



Common Questions | 2023 Wisconsin Act 73 Contract Production Permitting and Returns

Background

Effective May 1 of this year, [2023 Wisconsin Act 73](#) modified Wisconsin's laws to legalize production agreements, including contract production, for all types of alcohol beverages. Generally, contract production agreements may only be entered into by two producers who hold the same type of alcohol beverage production permit; however, there are exceptions for brewpubs and out-of-state recipe suppliers. The Division of Alcohol Beverages has received questions regarding who must obtain a permit and who must remit the excise taxes for the alcohol beverages produced. This document clarifies preliminary information provided on this topic in February's [DOR On Tap](#). While administrative rules on this topic are forthcoming, a producer can remain in compliance by adhering to the following:

Who must obtain a Wisconsin alcohol beverage permit for a contract production agreement?

A contract production agreement may only be entered into between the following parties:

- Two Wisconsin producers holding the same type of producer permit.
- A Wisconsin producer and an out-of-state recipe supplier.
- A Wisconsin brewer, as the contract producer, and a Wisconsin brewpub, as the recipe producer.

A contract producer is the person who directly manufactures, bottles, or labels alcohol beverages as an agent of a recipe producer or out-of-state recipe supplier.

Who files a tax return and pays the excise tax?

When a contract production agreement occurs between two Wisconsin producers, the recipe producer (rather than the contract producer) must file the tax return and pay the excise tax for the alcohol beverages produced.

Example 1: Wisconsin Brewer ABC is contracting with Wisconsin Brewer XYZ to produce a fermented malt beverage specific to Brewer ABC's recipe. Brewer XYZ is the contract producer and must hold a brewer's permit. Brewer ABC is the recipe producer and must also hold a Wisconsin brewer's permit. In addition, Brewer ABC must file the tax return for fermented malt beverages produced under the contract, and pay the applicable excise taxes.

Wisconsin producers may also enter into contract production agreements with out-of-state recipe suppliers that do not hold a Wisconsin production permit. In this case, the Wisconsin producer must file the tax return for the alcohol beverages produced. No excise tax is due, since all product will be shipped to another state.

Example 2: Winery DEF, an out-of-state recipe supplier, contracts with Wisconsin Winery TUV to bottle wine for Winery DEF. All finished wine will be shipped directly from Winery TUV to Winery DEF's out-of-state location, with no product remaining in Wisconsin. In this case, Winery DEF must file the tax return for wine bottled to show production, but no excise tax is due since all product is shipped out of state. Winery DEF is not required to hold any Wisconsin production permit.

Some out-of-state producers may want to partake in activities authorized by a Wisconsin production permit, such as distribution in Wisconsin of alcohol beverages produced in Wisconsin under a contract production agreement. In this case, the out-of-state producer must obtain a Wisconsin production permit for the premises where production occurs, and as a recipe producer, must file the tax return and pay the excise tax for the alcohol beverages produced and distributed in Wisconsin.

Example 3: Out-of-state Distiller GHI contracts with Wisconsin Rectifier QRS to purify and blend a new intoxicating liquor according to the specification of Distiller GHI. Distiller GHI will warehouse the alcohol beverages in Wisconsin prior to selling some to a permitted Wisconsin wholesaler before the remainder is sold out-of-state. Distiller GHI must obtain a rectifier's permit for the premises where production occurs, and an alcohol beverage warehouse permit for the storage location. Distiller GHI, as the recipe producer, must report all contractual production, including production destined for another state, through the rectifier's permit by filing the tax return and paying the excise tax for the alcohol beverages produced and distributed in Wisconsin.

Note: Alcohol beverages produced under a contract do not count toward either party's volumes for purposes of full-service retail authorizations.

Questions

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