

## **IDAPA 35 – IDAHO STATE TAX COMMISSION**

### **Tax Policy – Taxpayer Resources Unit**

#### **35.01.09 – Idaho Beer and Wine Taxes Administrative Rules**

##### **Who does this rule apply to?**

*The following account holders with the State Tax Commission:*

- Beer wholesalers
- Breweries
- Wine distributors
- Wineries
- Wine direct shippers

##### **What is the purpose of this rule?**

*Ensure the reporting and payment of:*

- Beer tax
- Wine tax

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Revenue and Taxation -

Department of Revenue and Taxation:

- [Section 63-105, Idaho Code](#) – Powers and Duties - General

Alcoholic Beverages -

Beer:

- [Section 23-1051, Idaho Code](#) – Regulations

County Option Kitchen and Table Wine Act:

- [Section 23-1323, Idaho Code](#) – Rules and Regulations Concerning Excise Tax – Power of Tax Commission

##### **Who do I contact for more information on this rule?**

State Tax Commission

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## 35.01.09 – IDAHO BEER AND WINE TAXES ADMINISTRATIVE RULES

### **000. LEGAL AUTHORITY (RULE 000).**

Sections 63-105, 23-1051, 23-1323, Idaho Code, authorize the State Tax Commission (Tax Commission) to adopt the provisions of the Idaho Beer Act and the Idaho County Option Kitchen and Table Wine Act (the Acts). (4-6-23)

### **001. SCOPE (RULE 001).**

These rules are to be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on: (4-6-23)

a. All barrels or fractional amounts of beer sold or disposed of by a wholesaler and used or consumed in Idaho. (4-6-23)

b. All gallons of wine sold or disposed of by a distributor and used or consumed in Idaho. (4-6-23)

### **002. -- 009. (RESERVED)**

### **010. DEFINITIONS (RULE 010).**

Sections 23-1001, 23-1303, Idaho Code

Definitions provided by statute, including the definitions in Sections 23-1001 and 23-1303, Idaho Code, apply to these rules. The following definitions apply for the purpose of these rules. (4-6-23)

**01. Disposition.** A disposition is any decrease of beer or wine from inventory due to any sale, transfer, loss, breakage, spoilage or any other cause or means. (4-6-23)

**02. Taxpayer.** A taxpayer is a person liable to report and pay the beer tax or wine tax according to the Acts and these rules. (4-6-23)

**03. Wine Direct Shipper.** A wine direct shipper is a winery that has been issued a permit by the Idaho State Police to ship wine directly to residents of Idaho. (4-6-23)

### **011. BEER AND WINE SALES SUBJECT TO TAX (RULE 011).**

Sections 23-1001, 23-1003, 23-1006, 23-1008, 23-1303, 23-1309A, 23-1314, 23-1319, Idaho Code

**01. In General.** Sections 23-1008 and 23-1319, Idaho Code, impose an excise tax on beer sales by beer wholesalers and wine sales by wine distributors for use or consumption in Idaho. (4-6-23)

a. Every disposition of beer by a wholesaler or wine by a distributor to a retailer or consumer constitutes a sale for resale or use. Beer wholesalers or wine distributors are liable for the payment of taxes on the sales. Any person making sales or dispositions of beer or wine, whether licensed or not, is liable for the taxes. (4-6-23)

b. Wine direct shippers are liable for payment of wine tax imposed by Chapter 13, Title 23, Idaho Code, as well as the sales and use taxes imposed by Chapter 36, Title 63, Idaho Code, on all shipments of wine to Idaho. (4-6-23)

c. Any brewer, brewery, producer, or manufacturer of beer within Idaho will be considered a beer dealer within the meaning of the definitions provided in Section 23-1001(f), Idaho Code. However, to ensure payment of tax on beer, any entity holding a brewery license will be considered a wholesaler to the extent of any disposition from the brewery for the purpose of resale or consumption in, by, or through any retail facilities including, tasting rooms on or near the brewery's premises. (4-6-23)

d. Any vintner, winery, producer, or manufacturer of wine within Idaho will be considered a wine importer within the meaning of the definitions provided in Section 23-1303(1)(g), Idaho Code. However, to ensure payment of tax on wine, any entity holding a winery license will be considered a distributor to the extent of any disposition from the winery for the purpose of resale or consumption in, by, or through any retail facilities including, tasting rooms on or near the winery's premises. (4-6-23)

e. Ales, beer, new beer, or any alcoholic beverage that meets the definition in Section 23-1001(a), Idaho Code, containing more than five percent (5%) alcohol by volume are imposed an excise tax by Section 23-1008(1), Idaho Code. (4-6-23)

f. Premixed cocktails with an alcoholic content of fourteen percent (14%) or less by volume are taxed

at the wine tax rate. (4-6-23)

**g.** Illegal Sales or Dispositions. In addition to the remedies of Sections 23-1055 and 23-1309, Idaho Code, the Tax Commission may assess taxes against persons making illegal sales of beer or wine who otherwise would be liable for payment of taxes. (4-6-23)

**02. Supplementing Inventory.** If a brewery or winery supplements inventory, adequate records are required to support any tax paid. The Tax Commission will presume no tax is paid on beer or wine in the inventory of a brewery or winery without evidence of the payment of tax. Wineries are not supplementing their inventory when purchasing wine or grape juice from other wineries to blend and produce wine. (4-6-23)

**03. All Sales Presumed Taxable.** Every sale or disposition from inventory is presumed to be a taxable sale unless the sale or disposition is exempt from tax by the Acts or these rules. (4-6-23)

**012. EXEMPTIONS (RULE 012).**  
Sections 23-1048, 23-1051, 23-1319, 23-1323, Idaho Code

**01. Burden of Proof.** The burden of proving any exemption, deduction, credit, or refund allowed by the Acts and these rules is upon the person claiming it. (4-6-23)

**02. Wholesale Exports.** Every resale of beer or wine by a beer wholesaler, brewery, wine distributor, or winery for the purpose of and resulting in an export of beer or wine from this state for resale outside this state is exempt from beer or wine tax. (4-6-23)

**03. Sales By Wine Direct Shippers Outside This State.** When an Idaho wine direct shipper is licensed as a wine direct shipper in another state, they are licensed to sell wine to residents of the other state. Sales of wine by the Idaho wine direct shipper, using another state's wine direct shipper license, to a resident of that state and delivered to a location in that state are exempt from Idaho wine tax. (4-6-23)

**04. Sales to Purchasers on Military Reservations.** Sales to authorized purchasers on military reservations for the purpose of and resulting in sales or consumption on the reservation are exempt from beer or wine tax. (4-6-23)

**05. Sales to Idaho State Liquor Dispensary.** Sales of beer or wine to the Idaho State Liquor Dispensary are exempt from beer or wine tax. (4-6-23)

**06. Dispositions From One Distributor or Wholesaler to Another.** Any disposition of beer or wine by transfer or sale or any other means from one (1) distributor or wholesaler to another is exempt from beer or wine tax. (4-6-23)

**013. BREAKAGE OR SPOILAGE (RULE 013).**  
Sections 23-1051, 23-1319, Idaho Code

**01. Percentage Method.** When a beer or wine container is damaged, contents spoiled, or is otherwise unfit for sale, the beer wholesaler or wine distributor may claim a percentage deduction of their total inventory purchases during the reporting period when the breakage or spoilage occurred. The taxpayer may claim a deduction without prior written approval when adequate records are maintained to verify actual breakage or spoilage. The maximum percentage deductions are one-half of one percent (0.50%) for beer and three-quarters of one percent (0.75%) for wine. (4-6-23)

**a.** The Tax Commission may revoke the use of the percentage method for any taxpayer at any time. The Tax Commission will notify the taxpayer in writing that future destructions of breakage or spoilage will require written approval from the Tax Commission. (4-6-23)

**b.** Any taxpayer who has received written notice revoking the percentage method must file the destruction request form required by the Tax Commission. (4-6-23)

**02. Reporting Destruction or Spoilage.** Taxpayers will report the destruction or spoilage in the manner and form required by the Tax Commission when claiming breakage or spoilage exceeding the maximum percentages allowed or the Tax Commission revokes the percentage method. (4-6-23)

**03. Deduction for Breakage or Spoilage.** A deduction may be claimed by the taxpayer for breakage or spoilage when reporting beer or wine tax due. (4-6-23)

**014. FINANCIAL SECURITY (RULE 014).**  
Sections 23-1049, 23-1320, Idaho Code

**01. Financial Security for Payment of Tax.** Any person required to pay tax under the Acts must have an acceptable amount of security on file and in acceptable form with the Tax Commission unless excused or waived by the Tax Commission. The security is conditioned upon payment of all taxes imposed on beer or wine by this state for which the person is liable, including any penalty and interest. (4-6-23)

**02. Security for a New Taxpayer.** When a new taxpayer applies for a tax account the security required is one thousand dollars (\$1,000) unless one of the following conditions applies: (4-6-23)

**a.** If a beer or wine tax reporting history is available from a previous ownership, the security required may be based on the most recent twelve (12) month filing history of the prior ownership. (4-6-23)

**b.** If an out-of-state wine direct shipper is applying for an initial account, they may request a bond waiver. (4-6-23)

**c.** If the taxpayer can establish a lesser amount should apply based on the average monthly amount payable according to Section 23-1049, Idaho Code. (4-6-23)

**015. BEER OR WINE TAX ACCOUNTS (RULE 015).**  
Sections 23-1051, 23-1323, Idaho Code

**01. Tax Accounts.** Before engaging in business, taxpayers need to have a beer tax or wine tax account from the Tax Commission to report and pay tax. As evidence of the tax account, a tax permit is issued. The terms tax account and tax permit are used interchangeably in this section. (4-6-23)

**02. Tax Accounts Are Non-transferable.** Where there is a change of ownership, it is the responsibility of the tax account holder to cancel the tax account by giving written notice to the Tax Commission. (4-6-23)

**a.** Notice requirements include the date of closure or last date of operation, date of sale or lease, and the name of the new owner or lessee. (4-6-23)

**b.** If the new owner or lessee uses the previous owner's tax account, the registered tax holder may be responsible for all tax, penalty, and interest incurred during that period. (4-6-23)

**03. Tax Account Cancellation.** The Tax Commission may cancel an inactive tax account. A tax account is considered inactive when returns are filed with no reportable beer or wine activity for twelve (12) consecutive months. The Tax Commission will provide notice of cancellation to the last known address of the tax account holder. (4-6-23)

**016. BEER OR WINE TAX RETURNS (RULE 016).**  
Sections 23-1047, 23-1051, 23-1322, 23-1323, Idaho Code

**01. Reporting Periods.** Returns are due on or before the 15th day of the month following the end of the reporting period, or the next business day when the due date is a Saturday, Sunday, or legal holiday. All returns must be filed monthly unless the Tax Commission approves an alternate reporting period. (4-6-23)

**a.** Request to File Quarterly or Semiannually. Taxpayers owing six hundred dollars (\$600) or less per quarter with a timely filing and payment history may request a quarterly or semiannual reporting period. (4-6-23)

**b.** Request to File Annually. Wine direct shippers, taxpayers with seasonal activities, and other taxpayers with minimal activity may request an annual reporting period. (4-6-23)

**c.** Final Return. A taxpayer will mark cancel on the last return filed. Tax, penalty, and interest will apply if the taxpayer continues business activity after filing a final return and canceling the tax account. (4-6-23)

**02. Prescribed Forms.** All sales or other dispositions of beer or wine in Idaho must be reported on forms provided or approved by the Tax Commission. (4-6-23)

**03. Inventory Reporting.** Taxpayers, excluding out-of-state direct shippers, are to report all additions to and sales or dispositions out of inventory, whether taxable or tax exempt. (4-6-23)

**04. Requirements of a Valid Return.** A valid return includes the fully completed and signed tax return. The return must meet the requirements of these rules and the information must be legible. (4-6-23)

**017. -- 018. (RESERVED)**

**019. RECORDS REQUIRED (RULE 019).**  
Sections, 23-1006, 23-1051, 23-1314, 23-1323, Idaho Code

**01. In General.** Every person liable for the payment of taxes on beer or wine must keep and preserve the following records: (4-6-23)

**a.** A daily record of all cash and credit sales including invoices, receipts, journals, and other related records. (4-6-23)

**b.** A record of the amount of all merchandise purchased, including all bills of lading, invoices, sales receipts, bank statements, canceled checks, and copies of purchase orders arranged in numerical and chronological order. (4-6-23)

**c.** Supporting documents for all deductions and exemptions allowed by law or claimed on a tax return. (4-6-23)

**d.** True and complete physical counts of the beer and wine inventory taken at the end of each reporting period. (4-6-23)

**e.** True and complete records of breakage and spoilage claimed as a deduction from inventory. (4-6-23)

**f.** Any records used to complete a return, including but not limited to those listed above, are to be kept in numerical and chronological order so they can be balanced with the corresponding return. (4-6-23)

**02. Record Retention.** These records are to be kept for a minimum of four (4) years. If a taxpayer appeals an assessment, all records are to be legible and kept on the business premises until final disposition of the appeal. (4-6-23)

**020. -- 999. (RESERVED)**