

State of North Carolina

ALCOHOLIC BEVERAGES TAX

Issued by:

**Excise Tax Division
Tax Administration
North Carolina Department of Revenue
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PREFACE

This publication supplements the information in the Administrative Rules but does not supersede the Administrative Rules. In addition, this bulletin does not cover all provisions of the law.

Taxpayers are cautioned that this publication is intended merely as a guide and that consideration must be given to all the facts and circumstances in applying this bulletin to particular situations. Taxpayers using this publication should be aware that additional changes may result from legislative action, court decisions, and rules adopted or amended under the Administrative Procedure Act, Chapter 150B of the General Statutes. To the extent there is any change to a statute, administrative rule, or new case law subsequent to the date of this publication, the provisions in this bulletin may be superseded or voided. Unless otherwise noted, this bulletin is intended to reflect changes made through S.L. 2021-180 in the North Carolina General Assembly.

Revised February 2022

Alcoholic Beverage Excise Taxes (G.S. 105-113.68 through G.S. 105-113.89)

1. Scope (G.S. 105-113.80, G.S. 105-113-83)

a. Levy of Tax

An excise tax is levied on all alcoholic beverages sold in and/or shipped into this State unless the exemptions provided in G.S. 105-131.81 apply. This excise tax also applies to wine sold and shipped by holders of ABC-issued wine shipper permits.

b. Wine Shipper Permittee (G.S. 18B-1001.1)

Wine shipper permittee (resident and nonresident wineries that hold the required ABC permit issued by the ABC Commission under G.S. 18B-1001.1) may sell and ship not more than two cases of wine per month to any person in North Carolina to whom alcoholic beverages may be lawfully sold. All sales and shipments must be for personal use only and not for resale. A case of wine is defined as any combination of packages containing not more than nine liters of wine. Each wine shipper permittee is responsible for the excise tax on wine levied under G. S. 105-113.80(b).

c. Registration and Discontinuance Requirements (G.S. 105-113.83A)

A person who holds a wine shipper permit issued under G.S. 18B-1001.1 or one or more of the following ABC permits issued under Article 11 of Chapter 18B of the General Statutes must register with the Secretary:

- (1) Unfortified winery
- (2) Fortified winery
- (3) Brewery
- (4) Distillery
- (5) Wine importer
- (6) Wine wholesaler
- (7) Malt beverages importer
- (8) Malt beverages wholesaler
- (9) Nonresident malt beverage vendor
- (10) Nonresident wine vendor
- (11) Wine Producer

Once in receipt of an ABC permit, and before returns can be filed and/or payments for excise tax can be made, a permittee must be registered with the Department. Form B-C-785, Alcoholic Beverage Excise Tax Registration Form, is the form the Secretary prescribed to use for registering with the Department. If a permittee fails to register, the Secretary must notify the ABC Commission of the violation. The Secretary must notify the ABC Commission when a permittee required to register is not eligible to hold an ABC permit for failure to satisfy G.S. 18B-900(a)(8). Upon notification, the ABC Commission must impose any penalty permitted under G.S. 18B-104.

A permittee required to be registered, who changes ownership or stops engaging in the activities authorized by an issued ABC permit, must notify the Secretary in writing of the change. The permittee is responsible for maintaining a bond or irrevocable letter of credit as required by G.S. 105-113.86 and submitting all returns and the payment of all taxes for which the permittee is liable while the issued ABC permit is active.

2. Bond or Irrevocable Letter of Credit (G.S. 105-113.86)

a. Wholesalers and Importers (G.S. 105-113.86(a), 17 NCAC 04E.0601)

The Department shall require a wholesaler or an importer to furnish a bond in an amount that adequately protects the State from a wholesaler's or importer's failure to pay taxes due under Article 2C. The amount of the bond shall not be less than five thousand dollars (\$5,000).

a1. Distilleries (G.S. 105-113.86(a1))

The Department may require a distillery to furnish a bond in an amount that adequately protects the State from a distillery's failure to pay taxes under this Article. The amount of the bond shall not be less than two thousand dollars (\$2,000).

The Secretary should periodically review the sufficiency of the bonds under this section. The Secretary may increase the amount required, not to exceed fifty thousand dollars (\$50,000), if the bond no longer covers the taxpayer's anticipated tax liability. The Secretary may decrease the amount required when the Secretary determines that a smaller bond amount will adequately protect the State from loss. The bond must be conditioned on compliance, payable to the State, in a form acceptable to the Secretary, and secured by a corporate surety.

A proper bond shall be posted by resident wholesalers and importers subject to the malt beverages or wine excise tax levies. This bond may vary yearly, based upon a review by the Secretary of the wholesaler's or importer's tax payments during the highest 3 months of the previous 12 month period, and shall not be less than five thousand dollars (\$5,000), nor more than fifty thousand dollars (\$50,000). Bond requirements are as follows:

- where the combined tax due for any three months of the previous 12 months exceeds forty thousand dollars (\$40,000), the amount of the bond shall be fifty thousand dollars (\$50,000);
- where the combined tax due for any three months of the previous 12 months exceeds twenty-five thousand dollars (\$25,000), but does not exceed forty thousand dollars (\$40,000), the amount of the bond shall be forty thousand dollars (\$40,000);
- where the combined tax due for any three months of the previous 12 months exceeds twelve thousand five hundred dollars (\$12,500), but does not exceed twenty-five thousand dollars (\$25,000), the amount of the bond shall be twenty-five thousand dollars (\$25,000);
- where the combined tax due for any three months of the previous 12 months exceeds five thousand dollars (\$5,000), but does not exceed twelve thousand five hundred dollars (\$12,500), the amount of the bond shall be twelve thousand five hundred dollars (\$12,500);
- where the combined tax due for any three months of the previous 12 months does not exceed five thousand dollars (\$5,000), the amount of the bond shall be five thousand dollars (\$5,000).

b. New Wholesaler or Importer Bond (17 NCAC 04E.0602)

In the case of a new wholesaler or importer subject to the excise tax, or where operation has been conducted for less than twelve (12) months prior to January 1, the amount of the bond is determined by the Secretary for the remainder of the calendar year or the

ensuing calendar year based upon the wholesaler's or importer's anticipated business volume as evident by inventory, but shall be no less than five thousand dollars (\$5,000).

c. Nonresident Vendors (G.S. 105-113.86(b))

The Secretary may require the holder of a nonresident vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The bond must be conditioned on compliance, payable to the State, in a form acceptable to the Secretary, and secured by a corporate surety.

d. Irrevocable Letter of Credit G.S. 105-113.86(c)

A wholesaler or importer, a nonresident vendor, or a distillery may substitute an irrevocable letter of credit for the secured bond. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance and in the amounts stipulated in G.S. 105-113.86.

3. Reporting Requirements (G.S. 105-113.84, G.S. 105-113.83)

- a. A resident brewery, resident winery, resident wine producer, and nonresident vendor must file a monthly informational report with the Secretary.
- b. A wine shipper permittee must file an annual report with the Secretary.
- c. The report required must list the amount of beverages sold, delivered, or shipped to North Carolina wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the period covered by the report, unless otherwise provided. The report is due by the 15th day of the month following the period covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary.

When excise taxes are paid on wine or malt beverages, the wholesaler or importer must submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report must indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply.

A wine shipper permittee shall submit verified reports once a year on forms provided by the Secretary detailing sales records for the year the taxes are paid. The verified report is due on or before the 15th day of the first month of the following calendar year.

4. Record-keeping Requirements (G.S. 105-113.88)

A person who is required to file a report or return must keep a record of all documents used to determine information the person provides in a report or return. The records must be kept for three years from the due date of the report or return to which the records apply.

5. Discount (G.S. 105-113.85)

Each wholesaler or importer who files a timely return and sends a timely payment may deduct from the amount payable a discount of two percent (2%). This discount covers losses due to spoilage and breakage, expenses incurred in preparing the records and reports required, and the expense of furnishing a bond.

6. Excise Taxes on Malt Beverages, Wine, and Liquor (G.S. 105-113.80)

The tax rates on malt beverages, wine, and liquor are:

- a. Malt Beverages** – sixty-one and seventy-one hundredths cents (61.71¢) per gallon is levied on the sale of malt beverages.
- b. Wine** – twenty-six and thirty-four hundredths cents (26.34¢) per liter is levied on the sale of unfortified wine and twenty-nine and thirty-four hundredths cents (29.34¢) per liter is levied on the sale of fortified wine.
- c. Liquor** – thirty percent (30%) is levied on spirituous liquor and antique spirituous liquor sold in ABC stores and in permitted distilleries. The price of liquor on which this tax is computed is the spirituous liquor or antique spirituous liquor seller's price plus (1) the State ABC warehouse freight and bailment charges and (2) a markup for local ABC boards, unless otherwise specified by law.

Note: If a distillery permittee sells spirituous liquor distilled at the distillery pursuant to G.S. 18B-1105(a)(4), the price does not include the (1) the State ABC warehouse freight and bailment charges and (2) a markup for local ABC boards, unless otherwise specified by law.

7. Payment of Excise Tax (G.S. 105-113.83)

a. Liquor (G.S. 105-113.83(a))

The excise tax on liquor levied under G.S. 105-113.80(c) is payable monthly by the local ABC board and by a distillery permittee to the Secretary. The tax shall be paid on or before the 15th day of the month following the month in which the tax was collected

b. Malt Beverages and Wine (G.S. 105-113.83(b))

The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State.

The taxes on malt beverages and wine are levied only once on the same beverages. Unless otherwise provided, the tax is due on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler and importer.

b1. Brewery and Winery Option (G.S. 105-113.83(b1))

A brewery or winery may be relieved of paying the tax levied under G.S. 105-113.80(a) and (b) if all of the following apply:

- 1) The brewery or winery holds a permit issued under G.S. 18B-1101, 18B-1102, or 18B-1104;
- 2) The brewery or winery transfers malt beverages or wine to a wholesaler permitted under G.S. 18B-1107 or G.S. 18B-1109;
- 3) The wholesaler agrees in writing to be responsible for the tax due on the transferred malt beverages or wine;
- 4) The brewery or winery files a report when the tax would otherwise be due reporting the transfer of malt beverages or wine to the wholesaler.

b2. Backup Tax Liability (G.S. 105-113.83(b2))

If a brewery or winery is relieved of paying the excise tax as provided under subsection (b1) of this section, the wholesaler receiving the malt beverages or wine is liable for any tax due.

b3. Wine Shipper Permittee (G.S. 105-113.83(b3))

A wine shipper permittee must pay the excise tax levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1. A wine shipper permittee must submit verified reports once a year on forms provided by the Secretary detailing sales records for the year taxes are paid. The verified report is due on or before the fifteenth day of the first month of the following calendar year.

c. Railroad Sales (G.S. 105-113.83(c))

Each person operating a railroad train in this State on which alcoholic beverages are sold must submit monthly reports of the amount of alcoholic beverages sold in this State and must remit the applicable excise tax due on the sale of these beverages when the report is submitted. The report is due on or before the 15th day of the month following the month in which the beverages are sold. The report must be made on a form prescribed by the Secretary.

d. Wholesaler Buying From Wholesaler (17 NCAC 04E.0206)

Where a resident wholesaler or importer purchases malt beverages or wine from another wholesaler or importer in this state, such beverages become tax-paid malt beverages and wine and shall be reported separately in the space provided on the monthly report filed by the purchasing resident wholesaler or importer since the selling resident wholesaler or importer, being the first in the State to receive or handle the product, is liable for the tax and must include the same product in their monthly report and pay the tax due.

8. Exemptions (G.S. 105-113.81)

a. Major Disaster (G.S. 105-113.81(a), 17 NCAC 04E.0205)

Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages or wine rendered unsalable by a major disaster. To qualify for this exemption, the wholesaler or importer shall prove to the satisfaction of the Secretary that a major disaster occurred.

Losses from a “major disaster” as defined in G.S. 105-113.81(a) is the destruction, spoilage, or rendering unsalable of 50 or more cases, or the equivalent, of malt beverages or 25 or more cases, or the equivalent, of wine that must be verified by the Secretary or an agent of the Department of Revenue. A major disaster is classified as one event only in which such loss occurs, and not an accumulation of events. Several small disasters cannot be accumulated and then classified as a major disaster. Form B-C-750, Report of Alcoholic Beverages Major Disaster, must be completed **before** the losses can be claimed by the wholesaler or importer on his monthly report. Any missing beverage inventory which cannot be classified as a loss from a major disaster shall be considered as malt beverages or wine sold and subject to the excise tax accordingly, unless otherwise provided.

b. Spoilage or Destruction of Non-Tax-Paid Malt Beverages or Wine (17 NCAC 04E.0301)

Where the spoilage, breakage, or destruction of non-tax-paid malt beverages or wine in the inventory of the resident wholesaler or importer is a lesser amount than that defined as a “major disaster” in G.S. 105-113.81(a), there shall be no deduction from the excise tax as compensation for such loss.

c. Spoilage of Tax-Paid Malt Beverages or Wine (17 NCAC 04E.0302)

Spoilage, breakage, or other losses of any tax-paid malt beverages or wine may not be claimed as a deduction from the excise tax due.

d. Destruction When in Transit (17 NCAC 04E.0303)

Destruction of non-tax-paid malt beverages or wine in transit from the brewery or winery to the resident wholesaler or importer when such malt beverages or wine is in the hands of the common carrier, even though such common carrier may be considered as the agent of the resident wholesaler or importer, and when such malt beverages or wine is accounted for by the common carrier by payment of such beverage loss to the resident wholesaler or importer, will not be considered as part of the taxable inventory of the resident wholesaler or importer, and thus not subject to the beverage excise tax.

e. Sales to Oceangoing Vessels (G.S. 105-113.81(b), 17 NCAC 04E.0502)

Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine sold and delivered for use on oceangoing vessels. An oceangoing vessel is a ship that plies the high seas in interstate or foreign commerce, in the transport of freight or passengers, or both, for hire exclusively. To qualify for this exemption, the beverages must be delivered to an officer or agent of the vessel for use on that vessel. Sales made to officers, agents, crewmen, or passengers for their personal use are not exempt. Receipt for delivery of non-tax-paid malt beverages to ocean-going vessels must be signed for by an authorized officer or agent of such vessel, and such signed receipts must be retained by the wholesaler for a period of three years.

f. Sales to Armed Forces of the United States (G.S. 105-113.81(c))

Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine sold to the United States Armed Forces. The Secretary may require malt beverages and wine sold to the Armed Forces to be marked "For Military Use Only" to facilitate identification of those beverages.

g. Out-of-State Sales (G.S. 105-113.81(d), 17 NCAC 004E.0204)

Wholesalers and importers of malt beverages and wine are not required to remit excise taxes on malt beverages and wine shipped out of this State for resale outside the State. Records of out-of-state shipments by the resident wholesaler or importer shall be maintained which can be properly checked by the Secretary, and bills of lading shall also be kept on such out-of-state shipments. If delivered by the wholesaler's or importer's own truck, the signature, address and social security number of the person receiving malt beverages or wine from the wholesaler or importer shall be kept for verification by the Secretary. Such sales shall be reported on the monthly report form in the space provided.

h. Tasting (G.S. 105-113.81(e))

Resident breweries and wineries and distilleries are not required to remit excise taxes on malt beverages, wine, or spirituous liquor given free of charge to customers, visitors, and employees on the manufacturer's licensed premises for consumption on those premises.

9. Refund for Excise Tax Paid on Sacramental Wine (G.S. 105-113.87)

A person who purchases unfortified or fortified wine for the purpose stated in G.S. 18B-103(8) may obtain a refund from the Secretary for the excise tax levied. An applicant for a refund must file a written request with the Secretary for the refund due for the prior calendar year on or before April 15. The Secretary may by rule prescribe what information and records shall be supplied by the applicant to qualify for the refund. Refunds are made annually. No refund will be made if the application is filed more than three years after the date it is due

10. Power of Attorney and Declaration of Representative, Business Address Correction, or Out-of-Business Notification

It is the Department of Revenue's policy to accept a paid preparer's signature on a return as authorization to discuss certain matters relating to that return, such as assessment and adjustment notices, information contained or missing on the return, and information about a refund or payment. With the exception of certified service providers who enter into a contract with the Secretary pursuant to N.C. Gen. Stat. §105-164.42I, this authority is extended only to an individual paid preparer, not to a company, and does not include discussing audit activity or requests for review of proposed assessments or proposed denials of refunds. Those matters require a Form GEN-58, Power of Attorney and Declaration of Representative, to be filed. Note: With respect to any Federal tax information (FTI) provided to the Department pursuant to our exchange agreement with the Internal Revenue Service, we are prohibited from discussing such information with a representative without the taxpayer's express written authority to do so.

In the event of a change in a taxpayer's business address, the taxpayer should notify the Department of Revenue by completing and mailing Form NC-AC, Business Address Correction. Do not mail Form NC-AC along with any tax return. Mail it separately.

If a taxpayer closes or goes out of business and no longer does business in North Carolina, the taxpayer should notify the Department by completing and mailing Form NC-BN, Out-of-Business Notification. Do not mail Form NC-BN along with any tax return. Mail it separately.

11. Reporting Services or Compliance Services

If a reporting service is used to file required returns or reports, the taxpayer must submit Form Gen-58, Power of Attorney and Declaration of Representative, for each individual preparer(s) of the return or report. **Note: Reporting services are reminded to always submit returns or reports using the taxpayer's legal name and mailing address.**