

Tax 1, 7, 11

CERTIFICATE OF RULE ADOPTION

STATE OF WISCONSIN)
DEPARTMENT OF REVENUE)

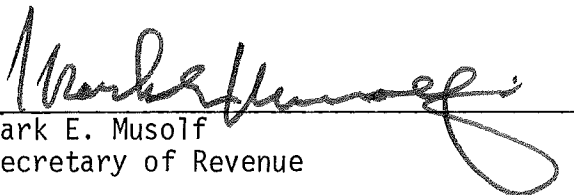
TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

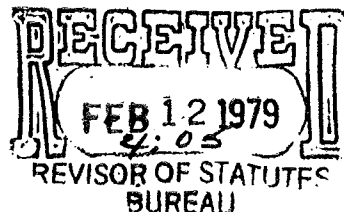
I, Mark E. Musolf, Secretary of the Department of Revenue and custodian of the official records of said Department, do hereby certify that the annexed rules were duly approved and adopted by this Department on February 9, 1979. These rules relate to the following:

- 1) Requirements for examination of returns (inheritance and estate taxes).
- 2) Activities of brewers, bottlers and wholesalers (fermented malt beverage law).
- 3) Waste treatment facilities (industrial or governmental) (sales and use tax).

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 201 East Washington Avenue in the city of Madison, this 9th day of February, 1979


Mark E. Musolf
Secretary of Revenue



ORDER OF THE DEPARTMENT OF REVENUE ADOPTING RULES


Pursuant to the authority vested in the Department of Revenue by ss. 71.11(24)(a), 176.43(2) and 227.014(2), Wis. Stats., the Department hereby adopts the following rules as shown on the attached copy:

- (1) Section Tax 1.11(9), relating to requirements for the examination of inheritance and estate tax returns.
- (2) Section Tax 7.23, "Activities of brewers, bottlers and wholesalers" (fermented malt beverage law).
- (3) Section Tax 11.11, "Waste treatment facilities (industrial or governmental)".

The rules contained herein shall take effect on April 1, 1979.

Dated This 9th day of February 1979.

DEPARTMENT OF REVENUE
BY:



Mark E. Musolf
Secretary of Revenue

REQUIREMENTS FOR EXAMINATION OF INHERITANCE AND ESTATE TAX RETURNS

SECTION 1. Section 1.11(9) of the Wisconsin Administrative Code is adopted to read:

Tax 1.11(9) Section 71.11(44)(a) and (c) to (h) and this rule apply to all information obtained from any person on an inheritance or estate tax return filed under Subchapter II and III of Chapter 72, Wis. Stats., and to any reports, schedules, exhibits, writings, audit reports or other documents pertaining to the tax return.

ACTIVITIES OF FERMENTED MALT BEVERAGE BREWERS, BOTTLERS AND WHOLESALERS

Section Tax 7.23 of the Wis. Admin. Code is adopted to read:

Tax 7.23 Activities of brewers, bottlers and wholesalers. (Section 66.054(4), Wis. Stats.) (1) DEFINITIONS. In this rule: (a) "Event" means any activity, game, contest, tournament or entertainment (including activities of bowling leagues, bowling tournaments, snowmobile and automobile races, baseball, basketball, football and soccer games, dances, concerts and any other attraction) which is conducted on a premises operated under a retail Class "B" fermented malt beverage license or promoted by a retail Class "B" fermented malt beverage licensee.

(b) "Retail" Class 'B' fermented malt beverage license" means all retailers' Class "B" licenses, including a temporary license issued under s. 66.054(8)(b), Wis. Stats., for a fair, meeting, picnic or similar gathering.

(c) "Sign" means a board, banner, placard, poster or other graphic display, containing letters, words, symbols, numerals, shapes, forms or pictures or any combination thereof, including all component parts (such as the frame, nuts and bolts, ballast, internal wiring, electrical and mechanical components and face, and the labor necessary to assemble the unit), which has no value or use except to advertise or identify a manufacturer's product or a retailer's place of business or an event or any combination of these. The value of the sign is determined by the original cost of acquisition if it is purchased by a brewer, bottler or wholesaler.

(d) "Sponsor" means to underwrite in whole or in part the cost of an event by providing signs, advertising in score cards or on scoreboards and fences or by providing equipment, prizes, trophies, entertainment or other things of value.

(2) GENERAL RESTRICTION AND EXCEPTIONS. (a) Restriction. No brewer, bottler or wholesaler of fermented malt beverages may sponsor any event conducted on premises operated under a retail Class "B" fermented malt beverage license or promoted by a retail Class "B" fermented malt beverage licensee.

(b) Exceptions. However, a brewer, bottler or wholesaler may:

1. Furnish, give, lend, lease or sell outside and inside signs to a Class "B" licensee or the promoter of an event if the value of such signs does not exceed, in the aggregate, \$125 exclusive of erection, installation and repair charges.

2. Furnish merchandise, prizes, trophies or other items to a Class "B" licensee, a promoter, entrant or contestant if the value of such prizes, trophies or other items, in the aggregate, does not exceed \$25 in any calendar year.

3. Purchase advertising or other services or rights for a fair consideration from any corporate Class "B" retail fermented malt beverage licensee which is a member of a regularly established athletic league if the licensee derives more than 50% of its gross income from the ownership, maintenance and operation of a professional athletic team which plays a regular schedule of games and which derives more than 50% of its income from the sale of admissions to the team's games.

4. Sell dispensing equipment to Class "B" licensees for cash or on credit payable in equal monthly payments within 2 years if evidence of the written contract is filed with and the fee is paid to the county register of deeds within 10 days.

5. Sell consumable merchandise (such as soda water beverages, nuts, chips and other food) to any Class "B" licensee for resale.

6. Enter into contractual agreements or other arrangements directly with non-licensed third party organizations to sponsor an event or sponsor radio or television broadcasts, to make payment for advertising, or to provide other services or things of value if no payments, services or other things of value are made directly or indirectly by the brewer, bottler or wholesaler to a Class "B" licensee or association of Class "B" licensees, if the payments, services or other things of value are not contingent upon the event being held at any premises designated by the brewer, bottler or wholesaler and if the sponsor's products are not required to be sold or served at the premises selected by the non-licensed third party.

7. Permit refrigerated trucks or trailers to remain on Class "B" licensed premises for the storage of beer during an event. At the conclusion of the event the brewer, bottler or wholesaler may issue one invoice to the Class "B" licensee for the beer actually used at the event.

(3) EXAMPLES OF PROHIBITED ACTIVITIES. Subject to the limitations in sub. (2)(a) and (b), examples of conduct prohibited by section 66.054(4), Wis. Stats., and this rule include, but are not limited to:

(a) A brewer, bottler or wholesaler may not sponsor a baseball, basketball, bowling, football or soccer team if the team has a Class "B" license.

(b) A brewer, bottler or wholesaler may not sponsor an event conducted by a third party, not a Class "B" licensee, if the third party arranges for the event to be conducted at a Class "B" licensed premises and requires such licensee to purchase the sponsor's product.

(c) A brewer, bottler or wholesaler may not hire musicians to provide a concert or music for a dance at a Class "B" licensed premises.

(d) A brewer, bottler or wholesaler may not purchase advertising space in publications published by a trade association composed of Class "B" licensees or purchase or rent display space from such an association.

(e) A brewer, bottler or wholesaler may not furnish, sell or rent counters, bars, fixtures or trucks or trailers equipped with tapping devices to any Class "B" licensee.

WASTE TREATMENT FACILITIES

Section Tax 11.11 of the Wis. Adm. Code is adopted to read:

Tax 11.11 Waste treatment facilities (industrial or governmental).
(Section 77.54(26), Stats.) (1) THE STATUTE, EFFECTIVE JULY 31, 1975.
(a) The sales and use tax exemption for tangible personal property which becomes a component part of a waste treatment facility is contained in s. 77.54(26), Stats.

(b) The general property tax exemption for a waste treatment facility is contained in s. 70.11(21)(a), Stats. and the exemption for public utilities and railroads is contained in 76.02(10), Stats.

(2) CONTRACTORS AND SUBCONTRACTORS. (a) The sales and use tax exemption extends to and includes the purchases of tangible personal property by a contractor-installer who incorporates such property into an approved waste treatment facility. The contractor-installer should certify the intended exempt use of the item to each supplier in order to relieve the supplier of the duty of collecting and reporting the tax on the sale. Certification of exempt use should be made on a Certificate of Exemption, Form S-207.

(b) Contractors should be certain the facility they are constructing has been properly approved by the department of revenue. If there has been no "approval", the contractor may be liable for the tax on his or her purchases.

(c) A contractor's purchases of items used or consumed in the performance of the contract, and which do not become a part of the waste treatment facility, are subject to the tax. This includes industrial gases, form lumber, tunnel shields and supplies used by a contractor during construction. Payments by a contractor for equipment purchased or leased to perform a construction job are also taxable.

(3) THE APPROVAL. (a) Effective July 31, 1975, the department must approve each facility for it to qualify for the property tax exemption. A facility must be exempt from property tax to qualify for a sales and use tax exemption.

(b) Under the sales and use tax law, "approval" of a waste treatment facility means an approval by the department before purchases are made or construction begins, or contemporaneously with the purchase or construction. The property tax exemption approvals for industrial and commercial waste treatment facilities are effective January 1 of each year. Any approvals issued prior to January 1 which apply to contemplated construction must of necessity be "tentative approvals" based on the information presented to the department by the applicant.

(c) Requests for approvals of an industrial waste treatment facility should be sent to the Department of Revenue, Bureau of Property Tax, 201 East Washington Avenue, Madison, WI 53702. Requests for approval by public utilities, railroads, airlines and pipelines should be sent to the

Bureau of Utility and Special Taxes at the same address. The request should contain a thorough description of the waste treatment facility and include the Department of Natural Resources order number, if available.

(d) Requests for municipal approvals should be sent to the Department of Revenue, Technical Services Staff, Income, Sales, Inheritance and Excise Tax Division, 201 East Washington Avenue, Room 428, Madison, WI 53702. The municipality or solid waste recycling authority requesting an approval for a new waste treatment facility should provide a general description of the major waste processing units which are being added and describe their function and location. The applicant should also provide information regarding approvals of plans that previously were received from other governmental agencies.

(4) INDUSTRIAL WASTE TREATMENT EXEMPTION. (a) If an industrial or utility waste treatment facility qualifies for the property tax exemption under s. 70.11(21)(a), or s. 76.02(10), Stats., it qualifies for the sales and use tax exemption under s. 77.54(26), Stats.

(b) When any plant or equipment has been approved as exempt from the property tax on January 1, the repair, service, alteration, cleaning, painting and maintenance of such exempt property and the repair parts and replacements therefor are also exempt through the following December 31. The exemption does not extend to supplies or services used to carry out the treatment process.

(5) MUNICIPAL WASTE TREATMENT EXEMPTION. (a) Storm sewers, water supply systems and private domestic waste water facilities do not qualify for the sales and use tax exemption.

(b) Prior to July 31, 1975, an entire municipal sanitary sewer, including its collection system, qualified for the sales and use tax exemption. On and after July 31, 1975, only the central waste treatment plant which actually treats the sewage qualifies for the exemption.

(c) The collection system throughout the area served by the treatment facility, the effluent pipeline carrying the treated sewage away from the central treatment plant, earthen dikes and chain link fences on the boundary of a treatment plant, and dredge material disposal sites are not exempt. The collection systems includes the lift stations, force mains and associated pumping equipment used to bring the raw sewage to the central treatment plant.

(d) When any municipal central waste treatment facility has been approved as exempt under s. 77.54(26), Stats., the repair, service, alteration, cleaning, painting and maintenance of such property and the repair parts and replacements therefor are exempt from the sales and use tax.

NOTE: The interpretations in this rule are effective July 31, 1975 when ss. 70.11(21)(a) and 77.54(26), Stats., were revised, unless otherwise noted in this rule. Prior to that date, the exemption language was different and "approvals" were not obtained from the Department of Revenue.