**Tennessee Department of Revenue** www.Tennessee.gov/revenue

# Records and Reports Required by Department of Revenue

Liquor-by-the-drink tax notice

As a licensee of alcoholic beverages for consumption on the premises, your business must file monthly reports and pay the applicable 15% tax shown by the report. Additionally, your business is subject to periodic audits by the Department of Revenue ("department") to determine that proper records are maintained and that proper tax has been paid. This notice is being provided to fully explain the filing of monthly reports and the records and reports required to be maintained by your business. To avoid possible sanctions and/or penalties invoked by the Alcoholic Beverage Commission for delinquencies or deficiencies with respect to the monthly reports and/or additional tax liabilities resulting from department audits, your thorough review and understanding of the following information is recommended.

## A. RECORDS

**To properly report and pay the applicable tax on sales of alcoholic beverages for consumption on the premises, records must be maintained that will:**

1. **Provide a Daily Record of Sales**
2. **Clearly Distinguish between Sales at Regular Prices and Sales at Happy Hour or Special Prices**
3. **Provide a Record of Alcoholic Beverages Purchased**
4. **Clearly Distinguish between Alcoholic Beverages Sold by the Drink and Alcohol or Wine used in Cooking**

**FAILURE TO PROPERLY MAINTAIN THESE RECORDS COULD CAUSE THE DEPARTMENT TO ASSESS YOU FOR ADDITIONAL TAX. IT IS, THEREFORE, IMPERATIVE THAT YOU THOROUGHLY READ AND UNDERSTAND THE INFORMATION CONTAINED HEREIN.**

Adequate records must be maintained by licensees for the department to determine any tax due on the sale of alcoholic beverages. The first required record to be maintained is a monthly inventory by brand of the quantity and cost price of alcoholic beverages on hand as of the last day of each month.

Other records that must be maintained by the licensee include:

A daily record of all sales. Entries on documents evidencing sales of alcoholic beverages must not be commingled with entries evidencing sales of beer and other items. Entries on documents evidencing sales of alcoholic beverages should either be made on a separate document or on the bottom or reverse of any document showing sales of other items. If cash registers are used to record sales, sales of alcoholic beverages must be keyed separately from sales of beer, food, or other items. Summary totals and/or grand totals of such tapes will not be accepted unless supported

by the itemized tape used to arrive at such total(s). If this information is stored in an electronic format, the licensee must be able to recover the equivalent of an itemized tape.

Receipts derived from alcoholic beverages sold at other than regular sales prices as posted with the department on the price schedule. Happy hour sales, etc., must be clearly recorded on cash register tapes and/or guest checks showing the total sales during each particular period or activity. Summary totals and/or grand totals of such tapes will not be accepted unless supported by the itemized tape used to arrive at such total(s). If this information is stored in an electronic format, the licensee must be able to recover the equivalent of an itemized tape or individual guest checks.

A record of all alcoholic beverages purchased, including all invoices, delivery tickets, bills of lading, and copies of purchase orders. (The purchase date will be considered to be the invoice date).

A perpetual inventory record of all alcohol or wine used in cooking. Cooking alcohol and wine must be (a) stored separately from other alcoholic beverages, (b) used solely for cooking purposes, and (c) accounted for as food costs.

Licensees must retain all records for a period of four years unless cash register tapes and guest tickets are both maintained showing the same sales. In that circumstance, the guest tickets may be disposed of after 60 days as long as the cash register tapes are retained for the full four years. Again, if this information is stored in an electronic format, the licensee must be able to recover the equivalent of the required records for the required time period.

**B. REPORTS**

Monthly reports of sales of alcoholic beverages for consumption on the premises along with the appropriate tax payment are due to be filed on or before the 15th day following the end of your accounting period. The late filing of a report or the underpayment of the tax (for whatever reason) must be reported to the Alcoholic Beverage Commission by the department. Additionally, if your business is delinquent in the filing of a report or paying the proper tax for as many as three times in one licensing period, the Alcoholic Beverage Commission must be notified by the department, and sanctions and/or penalties may be charged by the Alcoholic Beverage Commission against your business. You will also be liable to the department for delinquent penalties and interest for any late payments or late-filed returns.

As further clarification, a delinquency is (1) the failure to file a return and/or make payment, (2) a return and/or payment postmarked later than the 15th day following the end of your accounting period regardless of whether or not you paid penalty and interest, or (3) the failure to file a return even if no sales of alcoholic beverages were made.

Another report required by the department is the price schedule. This is a schedule of your most commonly sold drinks in which alcoholic beverages are used. **You must provide accurate information on your price schedule and keep the schedule current. This form is relied upon as the basis for every liquor-by-the-drink audit.**

The standard price schedule form is partially completed and categorized, listing drinks that our experience has shown represent some that are sold by every licensee. However, the drinks listed are by no means to be considered all-inclusive, and each

licensee should review his own sales to determine any additional drinks that should be added. The most important factor to remember is that the list should include your most commonly sold drinks that make up the majority of your sales of alcoholic beverages for consumption on the premises. The schedule must be fully completed showing:

1. **The name of each drink (or category) sold in addition to those categories listed**
2. **The quantity of alcoholic beverages in each drink**
3. **The regular selling price of the drinks listed including liquor-by-the-drink tax and sales tax**
   **Note**: Drinks can be categorized or grouped together provided the alcoholic beverage content and selling price are the same.
4. **When drinks listed on the schedule are sold at other than regular prices, i.e., happy hour, etc., the schedule must reflect the days and hours of such activity along with the special price**

The price schedule must be filed with the department on prescribed forms prior to entering business as well as when any change is made in any information contained on the price schedule as filed with the department. Revised schedules should be filed with the department prior to the effective date of such change.

The selling price of alcoholic beverages is the total price for which a drink is sold including but not limited to the 15% gross receipts tax, applicable sales tax, and the cost of any services required to process the beverage for sale without deductions for the cost of the beverage and/or the cost of the materials used, losses, or any other expenses.

In addition to the price schedule required to be filed with the department, all licensees must maintain a current liquor and wine menu that clearly indicates that the sales price includes the applicable rate of alcoholic beverage tax and sales tax.

Upon audit, the department will verify the correctness of the price schedule(s) on file and will require a signature from an agent or employee of the licensee verifying the accuracy of each price schedule. If the licensee has failed to maintain or file a current price schedule, the department will create one from the best information available and have an agent or employee of the licensee approve its use in the audit.

## C. AUDIT

In Tennessee, a licensee can only make distributions of alcoholic beverages through sales for consumption on the premises. Thus, the average markup on alcoholic beverages indicated by the books and records of a licensee should closely approximate the average markup of the price schedule filed with the department.

If the average markup as shown by the books of a licensee does not closely approximate the average markup as shown by the price schedule, the department will consider the books of the licensee insufficient to show the proper tax liability. Thus, the department will calculate the licensee's correct liability using the purchase markup method.

The procedure for a "purchase markup" audit begins with the auditor making a determination as to what the inventory of the business was as of the last day of the audit

period. If the licensee has performed a monthly inventory as described herein, the licensee's monthly inventory figures will be verified by the auditor. Once the beginning inventory has been established, the auditor will add to the beginning inventory all purchases made during the audit period using all available records. The ending inventory will then be subtracted from this figure to arrive at the cost of goods sold during the audit period. The average markup as reflected by the price schedule(s) will then be multiplied by the cost of goods sold during the audit period to arrive at the dollar amount of alcoholic beverages sold during the audit period. After sales are determined in this manner, the proper tax rate will be applied to the sales figure, and tax payments made during the audit period will be subtracted to arrive at any additional tax liability. **As can be seen, it is very important for the licensee to maintain proper records in order to show the true state of his business over the audit period.**

The licensee is further required to keep records documenting any loss due to theft, breakage, and/or acts of nature. No relief from tax liability for any such loss will be allowed by the department upon audit unless the proper proof of loss is supplied to the department.

If the licensee has a loss due to theft the licensee should, as soon as practicable after the loss occurs, provide the department with proof that the theft was reported to the proper law enforcement agency and that the insurer who has insured the goods has paid the claim for the loss. When this proof is supplied, the department will provide the licensee with a certificate showing that the department is satisfied as to the amount of loss. The licensee should retain a copy of the certificate in its records to verify the inventory reduction.

If the licensee has a loss due to breakage or acts of nature, the licensee will be relieved from the tax liability on the amount lost only if the licensee notifies the department as soon as practicable after the loss occurs. Upon notification, the department will send an agent to confirm the loss. The licensee will be relieved from the tax liability on the loss only if the agent can determine the quantity and brand of the liquor or wine and that the container has not been previously opened. In instances where containers are not broken but the beverage is declared un-saleable by an appropriate authority, the licensee may be relieved from the tax liability on such products only if the products are destroyed by the department's representative or if the department's representative personally observes such destruction.

If the loss is substantiated, a certificate will be supplied in the same manner as in the case of loss due to theft, and the licensee should retain the certificate in the same manner as discussed above.

Alcohol and wine used for cooking purposes are not taxable provided the proper procedures are followed and records are maintained to substantiate the use of these alcoholic beverages. Cooking liquor and wine must be stored separately from other alcoholic beverages. Again, licensees must maintain a perpetual inventory record of all alcohol and wine used in cooking and must account for the costs as food costs.

Tips or gratuities will not normally be included in the sales price of alcoholic beverages for tax purposes. However, tips or gratuities will be included in the sales price of the alcoholic beverage if the tips are either 1) mandatory on the part of the customer or 2) if the tips are not returned to the person or persons actually performing

the service. In other words, in order for the tips to be nontaxable, they must be volunteered by the customer and must be returned to the person or persons performing the service. Tips left at a table, for example, may be divided between the waiter and the bartender since both of these people participated in performing the service. However, tips may not be divided among employees who were not involved in performing the service unless the applicable tax on the amount of the tips so divided is paid to the department.

Have questions or comments? Please let us know. Contact us.

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