

CHAPTER 297C

LIQUOR TAXATION

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297C.01 DEFINITIONS.

Subdivision 1. **Terms.** For purposes of this chapter the following terms have the meaning given them unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. **Liquor act.** For purposes of this chapter the terms defined in section 340A.101, have the meanings given them in that section except as provided in this section.

Subd. 3. **Commissioner.** "Commissioner" is the commissioner of revenue.

Subd. 4. **Collector.** "Collector" is a person who collects commemorative bottles for their use and enjoyment as collectors items and not for the consumption of the beverage contained therein and does not include licensed wholesalers or retailers of alcoholic beverages.

Subd. 5. **Commemorative bottles.** "Commemorative bottles" are ceramic commemorative bottles or other specially designed decanters which have value as collectors items and which have unbroken federal tax stamps thereon.

History: 1985 c 305 art 2 s 1

297C.02 TAX IMPOSED.

Subdivision 1. **Distilled spirits and wine.** There is imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in this state the following excise tax:

	Standard	Metric
(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)	\$4.39 per gallon	\$1.16 per liter
(b) Wine containing 14 percent or less alcohol by volume	\$.27 per gallon	\$.07 per liter
(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume	\$.79 per gallon	\$.21 per liter
(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume	\$1.58 per gallon	\$.42 per liter

(e) Wine containing more than 24 percent alcohol by volume	\$3.08 per gallon	\$.81 per liter
(f) Natural and artificial sparkling wines containing alcohol	\$1.50 per gallon	\$.40 per liter

The metric tax is imposed on all products taxable under this subdivision when the net contents are stated in metric units of measure.

In computing the tax on a package of distilled spirits or wine a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

The tax on miniatures of two fluid ounces or less or 50 milliliters or less is 12 cents.

The commissioner of revenue may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor is one liter equals 0.264172 United States gallons.

Subd. 2. Fermented malt beverages. There is imposed on the direct or indirect sale of fermented malt beverages the following excise tax:

(1) On fermented malt beverages containing not more than 3.2 percent alcohol by weight, \$2 per barrel of 31 gallons;

(2) On fermented malt beverages containing more than 3.2 percent alcohol by weight, \$4 per barrel of 31 gallons.

The tax is at a proportional rate for fractions of a barrel of 31 gallons.

Subd. 3. Tax credit. A qualified brewer producing fermented malt beverages is entitled to a tax credit of \$4 per barrel on 25,000 barrels sold in any fiscal year beginning July 1, regardless of the alcohol content of the product. Qualified brewers may take the credit on the 15th day of each month, but the total credit allowed may not exceed in any fiscal year the lesser of (a) the liability for tax or (b) \$100,000.

For purposes of this subdivision, a "qualified brewer" means a brewer, whether or not located in this state, manufacturing less than 100,000 barrels of fermented malt beverages in the calendar year immediately preceding the calendar year for which the credit under this subdivision is claimed. In determining the number of barrels, all brands or labels of a brewer must be combined. All facilities for the manufacture of fermented malt beverages owned or controlled by the same person, corporation, or other entity must be treated as a single brewer.

Subd. 4. Bottle tax. A tax of one cent is imposed on each bottle or container of distilled spirits and wine. The wholesaler is responsible for the payment of this tax when the bottles of distilled spirits and wine are removed from inventory for sale, delivery, or shipment.

The following are exempt from the tax:

- (1) miniatures of distilled spirits;
- (2) containers of fermented malt beverage;
- (3) containers of intoxicating liquor or wine holding less than 200 milliliters;
- (4) containers of wine intended exclusively for sacramental purposes;
- (5) containers of alcoholic beverages sold to qualified, approved military clubs;
- (6) containers of alcoholic beverages sold to common carriers engaged in interstate commerce;
- (7) containers of alcoholic beverages sold to authorized food processors or pharmaceutical firms for use exclusively in the manufacturing of food products or medicines;
- (8) containers of alcoholic beverages sold and shipped to dealers, wineries, or distillers in other states; and

(9) containers of alcoholic beverages sold to other Minnesota wholesalers.

History: 1985 c 305 art 2 s 2; 1Sp1985 c 14 art 2 s 14; 1Sp1986 c 1 art 8 s 13

297C.03 PAYMENT OF TAX; WINE AND DISTILLED SPIRITS.

Subdivision 1. **Manner and time of payment; penalties; deposit of tax proceeds.**

The tax on wines and distilled spirits on which the excise tax has not been previously paid must be paid to the commissioner by persons having on file with the commissioner a sufficient bond as provided in subdivision 4 on or before the 25th day of the month following the month in which the first sale is made in this state by a licensed manufacturer or wholesaler. Every person liable for the tax on wines or distilled spirits imposed by section 297C.02 must file with the commissioner on or before the 25th day of the month following first sale in this state by a licensed manufacturer or wholesaler a return in the form prescribed by rule of the commissioner, and must keep records and render reports required by rule of the commissioner. A person liable for any tax on wines or distilled spirits not having on file a sufficient bond must pay the tax within 24 hours after first sale in this state. The commissioner may certify to the commissioner of public safety any failure to pay taxes when due as a violation of a statute relating to the sale of intoxicating liquor for possible revocation or suspension of license.

If a person fails to pay the tax within the time specified or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there is added a penalty equal to ten percent of the remaining unpaid amount. The penalty must be collected as part of the tax. The amount of tax not timely paid, together with the penalty, must bear interest at the rate specified in section 270.75 from the time the tax should have been paid until it is paid.

Subd. 2. **Failure to file return.** In case of a failure to make and file a return as required by this chapter within the time prescribed by law or by the commissioner under law, unless it is shown that the failure is not due to willful neglect, there must be added to the tax, in lieu of the ten percent specific penalty in subdivision 1:

(1) ten percent if the failure is not for more than 30 days, and

(2) an additional five percent for each additional 30 days or fraction thereof during which the failure continues.

The total fine may not exceed 25 percent in the aggregate.

The amount added to the tax must be collected at the same time and in the same manner and as part of the tax. The amount of the tax, together with the amount added, must bear interest at the rate specified in section 270.75 from the time the tax should have been paid until it is paid unless the tax has been paid before the discovery of the neglect, in which case the added amount must be collected in the same manner as the tax.

Subd. 3. **Tax evasion.** If a person, with intent to evade the tax, fails to file a required return or intentionally files a false or fraudulent return, there is imposed an additional penalty equal to 50 percent of the tax, found due for the period covered by the return less any amount paid on the basis of the false or fraudulent return. This penalty must be collected as part of the tax and is in addition to other penalties collected by law.

Subd. 4. **Bond.** Every person making sale of wines or distilled spirits in this state on which a tax is imposed by section 297C.02 must file with the commissioner a bond or bonds, on forms prescribed by the commissioner, with surety approved by the commissioner. The bond must be in a penal sum to be determined by the commissioner, not to exceed two times the average monthly liability of that person for the preceding calendar year, or for a new wholesaler an amount determined by the commissioner based on an estimated two month liability. Bonds must run to the state of Minnesota and must be conditioned on the payment of all taxes due the state on wines and distilled spirits and on the payment of all penalties imposed for failure to pay taxes when due.

Subd. 5. **Invoices and bills of lading covering shipment into the state.** Every person shipping, or causing to be shipped, into this state wines or distilled spirits must at the

time of shipment mail to the commissioner a true copy of the invoice, bill of lading, memorandum of shipment, or other document as the commissioner by rule requires, showing those details the commissioner by rule requires.

History: 1985 c 305 art 2 s 3; 1Sp1986 c 1 art 7 s 32; 1Sp1986 c 3 art 1 s 34

297C.04 PAYMENT OF TAX; MALT LIQUOR.

The commissioner shall by rule provide a reporting method for paying and collecting the excise tax on fermented malt beverages. The rules must require reports to be filed with and the excise tax to be paid to the commissioner on or before the 25th day of the month following the month in which the importation into or the first sale is made in this state, whichever first occurs. The rules must also require payments in June of 1987 and subsequent years according to the provisions of section 297C.05, subdivision 2, paragraph (b). If the excise tax is not paid when due, the amount due is increased by a penalty of ten percent thereof, and interest on the tax and penalty at an annual rate of 20 percent, adjusted as provided in section 270.75, from the date the tax became due until paid.

History: 1985 c 305 art 2 s 4; 1Sp1986 c 1 art 7 s 33

297C.05 RETURNS.

Subdivision 1. Commissioner to examine and correct return; collection of deficiency. As soon as practicable after any return is filed as directed by this chapter, the commissioner shall examine the return and correct it, if necessary, according to the commissioner's best judgment and information. The return, together with the commissioner's corrections, if any, shall be prima facie correct and shall be prima facie evidence of the correctness of the amount of tax due, as shown therein. If the commissioner finds that any amount of tax is due and unpaid, the commissioner shall notify the taxpayer of the deficiency, stating that the taxpayer will be assessed the amount due together with interest and penalties as hereinafter provided. If a deficiency disclosed by the commissioner's examination cannot be allocated to a particular month or months, the commissioner shall notify the taxpayer of the deficiency, assessing the amount due for a given period without allocating it to any particular month or months, together with the penalty provided in the case of other corrected returns. If any taxpayer making any return shall die or shall become incompetent at any time before the commissioner issues a notice that an amount is due, that notice shall be issued to the administrator, executor, or other legal representative, as such, of that distributor.

Subd. 2. Monthly tax payments; penalty for nonpayment. (a) Subject to paragraph (b), all taxes shall be due and payable as directed in this chapter, and taxes not paid shall bear interest at the rate specified in section 270.75. The commissioner in issuing a final assessment shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, if the commissioner finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by this chapter, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If the tax is not paid within the time herein specified for the payment thereof or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay the tax within the time provided for payment be less than \$10. The commissioner may extend the time for paying the tax without penalty for good cause shown.

(b) Every person liable for tax under this chapter having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25, 1987, or June 25 of each subsequent year, the taxpayer shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 25, 1987, or August 25 of each subsequent year, the taxpayer

shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Subd. 3. Recovery by commissioner. The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of a tax, interest, or penalty shall not bar any prosecution under this chapter.

Subd. 4. Penalty; maximum; minimum; extension. If any return required to be filed under the provisions of this section is not filed within the time specified, a penalty of five percent of the unpaid tax remaining each month up to a maximum of 25 percent is imposed. In no event shall the penalty for failing to timely file a return be less than \$10. The commissioner of revenue may extend the time for filing a return without penalty for good cause shown.

History: 1985 c 305 art 2 s 5; 1Sp1986 c 1 art 7 s 34

297C.06 REFUNDS.

The commissioner may refund to a taxpayer the amount of tax paid under this chapter on intoxicating liquor or malt liquor which becomes unfit for human consumption and is destroyed under an order by a federal, state, or local agency while being held for sale by a licensed retailer. Refunds shall be made only if satisfactory proof is presented to the commissioner by the taxpayer and the licensed retailer that the retailer was not indemnified by insurance for the tax. The commissioner may prescribe the method of proof required for obtaining the refund.

The commissioner may credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Claims for refund must be filed with the commissioner within one year from the date of the destruction order. There is appropriated annually from the general fund to the commissioner the sums necessary to make the refunds provided by this section.

History: 1985 c 305 art 2 s 6

297C.07 EXCEPTIONS.

The following are not subject to the excise tax:

(1) Sales by a manufacturer, brewer, or wholesaler for shipment outside the state in interstate commerce.

(2) Sales of wine for sacramental purposes under section 340A.316.

(3) Fruit juices naturally fermented or beer naturally brewed in the home for family use.

(4) Malt beverages served by a brewery for on-premise consumption at no charge, or distributed to brewery employees for on-premise consumption under a labor contract.

History: 1985 c 305 art 2 s 7

297C.08 DEPOSIT OF RECEIPTS.

All tax revenues and other receipts payable to the state under this chapter must be paid into the state treasury and credited to the general fund.

History: 1985 c 305 art 2 s 8

297C.09 IMPORTATION BY INDIVIDUALS.

A person, other than a person under the age of 19 years, entering Minnesota from another state may have in possession one liter of intoxicating liquor or 288 ounces of malt liquor and a person entering Minnesota from a foreign country may have in

possession four liters of intoxicating liquor or ten quarts (320 ounces) of malt liquor without the required payment of the Minnesota excise tax. A collector of commemorative bottles, other than a person under the age of 19 years, entering Minnesota from another state may have in possession 12 or fewer commemorative bottles without the required payment of the Minnesota excise tax. A person who imports or has in possession untaxed intoxicating liquor or malt liquor in excess of the quantities provided for in this section is guilty of a misdemeanor. This section does not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell intoxicating liquor in more than one state. A peace officer, the commissioner, or their authorized agents, may seize untaxed liquor.

History: 1985 c 305 art 2 s 9

297C.10 ENFORCEMENT.

Subdivision 1. **Enforcement responsibility.** The commissioners of public safety and revenue shall enforce and administer the provisions of this chapter.

Subd. 2. **Inspection.** The commissioner of public safety or the commissioner of revenue, or their duly authorized employees, may, at all reasonable hours, enter in and upon a licensed premises, and examine the books, papers, and records of a brewer, manufacturer, wholesaler, or retailer for the purpose of determining whether the excise tax has been paid, and may inspect any premises where fermented malt beverages are manufactured, sold, offered for sale, possessed, or stored for the purpose of determining whether the provisions of this chapter are being complied with.

History: 1985 c 305 art 2 s 10

297C.11 EVASIONS.

Subdivision 1. **Assessment, generally.** Except as otherwise provided in this chapter, the amount of any tax due shall be assessed within 3-1/2 years after the return is filed. The taxes are deemed to have been assessed within the meaning of this section whenever the commissioner of revenue has determined the tax and computed and recorded the amount of tax due. If the amount is found to be in excess of that originally declared on the return, the taxes are deemed to have been assessed whenever the commissioner has prepared a notice of tax assessment and mailed it to the taxpayer. The notice of tax assessment shall be sent by mail to the post office address given in the return and the record of mailing shall be presumptive evidence of the giving of notice, and such records shall be preserved by the commissioner.

Subd. 2. **Computation of time.** For the purposes of this section, a return filed before the last day prescribed by law for filing is considered as filed on the last day.

Subd. 3. **False or fraudulent return and no return.** When a company, joint stock association, copartnership, corporation, or individual required to file a return under this chapter files a false or fraudulent return or fails to file a return, the tax may be assessed, and the attorney general may begin proceedings at any time.

Subd. 4. **Consent to extend time.** Where, before the expiration of the time prescribed in subdivision 1 for the assessment of the tax, the commissioner of revenue and the company, joint stock association, copartnership, corporation, or individual filing the return consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Subd. 5. **Omission in excess of 25 percent.** If the taxpayer omits an amount properly includable which is in excess of 25 percent of the amount of tax stated in the return, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun at any time within six years after the return was filed.

History: 1985 c 305 art 2 s 11

297C.12 UNTAXED LIQUOR; SEIZURE.

Subdivision 1. Possession. No person may without authority possess distilled spirits and wine on which no tax has been paid to a state or to a foreign government. No person may without authority possess, with intent to resell, malt liquor on which no tax has been paid to a state or to a foreign government. The commissioner of public safety or the commissioner of revenue, or their designated employees may seize in the name of the state untaxed liquor possessed, held, sold, or transported in violation of this subdivision, and any apparatus, material, vehicle, or conveyance used in the manufacture, possession, sale, storage, or transportation of illegal untaxed liquor.

Subd. 2. Seizure of conveyances. The commissioner of public safety and employees designated by the commissioner may seize all vehicles and conveyances used in the manufacture, sale, possession, storage, or transportation of liquor in violation of this chapter, and hold them subject to the order of the district court of the county in which they are seized. The forfeiture of a vehicle or conveyance seized is complete on compliance with the following procedure:

The commissioner of public safety and inspectors and employees designated by the commissioner shall file with the court a separate complaint against the vehicle or conveyance, describing it and charging its use in the specified violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served on the defendant or person in charge of the vehicle or conveyance at the time of seizure, if any. The court shall issue an order directed to any person known or believed to have a right, title or interest in, or lien on the vehicle or conveyance, and to persons unknown claiming a right, title, interest, or lien:

(1) describing the vehicle or conveyance and stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court;

(2) requiring such persons to file with the court administrator of the court their answer to the complaint, setting forth any claim they may have to a right or title to, interest in, or lien on the vehicle or conveyance, within ten days after the service of the order;

(3) notifying them in substance that if they fail to file their answer within that time the vehicle or conveyance will be ordered sold by the commissioner.

The court shall cause the order to be served on:

(1) the registered owner;

(2) any person who has duly filed a conditional sales contract, mortgage, or other lien instrument covering the property unless it has been released or satisfied;

(3) any other person known or believed to have a right, title, interest in, or lien upon, the vehicle or conveyance as in the case of a summons in a civil action; and

(4) on unknown persons by publication, as provided for service of summons in a civil action.

If no answer is filed within the time prescribed, the court shall, on affidavit by the court administrator of the court, setting forth such fact, order the vehicle or conveyance sold by the commissioner or the commissioner's agents, and the proceeds of the sale, after deducting the expense of keeping the vehicle or conveyance and fees and costs of sale, paid into the state treasury. If an answer is filed within the time provided, the court shall fix a time for hearing, which shall be not less than ten nor more than 30 days after the time for filing the answer expires. At the hearing the matter must be heard and determined by the court, without a jury, as in other civil actions. If the court finds that the vehicle or conveyance, or any part thereof, was used in a violation as specified in the complaint, it shall order the vehicle or conveyance sold, as provided in this section, unless the owner shows to the satisfaction of the court that the vehicle was being used without the owner's consent or that at the time of giving the consent the owner had no notice or knowledge or reason to believe that the vehicle or conveyance was intended to be used in a violation.

After deducting the expense of keeping the vehicle or conveyance, the fee for seizure, and the costs of the sale, the officer making the sale shall pay, according to their

priority, all liens established at the hearing as being bona fide and existing without the lienor having any notice or knowledge at the time the lien was created that the vehicle or conveyance was being used or was intended to be used in connection with any violation as specified in the order of the court, and shall pay the balance of the proceeds into the state treasury. A sale under the provisions of this section frees the vehicle or conveyance sold from all liens, and appeal from order of the district court lies to the supreme court as in other civil actions. At any time after seizure and before the hearing the vehicle or conveyance must be returned to the owner or person having a legal right to its possession on execution by that person of a valid bond to the state of Minnesota, with corporate surety, in the sum of not less than \$100 and not more than double the value of the vehicle or conveyance seized, to be approved by the court in which the case is triable, or a judge thereof, conditioned on obeying any order and the judgment of the court, and to pay the full value of the vehicle or conveyance at the time of seizure.

History: 1985 c 305 art 2 s 12; 1Sp1986 c 3 art 1 s 82

297C.13 VIOLATIONS.

Subdivision 1. **Felonies.** It is a felony for a holder of an alcoholic beverage license to:

- (1) evade or attempt to evade the excise tax on intoxicating liquor and nonintoxicating malt liquor;
- (2) fraudulently neglect or fail to keep complete accounts in book or books of account, or to make true and exact entries in them as required by the rules of the commissioner of public safety and the commissioner of revenue, or by law;
- (3) conspire to violate a provision of this chapter;
- (4) fail to do or cause to be done anything required by law;
- (5) refill or cause to be refilled a bottle or other container of intoxicating liquor in order to evade tax; or
- (6) sell intoxicating liquor or nonintoxicating malt liquor on which the excise tax has not been paid and thereby evade the tax.

Subd. 2. **Gross misdemeanors.** Any other violation of this chapter is a gross misdemeanor except where a different penalty is specified.

History: 1985 c 305 art 2 s 13