

## Chapter Tax 8

## INTOXICATING LIQUORS

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**Tax 8.02 Revenue stamps—occupational tax.** (1) Liquor and wine stamps are provided by the commissioner of taxation in proper denominations and may be purchased by manufacturers, wineries, rectifiers or wholesalers holding the proper permit. Stamps may be purchased only from the Wisconsin Department of Taxation, Division of Beverage and Cigarette Taxes, 1030 State Office Bldg., Madison, Wisconsin. Mail orders will be accepted when made in the proper form and accompanied by the proper remittance.

(2) No order for stamps will be accepted unless the order and remittance for such stamps are received together by the Wisconsin Department of Taxation, Division of Beverage and Cigarette Taxes directly from the individual, firm or corporation to whom such stamps are to be shipped, except that firms having branches or affiliated or subsidiary companies may order and pay for stamps to be shipped to branches, affiliates, or subsidiaries, provided such branches, affiliates or subsidiaries have a current Wisconsin liquor permit.

**Tax 8.03 Affixing stamps.** (1) (a) All intoxicating liquor, except wine containing not over 21 per cent of alcohol by volume, shipped into the state of Wisconsin, must have a Wisconsin tax stamp of the correct denomination affixed to each original bottle before it enters the state, with the following exceptions being made:

1. Shipments in bulk to a rectifier.
2. Ethyl alcohol of 190 proof or more.
3. Foreign importations in customs bond purchased directly by and consigned directly to Wisconsin permittees from such foreign countries.

(b) On all intoxicating liquor rectified or manufactured in Wisconsin, a stamp of the proper denomination shall be affixed to each bottle at the time such merchandise is placed in wholesale stock, except merchandise which is to be shipped outside the state of Wisconsin in interstate commerce.

(c) Stamps shall be affixed to the original bottle between the body and the neck on any smooth area on the label side in such a position that all or at least a substantial part of the stamp is immediately visible from the trade-label side of the bottle. Pharmacist liquor stamps must be affixed to the face of the bottle immediately above the label.

(2) (a) All wine, containing not over 21 per cent of alcohol by volume, shipped into the state of Wisconsin must have a tax stamp of the correct denomination affixed on each case or carton before it enters the state, with the following exceptions:

1. Shipments in bulk for bottling purposes.
2. Wine for sacramental purposes.
3. Foreign importations of wines in customs bond purchased directly by and consigned directly to Wisconsin permittees from such foreign countries.

(b) On all wine bottled or manufactured in Wisconsin, a stamp of the correct denomination must be affixed on each case or carton within 48 hours after bottling, except wine for interstate commerce and wine for sacramental purposes.

(c) Stamps shall be affixed to the case or carton with glue on the side or end on which the label appears.

**History:** 1-2-56; am. (1) (c), Register, November, 1966, No. 131, eff. 12-1-66.

**Tax 8.04 Refunds.** (1) Intoxicating liquor revenue stamps unfit for use or otherwise unused which are in the possession of a manufacturer, rectifier, wholesaler or winery properly licensed, may be returned to the commissioner of taxation and a refund for the tax value of such stamps, less a stamp printing and service charge, will be issued to the manufacturer, rectifier, wholesaler or winery returning such stamps.

(2) A manufacturer, rectifier, wholesaler or winery properly licensed by this state, who has in his possession intoxicating liquor in sealed containers which is spoiled or has become unfit for beverage purposes may file a request for a tax refund with the commissioner of taxation, and a refund for the amount of the tax applying to such merchandise may be made providing the mutilation of stamps affixed to such merchandise is witnessed by a representative of the commissioner of taxation, and providing the applicant agrees to assume the expense and service charge of the state representative assigned to witness the mutilation of such stamps.

**Tax 8.11 Reports.** Monthly reports must be filed by all manufacturers, rectifiers, wholesalers or wineries having a permit to ship into, or do business within the state of Wisconsin, on forms furnished by the commissioner of taxation. Such reports must be made in duplicate, the original to be mailed to the Department of Taxation, Division of Beverage and Cigarette Taxes on or before the tenth 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:* Blank forms may be obtained at the department of taxation office in the State Office Building, Madison.

**Tax 8.21 Purchases by the retailer.** (1) No firm, person or corporation having a license to engage in the retail sale of intoxicating liquor shall purchase intoxicating liquor except from a duly registered Wisconsin manufacturer, rectifier or wholesaler.

(2) Holders of either a Class A or Class B retail license shall retain invoices covering all purchases of intoxicating liquor for a

period of two years from the date of the invoice. Such invoices shall be retained on the licensed premises in groups covering a period of a month each and shall be open to inspection at all reasonable times by any representative of the division of beverage and cigarette taxes. The date of payment, if paid, must be recorded on each invoice.

**History:** 1-2-56; am. (2), Register, January, 1958, No. 25, eff. 2-1-58.

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

(2) Wisconsin manufacturers, rectifiers and wholesalers will be furnished a list of all out-of-state firms duly licensed by the commissioner of taxation to ship intoxicating liquor into the state. Purchases may be made and shipments received only from those persons listed on such lists.

(3) Out-of-state licensees will be furnished a complete list of Wisconsin manufacturers, rectifiers and wholesalers to whom sales and shipments of intoxicating liquor may be made.

**Tax 8.31 Sales out of Wisconsin.** (1) The occupational tax imposed upon the sale of intoxicating liquor within the state does not apply to merchandise which is shipped from within the state to a point outside the state. Manufacturers, rectifiers and wholesalers need not affix revenue stamps to the original containers of alcoholic liquors that are sold and shipped outside the state. The burden of proof, however, is at all times upon the Wisconsin manufacturer, rectifier or wholesaler to show that such merchandise actually went into interstate commerce.

(2) Wisconsin manufacturers, rectifiers, and wholesalers claiming exemption from the occupational tax on intoxicating liquor on the ground that shipments or deliveries were made in interstate commerce shall certify, under oath: (a) that the persons receiving such shipments or deliveries in a foreign state at the address stated are licensed to receive the same or (b) that they are in possession of bills of lading, way bills, freight bills or other evidence of shipment issued by common carriers operating in this state, that such shipments or deliveries were made to persons having an actual licensed place of business in the foreign state.

(3) No Wisconsin manufacturer, rectifier or wholesaler shall receive an exemption from the tax imposed on the sale of intoxicating liquor where such liquor is sold and shipped into any state or territory where the importation or sale of such liquor is prohibited by state or federal law; nor will an exemption be allowed on liquor sold and shipped into other states to a purchaser who, under the laws of the state in which such purchaser is located, cannot lawfully receive the same.

**Tax 8.35 Interstate shipments.** (1) Wisconsin manufacturers, rectifiers, wholesalers or wineries purchasing intoxicating liquor from an out-of-state permittee shall, by letter or otherwise, instruct the shipper to print plainly upon the shipping container a legend reading:

"Shipped to \_\_\_\_\_, Authorized to receive interstate shipments by the Commissioner of Taxation, under permit No. \_\_\_\_\_".

(2) No carrier shall release any shipment which is not so labeled or is not shipped to a Wisconsin manufacturer, rectifier, wholesaler

or winery or to persons holding medicinal alcohol permits issued by the commissioner of taxation.

(3) When a carrier has a shipment of liquor for delivery in Wisconsin which does not bear such legend, the carrier will notify the consignee that he cannot deliver it without first seeing the consignee's permit. If the consignee has such permit, the carrier will deliver the shipment and then forthwith forward such information to the Division of Beverage and Cigarette Taxes of the Wisconsin Department of Taxation. If the consignee cannot show a permit, the carrier shall return the shipment to the shipper.

(4) Shipments of intoxicating liquor shall be delivered to the consignee by the carrier thereof within a period of five days after arrival at point of destination. If such merchandise is not delivered within such five day period, the consignor shall be notified by the carrier thereof and the merchandise shall be returned to him.

(5) A common carrier in the state of Wisconsin who has in his possession intoxicating liquor which the consignee and consignor refuse to accept shall notify the division of beverage and cigarette taxes of the Wisconsin department of taxation, of the possession of such merchandise. Permission for disposal will be granted upon proper application.

**Tax 8.41 Size of containers.** (1) No manufacturer, rectifier, wholesaler, retailer or other person licensed for the sale of intoxicating liquor shall have in his possession intoxicating liquor, not including wine, in a container of more than thirty-two fluid ounce capacity, except alcohol intended for industrial, medicinal scientific or mechanical purposes.

(2) Manufacturers and rectifiers may have in their possession intoxicating liquor in containers greater than 32 ounces in size for purposes of manufacturing or rectifying or for sale to other manufacturers or rectifiers in Wisconsin or in interstate commerce.

**History:** 1-2-56; am. Register, December, 1971, No. 192, eff. 1-1-72.

**NOTE:** The department attempted to amend this section by rule to be effective January 1, 1972 to permit containers up to 64 ounces in size. The joint committee for the review of administrative rules suspended the rule change before it became effective. The legislature then passed a bill which became chapter 331 of the laws of 1971 which prohibits the secretary of revenue from authorizing container sizes larger than 32 ounces.

**Tax 8.42 Wine containers.** (1) No manufacturer, rectifier, wholesaler, winery, retailer or any person licensed for the sale of wine shall have in his possession within this state, on his licensed premises or stored otherwise, wine for sale in any container of a net content of more than a gallon.

(2) The net content shall be stated upon all containers in which wine is sold or possessed for sale, as follows:

(a) If 1 pint, 1 quart, or 1 gallon, the net contents shall be so stated.

(b) If less than a pint, the net contents shall be stated in fractions of a pint, or in fluid ounces.

(c) If more than a pint, but less than a quart, the net contents shall be stated in fractions of a quart, or in pints and fluid ounces.

(d) If more than a quart, but less than a gallon, the net contents shall be stated in fractions of a gallon, or in quarts, pints, and fluid ounces.

(e) The net contents need not be stated on any label if the net contents are displayed by having the same blown or branded in the

container on the same side of the container as the brand label, in letters or figures in such manner as to be plainly legible under ordinary circumstances, and such statement is not obscured in any manner in whole or in part.

(3) All measurements in this regulation are in terms of the U. S. standard gallon of 128 fluid ounces.

(4) Manufacturers, rectifiers, wholesalers and wineries may have wine upon their licensed premises in containers larger than a gallon for purposes of bottling or rectification in containers no larger than one gallon, or for shipment out of the state.

**Tax 8.43 Empty containers.** (1) Any person, firm or corporation possessing a bottle of intoxicating liquor, including wine, shall, as soon as such bottle is emptied, 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, shall be broken and destroyed immediately upon being emptied of their original contents.

**History:** 1-2-56; am. (1) and (2), r. (3), Register, October, 1974, No. 226, eff. 11-1-74.

**Tax 8.51 Labels.** No person, firm or corporation shall sell within the state, or ship into the state, any intoxicating liquor unless prior to such sale or shipment two front and back labels and a chemical analysis or statement of analysis, whichever the case may be, applying to such merchandise, have been submitted to and approved by the commissioner of taxation.

**Tax 8.52 Label requirements.** (1) No person, firm or corporation shall sell intoxicating liquor within the state of Wisconsin unless the container thereof shall bear a clear and legible label setting forth the name and address of the manufacturer and the kind of liquor contained therein.

(2) (a) Intoxicating liquor sold within the state of Wisconsin shall be labeled in conformance with the labeling requirements of the federal alcohol administration now in effect or as subsequently amended except that "straight whiskey" may include distilled spirits which are aged in old containers regardless of duration of storage.

(b) Either the words "Bottled By" and the name of the bottler and the place where bottled or the words "Bottled For" and the name of the wholesaler or retailer for whom such intoxicating liquors or wines were bottled must be stated on the container.

(3) All wine sold in the state of Wisconsin shall be labeled in accordance with the provisions of federal regulation No. 4 now in effect or as subsequently amended relating to the labeling and advertising of wine, issued by the federal alcohol administration.

**Tax 8.61 Advertising.** (1) No person shall send or cause to be sent into this state a letter, post card, circular or pamphlet of any kind containing an advertisement or a solicitation of an order for intoxi-

cating liquors unless such person shall be duly licensed to ship intoxicating liquors into Wisconsin.

(2) No person shall issue or publish or cause to be issued or published in this state a letter, post card, circular or pamphlet of any kind containing an advertisement or a solicitation of an order for intoxicating liquors unless such person shall be duly licensed to traffic in intoxicating liquors.

**Tax 8.66 Merchandise on collateral.** No manufacturer, rectifier or wholesaler shall place intoxicating liquor as collateral or security to a loan unless there is affixed to the containers thereof, Wisconsin revenue stamps of the proper denomination.

**Tax 8.71 Bitters.** No person, firm or corporation shall sell or offer for sale in the state bitters bearing a federal strip stamp unless the container thereof bears the proper revenue stamp provided for by law.

**Tax 8.76 Salesmen.** (1) Any salesman soliciting orders or selling for future delivery for a person, firm or corporation licensed to operate in the state of Wisconsin shall have, at all times within his possession, a salesman's permit issued by the commissioner of taxation.

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

(3) Samples carried by salesmen must bear Wisconsin revenue stamps.

**Tax 8.81 Transfer of retail liquor stocks.** (1) No licensed retail dealer shall transfer his liquor stock, upon selling or liquidating his business, without first filing an inventory of his entire stock with the division of beverage and cigarette taxes 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 division of beverage and cigarette taxes 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 entire liquor stock in a liquidating transaction to any other licensed retailer providing the above conditions are complied with.

**Tax 8.85 Procedure for apportionment of cost of administration of section 176.05 (23), Wis. Stats.** All costs of administration of section 176.05 (23), Wis. Stats., both direct and indirect, and including costs of supplies, equipment and rental and clerical, investigational, administrative and supervisory help, must be borne by the intoxicating liquor permittees. The aggregate of such costs shall be determined by the director of beverage and cigarette taxes quarterly and shall be prorated by him among the permittees at any time licensed as a permittee in each calendar quarter. Each such permittee shall be billed

no later than the twentieth day of the month following the close of each calendar quarter for his share of such aggregate costs for such quarter, and such bill must be paid within ten days of the billing date. The costs of administration for each quarter shall be prorated among the permittees licensed in such quarter on the basis of estimated retail dollar sales based upon reported gallons of wine and liquor sold at retail by each permittee. Whenever the sales of a permittee have not been reported to the beverage and cigarette tax division, the director shall estimate such sales for purposes of such proration.

**History:** Cr. Register, January, 1958, No. 25, eff. 2-1-58.

**Tax 8.86 Tied house law; volume and quantity discounts. Sec. 176.17 (2), Wis. Stats.,** is interpreted to forbid the giving of products of the industry or of volume discounts to class "B" licensees. Volume discounts are defined as discounts, rebates, or refunds based upon the volume of the licensee's purchases from a manufacturer, rectifier or wholesaler over a period of time or a series of transactions. Discounts are permissible only when based upon the quantity of the product purchased in a single transaction, a single delivery, and a single invoice. Such permissible discounts must be available to all class "B" licensees.

**History:** Cr. Register, January, 1961, No. 61, eff. 2-1-61.