

Excise Duty Memoranda Series

4.4.1 Losses of Wine

April 2004

Overview	This memorandum explains the application of the <i>Excise Act, 2001</i> (the “Act”) to losses of wine. It also provides information on where these losses must be reported on an excise duty return.
Disclaimer	The information in this memorandum does not replace the law found in the Act and its Regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its Regulations, or contact any Canada Revenue Agency (CRA) tax services office for additional information.
[Proposed amendments]	This memorandum reflects proposed amendments to the Act announced by the Minister of Finance on June 24, 2003. [Where information reflects proposed amendments, the information is enclosed in square brackets.] Any commentary in this memorandum should not be taken as a statement by the CRA that such amendments will in fact be enacted in their current form.

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General

- Excise duty relieved
1. The Act provides for relief from excise duty where wine is lost in certain circumstances. This relief may be available to wine licensees, licensed users, and excise warehouse licensees.



La version française de ce document est intitulée *Pertes de vin*.

 Canada Revenue Agency Agence du revenu du Canada



4.4.1 Losses of Wine

2. Additional information concerning these types of licensees is available in Excise Duty Memoranda 4.1.1, *Producers and Packagers of Wine*, 3.1.2, *Licensed Users*, and 8.1.1, *Excise Warehouses*.

Losses of bulk wine

Person no longer responsible para 118(e)

3. A person who is responsible for bulk wine ceases to be responsible if it is lost and the loss is recorded in a manner authorized by the CRA. As a result, the person will not be liable for excise duty on the wine.

Meaning of "responsible" s 2

4. "Responsible", in relation to a person, means the person responsible for bulk alcohol in accordance with sections 104 to 121 of the Act. The person responsible for bulk wine is generally the wine licensee or licensed user who owns the wine, or who last owned it, or, where the wine was never owned by a wine licensee or licensed user, the wine licensee who produced or imported it, or the licensed user who imported it.

5. Examples of losses of bulk wine include those due to shrinkage by evaporation and those incurred in manufacturing activities (e.g., fortifying, racking and aging), handling processes and in the physical transfer of wine between licensees (licensees include wine licensees and licensed users) or between a licensee and an alcohol registrant. Losses of bulk wine may also occur as a result of fire or spillage.

Contacting the CRA

6. All material losses should be reported to the licensee's Regional Excise Duty office. Additional information concerning regional offices is available in Excise Duty Memorandum 1.1.2, *Regional Excise Duty Offices*.

Substantiating losses

7. To substantiate any loss of bulk wine, a licensee's books and records should contain the following information:

- (a) the reason for the loss;
- (b) the quantity of the loss;
- (c) the time and date of the loss; and
- (d) any other information relevant to the loss.

Losses of packaged wine other than in prescribed circumstances

Excise duty payable s 138

8. Excise duty is payable on non-duty-paid packaged wine if the excise warehouse licensee or licensed user who received it cannot account for it:

- (a) as being in the licensee's excise warehouse or the licensed user's specified premises;
- (b) [in the case of a small wine licensee (i.e., one whose sales of wine are not more than 60,000 litres in their previous fiscal year), as being on consignment in a retail store operated on behalf of two or more small wine licensees, and that is not on a wine licensee's premises;]
- (c) as being removed, used or destroyed in accordance with the Act; or
- (d) as having been lost in prescribed circumstances (refer to paragraph 12 of this memorandum).

- Timing of liabilities 138(2)
9. Excise duty is payable by the excise warehouse licensee or licensed user at the time the wine cannot be accounted for.
10. Additional information on the imposition and payment of excise duty on wine will be available in Excise Duty Memorandum 4.2.2, *Imposition and Responsibility for Excise Duty on Wine*.

Losses of packaged wine in prescribed circumstances

- Excise duty relieved para 138(1)(c)
11. Excise duty is not payable on packaged wine received by an excise warehouse licensee or a licensed user if the wine is lost in prescribed circumstances and the person fulfils any prescribed conditions. These circumstances and conditions are prescribed in the *Losses of Bulk Spirits and Packaged Alcohol Regulations* (the “Regulations”).
- Losses of Bulk Spirits and Packaged Alcohol Regulations* s 3
12. The circumstances prescribed by Regulation relating to packaged wine are losses through breakage where:
- (a) at the time of the breakage, the wine was in its original unopened container(s) in an excise warehouse, or in the specified premises of a licensed user, and the warehouse licensee or licensed user keeps records that substantiate the breakage; or
- (b) the breakage occurred during a physical transfer of the packaged wine between excise warehouses or between an excise warehouse and the specified premises of a licensed user.

Reporting

- Losses of bulk wine
13. All losses of bulk wine should be reported on a person’s applicable monthly return as follows:
- B265, *Excise Duty Return – Wine Licensee*: on page 2 under “Reduction to Bulk Inventory – Non-Duty-Paid (Specify)”. Specify the reason for the loss and the quantity lost.
 - B263, *Excise Duty Return – Licensed User*: on page 3 under “Reductions to Inventory / Other uses (Specify)”. Specify the reason for the loss and the quantity lost.
- Losses of packaged other than in prescribed circumstances
14. Losses of packaged wine that cannot be accounted for as having been incurred in prescribed circumstances should be reported on a person’s applicable monthly return as follows:
- B262, *Excise Duty Return – Excise Warehouse Licensee*: on page 3 under “Reductions to Inventory: Duty-Paid / Other (Specify)”. Specify the reason for the loss and the quantity lost. Include the excise duty payable on this loss on line 7, 8 or 9 of page 1 of the return.
 - B263, *Excise Duty Return – Licensed User*: on page 3 under “Reductions to Inventory / Other uses (Specify)”. Specify the reason for the loss and the quantity lost. Include the excise duty payable on this loss on line 6, 7 or 8 of page 1 of the return.

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Losses of packaged wine in prescribed circumstances

15. Losses of packaged wine accounted for as having been incurred in prescribed circumstances should be reported on a person's applicable monthly return as follows:

- B262, *Excise Duty Return – Excise Warehouse Licensee*: on page 3 under “Reductions to Inventory: Non-Duty-Paid / Breakage”. Specify the quantity lost.
- B263, *Excise Duty Return – Licensed User*: on page 3 under “Reductions to Inventory / Other uses (Specify)”. Specify the reason for the loss (i.e., breakage) and the quantity lost.

Maintaining records and filing returns

Keeping records ss 206(1)

16. Every licensee and/or registrant under the Act is required to maintain all records that are necessary to determine whether they are in compliance with the Act.

17. The failure by a licensee and/or registrant to adequately account for wine lost while in their possession may result in an assessment or enforcement action, as provided for in the Act.

18. Additional information on the requirement to maintain books and records is available in Excise Duty Memorandum 9.1.1, *General Requirements for Books and Records*.

Offences and penalties

Failure to comply

19. If a person fails to comply with the restrictions of their licence or registration, they may be guilty of an offence or subject to a penalty under the Act.

Enforcement Part 6

20. Additional information on offences and penalties will be provided in Excise Duty Memoranda 4.9.1, *Wine-Related Offences and Penalties*, and 12.9.1, *Administrative Offences and Penalties*.

All of the memoranda in the Excise Duty Memoranda Series will be available on the CRA Web site at <http://www.ccra-adrc.gc.ca/tax/technical/act2001-e.html>