



IMPORTANT NOTICE: SALES AND USE TAX DUE BY A DISTILLERY PERMIT HOLDER

The following important information is addressed in this notice:

- Sales and use tax due by a distillery permit holder on sales of mixed beverages, wine, malt beverages, spirituous liquor, and other tangible personal property.
- Rate of sales and use tax due on sales of mixed beverages, wine, malt beverages, spirituous liquor, and other tangible personal property.

Definitions

Food – N.C. Gen.Stat. § 105-164.3(10) defines food as “[s]ubstances that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. The substances may be in liquid, concentrated, solid, frozen, dried, or dehydrated form. The term does not include an alcoholic beverage, as defined in [N.C. Gen.Stat. §] 105-113.68, or a tobacco product, as defined in [N.C. Gen.Stat. §] 105-113.4.”

Mixed beverage – Defined in N. C. Gen. Stat. § 18B-101(10).

Prepared food – N.C. Gen.Stat. § 105-164.3(28) defines prepared food as “[f]ood that meets at least one of the conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not heat, mix, or sell with eating utensils.

- a. It is sold in a heated state or it is heated by the retailer.
- b. It consists of two or more foods mixed or combined by the retailer for sale as a single item. This subdivision does not include foods containing raw eggs, fish, meat, or poultry that require cooking by the consumer as recommended by the Food and Drug Administration to prevent food borne illnesses.
- c. It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws. A plate does not include a container or packaging used to transport the food.”

Spirituous liquor – Defined in N. C. Gen. Stat. § 18B-101(14).

Tangible personal property – N.C. Gen. Stat. § 105-164.3(46) defines tangible personal property, in part, as “[p]ersonal property that may be seen, weighed, measured, felt, or touched or is in any other manner perceptible to the senses. . . .”

Sales of Mixed Beverages and Other Tangible Personal Property

Generally, retail sales of mixed beverages and other tangible personal property by a distillery permit holder are subject to the general 4.75% State, applicable local (2.00% or 2.25%), and applicable transit (0.50%) rates of sales and use tax. Some examples of tangible personal property sold by a distillery permit holder subject to the general State, applicable local, and applicable transit rates of sales and use tax include wine, mixed beverages, beer or other malt beverages, prepared food, clothing, mugs, and shot glasses.

Retail sales of food, as defined in N.C. Gen. Stat. § 105-164.3, are subject to the 2% rate of tax. Retail sales of prepared food, as defined in N.C. Gen. Stat. § 105-164.3, are subject to the general 4.75% State, applicable local (2% or 2.25%) and applicable transit (0.5%) rates of sales and use tax. For additional information regarding sales of food and prepared food, see the [Department's website](#).

A distillery permit holder required to pay sales and use tax on retail sales of mixed beverages, wine, beer, and other tangible personal property will need to register and obtain a sales and use tax account. A sales and use tax account may be obtained by completing Form NC-BR, Business Registration Application for Income Tax

Withholding, Sales and Use Tax, and Other Taxes and Service Charge. An [online business registration portal](#) and a [web-fill version](#) of Form NC-BR are available on the Department's website. There is no fee to register for a sales and use tax account.

A distillery permit holder must report the general 4.75% State, applicable local (2.0% or 2.25%), and applicable transit (0.5%) rates of sales and use tax and the 2% rate of tax on food by accessing the Department's online filing and payment system or on Form E-500, Sales and Use Tax Return.

Sales of Spirituous Liquor

Retail sales of spirituous liquor are subject to the 7% combined general rate of sales and use tax. Some examples of spirituous liquor subject to the combined general rate of sales and use tax include whiskey, rum, brandy, and gin in closed containers. Sales of spirituous liquor does not include the sale of mixed beverages.

A distillery permit holder required to pay the 7% combined general rate of sales and use tax on retail sales of spirituous liquor will need to register and obtain a combined general rate tax account. A combined general rate tax account may be obtained by completing Form NC-SPLR, Registration Application for Spirituous Liquor Tax, and mailing the form to the Department of Revenue at the address shown on the form. Form NC-SPLR is available on the Department's website, www.ncdor.gov. There is no fee to register for a combined general rate tax account.

A distillery permit holder must report the 7% combined general rate of sales and use tax due on spirituous liquor on Form E-500E, Combined General Rate Sales and Use Tax Return (Utility, Liquor, Gas, and Other). The 7% combined general rate of sales and use tax due on spirituous liquor must not be reported on Form E-500, Sales and Use Tax Return.

Use Tax Due on Products Given Away Free of Charge

Generally, when a distillery permit holder provides a product free of charge, the distillery permit holder is liable for the sales or use tax due on the purchase price of the product or the ingredients used to manufacture the product. Use tax at the rates identified above will apply to the taxable purchases. Purchases subject to general 4.75% State, applicable local (2% or 2.25%) and applicable transit (0.5%) rates of tax should be reported on the Form E-500, Sales and Use Tax Return, and purchases subject to 7% combined general rate of tax should be reported on the Form E-500E, Combined General Rate Sales and Use Tax Return (Utility, Liquor, Gas, and Other).

However, if a distillery permit holder is engaged in the business of selling prepared food or drink for immediate or on-site consumption and also gives away prepared food or drink free of charge, the prepared food or drink given away is considered sold along with the prepared food or drink sold and is not subject to sales or use tax.

Additional Tax Information

This notice only provides general information related to the sales and use tax obligations of a distillery permit holder. A distillery permit holder's sales may be subject to other taxes including North Carolina excise tax and prepared food and beverage taxes levied by local governments.

Assistance

If you have questions about this notice, you may call the Department at 1-877-252-3052 (8:00 am until 5:00 pm EST, Monday through Friday).

To the extent there is any change in the rate or amount of tax, change to a statute or regulation, or new case law subsequent to the date of this notice, the provisions in this important notice may be superseded or voided. To the extent that any provisions in any other notice, directive, bulletin, or published guidance regarding the subject of this notice and issued prior to the date of this notice conflict with this important notice, the provisions contained in this important notice supersede the previous guidance.