

15. New Reporting Requirements for Operators of Swap Meets, Flea Markets, Craft Fairs, or Similar Events (1987 Act 399, create s. 73.03(38), effective May 17, 1988.)

An operator of a swap meet, flea market, craft fair, or similar event must report to the Department of Revenue the name, address, social security number (and if available, the seller's permit number) of each vendor selling merchandise at the swap meet, flea market, craft fair, or similar event.

16. Study of Long-Distance Telecommunication Taxes Required (1987 Act 399, create nonstatutory provision, effective May 17, 1988.)

The department is required to establish a study committee that will develop a report discussing telecommunication taxes. The report shall be submitted to the Governor and the Joint Committee on Finance.

G. INHERITANCE AND GIFT TAXES

1. Reference to Internal Revenue Code for Power of Appointment, Qualified Retirement Plans, and Installment Payments Updated (1987 Act 399, amend ss. 72.01(17), 72.12(4)(c)1, and 72.22(4)(a), effective for deaths occurring on or after January 1, 1988.)

The references to the Internal Revenue Code relating to power of appointment, qualified retirement plans, and installment payments are updated to December 31, 1987.

2. Valuation of Future or Limited Estates No Longer Determined by Commissioner of Insurance (1987 Act 247, repeal s. 72.28(1)(c)1.b, effective April 21, 1988.)

The statutes no longer provide that if valuation of future or limited estates cannot be established, the Commissioner of Insurance shall determine the value.

H. EXCISE TAXES

1. Requirements for Purchase of Tax-Exempt Motor Fuel Revised (1987 Act 399, amend ss. 78.01(2)(e) and 78.12(3m), effective May 17, 1988.)

Motor fuel sold for nonhighway use in mobile machinery and equipment, and delivered directly into the consumer's storage tank in an amount of not less than 100 gallons, is exempt from motor fuel tax if the supplier obtains from the consumer an exemption certificate prescribed by the Department of Revenue.

Any person who purchases motor fuel tax-free must file an annual report not later than April 15 of the year following the reporting period. The Department of Revenue may not renew the exemption certificate of any person who fails to file the exemption report.

Previously a consumer could purchase only regular leaded gasoline tax-free for nonhighway use in quantities of 200 gallons or more. The

new provisions permit purchases of 100 gallons or more for all types of motor fuel (i.e., unleaded, premium, gasohol, etc.).

As an alternative to purchasing motor fuel tax-free, a consumer of motor fuel may file a claim for refund with the Department of Revenue for motor fuel tax paid on motor fuel for nonhighway use.

2. Preparation and Distribution of Booklet Explaining Alcohol Beverages Law Required (1987 Act 300, create s. 125.045 and nonstatutory provision, effective April 28, 1988, for preparing booklet, December 1, 1988, for making the booklet available, and February 1, 1989, for distributing the booklet.)

The department is required to prepare a booklet explaining Wisconsin Statutes and Administrative Rules relating to the retail sale of alcohol beverages. The department shall provide a free copy of the booklet to each person issued a retail "Class B" or Class "B" permit by the department and shall provide copies to municipalities at cost.

3. Issuance of Licenses for Sales of Fermented Malt Beverages and Intoxicating Liquor on Railroad Car (1987 Act 399, amend s. 125.06(5) and create ss. 125.26(3m) and 125.51(3)(dm), effective May 17, 1988.)

A municipality may issue a Class "B" license authorizing retail sales of fermented malt beverages, or a "Class B" license authorizing retail sales of intoxicating liquor on a railroad car while the railroad car is standing in a specified location in the municipality. Previously, the sale of alcohol beverages was permitted only when the railroad car was in transit.

4. Restrictions on Minors Entering Premises Selling Alcohol Beverages Do Not Apply to Racetracks (1987 Act 354, amend s. 125.07(3)(a)5, May 3, 1988.)

An underage person, not accompanied by his or her parent, guardian, or spouse who has attained legal drinking age, generally may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued. This restriction does not apply to racetracks licensed under ch. 562, Wis. Stats.

5. Methods of Determining Quotas for Purposes of Issuance of Licenses Relating to the Sale of Alcohol Beverages (1987 Act 399, repeal s. 125.51(4)(e) and amend s. 125.51(4)(a)2 and (b)1 and 3, effective May 17, 1988.)

Quotas for the issuance of licenses for the sale of alcohol beverages are based on population. For this purpose, "population" means the number of inhabitants in the previous year determined by the Department of Administration for purposes of revenue sharing distribution.

6. Exceptions to Quotas for Issuance of Licenses for Sale of Alcohol Beverages (1987 Act 354, create s. 125.51(4)(q), effective May 3, 1988, and 1987 Act 399, create s. 125.51(4)(r), effective May 17, 1988.)

Notwithstanding the quota of a municipality, its governing body may issue a license to persons conducting business at a racetrack, as defined in s. 562.01(12), Stats.

Notwithstanding its quota, a village may issue a license to a post of a veteran's organization for a building that was rebuilt after being destroyed by a tornado.

7. Hotels With Alcohol Beverage Licenses May Furnish Alcohol Beverages in Hotel Rooms (1987 Act 249, create ss. 125.26(2m) and 125.51(3)(bm), effective April 21, 1988.)

Hotels with alcohol beverage licenses may furnish a selection of alcohol beverages to guests who have attained the legal drinking age in guest rooms which are not part of the licensed premises. The alcohol beverages must be kept in a locked storage place in the room and a key to the lock will be provided to the guest who has attained legal drinking age upon request at registration. The guest may pay for the alcohol beverages at any time if paid in conjunction with checking out of the hotel. The person who stocks or accepts payment for the alcohol beverages must be the licensee, agent named in the license or the holder of a manager's or operator's license, or be supervised by one of those individuals.

8. Beer Wholesaler May Not Restrict Sales of Brand of Beer (1987 Act 308, create s. 125.33(8), effective April 28, 1988.)

A beer wholesaler may not sell or offer to sell a brand of beer exclusively to one retail store or group of affiliated retail stores unless the brand of beer is produced by a brewer which produces less than 300,000 barrels of beer in a calendar year.

9. Exception for Shipping Wine into Wisconsin Provided (1987 Act 399, amend ss. 125.58(title) and (1) and 125.68(10)(a) and (b) and create ss. 125.58(4), 125.68(10)(bm) and (bs) and 139.035, effective May 17, 1988.)

A person located outside Wisconsin may ship wine into Wisconsin to an individual who does not hold a license or permit under ch. 125, Wis. Stats., for consumption at the individual's residence by the individual or his or her family or guests if the person is located in a state which has a reciprocal agreement with Wisconsin under s. 139.035, Wis. Stats. No individual may resell such wine or receive more than 9 liters of such wine annually. An out-of-state shipper's permit is not required for such shipments into this state.

10. Penalties for Providing Alcohol Beverages to Underage Persons Imposed (1987 Act 335, create s. 125.075, effective April 28, 1988.)

Any person who sells, dispenses, or gives away alcohol beverages to a person under 18 years of age may be penalized if the person knew or should have known the underage person was under the legal drinking age and the underage person dies or suffers great bodily harm as a result of consuming alcohol beverages.

If the underage person is at least 12 years of age but not less than 18 years of age, the person in violation may be fined not more than \$1,000 or imprisoned not more than 90 days or both. If the underage person is less than 12 years of age, the person in violation may be fined not more than \$10,000 or imprisoned not more than 9 months or both.

11. Impose Restrictions on Sale or Gifts of Cigarettes or Tobacco Products to Underage Persons (1987 Act 336, create s. 134.66, effective July 1, 1989.)

No retailer may sell or give cigarettes or tobacco products to any person under the age of 18, except that a vending machine operator is not liable for the purchase of cigarettes or tobacco products from a vending machine by a person under age 18 if the operator was unaware of the purchase.

Persons violating this requirement are subject to forfeiture of up to \$500 if the person has not committed a previous violation within 12 months of the violation or not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

A court shall suspend any cigarette or tobacco product license or permit issued to a person for not more than 3 days if the person has committed a violation within 12 months after committing 1 previous violation, not less than 3 days nor more than 10 days if the person committed 2 other violations within 12 months, or not less than 15 days nor more than 30 days if the person committed 3 or more other violations within 12 months.

Failing to post a sign in areas where cigarettes or tobacco products are sold stating the sale to persons under age 18 is a violation of state law will result in forfeiture of not more than \$25.

12. Separate Tax Rate for Intoxicating Liquor, Containing 0.5% or More of Alcohol by Volume, Manufactured or Distilled in Wisconsin From Whey Produced in Wisconsin (1987 Act 399, repeal s. 139.03(2t) and amend ss. 139.03(2m), 139.06(1)(a), (b) and (2)(c), effective March 1, 1989.)

The separate tax rate of 43.59 cents per liter on intoxicating liquor, containing 0.5% or more of alcohol by volume, manufactured or distilled in Wisconsin from whey produced in Wisconsin, is repealed. Such intoxicating liquor will be subject to tax at the rate of 85.86 cents per liter after February 28, 1989.

13. Uniform Interest and Penalty Provisions for Excise Taxes Created (1987 Act 399, repeal ss. 78.65(2), 139.05(6), 139.07, 139.098, 139.32(7), and 139.77(6); renumber s. 139.25(4), (5), and (6) to s. 139.25(9), (10), and (11); amend ss. 20.913(1)(b), 78.13(2), 78.50(2), 78.59(2), 139.05(7)(e), 139.08(4), 139.092, 139.44(title), 139.77(5), and 139.85; repeal and recreate ss. 78.68 and 139.25(2) and (3); and create s. 139.25(1), (1m), and (4) to (8) and 139.44(9) to (12), effective June 1, 1988.)

The following interest and penalty provisions are applicable to cigarette, tobacco products, beer, liquor, motor fuel, special fuel, and general aviation fuel taxes.

- a. Unpaid taxes shall bear interest at the rate of 12% per year from the due date of the return until paid or deposited with the department.

- b. All refunded taxes bear interest at the rate of 9% per year from the due date of the return to the date the refund is certified on the refund rolls.
- c. All payments of additional amounts owed shall be applied in the following order: penalties, interest, tax principal.
- d. Delinquent tax returns are subject to a \$10 late filing fee.
- e. Delinquent taxes shall bear interest at the rate of 1.5% per month until paid.
- f. If an incorrect return is filed due to neglect, the entire tax finally determined is subject to a penalty of 25% of the tax, exclusive of interest or other penalty.
- g. Failure to file a return, unless due to reasonable cause and not neglect, will result in a penalty of 5% of the amount of tax if the failure is for not more than one month, plus an additional 5% of tax for each additional month or fraction thereof during which the failure continues, not to exceed 25% of the tax in the aggregate.
- h. If a person fails to file a return when due or files a false or fraudulent return with intent, in either case, to defeat or evade the tax imposed, a penalty of 50% of the tax shall be added to the tax required to be paid, exclusive of interest and penalties.
- i. Any person who fails to furnish any return required to be made or who fails to furnish any data required by the department may be fined not more than \$500 or imprisoned for not more than 30 days, or both.
- j. Any person, including an officer of a corporation, who is required to make, render, sign, or verify any report or return required and who makes a false or fraudulent report or return or who fails to furnish a report or return when due with the intent, in either case, to defeat or evade the tax imposed may be fined not more than \$500 or imprisoned for not more than 30 days, or both.
- k. No person may aid, abet, or assist another in making any false or fraudulent return or false statement in any return required with intent to defraud the state or evade payment of the tax. Any person violating this provision may be fined not more than \$500 or imprisoned for not more than 30 days, or both.
- l. Before any tax becomes due, if the department has reason to believe that any licensee intends to or is likely to convey, dispose of, or conceal his or her property, or abscond from the state, or do any act which would render the state insecure in collecting the tax when due, the department may demand payment of all taxes by the licensee which shall immediately become payable and collectible as if delinquent and the property of the licensee shall be subject to attachment.

I. OTHER

1. Chapter 71 of Wisconsin Statutes Revised (1987 Act 312, amend ss. 70.375(2)(b) and (2m)(b), 72.06, 73.01(4)(a), 78.70(6), 78.80(3), 139.11(4), 139.38(6), and 139.82(6), repeal and recreate Chapter 71, 71.05(10)(e), 72.06 and 73.01(4)(a), and create nonstatutory provision effective January 1, 1989, except that ss. 71.05(10)(e), 72.06 and 73.01(4)(a) become effective January 1, 1992; and 1987 Act 411, effective January 2, 1989.)

Chapter 71 of the Wisconsin Statutes, relating to the income tax and franchise tax, is revised to put the material in a more logical order and delete obsolete material. No substantive changes are intended. No person is absolved of liability and no liens, proceedings, or other means of collection are affected by this revision.

Act 411 reconciles all Chapter 71 changes made this legislative session to the prior revisions made by 1987 Wisconsin Act 312.

2. Department to Provide Information Regarding Certain Taxes Withheld or Collected by Municipalities and School Districts (1987 Act 246, amend ss. 71.11(44)(a) and 78.80(title) and create ss. 71.11(44)(gr), 77.61(5)(fm) and 78.80(4), effective for reporting periods ending after April 21, 1988.)

The Department of Revenue is required to inform all requesters, upon payment of a \$4 fee, of the total income taxes withheld and sales, use, and fuel taxes collected by cities, villages, towns, counties, school districts, special purpose districts, and vocational, technical, and adult education districts and of other information related to that withholding and those collections. However, the department may not divulge tax return information that in the department's opinion violates the confidentiality of that information with respect to any person other than the units of government and districts specified above. The department must provide to the requester a written explanation if it refuses to divulge information on the grounds of confidentiality.

3. Confidentiality Provisions Expanded to Include Lottery Board (1987 Act 119, create ss. 71.11(44)(c)12 and 77.61(5)(b)9, effective December 8, 1987.)

The executive director of the Wisconsin Lottery Board is authorized to receive Wisconsin tax return information for the purpose of withholding delinquent Wisconsin taxes and child support from lottery winnings as required by s. 565.30(5), Wis. Stats.

4. Withholding of Income Taxes From Lottery Winnings (1987 Act 119, create s. 71.205, effective December 8, 1987.)

The executive director of the lottery is required to withhold Wisconsin income tax from any lottery prize of \$2,000 or more. The amount withheld is determined by multiplying the amount of the prize by the highest tax rate applicable to individuals under s. 71.09(1g), Wis. Stats.

5. Withholding From Pari-Mutuel Wager Winnings (1987 Act 354, create s. 71.207, effective May 3, 1988.)

A person holding a license to sponsor and manage races under s. 562.05(3) or (4), Wis. Stats., is required to withhold Wisconsin income taxes from payments of pari-mutuel wager winnings made to any resident or nonresident individual if the payment is \$1,000 or more. The amount of tax withheld is determined by multiplying the winnings by the highest tax rate applicable to individuals under s. 71.09(1g), Wis. Stats.

Amounts withheld are deposited by the licensee on a monthly basis in the same manner as an employer under s. 71.20(4), Wis. Stats.

6. Lottery Retailer Contracts May Not Be Entered Into With Persons Having Tax Delinquencies (1987 Act 119, create s. 565.10(3)(b) and (c), effective December 8, 1987.)

No lottery retailer contract for the retail sale of lottery tickets or lottery shares may be entered into with a person who has been finally adjudged to be delinquent in the payment of taxes under Chapters 71, 72, 76, 77, 78, or 139 of the Wisconsin Statutes if the person remains delinquent in the payment of those taxes at the time the person seeks to enter into the lottery retailer contract.

If the retailer is an association, partnership, or corporation, the above provision applies to the association, partnership, or corporation and to the officers or directors of the association, partners of the partnership, or officers, directors, and shareholders owning an interest of 5% or more of the corporation, unless the lottery board determines that the association, partnership, or corporation has terminated its relationship with the individual whose actions directly contributed to the association's, partnership's, or corporation's conviction or entry of plea.

7. Withholding of Delinquent State Taxes, Child Support, or Debts Owed the State From Lottery Winnings (1987 Act 119, create s. 565.30(5), effective December 8, 1987.)

The executive director of the lottery board shall report the name, address, and social security number of each winner of a lottery prize equal to or greater than \$1,000 to the Department of Revenue to determine whether the payee of the prize is delinquent in the payment of state taxes under Chapters 71, 72, 76, 77, 78, or 139 of the Wisconsin Statutes, or court-ordered payment of child support or has debts owing to the state.

Upon certification of a delinquency by the department or upon court order, the executive director shall withhold the certified amount for remittance to the appropriate agency or person. In instances where a payee of the prize is delinquent in one or both of these payments and has a debt owing to the state, the amount remitted to the appropriate agency or person shall be in proportion to the prize amount as is the delinquency or debt owed by the payee.

8. Private Letter Ruling System Adopted (1987 Act 399, create s. 73.035, effective May 17, 1988.)

Upon receipt of a request, in the form prescribed by the department, from a person who requests a ruling about facts relating to a tax the department administers, the department may issue a private letter ruling.

The department may publish these rulings. The rulings may be edited by the requester as to the type of information specified by the department, if that editing is submitted to the department before the deadline that the department establishes and if the department approves the editing. Such rulings are confidential unless the ruling has been edited, or the time period in which editing may be done has expired, and the ruling has been published by the department.

Such rulings do not bind the requester, may not be appealed, and do not preclude application for a declaratory ruling under s. 227.41, Wis. Stats. A copy of the ruling must be attached to the requester's tax return to which it is relevant.

The department's decision not to issue or publish a ruling is not subject to appeal.

The department has developed a publication titled "How to Get a Private Letter Ruling from the Wisconsin Department of Revenue" to explain the private letter ruling system. The publication will be ready for distribution in late July and, in addition, will be included in the July issue of the Wisconsin Tax Bulletin.