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Wholesale Beer Tax

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Wholesale Beer Tax

Reference Number: CTAS-381

A tax is imposed on the sale of beer and like beverages at wholesale. T.C.A. §§ 57-6-102, 57-6-103. Beer or ale sold to any port 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 U. S. armed forces is exempted from this tax. T.C.A. § 57-6-111.

The rate of the tax is thirty-five dollars and sixty cents (\$35.60) per barrel of thirty-one gallons (31 gals.) of beer sold. Barrels containing more or less than thirty-one galls (31 gals.) shall be taxed at a proportionate rate. T.C.A. § 57-6-103(a).

The Commissioner of Revenue administers the tax. The wholesale beer distributor collects the tax and remits the proceeds as follows:

1. Seventeen cents (17¢) of the gross tax owed per barrel to the Department of Revenue, to be kept in a special fund and used only for expenses in administration of this tax. T.C.A. § 57-6-103(f)
2. Ninety-two cents (92¢) of the gross tax owed per barrel retained by the wholesaler or manufacturer operating as a retailer to defray the cost of collecting and remitting the tax. T.C.A. § 57-6-103(g)
3. The remainder of the tax to the city or county in which the sale is made. T.C.A. § 57-6-103.

The tax collected on sales to licensed retailers is to be paid to the county or city in which the retailer's place of business is located, and the tax on all other sales made at the wholesaler's place of business is to be paid to the county or city in which the wholesaler's business is located. T.C.A. § 57-6-103(d). All sales made at the wholesaler's place of business as well as any sale or transfer contemplated by §57-5-101(c)(2) by a manufacturer operating as a retailer to a location owned or operated by such manufacturer-retailer are deemed to be wholesale sales and the tax must be collected. T.C.A. § 57-6-103(c).

An annexing or newly-incorporated municipality is required to provide written notice of the date of annexation or incorporation, together with a list of retailers located in the territory, to each wholesale beer distributor within the territory. T.C.A. § 57-6-103(i)(1). After annexation, the wholesale beer taxes generated within the annexed territory are apportioned between the city and the county in accordance with the provisions of T.C.A. § 6-51-115. For newly incorporated areas, the taxes generated within the newly-incorporated area are apportioned between the city and the county in accordance with the provisions of T.C.A. §§ 6-1-220, 6-18-115, or 6-30-108, as applicable, as well as T.C.A. §§ 6-58-112(c) and 6-51-115(b).

The tax is due and payable monthly on or before the 20th day of each month for the tax collected on sales of the previous month. T.C.A. § 57-6-103(a). If a wholesaler fails or refuses to remit the tax when due, the concerned county or city or the Department of Revenue is authorized to institute legal action for collection by any method authorized by law for collection of delinquent privilege taxes (see Title 67, *Tennessee Code Annotated*), or by filing suit against the wholesaler. In addition, the city or county may revoke or suspend the permit or impose civil penalties, or the Commissioner may revoke or suspend the wholesaler's certificate of registration or impose civil penalties. T.C.A. §§ 57-6-107 and 57-5-108.

Persons delinquent in making reports or paying taxes are subject to a penalty of five percent of the unpaid tax for each 30 days that the tax is unpaid up to a maximum of 25 percent of the unpaid amount, with minimum penalty of \$15. Additional penalties can be imposed by the Commissioner of Revenue for negligence (10 percent of underpayment) or fraud (100 percent of underpayment). Interest is charged at the legal (formula) rate. T.C.A. §§ 67-1-801, 67-1-804.

Wholesalers must furnish an indemnity or personal bond, subject to annual renewal, satisfactory to the Department of Revenue in an amount equal to the amount of tax payable based on the highest month's sales of the previous year or estimate thereof, not to exceed \$10,000, or in lieu of the bond the Commissioner of Revenue may allow a certificate of deposit. T.C.A. § 57-6-107.

Persons convicted of violating any provision of the wholesale beer tax laws are guilty of a Class C misdemeanor, which may subject the convicted person to imprisonment of up to thirty (30) days and a fine of up to \$50, or both. T.C.A. §§ 57-6-114, 40-35-111. In addition, the beer board is required to suspend a wholesaler's license for 30 days for violation of any provision of T.C.A. § 57-6-104 (regulations governing wholesale pricing, container sizes, and sales territories). T.C.A. § 57-6-114(b).

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