

## SUBCHAPTER 4E - ALCOHOLIC BEVERAGES TAX

### SECTION .0100 - LICENSES

#### **17 NCAC 04E .0101 PERMIT REQUIRED TO OBTAIN LICENSE**

*History Note:* Authority G.S. 105-113.69; 105-113.102;  
Eff. February 1, 1976;  
Repealed Eff. October 30, 1981.

#### **17 NCAC 04E .0102 APPLICATION FOR LICENSE**

#### **17 NCAC 04E .0103 PENALTY**

*History Note:* Authority G.S. 105-113.70 through 105-113.79; 105-113.89; 105-262;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1994; April 1, 1986; October 30, 1981; March 14, 1980; June 11, 1977;  
Repealed Eff. July 1, 2000.

#### **17 NCAC 04E .0104 LICENSE APPLICATION OF PARTNERSHIP**

*History Note:* Authority G.S. 105-113.99; 105-113.102;  
Eff. February 1, 1976;  
Repealed Eff. October 30, 1981.

#### **17 NCAC 04E .0105 SALESMAN FOR PROPRIETORSHIP OPERATION**

*History Note:* Authority G.S. 105-113.74; 105-262;  
Eff. February 1, 1976;  
Amended Eff. July 1, 1984;  
Repealed Eff. July 1, 1990.

#### **17 NCAC 04E .0106 LICENSE NOT TRANSFERABLE**

*History Note:* Authority G.S. 105-113.99; 105-113.100; 105-113.102;  
Eff. February 1, 1976;  
Repealed Eff. October 30, 1981.

### SECTION .0200 – PAYMENT OF TAX

#### **17 NCAC 04E .0201 FILING OF MONTHLY REPORTS**

#### **17 NCAC 04E .0202 EXAMINER'S REPORT**

#### **17 NCAC 04E .0203 SEPARATE REPORTS FOR WINES**

*History Note:* Authority G.S. 105-113.76; 105-113.80 through 105-113.83; 105-113.84; 105-113.89; 105-262;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1994; April 1, 1986; July 1, 1984; March 14, 1980; September 20, 1977;  
Repealed Eff. July 1, 2000.

#### **17 NCAC 04E .0204 OUT-OF-STATE SHIPMENTS REPORTING**

(a) For all out-of-state shipments, resident wholesalers and importers shall maintain invoices, and if using a common carrier for shipment, bills of lading.

(b) If delivered by using wholesaler's or importer's own mode of transportation, the wholesale or importer shall maintain the name, signature, and address of the person receiving malt beverages or wine from the wholesaler or importer.

*History Note:* Authority G.S. 105-113.81; 105-113.88; 105-262;

*Eff. February 1, 1976;*  
*Readopted Eff. January 1, 2021.*

**17 NCAC 04E .0205 MAJOR DISASTER REPORTING**

(a) To claim a major disaster exemption pursuant to G.S. 105 -113.81(a), wholesalers and importers of malt beverages or wine must submit Form B-C-750 to the Department. If the wholesaler or importer meets the requirements of G.S. 105-113.81(a) and is therefore qualified to take the exemption, the Department will return Form B-C-750 verifying that an exemption can be claimed. If verified by the Department, the wholesalers or importers shall include Form B-C-750 with the monthly report filed pursuant to G.S. 105-113.83.

(b) Form B-C-750 requires the following:

- (1) the reporting period for the report;
- (2) information required by 17 NCAC 01C .0322(b);
- (3) the wholesaler or importer's legal name and mailing address;
- (4) the trade name or doing-business-as name, if applicable;
- (5) if the wholesaler or importer elects to designate a contact person, the identity of a contact person, including his or her legal name, phone number, and fax number;
- (6) the type of product subject to the major disaster;
- (7) the brand name of the product subject to the major disaster;
- (8) the amount of malt beverages or wine subject to the major disaster; and
- (9) documentation to support that a major disaster occurred.

(c) Several small disasters cannot be accumulated and then classified as a major disaster. A major disaster shall be classified as only one event when the loss occurs, and not an accumulation of events. Any missing beverage inventory that cannot be classified as a major disaster shall be considered as malt beverage or wine sold and subject to the excise tax.

(d) Resident wholesalers or importers cannot claim an exemption or deduction for losses in their inventory unless the losses qualify for the exemption under G.S. 105-113.81(a).

*History Note: Authority G.S. 105-113.81; 105-113.83; 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. April 1, 1986; October 30, 1981;*  
*Readopted Eff. January 1, 2021.*

**17 NCAC 04E .0206 WHOLESALER BUYING FROM WHOLESALER**

*History Note: Authority G.S. 105-113.83; 105-262;*  
*Eff. February 1, 1976;*  
*Repealed Eff. January 1, 2021.*

**17 NCAC 04E .0207 NONRESIDENT BEER SHIPMENTS**  
**17 NCAC 04E .0208 NONRESIDENT WINE SHIPMENTS**

*History Note: Authority G.S. 105-113.86; 105-113.89; 105-113.102;*  
*Eff. February 1, 1976;*  
*Amended Eff. October 30, 1981;*  
*Repealed Eff. April 1, 1986.*

**17 NCAC 04E .0209 BEER OR WINE TO EMPLOYEES AND GUESTS**

*History Note: Authority G.S. 105-113.81; 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. July 1, 1990; April 1, 1986; July 1, 1984;*  
*Repealed Eff. January 1, 1994.*

**17 NCAC 04E .0210 IDENTICAL TAX UPON DOMESTIC AND NON-DOMESTIC WINES**

*History Note: Authority G.S. 105-113.80; 105-262;*

*Eff. February 1, 1985;*  
*Repealed Eff. January 1, 1994.*

**SECTION .0300 - SPOILAGE: BREAKAGE AND DESTRUCTION**

**17 NCAC 04E .0301 SPOILAGE OR DESTRUCTION OF NONTAXPAID BEER OR WINE**  
**17 NCAC 04E .0302 SPOILAGE OF TAXPAID BEER OR WINE**

*History Note: Authority G.S. 105-113.85; 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. December 1, 2003; July 1, 2000; March 14, 1980; April 1, 1986; October 30, 1981;*  
*Repealed Eff. January 1, 2021.*

**17 NCAC 04E .0303 DESTRUCTION OF MALT BEVERAGES OR WINE WHEN IN TRANSIT**

Non-tax-paid malt beverages and wine that are destroyed while in the possession of a common carrier who is transporting these alcoholic beverages from the brewery or winery to the resident wholesaler or resident importer shall not be considered part of the taxable inventory of the resident wholesaler or resident importer.

*History Note: Authority G.S. 105-113.83; 105-262;*  
*Eff. February 1, 1976;*  
*Readopted Eff. January 1, 2021.*

**17 NCAC 04E .0304 DESTRUCTION WHEN PROPERTY OF RESIDENT**

*History Note: Authority G.S. 105-113.86; 105-113.102;*  
*Eff. February 1, 1976;*  
*Repealed Eff. October 30, 1981.*

**SECTION .0400 - MILITARY BEER AND WINE**

**17 NCAC 04E .0401 INSIGNIA FOR MILITARY USE ONLY REQUIRED**

*History Note: Authority G.S. 105-113.86; 105-113.102;*  
*Eff. February 1, 1976;*  
*Repealed Eff. October 30, 1981.*

**17 NCAC 04E .0402 ACCOUNTING FOR BEER AND WINE SALES TO MILITARY**

*History Note: Authority G.S. 105-113.81; 105-262;*  
*Eff. February 1, 1976;*  
*Amended Eff. April 1, 1986; January 1, 1982;*  
*Repealed Eff. January 1, 1994.*

**17 NCAC 04E .0403 SEGREGATION OF MILITARY FROM CIVILIAN**

*History Note: Authority G.S. 105-113.86; 105-113.102;*  
*Eff. February 1, 1976;*  
*Repealed Eff. January 1, 1982.*

**SECTION .0500 - OCEAN-GOING BEER AND WINE**

**17 NCAC 04E .0501 EXEMPTION FROM TAX**

*History Note: Authority G.S. 105-113.81; 105-262;*  
*Eff. February 1, 1976;*

*Repealed Eff. January 1, 1994.*

**17 NCAC 04E .0502 RECEIPTS FOR MALT BEVERAGES AND WINE DELIVERED TO OCEANGOING VESSELS**

Receipt for delivery of non-tax-paid malt beverages and wine to oceangoing vessels shall be signed for by an authorized officer or agent of the vessel. The signed receipts must be retained by the wholesaler or importer for a period of three years.

*History Note: Authority G.S. 105-113.81; 105-262;  
Eff. February 1, 1976;  
Readopted Eff. January 1, 2021.*

**SECTION .0600 - BOND REQUIRED**

**17 NCAC 04E .0601 BOND OR IRREVOCABLE LETTER OF CREDIT REQUIRED OF WHOLESALERS AND IMPORTERS OF MALT BEVERAGES OR WINE**

(a) A bond submitted to the Department pursuant to G.S. 105-113.86 shall be filed on Form B-C-790. Form B-C-790 requires the following:

- (1) the bond number;
- (2) the principal's legal name;
- (3) the surety's name;
- (4) the written value of bond amount;
- (5) the numeric value of bond amount;
- (6) the bond effective date;
- (7) the date the bond is executed;
- (8) the authorization, printed name, and signature of the Attorney-in-Fact acting on behalf of the surety in accordance with the following:
  - (A) surety shall affix its seal to the form;
  - (B) surety shall include with the form a power of attorney authorizing the Attorney-in-Fact to sign on behalf of the surety; and
  - (C) surety shall prepare the power of attorney on the surety's own form executed under the surety's seal. If the power of attorney submitted with the form is other than a manually signed original, it shall be accompanied by a certification from the surety that the power of attorney is valid; and
- (9) the authorization, printed name, signature, and title of the person authorized to legally bind the principal in accordance with the following:
  - (A) if the principal has a seal, the principal shall affix its seal to the form;
  - (B) if the principal does not have a seal, the person signing the form shall have his or her signature notarized on the form; and
  - (C) the principal shall include documentation (such as the principal's bylaws, operating agreement, or resolution) showing that the person signing the form has the authority to bind the principal.

(b) An irrevocable letter of credit submitted to the Department pursuant to G.S. 105-113.86 shall be issued on the financial institution's letterhead and include the following:

- (1) the irrevocable letter of credit number;
- (2) the North Carolina Department of Revenue designated as the beneficiary;
- (3) the principal name and address;
- (4) the irrevocable letter of credit is issued for alcoholic beverage taxes imposed under G.S. 105-113.80;
- (5) the coverage period, including effective and expiration dates;
- (6) the liability release date, which shall be three years after the expiration date;
- (7) the credit amount;
- (8) the issuing financial institution's name, address, telephone number, and fax number; and
- (9) the signature, printed name, and title of authorized person issuing the irrevocable letter of credit on behalf of the issuing financial institution.

(c) The amount of the bond or irrevocable letter of credit submitted to the Department pursuant to G.S. 105-113.86(a) or (c) in response to a periodic review shall be as follows:

- (1) where the combined tax due for any three months of the previous 12 months exceeds forty thousand dollars (\$40,000), the amount of the bond shall be fifty thousand dollars (\$50,000);

- (2) where the combined tax due for any three months of the previous 12 months exceeds twenty-five thousand dollars (\$25,000) but does not exceed forty thousand dollars (\$40,000), the amount of the bond shall be forty thousand dollars (\$40,000);
  - (3) where the combined tax due for any three months of the previous 12 months exceeds twelve thousand five hundred dollars (\$12,500) but does not exceed twenty-five thousand dollars (\$25,000), the amount of the bond shall be twenty-five thousand dollars (\$25,000);
  - (4) where the combined tax due for any three months of the previous 12 months exceeds five thousand dollars (\$5,000) but does not exceed twelve thousand five hundred dollars (\$12,500), the amount of the bond shall be twelve thousand five hundred dollars (\$12,500); and
  - (5) where the combined tax due for any three months of the previous 12 months does not exceed five thousand dollars (\$5,000), the amount of the bond shall be five thousand dollars (\$5,000).
- (d) The amount of the bond or irrevocable letter of credit submitted to the Department pursuant to G.S. 105-113.86(b) shall be two thousand dollars (\$2,000).

*History Note:* Authority G.S. 105-113.86; 105-262;  
Eff. February 1, 1976;  
Amended Eff. April 1, 2008; January 1, 1994; April 1, 1986;  
Readopted Eff. January 1, 2021.

#### **17 NCAC 04E .0602 NEW WHOLESALER OR IMPORTER BOND**

*History Note:* Authority G.S. 105-113.86; 105-262;  
Eff. February 1, 1976;  
Amended Eff. January 1, 1994;  
Repealed Eff. January 1, 2021.

### **SECTION .0700 - DISTRIBUTION OF MALT AND WINE EXCISE TAX TO LOCAL GOVERNMENTS**

#### **17 NCAC 04E .0701 PARTICIPANTS IN DISTRIBUTION 17 NCAC 04E .0702 PER CAPITA BASIS**

*History Note:* Authority G.S. 105-113.86; 105-113.102;  
Eff. February 1, 1976;  
Amended Eff. March 14, 1980;  
Repealed Eff. October 30, 1981.

#### **17 NCAC 04E .0703 DISTRIBUTION NOTICE**

*History Note:* Authority G.S. 105-113.82; 105-262;  
Eff. February 1, 1976;  
Amended Eff. July 1, 2000; March 14, 1980;  
Expired Eff. January 1, 2019 pursuant to G.S. 150B-21.3A.

#### **17 NCAC 04E .0704 DEFINED AREAS**

*History Note:* Authority G.S. 105-113.86; 105-113.102;  
Eff. February 1, 1976;  
Amended Eff. March 14, 1980; September 20, 1977;  
Repealed Eff. October 30, 1981.

#### **17 NCAC 04E .0705 HOLD FUNDS**

*History Note:* Authority G.S. 105-113.86; 105-113.102;  
Eff. February 1, 1976;

*Amended Eff. March 14, 1980;*  
*Repealed Eff. April 1, 1986.*