

## CHAPTER 297C

### LIQUOR TAXATION

297C.02	Tax imposed.	297C.06	Refunds.
297C.03	Payment of tax; wine and distilled spirits.	297C.09	Importation by individuals.
297C.04	Payment of tax; malt liquor.	297C.14	Penalties.
297C.05	Returns.	297C.16	Personal debt.

#### 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)	\$5.03 per gallon	\$1.33 per liter
(b) Wine containing 14 percent or less alcohol by volume	\$.30 per gallon	\$.08 per liter
(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume	\$.95 per gallon	\$.25 per liter
(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume	\$1.82 per gallon	\$.48 per liter
(e) Wine containing more than 24 percent alcohol by volume	\$3.52 per gallon	\$.93 per liter
(f) Natural and artificial sparkling wines containing alcohol	\$1.82 per gallon	\$.48 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 14 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, \$2.40 per barrel of 31 gallons;

(2) On fermented malt beverages containing more than 3.2 percent alcohol by weight, \$4.60 per barrel of 31 gallons.

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

*[For text of subs 3 and 4, see M.S.1986]*

**History:** 1987 c 268 art 12 s 1,2

### 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 18th 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 18th day of the month following first sale in this state by a licensed manufacturer or wholesaler a return in the form prescribed by the commissioner, and must keep records and render reports required by 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.

Subd. 2. [Repealed, 1987 c 268 art 12 s 11]

Subd. 3. [Repealed, 1987 c 268 art 12 s 11]

*[For text of subd 4, see M.S.1986]*

Subd. 4a. **Certified check.** In lieu of the bond required in subdivision 4, a certified check may be filed with the commissioner. The check must be payable to the commissioner in an amount to be established by the commissioner or the commissioner's designee but not to exceed twice the average monthly liability of the taxpayer. The department of revenue shall not pay interest on funds encumbered by the check.

*[For text of subd 5, see M.S.1986]*

**History:** 1987 c 268 art 12 s 3,4

### 297C.04 PAYMENT OF TAX; MALT LIQUOR.

The commissioner may 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 18th 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.

**History:** 1987 c 268 art 12 s 5

### 297C.05 RETURNS.

*[For text of subd 1, see M.S.1986]*

Subd. 2. **Accelerated tax payment.** 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 18, 1987, or June 18 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 18, 1987, or August 18 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.

*[For text of subd 3, see M.S.1986]*

Subd. 4. [Repealed, 1987 c 268 art 12 s 11]

**History:** 1987 c 268 art 12 s 6

## 297C.06 REFUNDS.

Subdivision 1. **Products destroyed.** 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. Any destruction must meet the requirements of the environmental laws of this state.

Subd. 2. **Bad debts.** The commissioner may adopt rules providing a refund of the tax paid under this chapter on intoxicating liquor or wine if the tax paid qualifies as a bad debt under section 166(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Subd. 3. **Proof of loss.** 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 refund to a taxpayer the amount of tax paid under this chapter for the breakage of inventory not subject to reimbursement from any insurance proceeds. The method of proof for obtaining the refund will be prescribed by the commissioner.

The commissioner may refund any overpayment of tax imposed under section 297C.02 provided that the claim for refund is filed within three years from the due date of the return for which the refund is claimed. The refund of tax shall be paid out of the general fund and amounts necessary to pay the refunds are appropriated out of the general fund.

Subd. 4. **Credit against tax.** The commissioner may credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Subd. 5. **Claims; time limit.** Claims for refund must be filed with the commissioner (1) for refunds under subdivision 1 within one year from the date of the breakage or the destruction order; and (2) for refunds under subdivision 2, within two years of the date the product is sold to the retailer.

Subd. 6. **Annual appropriation.** There is appropriated annually from the general fund to the commissioner the sums necessary to make the refunds provided by this section.

**History:** 1987 c 268 art 12 s 7

## 297C.09 IMPORTATION BY INDIVIDUALS.

A person, other than a person under the age of 21 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. Amounts in excess of these quantities may be imported only by a licensee holding the appropriate license as manufacturer, wholesaler, or importer under section 340A.301 or 340A.302. A collec-

tor of commemorative bottles, other than a person under the age of 21 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: 1987 c 268 art 12 s 8; 1987 c 310 s 1*

#### 297C.14 PENALTIES.

**Subdivision 1. Penalty on unpaid tax.** If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 271.061, there shall be added to the tax a penalty equal to three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

**Subd. 2. Penalty for failure to file.** If a person fails to make and file a return within the time required by this chapter or an extension of time, there shall be added to the tax three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding 23 percent in the aggregate. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

In the case of a failure to file a return within 60 days of the date prescribed for filing of the return (determined with regard to any extension of time for filing), the addition to tax under this subdivision shall not be less than the lesser of (i) \$200; or (ii) the greater of (a) 25 percent of the amount required to be shown as tax on the return without reduction for any payments made or refundable credits allowable against the tax; or (b) \$50.

**Subd. 3. Combined penalties.** Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined, other than the minimum penalty under subdivision 2, shall not exceed 38 percent in the aggregate.

**Subd. 4. Willful failure; fraud.** If a person willfully fails to file a return or make a payment required by this chapter, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax and is in addition to any other penalties, civil and criminal, provided by this section.

**Subd. 5. Order payments credited.** All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

**Subd. 6. Interest.** The amount of tax not timely paid, together with any penalty imposed by this chapter, shall bear interest at the rate specified in section 270.75 from

the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.

**Subd. 7. Negligence; intentional disregard of law or rules.** If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of tax together with this penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

**Subd. 8. Failure to file informational returns.** Any person required to file informational returns or reports that fails to do so by the time period established by law, will be assessed a \$25 penalty for each month the return remains unfiled.

**History:** 1987 c 268 art 12 s 9

#### **297C.16 PERSONAL DEBT.**

The tax imposed by this chapter, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

**History:** 1987 c 268 art 12 s 10