Recent Changes: Bonds, Annual Returns, Hard Cider Tax Rate
TTB Disclaimer

Notice:

• 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 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 regulations for the most current regulatory requirements
• The Permits Online screen shots included as part of this presentation contain fictitious data from the TTB test environment and do not include the data of actual industry members
Agenda

• Overview

• Annual Tax Return Filing Option

• Elimination of Bonds

• Changes to the Criteria for the Hard Cider Tax Rate

• Open Q and A
OVERVIEW

Susan Evans
Executive Liaison for Industry and State Matters
The PATH Act

• The Protecting Americans from Tax Hikes Act of 2015 (PATH Act) was enacted in Dec. 2015

• It contains changes to the Internal Revenue Code of 1986 that took effect January 1, 2017 regarding:
  – excise tax due dates
  – bond requirements
  – the criteria for the Hard Cider tax rate

26 U.S.C. 5061, 5551, and 5041

Alcohol and Tobacco Tax and Trade Bureau
The PATH Act

• Return Due Dates
  – Taxpayers who meet certain eligibility requirements can pay taxes annually rather than semi-monthly or quarterly

• Bonds
  – Taxpayers who meet certain eligibility requirements are no longer required to hold a bond

• Hard Cider Tax Class
  – The criteria for the Hard Cider tax rate have been expanded so that more wine is eligible for that rate
ANNUAL RETURN FILING
Ronda Merrell
Technical Advisor, National Revenue Center
New Criteria for Annual Filing Option

• You are eligible to file one tax return per year if:
  – you reasonably expect to be liable for $1,000 or less in taxes in the current calendar year, and
  – You were liable for $1,000 or less in taxes the preceding calendar year

• Excise Tax Return due date – The 14th day after the last day of the calendar year

2017 excise tax return is due
January 12, 2018
What’s changed?

Although there was already an annual filing option for wineries, the rules have changed slightly:

• Previously the cut-off was if you owed less than $1,000 in taxes in the current year or previous year

• Previously the due date was 30 days after the last day of the calendar year
ELIMINATION OF BONDS

Ronda Merrell
Technical Adviser, National Revenue Center
Elimination of Bond Requirements

• Starting January 1, 2017, taxpayers who:
  – reasonably expect to be liable for not more than $50,000 in taxes for the calendar year, and
  – were liable for not more than $50,000 in taxes the preceding calendar year, and
  – pay excise taxes on a semi-monthly, quarterly, or annual basis (not by pre-payment)

• are exempt from the requirements to hold bonds covering operations or withdrawals
Elimination of Bond Requirements

• Because eligibility for the bond exemption depends in part on a taxpayer’s expected tax liability, taxpayers who want to operate without a bond must notify TTB and obtain TTB approval
  – New applicants must notify TTB that they are eligible for the bond exemption during the initial application process
  – Existing taxpayers who wish to apply for the bond exemption must do so by amending their permit
New Applicants
Permits Online

Sign into Permits Online
Click “Create a New Application”
Bond requirement boxes are located in Step 3, Business Information, before you begin describing your premises.
New Applicants Paper Submission

TTB F 5120.25, Application to Establish and Operate Wine Premises

| TO: DIRECTOR, NATIONAL REVENUE CENTER |
| ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB) |
| 550 Main St., Suite 5002, Cincinnati, Ohio 45202-5218 |

| APPLICATION IS MADE TO OPERATE (Check one only) |
| BONDED WINERY |
| BONDED WINE CELLAR |
| TAX PAID WINE BOTTLING HOUSE |

| NAME AND PRINCIPAL BUSINESS ADDRESS OF APPLICANT (Name and street, city, county, State, and ZIP Code) |
| ADDRESS (Address where wine operations will occur) (If different from address in Item 6) |

| PHONE # |
| EIN# |
| PHONE # |

| PURPOSE FOR WHICH FILED (Such as original establishment, trade name change, alteration of premises) |
| Original: New Premises or change in Proprietorship |
| Amended for: Change in Location |
| Change in information on application |
| Change in Officers |
| Change in Name of Proprietor or Trade Name |

| I am or am not required to furnish a bond under 27 CFR 24.146. I am not required to furnish a bond only if all of the following are true. I will withdraw wine for deferred payment of tax under 27 CFR 24.271, I was liable for not more than $50,000 in wine taxes in the preceding calendar year, I reasonably expect to be liable for not more than $50,000 in such taxes during the current calendar year, and I have no operations or withdrawals involving wine for industrial use. |

Alcohol and Tobacco Tax and Trade Bureau
Existing Industry Members

• Existing taxpayers who are eligible for the bond exemption and wish to terminate their bonds must do so by amending their permits using Permits Online or the applicable paper forms

• Industry member must be in compliance to be eligible for bond exemption
Permits Online Amendment

- Sign into your Permits Online Account
- Click Search Your Applications
- Locate the tracking number (ending in O)
- Click the Create Amendment link (far right)
- Select Amended Winery from the dropdown
- Select Bond No Longer Required

Alcohol and Tobacco Tax and Trade Bureau
Permits Online Amendment

Sign into your Permits Online Account

Please Login
All online services offered by TTB require login for security reasons. If you are an existing user, please enter your user name and password in the box on the right.

For more information about our services, please visit the TTB website. For information on which type of application you should complete, please see the description of application types. For assistance please contact TTB at 1-855-TTB-PONL.

New Users
If you are a new user you will need to use the Register for an Account link at the top of the screen and create a new user account in order to use the services in Permits Online. It only takes a few simple steps and you'll have the benefits of viewing your approved permit/registration/notice information, the status of pending applications, and more.

New users must activate their account using the link provided in your registration confirmation email.
Permits Online Amendment

Click Search Your Applications
Permits Online Amendment

Locate the tracking number of the application you want to amend. Click Create Amendment:
Permits Online Amendment

Select the appropriate amendment type

Select an Amendment Type

Click here for a description of amendment application types currently available. For assistance or to apply for an amendment type not listed below please contact TTB at 1-855-TTB-PONL.

IMPORTANT: To protect the security of your information, your Permits Online session will end two hours after you have signed on regardless of whether you are continuously working or not. If you are not able to complete and submit your application in that time, please make sure to save your progress by clicking on “Save and resume later” so your work is not lost.

--Select a Category--
- Amended - All CommonlyFiled
- Amended AFP
- Amended Brewery
- Amended DSP
- Amended SDS TFA USGOV
- Amended WHL IMP
- Amended Winery
Permits Online Amendment

Select “Bond No Longer Required (Tax Liability $50,000 or less)”
Permits Online Amendment

- Continue through the application to Step 2
- Mark the box in Reason for Termination
- Mark the Penalties of Perjury statement on the next screen
Permits Online Amendment

• Your application is submitted when you receive this message
• You will also receive an email providing the tracking number
• The tracking number is also visible in your applications list when you select Search Your Applications
### Paper Amendment

- File TTB F 5120.25, Application to Establish and Operate Wine Premises with the next serial number
- In item 8, mark the box before “Other” and enter “Bond no Longer Required”
- In item 9, select the second check box
- Address the Statements and Documents on the reverse of the form, attach responses to each of the 8 statements
- Mail to address shown in box 4
Questions?
HARD CIDER TAX CLASS

Susan Evans
Executive Liaison for Industry and State Matters
Hard Cider Tax Class

This presentation covers:

• The modified criteria for the Hard Cider tax rate
• TTB’s temporary regulations implementing the statutory changes
• Related matters
New Statutory Definition of Hard Cider

Hard cider means a wine

(1) Containing not more than 0.64 gram of carbon dioxide per hundred milliliters of wine, except that the Secretary may by regulations prescribe such tolerances to this limitation as may be reasonably necessary in good commercial practice,

(2) Which is derived primarily—

   (A) from apples or pears or—

   (B) from—

      (i) apple juice concentrate or pear concentrate, and

      (ii) water,

(3) which contains no fruit product or fruit flavoring other than apple or pear, and

(4) which contains at least one-half of 1 percent and less than 8.5 percent alcohol by volume

26 U.S.C. 5041(g)
Hard Cider Tax Class Criteria

- Wine containing not more than .64 gram of CO₂ per 100 mL
- Derived primarily from apples/pears or apple/pear concentrate and water
- Containing no fruit product or fruit flavoring other than apple or pear, and
- Containing at least 0.5 percent and less than 8.5 percent alcohol by volume
How the Criteria Were Modified

The criteria for the Hard Cider tax rate were modified by:

(1) Increasing the allowable alcohol content from less than 7 percent to less than 8.5 percent alcohol by volume,

(2) Increasing the allowable carbonation level from 0.392 to 0.64 gram per 100 milliliter of wine, and

(3) Authorizing the use of pears, pear juice concentrate, and pear products and flavorings.
Eligible for the Hard Cider Tax Rate?

These are examples of cider/perry products that are eligible for the Hard Cider tax rate:

<table>
<thead>
<tr>
<th>Wine:</th>
<th>Tax Rate</th>
<th>Tax Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>8.4% alc/vol still Apple Cider</td>
<td>22.6 cents</td>
<td>Hard Cider</td>
</tr>
<tr>
<td>8.4% alc/vol still Perry</td>
<td>22.6 cents</td>
<td>Hard Cider</td>
</tr>
<tr>
<td>6% alc/vol still Apple-Cinnamon Cider</td>
<td>22.6 cents</td>
<td>Hard Cider</td>
</tr>
<tr>
<td>8% alc/vol Carbonated Apple-Pear Wine/CO$_2$ level of .62g/100 mL</td>
<td>22.6 cents</td>
<td>Hard Cider</td>
</tr>
<tr>
<td>8% alc/vol Sparkling Perry/CO$_2$ level of .62g/100 mL</td>
<td>22.6 cents</td>
<td>Hard Cider</td>
</tr>
</tbody>
</table>

*This is before small producer tax credit*
Eligible for the Hard Cider Tax Rate?

These are examples of cider/perry products taxed as still wines or as effervescent wines:

<table>
<thead>
<tr>
<th>Wine:</th>
<th>Tax Rate</th>
<th>Tax Class</th>
</tr>
</thead>
<tbody>
<tr>
<td>15% alc/vol still Apple Cider</td>
<td>$1.57*</td>
<td>Still wine Over 14 to 21%</td>
</tr>
<tr>
<td>9% alc/vol still Perry</td>
<td>$1.07*</td>
<td>Still wine Not over 14%</td>
</tr>
<tr>
<td>6% alc/vol still Apple-Cherry Cider</td>
<td>$1.07*</td>
<td>Still wine Not over 14%</td>
</tr>
<tr>
<td>6% alc/vol Carbonated Apple-Pear Wine</td>
<td>$3.30*</td>
<td>Artificially carbonated wine</td>
</tr>
<tr>
<td>CO₂ level of .70g/100 mL</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6% alc/vol Sparkling Pearly Pear Wine</td>
<td>$3.40</td>
<td>Sparkling Wine</td>
</tr>
<tr>
<td>CO₂ level of .70g/100 mL</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

*This is before small producer tax credit*
Quiz: Is it Eligible for the Hard Cider Tax Rate?

<table>
<thead>
<tr>
<th>Ingredients</th>
<th>Alcohol by Volume</th>
<th>CO₂ per 100 mL</th>
<th>Hard Cider Tax Rate?</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>&lt; 8.5%</td>
<td>&lt; or = 0.64g</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>&lt; 8.5%</td>
<td>&lt; or = 0.64g</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>&gt; or = 8.5%</td>
<td>&lt; or = 0.64g</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>&lt; 8.5%</td>
<td>&gt; 0.64g</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>&lt; 8.5%</td>
<td>&lt; or = 0.64g</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Alcohol and Tobacco Tax and Trade Bureau
HARD CIDER TEMPORARY REGULATIONS

Kara Fontaine
Wine Program Manager
Regulations and Rulings Division
Temporary Regulations

• On January 23, 2017, TTB issued temporary regulations implementing the hard cider provisions of the PATH Act
  – T.D. TTB - 147

• The temporary regulations were effective upon publication
Key Components

• New definitions and terms (27 CFR 24.10)

• The modified criteria for the Hard Cider tax rate are contained in new 27 CFR part 24, subpart P (27 CFR 24.331 and 24.332)

• New labeling requirement for all wine that qualifies for the Hard Cider tax rate (27 CFR 24.257 and 27.59)
Key Components

• Establishes a carbon dioxide tolerance for effervescent wine that is eligible for the Hard Cider tax rate (27 CFR 24.251)

• New recordkeeping requirement for effervescent wine that qualifies for the Hard Cider tax rate (27 CFR 24.302)
Key New Definitions

• New definition of “Hard cider” referring to subpart P

• “Artificially carbonated hard cider,” “Sparkling hard cider,” and “Still hard cider” are defined separately as different types of “Hard cider”

• “Hard cider” is excluded from the definitions of “Artificially carbonated wine,” “Sparkling wine,” and “Still wine”
Criteria for Hard Cider Tax Class

A wine removed on or after January 1, 2017 is eligible for the Hard Cider tax rate listed in section 24.270 if:

(a) It contains no more than 0.64g CO₂/100mL of wine;
(b) It is derived primarily from apples or pears, or from apple juice concentrate or pear juice concentrate and water;
(c) It contains no fruit product or fruit flavoring other than apple or pear; and
(d) It contains at least one-half of 1 percent and less than 8.5 percent alcohol by volume

27 CFR 24.331
Apples and Pears

Wine will be considered to be derived primarily from apples or pears, or from apple juice concentrate or pear juice concentrate and water, if the apple juice, pear juice, or combination of apple and pear juice, or the equivalent amount of concentrate of apple and/or pear juice reconstituted to the original brix of the juice prior to concentration, represents more than 50 percent of the volume of the finished product.

27 CFR 24.332(a)
More than 50 Percent - Example

If 55 percent of the volume of the finished product is produced from apples and 45 percent was produced from honey, the wine is eligible for the Hard Cider tax rate provided that all other eligibility requirements are met.
Fruit Products

• Wine is not eligible for the Hard Cider tax rate if it contains any fruit product other than apple or pear.

• A fruit product is any material derived or made from any fruit or part of a fruit, including but not limited to, concentrates, extracts, juices, powders or wine spirits.

27 CFR 24.332(b)(1)
Fruit Products –
Wine Treating Materials

An authorized wine treating material set forth in 27 CFR 24.246 that is derived from a fruit other than apple or pear may be used in the production of wine otherwise eligible for the Hard Cider tax rate if it is used for a purpose other than flavoring and it is either used in accordance with the wine treating materials provisions of section 24.246 (if used in a natural wine), or used in amounts insufficient to impart a fruit flavor other than apple or pear (if used in a special natural wine or other than standard wine) . . .

27 CFR 24.332(b)(2)
Flavorings

- Wine is not eligible for the Hard Cider tax rate if it contains any fruit flavoring other than apple or pear.
- For purposes of this TTB’s regulations, a fruit flavoring other than apple or pear is any flavoring that imparts the flavor of a fruit other than apple or pear and includes a natural fruit flavor, an artificial fruit flavor, and a natural flavor that artificially imparts the flavor of a fruit that is not contained in that flavor . . .
- The use of spices, honey, hops, or pumpkins as a flavoring will not make a wine ineligible for the Hard Cider tax rate.

27 CFR 24.332(c)
New Labeling Requirement

Indication of Tax Class

• Previously, 27 CFR 24.257 required the label to include enough information to identify the tax class when viewed with the alcohol content

• Due to the revision of the criteria for the Hard Cider tax class, a cider/perry product could be both taxed as Hard Cider and required to be designated as sparkling/carbonated, making compliance with old 24.257 problematic

• In order to give industry time to comment on the proposed regulations and to change labels, we created a transitional labeling rule that is in effect before a new rule becomes mandatory in 2018
New Labeling Requirement

Transitional Rule – 2017
- Labels of cider/perry products removed during 2017 are not required to indicate whether or not the product is eligible for the Hard Cider tax rate
- You may voluntarily use “Tax Class 5041(b)(6)"

New rule effective in 2018
- Starting January 1, 2018, cider/perry products taxed at the Hard Cider tax rate must state “Tax Class 5041(b)(6)” on the label

27 CFR 24.257(4) and 27.59(b)
Carbon Dioxide Tolerance

• Under the revised criteria, wine eligible for the Hard Cider tax rate can have a maximum of 0.64 g CO₂ per 100mL of wine

• New regulations at 24.251 establish a carbonation tolerance of not more than 0.009 gram per 100 milliliters under certain conditions
New Effervescent Hard Cider Record

• Proprietors who produce or receive in bond artificially carbonated hard cider and sparkling hard cider must maintain a record of the amount of carbon dioxide contained in the wine

• It is TTB’s policy that producers may use any method that has been formally validated or that is otherwise scientifically valid to determine the carbon dioxide levels in wine

27 CFR 24.302(k)
Commenting on the Temporary Regulations

Please send your comments on the temporary regulations:

• **Internet:** [http://www.regulations.gov](http://www.regulations.gov) (via the online comment form for this notice as posted within Docket No. TTB–2016–0014 at “Regulations.gov,” the Federal e-rulemaking portal);

• **U.S. Mail:** Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; or

*Comments must be received on or before March 24, 2017 however, we can extend the comment period if asked*
HARD CIDER RELATED MATTERS
Reporting a Tax Class Change

<table>
<thead>
<tr>
<th>PART I - SUMMARY OF WINES IN BOND (GALLONS)</th>
<th>ALCOHOL CONTENT BY VOLUME</th>
<th>ARTIFICIALLY CARBONATED WINE</th>
<th>SPARKLING WINE</th>
<th>HARD CIDER</th>
</tr>
</thead>
<tbody>
<tr>
<td>ITEM</td>
<td>NOT OVER 14 PERCENT (%)</td>
<td>OVER 14 TO 21 PERCENT (%)</td>
<td>OVER 21 TO 26 PERCENT (%)</td>
<td>(g)</td>
</tr>
<tr>
<td>1. On Hand Beginning of Period</td>
<td>1,400.00</td>
<td>1,400.00</td>
<td>1,300.00</td>
<td>1,400.00</td>
</tr>
<tr>
<td>2. Produced By Fermentation*</td>
<td></td>
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<td></td>
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<td>3. Produced By Sweetening</td>
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<tr>
<td>4. Produced By Addition of Wine Spirits</td>
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<td>5. Produced By Blending</td>
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<td>6. Produced By Averigation</td>
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<tr>
<td>7. Received in Bond</td>
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<tr>
<td>8. Bottled Wine Dumped to Bulk</td>
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<td></td>
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<tr>
<td>9. Inventory Claims</td>
<td></td>
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<tr>
<td>10. Change of Tax Class</td>
<td></td>
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<td></td>
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<tr>
<td>11. Change of Tax Class</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>12. Total</td>
<td>1,400.00</td>
<td>1,400.00</td>
<td>1,300.00</td>
<td>2,900.00</td>
</tr>
<tr>
<td>13. Bottled Wine</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. Removed taxpaid</td>
<td></td>
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<tr>
<td>15. Transferred in Bond</td>
<td></td>
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<tr>
<td>16. Removed for Distilling Material</td>
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<tr>
<td>17. Removed for Vinegar Plant</td>
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<tr>
<td>18. Used for Bittering</td>
<td></td>
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<tr>
<td>19. Used for Blending</td>
<td></td>
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<tr>
<td>20. Used for Averigation</td>
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<tr>
<td>21. Used for Effervescent Wine</td>
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<tr>
<td>22. Used for Testing</td>
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<tr>
<td>23. Change of Tax Class</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>24. Losses (Other Than Inventory)</td>
<td></td>
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<td></td>
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<tr>
<td>25. Inventory Losses</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>26. On Hand Beginning of Period</td>
<td>1,400.00</td>
<td>1,400.00</td>
<td>1,450.00</td>
<td>1,400.00</td>
</tr>
<tr>
<td>27. Bottled</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>28. Removed taxpaid</td>
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<tr>
<td>29. Transferred in Bond</td>
<td></td>
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<tr>
<td>30. Removed for Distilling Material</td>
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<tr>
<td>31. Removed for Vinegar Plant</td>
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<td>32. Used for Bittering</td>
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<td>33. Used for Blending</td>
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<tr>
<td>34. Used for Averigation</td>
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<tr>
<td>35. Used for Effervescent Wine</td>
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<tr>
<td>36. Used for Testing</td>
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<tr>
<td>37. Change of Tax Class</td>
<td></td>
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<tr>
<td>38. Losses (Other Than Inventory)</td>
<td></td>
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<tr>
<td>39. Inventory Losses</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>40. On Hand Beginning of Period</td>
<td>1,400.00</td>
<td>1,400.00</td>
<td>1,450.00</td>
<td>1,400.00</td>
</tr>
<tr>
<td>41. Bottled</td>
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<tr>
<td>42. Removed taxpaid</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>43. Transferred in Bond</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>44. Removed for Distilling Material</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>45. Removed for Vinegar Plant</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>46. Used for Bittering</td>
<td></td>
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<td></td>
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<tr>
<td>47. Used for Blending</td>
<td></td>
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</tr>
<tr>
<td>48. Used for Averigation</td>
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</tr>
<tr>
<td>49. Used for Effervescent Wine</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>50. Used for Testing</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>51. Change of Tax Class</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

11.00 x 17.00 in
Reporting a Tax Class Change

<table>
<thead>
<tr>
<th>2. # GALLONS REMOVED</th>
<th>3. ON HAND END OF PERIOD</th>
</tr>
</thead>
</table>

**PART X - REMARKS**

Per PATH Act, the following quantities became eligible for the hard cider tax class and were moved to column f:

- 700 gallons bulk, moved from column a
- 500 gallons bulk art carb moved from column d
- 300 gallons bulk sparkling moved from column e
- 700 gallons bottled moved from column a (shown as "other" on line b5)
- 500 gallons bottled moved from column d (shown as "other" on line b5)
- 1000 gallons bottled moved from column e (shown as "other" on line b5)

Under penalties of perjury, I declare that I have examined this report, including the documents submitted in support thereof, and to the best of my knowledge and belief, it is true, correct, and complete.

<table>
<thead>
<tr>
<th>PROPRIETOR</th>
<th>BY (Signature and Title)</th>
<th>DATE</th>
</tr>
</thead>
</table>
Small Domestic Producers Credit

- Domestic bonded wineries/cideries that produce not more than 250,000 gallons per calendar year are eligible for the credit.
- Credit is up to 90 cents* per gallon on first 100,000 gallons removed per calendar year.
- Credit for “hard cider” is up to 5.6 cents* instead of 90 cents.
- Sparkling hard cider is eligible for the credit.
- Sparkling wine is not eligible for the credit.

*If production is more than 150,000 and not more than 250,000 during the calendar year, the credit is reduced by 1% for every 1,000 gallons produced in excess of 150,000.

26 U.S.C. 5041(c)(1)
Excise Tax Rates per Gallon & Small Producer Eligibility

<table>
<thead>
<tr>
<th>Tax Class</th>
<th>Before credit</th>
<th>After full credit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not over 14% *</td>
<td>$1.07</td>
<td>$0.17</td>
</tr>
<tr>
<td>Over 14 to 21% *</td>
<td>$1.57</td>
<td>$0.67</td>
</tr>
<tr>
<td>Over 21 to 24% *</td>
<td>$3.15</td>
<td>$2.25</td>
</tr>
<tr>
<td>Artificially carbonated *</td>
<td>$3.30</td>
<td>$2.40</td>
</tr>
<tr>
<td>Sparkling (no credit)</td>
<td>$3.40</td>
<td>$3.40</td>
</tr>
<tr>
<td>Hard cider *</td>
<td>$0.226 (22.6¢)</td>
<td>$0.17 (17¢)</td>
</tr>
</tbody>
</table>

* Small producer credit may be available on removals of these ciders. The credit is up to 90¢ on all classes except hard cider, which is up to 5.6¢.
Circumstances that Require a Change in Label

• Under both the IRC and the FAA Act, a wine label must accurately reflect, among other things, the wine’s designation and alcohol content

• The label of a wine must be changed if a wine is altered in a manner that changes the information required to appear on the label, such as the designation or alcohol content
Circumstances that Require a Change in Label

• Making the wine effervescent

• Increasing the alcohol content
  – May require label approval

• Adding pears and pear juice concentrate
Effervescent Designations

- The recent changes to the definition of wine eligible for the Hard Cider tax rate increased the maximum allowable CO\textsubscript{2} level to 0.64 g/100mL of wine
- The CO\textsubscript{2} level requiring an effervescent label designation did not change (remains > 0.392)
- Applicable effervescent designations must be used on cider/perry products with CO\textsubscript{2} level of over 0.392 g/100mL
Effervescent Designations

• Cider/Perry products that contain more than 0.392 gram per 100mL carbon dioxide must be labeled accordingly:

  – **Sparkling Wine**: CO₂ results solely from secondary fermentation within a closed container, tank, or bottle

  – **Carbonated Wine**: Obtains its effervescence through the artificial injection of CO₂
### Effervescent Designations

<table>
<thead>
<tr>
<th>If the gram CO₂ per 100 mL is:</th>
<th>Is an effervescent designation required?</th>
</tr>
</thead>
<tbody>
<tr>
<td>&lt; or = 0.392g</td>
<td>No</td>
</tr>
<tr>
<td>&gt; 0.392g but &lt; or = 0.64g</td>
<td>Yes, either sparkling or carbonated</td>
</tr>
<tr>
<td>&gt; 0.64g</td>
<td>Yes, either sparkling or carbonated</td>
</tr>
</tbody>
</table>
Crossing the 7% Alc. By Vol. Threshold

• Recent changes to definition of wine eligible for the Hard Cider tax rate mean that industry members who produce cider/perry products with 7% to under 8.5% alc. by vol. taxed at the Hard Cider rate need to be aware of the FAA Act regulations in 27 CFR part 4
Crossing the 7% Alc. By Vol. Threshold

• Cider and Perry products with 7% or more alcohol by volume that are sold in interstate commerce must:
  – Be covered by a COLA
  – Be labeled in accordance with the regulations in 27 CFR part 4
  – Be bottled in only approved metric size containers
Adding Pears

• Regardless of alcohol content, all wine products must have an appropriate designation of the kind/class/type of wine on the label

• Going from a product made solely from apples to one made from apples and pears will likely necessitate a change in label designation
Adding Pears

<7% or Covered by Cert. of Exemption

Kind of Wine

• May appear on any label
• Must identify as wine by using the term, “wine,” or a word that signifies the type of wine, such as “cider” or “perry”
• If eligible for the Hard Cider tax rate, the kind must be consistent with the Hard Cider tax class:
  – “hard cider,” “apple wine,” “pear wine,” “apple cider,” “apple perry,” “apple pear wine,” “cider” and “perry”
  – Not: “blueberry cider”
• 27 CFR 24.257(a)(4)(ii)(A)&(A)(1)*
Adding Pears

≥ 7% and Covered by COLA

Class and Type

• Must appear on brand label*
• Must use the class, type or other designations found in the standards of identity (SOI) 27 CFR part 4 Subpart H
• If no SOI applies, must use a truthful and adequate statement of composition (wine specialty products)

• 27 CFR 4.32(a)(2), 27 CFR 4.34(a)

*Brand label = label on which brand name and class/type appears
To be Labeled “Cider” “Hard Cider” “Apple Cider” ≥7% and Covered by a COLA

• The product must be:
  – Produced by the normal alcoholic fermentation of the juice of sound, ripe apples, and
  – Derived wholly (except sugar, water, or added alcohol) from apples

May also be labeled “apple wine”

27 CFR 4.21(e)(5)
To be Labeled “Perry”

• The product must be:
  – Produced by the normal alcoholic fermentation of the juice of sound, ripe pears, and
  – Derived wholly (except sugar, water, or added alcohol) from pears

≥7% and Covered by a COLA

May also be labeled “pear wine” but MAY NOT be labeled “pear cider”

27 CFR 4.21(e)(5)
Metric Container Sizes

• Wine must be packaged in a metric standards of fill if it has at least 7 percent alcohol by volume and is sold in interstate commerce (covered by a COLA)

• Standards of fill are listed in 27 CFR 4.72
Metric Container Sizes
≥7% and Covered by a COLA

Authorized Standards of Fill 27 CFR 4.72

- Must use these container sizes – including kegs
- Between 3 and 18 liters - must be even liters (4 liters, 12 liters, etc.)
- No size restrictions over 18 liters

<table>
<thead>
<tr>
<th>Container Size</th>
<th>Milliliters</th>
</tr>
</thead>
<tbody>
<tr>
<td>3 liters</td>
<td>375 milliliters</td>
</tr>
<tr>
<td>1.5 liters</td>
<td>187 milliliters</td>
</tr>
<tr>
<td>1 liter</td>
<td>100 milliliters</td>
</tr>
<tr>
<td>750 milliliters</td>
<td>50 milliliters</td>
</tr>
<tr>
<td>500 milliliters</td>
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</tbody>
</table>

12oz. bottle is not authorized
When to Obtain Formula Approval

No formula approval is required to produce natural cider, natural perry, or other natural fruit wine.

TTB formula approval is required for:

• Wine produced by blending two finished fruit wines together (for example, apple wine and pear wine)
• Wine with added flavors or spices
• Wine made with excess sugar and/or water or other cellar treatments not authorized for natural wine in Subparts F and L of part 24
When to Obtain Formula Approval

• The following Cider/Perry products DO require formula approval:
  – made from apple juice and flavored with hops
  – made from apple concentrate and flavored with citrus peel
  – made from pear juice and flavored with honey
  – made by blending cider with rhubarb wine
  – made by coloring with grape skin extract
  – made by Sweetening with raw sugar
  – made by flavoring with raspberry spirits
When to Obtain Formula Approval

• The following Cider/Perry products DO NOT require formula approval:
  – made only from apple and/or pear concentrate, or apple and/or pear juice, with or without added CO₂
  – made from fermenting apple juice and raspberry juice (or any other kind of fruit juice) together
Questions?

Alcohol and Tobacco Tax and Trade Bureau