

3. Wines, vermouth and sparkling wines—at the rate of \$0.50 per gallon from July 1, 1990 through June 30, 1992. On and after July 1, 1992, \$0.70 a gallon including wines, vermouth and sparkling wines manufactured by holders of a farm winery license, or wines, vermouth and sparkling wines manufactured from grapes or fruit grown in New Jersey by holders of a plenary winery license issued pursuant to the provisions of N.J.S.A. 33:1-10.

Amended by R.1973 d.297, effective October 17, 1973.

See: 5 N.J.R. 391(a), 5 N.J.R. 393(d).

Amended by R.1982 d.181, effective June 21, 1982.

See: 13 N.J.R. 839(a), 14 N.J.R. 664(a).

(a)3 substantially amended.

(b) and (c) added.

Amended by R.1987 d.475, effective November 16, 1987.

See: 19 N.J.R. 1181(a), 19 N.J.R. 2200(b).

(a)3 deleted "except that" and substituted "including"; deleted "shall be taxed . . . September 10, 1981".

Amended by R.1989 d.200, effective April 17, 1989.

See: 21 N.J.R. 122(a), 21 N.J.R. 1018(a).

Deleted (b) and (c) concerning certification.

Amended by R.1992 d.162, effective April 6, 1992.

See: 23 N.J.R. 3433(a), 24 N.J.R. 1375(b).

Revised (a)1-3.

Statutory References

As to tax rates, see N.J.S.A. 54:43-1.

18:3-2.2 Due date of taxes

(a) The excise taxes provided in N.J.A.C. 18:3-2.1 (Tax rates on alcoholic beverages) are due and payable at the time of the first sale or delivery; as the case may be, in this State, except as otherwise provided in the law and in this chapter. In case the tax so imposed has not been paid or secured by the person making the sale or delivery, or causing the delivery to be made, the purchaser or the person accepting delivery shall be liable for the tax and the payment thereof.

(b) All taxes are to be paid not later than the 15th day of the month next following the reporting period in which the sales or deliveries were made. Where the 15th day of the month falls on a Saturday, Sunday, legal holiday or bank holiday, the tax payment, if forwarded by mail, will be considered as received within time, only if the envelope bears the postmark of the next business day or some prior day.

Amended by R.1973 d.297, effective October 17, 1973.

See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Amended by R.1979 d.180, effective May 4, 1979.

See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

As to when taxes are due and payable, see N.J.S.A. 54:44-1.

18:3-2.3 Method of tax payment; improperly drawn checks

(a) All taxes are to be paid by check or money order drawn to the order of the State of New Jersey, Beverage

Tax, and forwarded to the Division of Taxation, Beverage Tax, P.O. Box 853, Trenton, New Jersey 08646.

(b) Any check or money order received which is improperly drawn, will be returned to the taxpayer for correction and, if a proper check or money order is not returned to the Director on or before the 15th day of the month when the same is due, the penalty imposed by law will immediately accrue and become payable.

Amended by R.1973 d.297, effective October 17, 1973.

See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Amended by R.1979 d.180, effective May 4, 1979.

See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

In (a), added new address for Division.

Cross References

See Sections 4.1, 4.2, 4.3, 4.4 of this Chapter for penalties.

Statutory References

As to the method of paying taxes, see N.J.S.A. 54:44-1.

18:3-2.4 Purchaser payment for certain transactions

(a) Where a manufacturer, wholesaler or State beverage distributor sells or delivers alcoholic beverages to another State licensee who is either a manufacturer, wholesaler, State beverage distributor, or plenary retail transit licensee which operates under Interstate Commerce Commission Regulations and is required to post a surety bond with this Division, and where delivery is made to the New Jersey licensed premises of the purchaser or of another State licensee or to a retail licensee or to a New Jersey licensed public warehouse for the account of the purchaser, the alcoholic beverage tax upon such a sale or delivery is to be assumed by the State licensee so purchasing the same and is to be paid by the said purchasing licensee at the time of the next taxable sale or delivery, provided, however, this is not to be construed so as to relieve the original or any subsequent seller or liability to pay the tax upon any sale or delivery should payment thereof not have been made.

(b) In every case such transactions are to be set forth by the seller as a sale on Schedule "A" and by the purchaser as a purchase on Schedule "H" in their respective reports to the Director.

Amended by R.1979 d.180, effective May 4, 1979.

See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

As to tax liability for purchasers, see N.J.S.A. 54:43-2.

18:3-2.5 Sales to plenary retail transit licensees not posting surety bond taxable

Sales to boats, holding a plenary retail transit license, which do not operate under Interstate Commerce Commission Regulations and are not required to post a surety bond

with this Division, are taxable and are to be reported as a line item on Schedule "D" of the report to the Director.

Amended by R.1979 d.180, effective May 4, 1979.
See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

18:3-2.6 Sale and delivery for non-beverage use not taxable; certificates; exemptions

(a) No tax is payable on any sale or delivery by a State licensee of alcoholic beverages intended for use and actually used in the manufacture or sale of the following products, or for the following purposes:

1. Denatured alcohol produced and used pursuant to Acts of Congress and regulations promulgated thereunder;
2. Patent, proprietary, medicinal, pharmaceutical, antiseptic and toilet preparations;
3. Flavoring extracts, syrups and food products;
4. Scientific, chemical, mechanical and industrial products and purposes;
5. Medical and dental purposes.

(b) Certificates of Non-Beverage Use may be signed only by a licensed physician, a licensed dentist, the superintendent or supervisor of a hospital, a New Jersey registered pharmacist who is actually in charge of, and personally responsible for, the compounding of prescriptions in which alcoholic beverages are to be used, a manufacturer who uses alcohol or alcoholic beverages in the manufacture of his products or an officer or duly authorized agent of such manufacturer, or the holder of a special permit authorizing the purchase of alcohol or alcoholic beverages for non-beverage purposes.

(c) To obtain an exemption on such transactions, where delivery is made in New Jersey, the licensee selling the alcoholic beverages for any such use must secure from the purchaser or consignee a Certificate of Non-Beverage Use signed under oath stating the non-beverage purposes for which specific quantities of alcoholic beverages were purchased and are to be used, and must file the certificate with the report for the reporting period in which the sale or delivery was made (See N.J.A.C. 18:3-8.18 and 8.19, Schedules on exemptions and claims for exemptions.)

(d) Where a certificate is not submitted and the tax is not paid with the report, an assessment will be levied for the amount of the tax plus penalty and interest as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq.

Amended by R.1979 d.180, effective May 4, 1979.
See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

As to no taxes on alcohol intended for non-beverage use, see N.J.S.A. 54:43-2.

18:3-2.7 Sales and deliveries for vinegar stock not taxable

No tax imposed is payable on any sale or delivery by a State licensee of alcoholic beverages intended for use and actually used in the manufacture of vinegar. (See N.J.A.C. 18:3-8.18 and 18:3-8.19 for schedules on exemptions and claims for exemption.)

Statutory References

As to tax exceptions, see N.J.S.A. 54:43-2.

18:3-2.8 No tax imposed on beverage lost by fire

(a) No tax is payable by any State licensee on any alcoholic beverages lost by fire provided that written notice of loss is filed with the Director within 48 hours and proof of loss, satisfactory to the Director, is furnished with the report for the reporting period during which the fire occurred.

(b) Proof that the alcoholic beverages have been destroyed shall be submitted in detail and stated under oath.

Amended by R.1979 d.180, effective May 4, 1979.
See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

As to tax exception allowed by definitions, see N.J.S.A. 54:41-2.

18:3-2.9 Sales outside State

(a) Where a State licensee purchases alcoholic beverages which are located outside of this State and sells and delivers the same to a purchaser outside of this State, in accordance with the laws of such State, and the alcoholic beverages at no time come into the State of New Jersey, the transaction is not taxable under the New Jersey Alcoholic Beverage Tax Law.

(b) These transactions shall not be included in the New Jersey Tax report, but shall be included in the seller's records.

Statutory References

As to tax rates on sales within the State, see N.J.S.A. 54:43-2.

18:3-2.10 Sales of warehouse receipts

(a) Sales of warehouse receipts, given upon the storage of alcoholic beverages in a United States Internal Revenue or United States Customs Warehouse under Federal bond, are not to be construed as sales of the alcoholic beverages represented by the receipts.

(c) A licensee may request permission to file copies of printed listings in lieu of uniform report forms furnished by the Division provided such copies are approved by the Director.

Amended by R.1973 d.297, effective October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).
Amended by R.1979 d.180, effective May 4, 1979.
See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

As to the method of obtaining reports, see N.J.S.A. 54:45-1.

18:3-7.4 Reports without postage refused

Reports mailed with insufficient postage will be refused and, if not returned to the Director on or before the date when the same are due, the penalties provided in Sections 4.1 (Failure to file report), 4.2 (Failure to pay tax) of this Chapter, will be assessed against the taxpayer.

Statutory References

As to the power of Director to refuse reports, see N.J.S.A. 54:45-1.

18:3-7.5 Reporting required in wine gallons

(a) Where the report forms require an entry in gallons, the entry is to be made in wine gallons of 128 fluid ounces or decimal parts thereof and not in proof gallons.

(b) If the total sales of beer as shown by the report results in a fractional part of a gallon, the tax is to be computed on the next higher whole gallon.

Statutory References

As to the reporting of wine gallon entries, see N.J.S.A. 54:43-1.

18:3-7.6 Seizures; tax postponed

(a) Where alcoholic beverages are removed from a licensee's premises by a representative of the New Jersey Department of the Treasury, or of the New Jersey Department of Law and Public Safety, or by agents of the Federal Government, by seizure or for testing purposes, the payment of tax will be postponed until the determination of the proceedings.

(b) The licensee is to report the removal on Schedule "A" of the monthly report, setting forth the date, by whom removed, and the gross gallonage of each class of alcoholic beverage, as shown on the receipt for such alcoholic beverages. If and when the beverages are returned, the licensee is to report the same on Schedule "H-4" of the monthly report, setting forth the date, by whom returned and the gross gallonage of each class of alcoholic beverage actually received, thus placing the alcoholic beverages back in the inventory.

Statutory References

As to information that the Director may require in reports, see N.J.S.A. 54:45-1.

18:3-7.7 Reporting donations

The gratuitous giving away of alcoholic beverages by any person is a sale which is to be reported as such on Schedule "D" of the bi-monthly report, and the tax thereon paid in the same manner as in the case of a sale.

Amended by R.1979 d.180, effective May 4, 1979.
See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

As to the inclusion of donations in reportable sales, see N.J.S.A. 54:41-2.

18:3-7.8 Reporting samples

(a) An invoice is to be made for each sample given out, showing the name, address and license number of the licensee or of the person receiving the sample, the date, the brand and kind of alcoholic beverage and the quantity. The invoice or a delivery receipt is to bear the signature of the person actually receiving the sample.

(b) When alcoholic beverages are sold or forwarded to the holder of a State license to be used as samples the tax is to be assumed by the consignee and reported on Schedule "H-1" of the report.

(c) Where the receiving State licensee sells, gives, or returns to a representative of another State licensee or special permittee or any other person, alcoholic beverages to be used as samples within this State, the transaction is to be set forth in Schedule "D", as a line item and such entry marked "samples" and the tax thereon paid. Under no condition is such a transaction to be entered as a "Return" on Schedule "A" or "E".

Amended by R.1973 d.297, effective October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Statutory References

As to the inclusion of samples in reportable sales, see N.J.S.A. 54:41-2.

18:3-7.9 Losses by theft, breakage or other disposition

(a) No deductions from taxes are to be permitted to be made, nor any credit or refund is to be claimed for taxes which have accrued or have been paid on the sale or delivery of alcohol or alcoholic beverages because of the loss of such alcohol or alcoholic beverages or any part thereof, sustained by reason of theft, breakage or other disposition in this State, either on the licensed premises or in connection with a sale or delivery. The liability to pay such tax may not be passed on or postponed.

(b) Such an item is to be set forth on Schedule "D" of the report as a line item. (See N.J.A.C. 18:3-8.17, Schedule "D"—Sales to retailers and miscellaneous sales.)

(c) Where the taxpayer makes such a deduction, penalty and interest as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1, et seq. will be assessed in addition to the tax.

Amended by R.1973 d.297, effective October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).
Amended by R.1979 d.180, effective May 4, 1979.
See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

As to the inclusion of losses by theft or other disposition in reportable sales, see N.J.S.A. 54:41-2.

Case Notes

Statutory provision for tax on sales of alcoholic beverages and including within the sales definition the theft of such beverages held not to deny due process or equal protection; cigarette tax rules cited for common scheme support. *Hoffman Import & Distributing Co. v. Director, Division of Taxation*, 146 N.J. Super. 132, 369 A.2d 29 (App. Div. 1977), certification denied 75 N.J. 8, 379 A.2d 239 (1977).

18:3-7.10 Consolidated reports with consent of Director

Where a State licensee holds more than one license or is the holder of a special permit in addition to a license, application may be made in writing for permission to file consolidated reports. Where permission is granted, such reports are to be filed in accordance with instructions from the Director.

Statutory References

As to the power of Director to prescribe reports, see N.J.S.A. 54:42-1.

18:3-7.11 Procedure where statements disagree

If the statements or quantities shown in any part of the report made to the Director do not agree with any other report made to any other authority, or do not agree with the actual physical inventory, a detailed explanation must be attached to the report.

Amended by R.1973 d.297, effective October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Statutory References

As to power of Director to require accurate records, see N.J.S.A. 54:42-1.

18:3-7.12 Preservation of reports

One complete copy of each report is to be kept on the premises of the licensee for three years for examination by the Director.

Statutory References

As to the requirements that records be kept for three years, see N.J.S.A. 54:45-2.

18:3-7.13 through 18:3-7.14 (Reserved)

SUBCHAPTER 8. RULES, REGULATIONS AND INSTRUCTION CONCERNING MANUFACTURERS

18:3-8.1 Passage of tax

Cross References

See Purchaser payment for certain transactions, N.J.A.C. 18:3-2.4.

18:3-8.2 Consumer sales reports

(a) State licensees, who under the provisions of their licenses are allowed to sell to consumers, are to report the gross daily total of such sales during a reporting period as line items on Schedule "D" and pay the tax on the same.

(b) All sales to consumers are to be supported by records which include the number of each size of container and the total gallons sold or delivered each day.

Amended by R.1973 d.297, effective October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Cross References

See Records kept by persons subject to the Act, N.J.A.C. 18:3-6.1.

Statutory References

As to the definition of sales, see N.J.S.A. 54:41-2.

18:3-8.3 Samples reported

Cross References

See Reporting samples, N.J.A.C. 18:3-7.8.

18:3-8.4 Out-of-State sales and returns

(a) Where the sale or return is made by a State licensee and accompanied by delivery to a point outside of the State of New Jersey, the transaction is to be reported on Schedule "E".

(b) Where a State licensee sells or returns alcoholic beverages to a person not licensed by the State of New Jersey for ultimate delivery to a point outside the State but causes the alcoholic beverages to be delivered by a licensed transporter to a licensed New Jersey public warehouse for temporary storage in the name of the purchaser, the transaction is exempt from the tax and is to be reported on Schedule "A" of the bi-monthly report listing the names and addresses of both the nonlicensed purchaser and the warehouse.

Amended by R.1979 d.180, effective May 4, 1979.
See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Cross References

See Exemptions, N.J.A.C. 18:3-2.13, 18:2-2.15, 18:3-3.7, 18:3-6.9, 18:3-6.11, 18:3-6.12, 18:3-8.18, 18:3-8.19.

Statutory References

As to the nontaxability of beverages shipped out of State and exception, see N.J.S.A. 54:43-2.

18:3-8.5 Tax exemptions for nonbeverage use

See Sections 2.6, 2.7, of this Chapter for exemptions for nonbeverage use.

18:3-8.6 Alcoholic beverages bottled for nonlicensees

(a) Where a manufacturer receives alcoholic beverages from a person not licensed in the State of New Jersey or from Federal bond for the account of such nonlicensee and bottles the alcoholic beverages, the delivery of the bottled alcoholic beverages is to be reported as a sale.

(b) Such a transaction is exempt from the tax, provided, evidence satisfactory to the Director is furnished showing that the alcoholic beverages have been actually transported out of the State or placed in a licensed public warehouse in New Jersey for temporary storage for the account of the purchaser.

Statutory References

As to the nontaxability of beverages received from nonlicensees, see N.J.S.A. 54:43-2.

18:3-8.7 Alcoholic beverages bottled for others

(a) Where a manufacturer receives alcoholic beverages for bottling:

1. The delivery in New Jersey of the bottled alcoholic beverages to a State licensee or for the account of a nonlicensee is to be reported on Schedule "A" as a sale. (See N.J.A.C. 18:3-8.16, Schedule "A"—sales and "returns made" within this State . . .)

2. The delivery at a point outside of this State of the bottled alcoholic beverages to a State licensee or a nonlicensee is to be reported on Schedule "E". (See N.J.A.C. 18:3-8.18, Schedule "E"—exemptions.)

3. The delivery in New Jersey of the bottled beverages to a retail licensee is taxable and is to be reported as a sale on Schedule "D". (N.J.S.A. 54:43-1.)

Statutory References

As to the taxability of the delivery of beverages in the State, see N.J.S.A. 54:43-1; As to the nontaxability of delivery of beverages out of the State, see N.J.S.A. 54:43-2; As to the general taxability of deliveries, see N.J.S.A. 54:44-1.

18:3-8.8 Alcoholic beverages bottled for retail licensees

Where a manufacturer receives for bottling alcoholic beverages for the account of a New Jersey retail licensee the

delivery of the bottled alcoholic beverages are taxable and is to be reported as a sale to the retailer on Schedule "D".

Statutory References

As to the taxability of deliveries generally, see N.J.S.A. 54:44-1.

18:3-8.9 Alcoholic beverages bottled "in-bond"

Alcoholic beverages bottled "in-bond" in United States Internal Revenue or United States Customs warehouses which remain "in-bond" are not to be reported as a sale until they are actually removed from Federal bond.

Statutory References

As to the postponement of reporting beverages bottled "in-bond", see N.J.S.A. 54:44-1.

18:3-8.10 Consolidated reports

Cross References

See Consolidated reports with consent of Director, N.J.A.C. 18:3-7.10.

18:3-8.11 Number of schedules required in report

(a) A manufacturer's tax sales report is to consist of a control sheet supported by detailed information to be given on schedules.

NUMBER OF COPIES TO BE MADE, FILED AND RETAINED WHETHER OR NOT ANY BUSINESS IS TRANSACTED:

	Make	* File with Division of Taxation	** Retain in Tax Manufacturer's File
Control Sheet.....	3 copies	2 copies	1 copy
Schedules "A," "B," "C," "D," "F," "H," "J" or "BW"	3 copies	2 copies	1 copy
Schedule "E".....	4 copies	3 copies	1 copy
Certificate of Nonbeverage Use	2 copies	1 copy	1 copy

* File reports with the Division of Taxation, Beverage Tax, P.O. Box 853, Trenton, New Jersey 08646 on or before the 15th day of the month next following.

** One complete copy of every report shall be kept on the premises of the licensee for three years, for examination by the Director.

(b) If any schedule supporting the control sheet is not required in making the report for any particular period, it is to be indicated on the reverse side of the control sheet by entering the word "no" thus: Schedule "A" consisting of . . no. : sheets.

Amended by R.1973 d.297, effective October 17, 1973.

See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Amended by R.1979 d.180, effective May 4, 1979.

See: 11 N.J.R. 209(a), 11 N.J.R. 305(b).

Statutory References

See N.J.S.A. 54:45-1.

18:3-8.12 Entries in schedules to be by accounts

(a) In preparing schedules of purchases and sales, entries are to be in alphabetical order by accounts except where written permission has been received from the Director to report Schedule "D" by "daily total".

(b) When reporting by accounts, the total of each account for the reporting period is to be entered, not each individual purchase or sale.

(c) All entries are to be made in wine gallons of 128 fluid ounces and all schedules are to be totaled.

Amended by R.1973 d.297, effective October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Cross References

See Records to be kept by persons subject to the Act, N.J.A.C. 18:3-6.1.

Statutory References

As to method of reporting, see N.J.S.A. 54:45-1.

18:3-8.13 Schedule "B"—inventory, control, distillers, rectifiers and blenders

(a) Schedule "B" which is to be filed by all distillers, rectifiers and blenders is an inventory control report of Federal-tax-paid finished products.

(b) All items on Schedule "B" must be entered in the appropriate column as set forth on the schedule.

(c) If any transactions or operations affecting the inventory cannot be set up on Schedule "B", attach a detailed description of such transactions and operations to the schedule.

Statutory References

As to reports required by the Director, see N.J.S.A. 54:45-1.

18:3-8.14 Schedule "C"—inventory control, wineries

(a) Schedule "C" which is to be filed by all holders of winery licenses is an inventory control report of alcoholic beverages in both Federal bonded and Federal-tax-paid sections of the licensed premises and in the Federal-tax-paid sections of New Jersey licensed public warehouses, but is not to include "still wine" in fermenters, "vermouth" in processing tanks or alcoholic beverages stored in United States Internal Revenue or United States Customs bonded public warehouses.

(b) In addition to Schedule "B", distillers who operate a winery under a distiller's license are required to submit Schedule "C".

(c) All items on Schedule "C" must be entered on the appropriate line as set forth on the schedule.

(d) If any transactions and operations affecting the inventory cannot be set up on Schedule "C", a detailed description of such transactions and operations is to be attached to the schedule.

18:3-8.15 Schedule "J"—brewery inventory control, Federal-tax-paid beer

(a) Schedule "J" which is to be filed by all breweries is an inventory control report of the Federal-tax-paid finished products.

(b) All items on Schedule "J" must be entered on the appropriate line as set forth on the schedule.

(c) If any transactions or operations affecting the inventory cannot be set up on Schedule "J", a detailed description of such transactions and operations is to be attached to the schedule.

Statutory References

As to reports required by the Director, see N.J.S.A. 54:45-1.

18:3-8.16 Schedule "A"—sales and "returns made" within this State to State licensees, Army, Air Force, Navy, Coast Guard or National Guard organizations, nonlicensees for storage

(a) On Schedule "A", list under separate heading, by accounts, the total of the following items for the reporting period for each account:

1. All sales of alcoholic beverages made and delivered to the licensed premises in New Jersey of, or to a New Jersey licensed public warehouse for the account of manufacturers, wholesalers, State beverage distributors and plenary retail transit licensees, on which sales and deliveries the tax has been passed to the purchaser. (See N.J.A.C. 18:3-8.7, Alcoholic beverages bottled for others.)

2. Sales of alcoholic beverages to State licensees located within New Jersey involving the actual delivery of the alcoholic beverages from a point other than the seller's premises:

i. Proper notation is to be made on the schedule by the seller as to the name, address and license number of the person who actually made the shipment upon instruction of the seller, and the point from which shipment was made.

ii. In addition, the seller must show the name, address and license number of the actual consignee or purchaser.

iii. The person who actually made the shipment must also report the name, address and license number of the person to whom shipment was delivered, and, in addition, the name, address and license number of the person for whose account the shipment was made.