

# **NOTICE OF PROPOSED REGULATIONS**

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In accordance with State Government Article, §10-112.1, Annotated Code of Maryland, notice is hereby given that the Comptroller of Maryland has proposed the following new or amended regulations. The published regulations can also be found [here](#).

## **Title 03 COMPTROLLER OF THE TREASURY** **Subtitle 02 ALCOHOL AND TOBACCO TAX**

### **Chapter 01 Alcoholic Beverages**

Authority: Tax-General Article §2-103; Annotated Code of Maryland

#### **.01 Method of Tax Payment Applicable to Beer Delivered Into Maryland.**

A. Prepayment of Beer Tax. Beer may not be consigned into the State of Maryland, [except as provided in Article 2B, §4(h), Annotated Code of Maryland,]unless:

- (1) The consignor is the holder of a nonresident dealer's permit issued by the [Comptroller]*Alcohol and Tobacco Commission*;
  - (2) The permittee has furnished the Comptroller a suitable security;
  - (3) All required beer taxes have been prepaid as provided in this regulation; and
  - (4) All applicable provisions of [Article 2B] *the Alcoholic Beverages Article* and the Tax-General Article, Annotated Code of Maryland, have been met.
- B. - C. (text unchanged)

### **Chapter 02 Tobacco Tax**

Authority: Tax-General Article, §§2-103, 12-303, and 12-306, Annotated Code of Maryland

#### **.05 Cigarette Tax Stamps.**

A. Purchases, Payments, and Tax Credits.

- (1) Tax stamps may be purchased for:
  - (a) Cash;
  - (b) Approved credit up to 95 percent of the face amount of the security filed with and approved by the Comptroller as required by Tax-General Article, §13-825, Annotated Code of Maryland; and
  - (c) Cigarette tax credits issued by the Comptroller.
- (2) Tax stamp payments are due for:
  - (a) Cash sales at the time of purchase; and
  - (b) Credit sales made during the month with the cigarette tax return due by the 21st of the month following the report month.
- (3) Approved cigarette tax credits used when purchasing cigarette tax stamps shall be presented at the time the purchase order for cigarette tax stamps is placed with the Comptroller.

(4) If any licensed wholesaler who purchases cigarette tax stamps on credit fails to remit full payment for accumulated cigarette tax stamps purchased on credit by the due date, the credit privileges may be suspended or revoked by the Comptroller.

B. The Comptroller may exempt a licensed wholesaler from posting a security when the wholesaler has been in continuous compliance with the:

- (1) Tobacco tax laws of Maryland for the past 5 years; and
- (2) Conditions of any bond or other security filed with the Comptroller pursuant to Tax-General Article, §13-825, Annotated Code of Maryland.

C. The Comptroller may revoke an exemption granted to a person under this regulation for:

- (1) Failure to be in continuous compliance with the tobacco tax laws;
- (2) Failure to pay any tobacco tax or assessment when due;
- (3) Failure to file a tobacco tax return or report when due; or
- (4) For other good and sufficient reasons.

D. A licensee may apply to the Comptroller for reinstatement of a revoked exemption under §C of this regulation. The Comptroller may reinstate the security exemption if the licensed wholesaler has been in continuous compliance as provided in §B for a period of 2 years following the revocation.

E. A licensed wholesaler applying for an exemption from filing a security shall complete forms provided by the Comptroller and shall submit the supporting information as the Comptroller deems necessary. This information may include, but is not limited to, an audited financial statement, copies of federal and State tax returns for the preceding 3 years, and a current balance sheet. An exempt licensed wholesaler shall file a renewal application for exemption concurrent with the license renewal application in order to maintain the exemption. When the licensed wholesaler is a corporation, a new exemption application shall be filed any time the officer of the corporation exercising direct control over its fiscal management is changed.

F. Security Exemption.

(1) The Comptroller shall notify the applicant in a timely fashion of the approval or rejection of the security exemption.

(2) If approved, the amount of the maximum credit limit based on the past 5 years experience of the wholesaler shall be established.

(3) If, after an exemption has been approved, a licensee's need to purchase tax stamps is in an amount that exceeds the maximum credit limit, the licensee may apply for an additional exemption from filing a security in accordance with §E of this regulation.

G. Wholesalers who do not post a security or have not been granted a security exemption under this regulation will be required to [furnish certified checks when purchasing] *purchase stamps by authorizing to the Comptroller to withdraw the amounts due from the wholesaler's bank account, otherwise known as a direct debit.*

**.06 Sales to Maryland Subwholesalers for Resale Outside of Maryland.**

A. A wholesaler may deliver unstamped cigarettes to a Maryland subwholesaler only if that subwholesaler has applied for and received permission from the Comptroller to buy unstamped cigarettes for sale outside of Maryland.

B. A subwholesaler who receives the permission in §A of this regulation [will be required to] *shall:*

(1) file monthly returns containing schedules showing each delivery outside of Maryland[.];

(2) segregate unstamped cigarettes for sale outside of Maryland from other inventory; and

(3) mark unstamped cigarettes for sale outside of Maryland.

[C. Segregating and marking the cigarettes for out-of-State delivery applies to subwholesalers.]

**.07 Sample Cigarettes.**

A. Packages of sample cigarettes, which are to be provided to consumers free of charge, shall be unstamped and prominently identified as "Sample Cigarettes Not for Sale—All Applicable State Taxes Paid".

B. Manufacturers shall supply the *Comptroller* [Alcohol and Tobacco Tax Bureau] with a complete listing, including addresses of all representatives, warehouses, advertising agencies, etc., who distribute or store sample cigarettes in Maryland on their behalf.

## Chapter 04 Administration

Authority: Alcohol Beverage Article, §1-302; Tax-General Article, §2-103; Annotated Code of Maryland

**.01 Tax Returns and Reports.**

A. Alcoholic Beverage Tax Returns and Reports.

(1) Holders of a manufacturer's or a wholesaler's license authorized to sell beer, wine, or liquor, or Class E, F, or G license holders authorized to sell beer, wine, or liquor, or holders of a nonresident dealer permit authorized to sell beer shall file a tax return with the Revenue Administration Division on forms prescribed by the Comptroller for each month that their license or permit is active. A tax return is required for each period even if the licensee or permittee had no activity. Manufacturers and wholesalers shall file a beer, wine, or liquor tax return under a filing frequency provided in §A(4) of this regulation. Nonresident dealers shall file a beer tax return by the 15th of the month following the report month. Class E, F, and G licensees shall file the appropriate tax return by the 25th of the month following the report month.

(2) Holders of an import-export, nonresident storage, or a public storage permit shall file a report with the Revenue Administration Division on forms prescribed by the Comptroller for each month that their permit is active. A report is required for each month even if the permittee had no activity. Import-export, nonresident storage, and public storage reports are due by the 15th of the month following the report month.

(3) Family beer and wine facility permit holders shall file a report with the Revenue Administration Division on forms prescribed by the Comptroller for each year that the permit is active. A family beer and wine facility permit report is required for each report year beginning October 1 and ending September 30 of the following year. Reports are due by October 15 following the report year, and shall be filed even if the permittee had no activity for that year.

(4) Filing frequency for Manufacturers and Wholesalers of Beer, Wine or Liquor.

(a) The Comptroller shall notify manufacturers and wholesalers of their filing frequency under [§A(5)(b) of ]this regulation.

(b) The required return shall be filed:

(i) Monthly;

(ii) Quarterly; or

(iii) Semiannually.

(c) Monthly. The taxpayer is required to file and pay the tax monthly on or before the 20th day of the month following the report month.

(d) Quarterly. The taxpayer is required to file and pay the tax quarterly on or before the 15th day of the month that follows a calendar quarter for that report. The reports will be due April, July, October, and January of the following year.

(e) Semiannually. The taxpayer is required to file the return and pay the tax semiannually on or before the 15th day of January and July.

(5) [Beer Franchise Filing.

(a) A beer franchise filing is required to be filed with the Revenue Administration Division on the form prescribed by the Comptroller on the form prescribed by the Executive Director. A beer franchise form shall be filed before distribution of a brand of beer by:

(i) A beer nonresident dealer who sells beer to a Maryland wholesaler or county dispensary for distribution in the State;

(ii) A Maryland brewery or microbrewery who sells beer to a Maryland wholesaler for distribution in this State; or

(iii) A Maryland beer wholesaler who self-imports beer for sale in Maryland or subdistributes beer to another Maryland beer wholesaler for sale in Maryland.

(b) A person required to file a beer franchise form under §A of this regulation, when a franchise status changes, shall report the change promptly to the Comptroller by filing a replacement beer franchise form or submitting an explanatory letter, or both.

(6) A holder of a nonresident winery, *distillery*, and *brewery* permit authorized to sell wine, *distilled spirits*, or *beer* shall file a [wine] tax return with the Revenue Administration Division on forms prescribed by the Comptroller for each month that the holder's permit is active. A tax return is required for each month even if the permittee had no activity. A nonresident [winery] permit holder shall file a [wine] tax return by the 10th of the month following the report month.

B. (text unchanged)

**.02 Repealed [Reports of Boards of License Commissioners and County Dispensaries.**

A. Report of Retail License Activity.

(1) Each retail alcoholic beverage license-issuing authority shall file on a monthly basis a report with the Comptroller, on forms provided or approved by the Comptroller, listing all retail alcoholic beverage license activity, including issuances, cancellations, transfers, revocations, etc., for the report month. Each issuing authority shall file the monthly report with the Comptroller by the 15th of the month following the report month. Reports are due even if there is no activity.

(2) Each alcoholic beverage license-issuing authority shall file annually a complete report of all retail alcoholic beverage licenses renewed for the year on forms provided or approved by the Comptroller. This annual report shall be filed by the 15th of the month following the month the licenses are renewed.

(3) Reports filed by the alcoholic beverage license-issuing authority shall include the names of licensees, entity name and trade name, address, and any other information the Comptroller may require. The Comptroller may adopt a Statewide control number to be used by the alcoholic beverage license-issuing authority when filing reports.

(4) Each alcoholic beverage license-issuing authority shall file annually a complete report of all revenue derived for the year preceding from retail alcoholic beverage licenses, on forms provided or approved by the Comptroller. This annual report shall be filed by August 15 annually.

B. Report of Dispensary Activities. Each county dispensary shall file annually a complete report summarizing all dispensary activities for the year on forms provided or approved by the Comptroller. This report shall be filed by August 15 annually and shall include gross profits, expenses, net profits of the dispensary, and any other information relating to the sale of alcoholic beverages that the Comptroller may require.]