

CR 82-184

CERTIFICATE

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STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF REVENUE)

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Michael Ley, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order relating to Clearinghouse Rule No. 82-184 was duly approved and adopted by this department on May 4, 1983.

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 125 South Webster Street in the city of Madison, this 4<sup>th</sup> of May, 1983.

  
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Michael Ley  
Secretary of Revenue

7-1-83

ORDER OF THE DEPARTMENT OF REVENUE

REPEALING, AMENDING AND CREATING RULES

To repeal Tax 7.22, Tax 8.02(2), Tax 8.21(1), Tax 8.35(1), (2) and (3), Tax 8.42 and Tax 8.86; to renumber Tax 8.35(4) and (5); to renumber and amend Tax 4.50, Tax 8.02(1) and Tax 8.21(2), to amend Tax 7.01(1) and (2), Tax 7.21(title), Tax 7.23(title), (1)(b), (3)(intro.) and (e), Tax 8.03(title), Tax 8.11, Tax 8.22(title) and (1), Tax 8.35(title), Tax 8.41(title), Tax 8.43(title), (1) and (2), Tax 8.51(title), Tax 8.52(title), Tax 8.61(title), Tax 8.66, Tax 8.76(title) and (2), Tax 8.81, Tax 8.85, Tax 8.87(title), (1), (2)(g), (3)(intro) and (4)(intro); to repeal and recreate Tax 9.12; and to create Tax 4.50(1), (2), (3) and (4) and Tax 8.43(3) relating to motor vehicle fuel, fermented malt beverage, intoxicating liquor and cigarette taxation.

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Analysis by the Department of Revenue

SECTION 1. Rule Tax 4.50 is renumbered and amended to define "Wisconsin state tax number".

SECTION 2. Rule Tax 4.50(1), (2), (3) and (4) are created to incorporate instructions for the assignment and use of the Wisconsin state tax number.

SECTIONS 3 and 4. Rule Tax 7.01(1) and (2) are amended to clarify the requirements for purchasing fermented malt beverages according to Wisconsin Statutes. Under s. 125.28(1), Stats., wholesalers and bottlers may purchase fermented malt beverages from registered Wisconsin breweries and wholesalers.

SECTION 5. Rule Tax 7.22 is repealed to recognize Chapter 291, Laws of 1977 which amended s. 125.33(2), Stats., to provide that similar discounts may be offered for Class B licensees as may be offered to Class A licensees. The amendment to the statute makes rule Tax 7.22 obsolete.

SECTION 6. Rule Tax 7.23(3)(e) is amended to correct a spelling error.

SECTION 7. Rule Tax 8.02(1) is amended to provide an address for picking up intoxicating liquor stamps from the department and to correct an address for mailing orders. Rule Tax 8.02(1) is renumbered due to the repeal in SECTION 8.

SECTION 8. Rule Tax 8.02(2) provides the procedures for the ordering of liquor stamps by branches, affiliates or subsidiaries. Since the department no longer requires branches, affiliates or subsidiaries to have a permit unless they ship into Wisconsin, rule Tax 8.02(2) is repealed.

SECTION 9. Rule Tax 8.11 is amended to correct the due date for mailing monthly reports.

SECTION 10. Rule Tax 8.21(1) is repealed since it merely restates s. 125.69(6), Stats.

SECTION 11. Rule Tax 8.21(2) is renumbered as necessary due to the repeal in SECTION 12 and is amended to eliminate superfluous language.

SECTION 12. Rule Tax 8.22(1) is amended to correct a statutory reference and to eliminate language which is redundant. Under s. 125.02(14), Stats., a "person" is defined as a firm, partnership, corporation or association.

SECTION 13. Rule Tax 8.35(1), (2) and (3) are repealed since they contain obsolete labeling requirements for interstate shipments of intoxicating liquors.

SECTION 14. Rule Tax 8.35(4) and (5) are renumbered as necessary due to the repeals in SECTION 16.

SECTION 15. Rule Tax 8.42 is repealed since federal regulations on wine containers make the department's controls unnecessary.

SECTION 16. Rule Tax 8.43(1) and (2) are amended to eliminate language which is redundant. Under s. 125.02(14), Stats., a "person" is defined as a firm, partnership, corporation or association. Rule Tax 8.43(1) and (2) are also amended to provide for the Department of Revenue's policy regarding bottles which were previously used for intoxicating liquors and are retained for recycling purposes. The Department's policy (which is similar to federal regulations) does not require such bottles to be destroyed if they are retained for recycling purposes.

SECTION 17. Rule Tax 8.43(3) is created to provide for the requirements for storing empty liquor bottles to be used for recycling purposes.

SECTION 18. Rule Tax 8.66 is amended to eliminate a conflict with s. 139.06 (4), Stats.

SECTION 19. Rule Tax 8.76(2) is amended to eliminate the rule's requirement for information which is no longer necessary and to eliminate language which is not sex-neutral.

SECTION 20. Rule Tax 8.81 is amended to eliminate language which is not sex neutral.

SECTION 21. Rule Tax 8.85 is amended to provide for a change in billing from quarterly to semi-annually. This provides a more efficient and less expensive method for the state to prorate the costs of administration to bill permittees. Rule Tax 8.85 is divided into two subsections to improve readability.

SECTION 22. Rule Tax 8.86 is repealed to recognize Chapter 291, Laws of 1977, which repealed and recreated s. 176.17(5a), (now s. 125.69(3)), Stats., to provide for uniform prices for all liquor retailers (Class A or Class B). Prior to Chapter 291 the statutes required uniform prices for similar purchases by Class A licensees and rule Tax 8.86 was adopted to require uniform prices for Class B licenses. The rule now is unnecessary.

SECTION 23. Rule Tax 9.12 is repealed and recreated to eliminate unnecessary requirements for obtaining refunds on cigarette taxes paid by the military. Military post exchanges seldom buy stamped cigarettes, but instead buy directly from manufacturers without tax. Currently, infrequent sales to military organizations are made by Wisconsin jobbers or distributors and the proposed revision provides adequate safeguards to the department.

SECTION 24. Chapter 79, Laws of 1981, recodified the alcohol beverage laws. Because of this recodification, statutory references in chapters Tax 7 and 8 of the Wisconsin Administrative Code must be changed to reflect the recodified statutes. The new statutory references have been inserted in the portions of chapters Tax 7 and 8 amended or created in preceding sections of this order. The remaining reference changes necessary are set forth in this section.

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Pursuant to the authority vested in the Department of Revenue by sections 78.79, 125.03(1) and 227.014(2), Stats., the Department of Revenue hereby repeals, amends and creates rules contained in Chapters Tax 4 ("Motor Vehicle Fuel Taxation"), 7 ("Fermented Malt Beverages"), 8 ("Intoxicating Liquors") and 9 ("Cigarette Tax") which interpret Chapters 78, 125 and 139, Stats., as follows:

SECTION 1. Tax 4.50 is renumbered 4.50(intro.) and amended to read:

Tax 4.50 ASSIGNMENT, USE AND REPORTING OF WISCONSIN STATE TAX NUMBER.  
(s. 78.77, Stats.) Each shipment, transfer, purchase or sale of a petroleum product which is reportable to the Wisconsin department of revenue, in accordance with ch. 78, Stats., shall bear a "Wisconsin state tax number". ~~Such "Wisconsin state tax number" shall be assigned, used and reported in accordance with instructions by the department.~~ In this section, "Wisconsin state tax number" means the number provided for in subs. (1) through (4).

SECTION 2. Rule Tax 4.50(1), (2), (3) and (4) are created to read:

Tax 4.50(1) ASSIGNMENT. The assignment of a "Wisconsin state tax number" shall in each case originate with the shipper and be assigned by him or her. All subsequent transactions, invoices and reports regarding each respective shipment shall use and make reference to this number.

(2) RAILWAY TANK CAR SHIPMENTS. On all railway tank car shipments the tank car initials and number shall become the "Wisconsin state tax number".

(3) TRUCK TRANSPORT SHIPMENTS. On all truck transport shipments the manifest number shall become the "Wisconsin state tax number".

(4) OTHER SHIPMENTS. On all other types of shipments, which do not involve the use of tank car initials and number or manifest number, the shipper shall assign as the "Wisconsin state tax number" the invoice number.

An invoice number shall not be assigned by a shipper as the "Wisconsin state tax number" in any case where tank car initials and number or manifest number is involved.

SECTION 3. Tax 7.01(1) is amended to read:

Tax 7.01 PURCHASES AND INVOICES. (ss. 125.28(1), 139.05(5) and 139.11(1), Stats.) (1) Wisconsin wholesalers and bottlers properly registered and licensed may purchase and receive fermented malt beverages only from registered Wisconsin breweries and wholesalers or from out-of-state firms holding a fermented malt beverage permit. Wisconsin breweries, bottlers and wholesalers will upon request be furnished with a list of out-of-state firms having a permit to ship into Wisconsin.

SECTION 4. Tax 7.01(2) is amended to read:

Tax 7.01(2) An invoice must be submitted to each customer covering each sale, shipment or delivery to a Wisconsin wholesaler or bottler by all breweries, bottlers and permittees shipping in within the state or into this state. Such invoice must clearly indicate date, quantities, package size and description and must be retained on the licensed premises of the wholesaler or bottler.

SECTION 5. Tax 7.22 is repealed.

SECTION 6. Tax 7.23(3)(e) is amended to read:

Tax 7.23(3)(e) A brewer, bottler or ~~wolesaler~~ wholesaler may not furnish, sell or rent counters, bars, fixtures or trucks or trailers equipped with tapping devices to any Class "B" licensee.

SECTION 7. Tax 8.02(1) is renumbered Tax 8.02 and amended to read:

Tax 8.02 REVENUE STAMPS - OCCUPATIONAL TAX. (ss. 139.06(5) and (8), Stats.) ~~(4)~~ Liquor stamps are provided by the department of revenue in proper denominations and may be purchased by manufacturers, rectifiers, wholesalers and out-of-state permittees holding the proper permits. Stamps may be purchased only from the Wisconsin Department of Revenue, ~~P.O. Box 75~~ 4638 University Avenue, Madison, Wisconsin 53707. Mail orders addressed to the department, P.O. Box 8905, Madison, Wisconsin 53708, will be accepted when made in the proper form and accompanied by the proper remittance.

SECTION 8. Tax 8.02(2) is repealed.

SECTION 9. Tax 8.11 is amended to read:

Tax 8.11 REPORTS. (s. 139.11, Stats.) Monthly reports must be filed by all manufacturers, rectifiers, wholesalers, wineries and out-of-state permittees having a permit to ship into or do business within the state of Wisconsin, on forms furnished by the department of revenue. Such reports must be made in duplicate, the original to be mailed to the department ~~of revenue~~ on or before the ~~tenth~~ fifteenth day of each month covering the preceding calendar month, and the duplicate to be retained by the firm submitting the report. Reports must be submitted on the basis of wine gallons, not proof gallons. In the event no transactions occur in any given month the report must be filed with a notation written across the face: "No transactions."

NOTE TO REVISOR: Amend the NOTE following s. Tax 8.11 to read as follows: Blank forms may be obtained from the Department of Revenue, P.O. Box 8905, Madison, Wisconsin 53708.

SECTION 10. Tax 8.21(1) is repealed.

SECTION 11. Tax 8.21(2) is renumbered Tax 8.21 and amended to read:

Tax 8.21 PURCHASES BY THE RETAILER. (s. 139.11(1), Stats.) ~~holders of either a class A or class B~~ Every retail ~~license~~ licensee shall retain invoices covering all purchases of intoxicating liquor for a period of 2 years from the date of the invoice. Such invoices shall be retained on the licensed premises in groups covering ~~a period of a~~ one month each and shall be open to inspection at all reasonable times by any representative of the department ~~of revenue.~~ The date of payment, if paid, must be recorded on each invoice.

SECTION 12. Tax 8.22(1) is amended to read:

Tax 8.22(1) No Wisconsin manufacturer, rectifier, wholesaler or winery shall purchase or receive intoxicating liquor from without outside the state except from a person, ~~firm or corporation~~ holding an out-of-state permit issued pursuant to section ~~176.70~~ 125.58, Wis. Stats.

SECTION 13. Tax 8.35(1), (2) and (3) are repealed.

SECTION 14. Tax 8.35(4) and (5) are renumbered Tax 8.35(1) and (2).

SECTION 15. Tax 8.42 is repealed.

SECTION 16. Tax 8.43(1) and (2) are amended to read:

Tax 8.43 EMPTY CONTAINERS. (s. 125.68(8), Stats.) (1) Any person, ~~firm or corporation~~ possessing a bottle of intoxicating liquor, including wine, shall, as soon as such bottle is empty, scratch, deface or mutilate any Wisconsin tax stamp and the label attached thereto in such a manner that the stamp and label cannot again be used. The requirement that labels be defaced shall not apply to ceramic commemorative bottles and other uniquely designed decanters but in every instance any Wisconsin liquor tax stamp must be defaced when a container is emptied.

(2) No person, ~~firm or corporation~~ shall fill, or cause to be filled, any bottle which has previously been used for intoxicating liquors, not including wine. Such bottles, except ceramic commemorative bottles and other uniquely designed decanters and bottles retained for delivery or collection for recycling through a process which will result in rendering them unusable as bottles, shall be broken and destroyed immediately upon being emptied of their original contents.

SECTION 17. Tax 8.43(3) is created to read:

Tax 8.43(3) Empty liquor bottles retained for recycling purposes shall have all state and federal tax stamps and labels scratched, defaced or mutilated, and shall be stored in containers marked "For recycling only" and shall be removed from the premises within ten days.

SECTION 18. Tax 8.66 is amended to read:

Tax 8.66 MERCHANDISE ON COLLATERAL. (ss. 139.06(1) and 139.06(4), Stats.) No manufacturer, rectifier or wholesaler shall place unstamped intoxicating liquor except wine containing not over 21% alcohol by volume as collateral or security to a loan unless the unstamped liquor used for this purpose is placed in a licensed public warehouse.

SECTION 19. Tax 8.76(2) is amended to read:

Tax 8.76(2) No Wisconsin manufacturer, rectifier, wholesaler or winery shall purchase or order intoxicating liquor except from a salesman salesperson who is duly registered by the secretary of revenue. ~~The-salesman's-permit number-must-be-indicated-on-all-invoices-covering-sales-or-shipments-by foreign-or-domestic-permittees.~~

SECTION 20. Tax 8.81 is amended to read:

Tax 8.81 TRANSFER OF RETAIL LIQUOR STOCKS. (ss. 125.69(6) and 125.10 (2), Stats.) (1) No licensed retail dealer shall transfer his or her liquor stock, upon selling or liquidating his the business, without first filing an inventory of his the entire stock with the department of revenue and obtaining approval of the transfer. The inventory must be submitted in triplicate listing quantities, brands, classifications, container sizes and such other information as the department of revenue may require and shall be signed by both the buyer and the seller. Upon approval the original will be sent to the buyer to be retained as an invoice and one copy will be returned to the seller.

(2) A licensed retail dealer may sell his or her entire liquor stock in a liquidating transaction to any other licensed retailer providing the above conditions are complied with.



SECTION 21. Tax 8.85 is amended to read:

Tax 8.85 PROCEDURE FOR APPORTIONMENT OF COSTS OF ADMINISTRATION OF S. 125.69(4), STATS. (s. 125.69(4)(e), Stats.) (1) All direct and indirect costs of administration of administering s. 176.05(23) 125.69(4), Stats., both direct and indirect and, including costs of supplies, equipment and rental, rent and clerical, investigational, administrative and supervisory help must shall be borne by the intoxicating liquor permittees. The aggregate of such costs shall be determined by the department of revenue quarterly semi-annually and shall be prorated by it among the permittees at any time licensed as-a-permittee in each calendar-quarter period covered. Each such permittee shall be billed no later than the twentieth day of the month following the close of each calendar-quarter for his its share of such aggregate costs for such quarter, and such bill must shall be paid within ten days of the billing date.

(2) The costs of administration for each quarter six-month period shall be prorated among the permittees licensed in such quarter period on the basis of estimated retail dollar sales to retailers based upon reported gallons and liters of wine and liquor sold at retail to retailers by each permittee. Whenever the sales of a permittee have not been reported to the department of revenue, the department shall estimate such sales for purposes of such proration.

SECTION 22. Tax 8.86 is repealed.

SECTION 23. Tax 9.12 is repealed and recreated to read:

Tax 9.12 REFUNDS-MILITARY. (s. 139.31(3), Stats.) If the state tax has been paid on cigarettes sold to post exchanges of the armed services of the United States or to federally or state operated veterans hospitals, the tax may be refunded to the distributor or jobber if:

(1) The cigarettes were actually sold and delivered to an exempt organization, and

(2) The distributor or jobber can provide evidence that the cigarette taxes were paid.

SECTION 24. REFERENCE AND CROSS-REFERENCE CHANGES. In the sections of the Wisconsin Administrative Code listed in Column A, the statutory references or cross-references shown in Column B are changed to the statutory references or cross-references shown in Column C:

| <u>A</u><br>Code Section | <u>B</u><br>Old Reference/Cross-Reference    | <u>C</u><br>New Reference/Cross-Referenc |
|--------------------------|--|--|
| 7.21 (title)             | 66.054(3)                                    | 125.32(7)                                |
| 7.23 (title)             | 66.054(4)                                    | 125.33(1)                                |
| 7.23(1)(b)               | 66.054(8)(b)                                 | 125.26(6)                                |
| 7.23(3)(intro.)          | 66.054(4)                                    | 125.33(1)                                |
| 8.03 (title)             | 176.18(8)                                    | 125.57(9)                                |
| 8.22 (title)             | 176.05(1a)                                   | 125.52(1), 125.54(1) and 125.53          |
| 8.22(1)                  | 176.70                                       | 125.65                                   |
| 8.35 (title)             | 176.03(2), (2a), (3), (4)                    | 125.58(1); 125.68(10)                    |
| 8.41 (title)             | 176.42                                       | 125.03(2)                                |
| 8.51 (title)             | 176.60                                       | 125.68(9)                                |
| 8.52 (title)             | 176.60                                       | 125.68(9)                                |
| 8.61 (title)             | 176.05(1a)(c) and (1h)                       | 125.51(7) and 125.58                     |
| 8.76 (title)             | 176.70(1), (4)                               | 125.65(1), (7)                           |
| 8.87 (title)             | 176.05(1a)(a) and (am) and 176.17(1) and (5) | 125.69(1)                                |
| 8.87(1)                  | 176.05(1a)(a)                                | 125.69(1)(a) and (b)                     |
| 8.87(1)                  | 176.05(1a)(am)                               | 125.69(1)(a)                             |
| 8.87(1)                  | 176.17(1) and (5)                            | 125.69(1)(b)                             |
| 8.87(1)                  | 176  | 125                                      |
| 8.87(2)(g)               | 176  | 125                                      |
| 8.87(3)(intro.)          | 176  | 125                                      |
| 8.87(4)(intro.)          | 176  | 125                                      |

The rules, amendments and repeals contained in this order shall take effect as provided in s. 227.026(1)(intro.), Wis. Stats.

Dated: May 4, 1983

DEPARTMENT OF REVENUE

By: Michael Ley  
Michael Ley  
Secretary of Revenue