

SECTION E

Alcoholic Beverages Tax and Fees

BASIC PROVISIONS AND TAX BASE

Neb. Rev. Stat. § 53-160 imposes a tax upon the privilege of doing business in Nebraska as a manufacturer or distributor of alcoholic liquors. The tax is imposed at the rate of 31 cents per gallon on all beer, 95 cents per gallon for wine, \$3.75 per gallon on alcohol and spirits, and six cents per gallon for wine produced in farm wineries. Revenue raised from the gallonage tax is placed in the State General Fund.

Neb. Rev. Stat. §§ 53-124 and 53-131.01 provide for the payment of registration and annual license fees to the Nebraska Liquor Control Commission. The law provides a schedule of license fees to be paid by manufacturers, distributors, and retailers of alcoholic beverages. In addition, Neb. Rev. Stat. § 53-132 allows for an occupation tax to be imposed by cities and villages.

The fees paid by manufacturers and distributors vary depending upon whether beer, wine, and/or spirits are handled by the licensee. Retailer's license fees vary depending upon: what alcoholic beverages are sold; whether sold for consumption on- or off-premises; whether sold in a village or larger community; whether issued to a privately owned recreation area; whether issued to a nonprofit corporation for on-premise consumption; whether issued to a municipal corporation, fine arts museum, or nonprofit religious or fraternal organization; whether issued to a restaurant for on-premise consumption; whether issued to a railroad, passenger boat operator, nonbeverage user, airline, or bottle club; or whether issued to a farm winery or brewpub. Nonprofit corporations can obtain a special designated permit for limited purposes.

The fees derived from local retail license fees by cities or villages are placed in the School Fund of the district lying wholly or partially within the corporate limits of the city or village. The fees raised from Special Designated Licenses are deposited into the State General Fund.

Annual license fees received by the Nebraska Liquor Control Commission are paid to the State Treasurer for deposit in the Temporary School Fund. Registration fees received by the Commission are placed in the State General Fund.

| Statutory Reference and Description | Actual Tax Expenditure Cost (NA = Not Available) |
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EXEMPTIONS

Section 53-168.06

The following activities are excluded from the definition of manufacturing and distribution and, therefore, are not subject to the Liquor Tax:

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| (1) The possession and transportation of alcoholic liquors for the personal use of the possessor, his or her family, and guests; | NA |
| (2) The making of wine, cider, or other alcoholic beverages by an individual from fruits, vegetables, or grains (or the product thereof) by fermentation and without distillation if used solely for the use of the maker, his or her family, and guests; | NA |

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| (3) The possession and use by a licensed practicing physician or dentist in the strict practice of his or her profession; | Minimal |
| (4) The possession and use by a hospital or other institution caring for the sick and diseased persons, for the treatment of patients of the hospital or institution; | NA |
| (5) The possession and use by a drug store employing a licensed pharmacist in the compounding of prescriptions from licensed physicians; and | NA |
| (6) The possession and dispensation of wine by an authorized representative of any church for the purpose of conducting any bona fide rite or religious ceremony conducted by the church. | NA |

Section 53-164.01

Liquors shipped out-of-state for sale or consumption outside Nebraska are exempt. NA

Section 53-160

Dry or fortified wines manufactured or imported solely and exclusively for sacramental purposes are exempt. NA

The tax is not imposed upon any beer sold to a manufacturer consumer for use in the manufacture of: patent and proprietary medicines and medicinal, antiseptic, and toilet preparation; flavoring extracts in syrups and food products; scientific, industrial and chemical products, excepting denatured alcohol; and for scientific, chemical, experimental or mechanical purposes. \$0

The tax is not imposed upon the privilege of engaging in any business in interstate commerce or otherwise where taxation is prohibited under the United States Constitution and Federal Law. NA
(State taxation prohibited)

Section 53-160.01

No direct or indirect excise tax is imposed upon the sale, use, delivery, or storage of articles of merchandise to or by any instrumentality of the United States armed forces engaged in resale activity. NA
(State taxation prohibited)

DEDUCTIONS

Section 53-164.01

The manufacturer or distributor is allowed a discount of one percent of the tax on alcoholic liquors for the timely payment of the tax due the Nebraska Liquor Control Commission. \$283,831

CREDITS

Section 53-161

A credit is allowed to a distributor or manufacturer for tax paid on: (1) beer shipped out-of-Nebraska for sale and consumption outside the state; or (2) beer returned to the manufacturer for credit, substitution, or replacement. \$78,638

Section 53-164.01

A credit is allowed to a manufacturer or distributor for the amount of tax paid on beer sold or delivered to any instrumentality of the United States armed forces engaged in resale activities. \$31,804

PREFERENTIAL TAX RATES

Section 53-160

Different rates of tax per gallon are levied depending upon the class of alcoholic beverage and its alcoholic content. The following are the applicable rates per gallon effective July 1, 2003.

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| Beer - \$0.31 per gallon | A one cent increase would generate \$459,246 in additional revenue. |
| Wine - \$0.95 per gallon (14% or under of alcohol content) | A five-cent increase would generate \$129,100 in additional revenue. |
| Alcohol and Spirits - \$3.75 per gallon | A five-cent increase would generate \$635,040 in additional revenue. |
| Wine from Farm Wineries - \$.06 per gallon | A five-cent increase would generate \$3,422 in additional revenue. |
| Wine from Direct Shippers - \$0.95 per gallon | A five-cent increase would generate \$1,267 in additional revenue. |
| Micro Distilleries - \$3.75 per gallon (New license type in 2009--only had two months of reporting.) | A five-cent increase would generate \$17 in additional revenue. |

RECOMMENDATIONS

The Nebraska Liquor Control Commission has no recommendations.