

into other states to a purchaser who, under the laws of the state in which such purchaser is located, cannot lawfully receive the same.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75.

Tax 8.35 Interstate shipments. (s. 125.58 (1) and 125.68 (10), Stats.) (1) Shipments of intoxicating liquor shall be delivered to the consignee by the carrier thereof within a period of 5 days after arrival at point of destination. If such merchandise is not delivered within such 5 day period, the consignor shall be notified by the carrier thereof and the merchandise shall be returned to him.

(2) A common carrier in this state which has in its possession intoxicating liquor which the consignee and consignor refuse to accept shall notify the Wisconsin department of revenue of the possession of such merchandise. Permission for disposal shall be granted upon proper application.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75; am. (5), Register, December, 1977, No. 264, eff. 1-1-78; r. (1), (2) and (3), renum. (4) and (5) to be (1) and (2), Register, June, 1983, No. 330, eff. 7-1-83.

Tax 8.41 Size of containers. (s. 125.03 (2), Stats.) (1) No manufacturer, rectifier, wholesaler, retailer or other person licensed for the sale of intoxicating liquor shall possess intoxicating liquor, not including wine, in a container of more than 1.75 liter (59.1752 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 1.75 liters 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; am. Register, June, 1977, No. 258, eff. 7-31-77.

Tax 8.43 Empty containers. (s. 176.341, Stats.) (1) Any person 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 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.

(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 10 days.

History: 1-2-56; am. (1) and (2), r. (3), Register, October, 1974; No. 226, eff. 11-1-74; cr. (3), am. (1) and (2), Register, June, 1983, No. 330, eff. 7-1-83.

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Tax 8.51 Labels. (s. 125.68 (9), Stats.) (1) 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 2 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 department of revenue.

(2) The department of revenue shall review and make a determination on the items submitted for approval described in sub. (1) within 15 business days from the day the items are received by the department. For this purpose, a determination is made on the day whichever of the following events occurs first:

(a) The approval is mailed by the department to the applicant, or

(b) The department mails notification that the items submitted are incomplete, incorrect or more information is needed. The 15-day period shall reapply from the day all information necessary to make a determination is received by the department, or

(c) A notification of denial of the application with explanation for the denial is mailed by the department to the applicant.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75; renum. to be (1) and cr. (2), Register, August, 1985, No. 356, eff. 9-1-85.

Tax 8.52 Label requirements. (s. 125.68 (9), Stats.) (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 this state shall be labeled in conformance with the labeling requirements under the federal alcohol administration act now in effect or as subsequently amended.

(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.

History: 1-2-56; am. (2) (a) and r. (3), Register, December, 1977, No. 264, eff. 1-1-78.

Tax 8.61 Advertising. (s. 125.51 (7), and 125.58, Stats.) (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 intoxicating 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.

(3) The department of revenue shall review and make a determination on an application for a license required by this section within 15 business days from the day the application is received by the department. For this purpose, a determination is made on the day whichever of the following events occurs first:

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(a) The approved license is mailed by the department to the applicant, or

(b) The department mails notification to the applicant that the application for a license is incomplete, incorrect or more information is needed. The 15-day period shall reapply from the day all information necessary to make a determination, including payment of a required fee, is received by the department, or

(c) A notification of denial of the application with explanation for the denial is mailed by the department to the applicant.

History: 1-2-56; cr. (3), Register, August, 1985, No. 356, eff. 9-1-85.

Tax 8.66 Merchandise on collateral. (s. 139.06 (1), 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.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75; am. Register, June, 1983, No. 330, eff. 7-1-83.

Tax 8.71 Bitters. (s. 139.06 (1), Stats.) 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 Salesperson. (ss. 139.06 (1) and 125.65 (1) and (7), Stats.) (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 secretary of revenue.

(2) No Wisconsin manufacturer, rectifier, wholesaler or winery shall purchase or order intoxicating liquor except from a salesperson who is duly registered by the secretary of revenue.

(3) Samples of intoxicating liquor, except wine containing not over 21% alcohol by volume, carried by salesmen must bear Wisconsin revenue stamps.

(4) The department of revenue shall review and make a determination on an application for a permit or registration required by this section within 15 business days from the day the application is received by the department. For this purpose, a determination is made on the day whichever of the following events occurs first:

(a) The approved permit or registration is mailed by the department to the applicant, or

(b) The department mails notification to the applicant that the application is incomplete, incorrect or more information is needed. The 15-day period shall reapply from the day all information necessary to make a determination, including payment of a required fee, is received by the department, or

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(c) A notification of denial of the application with explanation for the denial is mailed by the department to the applicant.

History: 1-2-56; am. Register, June, 1975, No. 234, eff. 7-1-75; am. (2), Register, June, 1983, No. 330, eff. 7-1-83; cr. (4), Register, August, 1985, No. 356, eff. 9-1-85.

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 the business, without first filing an inventory of 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.

(3) The department of revenue shall review and make a determination on an application for approval of inventory transfer required by this section within 15 business days from the day the application is received by the department. For this purpose, a determination is made on the day whichever of the following events occurs first:

(a) The approval is mailed by the department to the applicant, or

(b) The department mails notification to the applicant that the application is incomplete, incorrect or more information is needed. The 15-day period shall reapply from the day all information necessary to make a determination, including payment of a required fee, is received by the department, or

(c) A notification of denial of the application with explanation for the denial is mailed by the department to the applicant.

History: 1-2-56; am. Register, June, 1983, No. 330, eff. 7-1-83; cr. (3), Register, August, 1985, No. 356, eff. 9-1-85.

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 administering s. 125.69 (4), Stats., including costs of supplies, equipment, rent and clerical, investigational, administrative and supervisory help, shall be borne by the intoxicating liquor permittees. The aggregate of such costs shall be determined by the department semi-annually and shall be prorated by it among the permittees at any time licensed in each period covered. Each such permittee shall be billed its share of such aggregate costs, and such bill shall be paid within ten days of the billing date.

(2) The costs of administration for each 6-month period shall be prorated among the permittees licensed in such period on the basis of estimated dollar sales to retailers based upon reported gallons and liters of wine and liquor sold to retailers by each permittee. Whenever the sales of a permittee have not been reported to the department, the department shall estimate such sales for purposes of such proration.

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

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Tax 8.87 Intoxicating liquor tied-house prohibitions. (ss. 125.69 (1), Stats.) (1) **PURPOSE.** Section 125.69 (1)(a) and (b), Stats., prohibits "any interest directly or indirectly" in a retail establishment by a manufacturer, wholesaler or rectifier of intoxicating liquor or in a wholesaler by a retailer. Section 125.69 (1) (a), Stats., exempts from this prohibition any licenses and permits issued prior to October 3, 1963 and which have been renewed annually since that date. Section 125.69 (1) (b) prohibit a manufacturer, rectifier or wholesaler from holding an interest in any license or premises where intoxicating liquor is sold for consumption on the premises. The purpose of this section is to give examples of some direct and indirect interests prohibited by ch. 125.

(2) **DEFINITIONS.** In this section:

(a) "Agent" means a person who represents or acts, or who is empowered to represent or act, for another in conducting the other's business.

(b) "Corporation" includes all members of a controlled group of corporations, defined as a "parent-subsidiary controlled group", a "brother-sister controlled group", or a "combined group of controlled corporations".

1. A "parent-subsidiary controlled group" means one or more chains of corporations connected through stock ownership with a common parent corporation, if:

a. stock possessing at least 50% of all voting power of each of the corporations, except for the common parent corporation, is owned directly or indirectly by one or more of the other corporations, and

b. The common parent corporation owns directly or indirectly stock possessing 50% of the voting power of at least one of the other corporations, excluding, in computing such voting power, stock owned directly by such corporations other than the common parent corporation.

2. A "brother-sister controlled group" means 2 or more corporations where 10 or fewer persons (other than corporations) own at least 50% of all voting power of each of the corporations taking into account only stock ownership of such person to the extent it is identical with respect to each corporation.

3. A "combined group of controlled corporations" is a group of 3 or more corporations, each of which is a member of a parent-subsidiary group or a brother-sister group and one of which is both a common parent in a parent-subsidiary group as well as a member of the brother-sister group.

(c) "Effective control" means either the power to direct the affairs of the wholesale permittee or the retail licensee or the actual direction of the affairs of the wholesale permittee or the retail licensee.

(d) "Employee" means a natural person who performs services for wages or salary.

(e) "Equity" means the money value of a property or of an interest in a property in excess of the claims or liens against it.

(f) "Immediate family member" means a spouse, a brother or sister (whole- or half-blood relationship) or spouse, ancestor or spouse, or lineal descendant or spouse.

(g) "License or permit" means an intoxicating liquor license or permit issued under ch. 125, Stats.

(h) "Person" means natural person, partnership, association or corporation.

(i) "Premises" means the property described on an application for a license or permit where alcoholic beverages are to be stored, sold or served.

(3) EXAMPLES OF "DIRECT" INTERESTS. Examples of "direct" interests prohibited by ch. 125 include, but are not limited to, the following:

(a) A person who holds both a wholesale permit and retail license.

(b) A person who holds a wholesale permit and owns any equity in a partnership, association or corporation holding a retail license.

(c) A person who holds a retail license and owns any equity in a partnership, association or corporation holding a wholesale permit.

(d) A person who holds a wholesale permit and leases premises to a retail licensee.

(e) A person who holds a retail license and leases premises to a wholesale permittee.

(4) EXAMPLES OF "INDIRECT" INTERESTS. Examples of "indirect" interests prohibited by ch. 125 include, but are not limited to, the following:

(a) A natural person who holds a wholesale permit and is an officer, director, employe or agent of a retail licensee.

(b) A natural person who holds a retail license and is an officer, director, employe or agent of a wholesale permittee.

(c) A natural person who is an officer, director, employe or agent of a wholesale permittee and an officer, director, employe or agent of a retail licensee.

(d) Two corporations, one holding a wholesale permit and the other holding a retail license, in which effective control of both corporations is held by the same person or group of 10 or less persons.

(e) A natural person who has effective control in a partnership, association or corporation which holds a wholesale permit and who leases premises to a retail licensee.

(f) A natural person who has effective control in a partnership, association or corporation holding a retail license and who leases premises to a wholesale permittee.

(g) A natural person who has effective control in a business operated under a wholesale permit and an immediate family member residing in the same household who has effective control in a business operated under a retail license.

(h) A natural person who has effective control in a partnership, association or corporation which holds a wholesale permit and who has effective control in a business operated under a retail license.

tive control in a partnership, association or corporation which holds a retail license.

Note: The definition of "controlled group of corporations" is illustrated by examples which may be derived from Internal Revenue Code Regulations 1.1563-1 (a). Some examples follow:

1. P Corporation owns stock possessing 50% of the voting power of S Corporation. S owns stock possessing 50% of the voting power of T Corporation. P is the common parent of a parent-subsidary controlled group consisting of member corporations P, S and T. The result would be the same if P, rather than S, owned the T stock.

2. The outstanding stock of corporations P, Q, R and S is owned by the following individuals:

| Individuals | Corporations | | | | Identical Ownership |
|-------------|--------------|-----|-----|------|---------------------|
| | P | Q | R | S | |
| A | 50% | 50% | 50% | 100% | 50% |
| B | 25% | | | | |
| C | 25% | 25% | | | |
| D | | 25% | | | |
| E | | | 25% | | |
| F | | | 25% | | |

Corporations P, Q, R and S are members of a brother-sister controlled group.

3. Smith, an individual, owns stock possessing 50% of the voting power of corporations X and Y. Y, in turn, owns stock possessing 50% of the total combined voting power of corporation Z. Since X, Y, and Z are each members of either a parent-subsidary or brother-sister controlled group of corporations, and Y is the common parent of a parent-subsidary controlled group of corporations consisting of Y and Z, and also is a member of a brother-sister controlled group of corporations consisting of X and Y, X, Y, and Z are members of the same combined group.

History: Cr. Register, May, 1981, No. 305, eff. 6-1-81; am. (1), (2) (g), (3) (intro.) and (4) (intro), Register, June, 1983, No. 330, eff. 7-1-83.