



Producers and Packagers of Wine

This version replaces the one dated November 2013.

The *Excise Act, 2001* requires a person to obtain a wine licence in order to produce or package wine. This memorandum provides an overview of the obligations and entitlements of a wine licensee.

Disclaimer:

The information in this memorandum does not replace the law found in the *Excise Act, 2001* (the Act) and its regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its regulations, or contact any Canada Revenue Agency regional excise duty office for additional information. These offices are listed in Excise Duty Memorandum EDM1.1.2, *Regional Excise Duty Offices*.

Table of Contents

Definitions.....	1
Obtaining a wine licence.....	2
Obtaining other licence types.....	3
Determining the volume and absolute ethyl alcohol content of wine.....	3
Possession and transportation of wine.....	4
Information to be displayed on containers – labelling.....	4
Excise duty rates.....	5
Imposition and responsibility of excise duty.....	5
Removals for consignment sales by a small wine licensee.....	6
Excise duty exemption for 100% Canadian wine.....	6
Excise duty exemption for small producers of wine.....	7
Bulk wine taken for analysis or destroyed in an approved manner.....	8
Maintaining books and records.....	8
Returns and payments.....	8
Claiming refunds.....	10
Enforcement.....	10

Definitions

- The following terms are used in this memorandum, as per section 2¹:

Bottle-your-own premises are premises authorized under provincial legislation to supply alcohol (i.e., wine and spirits) from a marked special container for packaging by a purchaser. The excise duty has been paid on all marked special containers in these bottle-your-own premises.

A *marked special container of wine* is a container of a capacity greater than 100 litres that is marked in the prescribed form and manner to indicate it is intended for delivery to and for use at bottle-your-own premises. Refer to Excise Duty Memorandum EDM 4.2.3, *Labelling of Containers of Wine*, for additional information.

¹ Unless otherwise stated, all legislative references are to the *Excise Act, 2001*.



Non-duty-paid packaged wine is wine that is packaged in accordance with the Act and on which the excise duty has been imposed but has not been paid.

Packaged wine means wine in a container with a capacity of not more than 100 litres, which is ordinarily sold to consumers without being repackaged into smaller containers. Packaged wine also includes marked special containers of wine.

Personal use, in relation to the use of wine, means that the wine is produced by an individual and is used by that individual or by others at the individual's expense. It does not include the sale or other commercial use of the wine.

To *produce* wine means to bring it into existence by fermentation. The person who initiates the fermentation process will be the producer of the wine. For excise duty purposes, wine is produced when it has completed initial fermentation. At that time, wine licensees must determine the volume of the wine produced using approved instruments. The total quantity must be reported on page 3 of their personalized Form B265, *Excise Duty Return – Wine Licensee*, under the section "Additions to bulk wine inventory", on the line "Wine produced".

Take for use, in respect of alcohol, means to consume, analyse or destroy alcohol or to use alcohol for any purpose that results in a product other than alcohol.

Wine means:

- (a) a beverage, containing more than 0.5% absolute ethyl alcohol by volume, that is produced without distillation (except distillation to reduce the absolute ethyl alcohol content) by fermentation of
 - (i) non-grain agricultural product,
 - (ii) non-grain plant or plant product that is not an agricultural product, or
 - (iii) a product wholly or partially derived from a non-grain agricultural product, or plant or plant product;
- (b) sake; and
- (c) a beverage described above that is fortified to not more than 22.9% absolute ethyl alcohol by volume.

A *wine licensee* is a person who holds a wine licence under section 14 of the Act.

Obtaining a wine licence

Requirement

2. Subsection 62(1) prohibits a person from producing or packaging wine unless they have a wine licence. A person must apply for, and obtain, a wine licence under subsection 14(1), in order to produce or package wine in Canada.
3. With the licence, a wine licensee is also allowed to possess, transport, import and export bulk wine (for which they are responsible), as stated in paragraph 70(2)(b), subsection 75(2) and paragraph 76(a).
4. A person is not entitled to a wine licence solely because they are deemed to have packaged wine by marking a special container, as stated in subsection 14(2). See Excise Duty Memorandum EDM4.8.1, *Special Containers of Wine*, for additional information.

5. Instructions and requirements for obtaining a wine licence are provided in Excise Duty Memorandum EDM2.2.1, *Obtaining and Renewing a Licence*.

6. Section 4 of the *Regulations Respecting Excise Licences and Registrations* states that a wine licence is valid for a maximum period of two years. The licensing letter issued by the CRA's regional excise duty office will specify the effective date and expiry date of the licence. In respect of section 9 of the Regulations, Form L63, *Licence and Registration Application Excise Act, 2001*, must be submitted for the licence renewal at least 30 days before the day on which the licence expires.

Exceptions to the requirement for a wine licence

7. Subsection 62(2) states that the following persons do not require a wine licence:

- an individual who produces wine for their personal use or who packages that wine;
- a purchaser who packages wine from a marked special container at an authorized bottle-your-own premises.

8. An individual may produce wine at a residence or at a ferment-on-premises facility. See Excise Duty Memorandum EDM4.1.3, *Ferment-On-Premises Registrants*, for additional information.

Obtaining other licence types

9. Depending on the activities of a wine licensee, other licence types may be required. For example, a wine licensee may also need an excise warehouse licence to store non-duty-paid packaged wine or a user's licence to fortify the wine.

10. Additional information on licence types and the activities that may be performed under those licences is available in Excise Duty Memorandum EDM2.1.1, *Licence Types*.

Excise warehouse licence

11. Pursuant to section 88, a wine licensee cannot possess non-duty-paid packaged wine, but an excise warehouse licensee can. To defer the payment of excise duty after packaging wine, the packaged wine must immediately be entered into an excise warehouse, as stated in subsection 135(3). Excise duty does not have to be paid until the packaged wine is removed from the excise warehouse, as per subsection 136(1). Therefore, a wine licensee often has a separate excise warehouse licence to store non-duty-paid packaged wine.

12. For additional information on the obligations and entitlements of excise warehouse licensees, see Excise Duty Memorandum EDM8.1.1, *Excise Warehouses*.

User's licence

13. Under section 62.1 and subsection 130(1), a wine licensee who wishes to fortify bulk wine with bulk spirits must obtain a user's licence. See Excise Duty Memorandum EDM3.1.2, *Licensed Users*, for additional information.

Determining the volume and absolute ethyl alcohol content of wine

14. In respect of subsection 148(1), a wine licensee is required to determine the volume and absolute ethyl alcohol content of wine in a manner specified by the CRA and using approved instruments. The CRA has approved several types of instruments for this purpose, including thermometers, hydrometers,

digital density meters and mass flow measuring systems. However, each individual instrument that a wine licensee uses for excise duty purposes must first be approved by the CRA.

15. To accurately measure the absolute ethyl alcohol content of wine for excise purposes, the wine must first be distilled.

16. Information relating to specifications and procedures to follow in determining the volume and absolute ethyl alcohol content is available in Excise Duty Memorandum EDM1.1.5, *Instrument Approval*.

Possession and transportation of wine

Bulk wine

17. The possession of bulk wine is strictly controlled by the Act. Pursuant to paragraph 70(2)(b), a wine licensee may possess or transport bulk wine if it was produced or imported by a wine licensee.

18. According to paragraph 70(2)(d), bulk wine produced or imported by a wine licensee may be transported or stored by an alcohol registrant on behalf of the wine licensee. Additional information on the transportation or storage of bulk wine by alcohol registrants is available in Excise Duty Memorandum EDM3.1.4, *Alcohol Registrants*.

Packaged wine

19. A wine licensee is not permitted to possess non-duty-paid packaged wine. A wine licensee who packages wine on which excise duty is imposed may either pay the excise duty at the time of packaging or enter the non-duty-paid packaged wine into an excise warehouse to defer the payment of excise duty.

20. A wine licensee is permitted to possess wine that is packaged in Canada and relieved of excise duty as well as duty-paid packaged wine. Under paragraphs 135(2)(a) and (b), wine that is produced in Canada and composed wholly of agricultural or plant product grown in Canada or wine that is produced by and packaged by, or on behalf of, a small producer of wine is relieved of excise duty. In both cases, the exempt wine is not entered into an excise warehouse and must be recorded separately from duty-deferred wine.

Information to be displayed on containers – labelling

21. Under section 87, a wine licensee who packages wine must ensure that the wine container (e.g., bottles) and any packaging encasing that container display the following information, as prescribed by the *Regulations Respecting the Information to be Displayed on Alcohol Containers and their Packaging*:

- the name and address of the wine licensee who packaged it; or
- their licence number.

22. The information may be displayed on the container itself or the container's label and must be displayed immediately after packaging unless:

- the wine is entered into an excise warehouse immediately after packaging, in which case, the information must be displayed before the wine is removed from the warehouse; or
- the wine is exempt of excise duty because it is 100% Canadian wine, in which case, the information must be displayed before the wine is removed from the wine licensee's premises, consumed or made available for sale on the premises.

23. In addition to the information above, marked special containers of wine must indicate that the contents are packaged wine and the container is intended for delivery to, and use at, a bottle-your-own premises.

24. For more information on labelling containers of wine, refer to Excise Duty Memorandum EDM4.2.3, *Labelling of Containers of Wine*.

Excise duty rates

25. Excise duty is imposed at specified rates on bulk wine taken for use and on wine packaged in Canada. These are published in Excise Duty Memorandum EDM1.5.1, *Rates of Excise Duty*. Historical rates are listed at www.cra-arc.gc.ca/formspubs/prioryear/edrates/README.html.

Imposition and responsibility of excise duty

Bulk wine

26. Under subsections 134(1) and (2), excise duty is imposed on bulk wine that is taken for use unless it is used for analysis or destroyed in an approved manner. It is payable at the time the wine is taken for use by the licensee who is responsible for the bulk wine at that time.

27. According to sections 113 and 115, the licensee responsible for bulk wine is generally the wine licensee or the licensed user who owns the bulk wine. If a wine licensee or licensed user does not own the bulk wine, then responsibility rests with the licensee who last owned, imported or produced it.

Exceptions to the imposition of duty on bulk wine

28. As per subsection 134(3), excise duty is not imposed on bulk wine that is taken for use if:

- the wine is produced in Canada and is composed wholly of agricultural or plant product grown in Canada, and
- the wine is produced by an individual for their personal use and is consumed in the course of that use.

Packaged wine

29. Pursuant to subsections 135(1) and (3), excise duty is imposed on wine that is packaged in Canada at the time the wine is packaged. Excise duty is payable at that time by the licensee who was responsible for the bulk wine, unless the packaged wine is entered into an excise warehouse immediately after packaging.

30. When a wine licensee enters non-duty-paid packaged wine into an excise warehouse immediately after the wine is packaged, section 140 states that the excise warehouse licensee becomes liable for the duty on the packaged wine.

31. Excise duty is payable, as per subsection 136(1), on packaged wine that is removed from an excise warehouse for entry into the duty-paid market. It is payable by the excise warehouse licensee at the time of its removal.

Exceptions to the imposition of duty on packaged wine

32. As stated in subsection 135(2), excise duty is not imposed on wine that is:

- produced in Canada and composed wholly of agricultural or plant product grown in Canada;

-
- produced and packaged by individuals for their personal use; or
 - produced by and packaged by, or on behalf of, a small producer of wine.

33. A wine licensee is not eligible for the relief provision available to individuals who produce and package wine for their personal use.

34. Pursuant to subsection 147(4), excise duty is not payable on samples of non-duty-paid packaged wine provided free of charge to individuals if:

- the wine is removed from the excise warehouse of the wine licensee who produced or packaged the wine;
- the wine is consumed at the premises where the licensee produces or packages wine; and
- the wine is not in a marked special container.

Removals for consignment sales by a small wine licensee

35. For the purposes of section 136, a small wine licensee is a wine licensee who did not sell more than 60,000 litres of wine during their last fiscal year.

36. According to subsection 136(2), and under certain conditions, a small wine licensee may remove packaged wine from their own excise warehouse without excise duty becoming payable. The wine must have been produced or packaged by the small wine licensee and it must be delivered to a retail store for sale on a consignment basis. The retail store must not be located on the premises of a wine licensee and must be operated on behalf of two or more small wine licensees. When the wine is sold by the retail store, it is deemed to have been removed from the excise warehouse for entry into the duty-paid market, and excise duty is payable.

Excise duty exemption for 100% Canadian wine

37. Pursuant to paragraph 135(2)(a), wine that is produced in Canada and composed wholly from Canadian-grown agricultural or plant products and that is packaged on or after July 1, 2006, qualifies for an excise duty exemption.

38. This means that to qualify for this excise duty exemption:

- all of the primary raw materials that are fermented (including grapes, berries, other fruits, honey and dandelions) must have been grown in Canada;
- if the wine is produced from juice, the raw material used to make that juice (e.g., grapes, berries) must have been grown in Canada;
- all juices, juice concentrates, fruits or plant products, added in the winemaking process must be made wholly from Canadian-grown agricultural or plant product; and
- any wine, beer or spirits added, including brandy or fruit spirits, must have been made in Canada wholly from grains, fruits and other agricultural product that have been grown in Canada.

39. Incidental agricultural or plant product-based ingredients that are added in the winemaking process, such as sugar and yeast will not be required to be made wholly from Canadian-grown agricultural or plant product. Such food ingredients and food additives are considered incidental ingredients in the wine and the origin of these ingredients will not otherwise disqualify the wine from the excise duty exemption.

40. Sections B.02.100 to B.02.123 of Division 2 of the *Food and Drug Regulations* set out the identity standard for wine and list the various food ingredients and food additives that can be used in the production of wine. The *Food and Drug Regulations* are available on the Department of Justice website at http://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._870/index.html.

41. Where a wine licensee blends wine, the final blended wine that is packaged must be composed wholly from Canadian-grown agricultural or plant products in order to qualify for the excise duty exemption.

Example

A wine licensee produces or purchases two wines made wholly from grapes or other fruit grown in Canada (wine no. 1 and wine no. 2). That wine licensee also produces or purchases a wine made from grapes or other fruit grown outside Canada (wine no. 3). In this example, wine no. 1 and wine no. 2 qualify for the exemption, but wine no. 3 does not. If the licensee blends wine no. 1 with wine no. 2, the resultant blend qualifies for the exemption. If the wine licensee blends wine no. 1 or wine no. 2 with wine no. 3, the resultant blended wine does not qualify for the exemption.

42. The excise duty exemption for 100% Canadian wine does **not** apply to wine where:

- raw materials used to produce the wine are not wholly Canadian-grown;
- records are insufficient to verify that the primary raw materials used are wholly Canadian-grown;
- juice added to the wine is not made from wholly Canadian-grown agricultural or plant products;
- spirits used to fortify the wine are not produced from wholly Canadian-grown agricultural or plant products; and
- a wine that is eligible for the exemption is blended with another wine that is not made from wholly Canadian-grown agricultural or plant products.

43. A wine licensee who packages wine that qualifies for this excise duty exemption will not enter the wine into an excise warehouse. The exempt wine inventory must be recorded separately from the duty-deferred inventory in the excise warehouse.

44. Refer to Excise Duty Notice EDN15, *Additional Information Relating to the Excise Duty Exemption on 100% Canadian Wine*, for additional information.

45. A wine licensee must report quantities of 100% Canadian wine on page 3 of Form B265, *Excise Duty Return – Wine Licensee*, under “Reductions to bulk wine inventory – Removed to packaging activities – Exempt 100% Canadian”.

Excise duty exemption for small producers of wine

46. Paragraph 135(2)(b) provides for the relief of excise duty imposed on wine that is produced by and packaged by, or on behalf of, a wine licensee who qualifies as a small producer.

47. A wine licensee qualifies as a *small producer* in a fiscal month if:

- the licensee’s total sales of all wine packaged in Canada in the previous fiscal year did not exceed \$50,000; and
- the licensee’s total sales of all wine packaged in Canada during the current fiscal year before the current fiscal month do not exceed \$50,000.

48. A small producer must still be a wine licensee and fulfil all of the obligations associated with holding that licence.

49. Packaged wine that qualifies for this excise duty exemption is not entered into an excise warehouse and a qualified small producer of wine does not need an excise warehouse to possess the exempt wine.

50. In addition to reporting bulk wine additions and reductions on page 3 of Form B265, *Excise Duty Return – Wine Licensee*, the small producer must check the appropriate box at the bottom of that page to indicate that they are a small producer. See Excise Duty Memorandum EDM4.1.2, *Small Producers of Wine*, for additional information.

Bulk wine taken for analysis or destroyed in an approved manner

51. As per paragraphs 145(1)(a) and (b), a wine licensee can only be relieved of the liability on bulk wine that is taken for analysis or destroyed if the method used has been approved by the CRA.

52. A wine licensee must submit a written request to their regional excise duty office to obtain approval for their method of analysis or destruction. In that request, the licensee must specify if it is for a specific incident or for an on-going basis. It must also state the reason for the analysis or destruction (e.g., alcoholic strength, quality controls), where the wine will be analyzed or destroyed, the frequency, the quantities taken and the controls that are in place. In addition, the wine licensee must maintain adequate books and records to support their claims.

53. A wine licensee may also contact their regional excise duty office for further information and to have their methodology approved. They may refer to Excise Duty Memorandum EDM1.1.2, *Regional Excise Duty Offices*, for a listing of these offices.

54. A wine licensee must report the quantities of bulk wine taken for analysis or destroyed in an approved manner under “Reductions to bulk wine inventory – Removed for other purposes – Non-duty-paid (Specify)”, on page 3 of Form B265, *Excise Duty Return – Wine Licensee*.

Maintaining books and records

55. Pursuant to subsection 206(1), every person who has a licence is required to maintain all records that are necessary to determine whether they are in compliance with the Act.

56. For example a wine licensee who claims an exemption on wine made from wholly Canadian-grown agricultural or plant products must maintain adequate books and records. These may include, but are not limited to, maintaining production records sufficient to trace the raw materials and resultant wine to the package (e.g., blend sheets or transfer sheets), maintaining inventory records of exempt and dutiable products, and maintaining records of transactions between the wine licensee and their raw material source(s) and other wine licensees (e.g., shipping documents and invoices).

57. Detailed information on the requirement to maintain books and records is available in Excise Duty Memorandum EDM 9.1.1, *General Requirements for Books and Records*.

Returns and payments

58. Under section 160, a wine licensee is required to file Form B265, *Excise Duty Return – Wine Licensee*, for each reporting period, calculate any excise duty payable in that return and pay the amount owing. The return and payment are due no later than the last day of the first fiscal month that follows the reporting period.

59. A wine licensee that has more than one licence must file a separate return for each licence. For example, a wine licensee that also has an excise warehouse licence is required to file Form B262, *Excise Duty Return – Excise Warehouse Licensee*, in addition to Form B265.

60. A wine licensee that is required to file returns will receive personalized returns from the CRA. Those forms, which are prescribed, contain pre-printed information and are sent by mail in advance of the due date of the return. If a wine licensee does not receive personalized returns, they may obtain a non-personalized return for their specific licence type from the CRA web page at www.cra-arc.gc.ca/tx/tchncl/xcsfrms/menu-eng.html.

61. For more detailed information on the requirements to file returns and pay excise duty, refer to Excise Duty Memorandum EDM10.1.1, *Returns and Payments*. Information and instructions on how to complete a wine licensee's duty return is available in Excise Duty Memorandum EDM10.1.6, *Completing an Excise Duty Return – Wine Licensee*.

Reporting period – monthly

62. As per subsection 159(1), where a wine licensee has determined a fiscal month for GST/HST purposes, the same fiscal month applies for excise duty purposes. Where such a fiscal month has not yet been determined, the wine licensee may choose one using established GST/HST rules, or use a calendar month. In this case, the wine licensee must notify the CRA of their fiscal months using Form B268, *Notification of Fiscal Months*. This form will be provided to the licensee at the time a wine licence is issued, and must be signed by an authorized individual.

63. Subject to subsection 159.1(1), the reporting period of a wine licensee is a fiscal month unless an application is made by the wine licensee in prescribed form and manner to make the reporting period a fiscal half-year.

Reporting period – fiscal half-year

64. Although the reporting period of a wine licensee is generally a fiscal month, the licensee may request the CRA to have a reporting period that is a fiscal half-year instead of a fiscal month. A wine licensee with a fiscal half-year reporting period will file its returns on semi-annual basis.

65. As per subsection 159(1.1), a wine licensee's fiscal half-years are as follows:

- the period beginning on the first day of the first fiscal month in the wine licensee's fiscal year and ending on the earlier of the last day of the sixth fiscal month and the last day in the fiscal year; and
- the period, if any, beginning on the first day of the wine licensee's seventh fiscal month and ending on the last day in the fiscal year.

66. Pursuant to subsection 159.1(2), a wine licensee must apply for fiscal half-year reporting periods by completing Form B284, *Election or Revocation of the Election for Semi-annual Reporting*. The CRA may authorize the wine licensee to file their returns on a fiscal half-year basis if the following conditions are met:

- the wine licensee has been licensed for at least 12 consecutive fiscal months;
- the wine licensee is in compliance with the Act;
- the total of all excise duties payable under Part 4 by the wine licensee and any associated person did not exceed \$120,000 in the previous or current fiscal year; and

-
- the volume of wine added to the bulk wine inventory of the wine licensee and any associated person did not exceed, in the previous or current fiscal year, the amount determined by the formula [$\$120,000 / \0.62 (which is the prescribed rate of duty on wine that contains more than 7% of absolute ethyl alcohol by volume)].

67. Detailed information on fiscal half-year reporting periods and the conditions that must be met by a wine licensee is available in Excise Duty Notice EDN40, *Semi-Annual Reporting Period for Certain Licensees*.

Branches or divisions filing separate returns

68. Subsection 164(1) states that a wine licensee that has branches or divisions with distinct operations under their wine licence may apply to the CRA for the authority to file separate returns for each branch or division. This request can be made by completing Form B269, *Application or Revocation of the Authorization to File Separate Excise Duty Returns and Refunds Applications for Branches or Divisions*.

Claiming refunds

69. According to subsections 175(1) and 176(3), a wine licensee must submit a completed Form B256, *Application for Refund/Deduction*, to claim a refund of an amount of excise duty paid, within two years after the licensee paid the amount.

70. In addition to the amount requested, the wine licensee must indicate the reason for claiming this refund when making the application. Under subsection 176(1), a wine licensee may claim a refund of an amount of excise duty that was paid in error. On the application form, the licensee must check box 1 in the section entitled “Reason for refund”.

Restrictions

71. Subsection 189(4) states that a refund will not be paid to a wine licensee until the licensee has filed with the CRA or the Canada Border Services Agency all returns or other records that are required to be filed under the *Excise Act, 2001*, the *Air Travellers Security Charge Act*, the *Customs Act*, the *Excise Act*, the *Excise Tax Act*, and the *Income Tax Act*.

72. For additional information relating to the process and the legislative requirements for obtaining a refund, refer to Excise Duty Memorandum EDM10.3.1, *Refunds*.

Enforcement

73. Under Part 6, a wine licensee who fails to comply with the Act and the conditions or requirements of their licence may be subject to a penalty or face charges under the Act.

All excise duty memoranda are available on the CRA website at www.cra.gc.ca/exciseduty , under “Excise Act, 2001 – Technical Information”.
