ALCOHOLIC BEVERAGE CODE

TITLE 5. TAXATION

CHAPTER 201. LIQUOR TAXES

SUBCHAPTER A. TAX ON LIQUOR

Sec. 201.01. LIQUOR. In this subchapter, "liquor" does not include malt beverages.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 365, eff. September 1, 2021.

Sec. 201.011. TIMELY FILING: DILIGENCE. A person filing a report or making a tax payment complies with the filing requirements for timeliness for a report not filed or a payment not made on time if the person exercised reasonable diligence to comply with the filing requirements and the failure to file or the making of a late payment is not the fault of the person.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 95, eff. Sept. 1, 1993.

Sec. 201.02. "FIRST SALE" DEFINED. In this subchapter, "first sale":

(1) as applied to liquor imported into this state by the holder of a wholesaler's permit authorizing importation, means the first actual sale by the permittee to the holder of any other permit authorizing the retail sale of the beverage or to the holder of a local distributor's permit; and

(2) as applied to all other liquor, means the first sale, possession, distribution, or use in this state, except that the term does not include the first sale by:

(A) the holder of a winery permit to another holder of a winery permit or the holder of a wholesaler's permit; or

(B) the holder of a distiller's and rectifier's permit to the holder of a wholesaler's permit.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 628 (S.B. 799), Sec. 1, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1190 (S.B. 1090), Sec. 23, eff. September 1, 2013.

Sec. 201.03. TAX ON DISTILLED SPIRITS. (a) A tax is imposed on the first sale of distilled spirits at the rate of $2.40 per gallon.

(b) The minimum tax imposed on packages of distilled spirits containing two ounces or less is five cents per package.

(c) Should packages containing less than one-half pint but more than two ounces ever be legalized in this state, the minimum tax imposed on each of these packages is $0.122.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 8, eff. Oct. 2, 1984.

Sec. 201.04. TAX ON VINOUS LIQUOR. (a) A tax is imposed on the first sale of vinous liquor that does not contain over 14 percent of alcohol by volume at the rate of 20.4 cents per gallon.

(b) A tax is imposed on vinous liquor that contains more than 14 percent of alcohol by volume at the rate of 40.8 cents per gallon.

(c) A tax is imposed on artificially carbonated and natural sparkling vinous liquor at the rate of 51.6 cents per gallon.

Acts 1977, 65th Leg., p. 529, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1984, 68th Leg., 2nd C.S., ch. 31, art. 2, Sec. 9, eff. Oct. 2, 1984.

Sec. 201.05. REPORTING SYSTEM. A person who holds a permit authorizing the importation of liquor into this state shall pay the liquor tax by the reporting system under bond.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.06. PAYMENT OF TAX; DISCOUNTS. (a) The tax on liquor, levied and computed under this subchapter, shall be paid by a remittance payable to the comptroller and forwarded together with

any required sworn statement of taxes due to the commission in Austin on or before the date it is due.

(b) A discount of two percent of the amount due shall be withheld by the permittee for keeping records, furnishing bonds, and properly accounting for the remittance of the tax due. No discount is permitted if the tax is delinquent at the time of payment.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 1.03, eff. Sept. 1, 1997.

Sec. 201.07. DUE DATE. (a) The tax on liquor is due and payable on the 15th of the month following the first sale, together with a report on the tax due.

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 1(3), eff. June 14, 2013.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.03, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 1(3), eff. June 14, 2013.

Sec. 201.075. SUMMARY SUSPENSION. (a) The commission may summarily suspend, without a hearing, the permit of a permittee who fails to file a report or return or to make a tax payment required by this subchapter. Chapter 2001, Government Code does not apply to the commission in the enforcement and administration of this section.

(b) A suspension under this section takes effect on the third day after the date the notice of suspension is given. The notice shall be given to the permittee or the permittee's agent or employee by registered or certified mail if not given in person.

(c) The commission shall terminate a suspension made under this section when the permittee files all required returns and makes all required tax payments that are due.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 96, eff. Jan. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(49), eff. Sept. 1, 1995.

Sec. 201.08. EXEMPTION FROM TAX. (a) No tax may be collected on liquor:

(1) shipped out of state for consumption outside the state;

(2) sold aboard a ship for ship's supplies; or

(3) sold as vintage distilled spirits.

(b) The commission shall provide forms for claiming the exemption prescribed by this section.

(c) A tax credit shall be allowed for payment of any unintended or excess tax.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 91 (S.B. 1322), Sec. 8, eff. September 1, 2023.

Sec. 201.09. REFUND DUE ON DISPOSITION OUTSIDE OF STATE. The holder of any permit authorizing the transportation of liquor out of this state may apply to the commission for a refund of the excise tax on liquor on which the state tax has been paid on proper proof that the liquor was sold or disposed of outside of this state.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.10. EXCESS TAX. A permittee is entitled to a refund or tax credit on future tax payment for any excess tax on liquor paid through oversight, mistake, error, or miscalculation.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.11. TAX CREDITS AND REFUNDS. The commission shall provide by rule for the equitable and final disposition of tax refunds or credits when liquor tax is overpaid or paid by mistake.

It shall prescribe the time and manner for filing claims for credits and refunds and provide appropriate forms.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.12. APPROPRIATIONS FOR REFUNDS. Necessary funds from the collection of the tax on imported liquor before the revenue from that tax has been allocated may be appropriated for the payment of refunds of tax on imported liquor.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.13. SALE OF UNTAXED LIQUOR PROHIBITED. No person may sell, offer for sale, or store for the purpose of sale in this state any liquor on which the state or federal tax, if due, has not been paid.

Acts 1977, 65th Leg., p. 530, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.14. INVOICES OF TRANSPORTED LIQUOR. A holder of a permit authorizing the wholesaling of liquor and the transporting of liquor outside of this state shall furnish to the commission duplicate copies of all invoices for the sale of liquor transported outside of this state within 24 hours after the liquor has been removed from the permittee's place of business.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.15. EVIDENCE IN SUIT. In any suit brought to enforce the collection of tax owed by the holder of a permit authorizing the importation of liquor into this state, a certificate by the commission or administrator showing the delinquency is prima facie evidence of:

(1) the levy of the tax or the delinquency of the stated amount of tax and penalty; and

(2) compliance by the commission with the provisions of this code relating to the computation and levy of the tax.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.16. PENALTY. A person who violates any section of this subchapter except Section 201.09 or 201.13 of this code

commits a misdemeanor which on conviction is punishable by a fine of not less than $100 nor more than $1,000 or by imprisonment in the county jail for not less than 30 days nor more than one year. Violations of Sections 201.09 and 201.13 are punishable in accordance with Section 1.05 of this code.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.17. LIQUOR IN METRIC CONTAINERS. For the purpose of the taxes imposed on liquor by this subchapter, if the liquor is in metric containers the amount of tax due is determined by converting the metric amount into the equivalent amount in gallons and applying the appropriate tax rate. The commission shall prepare tables showing the amount of tax due on various types of liquor in metric containers.

Acts 1977, 65th Leg., p. 531, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 366, eff. September 1, 2021.

SUBCHAPTER C. STAMPS

Sec. 201.71. STAMPS. Unless the liquor is exempt from tax or payment has been or is to be made by a permittee in accordance with the provisions of Subchapter A or B of this chapter, the tax levied under Subchapter A or B shall be paid by affixing a stamp or stamps on each bottle or container of liquor. The stamp shall be affixed in strict accordance with the commission's rules and regulations.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 2001, 77th Leg., ch. 191, Sec. 3, eff. Sept. 1, 2001.

Sec. 201.72. DUTY TO PRINT. The commission and the board of control shall have engraved or printed the liquor and malt beverage tax stamps required by this code. The board of control shall let the contracts for the stamps required by this code as provided by law. The commission shall expend funds necessary to keep an ample

supply of stamps on hand.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1359 (H.B. 1545), Sec. 367, eff. September 1, 2021.

Sec. 201.73. DESIGN. The commission shall prescribe the design and denomination of the tax stamps. Each stamp must show the amount of tax for which it evidences payment and shall contain the words "Texas State Tax Paid."

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.74. OPERATION OF TAX STAMP PROGRAM. (a) The commission is responsible for the custody and sale of tax stamps and for the proceeds of the sales.

(b) The commission may sell tax stamps only to a person designated by the commission.

(c) The commission may designate any state or national bank in this state as its agent to deliver and collect for any tax stamps and to remit the sale proceeds to it.

(d) Invoices for tax stamps shall be issued by the commission in duplicate and numbered consecutively. The original of the invoice shall be forwarded to the purchaser or to the person in whose care it may be sent for the benefit of a qualified purchaser. The second copy shall be kept by the commission.

(e) The commission shall keep a permanent record of all tax stamps received and sold. This record shall provide a perpetual inventory of all tax stamps and their disposition.

Acts 1977, 65th Leg., p. 533, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1995, 74th Leg., ch. 280, Sec. 1, eff. Sept. 1, 1995.

Sec. 201.75. DELIVERY OF STAMPS. The commission shall prescribe the manner in which tax stamps are delivered to its inspectors in charge of ports of entry.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Amended by Acts 1995, 74th Leg., ch. 280, Sec. 2, eff. Sept. 1,

1995.

Sec. 201.76. REFUNDS. (a) The commission may make refunds for tax stamps in all cases where:

(1) stamped liquor is returned to the distillery or manufacturer, on certification by a duly authorized representative of the commission who inspected the shipment;

(2) stamped liquor has been destroyed, on certification by a duly authorized representative of the commission that the liquor has been destroyed;

(3) a person who has been authorized to purchase tax stamps and is in possession of unused tax stamps on discontinuation of business; and

(4) tax stamps of improper value have been erroneously affixed to a bottle or container of liquor and those tax stamps have been destroyed in a manner prescribed by the commission.

(b) To obtain a refund under this section, it must be shown that the tax stamps for which a refund is asked were purchased from the commission and that the refund is made to a person authorized to purchase tax stamps from the commission. No other refunds for tax stamps are allowed.

(c) Sufficient funds to pay refunds for tax stamps may be appropriated from the revenue derived from the sale of the tax stamps before that revenue has been allocated.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.
Amended by Acts 1995, 74th Leg., ch. 280, Sec. 3, eff. Sept. 1, 1995.

Sec. 201.77. WHO MAY PURCHASE STAMPS. The commission shall designate those permittees or other persons entitled to purchase state tax stamps.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.78. STAMPS FOR WINE. Tax stamps for wine shall be issued in multiples of the rate assessed for each pint and for each one-tenth of a gallon.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.79. ALTERNATIVE METHOD OF COLLECTING TAX ON WINE. The commission may provide by rule an alternative method of collecting the tax on wine. That method may dispense with the use of tax stamps.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.80. EXEMPTION. The commission may prescribe by order special rules for the payment of the tax imposed by Subchapter A or B of this chapter in any circumstance that in the judgment of the commission creates an emergency or makes it impractical to require the affixing of tax stamps.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.81. STAMPS FOR DISTILLED SPIRITS. Tax stamps for distilled spirits may be issued only in multiples of the rate assessed each half-pint, except that when distilled spirits are contained in containers of one-tenth of a gallon, tax stamps shall be issued at the assessed rate for each type of distilled spirit.

Acts 1977, 65th Leg., p. 534, ch. 194, Sec. 1, eff. Sept. 1, 1977.

Sec. 201.82. IMPORTED DISTILLED SPIRITS; FEDERAL STAMP. A container of distilled spirits that has a federal liquor strip stamp attached or that has been imported from a foreign country is subject to taxation and must have the appropriate state tax stamp for distilled spirits affixed to it, unless it is taxed under the reporting system.

Acts 1977, 65th Leg., p. 535, ch. 194, Sec. 1, eff. Sept. 1, 1977.