Department of Revenue

# Tennessee Alcohol Tax Manual

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# Chapter 1: Introduction

## Overview

Alcoholic beverage, wine, and beer taxes are imposed on entities that manufacture, sell, and/or distribute such beverages in Tennessee. These taxes assist the state in regulating the alcoholic beverage industry by requiring the industry to submit information regarding the sale and movement of alcohol in the state. There are several alcoholic beverage, wine, and beer taxes, some imposed at the state and local levels.[1] Whether an alcoholic beverage, wine, or beer is subject to Tennessee tax, and determining the party responsible for paying said tax depends on alcohol content, the type of alcohol, and who is selling or distributing the alcohol. There are several alcohol-related taxes, including:

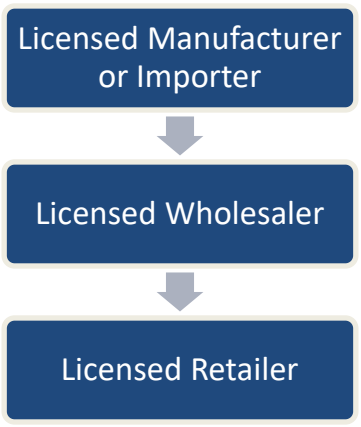
- Alcoholic beverage gallonage tax on spirits and high alcohol content beer and the alcoholic beverage enforcement tax. These taxes are discussed in Chapter 2.
- Wine gallonage tax. This tax is discussed in Chapter 3.
- Beer barrelage tax and wholesale beer tax. These taxes are discussed in Chapter 4.

Additionally, before a brand of alcoholic beverage, wine, or beer with an alcohol content of 5% by weight or greater may be sold in Tennessee, it must be registered with the Department. This process is called "brand registration" and is discussed in Chapter 5. Finally, there is a liquor-by-the-drink tax that applies to sales of alcoholic beverages, wine, and high alcohol content beer for consumption on the premises of the seller, which is discussed in Chapter 6.

The alcoholic beverage, wine, and beer tax statutes are in Tenn. Code Ann. §§ 57-1-101 *et seq*.[2] Both the Tennessee Department of Revenue (the "Department") and the Tennessee Alcoholic Beverage Commission (the "ABC") promulgate rules and regulations regarding alcoholic beverages. The Department's rules and regulations are found in TENN. COMP. R. & REGS. 1320-04-01 -.02, and -.06, available online under the Tax Resources page on the Department's website.[3] The ABC's rules and regulations are found in TENN. COMP. R. & REGS. 0100-01-.01 *et seq.*[4]

The Tennessee alcohol taxes are levied in addition to traditional Tennessee taxes such as sales and use tax, franchise and excise tax, and business tax. Please see the **Department's website** for in-depth information on those taxes.

## Three-Tier System




Tennessee has a three-tier system for selling and distributing alcoholic beverages, wine, and high alcohol content beer. Generally, a licensed retailer may only purchase alcoholic beverages, wine, and high alcohol content beer from a licensed wholesaler, a licensed wholesaler may only purchase from a licensed manufacturer/importer, and neither a licensed manufacturer/importer nor a licensed wholesaler may sell alcoholic beverages, wine, and high alcohol content beer directly to a consumer. However, there are limited exceptions that are addressed later in this manual.

## Regulatory Agencies

The manufacture, distribution, and retail sale of alcoholic beverages, wine, and beer in Tennessee are regulated by multiple entities. Alcoholic beverages, such as wine and distilled spirits, are regulated at the state level, whereas beer is primarily regulated at the local level.

### 1. Alcoholic Beverage Commission

The ABC is the primary licensing and regulatory body for all persons wishing to manufacture, distillate, or sell alcoholic beverages.[5] The alcoholic beverages within the ABC's purview include distilled spirits, liquor, wine, and high alcohol content beer. The ABC does not regulate the manufacture or sale of beer with an alcohol content of 8% by weight or less. The ABC issues numerous alcoholic beverage licenses and permits, including manufacturer, wholesaler, retailer, liquor-by-the-drink, winery direct shipper, and server permits.

For more information about the ABC, please visit **https://www.tn.gov/abc**.

### 2. Department of Revenue

The Department is responsible for registering every brand of alcoholic beverage, wine, and beer with an alcohol content of 5% by weight or greater distributed in Tennessee and every beer manufacturer and wholesaler operating in the state.[6] The Department also collects the alcoholic beverage taxes and state beer taxes, including the alcoholic beverage gallonage

tax, wine gallonage tax, alcoholic beverage enforcement tax[7], beer barrelage tax, and a portion of the wholesale beer tax.[8]

### 3. Local Governments

Local governments regulate the manufacture and sale of beer, as well as the sale of alcoholic beverages for consumption on the premises within their jurisdictions. Local governments also collect local beer taxes, including annual privilege and wholesale beer taxes. Some municipalities also impose an inspection fee on licensed retailers of alcoholic beverages.[9] These taxes are briefly discussed in Chapter 4.

# Chapter 2: Alcoholic Beverage Tax

Alcoholic beverage taxes consist of a wholesale gallonage tax (also commonly referred to as the "wholesale alcoholic beverage tax") and an alcoholic beverage enforcement tax (also widely referred to as the "wholesale enforcement tax").[10] These taxes are discussed in more detail throughout this chapter.

## "Alcoholic Beverage" Defined

"Alcoholic beverage" is defined as alcohol, spirits, liquor, wine, high alcohol content beer, and every liquid containing alcohol, spirits, or wine that is capable of being consumed by a human being, other than patent medicine and beer with an alcohol content of 8% alcohol content by weight or less. Beverages containing less than 0.5% alcohol by volume, other than wine, are not considered alcoholic beverages and are not subject to regulation or taxation.[11]

## "High Alcohol Content Beer" Defined

"High alcohol content beer" is beer, ale, or another malt beverage with an alcohol content of more than 8% by weight and not more than 20% by weight, except wine, provided that no more than 49% of the overall alcoholic content of such beverages may be derived from the addition of flavors and other non-beverage ingredients containing alcohol.[12]

Beer products with an alcohol content of 8% by weight or less are defined as beer. Beer is subject to the beer taxes in Chapter 4 rather than the alcoholic beverage taxes explained in this chapter.

> ⚠ **Although the alcoholic beverage tax statutes refer to alcohol content by weight (ABW), the industry measures alcohol content by volume (ABV). To convert from ABV to ABW use this formula: ABV x .8 = ABW.**

## Manufacturer Privilege Tax (Repealed)

Previously, a $1,000 privilege tax was imposed on anyone engaged in the manufacture of alcoholic beverages in Tennessee. However, this tax was eliminated in May 2019, and manufacturers are no longer subject to it.[13]

## Wholesale Gallonage Tax

Tennessee levies a tax on each gallon of alcoholic beverages sold or distributed in the state. This tax is commonly referred to as the "wholesale gallonage tax," and it also applies to wine; thus, it may also be referred to as the wine tax or wine gallonage tax. The wine gallonage tax is discussed in detail in Chapter 3. Both taxes apply based on gallons sold; however, the rates differ.

The wholesale gallonage tax is a state tax only. No county, municipality, or other taxing district has the power to levy a like tax.[14] The tax rate depends on the type and alcohol content of the beverage.

| Alcohol Type | Tax Rate (per gallon) |
|---|---|
| **Alcoholic Beverages with ABW of 7% or less[15]** | **$1.10** |
| **Wine[16] and Alcoholic Beverages with ABW of more than 7% (includes High Alcohol Content Beer)[17]** | **$1.21** |
| **Distilled Spirits with ABW of more than 7%[18]** | **$4.40** |

### 1. Who Pays the Tax

Generally, wholesalers pay the wholesale gallonage tax. However, depending on the manner of distribution, other entities, such as manufacturers or common carriers, may be responsible for collecting this tax.

#### *Wholesalers*

A "wholesaler" is defined as "any person who sells at wholesale any beverage for the sale of which a license is required under Tennessee law."[19] A "wholesale sale" is "a sale to a person for purposes of resale." Generally, this transaction involves a wholesaler selling to a retailer who will then sell to the end user/consumer for either on-premises or off-premises consumption.

Any wholesaler that imports alcoholic beverages into Tennessee or receives alcoholic beverages manufactured in Tennessee for eventual retail sale in any size retail container or in-state distribution by sale or gift will pay the gallonage tax on each gallon or portion of a gallon distributed or sold in the state.[20]

Additionally, suppose a winery or farm wine permit holder supplies its satellite facilities with wine through a wholesaler. In that case, the wholesaler is responsible for remitting the gallonage tax on the wine provided to the satellite facility.[21]

### *Manufacturers*

Any Tennessee-licensed manufacturer can pay the gallonage tax directly to the Department on the amount of its product needed for its use, not to exceed 100 cases per month.[22] For example, when a manufacturer retains a product to be used at a company event or party, the Tennessee-licensed manufacturer may directly pay the Department the gallonage tax. The alcoholic beverage manufacturer may submit the tax through **TNTAP** or by sending **Form ALC101 - Distiller's Alcoholic Beverage Tax Return** to the Department.

### *Common Carriers*

Common carriers, such as commercial airlines, paddlewheel steamboat companies, and passenger trains, must report the wholesale gallonage tax on alcoholic beverages they bring into Tennessee on which they have not already paid alcoholic beverage taxes. The tax is calculated using the following formula:

Quantity of type of alcoholic beverages purchased in the taxpayer's operating system (in gallons)

**X**

Taxpayer's revenue passenger miles in TN / Taxpayer's total revenue passenger miles in its system

The amount resulting from this calculation is then multiplied by the applicable tax rate of each type of alcoholic beverage.

The taxpayer's revenue passenger miles in Tennessee should only include miles from trips that originate from or end in the state or that both originate from and end in the state. The tax may be reported online through **TNTAP** or by sending **Form ALC 104 Common Carriers Alcoholic Beverage and High Alcohol Content Beer Tax Return** to the Department.

### *Armed Forces Import Licensees*

Members of the United States armed forces, or a reserve Tennessee National Guard unit stationed outside the United States may apply to the ABC for a one-time license that allows such individuals to ship wine purchased while residing outside the United States to

Tennessee. These individuals are responsible for paying the wholesale gallonage tax on alcoholic beverages shipped into Tennessee.[23]

## 2. Exceptions

The following sales of alcoholic beverages are not subject to the wholesale gallonage tax. Wholesalers must properly document each type of subsequent sale to claim an exemption on their gallonage tax return.

### *Special Occasion Licensees*

Special occasion licensees may not purchase alcoholic beverages at wholesale. They can either accept donated alcoholic beverages or purchase said beverages at retail. Retail purchases are not considered wholesale sales and are not subject to the gallonage tax.[24]

### *Exports Out of State*

Shipments of alcoholic beverages from Tennessee manufacturers to out-of-state licensees (i.e., persons holding federal and state permits to sell alcoholic beverages) are exempt from the gallonage tax.[25]

### *Sales to Military Installations*

Sales of alcoholic beverages sold for consumption within the boundaries of a fort, base, camp, or post of the armed forces of the United States or to post exchanges, ship service stores, commissaries, or messes operated by the United States armed forces are not subject to the wholesale gallonage tax.

A wholesaler making sales to a military installation must apply for this credit with the Department. In support of the application, the wholesaler must submit a copy of the invoice, signed by a person having proper authority over the post exchange, ship service store, commissary, or mess, certifying that the alcoholic beverages were sold and delivered to the military entity for consumption within its boundaries.[26] The signature on the invoice must match the one provided by the commanding officer of the military installation to the Department, designating a person to sign invoices acknowledging the receipt of the products and a copy of this person's signature. The wholesaler must attach copies of all signed invoices to the monthly tax return.

### *Sales to Other Wholesalers*

Sales from one wholesaler to another are not subject to the wholesale gallonage tax. However, both wholesalers involved in these transactions must maintain sales invoices documenting these sales.

### *Returns to Manufacturer*

If a wholesaler returns alcoholic beverages to manufacturers, those returns are not subject to the wholesale gallonage tax.[27] To claim a credit for returns, the wholesaler must attach the following documentation to its gallonage tax return for the month in which the credit is claimed:

- Evidence of authorization from the supplier for return or export of the specific product.
- A copy of the bill of lading regarding the product shipped.
- An affidavit from the person receiving the returned or exported product indicating the product received and, for distilled spirits, the destruction of the identification stamps on those products.
- Documentary evidence from the supplier that the wholesaler has provided credit for the returned or exported products.

### *Damaged or Deteriorated Merchandise*

If any product is damaged or deteriorated at the wholesaler's warehouse, the wholesaler can obtain a credit for that product.[28] The wholesaler must contact the department to request a representative to observe the broken containers or outdated products. The Department's representative will physically inspect the product, ensuring that the manufacturer's seal and federal strip stamp are still intact, and complete an Alcohol Breakage Form verifying the product was destroyed.

### *Loss by Fire or Act of Nature*

Wholesalers are not responsible for the wholesale gallonage tax on products lost due to an act of nature.[29] To receive this exemption, the wholesaler must submit evidence that the loss occurred by fire or other act of nature before relief from tax liability may be granted.

### 3. Payment of the Tax

The wholesale gallonage tax is due monthly by the 15th day of the month, based on the total taxable gallons distributed during the preceding month. The tax should be remitted electronically via **TNTAP** or by sending **Form ALC102 Wholesale Alcoholic Beverage Tax Return** to the Department.

### 4. Bond Requirement

Every licensed wholesaler in Tennessee must execute a bond securing payment of the tax. A person can satisfy the bond requirement by submitting a cash bond or a corporate surety bond.[30] The wholesaler may submit this information electronically using **TNTAP** or filing **a Tax Bond Form** with the Department.

A wholesaler beginning a business must file an initial bond of $75,000 for four months. At the end of the four months, the Department will adjust the bond amount to not less than 110% of the average tax liability for the initial four months for the remainder of the 12 months or until the following July 1, whichever occurs first. In all subsequent years, the bond amount will not be less than 110% of the wholesaler's average monthly tax liability for the preceding 12-month period.[31]

If, on July 1, following the beginning of business, the wholesaler has been in business for less than twelve full months, the wholesaler will determine the amount of the renewal bond for the ensuing year by dividing the total tax liability incurred during the period from the business's opening until July 1 by the number of months engaged in business to arrive at the monthly average tax liability. This monthly average will then be multiplied by 110% to arrive at the amount of bond the wholesaler is required to post for the ensuing year.

Any wholesaler that has been in continuous operation for three consecutive years and has timely paid the gallonage tax for the most recent 12 months will not be required to maintain a bond.[32]

### 5. Records & Reporting Requirements

#### *Records*

Each wholesaler, distiller, or manufacturer required to pay the wholesale gallonage tax must keep accurate and complete books and records, accounts, and other documents as the

Commissioner may deem necessary for at least three years.[33] Such records include detailed reports of inventories, purchases, and sales.

### *Distillery Information Report*

The Department must allocate a portion of the gallonage tax to each county where a licensed distillery is located.[34] To make this allocation, distilleries must report monthly the number of gallons of product sold to wholesalers. Distilleries should file these reports in **TNTAP.**

### *Direct Shipper Delivery Report*

Every common carrier, other than a rail carrier that contracts with a direct shipper to deliver wine, beer, or other alcoholic beverages into Tennessee, must file a monthly report of those shipments by the 25th day of each month.[35] Although Tennessee law authorizes the direct shipment of wine only, common carriers must report all known deliveries of wine, beer, or other alcoholic beverages, regardless of whether the direct shipper making the sale is properly licensed. All reports may be available to the public under the open records law. Common carriers should file these reports online in **TNTAP.** If a common carrier amends a previously filed report, the amended report will completely replace the previously filed report. Thus, the carrier must include complete information for the entire period, including the previously filed information plus the corrections or additions.

> ⚠ **Common carriers are required to include all shipments on behalf of winery direct shippers and fulfillment centers in their monthly reports submitted to the Department.**

## Exceptions to the Three-Tiered System for Distillers

As mentioned in Chapter 1, Tennessee has a three-tiered system for distributing alcoholic beverages. However, there are some exceptions to this distribution structure. For additional information on these deviations, please see the **ABC's website.**

### 1. Manufacturers and Distillers

In addition to authorizing the manufacture of alcoholic beverages other than wine, a manufacturer's license allows the manufacturer to:

- Sell products that are manufactured on the premises at retail on the premises; and

- Serve samples of products manufactured on the premises, with or without cost.[36]

Any product distributed in either of these ways must be obtained from a licensed wholesaler. There are additional limitations on these methods of distribution, which are regulated by the ABC. These limitations include the amount of alcohol that can be sold to individuals per visit, where samples can be provided in the manufacturing facility, and the retail sales hours. For more information about manufacturer licenses, visit **https://www.tn.gov/abc**.

### *Retail Licensee Consumer Tastings*

A retail licensee may offer complimentary samples of the alcoholic beverages it sells for tastings on its premises. Generally, a distiller may provide products for retail licensee consumer tastings through a licensed wholesaler.

Tenn. Code Ann. § 57-3-404 authorizes a distiller who provides its product to a retail licensee for consumer tastings to have a licensed wholesaler deliver the product to the retailer using a zero-dollar invoice.[37]

Alternatively, the distiller may obtain the product for the consumer tasting from the wholesaler for a zero-dollar invoice and deliver the product to the retail licensee's premises. In this case, the distiller must notify the wholesaler in writing at least five business days prior to picking up the product of the date and location of the consumer tasting(s) for which the product will be used.

A distiller may acquire a reasonable amount of product from a wholesaler to be delivered to a retail licensee for consumer tastings that will occur within 30 days of obtaining the product. Suppose the distiller has leftover product after these 30 days. In that case, the distiller may email the wholesaler to notify them of the approximate amount of leftover product, and the distiller may have this overage for another 30 days. This process may continue indefinitely until the distiller uses the extra product or pours it out.

A distiller may not leave excess or leftover product, either sealed or unsealed, with a retail licensee. The distiller must take such product and hold it for use in future consumer tastings.

### *Purchasing Wine from Tennessee Wineries*

A Tennessee licensed manufacturer may purchase wine from Tennessee wineries and Tennessee farm wine producers, licensed pursuant to § 57-3-207, and such wine, and any

product that may result from the blending, distilling, or fortifying of such wine by the manufacturer, is the sole property of the manufacturer. This purchase is not subject to taxation.[38]

Furthermore, a Tennessee licensed manufacturer may distill, blend, and fortify the wine of a winery or farm wine producer on behalf of the winery or farm wine producer; provided that the manufacturer does not add to the wine distilled spirits that were derived from a type of grain or product other than wine, and such distilled, blended, or fortified wine is the sole property of the winery or farm wine producer. These transactions are also not subject to taxation.

## Alcoholic Beverage Enforcement Tax

Tennessee imposes an alcoholic beverage enforcement tax on the wholesale sale of alcoholic beverages, wine, and high alcohol content beer in the state. ABC uses the revenue generated by this tax to enforce the state regulation of alcoholic beverages, or it is remitted to the state general fund. This tax may also be referred to as the "wholesale tax."

### 1. Who Pays & Rate of Tax

The tax rate is 15 cents per case of alcoholic beverages sold in Tennessee.[39] Wholesalers must remit this tax monthly by the 15th day of the month, based on the number of cases sold during the previous month. This tax should be reported and remitted electronically through **TNTAP** or by filing **Form ALC109 - Alcoholic Beverage Enforcement Tax Return** with the Department.

### 2. What Constitutes a Case

The amount of alcohol determines a case of alcoholic beverages. What specifically constitutes a case is found in the Tennessee rules and is quite complex. Cases can be of assorted size bottles and brands, though alcohol types cannot be mixed in the same case. Below are examples of what constitutes a case.

- Three containers of distilled spirits with a capacity of more than 64 ounces but no more than 128 ounces each.
- Twelve containers of wine with a capacity of more than 25.6 ounces but no more than 32 ounces each.

For further guidance on what is considered a case, see **TENN. COMP. R. & REGS. 1320-4-6-.04**.

### 3. Returned Cases

Cases of alcohol returned to a wholesaler by a retailer are exempt from the wholesale enforcement tax. The number of returned cases should be reported on the tax return.

### 4. Manufacturer Reporting Requirement

For periods up to March 18, 2022, each distiller, rectifier, vintner, and importer selling wine or distilled spirits to licensed wholesalers in Tennessee must, at the time those beverages are invoices to the wholesaler, send a copy of the sales invoice to the Department.

Effective March 18, 2022, Public Chapter 714 (2022) eliminated this requirement. Thus, for periods beginning on or after March 18, 2022, distillers, rectifiers, vintners, and importers selling wine or distilled spirits to licensed wholesalers in Tennessee are no longer required to send copies of sales invoices to the Department. Please note, however, that these records must be retained because they are subject to examination by the Department.

# Chapter 3: Wine Tax

## Wine Gallonage Tax

The wine gallonage tax applies in the same manner as the gallonage tax on alcoholic beverages.

"Wine" is the product of the normal alcoholic fermentation of the juice of dried or fresh, sound, ripe grapes, fruit, or other agricultural products, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine, and seasonal conditions, including champagne, sparkling, and fortified wine of an alcohol content of up to 21% by volume. No other product may be called "wine" unless designated by appropriate prefixes descriptive of fruit or other product from which the beverage was predominantly produced or an artificial or imitation wine.[40]

Tennessee levies a tax on each gallon of wine sold or distributed in the state. This tax is generally called the "wine gallonage tax" or "wholesale gallonage tax."

The wine gallonage tax is a state tax only. No county, municipality, or other taxing district has the power to levy a like tax.[41] The tax rate (per gallon) for wine is $1.21.

### 1. Who Pays the Tax

Generally, wholesalers pay the wholesale gallonage tax. However, depending on the manner of distribution, other entities, such as a winery, may be responsible for collecting this tax.

#### *Wholesalers*

Any wholesaler that imports alcoholic beverages into Tennessee or receives alcoholic beverages manufactured in Tennessee for eventual retail sale in any size retail container or in-state distribution by sale or gift will pay the gallonage tax on each gallon or portion of a gallon distributed or sold in the state.[42]

Suppose a winery or farm wine permit holder supplies its satellite facilities with wine through a wholesaler. In that case, the wholesaler is responsible for remitting the gallonage tax on the wine provided to the satellite facility.[43]

### *Wineries*

Wineries that sell their own products on the manufacturing premises must remit the wine gallonage tax on those sales. Additionally, a winery that self-distributes its product, pursuant to a self-distribution permit, must remit the wine gallonage tax for wine distributed in that manner. If a winery receives a product from a farm wine producer and then manufactures and returns the finished product to the farm wine producer, the winery is responsible for the wine gallonage tax on that wine.[44] Wineries should remit the tax via **TNTAP** or by filing **ALC105 – Wine Tax Return for Tennessee Wineries** with the Department.

Wineries that sell their own product on the premises for consumption on the premises may also be subject to liquor-by-the-drink tax on such sales. Please see Chapter 5 for more information on liquor-by-the-drink tax.

### *Direct Shippers*

Winery direct shippers must remit the gallonage tax to the Department on all Tennessee direct shipment sales.[45] While the winery direct shipper law requires winery direct shippers to remit Tennessee wine gallonage tax on Tennessee sales, the wine gallonage tax does not apply to non-Tennessee sales.[46] Any tax consequences for non-Tennessee sales are governed by the state where the sale occurs. As with wine sales made directly from the premises, wineries should remit the tax via **TNTAP** or by filing **ALC105 – Wine Tax Return for Tennessee Wineries** with the Department.

### *Common Carriers*

Common carriers, such as commercial airlines, paddlewheel steamboat companies, and passenger trains, must report the wholesale gallonage tax on alcoholic beverages they bring into Tennessee on which they have not already paid alcoholic beverage taxes. The tax is calculated using the following formula:

$$\frac{\text{Quantity of type of alcoholic beverages purchased in the taxpayer's operating system (in gallons)}}{\text{X}}$$
$$\frac{\text{Taxpayer's revenue passenger miles in TN / Taxpayer's total revenue passenger miles in its system}}{}$$

The amount resulting from this calculation is then multiplied by the applicable tax rate of each type of alcoholic beverage.

The taxpayer's revenue passenger miles in Tennessee should only include miles from trips that originate from or end in the state or trips that both originate from and end in the state.

### *Armed Forces Import Licensees*

Members of the United States armed forces, or a reserve Tennessee National Guard unit stationed outside the United States may obtain a license from the ABC to ship back to Tennessee any wine purchased while residing outside the country. These individuals are responsible for paying the wholesale gallonage tax on any alcoholic beverages shipped into Tennessee.[47]

## 2. Exceptions

The following sales of wine are not subject to the wholesale gallonage tax. Wholesalers must properly document each type of the following sales to claim an exemption on their gallonage tax return.

### *Exports Out of State and Non-Tennessee Sales*

Shipments of wine from Tennessee manufacturers to out-of-state licensees (i.e., persons holding both federal and state permits to sell alcoholic beverages) are exempt from the gallonage tax.[48] Furthermore, non-Tennessee sales are also not subject to the Tennessee wine gallonage tax.[49]

### *Sacramental Wine*

Wine sold, distributed, or used solely as sacramental wine by a church or synagogue is exempt from the wholesale gallonage tax. To document exempt sales of sacramental wine, the wholesaler must have an authorized designee from the church or synagogue receiving the wine sign the sales invoices. That authorized designee's signature must also be on file with the Department.[50]

### *Sales to Military Installations*

Sales of wine sold for consumption within the boundaries of a fort, base, camp, or post of the armed forces of the United States or to post exchanges, ship service stores, commissaries, or messes operated by the United States armed forces are not subject to the wholesale gallonage tax.

A wholesaler making sales to a military installation must apply for this credit with the Department. In support of the application, the wholesaler must submit a copy of the invoice,

signed by a person having proper authority over the post exchange, ship service store, commissary, or mess, certifying that the wine was sold and delivered to the military entity for consumption within its boundaries.[51] The signature on the invoice must match the one provided by the commanding officer of the military installation to the Department, designating a person to sign invoices acknowledging the receipt of the products and a copy of this person's signature. The wholesaler must attach copies of all signed invoices to the monthly tax return.

### *Sales to Other Wholesalers*

Sales from one wholesaler to another are not subject to the wholesale gallonage tax. However, both wholesalers involved in these transactions must maintain sales invoices documenting these sales.

### *Returns from Retailers*

If a wholesaler returns alcoholic beverages to manufacturers, those returns are not subject to the wholesale gallonage tax.[52] To claim a credit for returns, the wholesaler must attach the following documentation to its gallonage tax return for the month in which the credit is claimed:

- Evidence of authorization from the supplier for return or export of the specific product.
- A copy of the bill of lading regarding the product shipped.
- An affidavit from the person receiving the returned or exported product indicating the product received and, for distilled spirits, the destruction of the identification stamps on those products.
- Documentary evidence from the supplier that credit has been afforded to the wholesaler for the returned or exported products.

### *Damaged or Deteriorated Merchandise*

If any product is damaged or deteriorated at the wholesaler's warehouse, the wholesaler can obtain a credit for that product.[53] The wholesaler must contact the Department to request a representative observe the broken containers or outdated products. The Department's representative will physically inspect the product, ensuring that the manufacturer's seal and

federal strip stamp are still intact, and complete an Alcohol Breakage Form verifying the product was destroyed.

### *Loss by Fire or Act of Nature*

Wholesalers are not responsible for the wholesale gallonage tax on products that are lost due to an act of nature.[54] To receive this exemption, the wholesaler must submit evidence that the loss occurred by fire or other act of nature before relief from tax liability may be granted.

## 3. Payment of the Tax

The wholesale gallonage tax is due monthly, by the 15th day of the month, based on the total taxable gallons distributed during the preceding month. Winery direct shippers, however, remit the tax annually, due January 15. The return should be filed electronically via **TNTAP** or if a wholesaler, using ALC102 – Wholesale Alcoholic Beverage Return, and if a winery, using **ALC105 – Wine Tax Return for Tennessee Wineries.**

## 4. Bond Requirement

Every licensed wholesaler in Tennessee must execute a bond securing payment of the tax. A person can satisfy the bond requirement by submitting a cash bond or a corporate surety bond.[55] This information be submitted online via **TNTAP** or submitted to the Department using the **Department's Tax Bond form**.

A wholesaler that is beginning business must file an initial bond of $75,000 for a four-month period. At the end of the four-month period, the Department will adjust the bond amount to not less than 110% of the average tax liability for the initial four months for the remainder of the 12-month period or until the following July 1, whichever occurs first. In all subsequent years, the bond amount will not be less than 110% of the wholesaler's average monthly tax liability for the preceding 12-month period.

Any wholesaler that has been in continuous operation for three consecutive years and has timely paid the gallonage tax for the most recent 12 months, will not be required to maintain a bond.

If, on July 1, following the beginning of business, the wholesaler has been in business for less than twelve whole months, the wholesaler will determine the amount of the renewal bond for the ensuing year by dividing the total tax liability incurred during the period from the

business's opening until July 1 by the number of months engaged in business to arrive at the monthly average tax liability. This monthly average will then be multiplied by 110% to arrive at the amount of bond the wholesaler is required to post for the ensuing year.

## 5. Records & Reporting Requirements

### *Records*

Each wholesaler, distiller, or manufacturer required to pay the wholesale gallonage tax must keep accurate and complete books and records, accounts, and other documents as the Commissioner may deem necessary for at least three years. Such records include detailed reports of inventories, purchases, and sales.

### *Distillery Information Report*

The Department must allocate a portion of the gallonage tax to each county where a licensed distillery is located.[56] To make this allocation, distilleries must report monthly the number of gallons of product sold to wholesalers. Distilleries should file these reports in **TNTAP.**

### *Direct Shipper Delivery Report*

Every common carrier, other than a rail carrier that contracts with a direct shipper to deliver wine, beer, or other alcoholic beverages into Tennessee, must file a monthly report of those shipments by the 25th day of each month.[57] Although Tennessee law authorizes the direct shipment of wine only, common carriers must report all known deliveries of wine, beer, or other alcoholic beverages, regardless of whether the direct shipper making the sale is licensed correctly. All reports may be available to the public under the open records law. Common carriers should file these reports online in **TNTAP.** If a common carrier amends a previously filed report, the amended report will completely replace the previously filed report. Thus, the carrier must include complete information for the entire period, including the previously filed information plus the corrections or additions.

⚠ **Common carriers are required to include all shipments on behalf of winery direct shippers and fulfillment centers in their monthly reports submitted to the Department.**

## Exceptions to the Three-Tiered System for Wineries

As mentioned in Chapter 1, Tennessee has a three-tiered system for distributing wine. However, this structure has some exceptions.

### 1. Winery License

A winery license allows the license holder to manufacture and bottle wine, as well as engage in the following methods of distribution:

- Serve wine without charge as complimentary samples for tasting at the winery[58];
- Sell wine at retail in sealed containers at the winery, but not for consumption in bonded areas;
- Donate wine to nonprofit organizations without charge; and
- Exchange wine in bulk to other wineries.[59]

A winery can self-distribute its wine within 100 miles of the winery to licensed, on-premise establishments if:

- Its total annual wine production is 50,000 gallons or less, and
- It does not have a wholesale distribution contract that includes a county within 100 miles of the licensed winery where the wine was manufactured or bottled.

As stated above, when a winery self-distributes or otherwise sells its wine without using a wholesaler, the winery is responsible for the wine gallonage tax.

These methods of distribution are limited by the ABC, which regulates them. For more information about winery licenses, please visit **https://www.tn.gov/abc**.

### 2. Farm Wine Permit Holders

A Tennessee farm wine permit holder is authorized to grow produce that is shipped to a winery and manufactured into a wine product and then self-distribute that wine product, provided:

- Its total annual wine production is 50,000 gallons or less, and
- It does not have a wholesale distribution contract that includes a county within 100 miles of the licensed winery where the wine was manufactured or bottled.

### 3. Satellite Facility

A licensed winery or farm wine permit holder may obtain a satellite permit from the ABC to operate a satellite facility that serves samples, with or without charge, and sell wine for consumption either on or off the permitted premises. A "satellite facility" is "any facility or location other than the primary business location of a winery or farm wine producer."[60]

Wineries and farm wine permit holders that produce more than 50,000 gallons per year must supply their satellite facilities with wine obtained from a wholesaler.[61] Wineries and farm wine producers that produce 50,000 gallons or less per year are not required to receive wine provided at their satellite facilities from a wholesaler.[62]

Sales made at satellite locations sold for consumption on the premises are subject to the same tax as wine sold for consumption on the premises at the winery or on the premises of the farm wine producer.[63]

### 4. Wine Direct Shippers

Certain entities, including wine manufacturers, can obtain a direct shipper license from the ABC. A direct shipper's license allows the licensee to ship wine by common carrier directly to Tennessee consumers without obtaining the wine from a wholesaler.[64]

Winery direct shippers may ship no more than nine liters of wine to any individual during any calendar month. In addition, the winery direct shipper may not ship more than 27 liters of wine to any individual in any calendar year. However, a winery direct shipper that produces or manufactures less than 270,000 liters of wine per calendar year may ship up to 54 liters to an individual per calendar year.[65]

Winery direct shippers may only ship wine sold under a brand name owned or licensed to the winery, produced by the winery, made exclusively for the winery under an existing contract, or produced and bottled exclusively for the winery.[66] Fulfillment houses must obtain a license from the ABC to assist wineries in making direct shipments of wine to consumers, and fulfillment centers must report quarterly to the ABC about their shipments.

For more information about direct shipper and fulfillment house licenses, please visit **https://www.tn.gov/abc**.

### 5. Blended Wine Products

A Tennessee licensed winery may blend wine manufactured by the winery with other wine, fortified wine, distilled wine, or non-alcoholic products, provided that the winery does not add to the wine distilled spirits, as defined under federal law on the effective date of this act, that were derived from a type of grain or product other than wine. The winery license authorizes the license holder to place the wine in containers or bottles. Out-of-state residents may apply for and obtain a winery license issued per this section.[67]

Wineries and farm wine producers may have their wine distilled, blended, or fortified with distilled wine spirits made from their wine by manufacturers and may receive from manufacturers of the wine created by such distilling, blending, or fortifying, and such distilled, blended, or fortified wine is the sole property of the winery or farm wine producer; provided that no distilled spirits derived from a grain or product other than wine were added to the wine.

Wineries and farm wine producers may also sell wine to manufacturers licensed under § 57-3-202, and such wine, and a product that may result from the manufacturer's blending, distilling, or fortifying of such wine, is the manufacturer's sole property. The transactions are not subject to taxation.

# Chapter 4: Beer Taxes

Beer taxes consist of a local privilege tax, a beer barrelage tax, and a wholesale beer tax. Each of these taxes is discussed in detail throughout this chapter. However, it is important to first know the relevant definitions and registration/permitting requirements.

## "Beer" Defined

"Beer" is defined as products made from the normal alcoholic fermentation of malt or other cereal grains, sugar, or fruit ingredients used to make cider, and having an alcoholic content of not more than 8% alcohol by weight and that do not contain distilled spirits or wine as defined in Tenn. Code Ann. § 57-3-101.[68] At least 51% of the overall alcoholic content by weight in the finished product must be obtained by the fermentation of malt, other cereal grains, sugar, and fruit ingredients used to make cider. No more than 49% of the overall alcoholic content by weight in the finished product is obtained by adding flavorings or other non-beverage ingredients containing alcohol.[69]

Beer products with an alcohol content of more than 8% by weight are classified as alcoholic beverages (i.e., high alcohol content beer). *High alcohol content beer is subject to the alcoholic beverage taxes in Chapter 2 rather than the beer taxes explained in this chapter.*

*Products or beverages that contain less than 0.5% alcohol content by weight (e.g., certain non-alcoholic beers) are not considered "beer" for Tennessee tax purposes. Sales of alcoholic products should be tracked and reported separately from non-alcoholic products.*

> ⚠ **Although the beer tax statutes refer to alcohol content by weight (ABW), the industry measures alcohol content by volume (ABV). To convert from ABV to ABW use this formula: ABV x .8 = ABW.**

## Manufacturer and Wholesale Distributor Registration

Every person in Tennessee who manufactures or distributes beer wholesale must register with the Department *and* obtain a permit from the county or city where the business is located.

### 1. State Registration

The state registration fee is $20 for wholesalers and $40 for manufacturers. Entities must renew their registrations annually by January 1. Entities may register electronically using the Department's **TNTAP** website. The Department issues a certificate of registration that the registered entity must post at its usual place of business. The manufacturer or wholesaler must receive and post the registration certificate before starting a business.

The Department only issues beer manufacturer and wholesaler registrations annually. It will not issue these registrations on a short-term or partial-year basis, even if a beer manufacturer or wholesaler plans to do business in Tennessee for less than one year.

The Department will impose a mandatory penalty against new registrants who fail to register within 20 days of beginning business and against registrants who fail to renew by January 20 each year. The penalty is $5 per month for each month or fractional part of a month but cannot exceed the total amount of the applicable annual registration fee.

The Department may impose an additional penalty against entities that know a certificate of registration is required but engage in business without obtaining the certificate, as well as entities that continue operating on a revoked or suspended certificate. The penalty amount is discretionary but cannot exceed $100 per day.

### 2. Local Permit

In addition to registering with the Department, businesses engaged in the sale, distribution, manufacture, or storage of beer must obtain a permit from the county or city where the business is located.[70] Beer wholesalers must obtain a permit from the county or city where they operate a warehouse. The beer permit application fee, regardless of jurisdiction, is $250.[71]

The permit is valid[72]:

- Only for the owner to whom the permit is issued. A permit cannot be transferred to another owner. If the owner is a corporation, a change in ownership will occur when control of at least 50% of the corporation's stock is transferred to a new owner.

- Only for a single location, except where an owner operates two or more restaurants or other businesses within the same building. At the owner's discretion, that owner may operate some or all of these businesses under the same permit. The permit

cannot be transferred to another location. A permit is valid for all decks, patios, and other outdoor serving areas contiguous to the exterior of the building in which the business is located and operated by the business.

- Only for a business operating under the name identified in the permit application.

Within 10 days of being issued a permit, the permittee must file a copy of a valid sales and use tax resale certificate with the county or city issuing the permit and each person from whom the person buys beer.[73] The permittee must maintain a valid resale certificate throughout business operation. The Department issues the resale certificate when a business registers for sales and use tax with the Department.

A permit expires on termination of the business subject to the permit, change in ownership, relocation of the business, or change of the business name. A permit holder must return a permit to the county or city that issued it within 15 days of such termination or change in business.[74] Any person engaged in selling, distributing, or manufacturing beer without a permit commits a Class A misdemeanor.

For more information about local permitting, contact your local beer board. The Department's website lists local beer boards and contact information.

## Local Privilege Tax

A local privilege tax of $100 is imposed on selling, distributing, storing, or manufacturing beer in the state. Any entity engaged in these activities must remit the tax to the county or city it is located by January 1 each year. The tax is remitted to the county clerk for businesses located in the county outside the incorporated limits of any city or town and to the official identified by the city or town for businesses located within the incorporated limits of the city or town.[75]

Contact your local beer board for more information about the local privilege tax. The Department's website lists local beer boards and contact information.

## Beer Barrelage Tax

Every person in this state who is manufacturing, storing, selling, importing, or distributing beer or other beverages of not more than 8% alcohol content by weight, as described in Chapter 5, Title 57 of the Tennessee Code, is subject to the beer barrelage tax. The barrelage tax is **$4.29 per 31-gallon barrel** stored, sold, imported, or distributed by gift, sale, or

manufactured in Tennessee.[76] This tax is levied in addition to all other taxes and is solely a state tax that may not be imposed by any county, municipality, or taxing district. The tax is prorated for barrels containing more or less than 31 gallons of beer.[77]

This tax is remitted to the Department monthly, on or before the 20th day of the month it accrues.[78] This tax should be remitted electronically through **TNTAP** or by submitting **Form BER108 - Beer Barrelage Tax Return** to the Department.

### 1. Who Pays the Tax

When a manufacturer distributes its beer through a Tennessee wholesaler, the wholesaler pays the barrelage tax.[79] However, a beer manufacturer is responsible for the barrelage tax when[80]:

- It operates as a retailer and sells and self-distributes its beer to other retailers,
- It operates as a retailer or holds a license as a restaurant, limited-service restaurant, hotel, or
- It operates a taproom where it sells its beer directly to customers.[81]

### 2. Exceptions

The following sales are exempt from the barrelage tax and are separately reported on the barrelage tax return:

- Beer manufactured in Tennessee and exported for sale, distribution, or gift.[82]
- Beer dispensed gratuitously and consumed on the manufacturing premises.[83]
- Beer sold for consumption within the geographical boundaries of a fort, base, camp, or post of the United States armed forces, post exchanges, ship service stores, commissaries, and messes operated by the United States armed forces.[84]

Manufacturers and wholesalers that make an exempt sale to an armed forces installation must maintain copies of all invoices supporting the amounts claimed, signed by the military officer in charge of the armed forces facilities to which sales were made.

### 3. Bond Requirement

All persons responsible for remitting the beer barrelage tax must execute a bond securing tax payment. A person can satisfy the bond requirement by submitting either a corporate surety bond or by depositing collateral in the form of a certificate of deposit with a face value equal to the bond amount.[85] Bond information may be submitted using the Department's TNTAP website or by submitting the **Tax Bond form** to the Department.

An initial bond of $20,000 is required to secure the proper payment of taxes during the taxpayer's initial 12-month license period.[86] After the Department has received monthly returns that cover the initial three full months of the taxpayer's operation, the taxpayer may submit a written request to reduce the bond to an amount equal to no less than twice the amount of the taxpayer's average monthly tax liability over the three preceding months. If, at any time after the initial three months of operation, the Commissioner determines the taxpayer's average monthly tax liability to be greater than $20,000, the taxpayer must file a rider to increase the bond amount to two times the taxpayer's average monthly tax liability.

If a taxpayer has been in continuous operation for three consecutive years and has paid the beer barrelage tax on time for the preceding six months, the taxpayer will no longer be required to maintain a bond. Any taxpayer exempt from the bonding requirement and subsequently fails to pay the beer barrelage tax on time will again be required to execute and maintain a bond.

When a taxpayer is delinquent in paying the tax, the Commissioner may send written notice and demand for payment by registered mail, with return receipt requested, to the surety or sureties on the bond at the last known address. If the tax, interest, and penalties due are not paid within 10 days after the notice is mailed, the Commissioner may cancel the taxpayer's registration and pursue collection of the delinquent tax. The Commissioner is authorized to issue a distress warrant for collecting all delinquent state privilege taxes due under this chapter, with interest and penalty of 10%.

### 4. Records Requirements

Every person subject to the beer barrelage tax must keep invoices, bills of sale, and other business records for at least two years. Retailers to whom beer is sold must keep duplicate bills of sale for at least two years.[87] The Commissioner or authorized agents, representatives, or employees will be allowed to inspect all articles, containers, packages, invoices, books, papers, and memoranda as necessary to ascertain whether the barrelage tax has been paid in full.

⚠ **Businesses that are subject to both the beer barrelage tax and sales and use tax should be aware that although the records requirement for beer barrelage tax records is 2 years, the records retention requirement for sales and use tax is 3 years.**

### 5. Examples

***Breweries***

A taxpayer that sells its products to the public from its taproom owes both sales and use tax and beer barrelage tax. Beer sold and consumed on the premises is not deductible on line 3 of the beer barrelage tax return.

Additionally, the beer dispensed to customers as part of a brewery tour, which the customer pays for, is subject to the beer barrelage tax.

***Tastings***

Tastings that are not free (even when a coupon for the same amount is issued to the customer) are considered taxable for beer barrelage tax. Sales tax should also be collected on all sales of retail products, including beer or liquor tastings, when a charge is made, and the tastings are not provided gratuitously and consumed on the premises.

***Coupons***

If a taxpayer offers a discount, such as a "buy one, get one free" coupon, the amount sold is taxable for beer barrelage tax. The coupon reduced the sales price of the two items, and one item should not be listed on line 3 of the beer barrelage tax return.

## Wholesale Beer Tax

The wholesale beer tax is imposed on every beer sale by a wholesaler to any person other than another wholesaler. The tax is **$35.60 per 31-gallon barrel**. The tax upon barrels containing more or less than 31 gallons is prorated.[88] This tax is remitted by the 20th day of the month based on wholesale sales in the preceding month.[89] The wholesaler remits the tax to multiple entities in the following amounts:

- $34.51 per barrel is *remitted to the county or municipality where the retailer's place of business is located*.

- the taxpayer retains 92¢ per barrel to defray the cost of remitting the tax.

- 17¢ per barrel is *remitted to the Department* via **TNTAP** or by submitting **Form BER107 - Wholesale Beer Tax Return**.

When a wholesaler makes sales at its place of business, the $34.51 portion of the tax is paid to the county or city where the wholesaler's place of business is located.

### 1. Who Pays the Tax

Generally, the wholesale distributor is responsible for remitting the wholesale beer tax. However, beer manufacturers operating as retailers are responsible for remitting the wholesale beer tax on sales of beer they make to off-site retailers.[90] Please note that beer manufacturers selling beer in taprooms located on the same premises where the beer is manufactured are not making wholesale sales, and such sales are not subject to wholesale beer tax.

### 2. Exempt Sales

The following sales are exempt from the wholesale beer tax:

- Beer sold to any post exchange, ship service store, commissary, open mess, officers' club, N.C.O. club, or other organization recognized by and located on any fort, base, camp, or post of the United States armed forces.[91]

- Beer that is shipped outside Tennessee in the same month in which it was purchased.[92]

- Beer damaged, lost, stolen, destroyed, or becomes unsalable while in transit, either by common carrier or the wholesaler's transport equipment, before being stored in the wholesaler's warehouse.[93]

To claim the exemption for sales to armed forces installations, the manufacturer or wholesaler must maintain copies of all invoices supporting the amounts claimed, signed by the military officers in charge of the armed forces facilities to which sales were made.

### 3. Adjustment for Damaged Containers

The wholesale beer tax is not due on beer damaged, broken, or destroyed from when it leaves the brewery until it is delivered to the retailer. The wholesaler can claim an adjustment for damaged beer whether the damage is discovered upon arrival at the wholesaler's warehouse or after being stored at the warehouse, so long as the damage or unsalable condition occurred before arriving at the warehouse.[94] A deduction from receipts and purchases is available to wholesalers for all beer damaged or destroyed while in transit, either by the common carrier or the wholesaler's transport equipment.

A wholesaler cannot adjust for damaged containers that exceed 0.5% of its total monthly purchases, except in cases of fire, storms, acts of God, or unavoidable accidents. To claim an adjustment of more than 0.5%, the wholesaler must submit sworn statements from two witnesses substantiating the claim. The Department may disapprove any such claims.[95]

Wholesalers cannot make an adjustment or refund for damage, breakage, or shortage after the beer is delivered to the retailer. If a wholesaler determines that beer sold to a retailer does not conform to quality control standards, it may provide replacement beer if the tax paid on the replacement beer is equal to the tax credit received on the beer returned by the retailer.[96]

### 4. Destruction of Beer

Beer of not more than eight percent (8%) by weight held by a licensed brewery, wholesaler, or distributor in inventory or in transit within Tennessee that becomes unsalable for any reason or is damaged and which is to be destroyed must be destroyed under the supervision of the Commissioner of Revenue or his authorized representative.[97] Any person with beer to be destroyed must retain this beer until a minimum of fifty 24/12 oz. cases of beer, or its equivalent, has been accumulated and submit a list of such beverages stating the quantity, size of container and package, and the reason for the requested destruction to the Commissioner of Revenue 10 days before the date such beer is to be destroyed.

However, a taxpayer who has beer that has to be destroyed in less than fifty 24/12 oz. cases, or its equivalent, may likewise have the beer destroyed under the supervision of the Commissioner of Revenue or his authorized representative, but the expense incurred by the Department is borne by the person requesting the destruction. Such a person must promptly pay the cost to the department upon being billed.

If a taxpayer fails to follow this procedure and destroys beer without the supervision of the Commissioner or his authorized representative, such destroyed beer may *not* be included in any inventory reduction in determining the tax due under Tenn. Code Ann. § 57-6-103.

### 5. Gifts or Discounts

No wholesaler may give beer or other items as gifts or make any deal with a retailer or other person to reduce the wholesale price of beer below the list price to encourage the retailer to make larger purchases. However, a manufacturer may offer a discount to the consumer via a coupon to be redeemed by the manufacturer. No retailer or wholesaler may participate, directly or indirectly, in redeeming such coupons.[98]

### 6. Designated Sales Territories

Each beer manufacturer or importer will designate sales territories for each brand sold in the state. They will name one licensed beer wholesaler to be the exclusive wholesaler of each brand within that territory. At least 10 days before introducing a new beer brand, the manufacturer or importer must submit a territorial designation form for each wholesaler listing the brands the wholesaler will distribute and the assigned distribution territory for those brands to the Department.[99] No wholesaler can distribute its specified brand(s) of beer outside its assigned territory or knowingly sell to a retailer outside the wholesaler's assigned territory.[100] More information on registering a brand can be found in Chapter 5 of this manual.

If a manufacturer or importer wants to change wholesalers or alter the distribution territory for any brand, the manufacturer or importer must file a document containing the following information with the Department and each affected wholesaler at least 90 days before such change would take effect:

- A description of the geographical boundaries of the proposed territory.
- The name and address of the wholesaler currently distributing such brand(s) in the territory.
- The name and address of the proposed wholesaler and the notarized signature of the proposed wholesaler.
- The name and address of all persons or firms having a financial interest in the proposed wholesale business.

If the proposed change is agreeable to all parties, there is no 90-day waiting period, and it can take effect immediately.[101]

### 7. Wholesale Price List

Each wholesaler will maintain a wholesale price list with the Department and the tax-collecting official of each county and municipality where wholesale sales are made. All such price lists are public records.[102] The price shall be fixed on each brand sold by container. The price shall be the same regardless of the quantity of beer sold of a given brand by container and category. New wholesalers must file a price list within five days of beginning business. Wholesalers that acquire new brands must file a new price list within five days of acquiring such brands.[103]

A wholesaler cannot sponsor or participate in any temporary price-cutting promotion or device by changing the wholesale price of a specific beer brand, container, or container category (e.g., cans, kegs, nonreturnable bottles). A wholesaler may, however, permanently reduce the wholesale price of beer. The price change must remain in effect for at least 360 days to be considered a permanent price reduction.[104] Any violations of such pricing regulations will result in the local beer board suspending the wholesaler's license or permit for 30 days.[105]

A wholesaler has the authority to increase the wholesale price of beer. There is no limitation on the number of price increases a wholesaler may make, but any increase in the wholesale price of beer will remain in effect for at least 360 days. If the federal excise tax increases, a wholesaler may raise the wholesale price in an amount less than or equal to the federal increase during 360 days, provided the wholesaler files such price increase within 10 days of the federal tax increase.[106]

If a wholesaler cannot deliver beer to retail establishments due to an emergency, it may change the wholesale price on sales made to retailers at its warehouse.[107]

### 8. Bond Requirement

Each wholesaler must furnish a bond to the Department, as an agent of the counties and municipalities involved, in the amount of gross wholesale beer tax payable based on the wholesaler's highest month's sales in the preceding 12 months. A wholesaler beginning a business will estimate its sales. In no event will a wholesaler's bond exceed $10,000. However, a wholesaler who has been in continuous operation for three years and has paid

all wholesale beer taxes on time during the preceding six months is not required to furnish a bond. A bond must be posted again if a wholesaler is exempt from the bond requirement and fails to remit the wholesale beer tax on time.

Wholesalers may post an indemnity bond or deposit collateral as an authorized certificate of deposit. Interest on any deposited certificate of deposit will be paid to the wholesaler or to such person as the wholesaler may direct.[108] This information may be provided via **TNTAP** or by submitting the **Tax Bond form** with the Department.

## 9. Recordkeeping Requirements

Every wholesale beer distributor in Tennessee must keep accurate delivery tickets and records of each delivery of beer or other similar beverages to individual retailers and any other persons purchasing more than five gallons of beer at one time. The records must indicate:

- The date the merchandise was delivered.
- The name and address of the purchaser.
- The date of the sale.
- The quantity, size, brand, and price of each container sold.

Each retailer or recipient must sign the delivery ticket when it receives beer from a wholesaler. The wholesaler shall keep the signed original or a digital copy, and the retailer must retain a duplicate for at least two years. The Department, county, or municipality can inspect these records if necessary.

The wholesaler must also retain records of every sale to persons purchasing fewer than five gallons of beer at a time for at least two years. These records should reflect the daily quantity, size, brand, and price of each container the wholesaler sells. [109]

> ⚠ **Businesses that are subject to both the beer wholesale tax and sales and use tax should be aware that although the records requirement for beer wholesale tax records is 2 years, the records retention requirement for sales and use tax is 3 years.**

### 10. Investigations

The Department may, on its initiative, but must, upon request of any county or municipality receiving this tax, investigate whether the full amount of tax imposed has been paid. Any county or municipality requesting an investigation may designate an agent to participate in the investigation. Wholesalers and retailers must make their books and records available for inspection and audit at all reasonable business hours. The results of any investigations will be reported to the counties and municipalities concerned. [110]

### 11. Enforcement

Suppose any wholesaler fails or refuses to remit the tax when due. In that case, the Department or any county or municipality to which the tax is owed may institute legal action to collect the delinquent taxes. Additionally, counties and municipalities may suspend or revoke a wholesaler's beer permit if the wholesaler is delinquent.[111]

## Exceptions to the Three-Tiered System for Beer Manufacturers

As mentioned in Chapter 1, Tennessee has a three-tier system for distributing alcoholic beverages, including beer. Although a beer manufacturer is generally required to distribute products through the three-tiered system, it may make retail sales of beer in the following instances:

### 1. Self-Distribution

A beer manufacturer may operate as a retailer at its manufacturing location or a contiguous site and sell up to 25,000 barrels of beer or high alcohol content beer per year for consumption on or off the premises, provided it obtains the appropriate retail license.[112] A manufacturer operating as a retailer can sell its beer directly to retailers in the same county as the manufacturer (the 1,800-barrel limitation discussed below does not apply when the manufacturer only sells to retailers inside the county where the manufacturer is located).[113]

In addition, a manufacturer can sell its beer directly to retailers located inside *and* outside the county in which the manufacturer is located if the manufacturer:

- Self-distributes no more than 1,800 barrels of its beer annually in this state; and
- Is not prohibited from self-distribution in the county due to a contract with a beer wholesaler.[114]

Suppose a beer manufacturer self-distributes more than 1,800 barrels of beer annually in this state. In that case, the manufacturer must enter a contract with a wholesaler to distribute the manufacturer's beer within 90 days of exceeding the 1,800-barrel limitation.[115]

A beer manufacturer who self-distributes its beer is responsible for collecting and paying the beer barrelage tax and the wholesale beer tax described above on its self-distributed product. Any distribution, sale, or beer transfer by a manufacturer directly to a beer retailer is considered a wholesale sale for these taxes.

In addition to the registration and reporting requirements for a licensed beer manufacturer, a beer manufacturer who self-distributes its beer must register with the Department as a wholesaler and comply with the licensing, permitting, reporting, and bonding requirements imposed on wholesalers in this state.[116]

Self-distributing beer manufacturers are required to post a $10,000 wholesale beer tax bond with the Department. The beer tax bond forms can be found on the **Department's website**. A self-distributing beer manufacturer can register with the Department for a wholesale beer tax account and upload its supporting documentation on **TNTAP**.

### 2. Restaurant or Limited-Service Restaurant

A manufacturer may hold a license as a restaurant or limited-service restaurant and sell its beer for off-premises consumption at that restaurant location or any other licensed restaurant that the same person owns.[117]

### 3. Hotel

A beer manufacturer in Blount County may hold a hotel license and sell beer manufactured on the hotel's premises.[118]

## Transportation of Beer

Any person engaged in transporting beer or other such beverages from outside Tennessee to any point within Tennessee must always have in their possession during transport:

- An invoice, bill of sale, or bill of lading showing the name and address of the consignor.

- The name and address of the licensed brewery, wholesaler, or distributor to whom the beverages will be delivered.

- The quantity of those beverages.

It is illegal for any person to transport, or attempt to transport, any beer to a person or destination other than as designated on the shipment, bill of lading, or contract and to any person not licensed to receive that type of beverage under the law or regulations. Additionally, it is illegal to agree to transport or deliver any shipment of beer when it is known that the shipment is not intended for a person legally permitted to receive the beverages.[119]

No person may transport any beer within this state on which the barrelage tax has not been paid except for immediate delivery to a licensed brewery, wholesaler, or distributor. Any person transporting untaxed beer must have in their possession during transport an invoice, bill of sale, or bill of lading showing the name and address of the consignor, the name and address of the licensed brewery, wholesaler, or distributor to whom the beer is to be delivered, and the quantity and contents of the containers. If such a person fails to produce an invoice, bill of sale, or recorded evidence, or, when produced, it fails to comply and accurately disclose the required information, the failure shall be *prima facie* evidence of violating these requirements.[120]

### 1. Common Carriers

A common carrier maintaining a permanent office within the state, where complete records of all beer transported from outside the state are kept and open for inspection by the Department or any authorized agent at all reasonable times, will not be required to have these documents in the carrier's possession.[121]

Suppose any common carrier transporting beer to a point within the state, or any insurance company insuring such products, comes into possession of those products because the products are damaged or otherwise not accepted by the consignee. That common carrier or insurance company will become liable for the barrelage tax in that case. The carrier or insurance company will be relieved of that liability if proof, deemed satisfactory to the Commissioner, shows that the products have been destroyed or shipped to a point outside the state. This relief of liability does not authorize the common carrier or insurance company to subsequently sell the beer in Tennessee unless otherwise licensed to do so.

### 2. Other than Common Carrier

Every person, other than a common carrier or a licensed brewery, wholesaler, or distributor engaged in making regular deliveries of beer or other such beverages to their customers, who possesses or transports five gallons or more of any such beverages within Tennessee will have during the entire time in possession of or transporting these beverages within this state, an invoice, bill of sale, or bill of lading showing the date of purchase or shipment, the name and exact address of the seller or consignor, and the name and exact address of the purchaser or consignee. The burden of proof shall be upon the person possessing or transporting such beverages to establish to the satisfaction of the collection officers that the invoice, bill of sale, or bill of lading offered as evidence that the tax thereon has been paid relates to the identical beverages in possession or transport.[122]

Any property confiscated as contraband solely for failure to have the documents required by this section may be returned upon order of the Commissioner, without the necessity of a hearing, upon a showing satisfactory to the Department that taxes imposed by the State upon such items have been paid.

These restrictions on the transportation of beer will not be construed as applying to interstate shipments through Tennessee, where such shipments are accompanied and supported by proper invoices or bills of lading containing such information as the Commissioner may require.[123]

## Contraband

Any beer sold, offered for sale by, or in possession of, a retailer and purchased from anyone except a Tennessee licensed wholesaler or distributor is contraband.

Additionally, any beer imported into the state, transported within the state, or in possession of a person in the state violating the law and regulations is contraband, along with any vehicle in which it is being transported that is not a common carrier. Contraband beverages and vehicles are subject to confiscation by the Commissioner or any authorized representative, highway patrol officer, sheriff, or other peace officer.

### 1. Disposition of Contraband

Any contraband beer or seized vehicles will be delivered to the Department for disposition. The Department may then deposit any seized beer with a duly licensed Tennessee wholesaler or distributor located nearest to the site of the seizure engaged in handling the

particular brand of beer involved. The wholesaler will issue a receipt to the Commissioner to document the deposit, stating the quantity and brand of beer so deposited. That wholesaler may later exchange salable beer of the same amount and brand name for the receipt with any person(s) who may be entitled thereto or to the proceeds of the sale of the beverage. These receipts will be admissible as evidence in any administrative hearing or any civil or criminal court hearing or trial.[124]

If incidental to confiscating contraband beer, any alcoholic beverage found to be held or transported illegally is discovered, the confiscating officer must also seize that alcohol. Any alcoholic beverages seized in this manner will be delivered to the ABC for sale or disposition as contraband.

### 2. Notification of Seizure

As soon as feasible after confiscation, the Department will provide written notice to the person from whom the confiscation was made. Notice will also be made to all others with a legal interest in the confiscated party to the extent they are made known to the Department or could be discovered by reasonably examining public records of titles and liens. This notice can be made by personal delivery or mail to the party's last known address. This notice must state:

- A description of the confiscated property.
- The reason for confiscation.
- The method for seeking recovery.
- The time limit for seeking recovery.
- The result of failure to seek or obtain recovery by the designated method.[125]

### 3. Claims Procedure

Any person claiming any property seized as contraband goods may request a hearing with the Commissioner within 10 days of receiving notice of such seizure. However, any person requesting a hearing must post a $250 bond with a solvent surety, made payable to the State, or, in the alternative, execute a pauper’s oath. The Commissioner will set a date for a hearing within 10 days from the date the claim is posted or received.

The initial burden in the hearing shall be on the State to show, by a preponderance of the evidence, that the property in question was of such nature or was used in such manner as to be declared contraband. If the State meets this burden, the property shall be forfeited unless the claimant can prove it is nevertheless qualified to recover the property by demonstrating:

- The claimant has an interest in the vehicle, aircraft, or boat, as owner or otherwise, which was acquired in good faith and

The claimant had no knowledge or reason to believe that it was being or would be used to violate federal or state laws relating to beer.

# Chapter 5: Brand Registration and Termination

Every alcoholic beverage, wine, and beer brand with an alcohol content of 5% by weight or greater sold in Tennessee must be registered with the Department. The Department maintains a list of all active brand registrations, available **on the TNTAP website** under the "Approved Alcohol & Beer Brands" tab.[126]

## "Brand" Defined

"Brand" is defined to mean the following:

- Every distilled spirit, wine product, beer product with an alcoholic content of 5% by weight or greater, and high alcohol content beer product bearing a distinct brand name or trade name, as those terms are defined or used by the Alcohol and Tobacco Tax and Trade Bureau of the US Department of Treasury (the "TTB");

- Within the group of wine or distilled spirit products marketed under a particular brand name, products that fall within the separate classes or types, as defined in the Federal Bureau of Alcohol, Tobacco, and Firearms (the "ATF") standards of identity, or

- The name, trademark, or trade name of the product, as indicated on the certificate of label approval (the "COLA") as registered with TTB, or, if no certificate of label approval is required, then the name, trademark, or trade name of the product.[127]

If a product uses the same brand name on the COLA for individual brand varieties, the product may be registered as one brand with the varieties listed within that one brand registration. If the varieties have a different brand name, each variety is considered a separate brand, and each must be registered. For example:

- The brand name on the COLA is "Smith Family Wine." Smith Family Wine includes a chardonnay, sauvignon blanc, and chenin blanc. Although these are three separate varieties of Smith Family Wine, they constitute one brand name and one registration for Tennessee brand registration purposes.

## Introduction of a New Brand

Every manufacturer or importer distributing brands in Tennessee must register each brand it distributes and pay the brand registration privilege tax before distributing it in the state.

No wholesaler can order, receive, accept, or offer for sale any brand until the brand has been registered with the Department.[128]

To register a brand, the manufacturer or importer must submit the following items to the Department:

- **Brand Registration Return for New Brands (ALC119)**;
- Brand registration privilege tax;
- Copy of the federal basic permit;
- Copy of the brand label (if the brand is distributed under more than one label, each respective label must be submitted);
- Copy of the federal certificate of label approval (COLA) for the brand;
- Original Tennessee wholesaler contract with the exact brand name listed and
- For alcoholic beverage brands, a copy of the non-resident Tennessee license for the manufacturer or importer applying for registration.

Manufacturers and importers may register a new brand electronically through **TNTAP**. If a manufacturer or importer cannot register using TNTAP, it may also submit a paper **Application for Registration**. The application and attachments may be mailed to:

Tennessee Department of Revenue
Andrew Jackson Building
500 Deaderick Street
Nashville, Tennessee 37242

If a manufacturer fails to register a brand being sold in Tennessee, the Department will notify the person to stop distributing that brand in the state until the brand is properly registered. If the brand is not properly registered within 30 days of such notice, the Department will seize and sell any unregistered or improperly registered beverages.[129] The Department will also notify the ABC that the person's permit should be suspended pending proper brand registration.

## Payment of Brand Registration Privilege Tax

The brand registration privilege tax is due annually by May 31. The tax is based on the number of cases of each brand sold during the previous 12-month period. If a brand was not sold for the entire 12-month period, the tax would be based on the average monthly sales of that brand multiplied by 12. Tax is due in the following amounts:

- For each distilled spirits brand for which wholesale sales were 50 cases or more - $250 per year.
- For each distilled spirits brand for which wholesale sales were less than 50 cases - $100 per year.
- For each brand of wine for which actual wholesale sales were 250 cases or more - $250 per year.
- For each brand of wine for which actual wholesale sales were less than 250 cases - no tax is due.
- For each beer brand with an alcohol content of 5% by weight or greater and high alcohol content beer - $100 per year regardless of the number of cases sold.

⚠ **Please note that each brand registration must be renewed every year. Importers and manufacturers should renew their brands and pay the applicable tax before the May 31st due date via TNTAP or by filing ALC120 - Brand Registration Renewal Return with the Department.**

## Transfer and Termination of Brands

A manufacturer or importer may only introduce a brand if there is a written contract between the manufacturer or importer and the Tennessee wholesale distributor that will sell the brand in the state. No manufacturer or importer will be permitted to transfer a brand from one wholesale distributor to another or terminate a contract without the Commissioner's written permission. The Commissioner can only approve a transfer or termination for *good cause*, asserted in *good faith*.[130]

"*Good cause*" is defined by law and means:

- Failure by a wholesaler to comply substantially with the requirements imposed or sought to be imposed upon him by the manufacturer, importer, or successor;
    - Such requirements cannot be discriminatory as compared with the requirements imposed on other similarly situated wholesale distributors either by their terms or in the manner of their enforcement, and the requirements are not in violation of any law or regulation.
- The failure by the wholesaler to act in good faith and in a commercially reasonable manner in carrying out the terms of the contract;
- Voluntary abandonment of the contract;
- Conviction of the wholesaler in a court of competent jurisdiction of an offense punishable by a term of imprisonment in excess of one year;
- Any act by a wholesaler which substantially impairs the manufacturer, importer, or successor's trademark or trade name;
- The institution of insolvency or bankruptcy proceedings by or against a wholesaler or any assignment or attempted assignment by a wholesaler of the contract or the assets of the distributorship for the benefit of creditors;
- Failure of the wholesaler to pay to the manufacturer, importer, or successor within 30 days after receipt of notice any uncontested sums past due the manufacturer, importer, or successor and relating to the contract; or
- Failure of the wholesaler to comply with federal, state, or local law or regulations applicable and material to the operation of the distributorship, which could reasonably impair the wholesale distributor's continued future performance.[131]

"*Good faith*" means honesty, in fact, in the conduct or transaction concerned.[132]

If a manufacturer or importer wants to transfer a brand to a different wholesale distributor or terminate a distribution contract, the manufacturer or importer must follow the process below. All documents submitted during the brand termination process should be sent to:

Tennessee Department of Revenue
Legal Office

Andrew Jackson Building, 11th Floor
500 Deaderick Street
Nashville, Tennessee 37242

The documents may also be submitted to the Department's Legal Office via email at **Bernadette.Welch@tn.gov**.

### 1. Initial Termination Request

The manufacturer wishing to terminate a distribution contract must submit a written request to the Department. The initial termination request must state specific grounds for termination that constitute good cause, asserted in good faith. Additionally, the termination request should include documentation and other evidence that supports the request.

⚠ **In addition to sending the termination request to the Department, the manufacturer MUST also send a carbon copy of the termination request and all evidence submitted to the Department to the wholesaler, in whose name the brand is then registered. This can be evidenced by placing a "cc" line on the termination request. The Department will not review the termination request until such documentation is provided to the wholesaler.**

### 2. 30-Day Letter and Opportunity to Cure

A manufacturer or importer may not seek termination of a distribution contract unless it gives the affected wholesaler a reasonable opportunity to cure (remedy) any deficiency alleged as a basis for contract termination.[133] The cure period shall be no less than *30 days*. After receiving an initial termination request, the Department will send a written notification (the "30-Day Letter") to the requesting party and the wholesaler stating the parties have at least 30 days from the date of the letter to cure any alleged deficiencies. The Department generally sends the 30-day Letter to each party via certified U.S. mail.

### 3. Request to Proceed with Termination Request

If the manufacturer or importer wants to pursue its termination request following the cure period, it must notify the Department in writing that it wishes to proceed with its termination request.

The manufacturer or importer may submit additional evidence supporting its stated basis for contract termination. The request to proceed must include a description of the steps

taken to cure the alleged deficiencies. As with the initial termination request, a carbon copy of the request to proceed and all evidence submitted to the Department must be sent concurrently to the wholesaler in whose name the brand is then registered. This can be evidenced by placing a copy "cc" line on the request to proceed.

The Department recommends that the manufacturer or importer use certified mail or a similar service that confirms receipt for mailing its request to proceed packet to the Department and the wholesaler. A requesting manufacturer or importer is encouraged to submit with its request to proceed all supporting evidence it has not previously submitted, if any, supporting the requester's position that the cure period did not result in a satisfactory outcome.

### 4. Wholesaler Response

The affected wholesaler may, but does not have to, respond to the manufacturer or importer's request to terminate its distribution contract. The wholesaler has 30 days from its receipt of the request to proceed to mail its response and any supporting evidence to the Department. The wholesaler must submit a carbon copy of its response and all evidence, as submitted to the Department, concurrently to the manufacturer or importer requesting termination. This can be evidenced by placing a copy "cc" line on the wholesaler response.

### 5. Preliminary Determination

Upon the earlier of the Department's receipt of the wholesaler's response or the expiration of the 30-day period where the wholesaler may respond, the Commissioner will make a preliminary determination as to whether sufficient evidence has been offered to establish a *prima facie* case of good cause, asserted in good faith, to terminate the distribution contract. In this case, "*prima facie*" means that enough evidence to terminate the contract has been provided without having an administrative hearing. The Department will notify the parties by certified mail of the Commissioner's preliminary determination.

### 6. Appeal of Preliminary Determination

Parties may request an administrative hearing to challenge the preliminary determination under the Uniform Administrative Procedures Act (the "UAPA") by submitting a written request for a hearing within *10 days* of the date on the notice of the Commissioner's preliminary determination.

To request an administrative hearing, the affected party must submit a written request to:

Tennessee Department of Revenue
Administrative Hearing Office
Andrew Jackson Building, 11th Floor
500 Deaderick Street
Nashville, Tennessee 37242
Fax: (615) 741-6463
DORConference.Request@tn.gov

If an administrative hearing is not requested on time, the preliminary determination becomes final upon the expiration of the 10 days to request the hearing. If a hearing is requested on time, the Department's Administrative Hearing Office will initiate the administrative hearing process under the UAPA on the issue of whether the manufacturer or importer has established "good cause, asserted in good faith."

During the UAPA hearing process, termination of the contract will not take effect unless and until the Administrative Law Judge approves the termination. If the Administrative Law Judge determines that the manufacturer or importer has failed to establish "good cause, asserted in good faith" as required, the contract's provisions will remain in full force and effect. Failure by the manufacturer or importer to ship a reasonable amount of the brand at issue to the wholesaler is grounds for revocation of the manufacturer or importer's license.

## 7. Final Determination

Failure to request an administrative hearing within the 10 days outlined above converts the preliminary determination to a final determination. After this period, the parties no longer have a right to an administrative hearing. However, if an administrative hearing is requested on time, the decision rendered by the Administrative Law Judge on whether the manufacturer or importer established "good cause, asserted in good faith" becomes the Initial Order of Final Determination.

Parties may seek the Department's reconsideration of the Initial Order of Final Determination within *15 days* after its entry. If reconsidering the Initial Order of Final Determination is not requested within that period, the initial order becomes final after the 15-day period ends.[134] For example:

- The Department issues a preliminary determination to terminate a contract on January 1, 2020. In writing, the distributor requests an administrative hearing on January 5, 2020. This request keeps the preliminary determination from becoming a final determination. After the administrative hearing, the Administrative Law Judge

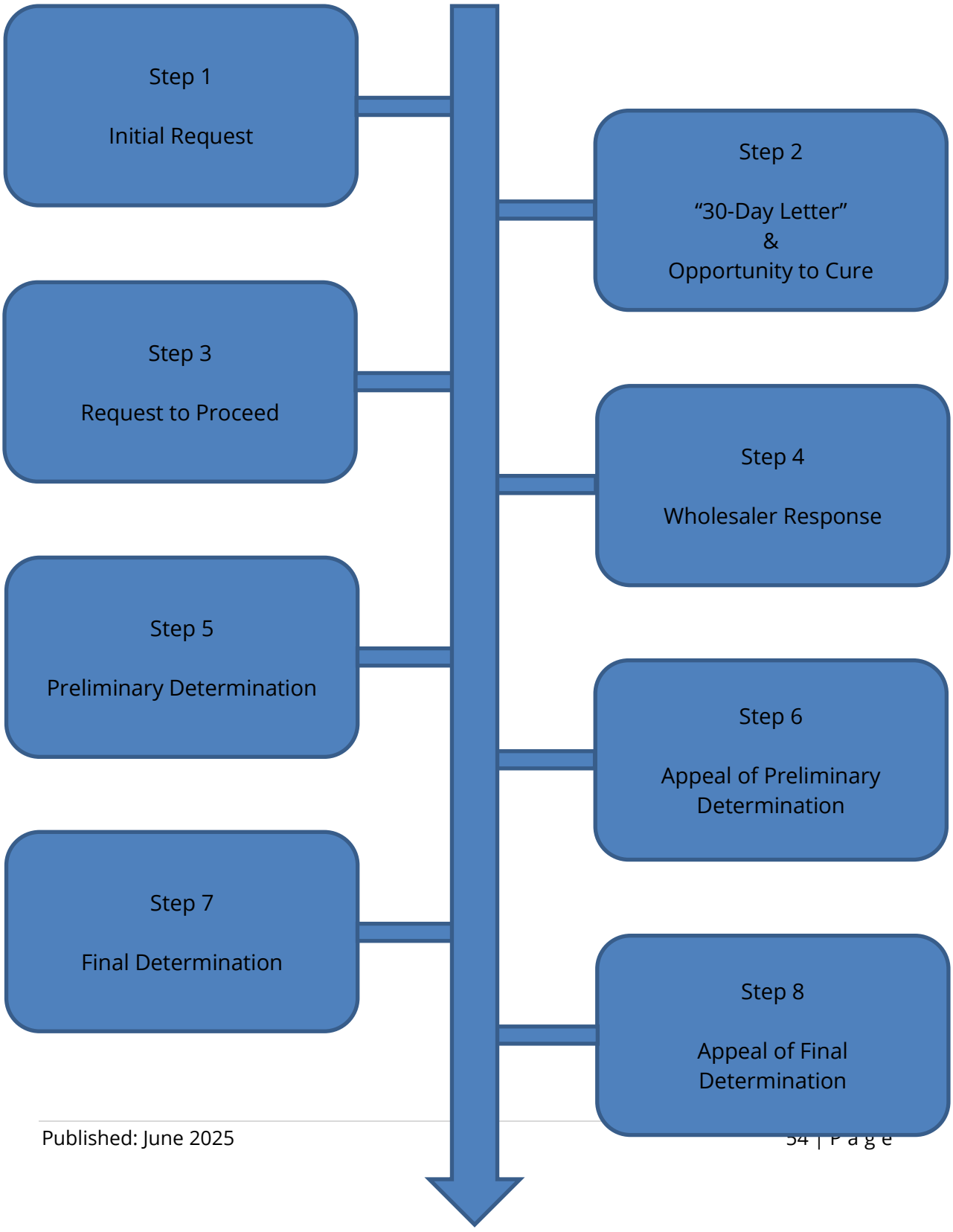
found good cause, asserted in good faith, and issued an Initial Order of Final Determination that terminated the contract on March 1, 2020. If either party seeks a reconsideration, it must do so by March 15, 2020.

## 8. Appeal of Final Determination

Parties have 60 days from entry of the final determination to file an appeal in Chancery or Circuit Court.[135] The judicial review is confined to the record established during the administrative hearing. This means that no additional evidence may be submitted during the appeal. The reviewing court may affirm the decision of the Department or remand the case for further proceedings. The court may reverse or modify the Department's decision if it determines the administrative findings, inferences, conclusions, or decisions are:

- In violation of constitutional or statutory provisions;
- In excess of the statutory authority of the agency;
- Made upon lawful procedure;
- Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or
- Unsupported by substantial and material evidence considering the entire record.

The UAPA hearing process is not required to appeal a final determination to the Chancery or Circuit Court. However, it may allow the parties to build a more complete record on which to base an appeal of a final determination. Parties may want to consider relevant standard(s) of review and the circumstances of their specific termination request proceeding when deciding whether to challenge a preliminary determination through a UAPA hearing and/or appeal a final determination in Chancery or Circuit Court.


Step 1
Initial Request
Step 2
"30-Day Letter"
&
Opportunity to Cure
Step 3
Request to Proceed
Step 4
Wholesaler Response
Step 5
Preliminary Determination
Step 6
Appeal of Preliminary Determination
Step 7
Final Determination
Step 8
Appeal of Final Determination

# Chapter 6: Liquor-by-the-Drink Tax

Tennessee has authorized the sale of alcoholic beverages, wine, and beer with high alcohol content for consumption on the premises of certain types of businesses. Sales of such alcoholic beverages for consumption on the premises are subject to Tennessee's liquor-by-the-drink tax. The businesses authorized to make sales of alcoholic beverages for consumption on the premises include[136]:

- Hotels and motels
- Commercial passenger boat companies
- Commercial passenger bus companies
- Restaurants
- Commercial airlines
- Passenger trains
- Charitable, nonprofit, or political organizations
- Tourist resorts or clubs
- Convention centers
- Historic performing arts centers
- Urban park centers
- Historic interpretive centers
- Community theaters
- Historic mansion houses
- Terminal buildings of commercial air carriers
- Zoological institutions
- Museums
- Commercial airline travel clubs
- Public aquariums or aquarium exhibition facilities
- Caterers
- Sports authority facilities
- Clubs
- Bed and breakfast establishments
- Motor speedways
- Theaters
- Paddlewheel steamboat companies
- Special historic districts (wine only)
- For-profit festival operators

- Other facilities as specified[137]

If a business sells, at retail, alcoholic beverages, wine, or high alcohol content beer for consumption on the premises, it must pay the liquor-by-the-drink tax on those sales.

> ⚠ **Sales of beer with an alcohol content of 8% by weight or less are not subject to the liquor-by-the-drink tax.**

## Authorization to Sell Alcohol for Consumption on the Premises

A business can only sell alcoholic beverages for consumption on the premises if it is located in a jurisdiction that has authorized such sales and has obtained the appropriate license from the ABC.

### 1. Local Referendum

Sales of alcoholic beverages for consumption on the premises are not allowed without prior authorization by the local government. A county or municipality must approve these sales by a referendum. If a county referendum has approved sales of alcoholic beverages for consumption on the premises, any city within that county may conduct a referendum to authorize sales for consumption on the premises within the boundaries of that municipality.[138]

### 2. ABC License

If a business is located in a jurisdiction that has approved sales of alcoholic beverages for consumption on the premises, it may apply for a license to engage in such sales from the ABC. The ABC has numerous licenses for various types of businesses. Each license type has its own eligibility requirements and annual privilege tax based on the type and size of the business. For complete licensing requirements, visit the **ABC's website**.

#### *Alcohol Delivery Licenses*

Licensed alcoholic beverage delivery services may charge a fee of not more than 10% on the price of the alcohol being delivered.[139] The licensed delivery service is not responsible for remitting the taxes otherwise due on the alcohol it delivers.

### 3. Registration with the Department

Licensees must also register with the Department before engaging in business in the state. Licensees should register for the liquor-by-the-drink tax through **TNTAP**. This registration requires that licensees also submit a price schedule and a bond.

#### *Price Schedule*

Before entering business, every liquor-by-the-drink licensee must file a price schedule of all the alcoholic beverages that it offers for sale.[140] The price schedule must include the following information:

- The number of drinks sold for each type of drink or each category of drinks with the same price and pour size or bottle ounce;
- The ounce pour by drink or bottle ounces of each item sold; and
- The sales price for that sale (including regular and special prices).

To satisfy this requirement, a licensee can either submit a report from its point-of-sale system that contains this information (such as a product mix report) or use the Department's price schedule form.

Licensees must update their price schedules at least annually. If a licensee makes any significant change to a price or pour amount listed in the schedule before the annual submission date, it should submit a new schedule.

> ⚠ **Price schedules are relied on as the basis for every liquor-by-the-drink tax audit. It is critical that liquor-by-the-drink taxpayers maintain current and accurate price schedules.**

#### *Bond Requirement*

**Effective until July 1, 2024**

Licensees must post security with the Department to ensure proper payment of taxes. This security may be in the form of a corporate surety bond, a cash deposit, or a bond secured by a certificate of deposit. For all licensees, other than restaurants selling only wine, the initial security fee is $10,000. For restaurants selling only wine, the initial security fee is $2,000. After the first three months of operations and timely submission of all required reports and returns, the licensee can submit a written request to adjust the security to four times the

average monthly tax liability of the first three months. The security amount cannot be adjusted to less than $1,000.[141] If a licensee forfeits or cancels its bond for any reason, its ABC license is automatically revoked. The Department cannot release the posted security unless all liability secured by the bond has been paid or the statute of limitations on assessment of that liability has run, whichever occurs first.[142]

**Effective beginning July 1, 2024**

Licensees must post security with the Department to ensure that tax is paid correctly. Security may be a corporate surety bond, a cash deposit, or a bond secured by a certificate of deposit. The minimum bond for all licensees, including wine-only restaurants, is $10,000.

If a licensee forfeits or cancels its bond for any reason, its ABC license is automatically revoked. The Department cannot release the posted security unless all liability secured by the bond has been paid or the statute of limitations on assessment of that liability has run, whichever occurs first.

### 4. Transfer of Business

Any person who purchases or obtains ownership of a business selling alcoholic beverages for consumption on the premises cannot sell alcoholic beverages until the business receives its license from the ABC and registers for sales and alcoholic beverage taxes with the Department. Any person making sales without doing so is operating illegally and will be held liable for the taxes on those sales.[143]

Any person who sells, transfers, or otherwise terminates ownership in a business engaged in sales of alcoholic beverages for consumption on the premises must notify the Department within 15 days of the effective sale, transfer, or termination date. This notice should be provided as part of the person's final alcoholic beverage and sales tax returns. Any person who fails to provide the required notice to the Department, with the result that the new owner continues to operate under the seller's or transferor's alcoholic beverage license, will be presumed to have allowed the illegal operation. The business must also surrender its liquor-by-the-drink license to the ABC.[144]

Any person who, upon sale or transfer of a business, allows or permits the new owner or operator to remit tax, make wholesale purchases, or conduct business in any manner using the seller's or transferor's alcoholic beverage license or tax registration will be jointly and severally liable with the new owner or operator for any unpaid taxes accrued during the period of illegal operation.

### *Transfer or Sale of Inventory upon Closing or Sale of Business*

A retailer licensed under Tenn. Code Ann. §§ 57-3-204, 57-3-803, or 57-4-101 that sells or closes its licensed establishment may sell or transfer its alcohol inventory to its purchaser or another licensed establishment.[145] Alcohol inventory may include opened and unopened containers of alcohol. The purchaser or establishment receiving the inventory must hold the same type of license held by the seller. The following requirements must be met before the completion of the inventory transfer or sale:

- The seller must provide the Alcoholic Beverage Commission and Department of Revenue with written notice at least 10 days before the sale or transfer of the inventory. The written notice must identify the person or entity receiving the inventory, the date of the sale or transfer, and the quantity, types, and brands of alcohol being sold or transferred.

- Invoices and debts relating to the alcoholic beverages or wine sold or transferred must be paid in full before the sale or transfer.

- The purchaser or transferee must be licensed before the sale or transfer is completed.

## Payment of the Tax

Anyone selling alcoholic beverages for consumption on the premises is liable for the liquor-by-the-drink tax. The tax rate is 15% of the sales price of all alcoholic beverages sold for consumption on the premises. The liquor-by-the-drink licensee collects the tax from the consumer at the time of sale and remits it to the Department.[146]

### 1. Gross Sales

The liquor-by-the-drink tax return requires that licensees report their gross sales of alcoholic beverages for consumption on the premises. A beverage's gross selling price includes the liquor-by-the-drink tax, the applicable sales tax, and mandatory tips.[147]

### *Tips*

Tips should only be included in a licensee's taxable gross sales if mandatory. However, if a tip is mandatory but there are many documented instances of deletion or reduction of the tip, the tips are non-taxable. If there are only one or two such instances of a reduction or deletion of a mandatory tip, the tips are taxable, but the licensee will be given credit for

those instances. Additionally, if a tip is mandatory in the by-laws but those by-laws permit the tip to be deleted or reduced by the customer, then the tip is not taxable as part of gross sales.[148]

Tips should not be included in a licensee's taxable gross sales if the purchaser voluntarily pays them and returns them to the service person(s).

### 2. Filing Frequency

The tax is due monthly by the 15th day of the month for sales made in the preceding month. Licensees with multiple locations must file a separate return for each place of business.[149]

The Commissioner may authorize a taxpayer to file using an accounting period other than monthly at the licensee's request. In this case, the licensee will file the return on or before the 15th day following the end of the reporting period. All other reporting requirements remain the same.

Additionally, the Commissioner may, for good cause, grant an extension of time, not to exceed 30 days, for a licensee to file the return and pay the tax due. Licensees should request the extension before the tax due date, submit it in a signed writing, and state why the extension is needed.[150]

### 3. Delinquent Returns

When a licensee fails to file a return timely or is delinquent in payment of the tax for the third time in any one-year licensing period, the Commissioner may recommend to the ABC that the licensee's liquor-by-the-drink license be revoked or suspended. It is a misdemeanor for any licensee to continue in business after revocation or suspension of the license. Each day a business operates without a license is a separate violation.[151]

If a licensee is delinquent in the payment of the tax, the Commissioner may notify, by registered mail, any person, including the ABC, that has possession or control of any credits or other personal property belonging to the delinquent licensee or owing any debts to the licensee at the time of the delinquency. If any person is notified, that person cannot dispose of those debts or properties without the approval of the Commissioner or until 30 days elapse from the receipt of the notice. Any person receiving such notice must advise the ABC of such property, credits, or debts within five days.[152]

## Inventory Deductions and Exemptions from Tax

Licensees cannot dispose of alcoholic beverages through any method other than by sale for consumption on the premises.[153] Therefore, any disposition of alcoholic beverages not excused by law will be considered a sale and taxed accordingly. For this reason, the liquor-by-the-drink tax return requires that licensees report their inventory at the beginning and end of each month. Nonetheless, licensees can deduct products from their inventory for specific reasons, such as theft, breakage, or acts of nature.[154] Upon proper proof of the following types of loss, the Department will issue a certificate to the licensee documenting the loss.

### 1. Theft

To prove a loss by theft, a licensee must provide the Department with proof that the theft was reported to law enforcement and that the insurer has paid the claim.

### 2. Breakage

To prove a loss due to breakage, a licensee must contact the Department to request a representative to view the loss as soon as possible. The licensee must demonstrate that the bottle had not been opened before the breakage, for example, showing that the seal or cork is still intact. If a product is unopened but no longer saleable, the product must be destroyed by or in the presence of a representative of the Department.

### 3. Acts of Nature

To prove a loss due to an act of nature, a licensee must contact the Department to request a representative view the loss as soon as possible.[155] The licensee must demonstrate that the bottle had not been opened before the breakage, for example, showing that the seal or cork is still intact. If a product is unopened but no longer saleable, the product must be destroyed by or in the presence of a department representative.

### 4. Alcohol Used for Cooking

Additionally, alcoholic beverages used and consumed in food preparation are exempted from a licensee's inventory of alcoholic beverages for consumption on the premises. Licensees must keep an accurate running inventory of alcoholic beverages used in food preparation, as explained above. If any portion of a bottle of wine or distilled spirits is sold by the drink for consumption on the premises, the licensee will be liable for the liquor-by-the-drink tax on the total disposition, as if the entire bottle had been sold by the drink.

### 5. Alcoholic Beverage Manufacturers

Certain sales of alcoholic beverages for consumption on the premises of alcoholic beverage manufacturers are specifically exempted from the liquor-by-the-drink tax. The following sales are exempt from the tax:

- Samples and sales of alcoholic beverages sold for consumption on the premises of a licensed distillery.
- Beginning July 1, 2025, sales of wine by the glass for consumption on the premises of a licensed winery, farm wine producer, or satellite facility.[156]
- Samples of wine for tasting, with or without charge, for consumption on the premises of a licensed winery, farm wine producer, or satellite facility.
- Retail sales in sealed containers for consumption on the premises of a licensed winery, farm wine producer, or satellite facility.[157]

### 6. Art Galleries

Art galleries that do not sell food or beverages and that receive 90% of their revenue from the sale of artwork may serve wine to patrons without a charge. These art galleries are not required to pay the liquor-by-the-drink tax on the wine they serve.[158]

### 7. Commercial Airlines, Paddlewheel Steamboats, and Passenger Trains

Commercial airlines, paddlewheel steamboat companies, and passenger trains do not pay the 15% liquor-by-the-drink tax on their sales of alcoholic beverages. Instead of the liquor-by-the-drink tax, these companies pay the wholesale gallonage tax on alcoholic beverages they bring into Tennessee at a unique rate, as described in Chapter 3.[159] [160]

### 8. Special Occasion Licensees

Charitable, nonprofit, or political organizations that hold a special occasion license and sell alcoholic beverages under that license do not owe the liquor-by-the-drink tax on those sales.[161] Please see the **ABC's website on special occasion licenses for more information.**

## Notifying Customers of the Tax

All liquor-by-the-drink retailers must indicate the sales price of alcoholic beverages on their menu.[162] Such retailers may include the liquor-by-the-drink tax in the drink's sales price

listed on the menu or the final bill. Retailers must also collect and remit state and local sales tax on their sales of alcoholic beverages for consumption on the premises. Retailers should include state and local sales tax on alcoholic beverages in the same way they include the liquor-by-the-drink tax – either in the listed drink price on the menu or on the final bill.

### 1. Menu Pricing

If a retailer chooses to include the liquor-by-the-drink and sales tax in the menu, it must state that the drink's sales price consists of these taxes.

If a retailer includes the taxes in the menu price, it will need to determine the taxable base, which is the net sales price. The net sales price is determined by backing out the liquor-by-the-drink and sales taxes. This is done by dividing the total sales price by 1.15 plus the applicable state and local sales tax rate.[163]

For example:

- A restaurant menu lists the price of a cocktail at $12, which includes both the liquor-by-the-drink and sales taxes.
- The net sales price of the cocktail is $12 ÷ (1.15 + .0925) = $9.66.
- The restaurant would then apply the liquor-by-the-drink tax rate to the net sales price to arrive at the amount of liquor-by-the-drink tax due.
- Then, the restaurant would apply the applicable sales tax rate to the net sales price to arrive at the sales tax due.

### 2. Final Bill

If a retailer chooses to include the liquor-by-the-drink tax and the sales tax on the customer's final bill and exclude the taxes from the menu pricing, it must state on the menu that a 15% liquor-by-the-drink tax and sales tax will be added to the final bill.[164]

## Recordkeeping Requirements

Licensees must maintain complete records sufficient to determine any tax due, including those listed below. Licensees must retain these records for at least four years unless the Department authorizes earlier destruction. If a licensee uses both guest checks and cash register tapes concurrently, it may destroy guest checks 60 days after the date of sale.

If a licensee does not maintain adequate and accurate records by which the Department may establish the actual tax liability, the Department is authorized to determine the tax liability from whatever information is available. An assessment made by the Department is binding and presumed accurate unless adequate records are submitted to prove otherwise.[165]

### 1. Menus

Licensees must have menus that indicate the sale prices of all alcoholic beverages and whether the price includes liquor-by-the-drink and sales taxes. Menus help verify the information reported on a licensee's price schedule and establish selling prices. However, cash register tapes will be the predominant record for determining selling prices, as those tapes show the actual prices charged to customers.

### 2. Sales records

Licensees must maintain a daily record of all sales, distinguishing between regular and special price sales. Daily cash register tapes, guest checks, or point-of-sale system reports, such as product mix reports, must support this daily sales record. Licensees should ensure that sales of alcoholic beverages at prices other than the regular sales prices listed on the price schedule are recorded on cash register tapes, guest checks, or product mix reports. If the licensee does not adequately substantiate these special price sales, all the sales will be calculated and taxed as though they were made at regular prices. Summary totals of sales not supported by cash register tapes, guest checks, or product mix reports are insufficient.

Licensees must record alcoholic beverage sales separately from any other sales, such as food sales, on a guest check. This can be done by providing a separate check for alcohol sales or recording alcohol sales on the bottom or reverse side of a check. Licensees must also separate liquor and wine sales. If the licensee uses a cash register, it must key alcoholic beverage sales separately from food, beer, and other items and key liquor and wine sales.

### 3. Purchase records

Licensees must maintain a record of all merchandise purchased for resale. These records include invoices, delivery tickets, bills of lading, and copies of purchase orders.

### 4. Inventory

Licensees must also maintain an itemized inventory statement on hand, based on brand name, size, and dollar value of alcoholic beverages, on the last day of each month. This includes a perpetual inventory record of all alcohol and wine used in cooking. Alcohol and

wine used for cooking must be stored separately from other alcoholic beverages, used exclusively for cooking purposes, and accounted for as food costs.[166]

## Purchase Markup Audit Procedure

When auditing liquor-by-the-drink licensees, the Department first looks to the licensee's price schedule to determine the average purchase markup on beverages sold based on the cost of the alcohol in the most frequently sold drinks, the amount of alcohol in those drinks and the selling price. The Department then compares the purchase markup calculated using the price schedule to the purchase markup calculated based on sales the licensee reported.

The fundamental basis for using a purchase markup audit procedure is found in TENN. COMP. R. & REGS. 1320-04-02-.06(2)(a), which states that "[i]f the sales of liquor and wine, as shown by the books of the licensee, do not bear a markup over purchases approximately the same as the average markup shown by the price schedule, the commissioner will consider the books of the licensee insufficient to show the proper tax liability."

### 1. Updating the Price Schedule

Although all liquor-by-the-drink licensees must maintain current price schedules with the Department, licensees can correct an inaccurate price schedule or submit any additional price schedules that may be required if audited by the Department. The price schedule must reflect the drink prices and pour amounts sold regularly. Any updated price schedules submitted during an audit should be signed by an authorized representative of the licensee testifying to their accuracy. A bartender cannot sign a price schedule unless he has been authorized to do so by the owner/manager. If a bartender signs a price schedule, the owner/manager must also countersign.

If a licensee has two or more price schedules for the audit period, a weighted average markup for each price schedule must be combined to arrive at a weighted average markup for the audit period.

#### *Verification of the Price Schedule*

The Department will verify the accuracy of the information reported in the price schedule, including pour size and sales price. The auditor may verify the pour sizes by observing bartenders pour drinks or by noting the size of the jiggers at the bar. The auditor may verify the sales price of drinks by looking at guest checks, cash register tapes, or product mix reports. If the prices on the price schedule differ from those on these source documents, the source document prices will prevail.

If a business requires a tip, the drink prices listed on the price schedule should include the tip in the total selling price. If this is not done, the auditor will correct the listed selling prices.

### *Calculation of Cost of Inventory*

The Department will next determine the cost of the alcohol the licensee purchased for use in making sales of alcoholic beverages. The alcohol purchases will be broken down into categories and weighted as follows:

| | Total Purchases | Percentage of Alcohol Purchased by Type |
|---|---|---|
| **High Gravity Beer** | $200 | [200/120,200] = 0.16% |
| **Liquor** | $20,000 | [20,000/120,200] = 16.64% |
| **Wine** | $100,000 | [100,000/120,200] = 83.20% |
| **Total Alcohol Purchased** | $120,200 | 100% |

## 2. Calculating the Record Markup

The auditor begins the purchase markup audit by calculating the record markup. This figure is calculated by dividing the taxpayer's gross sales by the total cost of goods sold. The taxpayer's cost of goods sold is the beginning inventory *plus* purchases, *less* ending inventory, approved inventory deductions, and cooking wine/spirits. When the taxpayer has no inventory record for the beginning audit period, the ending inventory amount should be used. However, the beginning inventory for a new business is zero.

## 3. Calculating the Schedule Weighted Markup per Guide and Working Papers

Next, the auditor calculates the schedule weighted markup per guide and working papers. To obtain this figure, the auditor will first calculate separate, weighted average schedule weighted markups per guide and working papers for the taxpayer's liquor and wine sales for the audit period.

Using the taxpayer's price schedules and/or product mix reports, the auditor will determine the most frequently sold drinks, pour amounts, and price for those drinks. The auditor will use this information to calculate one weighted average price and pour for the above alcohol categories.

The auditor first calculates the weighted price by multiplying the cost of the most frequently sold drinks by the number of those sold. Then, the auditor totals the weighted prices of the most commonly sold drinks and the number of most frequently sold drinks. Finally, the weighted prices are divided by the total number of most commonly sold drinks to arrive at the weighted average price.

The auditor calculates weighted pour by multiplying the pour amount of the most frequently sold drinks by the number of those sold. Then, the auditor totals the weighted pour amount of the most frequently sold drinks and the number of most frequently sold drinks. Finally, the total weighted pour amounts are divided by the total number of most frequently sold drinks to arrive at the weighted average pour.

Then, the auditor will obtain the weighted average schedule markup per guide and working papers for liquor drinks by dividing the weighted average price for liquor drinks by the cost per drink and multiplying the resulting figure by the percentage of liquor purchases for the audit period. The auditor will obtain the markup for glasses of wine in the same manner as liquor drinks. The auditor adds the weighted average percentage markup for liquor drinks to the markup for glasses of wine to obtain the schedule weighted markup per guide and working papers for the audit period.

### 4. Calculating the Minimum Acceptable Markup

After obtaining the schedule weighted markup per guide and working papers, the auditor calculates the minimum acceptable markup by multiplying the schedule weighted markup per guide and working papers by a minimum acceptable markup factor, which allows for estimated losses due to spillage, breakage, and theft. Generally, this factor is 85% (representing a 15% allowable deviation in the schedule weighted markup per guide and working papers). However, a factor of 80% may be used in certain circumstances where the taxpayer is deemed to have good internal controls over its liquor/wine sales reporting. Examples of sound internal controls in this area include the following:

- Drink prices are posted and taxed correctly
- The taxpayer documents losses of spillage, breakage, and theft
- Daily sales records, including product mix reports, cash register tapes, and/or guest checks, are retained
- Happy Hour sales are tracked

- Purchase records are maintained
- Itemized inventory is kept and completed frequently
- The storage of wine or spirits for food preparation is separate from that used in the bar
- Sales records appear complete and tie to returns

### 5. Comparing the Markups

The auditor will then compare the schedule weighted markup per guide and working papers with the taxpayer's record markup to determine the accuracy of the taxpayer's records. If a taxpayer does not have books that evidence a purchase markup within 15% of the average purchase markup calculated using the price schedule, the Department will consider the licensee's books insufficient to determine the amount of liquor-by-the-drink tax due.[167] If the licensee's books are inadequate, the Department calculates the purchase markup using the price schedule to determine the tax due.[168]

# Chapter 7: Mixing Bar Tax

The mixing bar tax is a gross receipts privilege tax imposed on sales of setups for mixed drinks. The tax rate is 15% of the gross receipts from all such sales of setups. The following setups for mixed drinks are subject to the mixing bar tax:

- Sales of beverages containing alcohol content;
- Sales of water, soft drinks, ice, or any item capable of being used to prepare a mixed drink at a place of business; and
- Sales of setups for mixed drinks to be consumed by persons supplying alcoholic beverages in their own container on the premises of any business that holds a license to sell alcoholic beverages for consumption on the premises.[169]

The tax applies to any such sales of setups, regardless of whether the drinks made with the setups are consumed on or off the premises.

## Who Pays the Tax

Establishments that sell mixed drinks setups and allow patrons to bring their own alcoholic beverages are responsible for paying the mixing bar tax. Examples of facilities that are subject to the tax are:

- Country clubs;
- Private clubs, such as social, dinner, athletic, or sporting clubs; and
- Fraternal societies, orders, or associations.

The mixing bar tax does not apply to:

- Sales of mixed drinks subject to the liquor-by-the-drink tax;
- Sales by licensed liquor wholesalers; or

- Sales of setups made by cafes, cafeterias, or restaurants where such sales are incidental to their primary business of selling prepared meals and where no bar or separate facility is maintained to sell mixed drinks or setups.

## Payment of the Tax

The mixing bar tax is due monthly by the 20th day of the month following any month in which the taxpayer has gross receipts from any sales of mixed drink setups. Mixing bar tax taxpayers must maintain records of all purchases and gross receipts from the sales of setups.

[1] Please note that the statutory definition of "alcoholic beverage" includes wine. However, wine is commonly listed separately throughout this manual for purposes of clarity.
[2] The Tennessee Code Annotated may be accessed for free at the following link: TN Code
[3] The Department of Revenue's alcoholic beverage and beer tax rules and regulations can be found at the following link: **https://publications.tnsosfiles.com/rules/1320/1320.htm.**
[4] The Alcoholic Beverage Commission's alcoholic beverage rules and regulations can be found at the following link: **https://publications.tnsosfiles.com/rules/0100/0100.htm.**
[5] Tenn. Code Ann. § 57-1-102.
[6] Tenn. Code Ann. §§ 57-3-301, 57-5-102.
[7] This tax may also be referred to as the "alcoholic beverage wholesaler tax."
[8] Tenn. Code Ann. §§ 57-3-303(b)(1), 57-5-206, 57-6-103(d), and 57-6-201(a).
[9] Tenn. Code Ann. § 57-3-501.
[10] Please note, Tennessee previously had a manufacturer privilege tax, but it was repealed in 2019.
[11] Tenn. Code Ann. § 57-3-101(a)(1)(A).
[12] Tenn. Code Ann. § 57-3-101(a)(9).
[13] Important Notice 19-16, Tenn. Code Ann. § 57-2-102, and Public Chapter 301 (2019).
[14] Tenn. Code Ann. § 57-3-305.
[15] Tenn. Code Ann. § 57-3-303(l).
[16] The Wine Gallonage Tax is discussed in Chapter 3.
[17] Tenn. Code Ann. § 57-3-308.
[18] Tenn. Code Ann. § 57-3-302(b).
[19] Tenn. Code Ann. § 57-3-101(a)(23).
[20] Tenn. Code Ann. § 57-3-303(a).
[21] Tenn. Code Ann. § 57-3-207(r)(6)(A).
[22] Tenn. Code Ann. § 57-3-303(a).
[23] Tenn. Code Ann. § 57-3-220.
[24] Tenn. Code Ann. § 57-3-101(24).
[25] Tenn. Code Ann. § 57-3-303.
[26] Tenn. Code Ann. § 57-3-303(k).
[27] TENN. COMP. R. & REGS. 1320-04-06-.02(4)(b).
[28] TENN. COMP. R. & REGS. 1320-04-06-.02(4)(c).
[29] TENN. COMP. R. & REGS. 1320-04-06-.02(4)(e).
[30] Tenn. Code Ann. § 57-3-303(f).
[31] TENN. COMP. R. & REGS. 1320-04-06-.03(1).
[32] Tenn. Code Ann. § 57-3-303(h)(1).
[33] Tenn. Code Ann. § 57-3-303(d).
[34] Tenn. Code Ann. § 57-3-306.
[35] Tenn. Code Ann. § 57-3-217(h).
[36] Tenn. Code Ann. § 57-3-202. This is use taxable under Tenn. Code Ann. § 67-6-203(a).
[37] Tenn. Code Ann. § 57-4-404(h)(2)(G)(i).
[38] Public Chapter 131 (2023) and Tenn. Code Ann. § 57-3-207(z).
[39] Tenn. Code Ann. § 57-6-201.

[40] Tenn. Code Ann. § 57-3-101(a)(25).
[41] Tenn. Code Ann. § 57-3-305.
[42] Tenn. Code Ann. § 57-3-303(a).
[43] Tenn. Code Ann. § 57-3-207(r)(6)(A).
[44] Tenn. Code Ann. § 57-3-207.
[45] Tenn. Code Ann. § 57-3-217(e)(1).
[46] **Important Notice # 21-04.**
[47] Tenn. Code Ann. § 57-3-220.
[48] Tenn. Code Ann. § 57-3-303.
[49] See **Important Notice 21-04** for more information.
[50] Tenn. Code Ann. § 57-3-302(a) and TENN. COMP. R. & REGS. 1320-04-06-.02(4)(d).
[51] Tenn. Code Ann. § 57-3-303(k).
[52] TENN. COMP. R. & REGS. 1320-04-06-.02(4)(b).
[53] TENN. COMP. R. & REGS. 1320-04-06-.02(4)(c).
[54] TENN. COMP. R. & REGS. 1320-04-06-.02(4)(e).
[55] Tenn. Code Ann. § 57-3-303(f) and TENN. COMP. R. & REGS. 1320-04-06-.03(1).
[56] Tenn. Code Ann. § 57-3-306.
[57] Tenn. Code Ann. § 57-3-217(h).
[58] This is subject to use tax under Tenn. Code Ann. §67-6-203(a).
[59] Tenn. Code Ann. § 57-3-207.
[60] Tenn. Code Ann. § 57-3-207(r)(1).
[61] Tenn. Code Ann. § 57-3-207(r)(6)(A).
[62] Tenn. Code Ann. § 57-3-207(r)(6)(B).
[63] Tenn. Code Ann. § 57-3-207(r)(6)(C).
[64] Tenn. Code Ann. § 57-3-217.
[65] Tenn. Code Ann. § 57-3-217(d).
[66] Tenn. Code Ann. § 57-3-217(b).
[67] Public Chapter 131 (2023). Tenn. Code Ann. § 57-3-207.
[68] Tenn. Code Ann. § 57-5-101(b) (2023). Public Chapter 236 (2023).
[69] *Id*.
[70] Tenn. Code Ann. § 57-5-103.
[71] Tenn. Code Ann. § 57-5-104.
[72] Tenn. Code Ann. § 57-3-103(a)(3).
[73] Tenn. Code Ann. § 57-5-103(d).
[74] Tenn. Code Ann. § 57-3-103(a)(6).
[75] Tenn. Code Ann. § 57-5-104(b)(1).
[76] Tenn. Code Ann. § 57-5-201(a), (c).
[77] *Id*.
[78] Tenn. Code Ann. § 57-5-203.
[79] **Ruling 16-08**.
[80] Tenn. Code Ann. § 57-5-101(c), (g).
[81] Tenn. Code Ann. 57-5-201(a).
[82] Tenn. Code Ann. § 57-5-201(a)(1).
[83] *Id*.

[84] Tenn. Code Ann. § 57-5-208.
[85] Tenn. Code Ann. § 57-5-110.
[86] *Id*.
[87] Tenn. Code Ann. § 57-5-206.
[88] Tenn. Code Ann. § 57-6-103.
[89] Tenn. Code Ann. § 57-5-203.
[90] Tenn. Code Ann. § 57-5-101(g)(4).
[91] Tenn. Code Ann. § 57-6-111.
[92] TENN. COMP. R. & REGS. 1320-04-01-.03(1).
[93] *Id*.
[94] *Id.*
[95] Tenn. Code Ann. § 57-6-109(a).
[96] Tenn. Code Ann. § 57-6-109(b).
[97] TENN. COMP. R. & REGS. 1320-04-01-.10.
[98] Tenn. Code Ann. § 57-6-110.
[99] Tenn. Code Ann. § 57-6-104(f).
[100] Tenn. Code Ann. § 57-6-104(e).
[101] Tenn. Code Ann. § 57-6-104(f).
[102] Tenn. Code Ann. § 57-6-104(d).
[103] Tenn. Code Ann. § 57-6-104(a)-(b).
[104] Tenn. Code Ann. § 57-6-104(c).
[105] *Id*.
[106] *Id*.
[107] Tenn. Code Ann. § 57-6-104(c)(4).
[108] Tenn. Code Ann. § 57-6-107.
[109] Tenn. Code Ann. § 57-6-105.
[110] Tenn. Code Ann. § 57-6-106.
[111] Tenn. Code Ann. § 57-6-107(b).
[112] Tenn. Code Ann. § 57-5-101(c)(1)(A).
[113] Public Chapter 816 (2022).
[114] Tenn. Code Ann. § 57-5-101(g).
[115] *Id.*
[116] Tenn. Code Ann. § 57-5-101(g)(5).
[117] Tenn. Code Ann. § 57-5-101(c)(1)(B)(i).
[118] Tenn. Code Ann. § 57-5-101(c)(1)(B)(ii).
[119] Tenn. Code Ann. § 57-5-402.
[120] Tenn. Code Ann. § 57-5-404.
[121] Tenn. Code Ann. § 57-5-401.
[122] Tenn. Code Ann. § 57-4-405.
[123] Tenn. Code Ann. § 57-5-407.
[124] Tenn. Code Ann. § 57-5-409(c).
[125] Tenn. Code Ann. § 57-5-410.
[126] Tenn. Code Ann. § 57-3-301. Public Chapter 324 (2021) requires the Department of Revenue to include the following information in the alcoholic beverage brand registration

database: manufacturer/importer name, wholesaler name, addresses for both entities, brand names, and distribution territories. This public chapter also requires the Department to notify the applicable manufacturer and wholesaler when a new brand registration contract is processed.

[127] Tenn. Code Ann. § 57-3-301(a).
[128] Tenn. Code Ann. § 57-3-301(c)-(d).
[129] TENN. COMP. R. & REGS. 1320-04-06-.07.
[130] Tenn. Code Ann. § 57-3-301(e).
[131] TENN. COMP. R. & REGS. 1320-04-06-.07(c)(1).
[132] TENN. COMP. R. & REGS. 1320-04-06-.07(c)(2).
[133] Tenn. Code Ann. § 57-3-301(e).
[134] Tenn. Code Ann. § 4-5-317.
[135] Tenn. Code Ann. § 4-5-322.
[136] Tenn. Code Ann. § 57-4-101.
[137] *Id*.
[138] Tenn. Code Ann. § 57-4-103.
[139] Public Chapter 185 (2021). Tenn. Code Ann. § 57-3-224.
[140] TENN. COMP. R. & REGS. 1320-04-02-.05.
[141] TENN. COMP. R. & REGS. 1320-04-02-.02.
[142] *Id*.
[143] TENN. COMP. R. & REGS. 1320-04-02-.08.
[144] Tenn. Code Ann. § 57-4-303.
[145] Public Chapter 76 (2021). Tenn. Code Ann. §§ 57-3-204, 57-3-803, and 57-4-101.
[146] Tenn. Code Ann. § 57-4-302.
[147] TENN. COMP. R. & REGS. 1320-04-02-.01(7).
[148] *Memphis County Club v. Tidwell*, 503 S.W.2d 919 (Tenn. 1973).
[149] Tenn. Code Ann. § 57-4-302(4).
[150] Tenn. Code Ann. § 57-4-304(a).
[151] Tenn. Code Ann. § 57-4-304(b).
[152] Tenn. Code Ann. § 57-4-305.
[153] TENN. COMP. R. & REGS. 1320-04-02-.04(1).
[154] TENN. COMP. R. & REGS. 1320-04-02-.04(2).
[155] TENN. COMP. R. & REGS. 1320-04-02-.04(2)(b).
[156] Public Chapter 477 (2025).
[157] Tenn. Code Ann. §§ 57-3-202(i)(5), 57-3-207(r)(6)(C), and 57-3-207(t). Pub. Ch. 477 (2025).
[158] Tenn. Code Ann. § 57-4-105.
[159] Tenn. Code Ann. § 57-4-301(d).
[160] Please note that Pub. Ch. 926 (2024), which authorized commercial passenger bus companies to sell alcoholic beverages and beer, did not exempt commercial passenger bus companies from collecting the 15% liquor-by-the-drink tax.
[161] Tenn. Code Ann. § 57-4-301(e).
[162] TENN. COMP. R. & REGS. 1320-04-02-.06(1).
[163] Important Notice 18-02.
[164] Tenn. Code Ann. § 57-4-301(c)(2).

[165] TENN. COMP. R. & REGS. 1320-04-02-.06(5).
[166] TENN. COMP. R. & REGS. 1320-04-02-.04(3).
[167] TENN. COMP. R. & REGS. 1320-04-02-.06(2)(a).
[168] *Benevolent Protective Order of Elks, Lodge No. 1279 v. Olsen*, 669 S.W.2d 654 (Tenn. 1984); *Benevolent Protective Order of Elks, Lodge No. 1279 v. Olsen*, 669 S.W.2d 654 (Tenn. 1984); *Ace of Clubs v. Huddleston*, 872 S.W.2d 679 (Tenn. Ct. App. Aug. 4, 1993).
[169] Tenn. Code Ann. § 67-4-410.