



Wisconsin TAX BULLETIN

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New Tax Laws

The Wisconsin Legislature has enacted a number of changes to the Wisconsin tax laws. This issue of the *Wisconsin Tax Bulletin* contains an index and brief descriptions of the major individual and fiduciary income, corporation franchise or income, estate, sales/use, and excise tax provisions. All of these provisions are contained in 2001 Act 16.

The description for each provision indicates the sections of the statutes affected and the effective date of the new provision.

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A. Individual and Fiduciary Income Taxes

1. **Exemption for Military and Uniformed Services Retirement Benefits** (2001 Act 16, create sec. 71.05(1)(am) and (an), effective for taxable years beginning on or after January 1, 2002.)

All retirement payments received from the U.S. military employee retirement system and all retirement payments received from the U.S. government that relate to service with the Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the Public Health Service are exempt from Wisconsin income tax.

2. **Resident Partners Allowed Credit for Tax Paid to Another State** (2001 Act 16, amend sec. 71.07(7)(b), effective for taxable years beginning on or after January 1, 2002.)

Under current law, a resident individual, estate or trust that pays a net income tax to another state may credit the net tax paid to that other state on that income against the net income tax otherwise payable to Wisconsin on income of the same year. Income and franchise taxes paid to another state by a tax-option corporation or limited liability company that is treated as a partnership may be claimed as a credit by that corporation's shareholders or that limited liability company's members who are residents of Wisconsin.

This bill extends the credit to partners. Income or franchise taxes paid to another state by a partnership may be claimed as a credit by that partnership's partners who are residents of Wisconsin.

3. **Provisions Relating to Waste Treatment Facilities and Pollution Abatement Equipment Revised** (2001 Act 16, amend sec. 71.05(11)(b), effective for taxable years beginning on or after January 1, 2002.)

Under current law, the cost of property purchased or constructed as a waste treatment facility for the treatment of certain industrial wastes or air contaminants may be deducted in the year paid or accrued if the property is approved by the Department of Revenue under sec. 70.11(21)(a) of the Wisconsin Statutes.

This bill eliminates the requirement that the property be approved by the department under sec. 70.11(21)(a).

4. **Exception to Indexing Limited** (2001 Act 16, amend sec. 71.06(2e), effective for taxable years beginning on or after January 1, 2002.)

Under current law, the individual income tax brackets are indexed for inflation. Generally, the brackets are increased each year by a percentage equal to the percentage change between the consumer price index (CPI) for all urban consumers, U.S. city average, for August of the previous year and August of 1997. An exception is that for taxable years beginning after December 31, 2000, the top bracket is increased each year by a percentage equal to the percentage change between the CPI for August of the previous year and August of 1999.

This bill limits the exception for indexing the top bracket to taxable years beginning in 2001. For taxable years beginning on or after January 1, 2002, all of the income tax brackets will be indexed each year by a percentage equal to the percentage change between the CPI for August of the previous year and August of 1997.

5. **Taxation of Certain Trusts** (2001 Act 16, amend sec. 71.14(3)(intro.) and (3m)(a)(intro.) and (b)2, effective for taxable years beginning on or after January 1, 1999.)

Inter vivos trusts that are made irrevocable and were administered in Wisconsin before October 29, 1999, shall be considered resident at the place where the trust is being administered.

The following inter vivos trusts that become irrevocable on or after October 29, 1999, or that became irrevocable before October 29, 1999, and are first administered in Wisconsin on or after October 29, 1999, are resident of Wisconsin:

- (a) Trusts, or portions of trusts, the assets of which consist of property placed in the trust by a person who is a resident of Wisconsin at the time that the property was placed in the trust if, at the time that the assets were placed in the trust, the trust was irrevocable.

(b) Trusts, or portions of trusts, the assets of which consist of property placed in the trust by a person who is a resident of Wisconsin at the time that the trust became irrevocable if, at the time that the property was placed in the trust, the trust was revocable.

- 6. Create Development Opportunity Zones and a Development Zones Capital Investment Credit in the Cities of Milwaukee and Beloit, and Authorize an Agricultural Development Zone** (2001 Act 16, amend secs. 71.05(6)(a)15, 71.07(2di)(b)1 and 3, 71.21(4), and 73.03(35) and create secs. 71.07(2dm), (2dx)(be) and (bg), and 71.10(4)(grb), effective for taxable years beginning on or after January 1, 2002, and amend sec. 71.07(2dx)(a)2, (b)(intro.), (c), and (d) and create sec. 71.07(2dm), effective for taxable years beginning on or after January 1, 2003.)

See Item B.6

- 7. Create Technology Zones Credit** (2001 Act 16, amend sec. 71.05(6)(a)15 and create secs. 71.07(3g), 71.10(4)(grd), 73.03(35m) and 560.96, effective for taxable years beginning on or after January 1, 2002.)

See Item B 4.

- 8. “Members of a Targeted Group” for Development Zone Credits Redefined** (2001 Act 16, amend sec. 71.07(2dx)(a)5, effective for taxable years beginning on or after January 1, 2002.)

See Item B 5.

B. Corporation Franchise or Income Taxes

- 1. Member and Partner Do Not Include LLCs and Partnerships Treated as Corporations** (2001 Act 16, create secs. 71.22(6m) and (7m), and 71.42(3d) and (3h), effective September 1, 2001.)

For purposes of the corporation and insurance company franchise and income tax law, the term “member” does not include a member of a limited liability company treated as a corporation. The term “partner” does not include a partner of a partnership treated as a corporation. This provision clarifies that a corporate partner or member of another corporate entity will not be treated as a partner or member for the pass

through of income, deductions, tax credits and apportionment factors. Rather, the corporate partnership or LLC is treated as a corporate entity and uses the income, deductions, apportionment factors and tax credits to determine tax liability for the corporate partnership or LLC.

- 2. “Doing Business” in Wisconsin Includes Owning a Partnership or LLC Interest in a Partnership That Does Business in This State** (2001 Act 16, amend sec. 71.22(1r); and create secs. 71.25(15) and 71.45(6), effective for taxable years of partnership partners or limited liability company members beginning on or after January 1, 2001.)

The definition of “doing business” in Wisconsin is expanded to include owning, directly or indirectly, a general or limited partnership interest or a limited liability company interest in a partnership or limited liability company treated as a partnership, respectively, that does business in Wisconsin, regardless of the percentage of ownership.

A general or limited partner’s share of the numerator and denominator of the partnership’s apportionment factors are included in the numerator and denominator of the partner’s apportionment factors. If a limited liability company is treated as a partnership for federal income tax purposes, a member’s share of the numerator and denominator of the limited liability company’s apportionment factors are included in the numerator and denominator of the member’s apportionment factors.

- 3. Exempt Fox River Navigational System Authority From Taxation** (2001 Act 16, amend sec. 71.26(1)(be), effective September 1, 2001.)

Income received by the Fox River Navigational System Authority is exempt from corporation income or franchise tax.

- 4. Create Technology Zones Credit** (2001 Act 16, amend secs. 71.26(2)(a) and 71.34(1)(g); and create secs. 71.28(3g), 71.30(3)(eon), 71.47(3g), 71.49(1)(eon), 73.03(35m), and 560.96, effective for taxable years beginning on or after January 1, 2002.)

The Department of Commerce (Comm) may, with the approval of the Legislature's Joint Committee on Finance, designate up to eight areas in the state as technology zones. Comm may certify any new or expanding high-technology business located in a technology zone for a tax credit, up to an amount established by Comm, based on the amount of real and personal property taxes that the business paid in the taxable year; the amount of state, county, and special district sales and use taxes that the business paid in the taxable year; and the amount of income and franchise taxes that the business paid in the taxable year. A business certified by Comm is entitled to claim the tax credit, up to the amount established by Comm, for three years, or for up to five years if the business experiences growth to an extent determined by Comm. A technology zone's designation is effective for ten years, but not more than \$5,000,000 in tax credits may be claimed in a technology zone.

5. **“Members of a Targeted Group” for Development Zone Credits Redefined** (2001 Act 16, amend secs. 71.28(1dx)(a)5 and 71.47(1dx)(a)5., effective for taxable years beginning on or after January 1, 2002.)

The definition of “member of a targeted group” is changed for purposes of the development zone credits. Previously, the definition referenced section 51(d) of the Internal Revenue Code. The new definition references Internal Revenue Code section 51(d)(7) which provides a definition of “qualified summer youth employee.”

6. **Create Development Opportunity Zones and a Development Zones Capital Investment Credit in the Cities of Milwaukee and Beloit, and Authorize an Agricultural Development Zone** (2001 Act 16, renumber sec. 560.70(7) to 560.70(7)(a) and amend as renumbered; amend secs. 71.26(2)(a) and (3)(n), 71.28(1di)(b)1. and 3., 71.34(1)(g), 71.47(1di)(b)1. and 3., 73.03(35), 560.70(7)(b), 560.795(2)(a) and (c), (3)(b)1. to 8, (c) and (d), and (4)(a)(intro.); and create secs. 71.28(1dm), (1dx)(be) and (bg), 71.30(3)(emb), 71.47(1dm), (1dx)(be) and (bg), 71.49(1)(emb), and 560.70(7)(c), 560.795(1)(e) and (f), (2)(b)5. and 6., (3)(a)4. and 5., and (5), effective for taxable years beginning on or after January 1, 2002, and amend secs. 71.28(1dx)(a)2., (b)(intro.), (c), and (d), 71.47(1dx)(a)2., (b)(intro.), (c), and (d); and cre-

ate sec. 560.798, effective for taxable years beginning on or after January 1, 2003.)

The Department of Commerce (Comm) administers three types of development zone programs: 1) the development zone program; 2) the development opportunity zone program; and 3) the enterprise development zone program. Comm is now also permitted, with the approval of the Legislature's Joint Committee on Finance, to designate an area in the state as an agricultural development zone for taxable years beginning on January 1, 2003. Generally, after an area is designated as one of the types of development zones, a person or corporation that conducts or that intends to conduct economic activity in the designated zone is or may be certified by Comm as eligible for certain tax credits, which are based on the creation or retention of jobs, on expenses incurred to remediate environmental problems, and on significant capital investment to retain jobs.

This Act designates areas in the City of Milwaukee and in the City of Beloit as development opportunity zones and authorizes up to \$4,700,000 in each city to be claimed in tax credits for economic activity in the zones. The Act also provides that, in the new development opportunity zones in the City of Milwaukee and the City of Beloit, a person conducting economic activity in the zones that would not otherwise be able to claim tax credits may be certified for tax credits if the economic activity is instrumental in enabling another person to conduct economic activity in the zones that would not have occurred but for the first person's involvement, if Comm determines that the person being certified for tax credits will pass the benefit of the tax credits through to the other person conducting the economic activity in the zones, and if the other person conducting economic activity in the zones does not claim tax credits for the economic activity.

The income tax and franchise tax credit for a business that is certified to receive tax credits in the development opportunity zones in the City of Milwaukee and the City of Beloit is equal to 3% of the following: 1) the purchase price of tangible personal property that is used for at least 50% of its use for the business at a location in a development zone; and 2) the amount expended to

acquire, construct, rehabilitate, remodel, or repair real property in a development zone.

Partnerships, limited liability companies, and tax-option corporations compute the credit but pass it on to the partners, members, and shareholders in proportion to their ownership interests. If a business claims a credit that exceeds its tax liability, the business will not receive a refund check, but the business may carry forward any remaining credit to subsequent taxable years.

A claimant may claim the credit only to offset taxes that are imposed on income that is attributable to the operations of the business in the development zones, except that a claimant in a development opportunity zone in the City of Milwaukee may offset the credit, including credits carried over, against the amount of tax attributable to all of the claimant's income and on income from directly related business operations of the claimant.

The agricultural development zone is effective for 10 years from the time that the Department of Commerce first designates the area. Claimants will be eligible for tax benefits outlined above. However, no more than \$5,000,000 in tax benefits may be claimed in an agricultural development zone.

C. Recycling Surcharge

1. **Recycling Surcharge Revised** (2001 Act 16, repeal sec. 77.94(1)(c) and amend sec. 77.94(1)(b), effective for taxable years beginning on or after January 1, 2001, and amend sec. 77.92(4), effective for taxable years beginning on or after January 1, 2002.)

For purposes of the recycling surcharge, the definition of "net business income," with respect to a partnership, is expanded to include the development zone capital investment credit and the technology zones credit.

For natural persons, estates, trusts, and partnerships that are engaged in farming, the gross receipts threshold above which the taxpayer is liable for the recycling surcharge is raised from \$1,000,000 to \$4,000,000.

D. Sales and Use Taxes

1. **Repairs and Other Services to Deemed Tangible Personal Property** (2001 Act 16, amend sec. 77.52(2)(a)10, effective October 1, 2001.)

- The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items that are deemed to retain their character as tangible personal property for purposes of sec. 77.52(2)(a)10, Wis. Stats., are taxable under this provision, regardless of whether the repair, service, alteration, etc., of the item is an addition to or a capital improvement of real property.

Previously, taxpayers and the department may have been required to determine that a repair, service, alteration, etc., to an item listed in sec. 77.52(2)(a)10, Wis. Stats., did not result in an addition to or capital improvement of real property for the service to be taxable.

Note: The original installation or the complete replacement of an item listed in sec. 77.52(2)(a)10, Wis. Stats., continues to be nontaxable if such installation or replacement is a real property construction activity under sec. 77.51(2), Wis. Stats.

Example 1: Company A applies a new coating to existing bathtubs located in Customer B's residence to extend their useful life. Because bathroom fixtures are among the items listed in sec. 77.52(2)(a)10, Wis. Stats., Company A's charge to Customer B (labor and materials) is subject to sales and use tax, even though there may be some argument that the application of the new coating is significant enough to be considered a capital improvement to real property.

Example 2: Company A removes bathtubs from Customer C's residence and replaces them with new bathtubs. Because the complete replacement of bathtubs in a residence is a real property construction activity, Company A's charge to Customer C is not subject to sales or use tax. (**Note:** Company A is the consumer of the new bathtubs, and is

liable for sales or use tax on its purchase of the new bathtubs.)

- Equipment in offices, business facilities, schools, and hospitals, but not in residential facilities including personal residences, apartments, long-term care facilities as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., or similar facilities, is deemed to retain its character as tangible personal property for purposes of sec. 77.52(2)(a)10, Wis. Stats., regardless of the extent to which the equipment is fastened to, connected with, or built into real property. Previously, the statute referred to “office, restaurant and tavern type equipment.”

Effective on August 1, 2002, “residential facilities,” as used in sec. 77.52(2)(a)10, Wis. Stats., includes Type 1 secured correctional facilities, as defined in sec. 938.02(19), Wis. Stats.

2. Create Exemption for United States and Wisconsin Flags (2001 Act 16, create sec. 77.54(46), effective October 1, 2001.)

An exemption from Wisconsin sales and use tax is created for the sale of, and the storage, use, or other consumption of, the U.S. flag and the Wisconsin state flag.

A flag, for purposes of this exemption, is considered to include the staff to which the flag is permanently mounted when sold by the retailer. However, if a flag is sold together with other tangible personal property, such as a pole to which the flag may be attached and unattached, and mounting brackets, only that portion of the selling price attributable to the flag is exempt from Wisconsin sales and use tax.

Example: Retailer A sells hand-held U.S. flags permanently mounted with staples to a wood or plastic staff. The sale of the flag (i.e., the fabric and staff to which the fabric is mounted) is exempt from Wisconsin sales or use tax.

Example: Retailer B sells a 40-foot sectional residential flagpole, hardware and Wisconsin state flag to a customer. A rope is attached to

the flagpole and the flag is connected to the rope with snap hooks so that it may easily be removed from the flagpole. That portion of Retailer B’s charge to the customer for the flagpole and rope and hardware necessary to assemble the pole is subject to Wisconsin sales or use tax. However, the charge attributable to the Wisconsin flag is exempt from Wisconsin sales or use tax.

Example: Retailer C sells an 8-foot sectional “flag kit” consisting of a two-piece pole with a eagle affixed to the top, cord, attaching brackets and screws, and a U.S. flag. The flag is not affixed to the pole at the time of sale. That portion of Retailer C’s charge to the customer for the pole, cord, and hardware is subject to Wisconsin sales or use tax. However, the charge attributable to the U.S. flag is exempt from Wisconsin sales or use tax.

Note: The exemption does not apply to the sale of, and the storage, use, or other consumption of, a representation of the U.S. flag or Wisconsin state flag.

Example: Retailer A sells a photograph of the Wisconsin state flag. The sale of the photograph is not exempt from Wisconsin sales or use tax under sec. 77.54(46), Wis. Stats.

Example: Retailer B sells a cape fashioned after the U.S. flag. The sale of the cape is not exempt from Wisconsin sales or use tax under sec. 77.54(46), Wis. Stats.

3. Exemption for One-Time License or Right to Purchase Football Game Admissions Made Permanent (2001 Act 16, amend sec. 77.54(45), effective September 1, 2001.)

The exemption for gross receipts from the sale, use, or other consumption of a one-time license or similar right to purchase admission to professional football games at a football stadium, as defined in sec. 229.821, Wis. Stats., is made permanent.

A December 31, 2003 sunset provision contained in prior law has been removed.

4. Create Exemption for Fox River Navigational System Authority (2001 Act 16, amend sec. 77.54(9a)(a), effective September 1, 2001.)

The gross receipts from sales to, and the storage use, or other consumption of tangible personal property and taxable services by the Fox River Navigational System Authority are exempt from Wisconsin sales and use tax.

5. Adopt Provisions of the Uniform Sales and Use Tax Administration Act (2001 Act 16, create secs. 77.524 and 77.65, effective September 1, 2001.)

The Streamlined Sales Tax Project is an effort created by state governments, with input from local governments and the private sector, to simplify and modernize sales and use tax collection and administration. On December 22, 2000 state representatives to the Streamlined Sales Tax Project voted to approve a Uniform Sales and Use Tax Administration Act (Act) and Streamlined Sales and Use Tax Agreement (Agreement). The state representatives amended the Act and Agreement on January 24, 2001.

Wisconsin has adopted the provisions of the Act, as amended on January 24, 2001, which provides for the following:

- Wisconsin is authorized to enter into the Streamlined Sales and Use Tax Agreement with one or more states to simplify and modernize sales and use tax administration for all types of commerce.
- Wisconsin is authorized to act jointly with other states that are members of the Agreement.
- The Secretary of Revenue is authorized to represent Wisconsin as signatory to the Agreement.
- Entering into the Agreement will not amend or modify any law of this State.
- The Agreement shall address:
 - State rates

- Uniform sourcing, administration of exempt sales, and sales and use tax returns and remittances
- Uniform definitions
- Central electronic registration
- Local sales and use taxes bases and administration
- Monetary allowances to sellers or certified service providers
- Compliance with the Agreement
- Privacy of consumers and confidentiality of tax information.
- Governance
- Seller and third party liability when a seller uses a Certified Service Provider, a Certified Automated System, or a proprietary system for determining the amount of tax due on transactions.

Note: Although the sales and use tax law has been modified to adopt the provisions of the Act, Wisconsin will at some future date need to amend and create sales and use tax laws to conform to the provisions of the Agreement it enters into (that is, create uniform sourcing rules, define food, soft drinks, and candy, provide for alternate registration and filing procedures, etc.).

6. Change Date for County Tax Distributions (2001 Act 16, amend sec. 77.76(3), effective September 1, 2001.)

The date by which county taxes must be distributed by the Department of Revenue to counties is changed to 75 days following the last day of the calendar quarter in which the taxes were reported to the Department of Revenue. Under prior law, such amounts had to be distributed to counties no later than the end of the third month following the end of the calendar quarter in which such amounts were reported.

E. Premier Resort Area Tax

1. **City of Eagle River May Impose Premier Resort Area Tax** (2001 Act 16, amend sec. 66.1113(2)(a) and create sec. 66.1113(2)(e), effective September 1, 2001.)

The City of Eagle River may, by ordinance, impose a 0.5% premier resort area tax, even if less than 40% of the equalized assessed value of the taxable property within the City of Eagle River is used by tourism-related retailers. Under prior law, at least 40% of the equalized assessed value of the taxable property within the City of Eagle River must have been used by tourism-related retailers for the City of Eagle River to impose the premier resort area tax.

F. Dry Cleaner Fees

1. **Revise Dry Cleaning Products Fee** (2001 Act 16, amend sec. 77.9962, effective for fees that are due on January 25, 2002.)

The dry cleaning solvent fee is expanded to apply to sales of “dry cleaning products” to a dry cleaning facility. The \$5 per gallon fee for perchloroethylene sold will remain the same, and a 75 cents per gallon fee will apply to the sale of *any dry cleaning product sold*, other than perchloroethylene.

Under prior law, the dry cleaning solvent fee was equal to \$5 per gallon of perchloroethylene sold and 75 cents per gallon of hydrocarbon based solvent sold.

2. **Revise Definition of Dry Cleaning Solvent** (2001 Act 16, amend sec. 77.996(3), effective for fees that are due on January 25, 2002.)

“Dry cleaning solvent” is changed to “dry cleaning product,” and defined as “a hazardous substance used to clean apparel or household fabrics, except a hazardous substance used to launder apparel or household products.”

3. **Revise Definition of Dry Cleaning Facility** (2001 Act 16, amend sec. 77.996(2)(intro.), effective September 1, 2001.)

A “dry cleaning facility” is any facility that cleans apparel or household fabrics for the general public **using a dry cleaning product**.

Under prior law, a “dry cleaning facility” was defined as a facility that “dry cleans apparel or household fabrics for the general public.”

4. **Repeal Obsolete Dry Cleaning Facility Inventory Fee Provision** (2001 Act 16, repeal sec. 77.9963, effective for fees that are due on January 25, 2002.)

A dry cleaning facility was subject to a fee on its dry cleaning solvent inventory as of October 4, 1997. This provision is now obsolete, and, therefore, repealed.

G. Estate Tax

1. **Federal Law as of December 31, 2000 Will Apply for Wisconsin From October 1, 2002 to December 31, 2007** (2001 Act 16, create sec. 72.01(11m), (11n) and 72.30(1)(b), amend sec. 72.02, renumber sec. 72.30(1) to 72.30(1)(a) and amend as renumbered, effective October 1, 2002.)

The federal credit for state death taxes and the federal estate tax for deaths occurring from October 1, 2002 through December 31, 2007 shall be computed under the federal estate tax law in effect on December 31, 2000.

The federal credit for state death taxes and the federal estate tax for deaths occurring after December 31, 2007 shall be computed under the federal estate tax law in effect on the date of the decedent’s death.

The personal representative, special administrator, trustee, distributee, or other person interested shall prepare the Wisconsin estate tax return in the manner prescribed by the department.

H. Excise Tax

1. **Amount of Liquor/Wine a Resident U.S. Armed Forces or National Guard Member or Reservist May Bring Back From a Foreign Duty Station Increased** (2001 Act 16, amend sec. 139.03(5)(b)2., effective October 1, 2001.)

A Wisconsin resident, who is a member of the U.S. armed forces, whether active duty or reservist, who has spent at least 48 hours at a foreign duty station, in active duty status, may bring back with them, in their immediate posses-

sion, 16 liters of liquor and/or wine without payment of tax. The limit under prior law was 6 liters.

- 2. Cigarette Tax Increased** (2001 Act 16, amend sec. 139.31(1)(a) and (b), effective October 1, 2001.)

The Wisconsin cigarette tax is increased from \$0.0295 to \$0.0385 per cigarette, or from \$0.59 to \$0.77 per pack of 20 cigarettes. The tax on heavy cigarettes, weighing over three pounds per thousand, is increased to \$0.077 per cigarette.

- 3. Ban Sale of Grey Market Cigarettes in Wisconsin** (2001 Act 16, amend secs. 139.30(7) and 139.40(1), and create secs. 139.31(4), (5), and (6), 139.34(3), and 139.39(4m), effective September 1, 2001.)

Federal legislation banned the sale of “grey market” cigarettes in the United States effective January 1, 2000. This Act also bans the sale of grey market cigarettes in Wisconsin, and allows for the confiscation of any such cigarettes found. Grey market cigarettes are cigarettes originally manufactured for sale outside the United States and not intended to be sold in the United States.

- 4. Wisconsin Tobacco Products Tax Increased** (2001 Act 16, amend secs. 139.76(1) and 139.78(1), effective October 1, 2001.)

The Wisconsin tax on tobacco products, other than cigarettes, is increased from 20% to 25% of the manufacturer’s established list price to distributors.

- 5. Sale by Secured Party** (2001 Act 16, amend sec. 125.06(8), effective for security agreements entered into on and after September 1, 2001.)

A secured party in good faith, under the terms of a security agreement, may sell fermented malt beverages without a license. The secured party must make that sale within 15 days of possession, unless the secured party demonstrates good cause why it cannot be made within this time.

- 6. Wine Sampling on “Class A” Premises** (2001 Act 16, create sec. 125.06(13), effective September 1, 2001.)

A “Class A” licensee may furnish customers with taste samples of wine, in quantities of not more than 3 fl. oz., between the hours of 10 AM and 6 PM. The licensee can provide no more than two such samples per day, per customer. The retailer must buy the wine from a Wisconsin wholesaler.

- 7. Computerized Server Training and Testing** (2001 Act 16, amend sec. 125.17(6)(a)(intro.), effective September 1, 2001.)

Adds computer-based training and testing to the ways in which server training can be delivered to prospective operator’s license holders.

- 8. Brewers May Own Restaurants** (2001 Act 16, Amend sec. 125.31(1)(a)2, and create sec. 125.31(1)(a)4, effective September 1, 2001.)

Enables brewers to possess or hold an indirect interest in a Class “B” license for not more than 20 restaurants. In each of the restaurants, the sale of alcohol beverages must account for less than 60% of the restaurant’s gross receipts, and the restaurants must not offer for sale any fermented malt beverages manufactured by the brewer.

- 9. Gifts Provided by Brewers and Wholesalers to Retailers** (2001 Act 16, amend sec. 125.33(2)(a), (b)2, (n)2, and (2s), renumber sec. 125.33(2)(L) to 125.33(2)(L)1, and create sec. 125.33(2)(L)2, 3, 4, and (7m), effective September 1, 2001)

Modifies current laws governing relationships between brewers and wholesalers, and Class “B” retailers. The changes:

- Raises the limit, from \$150 to \$2,500, for the value of signs, clocks and menu boards that a brewer or wholesaler may give to a Class “B” licensee at one time. Requires recipient to retain records of this furnishing for department inspection

- Allows brewers and wholesalers to give Class “B” licensees signs made of paper, cardboard, plastic, vinyl or other like material, for placement inside the premises, with unlimited dollar value.
- Allows brewers and wholesalers to purchase advertising from a non-licensee, such as a radio station, to conduct national or regional sweepstakes, contests or promotions on Class “B” premises that sell the brewer’s products. The premises may be named in these ads, as long as the licensee does not receive money for hosting the event, and the advertising identifies at least four unaffiliated Class “B” licensees or premises (or at least one Class “B” license or premises for brewers that manufacture less than 30,000 barrels of fermented malt beverages annually).
- Allows brewers and wholesalers to conduct national or regional sweepstakes, contests, or promotions on Class “B” premises that sell the brewers or wholesalers’ products. The brewer may promote the event as long as the licensee does not receive money for hosting the event, and the advertising identifies at least four unaffiliated Class “B” licensees or premises (or at least one Class “B” license or premises for brewers that manufacture less than 30,000 barrels of fermented malt beverages annually).
- Increases from \$75 to \$500 the daily dollar limit that a brewer or wholesaler may spend to provide business entertainment to a Class “B” licensee. Limits such provision to no more than eight days in a calendar year.
- Allows a brewer or wholesaler to contribute money or other things of value to a bona-fide national, statewide or local trade association that derives its principal income from membership dues of Class “B” licensees. Previously such contributions could only be given by large (over 350,000 barrels per year) brewers, and only to national or statewide trade associations.
- Prohibits Class “A” and Class “B” licensees from conditioning their purchases of fermented malt beverages, from a brewer or wholesaler, upon the brewer or wholesaler

furnishing the licensee something of value. This includes direct or indirect furnishing.

- 10. Reserve “Class B” Quota Increase** (2001 Act 16, create sec. 125.51(4)(br)1.f, and amend sec. 125.51(4)(br)1.e and 2, effective September 1, 2001.)

Increases by one the number of reserve “Class B” licenses allowed to be issued by a municipality, for each increase of 500 population. If the municipality has issued a license under the quota in effect under sec. 125.51(4)(br)2, 1999 stats., that license is added to the one allowed per 500 population increase.

- 11. Reciprocal Wine Sales** (2001 Act 16, create secs. 125.52(8), 125.53(3), and 125.58(4)(a)2, 3, and 4, renumber sec. 125.58(4) to 125.58(4)(a)(intro.) and amend as renumbered, and amend sec. 125.68(10)(bm), effective January 1, 2003.)

Provisions regarding the shipping of wine into Wisconsin are modified as follows:

- Any winery located outside this state that ships wine into Wisconsin under the reciprocal wine shipment provisions is required to have a business tax registration certificate issued by DOR. The winery’s current license from its state of domicile must be filed with the registration request. The certificate will cost \$10 annually.
- In-state and out-of-state wineries that ship wine across state lines under the reciprocity provisions must file an annual report with DOR identifying the product shipped, the quantity shipped, the price of the product shipped and the customer by name, address and birth date to whom the product was shipped. The report will be due by January 31 of each year for shipments during the preceding year. The first report will be due on January 31, 2003, for shipments occurring in calendar year 2002.
- Any person who receives wine shipped under the reciprocal provisions must be of legal drinking age and acknowledge delivery of the wine in writing.

I. Other

- 1. Additional Debts May Be Certified for Refund Setoff Program** (2001 Act 16, amend sec. 71.93(1)(a)3 and create sec. 71.93(1)(a)6, effective September 1, 2001.)

A refund may be offset for the following:

- Amounts certified by the Department of Health and Family Services to recover money improperly or erroneously paid or overpayments to a provider of medical assistance.
- Amounts owed to the Department of Military Affairs by a National Guard member for repayment of a grant.

- 2. Agreements Permitted to Offset State Tax Refunds** (2001 Act 16, create sec. 73.03(52m), effective September 1, 2001.)

The Department of Revenue may enter into agreements with other states that provide for offsetting Wisconsin tax refunds against tax obligations of other states and offsetting tax refunds of other states against Wisconsin tax obligations. The agreements must provide that setoffs to other Wisconsin state agencies, municipalities, and counties must occur before setoffs for the other state.