

# Excise Duty Memoranda Series

## 4.1.1 Producers and Packagers of Wine

June 2003  
Revised May 2005\*

### Overview

The *Excise Act, 2001* (the “Act”) requires a person to obtain a wine licence in order to produce or package wine. This memorandum provides an overview of the obligations and entitlements of persons who may become wine licensees.

### 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.

\* Revised paragraphs are indicated with a side bar in the margin

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La version française de ce document est intitulée *Producteurs et emballeurs de vin*.



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

### Requirement for a wine licence

- Wine licence para 14(1)(b)
1. A wine licence authorizes a person (i.e., a “wine licensee”) to produce or package wine in Canada. A wine licensee is also permitted to import, export or transport wine.
- Meaning of “wines” s 2
2. “Wine” means:
- (a) a beverage, containing more than 0.5% absolute ethyl alcohol by volume, that is produced without distillation, other than distillation to reduce the absolute ethyl alcohol content, by the alcoholic fermentation of
- an agricultural product other than grain,
  - a plant or plant product, other than grain, that is not an agricultural product, or
  - a product wholly or partially derived from an agricultural product or plant or plant product other than grain;
- (b) sake; and
- (c) a beverage described above that is fortified to not more than 22.9% absolute ethyl alcohol by volume.
3. Definitions of other terms found in the Act and its Regulations that relate to the production and packaging of wine will be available in Excise Duty Memorandum 1.3.1, *Definitions*.
- Prohibition – production and packaging of wines s 62(1)
4. A person is prohibited from producing and packaging wine except in accordance with a wine licence issued to that person, other than the exceptions noted in paragraph 11 of this memorandum.
- Meaning of “produce” s 2
5. To “produce” wine means any activity that brings wine into existence by fermentation. Accordingly, in all cases, a person who initiates the fermentation process will be considered to be the producer of the wine.
- When is wine produced ?
6. For excise duty purposes, wine will be considered produced at the point it has completed initial fermentation. At that time, wine licensees should determine the volume of the wine produced and report that amount on their monthly form B265, *Excise Duty Return – Wine Licensee*, under the section “Additions to Bulk Inventory”, on the line Produced in the month.
- Meaning of “packaged” s 2
7. To package wine means to place it into a container with a capacity of not more than 100 litres that is ordinarily sold to consumers without being further repackaged into smaller containers. Packaging wine also includes placing it into a marked special container.
- Meaning of “mark” and “special container” s 2
8. A marked special container, in respect of wine, is a container with a capacity of more than 100 litres marked in a prescribed form and manner to indicate that the container is intended for delivery to and for use at a bottle-your-own premises.

## Small wine producers

- Small producers ss 135(2)
9. The Act provides for the relief of excise duty imposed on wine that is produced and packaged by a person who qualifies as a small producer.
- Wine licence required para 14(1)(b)
10. A person who qualifies as a small producer of wine is still required to obtain a wine licence and to fulfil all of the obligations associated with holding that licence, except for the remittance of duty.
11. Additional information on the requirements and obligations of small producers is provided in Excise Duty Memorandum 4.1.2, *Small Producers of Wine*.

## Wine licence not required

- Exceptions to the requirement for a wine licence ss 62(2)
12. The requirement to obtain a wine licence to produce or package wine in Canada does not apply to:
- the production of wine by individuals for their personal use, or the packaging of such wine by the individuals;
  - the packaging of wine from a marked special container by a purchaser at an authorized bottle-your-own premises.
- Meaning of “personal use” s 2
13. “Personal use”, in relation to the use of wine, means that the wine is produced by an individual and is used by that individual or by others at the individual’s expense. It does not include the sale or other commercial use of the wine. The production of wine by an individual may take place at a residence or at a ferment-on-premises facility.
14. Additional information relating to ferment-on-premises facilities is available in Excise Duty Memorandum 4.1.3, *Ferment-On-Premises Registrants*.
- Meaning of “bottle-your-own premises” s 2
15. A “bottle-your-own premises” means premises that are authorized under provincial legislation to supply alcohol from a marked special container for the purpose of being packaged by a purchaser of alcohol.
16. Additional information on the marking of special containers will be available in Excise Duty Memorandum 4.8.1, *Special Containers of Wine*. Additional information on the blending of wine with spirits is available in Excise Duty Memorandum 3.1.2, *Licensed Users*.

## Obtaining a wine licence

17. Instructions and requirements for obtaining a wine licence are provided in Excise Duty Memorandum 2.2.1, *Obtaining and Renewing a Licence*.

## Obtaining other licence types

18. Depending upon the activities of a wine licensee, the licensee may be required to possess other types of licences. For example, a wine licensee may require an excise warehouse licence, a spirits licence, or a user’s licence.

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Excise warehouse licence  
s 14, ss 135(3) and s 136

19. A wine licensee who wishes to defer the payment of excise duty after packaging wine will be required to possess a separate excise warehouse licence to store non-duty-paid packaged wine. An excise warehouse licence allows a wine licensee to defer the payment of excise duty until such time as the packaged wine is removed from the excise warehouse.

20. Additional information on the types of licences a person may be required to have to perform certain activities regulated under the Act is available in Excise Duty Memorandum 2.1.1, *Licence Types*.

### Possession and transportation of wine

Bulk wine  
ss 70(2)

21. The possession of bulk wine is strictly controlled under the Act. Wine licensees may transport bulk wine if they produced or imported it. In other situations, a person who holds an alcohol registration may also transport bulk wine on behalf of a wine licensee.

Possession of non-duty-paid wine  
ss 88(2) and (3)  
*Regulations Respecting the Possession of Non-Duty-Paid Packaged Alcohol*

22. A person prescribed by Regulations may transport non-duty-paid packaged wine. This includes a person who is authorized by Customs to transport imported packaged alcohol that has been reported to Customs, or any person who has acceptable documentation showing that they are transporting wine on behalf of another person as prescribed in the Regulations.

23. Additional information relating to the possession and transportation of wine will be available in Excise Duty Memoranda 4.2.1, *Possession and Transportation of Wine*.

### Imposition and rates of excise duty

Imposition – bulk wine  
ss 134(1) and (2)

24. Excise duty is imposed on bulk wine that is taken for use. It is payable at the time the wine is taken for use by the wine licensee who is responsible for the bulk wine at that time.

Responsibility for bulk wine  
s 113 and 115

25. Generally, the licensee responsible for bulk wine is the wine licensee who owns the bulk wine. If a wine licensee does not own the bulk wine, then responsibility rests with the wine licensee who last owned it, imported or produced it.

Exception – bulk wine  
ss 134(3)

26. Excise duty is not imposed on bulk wine produced by an individual for their personal use and that is consumed in the course of that use.

Imposition – packaged wine  
s 135

27. Excise duty is imposed on wine that is packaged in Canada at the time the wine is packaged. It is payable at that time by the wine licensee who was responsible for the bulk wine, unless the wine is entered into an excise warehouse immediately after packaging.

Exception – packaged wine  
ss 135(2)

28. Excise duty is not imposed on wine produced and packaged:

- by individuals for their personal use; or
- by a small producer (refer to paragraphs 9 to 11 of this memorandum).

- Payment – removal from warehouse ss 136(1)
29. Excise duty is payable on packaged wine that is removed from an excise warehouse for entry into the duty-paid market by the excise warehouse licensee at the time of its removal.
- Exception – Removals for consignment sales ss 136(2)
30. [A small wine licensee may remove packaged wine they produced or packaged from their own excise warehouse for delivery and sale on a consignment basis to a retail store. The retail store must not be located on the premises of a wine licensee and must be operated on behalf of two or more small wine licensees. For consignment sales, the wine is deemed to be removed from the excise warehouse for entry into the duty-paid market at the time the wine is sold. Therefore duty would be payable by the licensee at the time wine is sold.]
- Meaning of “small wine licensee” ss 136(3)
31. [A wine licensee is a small wine licensee during a fiscal year of the licensee if, in the previous fiscal year, the total amount of wine sold by the licensee did not exceed 60,000 litres.]
- Duty not payable – wine samples ss 147(4)
32. [Duty is not payable on non-duty-paid packaged wine, other than wine contained in a marked special container, that is removed from the excise warehouse of the wine licensee who produced or packaged the wine if the wine is to be provided free of charge to individuals as a sample consumed at the premises where the licensee produces or packages wine.]
33. Additional information on the imposition of excise duty will be available in Excise Duty Memorandum 4.2.2, *Imposition and Responsibility for Excise Duty on Wine*.
- Rates of excise duty s 134 and 135 Schedule 6
34. The rates of excise duty applicable to wine are:
- wine containing not more than 1.2% absolute ethyl alcohol by volume – 0.0205 per litre;
  - wine containing more than 1.2% but not more than 7% absolute ethyl alcohol by volume – \$0.2459 per litre; and
  - wine containing more than 7% absolute ethyl alcohol by volume – \$0.5122 per litre.
35. Additional information on the rates of excise duty will be available in Excise Duty Memorandum 1.5.1, *Rates of Excise Duty*.

### Maintaining records and filing returns

- Keeping records ss 206(1)
36. Every person who possesses a licence under the Act is required to maintain all records that are necessary to determine whether they are in compliance with the Act.
37. 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*.

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Filing returns  
ss 160(1)

38. Every wine licensee is required to file form B265, *Excise Duty Return – Wine Licensee*, in respect of each fiscal month, and to calculate and remit any excise duty payable on that return. A licensee who possesses more than one licence will be required to file a separate return for each licence. For example, a wine licensee who also possesses an excise warehouse licence will be required to file a separate return for each licence type.

Fiscal month  
ss 159(1)

39. Where a licensee has determined a fiscal month for GST/HST purposes, the same fiscal month applies for purposes of excise duty. Where such a fiscal month has not yet been determined, a person may choose a fiscal month using established GST/HST rules, or use a calendar month.

Branches or divisions  
ss 164(1)

40. Where a wine licensee has branches or divisions with distinct operations under a wine licence, the licensee may apply to the Minister for authority to file separate returns for each branch or division.

41. Additional information with respect to the filing of monthly returns, remitting excise duty and paying the correct amounts of excise duty is available in Excise Duty Memorandum 10.1.1, *Returns and Payments*. Information relating to the amounts to be included on an excise duty return contained in Excise Duty Memorandum 10.1.6, *Completing an Excise Duty Return – Wine Licensee*.

### Debts and the collections process

Debts  
ss 284(1)

42. Excise duty and other amounts payable under the Act are debts due to the Crown and may be recovered through the court process or in any manner provided under the Act.

Reminder notice

43. A wine licensee who owes excise duty or is late filing returns may receive a notice or a telephone call from a CRA official as a reminder of their obligation to pay past due excise duty or file outstanding returns.

### Offences and penalties

Enforcement  
Part 6

44. Information on offences and penalties will be provided in Excise Duty Memorandum 11.2.1, *Offences and Penalties*.

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