



# Common Compliance Issues

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NORTH CAROLINA WINE GROWER'S ASSOCIATION CONFERENCE

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# TTB Disclaimer

- This information is being presented to help the public to understand and comply with the laws and regulations that the Alcohol and Tobacco Tax and Trade Bureau (TTB) administers
- It is not intended to establish any new, or change any existing, definitions, interpretations, standards, or procedures regarding those laws and regulations
- In addition, this presentation may be made obsolete by changes in laws and regulations
- Please consult the applicable laws and regulations for the most current requirements



# TTB Overview

- We are a bureau within the Department of the Treasury
- We currently have about 480 employees
- Our headquarters are in Washington, DC
- The Office of Permitting and Taxation is in Cincinnati, Ohio
- We have field districts located across the country
- We have 4 laboratories located in Maryland and California



# TTB's Primary Responsibilities

- Qualification of producers/importers/distributors of alcohol and tobacco products through issuance of required permits
- Collection of excise taxes related to alcohol, tobacco, firearms, and ammunition
- Ensure compliance with laws and regulations through:
  - Revenue investigations and audits (protect the revenue)
  - Product integrity investigations (protect the consumer)
  - Trade practice investigations



# Primary Federal Laws

## Internal Revenue Code

(Protect the revenue)

- Tax payment
- Premises which protect the revenue
- Production
- Formulas (for some wines)

## Federal Alcohol Administration Act

(Protect the consumer)

- Basic permits
- Labeling
- Viticultural areas
- Health Warning Statement
- Trade practices



# Primary Federal Wine Regulations

## Internal Revenue Code

(Protect the revenue)

- 27 CFR part 24 - Wine

## Federal Alcohol Administration Act

(Protect the consumer)

- 27 CFR part 1 - Basic permit
- 27 CFR part 4 - Wine labeling
- 27 CFR part 9 – American Viticultural Areas



# Basic Records - IRC

- Records must be generated for most every winery operation
- Records support tax payment
- Records support label claims
- Records flow to the TTB report filed by every plant
- 27 CFR part 24 - Subpart O - Records and Reports
- Most pitfalls can be avoided with good records
- May be a compilation of source documents or a summary



# Recordkeeping

## Records document what it is, and what you did with it

- Materials received and used e.g., grapes, apples, pears, treatment materials
- Acid and chemical records
- Wine produced
- Wine received or transferred in bond
- Wine bottled/kegged, or removed





# Records - General

- Record operations as they occur
- Get and retain source documents
- Accurately identify alcohol content, quantities
- Keep the “pedigree” of the product clear
- Retain for 3 years from last required entry
- All records are subject to inspection by TTB



# TTB's GOAL

**By examining your records, TTB should be able to verify if:**

- Wine product is properly labeled
- All label claims are fully supported
- Only authorized materials were used
- Advertising, POS materials are appropriate
- Formula wines were made in compliance with an approved formula



# What Do We Look For?

## **Product integrity (consumer protection)**

- Required records
- Supporting documentation for label claims
- Standards of identity



# What Do We Look For?

## **Revenue (tax compliance)**

- Required records
- Supporting documentation for excise tax return information and payments
- Timely filing of reports and returns
- Security of premises
- Bond coverage



# Taxable Removals

- Federal tax **attaches** when wine is produced
- Tax is **determined** when wine is removed from bonded premises for consumption or sale
- Tax is **paid** at a later date (deferred)
- Tax **rate** is based on alcohol content, materials used, and/or production method



# CBMA Wine Tax Credits Made Permanent

- Starting in 2018, domestic wineries and importers could take advantage of temporary wine tax credits under the Craft Beverage Modernization Act (CBMA) provisions of the Internal Revenue Code if eligibility requirements were met
- These tax credits were made permanent at the end of 2020
- Also made permanent:
  - Adjusted alcohol content for certain still wine tax classes from 14% to 16% alcohol by volume
  - Ability to transfer CBMA tax credits to other wineries or bonded wine cellars



# Tax on Wine Removed 2018 - Present

Tax Class	Wines Gallons Per Calendar Year			
	First 30,000	Over 30,000 up to 130,000	Over 130,00 up to 750,000	Over 750,000
<b>Still Wine</b>				
16% and under alcohol by volume (0.392g CO <sub>2</sub> /100mL or less)	\$0.07	\$0.17	\$0.535	\$1.07
Over 16 - 21% alcohol by volume (0.392g CO <sub>2</sub> /100mL or less)	\$0.57	\$0.67	\$1.035	\$1.57
Over 21 - 24% alcohol by volume (0.392g CO <sub>2</sub> /100mL or less)	\$2.15	\$2.25	\$2.615	\$3.15
<b>Mead</b> No more than 0.64g CO <sub>2</sub> /100mL; derived solely from honey and water; containing no fruit product or fruit flavoring; and containing less than (not equal to) 8.5% alcohol by volume	\$0.07	\$0.17	\$0.535	\$1.07
<b>Low alcohol by volume wine</b> No more than 0.64g CO <sub>2</sub> /100mL; derived primarily from grapes or from grape juice concentrate and water; containing no fruit product or fruit flavoring other than grape; and containing less than (not equal to) 8.5% alcohol by volume	\$0.07	\$0.17	\$0.535	\$1.07



# Tax on Wine Removed 2018 - Present

Tax Class	Wines Gallons Per Calendar Year			
	First 30,000	Over 30,000 up to 130,000	Over 130,00 up to 750,000	Over 750,000
<b>Artificially Carbonated Wine</b>				
Over 0.392g CO <sub>2</sub> /100mL - injected or otherwise added	\$2.30	\$2.40	\$2.765	\$3.30
<b>Sparkling Wine</b>				
Over 0.392g CO <sub>2</sub> /100mL - naturally occurring	\$2.40	\$2.50	\$2.865	\$3.40
<b>Hard Cider</b>				
No more than 0.64g CO <sub>2</sub> /100mL; derived primarily from apples/pears or apple/pear juice concentrate and water; containing no other fruit product or fruit flavoring other than apple/pear; and containing at least 0.5% and less than (not equal to) 8.5% alcohol by volume	\$0.164	\$0.17	\$0.193	\$0.226





# What Do We Look For?

## Trade practice

- Influence over industry members through:
  - Tied-house
  - Exclusive outlet
  - Commercial bribery
  - Consignment sales



# Red Flags

- Late filed or non-filed reports and returns
- Insufficient bond coverage
- Shortage of bottled goods not taxpaid
- Removals shown on tax returns do not match reports of operation
- Excessive bulk losses reported with no claim filed
- Reports and returns signed by someone without signature authority





# Common Violations Disclosed

- Lack of, or insufficient, required records
- Late filing or non-filing of reports and returns
- Failure to conduct required inventories
- Failure to maintain current permit file
- Insufficient supporting documentation for label claims
- Insufficient bond coverage



# How to Avoid Violations

- Ensure complete and accurate daily record entry of operations conducted
- Maintain source documents to support entries into operations records
- Review bond coverage, operations conducted, and permit file periodically



# How to Avoid Violations (Cont.)

- Maintain summary records as required and verify that reports and tax returns match
- Consult [www.TTB.gov](http://www.TTB.gov) on a regular basis for updated information
- Evaluate internal controls periodically
- Ensure that all computerized records are backed up frequently and regularly



# On TTB.gov

## Common Compliance Issues in a TTB Bonded Wine Premises Audit

- <https://www.ttb.gov/wine/wine-common-audit-issues>

## Maintaining Compliance in a TTB-Regulated Industry

- <https://www.ttb.gov/business-central/industry-members-responsibilities>



# Reporting Violations: TTB

- Violations disclosed during an audit/investigation will be discussed with you, as well as proposed corrective actions
- Violations will be included in the investigation/audit report
- TTB may send you a notice of violations or a letter of findings



# Reporting Violations: TTB

- Violations may result in TTB taking administrative action against your permit
  - From a warning letter, up to and including, suspension or revocation
- Findings are made part of your official TTB file
  - Additional administrative actions may be taken if violations are later found to be continuing





# Reporting Violations: Proprietor

## Voluntary disclosure of non-compliance

- TTB encourages industry members to voluntarily disclose violations upon discovery and take appropriate corrective action
- These disclosures may mitigate actions taken by TTB, if any, in response to violations
- See TTB Industry Circular 2004-5 for details
  - [https://www.ttb.gov/images/industry\\_circulars/archives/2004/04-05.html](https://www.ttb.gov/images/industry_circulars/archives/2004/04-05.html)
- Submit your voluntary disclosure here:
  - <https://www.ttb.gov/contact-nrc>



# Resources on TTB.gov

## Wine FAQs

- <https://www.ttb.gov/wine/wine-faqs>

## Subscribe to Automatically Receive the Weekly TTB Newsletter (via Email)

- <https://public.govdelivery.com/accounts/USTTB/subscriber/new>

## Secure Email Communication with TTB

- <https://www.ttb.gov/about-ttb/email-security>



# Resources on TTB.gov

## 2022 Schedule of Semi-Monthly Tax Due Dates

- <https://www.ttb.gov/tax-audit/2022-semi-monthly-due-dates>

## 2022 Schedule of Quarterly Tax Due Dates

- <https://www.ttb.gov/tax-audit/2022-quarterly-due-date>

## Current Wine Tax Rates

- <https://www.ttb.gov/tax-audit/tax-and-fee-rates#wine>

## Due Dates for Operational Reports

- <https://www.ttb.gov/tax-audit/due-dates-for-operational-reports>

## Sign up for Email Reminders for Tax Return and Operational Report Due Dates

- <https://www.ttb.gov/news/automated-reminders-for-filing>



# Resources on TTB.gov

## Wine Labeling

- <https://www.ttb.gov/wine/labeling>

## Allowable Revisions to Previously Approved Labels

- <https://www.ttb.gov/labeling/allowable-revisions>

## COLAs Online Customer Page

- <https://www.ttb.gov/labeling/cola>



## Current Processing Times for Label Applications

- <https://www.ttb.gov/labeling/processing-times>



# Resources on TTB.gov

## Permits Online Tutorial

- <https://www.ttb.gov/ponl/ponl-launch>

## Permits Online Customer Page

- <https://www.ttb.gov/ponl/customer-support>



## Average Permit Processing Times

- <https://www.ttb.gov/nrc/statistics-original-applications-to-operate>



# Formula Basics

## **Not all wine products require formula approval**

Whether or not you need formula approval is based on:

- Ingredients
- Manufacturing methods

Formula requirements are **NOT** connected to:

- Alcohol content
- Eligibility for Hard Cider tax rate
- Whether or not the product will require TTB label approval



# Formula Basics

## Formulas, when required, must be obtained:

- **Domestic:** before product is produced and before applying for label approval (if needed)
- **Imported\*:** before applying for label approval and before product is removed from customs custody

## Formulas are submitted by:

- **Domestic:** the producer (BW proprietor)
- **Imported\*:** U.S. importer (holder of an Importer's Basic Permit)

\*Only imported cider/perry products with 7% or more alc. by vol. are subject to formula requirements



# Resources on TTB.gov



## Alcohol Beverage Formula Approval Home Page

- <https://www.ttb.gov/formulation>

## Which Alcohol Beverages Require Formula Approval?

- <https://www.ttb.gov/formulation/which-alcohol-beverages-require-formula-approval>

## Formulas Online Customer Page

- <https://www.ttb.gov/formulation/customer-support>





# Additional Resources

## Wines with less than 7% alcohol by volume must be labeled in compliance with FDA Food Labeling

- FDA does not pre-approve labels for food products

- **Questions?**

- Call FDA's Food Labeling and Standards Staff at 240-402-2371

- See FDA Food Labeling Guide at

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm2006828.htm>





# TTB Contacts

<b>Office of Permitting and Taxation</b>	
<b>Email</b>	<a href="https://www.ttb.gov/contact-nrc">https://www.ttb.gov/contact-nrc</a>
<b>Telephone</b>	Toll-free at <a href="tel:877-882-3277">877-TTB-FAQS (877-882-3277)</a>
<b>Address</b>	National Revenue Center 550 Main Street, Suite 8002 Cincinnati, Ohio 45202
<b>TTB Tip Line</b>	Report suspected fraud, diversion, and other illegal activity:  Toll-Free: 855-882-8477 Email: <a href="https://www.ttb.gov/contact-id">https://www.ttb.gov/contact-id</a>



# TTB Contacts

Alcohol Labeling and Formulation Division	
Telephone	(202) 453-2250 or Toll-Free at (866) 927-ALFD (2533)
Email	<a href="https://www.ttb.gov/contact-alfd">https://www.ttb.gov/contact-alfd</a>

  

Regulations and Rulings Division	
Telephone	(202) 453-2265
Email	<a href="https://www.ttb.gov/contact-rrd">https://www.ttb.gov/contact-rrd</a>

  

Trade Investigations Southeast Field Office	
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