Oregon Wine Excise and Privilege Tax

A Legal Resource Provided by Davis Wright Tremaine LLP
and the Oregon Winegrowers Association

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Davis Wright Tremaine LLP is a full service law firm providing services to the wine industry in the areas of mergers and acquisitions and other business transactions, land use and real estate, alcohol regulatory and licensing, intellectual property, employment, and litigation.

	TTB	OLCC
Tax Returns	TTB excise tax is triggered upon importation or removal of wine from bond. Pay TTB Form 5000.24sm via pay.gov **Excise Tax Periods:** • **Annually**, if new winery and expect to pay < $1,000 this year *or* paid < $1,000 in excise tax last year and expect to pay < $1,000 this year. • **Quarterly**, if paid < $50,000/year excise tax last year *and* expect to pay < $50,000/year in excise tax this year. • **Semi-Monthly**, if you don't qualify for annual or quarterly returns (default). *No excise tax return due if no taxes due but must file Reports of Wine Premises Operations 5120.17 even if no activity. **No TTB bond required if annual or quarterly filer.	OLCC privilege tax is triggered when wine is (1) removed from bond for sale in Oregon, or (2) imported into Oregon federally taxpaid. Tax is due unless small producer exemption or export credit applies. Privilege tax reported and paid via OPTO.. **Privilege Tax Periods:** • **Annually**, if no tax due for the entire year. • **Monthly**, if a tax liability exists in any month of the year, beginning first month when due. *****No OLCC bond required if annual filer/no taxes due. Complete OLCC bond waiver form.
Tax Credits/ Exemptions	**Craft Beverage Modernization Act (CBMA) Tax Credits: Federal e**xcise tax credits apply to all domestically produced and imported still and sparkling wine, regardless of winery size. In general, credits may only be taken by importer upon receipt or by producer upon removal. See below regarding tax credit transfers for removals by second bonded entity on behalf of producing winery. Tax credits are also limited by TTB single taxpayer and controlled group rules. Excise tax credits: • **$1** tax credit on the first 30,000 gallons removed/year; • **$0.90** tax credit on removals of 30,001-130,000 gallons/year; and • **$0.535** tax credit on removals of 130,001-750,000 gallons/year.	**OLCC Small Producer Exemption:** U.S. wineries that produce ≥ 1 gallon but <100,000 gallons of wine per year ("small producer") may exempt from all OLCC privilege tax the first 40,000 gallons of wine removed from bond that year for sale in Oregon. Exemption may be used by a small producer on wine the small producer removed from bond but did not produce, so long as the small producer produces at least 1 gallon of wine, and there is no benefit to any winery that would not otherwise be entitled to the exemption. This is not a transfer of the tax exemption, but a removal for its own benefit of wine the small producer owns.
Tax Rates	**Excise Tax per gallon (*<u>without</u> tax credits listed above, if available*):** • 0.5% to ≤ 16% ABV = **$1.07** • > 16% to ≤ 21% ABV = **$1.57** • 21% to ≤ 24% ABV = **$3.15** • Artificially Carbonated (>0.392 CO_2 g/100ml) = **$3.30** • Sparkling = **$3.40** Full list of TTB excise tax rates with tax credits, as applicable.	**Privilege Tax per gallon (*<u>without</u> small producer or export tax exemptions*):** • 0.5% to ≤ 16% ABV = **$0.67** • > 16% ABV = **$0.77**
Transfer Mechanism (removal by another bonded facility on behalf of producing winery)	In most cases, tax credits may only be taken by the winery that "produced" the wine. In addition to production by fermentation, "production" for tax credit purposes also includes sweetening, amelioration, production of formula wine, addition of wine spirits, and production of sparkling or artificially carbonated wine from bulk still wine. If a second winery performs one of these actions on bulk wine it is the producer and may use tax credits when it removes the wine from bond. *<u>However</u>*, if domestic wine is transferred in bond to a bonded wine warehouse or 2nd bonded winery, wine tax credits may be transferred with the wine so long as the producer still holds title to that wine upon removal and is entitled to tax credits. 2nd bonded premises may remove and pay taxes with the producer's tax credits, if any are available. This tax credit transfer is ***retroactive*** to 1/1/18.	The OLCC allows the small producer privilege tax exemption to be transferred with wine for removal by other bonded entities on behalf of the transferring small winery, with the exception that the exemption applies to the first 40,000 gallons removed from bond with the intent to be sold in Oregon. The small producing winery must ensure that the total amount of wine exempted from privilege tax (including any removals by other bonded facilities on behalf of the small producer) with the small producer exemption does not exceed 40,000 gallons per year.

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Grape Tonnage Tax	N/A	**$25**/ton OWB tax for Oregon grown or imported grapes used by Oregon winery to make wine in Oregon. OWB tax is generally paid by producing winery, but half (**$12.50**/ton) owed by Oregon grower. Oregon vineyard who sells and exports grapes to non-OR winery without OLCC permit owes **$12.50**/ton directly to OLCC. **$0.021**/gal for Oregon wine made from ag products besides grapes. If an out of state purchasing winery holds an OLCC permit or COA, it owes **$25**/ton for Oregon grapes, with **$12.50**/ton deducted from amount winery owes to Oregon grower. Exception for grapes producing wine out of state from cross-border AVA if no Oregon AVA or Oregon designation on label, packaging, or advertising.
Export	Wine exported from U.S. is exempt from federal excise tax. If taxpaid wine is exported, complete TTB Form 5120.24 "Drawback on Wine Exported" and provide proof of export.	Wine exported from Oregon by taxpayer is exempt from OLCC privilege tax. Winery must maintain proof of export (shipping documents). Export exemption cannot be used on wine that is already tax exempt via OLCC small producer privilege tax exemption.
Links to Laws	Tax statutes: 26 USC 5041 to 5045 Craft Beverage Modernization and Tax Reform Act Guidance TTB is expected to update and draft new tax regulations now that CBMA has been made permanent. Stay tuned!	Tax statutes: ORS Chapter 473 Tax regulations: OAR 845 Division 8