

# **Federal Wine Regulations**

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WHAT IS  
ALCOHOL & TOBACCO  
TAX and TRADE BUREAU?

OR  
TTB?

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- Regulations
- Forms
- Industry Circulars
- Frequently Asked Questions
- Information about the agency

# **What is TTB's role in regulating the wine industry?**

1. Qualifying bonded wineries, bonded wine cellars, taxpaid wine bottling houses, importers of wine, and wholesalers of wine.
2. Protecting the revenue.
3. Ensuring consumer protection.
4. Ensuring fair trade practices.

# **What is the Investigator's role in regulating the wine industry?**

1. Conducting application investigations sent to the field to qualify new industry members.
2. Conducting tax compliance audits to protect the revenue.
3. Conducting FAA investigations to ensure fair trade practices in the industry.
4. Supervising destructions of wine when required.
5. Assisting industry members in understanding applicable laws and regulations.
6. Assisting industry members in achieving compliance with federal laws and regulations, record keeping requirements, and satisfying tax liabilities.

# **Wine Industry Operations Regulated by TTB**

- Bonded Wine Premises
- Premises established for Taxpaid Wine Operations
- Alternations
- Importing Wine
- Wholesaling Wine
- Using wine in distilled spirits products for flavoring and/or Brandy production

# **Internal Revenue Code**

## **Title 26 USC**

The IRC sets the tax rates and authorizes TTB to protect the revenue. The revenue is the income from taxes. We protect it by making sure you have adequate equipment and security to prevent loss or theft of wine before the tax is paid and by requiring you to register and bond your plant and maintain records and file reports.

# **Federal Alcohol Administration Act**

## **Title 27 USC**

The FAA Act was passed at the end of Prohibition to protect the newly legalized alcoholic beverage industry from unfair trade practices and to protect consumers from deceptive labeling and advertising. Anyone who wants to wholesale, import or produce and sell alcoholic beverages must qualify for a permit under the FAA Act and obtain prior approval for labels.

# REGULATIONS

- Regulations implementing the IRC are codified in Title 27 of the Code of Federal Regulations (CFR) as Part 24 Wine Regulations.
- Regulations implementing the FAA Act as it relates specifically to wine are also codified in Title 27.
- Part 4, Wine Labeling and Advertising, and Part 9, American Viticulture.

In Addition:

- Part 1, Basic Permit Requirements.
- Parts 6,8,10,11, Trade practice provisions that apply to all alcohol beverage industry members under the purview of the act.

# **Classifications of Wine**

There are four kinds of wine under the IRC

27 CFR 24.175

## **Natural Wine**

- Includes grape, fruit, specially sweetened natural wine, and effervescent.
- No formula is required to produce these wines.

## **Special Natural Wine**

- Flavored wine made on bonded premises from a base of natural wine.
- A formula is needed for these wines.

# Classifications of Wine (cont.)

## **Agricultural Wine**

- May be produced on bonded wine premises from suitable agricultural products other than the juice of fruit. (raisins, honey).
- A formula is needed for these wines.

## **Other than Standard Wine**

- High fermentation wine
- Heavy bodied blending wine
- Blending Sherry
- Wine/Wine Products not for beverage use
- Distilling Material
- Vinegar Stock

# **There are nine classes of wine under the FAA Act 27 CFR Part 4**

- Grape Wine
- Sparkling Grape Wine
- Carbonated Grape Wine
- Citrus Wine
- Fruit Wine
- Wine from other Agricultural Products
- Aperitif or other than standard wine
- Imitation and substandard wine
- Retsina Wine

# NOTE

FAA regulations cover standards of identity that are applicable to the labeling and advertising of wine. It is important to remember that all of the classes and types of wine under the FAA Act are beverage wines, but not all of the kinds of wine under the IRC are beverage wines.

# **BONDED WINERIES, BONDED WINE CELLARS, & BONDED WINE WAREHOUSES**

- Bonded Wineries conduct operations involving untaxpaid wine.
  - **Production**
  - **Storage**
  - **Processing**
- Bonded Wine Cellars do not produce.
- Bonded Wine Warehouses store wine for credit purposes on bonded wine premises.

# Qualification Requirements for a Bonded Winery

- Application to Establish and Operate Wine Premises Form 5120.25
- Application for an FAA Act Basic Permit Form 5100.24
- Wine Bond Form 5120.36
- Environmental forms
- Evidence of signature authority
- Statement that trade name(s) was/were registered
- Payment of Special Occupational Tax (SOT)
- Organizational Documents
- Description of the Premises

# Requirements for a Bonded Wine Cellar

- Application to Establish and Operate Wine Premises Form 5120.25
- Personnel Questionnaire
- Wine Bond
- Evidence of Signature Authority
- Statement that trade name(s) was/were registered
- Payment of Special Occupational Tax (SOT)
- Organizational Documents
- Description of the Premises

# Requirements for a Taxpaid Wine Bottling House

- Application to Establish and Operate Wine Premises Form 5120.25
- Application for an FAA Act Basic Permit Form 5100.24
- Evidence of Signature Authority
- Statement that trade name(s) was/were registered
- Payment of Special Occupational Tax (SOT)
- Organizational Documents
- Description of the Premises

# **BONDS**

## **General Requirements**

### **27 CFR 24.145**

- Each person required to file a bond or consent of surety under this part must prepare, execute and submit the bond or consent of surety on the prescribed form in accordance with this part.
- A person may not commence or continue any business or operation relating to wine until all bonds and consents of surety required under this part have been approved by the appropriate TTB officer.

# WINE BOND

- The proprietor shall give bond on form 5120.36 wine bond to cover the liability of excise taxes on wines produced or received by the proprietor.
- The minimum bond is \$1,000. If the penal sums should be larger than that, coverage can be added up to a maximum of \$50,000.
- If the potential tax liability exceeds \$250,000, the penal sum should be \$100,000.

# Tax Deferral Bond

Where the proprietor removes wine from bonded wine premises for consumption or sale, after determination and before payment of tax and the tax unpaid at any one time amounts to more than \$500 the proprietor shall furnish a tax deferral bond on form 5120.36 wine bond. The penal sum of the tax deferral shown on form 5120.36 should be the maximum amount of tax owed in any two consecutive tax return periods. The minimum bond is \$500 and \$250,000 is maximum coverage.

# RECORDS

- Form 5120.17 Operation Report is a summary of daily records you are responsible for keeping on your own forms.
- These records must be kept in sufficient detail to enable you to prepare tax returns and monthly reports and allow TTB Investigators to verify them.
- Monthly reports, required records and source documents should be readily accessible by TTB Investigators and kept for a period of three years.
- Regulations list the activities for which daily or batch records must be kept. 27 CFR 24.300 - .323 show the required information for these records.

# DAILY RECORDS

1. A separate daily record for each tax class is required for transactions in:
  - Bulk Still Wine
  - Effervescent Wine
  - Formula Wine
  - Distilling Material or Vinegar Stock
  - Bottled Wine

# DAILY RECORDS

2. A separate record is required for each batch if you:
  - ameliorate
  - sweeten
  - add acids
  - add wine spirits
  - add other chemicals
  - bake wine

# DAILY RECORDS

3. You must record:
  - taxable removals
  - taxpaid transactions
4. You must also keep records of receipt and use of:
  - fruit, juice, or concentrate
  - sugar
  - acids
  - wine spirits
  - other chemicals

## Operation Report 27 CFR 24.300(g)

Form 5120.17, Report of Bonded Wine Premises Operations. A proprietor who conducts bonded wine premises operations will summarize transaction entries and submit a Form 5120.17 on a monthly basis except that:

- (1) A proprietor who files a monthly report and does not expect any inventory change or any reportable operations in a subsequent month or months, may attach a statement to the Form 5120.17 filed that until a change in inventory or reportable operations occurs, a Form 5120.17 will not be filed.
- (2) A proprietor may file Form 5120.17 reports on a calendar year bases if:
  - (i) The proprietor expects to be exempt from filing semimonthly returns under 24.273 for calendar year and
  - (ii) The sum of the bulk and bottled wine to be accounted for in all tax classes is not expected to exceed 20,000 gallons for any one month during the calendar year when adding up the bulk and bottled wine on hand at the beginning of month, bulk wine produced, bulk wine bottled, bulk and bottled received in bond and returned to bond, bottled wine dumped to bulk, inventory gains and any activity written into lines.

## Small Wineries – 27 CFR 24.300(g)(2)

(2) A proprietor may file ATF F 5120.17 reports on a calendar year basis if (i) The proprietor expects to be exempt from filing semimonthly returns under §24.273 for the calendar year and (ii) The sum of the bulk and bottled wine to be accounted for in all tax classes is not expected to exceed 20,000 gallons for any one month during the calendar year when adding up the bulk and bottled wine on hand at the beginning of the month, bulk wine produced by fermentation, sweetening, blending, amelioration or addition of wine spirits, bulk wine bottled, bulk and bottled wine received in bond, taxpaid wine returned to bond, bottled wine dumped to bulk, inventory gains, and any activity written in the untitled lines of the report form which increases the amount of wine to be accounted for. To begin the annual filing of a report of bonded wine premises operations, a proprietor will state such intent in the "Remarks" section when filing the prior month's ATF F 5120.17. A proprietor who is commencing operations during a calendar year and expects to meet these criteria may use a letter notice to the appropriate ATF officer, and file an annual ATF F 5120.17 for the remaining portion of the calendar year. If a proprietor determines that the wine excise tax liability for the current year will exceed \$1,000 or that the 20,000 gallon activity level will be exceeded in any month, an ATF F 5120.17 will be filed for that month and for all subsequent months of the calendar year. If there is a jeopardy to the revenue, the appropriate ATF officer may at any time require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly. The information reported on the ATF F 5120.17 will be maintained in accordance with the requirements of this part.

## SMALL WINERIES - 27 CFR 24.273

### §24.273 Exception to filing semi-monthly tax returns.

(a) Any proprietor who has not given a bond for deferred payment of wine excise tax and who:

(1) Paid wine excise taxes in an amount less than \$1000 (\$500 prior to May 12, 1993,) during the previous calendar year, or

(2) Is the proprietor of a newly established bonded wine premises and expects to pay less than \$1000 (\$500 prior to May 12, 1993,) in wine excise taxes before the end of the calendar year, may file the Excise Tax Return, ATF F 5000.24, and remittance, within 30 days after the end of the calendar year instead of semimonthly as required by §24.271. However, if before the close of the current calendar year the wine excise tax owed will exceed the amount of the coverage under the proprietor's operations bond for wine removed from bonded wine premises on which tax has been determined but not paid, the proprietor will file an Excise Tax Return with the total remittance on the date the wine excise tax owed will exceed such amount and file an aggregate Excise Tax Return within 30 days after the close of the calendar year showing the total wine tax liability for such calendar year. If before the close of the current calendar year the wine excise tax liability (including any amounts paid or owed) equals \$1000 or more, the proprietor will commence semimonthly filing of the wine Excise Tax Returns and making of payments as required by §24.271.

(b) A proprietor who files under this section is subject to the failure to pay or file provisions of §24.274. If there is a jeopardy to the revenue, the appropriate ATF officer may deny the exceptions to filing tax returns provided in this section at any time. (Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

# **What are the mandatory labeling requirements for wine removed for consumption or sale?**

- **On the brand label:**
  - Brand name
  - Class, type, or other designation
  - Alcohol content
  - On blends of American and foreign wines, if any reference is made to the presence of foreign wine, the exact percentage by volume

# What are the mandatory labeling requirements for wine removed for consumption or sale?

- **On any label affixed to the container:**
  - Name and address
  - Net contents
- On the brand label or a back label a statement that the product contains FD&C Yellow No. 5, if used in the product
- Saccharin statement when saccharin is present in the product
- Sulfite declaration
- Health warning statement

# COLAs Online

COLAs Online is a system for the electronic filing/processing/approval of From 5100.31, Application for and Certification/Exemption of Label/Bottle Approval (COLA). It will provide you with a streamlined, more expedient and paperless means to obtain a COLA. The system will allow you to submit labeling information to the Advertising, Labeling & Formulation Division (ALFD) via the Internet, as well as provide a way for ALFD to review your electronically filed applications. Read more about COLAs Online on our website at <http://www.ttb.gov/alcohol/colasonline.htm>

# Registration Process

- Complete a registration form, 5013.2, COLAs Online Access Request. This fillable form and instructions may be found on our website.
- Note: You will not receive your user ID and password until shortly before the implementation of COLAs Online.
- If you do not have signature authority or power of attorney to sign required documents on behalf of the company for which you will be filing label applications, you will also need to complete form 5000.8, Power of Attorney.
- If you already have a power of attorney or signature authority, just submit a copy of it with your registration form.

# General Excise Tax Information

What is the tax on wine?

26 U.S.C. 5041 (b)

<b>If ½ of 1% to not over 14% alcohol</b>	<b>\$1.07 per gallon</b>
<b>If more than 14% and not over 21% alcohol</b>	<b>\$1.57 per gallon</b>
<b>If more than 21% and not over 24% alcohol</b>	<b>\$3.15 per gallon</b>
<b>Artificially Carbonated</b>	<b>\$3.30 per gallon</b>
<b>Sparkling</b>	<b>\$3.40 per gallon</b>
<b>Hard Cider</b>	<b>\$.226 per gallon</b>

# **Who pays the tax?**

27 CFR 24.270

The proprietor of the bonded wine premises who removes the wine from bond for domestic consumption or sale.

# **When is the tax due?**

*27 CFR 24.271 (b)*

14 days after the close of the tax period unless filed yearly. If the 14th day falls on a Saturday, Sunday, or legal holiday, the tax must be filed on the day immediately preceding which is not a Saturday, Sunday or a legal holiday. Special rules apply to September returns.

# **Credit for Small Domestic Producers**

26 USC 5041 (c)

In 1991, the excise tax on wine was increased by \$.90 per gallon, with the exception of sparkling wine. At the same time, the law provided that small domestic producers of wine may qualify for a credit of up to \$.90 per gallon on part of their annual taxable removals, other than sparkling wine, to keep the wine taxes for small wineries the same or nearly the same as they were before the increase.

# **Who qualifies for the credit?**

*27 CFR 24.278 (a)*

A person who produces not more than 250,000 gallons of wine annually at a qualified bonded wine premises in the United States.

# How much is the credit?

27 CFR 24.278 (d)(1)(2)

- Up to \$.90 per gallon on the first 100,000 gallons of wine (other than sparkling) taxably removed per calendar year.
- Removals beyond 100,000 gallons are taxed at the tax rates shown in the law at 26 USC 5041.

# How much credit may be taken?

## 27 CFR 24.278 (d)(1)(2)

The amount of credit is based on how much wine is produced by the winery each calendar year.

If production is 150,000 gallons or less, the credit is \$.90 on the first 100,000 gallons (other than sparkling) taxably removed each year.

If production is more than 150,000 and not more than 250,000, the credit is reduced by 1% for every 1,000 gallons produced in excess of 150,000 (i.e., the more wine made, the smaller the credit). Contact the National Revenue Center for assistance in determining the correct rate of credit.

Wineries which are qualified to produce wine, but for some reason do not, are not entitled to take credit during the year when there is no production.

Production of all members of a controlled group are added together to determine the correct rate of credit (if any) that may be taken by all members of the group.

# WINE TAX CLASSES

<b>STILL WINE WITH</b>	<b>LARGE</b>	<b>SMALL</b>
<b><u>ALCOHOL CONTENT OF</u></b>	<b><u>PRODUCER RATE</u></b>	<b><u>PRODUCER RATE</u></b>
<b>14% OR BELOW</b>	<b>\$1.07</b>	<b>\$0.17</b>
<b>OVER 14% BUT NOT OVER 21%</b>	<b>\$1.57</b>	<b>\$0.67</b>
<b>OVER 21% BUT NOT OVER 24%</b>	<b>\$3.15</b>	<b>\$2.25</b>
<b>ARTIFICIALLY CARBONATED</b>	<b>\$3.30</b>	<b>\$2.40</b>
<b><u>SPARKLING WINE</u></b>	<b><u>\$3.40</u></b>	<b><u>\$3.40</u></b>

**Large Producer - Produces over 250,000 gallons of wine per year.**

**Small Producer - Produces less than 150,000 gallons of wine per year.**

**Credit allowed for first 100,000 gallons of wine tax determined each year. (1% less credit for every 1,000 gallons of wine produced over 150,000 gallons)**

# **TTB Contacts**

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