

CHAPTER 3

ALCOHOLIC BEVERAGE TAX
ACT—STATE LICENSEES

Authority

N.J.S.A. 54:42-1 and 54:50-1.

Source and Effective Date

R.1994 d.183, effective March 14, 1994.
See: 26 N.J.R. 758(a), 26 N.J.R. 1695(a).

Executive Order No. 66(1978) Expiration Date

Chapter 3, Alcoholic Beverage Tax Act—State Licensees, expires on March 14, 1999.

Chapter Historical Note

Chapter 3, Alcoholic Beverage Tax Act—State Licensees, was filed and became effective prior to September 1, 1969. Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1984 d.170, effective April 23, 1984. See: 16 N.J.R. 513(b), 16 N.J.R. 1097(b). Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1989 d.200, effective March 14, 1989. See: 21 N.J.R. 122(a), 21 N.J.R. 1018(a). Pursuant to Executive Order No. 66(1978), Chapter 3 was readopted as R.1994 d.183. See: Source and Effective Date.

See section annotations for specific rulemaking activity.

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SUBCHAPTER 1. GENERAL PROVISIONS

18:3-1.1 Director's power to make rules and regulations

The Alcoholic Beverage Tax Law authorizes and empowers the Director to make and enforce such rules and regulations as he may deem necessary for the administration and enforcement of the law.

Statutory References

N.J.S.A. 54:42-1.

18:3-1.2 Definitions

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Alcoholic beverages" means liquors, fruit brandies, beer, wines, sparkling wine and vermouth, having an alcoholic content of 1/2 of one percent or more by volume.

"Beer" means, beer, lager beer, ale, stout, porter and all similar fermented malt beverages having an alcoholic content of 1/2 of one percent or more by volume.

"Container" means the receptacle immediately surrounding the alcoholic beverage and not the carton, box, case, sack, bag or other covering in which such containers may be packed, placed or transported.

"Department" means the New Jersey Department of the Treasury.

"Director" means the Director of the Division of Taxation.

"Farm winery license" means: see N.J.S.A. 33:1-10 and N.J.A.C. 13:2.

"Inventory credit memorandum" means a receipt or other memorandum issued to a customer acknowledging the acceptance of the return of a certain quantity of alcoholic beverages as stated thereon in wine gallons or decimal parts thereof.

"Law" means the Alcoholic Beverage Tax Law, N.J.S.A. 54:41-1 et seq.

"Licensee" means the holder of any valid and unrevoked license or special permit issued pursuant to the provisions of any relevant law of this State pertaining to alcoholic beverages.

"Liquors" means all distilled or rectified spirits, alcohol, brandy, fruit brandy, whiskey, rum, gin and all similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing, such as liqueurs, cordials and similar compounds, having an alcoholic content of 1/2 of one percent or more by volume.

"Manufacturer" means any person holding a valid and unrevoked brewery, winery, distillery, supplementary limited distillery or rectifier and blender's license issued pursuant to the provisions of any relevant law of this State.

"Person" means a natural person, an association, a partnership or a corporation.

"Plenary retail transit licensee" means any person holding a valid and unrevoked plenary retail transit license issued pursuant to any relevant law of this State, authorizing the sale of alcoholic beverages for consumption only on railroad trains, airplanes and boats while in transit in this State.

"Plenary winery license" means: see N.J.S.A. 33:1-10 and N.J.A.C. 13:2.

"Retail licensee" means any person holding a valid and unrevoked plenary retail consumption, seasonal retail consumption, plenary retail distribution, limited retail distribution, or club license.

"Return" means the return (including exchange) of alcoholic beverages by a customer to the source from which such alcoholic beverages were obtained, upon the cancellation of a sale, and shall include:

1. Actual receipt of the alcoholic beverages on the licensed premises of the source or in a licensed public warehouse for the account of the source; or

2. The sending of the alcoholic beverages by the customer to another person upon instructions of the source; but shall not include any other disposition, such as samples, breakage, shortage, merchandising credits, or alcoholic beverages dumped on the premises of the customer, except where such dumping is done under the supervision of the Director or his representative. (See N.J.A.C. 18:3-2.21, Deductions for tax credits.)

“Sale” means and includes, in addition to its ordinary meaning, any exchange, gift, loss, theft or other disposition. In every case where alcoholic beverages are exchanged, given, lost, stolen or otherwise disposed of, they shall be deemed to have been sold, unless, in case of loss by fire, proof is furnished to the satisfaction of the Director that the alcoholic beverages have been so destroyed that they could not have been put to any use.

“Sparkling wine” means champagne and any other effervescent wine charged with carbon dioxide, whether artificially or as the result of secondary fermentation of the wine within the container.

“State beverage distributor” means any person holding a valid and unrevoked State beverage distributor license issued pursuant to any relevant law of this State.

“State licensee” means any person holding a valid and unrevoked license or special permit, issued by the Director of the Division of Alcoholic Beverage Control, and who has posted a bond with the Treasurer of the State of New Jersey to secure the payment of the alcoholic beverage taxes.

“Taxpayer” means a person chargeable with the payment of a tax pursuant to the provisions of N.J.S.A. 54:41-1 et seq.

“Transportation licensee” means any person holding a valid and unrevoked license or special permit to transport alcoholic beverages pursuant to the provisions of any relevant law of this State.

“Vermouth” means any compound made by the mixture of extracts from macerated aromatic flavoring materials with wines, and manufactured in such a manner that the product possesses the taste, aroma and characteristics generally attributed to vermouth.

“Warehouse receipt” means certificate or receipt given upon the storage of alcoholic beverages in a United States Internal Revenue or United States Customs warehouse under Federal bond.

“Warehouse receipts licensee” means any person holding a valid and unrevoked warehouse receipts license issued pursuant to any relevant law of the State.

“Wholesaler” means any person holding a valid and unrevoked plenary wholesale, limited wholesale or wine wholesale license issued pursuant to any relevant law of this State.

“Wines” means all wines, whether known as “dry wines”, “sweet wines”, “still wines” or “fortified wines” and any artificial or imitation wine or compound sold as wine, and any fruit juice containing one-half of one percent or more of alcohol by volume, and any other beverage containing alcohol produced by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar, and consisting of one-half of one percent or more of alcohol by volume, but shall not mean or include vermouth or cider containing less than three and two-tenths percentum of alcohol by volume.

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).

Deleted definition of “Bureau”.

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

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

Added definitions of “Farm winery license”, “Manufacture” and “Plenary wine license” and amended definitions of “wines”.

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

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

Deleted definition of “Manufacture”.

Statutory References

As to the short title and definitions, see N.J.S.A. 54:41-1, 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).

SUBCHAPTER 2. DESCRIPTION OF TAX, EXEMPTIONS, CREDITS OR REFUNDS

18:3-2.1 Tax rates on alcoholic beverages

(a) The Alcoholic Beverage Tax Law levies and imposes upon any sale of alcoholic beverages made within this State, or upon any delivery of alcoholic beverages made within or into this State, the following excise taxes:

1. Beer—at the rate of \$0.10 a gallon or fraction thereof from July 1, 1990 through June 30, 1992. On and after July 1, 1992, the rate will be \$0.12 a gallon or fraction thereof;

2. Liquors—at the rate of \$4.20 a gallon thereof from July 1, 1990 through June 30, 1992. On and after July 1, 1992, the rate will be \$4.40 a gallon thereof;

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 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.

(b) Every State licensee, receiving returns of alcoholic beverages from a customer other than a consumer, is to immediately issue an inventory credit memorandum to the person making the return. Each inventory credit memorandum must show the wine gallons returned in sealed containers, the date when the alcoholic beverages were originally sold and the date of return. Breweries are to show wine gallons of draught beer returned in sealed containers only.

(c) Returns of alcoholic beverages made by State licensees to the source from which they were received are allowed only to the extent of the gallonage shown by an inventory credit memorandum or a credit memorandum issued by the source and in possession of the State licensee reporting the return.

Statutory References

As to tax credits claimed, see N.J.S.A. 54:45-6.

18:3-2.21 When deductions for tax credits are taken

(a) Deduction for tax credits are taken when:

1. Made by reason of a tax credit memorandum issued by the Division of Taxation are to be made in accordance with the instructions on the tax credit memorandum. (See N.J.A.C. 18:3-2.18, Tax credit memoranda issued by the Division.)

2. Made by the seller by reason of the rescision or cancellation of a sale, and where the alcoholic beverages if delivered have been returned are to be made with the report filed for the reporting period in which the alcoholic beverages were actually returned. (See N.J.A.C. 18:3-2.19, Cancellation of sale; tax credit.)

3. Made by the purchasers by reason of the return of alcoholic beverages are to be made with the report filed for the reporting period in which the alcoholic beverages were returned to the seller in accordance with Section 20 (Returns-tax credit and issuance of inventory credit memoranda for returned alcoholic beverages) of this Subchapter.

4. Made by reason of the destruction of alcoholic beverages under supervision of the Director, are to be made with the report filed for the reporting period in which the alcoholic beverages were destroyed. See Section 22 (Destruction of alcoholic beverages under supervision) of this Subchapter.

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 when tax credits are allowed, see N.J.S.A. 54:45-6.

18:3-2.22 Destruction of alcoholic beverages under supervision

Where alcoholic beverages located in this State are destroyed through dumping by the licensee, such disposition is taxable except where the alcoholic beverages are destroyed under the supervision or instruction of the Director, or under the supervision or instructions of the Federal Alcohol Tax and Tobacco Unit.

Statutory References

As to destruction of alcoholic beverages under Director's supervision, see N.J.S.A. 54:43-5.

18:3-2.23 through 18:3-2.26 (Reserved)

SUBCHAPTER 3. TAX RULINGS

18:3-3.1 Tax on sparkling cider

Cider containing 3.2 percent or more of alcohol by volume which is charged either artificially or as the result of secondary fermentation is taxable as a sparkling wine.

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 definition of cider, see N.J.S.A. 54:41-2.

18:3-3.2 Tax on mixture of cider and malt beverage

Any beverage composed of a mixture of cider containing 3.2 percent or more of alcohol by volume with a malt beverage, and charged either artificially or as the result of secondary fermentation, is taxable as a sparkling wine.

Statutory References

As to definition of cider and malt beverages, see N.J.S.A. 54:41-2.

18:3-3.3 Tax on bottled drinks

The tax rate of alcoholic beverages treated with carbonation or other ingredients which tends to distort their normal characteristics will be determined after analysis.

Statutory References

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

18:3-3.4 Tax on bitters, grenadine and other mixes

All bitters, grenadine, highballs, cocktails, cordials and other mixes which are classified by the United States Treasury Department, Internal Revenue Service, as intoxicating

liquors and which require Federal strip stamps, are taxable at the rate of \$4.40 a gallon.

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.1994 d.183, effective April 18, 1994.
See: 26 N.J.R. 758(a), 26 N.J.R. 1695(a).

Statutory References

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

18:3-3.5 Sales to religious organizations

Sales or deliveries of alcoholic beverages to churches, convents or other religious societies and organizations, whether for sacramental purposes or otherwise, are taxable.

Statutory References

As to taxability of any sale of alcoholic beverages, see N.J.S.A. 54:43-1.

18:3-3.6 Sales to governmental agencies and concessionaires

(a) All sales or deliveries of alcoholic beverages by the holder of an alcoholic beverage license to governmental agencies except as provided for by N.J.S.A. 54:43-2.1 are taxable. (See N.J.A.C. 18:3-2.15, Sales to Army, Air Force, Navy and Coast Guard organizations.)

(b) Sales or deliveries made to National Guard post exchanges at any New Jersey armory are tax exempt when such transactions have been authorized by the State Department of Defense.

(c) All sales or deliveries made to concessionaires operating at any New Jersey National Guard Armory are taxable.

(d) Sales to private concessionaires, operating within or upon territory used for military or naval purposes, to an individual even though the individual is a member of the Army, Air Force, Navy or Coast Guard, or to service clubs or other similar clubs are taxable.

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 nontaxability of sales to Army or Navy personnel organizations, see N.J.S.A. 54:43-2.1.

18:3-3.7 Deliveries of alcoholic beverages to steamships at piers in New Jersey; tax exemptions for licensees; reports filed

(a) Where alcoholic beverages are delivered to a steamship company which is not the holder of a New Jersey license or permit, from inventories maintained either within or without this State:

1. Delivery by State licensees for "export" are exempt from tax only if the consignor submits an affidavit signed by the ship's master or other authorized agent or an "on board" bill of lading certifying that the alcoholic beverages were laden on the vessel for delivery at a designated point located outside the State of New Jersey.

2. Delivery by State licensees for "ship's supplies" are exempt from tax only if the consignor submits an affidavit signed by the ship's master or other authorized official certifying that the alcoholic beverages were purchased for consumption outside the State of New Jersey.

3. Where delivery is made for "export" or "ship's supplies" from consignor's inventory in New Jersey, these transactions are to be reported on Schedule "E" (out-of-State sales). Affidavits must be attached to and listed on Schedule "F".

4. Where delivery is made for "export" or "ship's supplies" from out-of-State inventory by a licensee maintaining inventory in the State of New Jersey, an entry is to be made on Schedule "H-1" and the transaction also reported on Schedule "E". Affidavits are to be attached and listed on Schedule "F".

5. Where delivery is made for "export" or for "ship's supplies" from out-of-State inventory by a licensee maintaining no inventory in the State of New Jersey the transaction must be reported on Schedule "E". Affidavits are to be attached and listed on Schedule "F".

6. Deliveries to a steamship company or to a person on a ship for consumption or resale on board ship while at a pier in New Jersey, are taxable and are to be reported as a sale on Schedule "D".

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 tax exemptions for deliveries to out-of-State steamships, see N.J.S.A. 54:43-2.

18:3-3.8 Tax liability of transporter of alcoholic beverages to steamships

(a) The delivery of alcoholic beverages by transporters to a steamship company or to a ship at a pier in New Jersey from a consignor who is not the holder of a New Jersey license renders the transporter liable for the tax unless:

1. The tax has been previously paid;
2. The alcoholic beverages are delivered under "Cord and Seal";
3. The alcoholic beverages are consigned to a point outside this State.

(b) These transactions are to be reported on Schedule "N" or "M-N".

(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.

1. Schedule "H-3" is to contain a list by accounts of all returns in sealed containers accepted from customers upon which a tax credit or refund is claimed and for which inventory credit memoranda or credit memoranda have been actually issued; in addition:

- i. The name, address and license number of each customer making the return;
- ii. The serial number and date of each credit memorandum issued; and
- iii. The number of gallons accepted as returns is to be included. (See N.J.A.C. 18:3-2.20, Report returns.)

2. Where the alcoholic beverages are not actually received but are delivered upon the instructions of the seller to another licensee, proper entry is to be made on Schedule "H-3", giving the name, address and license number of the person from whom the alcoholic beverages were actually delivered for the account of the seller, and, in addition, the name, address and license number of the person to whom the alcoholic beverages were actually delivered:

i. Where the return by a retailer involves the delivery for the account of the seller to another retailer, pursuant to another sale, a corresponding sales entry is to be made in the records of the seller and the sale to the retailer included in Schedule "D". (See N.J.A.C. 18:3-6.10, Recording and reporting requirements.)

ii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee at a point within the State of New Jersey, pursuant to another sale, a corresponding sales entry is to be made in the records of the seller and the sale to the State licensee included in Schedule "A". (See N.J.A.C. 18:3-6.10, Recording and reporting requirements.)

iii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee or nonlicensee at a point located outside the State of New Jersey, pursuant to another sale, a corresponding entry is to be made in the records of the seller and the sale included in Schedule "E". (See N.J.A.C. 18:3-6.11, Recording and reporting requirements.)

3. The total of these items are to be entered on the control sheet, and included in Schedule "B", "C" or "J", whichever is applicable.

4. No claim for a tax credit or refund for the return is to be made unless the original sale has been tax paid in the present or some previous report.

(d) Schedule "H-4" returns accepted from customers on which tax credit is not claimed:

1. Schedule "H-4" is to contain a list under separate headings, by accounts, of the number of gallons in sealed containers, as shown by inventory credit memoranda or credit memoranda issued by the seller, accepted from

each customer during the reporting period on which the seller is not claiming a tax credit or refund.

2. Where the alcoholic beverages are not actually received by the seller but are delivered upon the instructions of the seller to another licensee, proper entry is to be made on Schedule "H-4" giving the name, address and license number of the person to whom the alcoholic beverages were actually delivered for the account of the seller, and, in addition, the name, address, and license number of the person to whom the alcoholic beverages were actually delivered. (See N.J.A.C. 18:3-2.20, Reporting returns, 18:3-6.10, Recording and reporting requirements.)

3. The total of these items are to be included on Schedule "B", "C" or "J", whichever is applicable.

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 information that may be required in the reports by the Director, see N.J.S.A. 54:45-1.

18:3-8.21 Schedule "BW"—withdrawals from bond

Schedule "BW" is to contain a list of all withdrawals from bond of finished products stored under United States Internal Revenue or United States Customs bond and importations received ex-Customs at piers. Separate totals for each are to be set forth in Schedule "H-1" including appraisal stores.

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 information that may be required in the reports by the Director, see N.J.S.A. 54:45-1.

18:3-8.22 Inventories

Cross References

As to inventory requirements, see Uniform inventories, N.J.A.C. 18:3-6.7.

18:3-8.23 Procedure where statements disagree

Cross References

As to required explanation for inconsistent statements, see Statements disagree, N.J.A.C. 18:3-7.11.

18:3-8.24 through 18:3-8.25 (Reserved)

SUBCHAPTER 9. RULES, REGULATIONS AND INSTRUCTIONS CONCERNING WHOLESALERS AND STATE BEVERAGE DISTRIBUTORS

18:3-9.1 Passage of tax

Cross References

As to tax liability of wholesalers and distributors, see Purchase payment for certain transactions, N.J.A.C. 18:3-2.4.

18:3-9.2 Out-of-State sales and returns

Cross References

As to provisions pertaining to out-of-state sales and returns, see N.J.A.C. 18:3-2.13, 18:3-2.15, 18:3-3.7, 18:3-6.9, 18:3-6.11, 18:3-6.12, 18:3-8.4, and 18:3-8.18.

18:3-9.3 Samples

Cross References

As to method of reporting samples, see Reporting samples, N.J.A.C. 18:3-7.8.

18:3-9.4 Consumer sales

Cross References

As to records required of consumer sales, see Records required, and Consumer Records, N.J.A.C. 18:3-6.1 and 18:3-8.2.

18:3-9.5 Exemptions for nonbeverage use

Cross References

As to exemptions allowable for nonbeverage use, see N.J.A.C. 18:3-2.6, 18:3-2.7, and 18:3-8.18.

18:3-9.6 Consolidated reports

Cross References

As to consolidated reports allowed with consent of the Director, see Consolidated reports, N.J.A.C. 18:3-7.10.

18:3-9.7 Number of schedules required

(a) A tax sales report consists of a control sheet supported by detailed information to be given on Schedules "A", "D", "F", "H", "BW", or "E" as the case may be.

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

	Make	* File with Division of Taxation	** Retain in File of Licensee
Control Sheet	3 copies	2 copies	1 copy
Schedules "A," "D," "F," "H" and "BW"	3 copies	2 copies	1 copy
Schedule "E"	4 copies	3 copies	1 copy
Certificates 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 must be indicated on the reverse side of the control sheet by entering the word "no" thus: Schedule "A" consisting.. 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

As to method of making reports and the form prescribed, see N.J.S.A. 54:45-1.

18:3-9.8 Entries in schedules to be by accounts

Cross References

As to requirement that entries be made by accounts, see Purchase and sale entries, N.J.A.C. 18:3-8.12.

18:3-9.9 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) Schedule "A" is to contain a list under separate headings, by accounts, including the total for the reporting period of the following:

1. All sales of alcoholic beverages made and delivered to the licensed premises in New Jersey of manufacturers, wholesalers, State beverage distributors and plenary retail transit licensees or to New Jersey licensed public warehouses for the account of such State licensees, on which sales and deliveries the tax has been passed to the purchasers.

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. Proper notation is to be made on Schedule "A" by the seller as to the name, address and license number of the person who actually made the shipment upon instructions of the seller, and the point from which shipment was made. In addition, the seller must show the name, address and license number of the actual consignee or purchaser. The person who actually made the shipment must likewise 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 shipment was made. Such transactions are to be segregated by the seller and by the shipper from sales made direct from the seller's premises. (See N.J.A.C. 18:3-6.9, Recording and reporting requirements.)

3. Sales of alcoholic beverages to voluntary unincorporated organizations of the Army, Air Force, Navy, Coast Guard or National Guard personnel, authorized to deal in alcoholic beverages, where delivery is made within this State. The total of each account is to be listed as a separate line item, with the name, address and location of each organization. (See N.J.A.C. 18:3-8.16, Schedule "A"—sales and "returns made" within this State.)

4. Sales where delivery has been made to a licensed public warehouse in New Jersey for temporary storage for the account of nonlicensees. (See N.J.A.C. 18:3-2.14, Out-of-State sales temporarily stored in State.)

5. "Returns made" to other State licensees where delivery has been made to the licensed premises of such licensees or to New Jersey licensed public warehouses at a point within the State of New Jersey.

6. "Returns made" to the actual source but delivered to another licensee in New Jersey for the account of the source, or to a New Jersey licensed public warehouse, and placed therein in the name supplied by the source. Entries on the schedule are to be made by the shipper and by the source in accordance with Section 6.10 (Record requirements) of this Chapter.

7. "Returns made" for the account of an out-of-State source, not licensed, which involve delivery to State licensees within the State of New Jersey or to New Jersey licensed public warehouses, are to be reported on Schedule "A". "Returns Made," where actual delivery has been made to a point outside the State of New Jersey, are not to be entered on Schedule "A" but on Schedule "E". (See N.J.A.C. 18:3-8.18, Schedule "E"—exemptions.)

8. The combined total of these items are to be entered on the control sheet.

As amended, R.1973 d.297, eff. October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

18:3-9.10 Schedule "D"—sales to retailers and miscellaneous sales

Cross References

See Schedule "D" requirements, N.J.A.C. 18:3-8.17.

18:3-9.11 Schedule "E"—exemptions

Cross References

As to exempt transactions, see N.J.A.C. 18:3-2.13, 18:3-2.15, 18:3-3.7, 18:3-6.9, 18:3-6.12, 18:3-8.4, and 18:3-8.18.

18:3-9.12 Schedule "F"—claims for exemptions

Cross References

As to nontaxable transactions see Nonbeverage use and Schedule "F" claims for exemptions, N.J.A.C. 18:3-2.6, 18:3-8.19.

18:3-9.13 Schedule "H"—alcoholic beverages received during the reporting period, in transit at the end of the reporting period, returns accepted from customers

(a) Schedule "H-1" alcoholic beverages actually received including bond withdrawals and purchases delivered direct to other licensees for the account of the reporting licensee. Schedule "H-1" is to contain a list under separate headings and by accounts of the gallonage of alcoholic beverages:

1. Actually received by the licensee in New Jersey or for the account of the licensee in the Federal-tax-paid section of a New Jersey licensed public warehouse; do not include any returns accepted from customers (see Schedules "H-3" and "H-4") or alcoholic beverages in transit (see Schedule "H-2");

2. Withdrawn from bonded sections of United States Internal Revenue or United States Customs warehouses and importations received ex-Customs at piers; the totals are to be the same as those shown on Schedule "BW"; (See N.J.A.C. 18:3-8.21, Schedule "BW".);

3. Purchased but delivered by the shipper direct to other licensees in New Jersey for the account of the reporting licensee, in accordance with Section 6.8 (Recording and reporting delivery) of this Chapter;

4. Wholesalers who are the holders of a winery license and operate a Federal bonded winery are to segregate all transactions in wines bottled by others; (See N.J.A.C. 18:3-8.20, Schedule "H".);

5. The total of all these items are to be entered on the control sheet.

(b) Rules concerning Schedule "H-2"—alcoholic beverages in transit at the end of the reporting period include the following:

1. Schedule "H-2" is to contain a list by accounts of all alcoholic beverages shipped to the reporting licensee before the end of the reporting period but not actually received on the licensed premises or in the Federal-tax-paid section of a New Jersey licensed public warehouse for the account of the licensee until after the end of the reporting period;

2. These items are not to be totaled or entered on the control sheet, as they will appear in Schedule "H-1" of the report for the period in which the alcoholic beverages are actually received.

(c) Rules concerning Schedule "H-3"—returns accepted from customers on which tax credit or refund is claimed include:

1. Schedule "H-3" is to contain a list by accounts of all returns in sealed containers accepted from customers upon which a tax credit or refund is claimed and for which inventory credit memoranda or credit memoranda have actually been issued; they are to include the name, address and license number of each customer making the return, the serial number and date of each credit memorandum issued and the number of gallons accepted as returns; (See N.J.A.C. 18:3-2.20, Returns.)

2. Where the alcoholic beverages are not actually received but are delivered upon the instructions of the seller to another licensee, proper entry is to be made on Schedule "H-3", giving the name, address and license number of the person from whom the alcoholic beverages were actually delivered for the account of the seller, and the name, address and license number of the person to whom the alcoholic beverages were actually delivered:

i. Where the return by a retailer involves the delivery for the account of the seller to another retailer, pursuant to another sale, a corresponding sales entry is

to be made in the records of the seller and the sale to the retailer included in Schedule "D"; (See N.J.A.C. 18:3-6.10, Recording returns.)

ii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee at a point within the State of New Jersey pursuant to another sale, a corresponding sales entry is to be made in the records of the seller and the sale to the State licensee included in Schedule "A"; (See N.J.A.C. 18:3-6.10, Recording returns.)

iii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee or nonlicensee at a point located outside the State of New Jersey pursuant to another sale, a corresponding entry is to be made in the records of the seller and the sale is to be included in Schedule "E". (See N.J.A.C. 18:3-6.11, Recording returns.)

3. No claim for a tax credit or refund for the return is to be made unless the original sale has been tax paid in the present or some previous report.

(d) Schedule "H-4"—returns accepted from customers on which tax credit is not claimed:

1. Schedule "H-4" is to contain a list under separate headings and by accounts of the number of gallons in sealed containers, as shown by the inventory credit memoranda or credit memoranda issued by the seller accepted from each customer during the month in which the seller is not claiming a tax credit or refund;

2. Where the alcoholic beverages are not actually received by the seller but are delivered upon the instructions of the seller to another licensee in New Jersey, proper entry is to be made on Schedule "H-4", giving the name, address and license number of the person by whom the alcoholic beverages were actually delivered for the account of the seller, and the name, address and license number of the person to whom the alcoholic beverages were actually delivered; (See N.J.A.C. 18:3-2.20, Returns 18:3-6.10, Recording returns.);

3. A licensee may request permission to report returns, normally shown on Schedule "H-4", on Schedule "H-1";

4. The combined total of the items listed on Schedules "H-3" and "H-4" are to be entered on the control sheet.

As amended, R.1973 d.297, eff. October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Statutory References

As to reports required and information necessary, see N.J.S.A. 54:45-1.

18:3-9.14 Schedule "BW"—withdrawals from bond

Cross References

As to information required in Schedule "BW", see Withdrawals from bond, N.J.A.C. 18:3-8.21.

18:3-9.15 Inventory taken at the end of reporting period

The quantities of alcoholic beverages on hand at the beginning and end of the reporting period as determined by physical inventories, including all alcoholic beverages on the licensed premises in New Jersey or stored in the Federal-tax-paid sections of New Jersey licensed public warehouses or steamship piers are to be listed on the inventory statement and the control sheet, with the exception of alcoholic beverages stored in United States Internal Revenue or United States Customs warehouses under Federal bond.

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

As to information to be listed on inventories, see Uniform inventories, N.J.A.C. 18:3-6.7.

Statutory References

As to records that shall be required to be kept, see N.J.S.A. 54:45-2.

18:3-9.16 Procedure where statements disagree

Cross References

As to explanation required for inconsistent statements see Procedure where statements disagree, N.J.A.C. 18:3-7.11.

18:3-9.17 through 18:3-9.19 (Reserved)

SUBCHAPTER 10. RULES, REGULATIONS AND INSTRUCTIONS CONCERNING ALCOHOLIC BEVERAGE WAREHOUSE RECEIPTS LICENSEES

18:3-10.1 Reporting purchases and sales of warehouse receipts

Warehouse receipts licensees, when purchasing or selling warehouse receipts given upon the storage of alcoholic beverages in New Jersey in a United States Internal Revenue or United States Customs warehouse under Federal bond, are to report the purchase or sale of the receipt as such.

Statutory References

As to nontaxability of sales of warehouse receipts, see N.J.S.A. 54:43-4.

18:3-10.2 Samples and donations

Cross References

As to taxability of donations and samples, see Reporting donations and reporting samples, N.J.A.C. 18:3-7.7, 18:3-7.8.

18:3-10.3 Records required

Cross References

As to records required to be kept by persons subject to Act, see Records required, N.J.A.C. 18:3-6.1.

18:3-10.4 Consolidated reports

Cross References

As to the filing of consolidated reports with consent of Director, see Consolidated reports, N.J.A.C. 18:3-7.10.

18:3-10.5 Number of schedules required

(a) A warehouse receipts licensee's report consists of a control sheet supported by detailed information to be given on Schedules "WR-1", "WR-2", "WR-3" or "WR-4" as the case may be.

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

	Make	* File with Division of Taxation	** Retain in File of Licensee
Control Sheet	3 copies	2 copies	1 copy
Schedules "WR-1," "WR-2," "WR-3," "WR-4"	3 copies	2 copies	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 licensees for 3 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 control sheet by entering the word "no" thus: Schedule "WR-1" consisting of.. no.. sheets.

(c) All gallonage entries are to be made in wine gallons of 128 fluid ounces and where it is impossible to determine the wine gallons, and the records show proof gallons only, the gallonage reported is to be marked "P.G." or "Proof Gallons".

(d) Entries in the schedules are to be listed alphabetically by account name.

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 reports required, see N.J.S.A. 54:45-1.

18:3-10.6 Schedule "WR-1"—purchases of warehouse receipts

Schedule "WR-1" is to contain a list of all transactions in purchasing, accepting or otherwise obtaining or acquiring warehouse receipts given upon the storage of alcoholic beverages in New Jersey in a United States Internal Revenue or United States Customs warehouse under Federal bond.

Statutory References

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

18:3-10.7 Schedule "WR-2"—sales of warehouse receipts

(a) Schedule "WR-2" is to contain a list of all sales to any person having a New Jersey license or giving or known to have a New Jersey address of:

1. Warehouse receipts given upon the storage of alcoholic beverages in New Jersey in a United States Internal Revenue or United States Custom warehouse under Federal bond;

2. All other receipts, certificates, contracts or other documents given upon the storage of alcoholic beverages in Federal-tax-paid sections of a New Jersey licensed public warehouse.

(b) These sales are to be grouped separately and each group properly headed and listed alphabetically by account name.

Statutory References

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

18:3-10.8 Schedule "WR-3"—inventory of warehouse receipts

Schedule "WR-3" is to contain a list in the same manner as set forth for Schedule "WR-2" of all warehouse receipts and all other receipts, certificates, contracts or other documents given upon the storage of alcoholic beverages in New Jersey or representing the same, of which the licensee is the owner and in control of at the end of the reporting period.

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 reports required, see N.J.S.A. 54:45-1.

18:3-10.9 Schedule "WR-4"—alcoholic beverages received

(a) Schedule "WR-4" is to contain a list of all alcoholic beverages actually received in New Jersey, as samples or otherwise, from any source whatsoever, during the period covered by the report. Particular attention is to be given to the column headed "Document number of goods which this sample represents".

(b) The total of the items listed in subsection (a) of this Section are to be entered on the control sheet.

(c) If any alcoholic beverages received cannot be definitely identified with the number of a warehouse receipt, receipt, certificate, contract, agreement or other document of which the licensee is the owner and in control of at the time of receiving such alcoholic beverages, a complete detailed explanation must be attached to the schedule, giving the name, address and license number of the person from whom the alcoholic beverages were received.

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 reports required, see N.J.S.A. 54:45-1.

18:3-10.10 Procedure where statements disagree

Cross References

As to explanation required for inconsistent statements, see Procedure where statements disagree, N.J.A.C. 18:3-7.11.

18:3-10.11 through 18:3-10.12 (Reserved)

SUBCHAPTER 11. RULES, REGULATIONS AND INSTRUCTIONS CONCERNING PUBLIC WAREHOUSE LICENSEES

18:3-11.1 Temporary storage by a nonlicensee; tax exempt

(a) The delivery of alcoholic beverages from without this State into a licensed public warehouse in this State for temporary storage by any person other than the holder of a license is exempt from the alcoholic beverage tax, provided that such alcoholic beverages, when released from storage, are actually transported outside of this State by a New Jersey licensed transporter. (See N.J.A.C. 18:3-2.16, Temporary storage.)

(b) The delivery of alcoholic beverages by a State licensee into a licensed public warehouse in this State for temporary storage by any person other than the holder of a license is exempt from the tax, provided that such alcoholic beverages, when released from storage, are actually transported outside of this State by a licensed transporter.

(c) To obtain an exemption under this section the public warehouse licensee, before effecting a release of the alcoholic beverages, is to secure and retain a written receipt signed by the licensed transporter setting forth:

1. His vehicle license number;
2. The kind and quantity of alcoholic beverages;
3. The number of cases, barrels or other units;

4. The wine gallons;

5. The name and address of the nonlicensee who caused the alcoholic beverages to be temporarily stored; and

6. The name and address of the person to whom the alcoholic beverages are to be delivered out of this State.

Statutory References

As to the nontaxability of beverages delivered into State for temporary storage, see N.J.S.A. 54:43-2.

18:3-11.2 Releases to State licensees; not taxable

New Jersey public warehouse licensees may release alcohol or alcoholic beverages received for temporary storage to any person, either directly or upon the order of the owner, for ultimate delivery outside this State or to a State licensee without payment of tax, provided such alcoholic beverages are removed in a vehicle owned or controlled by such licensees or by a New Jersey licensed transporter.

Statutory References

As to the nontaxability of beverages released from temporary storage, see N.J.S.A. 54:43-2.

18:3-11.3 Releases to retail licensees and special permittees

(a) New Jersey public warehouse licensees are liable for the payment of the alcoholic beverage tax on alcohol or alcoholic beverages released to the holders of retail licenses or to any person not licensed in this State unless:

1. The alcoholic beverages were stored in the Federal-tax-paid section of the warehouse in the name of the retailer by the retailer or by a State licensee; or
2. The alcoholic beverages are released on the written order and from the stock of a State licensee; or
3. The alcoholic beverages are released pursuant to a special permit and the tax on the sale or delivery has been paid as evidenced by a tax receipt issued by the Director and in the possession of the public warehouse licensee; or
4. The alcoholic beverages are released in accordance with the provisions of Section 1 (Temporary storage) of this Subchapter.

(b) All copies of the tax receipts are to be retained by the public warehouse licensee for inspection by the Director.

Statutory References

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

18:3-11.4 Releases from Federal bond for out-of-State deliveries

(a) Where the alcoholic beverages which are sought to be released from Federal bond are to be delivered to a point outside of the State of New Jersey, the public warehouse licensee may release such alcoholic beverages without payment of the tax to the holder of the warehouse receipt embracing the same or to his representative, provided that immediately following such release the alcoholic beverages are handed over by the public warehouse licensee to the holder of a New Jersey transportation license or special permit for immediate delivery to a point outside the State of New Jersey.

(b) In all such cases, the public warehouse licensee, before effecting a release, is to secure and retain a written receipt signed by the transportation licensee or special permittee or his duly authorized representative. The receipt shall set forth:

1. The license number of the vehicle;
2. The kind of alcoholic beverage;
3. The number of cases, barrels or other units;
4. The wine gallons;
5. The name of the owner of the warehouse receipt embracing the alcoholic beverages; and
6. The name and address of the person to whom the alcoholic beverages are to be delivered.

Statutory References

As to the nontaxability of releases of beverages for out-of-State delivery, see N.J.S.A. 54:43-2.

18:3-11.5 Losses by theft or breakage

New Jersey public warehouse licensees are to use Schedule "WR-4" to list all breakage or theft of alcoholic beverages from the Federal-tax-paid section of a warehouse, total such schedule and transmit it with each bimonthly report together with a check for the taxes shown to be due.

As amended, R.1973 d.297, eff. October 17, 1973.
See: 5 N.J.R. 319(a), 5 N.J.R. 393(d).

Cross References

See Losses, N.J.A.C. 18:3-7.9.

Statutory References

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

18:3-11.6 Number of schedules required

(a) A report consists of a control sheet supported by detailed information to be given on Schedules "R", "RR", "S", "T" or "WR-4" as the case may be.

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

	Make	* File with Division of Taxation	** Retain in File of Licensee
Control Sheet	3 copies	2 copies	1 copy
Schedules "R," "RR," "S"	3 copies	2 copies	1 copy
Schedule "T"	4 copies	3 copies	1 copy
Schedule "WR-4"	3 copies	2 copies	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 control sheet by entering the word "no" thus: Schedule "R" 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

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

18:3-11.7 Entries in schedules

In preparing schedules, list each transaction in alphabetical order or daily sequence for the period reported upon.

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 manner of making reports, see N.J.S.A. 54:45-1.

18:3-11.8 Schedule "R"—receipts in bond

(a) Schedule "R" is to contain a list under separate headings of:

1. All receipts of alcoholic beverages in the Federal bonded section of the warehouse, including transfers of title within the warehouse; and
2. All alcoholic beverages bottled in-bond, giving the name, address and license number of the person for whom the alcoholic beverages were bottled.

Statutory References

As to information required in reports, see N.J.S.A. 54:45-1.

18:3-11.9 Schedule "RR"—receipts in the Federal-tax-paid section

Schedule "RR" is to contain a list of all receipts of alcoholic beverages in the Federal-tax-paid section of the warehouse, including transfers of title within the warehouse.

Statutory References

As to information required in reports, see N.J.S.A. 54:45-1.

18:3-11.10 Schedule "S"—releases for delivery in this State

(a) Schedule "S" is to contain a list under separate headings where delivery is to a consignee located within the State of New Jersey, of:

1. All transfers of alcoholic beverages "in-bond" including transfers of title within the warehouse;
2. All releases of alcoholic beverages from the Federal bonded section of the warehouse;
3. All releases of alcoholic beverages from the Federal-tax-paid section of the warehouse, including transfers of title within the warehouse.

Statutory References

As to information required in reports, see N.J.S.A. 54:45-1.

18:3-11.11 Schedule "T"—releases for delivery outside this State

(a) Schedule "T" is to contain a list under separate headings, of any delivery to a consignee located outside of the State of New Jersey. The list is to contain:

1. All transfers of alcoholic beverages "in-bond";
2. All releases of alcoholic beverages from the Federal bonded section of the warehouse;
3. All releases of alcoholic beverages from the Federal-tax-paid section of the warehouse.

(b) A separate Schedule "T" is to be used for each state into which deliveries were made.

Statutory References

As to reports required and information necessary, see N.J.S.A. 54:45-1.

18:3-11.12 Schedule "WR-4"—losses by thefts or breakage

Schedule "WR-4" is to contain a list, according to accounts, of the quantities of any alcoholic beverages broken or stolen during the reporting period.

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

As to the inclusion of losses and breakage in monthly report, see Losses, N.J.A.C. 18:3-11.5.

Statutory References

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

18:3-11.13 Procedure where statements disagree**Cross References**

As to explanation required for inconsistent statements, see Statements disagree, N.J.A.C. 18:3-7.11.

SUBCHAPTER 12. RULES, REGULATIONS AND INSTRUCTIONS CONCERNING TRANSPORTATION LICENSEES AND SPECIAL PERMITTEES TO TRANSPORT ALCOHOLIC BEVERAGES

18:3-12.1 Taxability of deliveries

(a) A licensed transporter is entitled to exemption from tax on delivery of alcoholic beverages in this State only when the delivery from without this State is made by order of or to a State licensee.

(b) If the licensed transporter makes a delivery or other disposition of alcoholic beverages in this State to a person other than a State licensee, the licensed transporter is liable for the tax unless such tax has been previously paid or secured.

(c) If the licensed transporter fails to deliver all alcoholic beverages given into his custody as set forth on a waybill, bill of lading or other evidence of delivery from a consignor without this State, the transporter is liable for the tax on the alcoholic beverages not delivered to the consignee within the State of New Jersey, unless proof is furnished satisfactory to the Director of other disposition out of the State.

(d) Delivery of alcoholic beverages to a retail licensee from a non-licensee renders the licensed transporter liable for the tax thereon, unless such tax has been previously paid or secured.

(e) Delivery of alcoholic beverages upon which the tax has not been paid or secured to governmental agencies and concessionaires in this State, renders the licensed transporter making the delivery liable for payment of the tax. (See N.J.A.C. 18:3-3.6, Sales to government agencies.)

(f) The delivery of alcoholic beverages by transporters to a steamship company or to a ship at a pier in New Jersey from a consignor who is not the holder of a New Jersey license renders the transporter liable for the tax unless:

1. The tax has been previously paid;
2. The alcoholic beverages are delivered under "Cord and Seal";
3. The alcoholic beverages are consigned to a point outside this State.