

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100141	Intoxicating Liquor, Cider, and Wine Tax - Common Questions

State of Wisconsin
Department of Revenue

Intoxicating Liquor, Cider, and Wine Tax

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What are the definitions of "intoxicating liquor," "wine," "cider," "liquor," "person," and "permittee?"
2. What is the tax rate on liquor?
3. When is there an inventory tax?
4. Do I need a license or permit to handle liquor?
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14. Should I notify DOR if the business has a change to its name, address, or ownership or if the business ceases operating in Wisconsin?
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16. Can individuals bring liquor into Wisconsin?
17. How can I get additional information or forms about the liquor tax?

1. What are the definitions of "intoxicating liquor," "wine," "cider," "liquor," "person," and "permittee?"

- Intoxicating Liquor - Any beverage (except fermented malt beverages as defined in sec. 125.02(6), Wis. Stats.) made by a distillation process from agricultural grains, fruits and sugars, containing 0.5% or more of alcohol by volume [sec. 139.01(3), Wis. Stats.]. For example, beverages sold under the name of whiskey, brandy, gin, rum, cordials.
- Wine - Any beverage (except beer) made by a fermentation process from agricultural products, fruits and sugars, containing not less than 0.5% and not more than 21% of alcohol by volume [sec. 125.02(22), Wis. Stats.]. For example, beverages sold under the name of wine, vermouth, sake. It includes cider containing more than 7% alcohol by volume.
- Cider - Any alcoholic beverage obtained from the alcoholic fermentation of the juice of apples or pears, containing not less than 0.5% alcohol by volume and not more than 7% alcohol by volume [sec. 139.01(2m), Wis. Stats.]. Cider can be flavored, sparkling or carbonated. Apple or pear cider containing more than 7% alcohol by volume is taxed as wine [Sec. 139.03(2n), Wis. Stats.].
- Liquor - This term includes intoxicating liquor, cider and wine.
- Person - Includes any individual, sole proprietorship, partnership, limited liability company, corporation, or association. A single-owner entity that is disregarded as a separate entity under ch. 71 is disregarded as a separate entity for purposes of this subchapter. [sec. 139.01(5p), Wis. Stats.].
- Permittee - A person who holds an alcohol beverage permit issued by the Wisconsin Department of Revenue (DOR).

2. What is the tax rate on liquor?

Tax Type	Statute	Occupational tax per liter	Administrative fee per liter
Intoxicating Liquor	secs. 139.03(2m) 139.06(1)(a), Wis. Stats.	85.86¢	2.906¢
Wine (includes cider containing more than 7% alcohol by volume) <ul style="list-style-type: none"> ○ ≤14% alcohol by volume ○ >14% alcohol by volume but ≤21% 	sec. 139.03(2n)	6.605¢ 11.89¢	
Cider ≤7% alcohol by volume (Note: if >7%, see Wine above)	<ul style="list-style-type: none"> ○ Apple cider sec. 139.03(2n), effective July 1, 1998 ○ Pear cider* sec. 139.01(2m), effective January 1, 2016 	1.71¢	

*Prior to January 1, 2016 Pear cider is taxed at the same rate as Wine.

3. When is there an inventory tax?

When a liquor tax rate increases, an inventory tax is imposed on all liquor permittees and retailers who are in possession of any liquor held for resale on which tax has been imposed [sec. 139.03(2x), Wis. Stats.].

- The inventory tax is the amount by which the liquor tax increases.

- The inventory tax return is due the 15th day of the month following the month the new tax rate becomes effective. **Example:** If the tax rate becomes effective in October, the inventory tax return is due by November 15.
- If you file your return late, you will be charged a \$10 late-filing fee and delinquent interest of 1.5% per month (18% annually) on the tax due. If you attempt to evade the tax owed, a penalty in an amount equal to the tax you owe will be imposed.
- If the tax rate decreases, you may receive a refund.

4. Do I need a license or permit to handle liquor?

Yes. See [Fact Sheet 3101](#).

- You may not sell, manufacture, rectify, brew, or engage in any other activity relating to alcohol beverages without holding the appropriate license, permit or authorization. [sec. 125.04(1), Wis. Stats.]
- To obtain an alcohol beverage permit from DOR, you must also contact your municipal clerk to determine if there are any licenses you need to acquire from your municipality.

5. What types of licenses and permits do I need?

See [Fact Sheet 3102](#).

- **Retail licenses** - if you plan to sell alcohol beverages at **retail** you will need a retail license. The town, village or city where the business is located is normally responsible for issuing these licenses (see exceptions below - retail permits issued by the department for sports clubs, vessels, public facilities and airports).
- **Permits** - if you plan to sell liquor at the **wholesale level** in Wisconsin, you must apply for a Business Tax Registration (BTR) Certificate [sec. 73.03(50), Wis. Stats.] and one of the alcohol beverage permits listed below from DOR.

BTR Certificate

- There is a \$20 registration fee for the BTR Certificate for the first 2-years and a \$10 renewal fee every two years thereafter.
- The BTR certificate and alcohol beverage permits are valid until canceled by the permittee or until revoked by DOR. Only one BTR certificate is required regardless of the number of permits or licenses held with DOR.
- To apply for a BTR Certificate and alcohol beverage permit, contact the Excise Tax Unit at (608) 266-6701.

DOR Issues these wholesale and manufacturer liquor permits

Types of Wholesale Permits/Account No. Prefix	Statute	Fee	Term of Permit
Wisconsin liquor wholesaler (311)	sec. 125.54	\$1,000	2 years
Wisconsin manufacturer (312)	sec. 125.52	\$1,000	2 years
Wisconsin rectifier (313)	sec. 125.52	\$1,000	2 years
Wisconsin winery (WWI) (includes cider producers in Wisconsin) (315)	sec. 125.53	\$200	2 years
Wisconsin public warehouse (306)	sec. 125.19	\$200	2 years
Wine Direct Shipper (321)	sec. 125.535	\$200	2 years

Types of Wholesale Permits/Account No. Prefix	Statute	Fee	Term of Permit
Wisconsin limited manufacturer (310) Use or sale of intoxicating liquor rendered unfit for use as a beverage and is used or sold for use as fuel	sec. 125.52(2)	none	2 years
Industrial wine (302)	sec. 125.63	none	2 years
Industrial alcohol (300)	sec. 125.62	none	2 years
Out-of-state shipper (305)	sec. 125.58	\$500	2 years
Sacramental wine (307)	sec. 125.56	none	permanent
Wisconsin wholesale alcohol (314) Sale of ethyl alcohol of 190 proof or more to persons holding medicinal alcohol permits or industrial alcohol permits	sec. 125.60	\$50	2 years
Medicinal alcohol (303)	sec. 125.61	none	permanent
Out-of-state and Wisconsin liquor salespersons	sec. 125.65	none	2 years

DOR issues the following retail liquor permits

Types of Retail Permits/Account No. Prefix	Statute	Fee	Term of Permit
Sports club - liquor (318)	sec. 125.51	\$600	2 years
Vessel - liquor (317)	sec. 125.51	\$600	2 years
Public facilities and airports - liquor (316)	sec. 125.51	\$600	2 years

Security required

- Persons who are responsible for paying the liquor tax must have security (e.g., cash, surety bond) on file with DOR [sec. 139.06(2)(b), Wis Stats.]
- The amount of security must be equal to twice the person's estimated maximum monthly liquor tax but not less than \$1,000 or more than \$100,000 [sec. 139.06(2)(b), Wis. Stats.].

Revocation of permits

- As a permittee, it is very important to file your liquor tax returns on time and pay any amount due. If you have poor filing and/or payment records, your permit may be revoked. [Secs. 139.11 and 139.25, Wis. Stats.]

6. Who pays the liquor tax?

Under sec. 139.06(1)(b), Wis. Stats., for intoxicating liquor and sec. 139.06(2)(a), Wis. Stats., for wine (including cider) the following permittees pay DOR the liquor tax:

- Wisconsin wholesalers who import intoxicating liquor (distilled spirits) or wine from a foreign country
- Out-of-state shippers who ship intoxicating liquor (distilled spirits) or wine into Wisconsin from another state
- Wisconsin manufacturers or rectifiers who bottle or produce intoxicating liquor (distilled spirits) or wine in Wisconsin

- o Wine direct shippers who ship wine directly to consumers in Wisconsin
- o The wine direct shipper permittee pays the liquor tax and sales and use tax on wine shipped directly to consumers in Wisconsin [sec. 139.035, Wis. Stats.]
- o If you are a permittee and purchased liquor from an out-of-state wholesaler that does not hold a permit with DOR, DOR Alcohol & Tobacco Enforcement Agents may confiscate the liquor [sec. 139.22, Wis. Stats.].

If you hold an **airport and public facilities, sports club, or vessel** retail permit, you are not required to file liquor tax returns with DOR. The tax on the alcohol beverages you purchase in Wisconsin is paid at the wholesale level, not at the retail level.

7. How do I pay the liquor tax?

You can pay your taxes by electronic funds transfer (EFT). For more information visit the [Electronic Funds Transfer](#) page or contact us at (608) 261-5338.

You can also print a payment voucher once you've completed your return and mail your payment with the voucher to the address on the voucher.

8. When are the liquor tax returns due?

All liquor tax returns are due by the 15th day of the month following the month covered by the return [secs. 139.06(1)(a) and 139.06(2)(a), Wis. Stats.]. **Example:** a return for October is due November 15.

Wine direct shippers file quarterly based on calendar quarters. The returns are due the 15th day of the month following the end of the quarter covered by the return [sec.139.035, Wis. Stats.].

Example: a return for the quarter ending in March is due April 15.

If you file a late return, you will be charged:

- o Late-filing fee - \$10 [sec. 139.25(2), Wis. Stats.]
- o Delinquent interest - 1.5% of the amount of tax due with the return per month (18% annually) until paid [sec. 139.25(2), Wis. Stats.]
- o Late-filing penalty - 5% of the tax due per month or fraction thereof until paid, not to exceed 25% of the tax in the aggregate [sec. 139.25(4), Wis. Stats.]

Tax Type	WI Statute	Return Type	Tax Form
<ul style="list-style-type: none"> o Intoxicating liquor (<i>plus fee</i>) o Cider o Wine 	sec. 139.06(1)(a)	Monthly	Form AB-130 and all applicable schedules
<ul style="list-style-type: none"> o Wine Direct Shippers 	sec. 139.035	Quarterly	Form AB-130 and all applicable schedules

Note: Wine Direct Shippers are also required to file sales and use tax returns. For more information on filing sales and use tax returns, visit the [Sales and Use Tax](#) page or contact us at (608) 266-2776.

9. How do I file my liquor tax returns?

You are required to file all intoxicating liquor tax returns electronically. You may file using My Tax Account or an approved XML schema.

For more information on:

- a. My Tax Account, visit tap.revenue.wi.gov
- b. XML schema, visit [Liquor Tax File Transmission](#)

10. **What should I do if filing electronically causes a hardship?**

If the Secretary of Revenue determines the requirement causes a hardship, the Secretary may waive your requirement to file electronically. If you feel filing electronically causes you a hardship, you must request a waiver.

To request a waiver, you must do the following:

- o Request the waiver in writing. Mail your written request to:
Excise Tax Unit
Mandate Waiver Request
Wisconsin Department of Revenue
PO Box 8900
Madison, Wisconsin 53708-8900
- o Clearly state why the requirement causes a hardship.
- o The Secretary of Revenue may consider the following when deciding if this requirement causes a hardship:
 - An unusual circumstance that may prevent you from filing electronically.
Example: You do not have access to a computer connected to the Internet.
 - Any other factor the Secretary determines is relevant.
- o If you have any questions, contact us at (608) 266-6701, or email DORExciseTaxpayerAssistance@wisconsin.gov.

11. **Is any liquor exempt from the liquor tax?**

Yes. The following are exempt from the Wisconsin liquor tax [sec. 139.04, Wis. Stats.]:

- o Homemade wine:
 - **Not** sold or offered for sale
 - Used for purposes of exhibition, judging or tasting at a private residence or licensed premises. No fee may be charged for the consumption of the wine at these events
 - Produced at a home brewer's/home winemaker's supply store. The wine may not be sold; samples may be given only by persons holding an operator's (bartender's) license from the municipality where the supply store is located.

Notes:

 - "Homemade" with respect to the making of wine means wine made by a person's own efforts and not for a commercial purpose, but does not require that the wine be made in the person's home.
 - A person and any other person living in the same household may not produce more than 100 gallons of homemade wine in a calendar year if the household has only one person of legal drinking age or 200 gallons if the household has 2 or more persons of legal drinking age.
 - Sale and use of wine for sacramental purposes
- o Liquor:
 - Shipped to other states or foreign countries
 - Sold to industrial permittees for use in food items
 - Sold to hospitals for medicinal purposes

12. Under what circumstances can I request a refund from DOR of liquor taxes previously paid?

Liquor permittees may request a refund from DOR if one of the following applies:

- The liquor is spoiled or unfit for consumption - File Form AB-605 [sec. 139.10(1), Wis. Stats.]
- You supplied liquor to hospitals for medicinal purposes or to institutions of learning or museums for non-beverage purposes [sec. 139.10(2), Wis. Stats.]
- Liquor shipped to wholesalers outside Wisconsin - Send a letter to DOR Excise Tax Unit including invoices [sec. 139.04(5), Wis. Stats.]
- You sold wine on which tax had been paid for sacramental purposes [sec. 139.04(6), Wis. Stats.]

13. How do I correct/amend a liquor tax return previously filed?

- You must electronically file all intoxicating liquor tax reports, returns and amended returns, with DOR ([see question #9](#)).
- If you are filing an amended liquor tax return, you must file a true, correct and complete return. Do not file a corrected return that only reflects the changes; include all previously reported unchanged information as well.

14. Should I notify DOR if the business has a change to its name, address, or ownership or if the business ceases operating in Wisconsin?

Yes. You must notify DOR when your business has any change to its name, address, or ownership or when you cease operating in Wisconsin.

- You can inform DOR by letter. Be sure to include either your 15 digit account number, Federal Employer Identification Number (FEIN) or Social Security Number (SSN).
- If your name or ownership changes and you receive a different FEIN, you must file a new application with us and update your security.
- When you end operations, you must file a return for the last month of operations even if you were in business only a few days during that month or you had no liability.
- If you have any questions about your liquor tax permit, contact DOR at (608) 266-6701, or email DORAlcoholTobaccoEnforcement@wisconsin.gov.

15. What records should I keep for Wisconsin tax purposes, and how long should I keep them?

- You must keep a complete copy of your liquor tax returns and all records about your business for at least four years for audit purposes [secs. 139.092 and 139.11(1), Wis. Stats.].
- Required records include, but are not limited to: purchase and sales receipts, (whether taxable or exempt), inventory, distribution, and consumption of products.
- Records may be kept in electronic form or paper.
- Your records must be organized and kept in a place easily accessible and available for review by DOR. Records must be available for inspection at all reasonable hours, including all business hours. [Sec. 139.08(4), Wis. Stats.]
- If you do not maintain adequate records, all the products you purchase or receive are subject to tax without benefit of any deductions. [Sec. 139.092, Wis. Stats.].

16. Can individuals bring liquor into Wisconsin?

No. By state law, you may not bring any liquor (intoxicating liquor or wine - including cider) into Wisconsin, unless you hold a valid liquor permit issued by DOR or you qualify for one of the following three exceptions [sec. 139.03(5), Wis. Stats.].

Individual Exceptions Only (not applicable to businesses):

- a. Individuals who change their domicile and move into Wisconsin from another state or foreign country may bring liquor into Wisconsin without a permit from DOR or without paying the

- Wisconsin liquor tax, provided the liquor is part of their household goods. [Sec. 139.03(5)(a), Wis. Stats.]
- b. Individuals who have been in a foreign country for at least 48 hours may bring into Wisconsin no more than four liters of liquor in sealed original containers without payment of the Wisconsin liquor tax. The liquor must be in that individual's immediate possession and may not be sent, shipped or carried into Wisconsin in some other manner. [Sec. 139.03(5)(b), Wis. Stats.]
 - c. An active duty member of the military who has been out of the country for duty or training for at least 48 hours may bring into Wisconsin no more than 16 liters of liquor in sealed original containers without payment of the Wisconsin liquor tax. The liquor must be in that individual's immediate possession and may not be sent, shipped or carried into Wisconsin in some other manner. [Sec. 139.03(5)(b)2., Wis. Stats.]

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of February 13, 2020: Sections 71.74, 71.77, 73.03, 73.0302, 77.52, 77.522, 77.58, 125.02, 125.03, 125.04, 125.06, 125.10, 125.19, 125.27, 125.275, 125.29, 125.295, 125.30, 125.51, 125.52, 125.53, 125.54, 125.55, 125.60, 125.62, 125.63, 125.65, 139.01, 139.03, 139.035, 139.04, 139.06, 139.08, 139.09, 139.092, 139.10, 139.11, 139.22 and 139.25, Wis. Stats., and secs. Tax 1.12, 8.001 and 8.04, Wis. Adm. Code.

Laws enacted and in effect after February 13, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to February 13, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

Excise Tax Unit

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Email additional questions to DORExciseTaxpayerAssistance@wisconsin.gov

Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

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