

CR 90-211

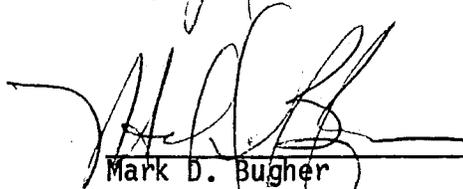
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule Tax 8.24, relating to reciprocal interstate shipments of wine was duly approved and adopted by this department on April 1, 1991.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 1st day of April, 1991.



Mark D. Bugher
Secretary of Revenue

MDB:MPW:dab
CKLEGELC/684

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7-1-91

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ORDER OF THE DEPARTMENT OF REVENUE
CREATING RULES

The Wisconsin Department of Revenue adopts an order to create Tax 8.24 relating to reciprocal interstate shipments of wine.

Analysis by the Department of Revenue

Statutory authority: s. 227.11(2)(a)

Statutes interpreted: ss. 125.58(4), 125.68(10)(bm) and (bs), and 139.035, Stats.

SECTION 1. Tax 8.24 is created to reflect the creation of ss. 125.58(4), 125.68(10)(bm) and (bs) and 139.035, Stats., by 1987 Wisconsin Act 399, effective May 17, 1988, and the amendment to ss. 125.58(4) and 125.68(10)(bm), Stats., by 1989 Wisconsin Act 253.

SECTION 1. Tax 8.24 is created to read:

Tax 8.24 RECIPROCAL INTERSTATE SHIPMENTS OF WINE. (ss. 125.58(4), 125.68(10)(bm) and (bs) and 139.035, Stats.) (1) GENERAL. (a) A winery located outside Wisconsin may ship wine into Wisconsin without payment of the occupational tax under s. 139.03, Stats., to an individual who does not hold a license or permit under ch. 125, Stats., provided all of the following requirements are met:

1. The state from which the wine is sent has entered into a reciprocal agreement with Wisconsin as described in s. 139.035, Stats. and sub. (2).

2. The individual receiving the wine is at least 21 years of age.

3. No more than 9 liters are received by any one individual during a calendar year.

4. The shipping container is clearly labeled indicating each of the following:

a. The container may not be delivered to a person under 21 years of age.

b. The container may not be delivered to a person who is visibly intoxicated.

5. The individual does not resell the wine received.

(b) A winery located in Wisconsin may ship wine to an individual in another state without payment of that state's occupational tax provided the individual does not hold a license or permit and the requirements in sub.

(1)(a)1 to 6 are met.

(2) RECIPROCAL AGREEMENTS. (a) The department of revenue may enter into agreements with other states concerning the shipping of wine by wineries outside Wisconsin to individuals in Wisconsin and the shipping of wine by wineries in Wisconsin to individuals outside Wisconsin.

(b) A reciprocal agreement may include a provision that the winery shipping the wine to pay its own state's occupational tax and the individual receiving the wine to be exempt from the occupational tax on the shipment.

(3) WISCONSIN WINERIES FAILING TO MEET REQUIREMENTS. If a winery located in Wisconsin does not comply with all the requirements in sub. (1)(a)1 to 5, the Wisconsin winery may be subject to a hearing with the department and may have its winery permit revoked.

(4) OUT-OF-STATE WINERIES FAILING TO MEET REQUIREMENTS. If an out-of-state winery does not comply with all the requirements in sub. (1)(a)1 to 5, the out-of-state winery shall be subject to its own state's jurisdiction with respect to actions for failure to comply.

(5) PAYMENT OF TAX BY INDIVIDUALS RECEIVING WINE (a) An individual located in Wisconsin who receives wine as described in this section shall not be liable for the occupational tax under s. 139.03, Stats.

(b) An individual located in Wisconsin who receives wine as described in this section shall be subject to the use tax imposed under ch. 77, Stats. The individual shall report the use tax on that individual's sales and use tax return or income tax return for the period in which the wine is received, unless the tax has already been collected by the out-of-state winery. The tax is equal to 5%, or 5 1/2% if delivered to a county that has adopted the county tax, of the selling price of the wine received.

(c) If the individual does not pay the use tax as provided par. (b), the individual shall be subject to interest and penalties as provided in s. 77.60, Stats., in addition to the amount of use tax due.

(6) REPORTING REQUIREMENTS BY WISCONSIN WINERIES. Every winery located in Wisconsin that ships wine to another state as described in this section shall report those sales on Wisconsin form AB-131, Liquor Tax Multiple Tax Schedule, as tax-paid sales. A description of each sale shall appear on the report.

Note: Form AB-131 may be obtained by writing to: Wisconsin Department of Revenue, P.O. Box 8905, Madison, WI 53708.

The rule contained in this order shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have a significant economic impact on a substantial number of small businesses.

Date: April 1, 1991

CKLEG/ELC2710E

DEPARTMENT OF REVENUE

By: Mark D. Bugher

Mark D. Bugher
Secretary of Revenue

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FISCAL ESTIMATE

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

DOA-2048 (R 10/88)

Subject

Rule Relating to Reciprocal Interstate Shipments of Wine

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities

2. Decrease Costs
 Permissive Mandatory

4. Decrease Revenues
 Permissive Mandatory

Counties Others _____

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rule interprets statutory language created by 1987 Wisconsin Act 399 and amended by 1989 Wisconsin Act 253. It has no fiscal effect.

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Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
Wisconsin Department of Revenue
Dennis Collier, 266-9706

Authorized Signature/Telephone No. 266-2700

A. August M. Dennis

Date

10/10/90



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugar
Secretary of Revenue

April 1, 1991

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Gary L. Poulson
Assistant Revisor
2nd Floor
119 Martin Luther King, Jr. Blvd.
Madison, Wisconsin 53703

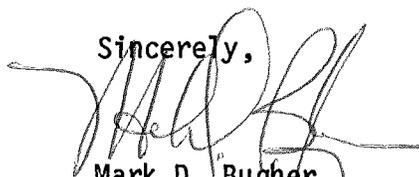
Re: Clearinghouse Rule 90-211

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating Tax 8.24 relating to reciprocal interstate shipments of wine.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,



Mark D. Bugar
Secretary of Revenue

MDB:MPW:dab
CKLEGELC/683
Enclosure

cc: Douglas J. LaFollette, Secretary of State
Prentice Hall, Inc.
Commerce Clearinghouse, Inc.



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

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Secretary of Revenue

April 1, 1991

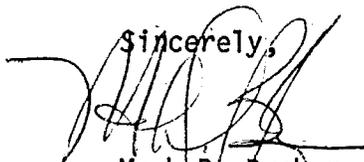
Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, Wisconsin 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-211.

These materials are filed with you pursuant to s. 227.20, Stats.

Sincerely,



Mark D. Bugar
Secretary of Revenue

MDB:MPW:dab
CKLEGELC/682
Enclosure

cc: Revisor of Statutes

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Bureau