

B. Alcoholic Beverage License and Excise Tax (G.S. 105-113.68 – G.S. 105-113.89)

1. Excise Tax on Beer, Wine, and Liquor (G.S. 105-113.68(b))

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.

The excise taxes on malt beverages and wine are payable by the resident wholesaler or importer who first handles the beverages in this State since the tax is levied only once on the same beverages.

b. Wine Shipper Permittees

Effective October 1, 2003, wine shipper permittees (resident and nonresident wineries that hold the required ABC permits) 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 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).

2. Tax Rates (G.S. 105-113.80)

The tax rates on beer, wine, and liquor are:

- a. Beer** – fifty-three and one hundred seventy-seven one thousandths cents (53.177¢) per gallon.
- b. Wine** – twenty-one cents (21¢) per liter of unfortified wine and twenty-four cents (24¢) per liter of fortified wine.
- c. Liquor** – twenty-five percent (25%) on liquor sold in ABC stores. The tax is computed on the distiller's price plus the state ABC warehouse freight and bailment charges and a markup for local ABC boards.

3. 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.

Losses from a “major disaster” as defined in G.S. 105-113.81(a) must be verified by an agent of the Department of Revenue and Form B-C-750 must be completed before the losses can be claimed by the wholesaler or importer on his monthly report. Several small disasters cannot be accumulated and then classified as a major disaster. A major disaster is classified as one event only in which such loss occurs, and not an accumulation of events. Any missing beverage inventory that cannot be classified as a major disaster will be considered as beer or wine sold and subject to the excise tax accordingly, unless otherwise provided.

b. Spoilage or Destruction of Non-tax-paid Beer or Wine (17 NCAC 04E.0301)

Where the spoilage, breakage, or destruction of non-tax-paid beer 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 Beer or Wine (17 NCAC 04E.0302)

Spoilage, breakage, or other losses of any tax-paid beer 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 beer or wine in transit from the brewery or winery to the resident wholesaler or importer when such beer 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 beer 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 beer 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 (G.S. 105-113.81(c))

Wholesalers and importers 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 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 must be maintained that can be properly checked by the Secretary of Revenue, and bills of lading must 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 beer or wine from the wholesaler or importer must be kept for verification by the secretary. Such sales must be imported on the monthly report form in the space provided.

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

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

4. Distribution of Portion of Wine Excise Taxes Attributable to North Carolina Wine (G.S. 105-113.81A)

The Secretary must, on a quarterly basis, credit to the Department of Commerce the net proceeds of the excise tax collected on unfortified wine and fortified wine bottled in North

Carolina during the previous quarter and the net proceeds of the excise tax collected on fortified wine bottled in North Carolina during the previous quarter, except that the total amount credited to the Department of Commerce under this section cannot exceed five hundred thousand dollars (\$500,000) per fiscal year.

5. Distribution of Part of Beer and Wine Excise Tax (G.S. 105-113.82, 17 NCAC 04E.0703)

The Department annually notifies each county and city of whether it is eligible to receive a share of the distribution of the State excise taxes on beer, unfortified wine, or fortified wine. Each county or city must review the notice to determine if the notice is correct. If the notice is correct, an official of the county or city must sign the notice and return it to the Department. If the notice is not correct, an official of the county or city must write the correct information on the notice or attach a statement of correction to the notice and then sign the corrected notice and return it to the Department.

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

a. Beer and Wine (G.S. 105-113.83(b))

The excise taxes on malt beverages and wine 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.

The excise tax levied under G.S. 105-113.80(b) on wine shipped directly to consumers in North Carolina pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee.

The tax must be paid 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, importer, or wine shipper permittee.

When excise taxes are paid on wine or malt beverages, the wholesaler, importer, or wine shipper permittee 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, indicate separately any transactions to which the excise tax does not apply, and include all the information required by the Secretary.

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

The excise tax on liquor is payable monthly by the local ABC board to the Secretary. The tax is due on or before the 15th day of the month following the month in which the tax was collected.

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)

When a resident wholesaler or importer purchases beer or wine from another wholesaler or importer in this state, the beverages must be reported separately as tax-paid beverages 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.

7. Reports (G.S. 105-113.84)

A resident brewery, resident winery, nonresident vendor, and wine shipper permittee must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina wholesalers, importers, and purchasers under G.S. 18B-1001.1 during the month. The report is due by the 15th day of the month following the month 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.

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

Effective for reporting periods beginning on or after August 1, 2004, each wholesaler or importer is allowed to deduct a discount equal to two percent (2%) of the tax due *if* the report is filed and the tax due is paid by the due date. The discount covers the losses due to spoilage and breakage, expenses incurred in preparing the records and reports required by this Article, and the expenses of furnishing a bond.

9. Bonds (G.S. 105-113.86)

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

A resident wholesaler and importer must furnish a bond in an amount of at least five thousand dollars (\$5,000) and not more than fifty thousand (\$50,000). The bond must be payable to the State, must be in a form acceptable to the Secretary, and must be secured by a corporate surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State. The bond amount is in proportion to the anticipated tax liability of the wholesaler or importer and may vary yearly, based upon a review by the Alcoholic Beverages Excise Tax Unit of the wholesaler's or importer's tax payments during the best three months of the previous twelve-month period. Bond requirements are as follows:

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

five hundred dollars (\$12,500), the amount of the bond will be twelve thousand five hundred dollars (\$12,500).

- Where the combined tax due for any three months of the previous twelve months does not exceed five thousand (\$5,000), the amount of the bond will be five thousand (\$5,000).

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

In the case of a new wholesaler subject to the excise tax, or where operation has been conducted for less than twelve 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 anticipated business volume as evident by inventory, but will not be 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 payable to the State, must be in a form acceptable to the Secretary, and must be secured by a corporate surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State.

10. Refund of 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 amount of the excise tax levied under this Article. An applicant for a refund must file a written request for the refund due for the prior calendar year on or before April 15. Refunds are made annually. No refund will be made if the application is filed more than three years after the date it is due.

11. Records (G.S. 105-113.88)

A person who is required to file a report or return under this Article 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.

12. Other Applicable Administrative Provisions (G.S. 105-113.89)

The administrative provisions of Article 9 of Chapter 105 apply to this Article. See the section, "General Administration" for additional information.