
TITLE 4 ALCOHOLIC BEVERAGES AND MARIJUANA

DELAWARE ADMINISTRATIVE CODE

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DEPARTMENT OF STATE

OFFICE OF THE ALCOHOLIC BEVERAGE CONTROL COMMISSIONER

400 Taxation

401 (Formerly Rule 8) A Rule Governing Taxes Paid on Wine, Cider, Spirits, and Beer Entering the State of Delaware

1.0 Definitions

"Commissioner" means the Delaware Alcoholic Beverage Control Commissioner or Designee, the Division of Revenue.

"Importer" means wholesaler.

"Port of Entry" means the initial place, airport, common carrier terminal, or supply point for final distribution and delivery to the individual's home within Delaware.

"Purchases" means when the merchandise has been unloaded on the premises of the licensee and receipt acknowledged by signing the way bill.

"Wine, Cider, Spirits, Beer" means all alcoholic liquor to include bond alcohol as well as non-bond alcohol.

2.0 Reporting Procedures for the Shipment of Wine, Cider, Spirits, and Beer into the State of Delaware

2.1 Licensed Importers:

2.1.1 Each licensed importer, when placing an order with a supplier, shall mail or electronically transmit directly to the supplier a true copy of the numbered purchase order showing the quantity, variety and size of container for each alcoholic liquor ordered. These purchase orders are to be provided on demand when requested by the Commissioner.

2.1.2 Each licensed importer, shall record for the Commissioner by the close of business on the last calendar day of the month all purchases of wines, cider, spirits, and beer. This report shall show the importer purchase order number, supplier invoice number, amount of cases, exact gallonage for wine, cider, and spirits, and exact barrelage for beer. Each page shall be sub-totaled, except the last page, which shall show a grand total. This report shall be submitted to the Commissioner by the last business day following the last calendar day of the reporting month, except for the month of May. The May report will be due by the 15th of June.

2.1.3 If there is a variance between the supplier sales report in 2.2.1 below and the importer purchases report in 2.1.2 above, a full explanation will be required from both the supplier and the importer and a fine can be imposed on that supplier and/or importer.

2.2 Licensed out-of-state suppliers:

2.2.1 Each licensed supplier shall record for the Commissioner by the close of business on the last calendar day of each month all shipments of wine, cider, spirits, and beer into Delaware. This report shall be submitted to the Commissioner by the fifteenth day following the last calendar day of the reporting month. This report shall show the supplier invoice number, the importer purchase order number, date shipment was made or sent, number of cases and/or barrels and total amount in gallons or in barrelage, or both. This report shall have attached any credit invoices and/or memos issued for returns or transfers relating to the Delaware importer for that month. This information must be in the same form as stated above in this paragraph. A fine can be imposed on that supplier for failure to send any credit invoices and/or memos. If there were not any shipments made to Delaware, then the report must state "NO SHIPMENTS FOR THE MONTH OF". If the supplier does not send the monthly report, a fine can be imposed by the Commissioner on that supplier. If the purchase order number does not appear on the report or correspond with the importer purchase order number, then a fine can be imposed on that supplier and/or the importer.

2.2.2 Although it is not required that sales invoices be sent with the supplier's monthly report, sales invoices are to be provided on demand when requested by the Commissioner.

3.0 Procedures for Tax Payments and Tax Credits

3.1 Tax Payments Due From Importers:

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3.1.1 Tax due the state of Delaware on the purchases reported in subsection 2.1.2 above, shall be verified, computed, and paid by cash, money order, or check by the last business day of the calendar month in which it is required to be reported except for the month of May. The May tax payment must be paid by the fifteenth day of June, and if the date falls on a Saturday or Sunday, the next business day of the calendar month.

3.1.2 Any beer, spirits, wines or cider on which the Delaware tax has not been paid in accordance with this rule shall be seized by DATE.

3.2 Tax Credits:

3.2.1 Tax credits for transfers, returns, breakage, and sales to federal instrumentalities must be taken in the month that they occur. Claims for tax credits must be presented to the Commissioner on "DELAWARE IMPORTERS TAX CREDIT REPORT", and must include copies of invoices or other documentation verifying each claimed credit. These reports must be filed with the "CERTIFIED STATEMENT OF WINES, CIDER, SPIRITS, AND BEER PURCHASES REPORT" due on the last business day following the last calendar day of the reporting month. No pre-approval is required in order to take a credit against taxes due, provided that the importer fully complies with the above reporting requirements and stipulations set forth below:

3.2.1.1 Transfers and Returns: The Delaware importer will list each transfer/return on the monthly Tax Credit Report and attach an invoice showing the brand, size, type and the amount of alcoholic liquor shipped in gallons or barrelage.

3.2.1.2 Breakage: Tax credit on breakage requires a verification memorandum from the importer to the common carrier, which must be submitted with the monthly Tax Credit Report. No credit will be allowed on less than full case lots; and, should continuous breakage occur, a penalty equal to 150 percent of the importers cost shall be levied against the supplier. No tax credit shall be allowed for post delivery breakage.

3.2.1.3 Sales of Beer to Federal Instrumentalities: The Delaware importer will list all sales of beer to an instrumentality of the Armed Forces of the United States on the monthly Tax Credit Report. Copies of invoices must be attached showing the brand, size, type and the amount in gallons or barrelage of beer shipped.

3.2.2 All tax credits are subject to verification by the Commissioner, and will be disallowed if the proper documentation is not submitted with the monthly "DELAWARE IMPORTERS TAX CREDIT REPORT".

4.0 A Guideline for Metric Gallonage Conversion Tables

4.1 To ensure that all liquor excise taxes are determined in a uniform manner, the use of a standard conversion table for commonly used container sizes of spirits and wines based upon the conversion factors used by the U.S. Department of Treasury is to be used.

4.2 The official factor for spirits is one liter = .26417 gallons.

4.3 The Delaware tax in 4 Del.C. §581, for beer provides a per barrel (31 U.S. gallons) tax computation.

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