





**ORDER OF THE DEPARTMENT OF REVENUE  
CREATING RULES**

The Wisconsin Department of Revenue adopts an order to create Tax 9.69, relating to the Master Settlement Agreement between the state of Wisconsin and tobacco product manufacturers.

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**Analysis by the Department of Revenue**

Statutory authority: ss. 227.24 and 895.10(4), Stats.

Statutes interpreted: subchs. II and III of ch. 139, Stats., and s. 895.10, Stats.

SECTION 1. Tax 9.69 is created, to describe methods and requirements relating to collecting, maintaining and reporting data to ascertain the amount of Wisconsin excise tax paid each year, on cigarettes of each tobacco product manufacturer that elects to place funds in a qualified escrow fund or, if the department deems it appropriate, is a participating manufacturer under the Master Settlement Agreement. The information is necessary in order to be in compliance with 1999 Wis. Act 122, the model statute enacted as part of the Master Settlement Agreement with tobacco product manufacturers.

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SECTION 1. Tax 9.69 is created to read:

**Tax 9.69 Master settlement agreement with tobacco product manufacturers. (1)**

PURPOSE. This section describes requirements and methods relating to collecting, maintaining and reporting data regarding the number of Wisconsin state cigarette excise tax stamps affixed to packages of cigarettes, and the amount of "roll-your-own" cigarette tobacco, sold in Wisconsin each year.

**Note:** The data collected, maintained and reported under this section shall be used to ascertain the amount of Wisconsin excise tax paid on the cigarettes of each tobacco product manufacturer that elects to place funds in a qualified escrow fund under s. 895.10, Stats., for each year, or, if the department deems it appropriate, is a participating manufacturer under the master settlement agreement between the state and tobacco product manufacturers, pursuant to 1999 Wis. Act 122.

(2) DEFINITIONS. In this section:

(a) "Cigarette" has the same meaning as in s. 895.10(1)(d), Stats., and includes "roll-your-own" cigarette tobacco.

(b) "Master settlement agreement" has the same meaning as in s. 895.10(1)(e), Stats.

(c) "Qualified escrow fund" has the same meaning as in s. 895.10(1)(f), Stats.

(d) "Sell" or "sale" has the same meaning as in s. 139.30(12), Stats.

(e) "Tobacco product manufacturer" has the same meaning as in s. 895.10(1)(i), Stats., and includes both a cigarette manufacturer under subch. II of ch. 139, Stats., and a tobacco products manufacturer under subch. III of ch. 139, Stats., that sells "roll-your-own" cigarette tobacco.

(f) "Wisconsin consumer" means a consumer within this state, including a direct consumer, distributor, retailer or intermediary similar to a distributor or a retailer.

(3) REPORTING REQUIREMENT. (a) Every tobacco product manufacturer that elects to sell cigarettes to Wisconsin consumers shall, by the 15<sup>th</sup> day of each month, file a schedule with the department that reconciles the number of Wisconsin state cigarette excise tax stamps affixed to packages of cigarettes sold to Wisconsin consumers and the amount of "roll-your-own" cigarette tobacco sold to Wisconsin consumers in the previous calendar month.

(b) The schedule required under par. (a) shall contain all of the following information that is applicable:

1. A listing of each sale of cigarettes other than "roll-your-own" cigarette tobacco manufactured, or the name of the manufacturer of the cigarettes that were delivered to Wisconsin consumers, onto which state cigarette excise tax stamps were affixed.

2. A listing of each sale of "roll-your-own" cigarette tobacco manufactured, or the name of the manufacturer of the "roll-your-own" cigarette tobacco, that was delivered to Wisconsin consumers.

3. For each manufacturer listed pursuant to subd. 1., a listing of all brands of cigarettes sold and the number of Wisconsin state cigarette excise tax stamps affixed to cigarette packages with respect to each brand.

4. For each brand of cigarettes listed for each manufacturer pursuant to subd. 3., the following additional information, if known:

a. The name of the manufacturer of the cigarettes.

b. The name of the person or entity first responsible for the cigarettes being designated or identified for sale in the United States.

5. For each sale of "roll-your-own" cigarette tobacco listed for each manufacturer pursuant to subd. 2., the following additional information, if known:

a. The name of the manufacturer of the "roll-your-own" cigarette tobacco.

b. The name of the person or entity first responsible for the "roll-your-own" cigarette tobacco being designated or identified for sale in the United States, by brand.

6. Any other information the department may deem necessary to administer the provisions of this section.

(4) ESCROW FUND CERTIFICATION REQUIREMENTS. (a) Every tobacco product manufacturer that is not a participating manufacturer under the master settlement agreement shall by April 15 of each year certify to the department and to the attorney general that the amounts required under s. 895.10(2)(b), Stats., have been placed into a qualified escrow fund that is designated for Wisconsin judgments or release payments.

(b) The certification required under par. (a) shall include all of the following:

1. The name of the qualified financial institution where the escrow fund is maintained.

2. The amount of funds placed into the escrow fund since the last reporting period, based on Wisconsin sales.

3. The amounts, if any, paid out of the escrow fund in judgments or release payments and the purpose of the disbursements.

4. The balance in the escrow fund as of March 31 of each year.

5. A copy of the escrow fund balance statement as of March 31 of each year.

(5) RECORDKEEPING REQUIREMENTS. Every tobacco product manufacturer required to file a schedule under sub. (3) shall maintain complete and accurate records to

support the information reported on the required schedule. These records shall be maintained for a period of 4 years from the date of sale into Wisconsin and shall include all of the following:

(a) Purchase records indicating the tobacco product manufacturer of the cigarettes, the date of purchase and the number of cigarettes by brand or amount of "roll-your-own" cigarette tobacco purchased, by brand.

(b) Sales records indicating to whom the sale was made, the tobacco product manufacturer of the cigarettes, the date of sale and the number of cigarettes by brand or amount of "roll-your-own" cigarette tobacco sold.

(c) The number of Wisconsin cigarette tax stamps placed on packages of cigarettes for sale in the state of Wisconsin.

(d) Any additional records deemed necessary by the secretary.

(6) REMEDIES FOR NONCOMPLIANCE. The failure of a tobacco product manufacturer to either become a participating manufacturer under the terms of the master settlement agreement or place funds into a qualified escrow fund, as provided in s. 895.10(2)(b)1., Stats., shall be subject to civil action and penalties under s. 895.10(2)(b)3., Stats.

**Note:** Section Tax 9.69 interprets subchs. II and III of ch. 139, Stats., and s. 895.10, Stats.

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

### Final Regulatory Flexibility Analysis

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

DEPARTMENT OF REVENUE

Dated: November 7, 2000

By: Cate Zeuske  
Cate Zeuske  
Secretary of Revenue

**FISCAL ESTIMATE FORM**

**1999 Session**

- ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

<b>LRB #</b>
<b>INTRODUCTION #</b>
Admin. Rule # Tax 9.69

**Subject**  
**Tobacco Product Manufacturers' Master Settlement Agreement**

**Fiscal Effect**

- State:**  No State Fiscal Effect  
Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation
- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Increase Existing Appropriation | <input type="checkbox"/> Increase Existing Revenues | <input type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No |
| <input type="checkbox"/> Decrease Existing Appropriation | <input type="checkbox"/> Decrease Existing Revenues |   |
| <input type="checkbox"/> Create New Appropriation        | <input type="checkbox"/> Decrease Costs             |   |

**Local:**  No Local Government Costs

- |  |   |  |
|--|---|--|
| 1. <input type="checkbox"/> Increase Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 3. <input type="checkbox"/> Increase Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 5. Types of Local Governmental Units Affected:<br><input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities<br><input type="checkbox"/> Counties <input type="checkbox"/> Others _____<br><input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts |
| 2. <input type="checkbox"/> Decrease Costs<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | 4. <input type="checkbox"/> Decrease Revenues<br><input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory |  |

**Fund Sources Affected**

- GPR  FED  PRO  PRS  SEG  SEG-S

**Affected Ch. 20 Appropriations**

**Assumptions Used in Arriving at Fiscal Estimate:**

This rule prescribes the mechanisms for collecting, maintaining and reporting data required by the master settlement agreement with tobacco product manufacturers. It has no effect on state tax or other revenues.

**Long-Range Fiscal Implications:**

<b>Agency/Prepared by: (Name &amp; Phone No.)</b> Wisconsin Department of Revenue Dennis Collier, (608) 266-5773	<b>Authorized Signature/Telephone No.</b> Dennis Collier <i>Dennis Collier</i> (608) 266-5773	<b>Date</b> 8/11/00
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**State of Wisconsin • DEPARTMENT OF REVENUE**

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*Tommy G. Thompson*  
Governor

*Cate Zeuske*  
Secretary of Revenue

November 8, 2000

Gary L Poulson Deputy Revisor  
131 W Wilson St Ste 800  
Madison WI 53703-3233



Re: Clearinghouse Rule 00-123

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to the tobacco product manufacturers' Master Settlement Agreement.

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

The rule order has also been e-mailed to you. If you have any questions regarding the rule order, please contact Mark Wipperfurth at 266-8253 or [mwipperf@dor.state.wi.us](mailto:mwipperf@dor.state.wi.us).

Sincerely,

Cate Zeuske  
Secretary of Revenue

CZ:MPW:cil  
e:rules969 Adopt - Revisor

Enclosure

cc: Douglas J. La Follette, Secretary of State  
Commerce Clearinghouse, Inc.  
Research Institute of America, Inc.



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*Tommy G. Thompson*  
Governor

*Cate Zeuske*  
Secretary of Revenue

November 8, 2000

Douglas La Follette Secretary of State  
30 W Mifflin St 10th Fl  
Madison WI 53703



Re: Clearinghouse Rule 00-123

Dear Secretary La Follette

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 00-123.

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

Sincerely,

*Cate Zeuske*  
Cate Zeuske  
Secretary of Revenue

CZ:MPW:cll  
e:rules\969 Adopt - Secretary of State

Enclosure

cc: Deputy Revisor