

Filed Oct 18-1971

TAX 9

STATE OF WISCONSIN)
)ss
DEPARTMENT OF REVENUE)

TO ALL TO WHOM THESE PRESENTS COME, GREETINGS:

I, EDWARD A. WIEGNER, Secretary of the Wisconsin Department of Revenue and custodian of the official records of the Wisconsin Department of Revenue, do hereby certify that the annexed changes in the Rules of the Wisconsin Department of Revenue related to Tobacco Products taxation (creating Rule TAX 9.47 and repealing and recreating Rules TAX 9.11 and 9.51) have been approved by me and have been compared with the originals on file in the Department and are a true and correct copy of such originals.

IN TESTIMONY WHEREOF, I have hereunto set my hand at the State Office Building, 1 West Wilson Street, in the City of Madison, Wisconsin this 15th day of October, A. D. 1971.

Edward A. Wiegner

Edward A. Wiegner, Secretary
Wisconsin Department of Revenue

ORDER OF THE
WISCONSIN DEPARTMENT OF REVENUE
ADOPTING RULE CHANGES

Pursuant to the authority vested in the Wisconsin Department of Revenue by Section 139.39(1) of the statutes, the said department hereby adopts the changes whereby Rules TAX 9.11 and 9.51 have been repealed and recreated and Rule TAX 9.47 has been created.

These rule changes relate to Tobacco Products taxation and are to become effective December 1, 1971.

WISCONSIN DEPARTMENT OF REVENUE

By


Edward A. Wiegner
Secretary

Rule 9.11 of the Wisconsin Administrative Code is repealed and recreated to read:

REFUNDS

1. A refund shall be granted to any cigarette distributor for stamps which were applied to packages of cigarettes when the distributor supplies documentation to the department that the packages of cigarettes to which stamps have been affixed were damaged or otherwise unsalable and have been returned to the manufacturer thereof.

A distributor who has unsalable cigarettes in his possession must file a written notice to the department of intent to return such cigarettes to the manufacturer thereof at least 10 days prior to shipping such cigarettes. If the department, upon receipt of this notice of intent, desires to exercise its right to inspect such cigarettes prior to shipment, it must so notify the distributor prior to the expiration of the 10 day period. If the department does not notify the distributor of its intent to inspect before the end of the 10 day period, the distributor may ship the cigarettes to the manufacturer and make application for refund. The distributor shall make application for such refund on a form to be furnished by the department. The application for refund must be accompanied by a copy of the signed bill of lading for said shipment. A copy of the credit memo for each shipment from the manufacturer must be forwarded to this department prior to processing the refund. The department may also require an affidavit from the manufacturer attesting to the number of cigarettes received in each shipment.

2. Refund will be granted on all stamps unfit for use or otherwise unused, returned to this department by duly authorized permittees, providing the sale thereof may be verified by the department.

3. On all refunds granted, the cost of printing and service charges will be deducted therefrom.

Rule 9.47 of the Wisconsin Administrative Code is created to read:

INVOICING OF SALES, INCLUDING EXCHANGES OF CIGARETTES

- (1) A true and correct invoice must accompany the cigarettes at the time of any sale, including exchanges, between permittees or between permittees and retailers. Permittees include cigarette salesmen, distributors, jobbers, vending machine operators or multiple retailers. A true and correct invoice must contain the following information:
 - (a) Names and business addresses of both parties as shown on the permit or license of each.
 - (b) Date of sale or exchange.
 - (c) Number of packs or cartons of cigarettes by brand and pack.
 - (d) Unit price per pack or carton. (The unit price of the cigarettes alone may be shown with the Wisconsin cigarette tax stated as a separate item.)
 - (e) Signature of the person receiving the cigarettes. (In an exchange, both parties must sign the invoice.)
- (2) When a salesman, acting as a representative of a cigarette manufacturer, exchanges fresh cigarettes for dried or damaged cigarettes, he shall accept and receive only dried or damaged cigarettes of the brands manufactured by his employer and he shall prepare and deliver with the fresh cigarettes a true and correct invoice as set forth in (1) above.
- (3) When a salesman, acting as a representative of a cigarette manufacturer, or when a permittee exchanges dried or damaged cigarettes to a distributor for return to the manufacturer and receives fresh cigarettes in exchange therefore, he shall prepare a true and correct invoice as set forth in (1) above. Each carton of such dried or damaged cigarettes shall contain only cigarettes of one brand and pack. Such cartons shall be packed so that the tax stamps on the dried or damaged cigarettes are exposed for inspection and the distributor shall refuse to receive or accept any cigarettes not so packed.
- (4) A clearly legible copy of all invoices evidencing a sale or exchange of cigarettes must be retained by each of the parties to the transaction for a period of at least two years from the date of the invoice, in groups covering a period of one month each.

Rule 9.51 of the Wisconsin Administrative Code is repealed and recreated to read:

SAMPLES

(1) Cigarettes shipped into this state by manufacturers to their representatives, including advertising agencies and airlines, for the purpose of free samples must be accompanied by a memo invoice stating brands and number of cigarettes. Such memos must be retained by the representative for the statutory period of two years.

(2) Manufacturers may ship free sample cigarettes in quantities of 400 or less to consumers, such as employes or stockholders.

(3) All such sample cigarettes described in (1) and (2) above must bear the legend: "Applicable state tax paid. Not for resale." All such cigarettes are subject to Wisconsin cigarette use tax. Such tax paid by the manufacturer shipping or causing such cigarettes to be shipped into this state shall be remitted no later than the 15th day of the month following such shipment. Along with the applicable tax remitted each manufacturer shall submit a list of persons to whom cigarettes were shipped indicating the amount of cigarettes shipped to each person.

Filed 10-18-71



State of Wisconsin \ DEPARTMENT OF REVENUE

ROOM 1000 STATE OFFICE BUILDING
1 WEST WILSON STREET
MADISON, WISCONSIN 53702

October 15, 1971

Mr. James J. Burke
Revisor of Statutes
State Capitol
Madison, Wisconsin

Dear Mr. Burke:

Enclosed herewith please find a certified copy of several changes in the Rules of the Wisconsin Department of Revenue relating to Tobacco Products taxation pursuant to which Rule TAX 9.11 is repealed and recreated, Rule TAX 9.47 is created and Rule TAX 9.51 is repealed and recreated. These changes have been adopted following notice and hearing as provided in Chapter 227 of the statutes, notice having been given in the July 1971 Administrative Register and hearing having been held on August 16, 1971.

A certified copy of these changes is being mailed today to the Secretary of State for filing pursuant to Section 227.023(1) of the statutes.

Kindly publish these rule changes in the next issue of the Wisconsin Administrative Register.

Sincerely,

Edward A. Wiegner

Edward A. Wiegner
Secretary of Revenue

EAW:ABK
Enc.

cc: Secretary of State
CCH
Prentice-Hall