

Chapter Tax 7

FERMENTED MALT BEVERAGES

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Tax 7.01 Purchases and invoices. (ss. 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.

(2) An invoice must be submitted covering each sale, shipment or delivery to a Wisconsin wholesaler or bottler by all breweries, bottlers and permittees shipping 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.

(3) An invoice indicating date, quantity, package size and description must be submitted to the retailer by the brewery, bottler or wholesaler, covering each sale, shipment or delivery of fermented malt beverages made to such a retailer. Breweries, bottlers and wholesalers must keep a copy or a record of such invoices on their licensed premises in convenient form, indicating the date of payment if paid. Such invoices or record must be available for inspection at all reasonable hours by representatives of the department of revenue.

(4) All fermented malt beverage retailers must retain on their licensed premises the invoices covering shipments received by them from breweries, bottlers or wholesalers. Such invoices must be retained for 2 years from date of invoice in groups covering a period of one month each and be available for inspection at all reasonable times by representatives of the department of revenue and the date of payment, if paid, must be recorded on such invoice.

History: 1-2-56; am. Register, January, 1958, No. 25, eff. 2-1-58; am. Register, June, 1975, No. 234, eff. 7-1-75; am. (1) and (2), Register, June, 1983, No. 330, eff. 7-1-83.

Tax 7.11 Refunds on sale of beer to armed forces. (s. 139.10, Stats.) The state tax paid on fermented malt beverages sold to the armed forces of the United States may be refunded to the licensed Wisconsin brewery, bottler or wholesaler making the sale under the following conditions and provisions:

(1) An invoice covering each sale must be executed in triplicate, the original to be retained at the office of the commanding officer, and the 2 copies to be signed by the commanding officer, or his designated representative and retained by the firm making the sale.

(2) A refund request in affidavit form together with one of the receipted copies of each invoice must be filed with the department of revenue.

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(3) If beer which is sold or delivered, under s. 139.10 (1), Stats., and this rule is returned to the brewery, bottler or wholesaler, a notation of such return, signed by the commanding officer or a designated representative, must be recorded on the original invoice clearly indicating quantity and description.

(4) Under no consideration may fermented malt beverages, on which a refund has been paid or applied for, be returned to any wholesaler, bottler or advertising without special permission from the department of revenue.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75; am. (3), Register, December, 1977, No. 264, eff. 1-1-78.

Tax 7.21 Labeling. (s. 125.32 (7), Stats.) All fermented malt beverages sold in this state shall be labeled in accordance with federal regulation No. 7, now in effect or as subsequently amended, relating to the labeling and advertising of malt beverages, issued under the federal alcohol administration act.

History: 1-2-56; am. Register, December, 1977, No. 264, eff. 1-1-78.

Tax 7.23 Activities of brewers, bottlers and wholesalers. (s. 125.33 (1), 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. 125.26 (6), 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.

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(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 s. 125.33 (1), 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.

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(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.

Note: See 68 Atty Gen 395 for a discussion of s. Tax 7.23

History: Cr. Register, March, 1979, No. 279, eff. 4-1-79; am. (1) (b) and (3) (intro.), Register, June, 1983, No. 330, eff. 7-1-83.