause of SECTION 9 of Clearinghouse Rule 07-087 should be redrafted. When a provision of an administrative rule is renumbered, the renumbered provision is shown in the treatment clause. [See the third example in s. 1.04 (2), Manual.] This comment also applies to SECTION 11 of Clearinghouse Rule 07-087.

h. SECTION 12 of Clearinghouse Rule 07-087 should be redrafted. When a section of an administrative rule is created, the individual paragraphs of that section should not be listed separately in the treatment clause. In addition, when two or more paragraphs of consecutively numbered rule sections are created, it is not necessary to precede each paragraph with the section and subsection numbers. This comment also applies to SECTIONS 18 and 25 of Clearinghouse Rule 07-087.

i. The treatment clause of SECTION 16 of Clearinghouse Rule 07-087 should be placed in a separate paragraph.

j. The commas preceding the phrase “to read” in each treatment clause of Clearinghouse Rule 07-087 are unnecessary.

4. Adequacy of References to Related Statutes, Rules and Forms

a. In the rule preface statement of related statutes or rules, the cross-references should read: “ss. 20.75 and 25.565 and ch. 565, Stats.”

b. The references to “subsections” (bm) and (c) in s. Tax 61.08 (14) (d) should be to “pars.”.

c. The phrase “this chapter” should be substituted for “the Wisconsin lottery’s administrative rules” in s. Tax 61.08 (22) (a).

d. In s. Tax 61.08 (22) (c), the notation “s.” should be inserted before the cross-reference.

e. In the note to s. Tax 61.08, the cross-reference should read “ss. 565.02 (3) (j), 565.10 (7) to (15), and 565.12, Stats.”

f. In s. Tax 61.25 (3), the word “subsection” should be replaced by the notation “sub.”.

g. In the note to s. Tax 61.25 (4), the cross-reference should read: “ss. 565.10, 560.12, and 895.59, Stats.”

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In the fifth paragraph of the plain language analysis, it appears that the word “retailer’s” should be replaced by the word “it.” Discretion in enforcement applies to the lottery, not to the retailers.

b. In the statement of factual data and analytical methodologies in the rule preface, both occurrences of the word “affects” in the last paragraph should be replaced by the word “effects.”

c. In the discussion of billing terms authority in the rule preface, the word “in” should be inserted before the phrase “the pack” in the first paragraph of the background discussion.

d. In s. Tax 61.08 (11) (h), it is not necessary to make use of quotation marks.

e. In s. Tax 61.08 (14) (c), it is suggested that “since the last remission of proceeds” be substituted for “within the last sixty (60) days.” For example, if a retailer remits proceeds at 40-day intervals, it makes no sense to require that proceeds for the last 60 days be remitted.

f. Section Tax 61.08 (14) (e) is unclear. The department should explain how an interest penalty is to be calculated and the circumstances under which it may be imposed for dishonored checks for electronic fund transfers. This comment also applies to SECTION 29 of Clearinghouse Rule 07-087.

g. “A” should be substituted for “The” in s. Tax 61.08 (15) (a).

h. In s. Tax 61.25 (2), the phrase “case by case” should be replaced by the phrase “case-by-case.” [See, also, s. Tax 61.25 (4).]