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NORTH
CAROLINA
DEPARTMENT
OF REVENUE

Roy Cooper
Governor

Ronald G. Penny
Secretary

August 22, 2017

IMPORTANT NOTICE: ALCOHOLIC BEVERAGE PERMITTEES

You have been identified as having an alcoholic beverage permit issued by the North Carolina Alcoholic Beverage Control (ABC) Commission that requires monthly filing and reporting and the filing of a bond with the North Carolina Department of Revenue for alcoholic beverage excise tax purposes.

Part I reflects information regarding Registration and Obtaining a Bond or Irrevocable Letter of Credit. Part II includes information on Taxation, Filing Requirements, Record Retention, and Tax Compliance.

Part I: Registration and Obtaining a Bond or Irrevocable Letter of Credit

Registration - An excise tax is levied on the sale of malt beverages, fortified and unfortified wine, spirituous liquor and antique spirituous liquor pursuant N.C.G.S. §105-113.80. Each business that has been issued a permit by the North Carolina ABC Commission and is subject to the North Carolina Excise Tax on alcoholic beverages must complete a registration form to set-up an account with the North Carolina Department of Revenue. If you have not registered, please complete Form B-C-785, Registration Form Beer/Wine Permittee, or Form NC-SPLR, Registration Application for Spirituous Liquor, located on our website, www.dornc.com.

Bond or Irrevocable Letter of Credit - North Carolina General Statute §105-113.86(b) - **Nonresident Vendors.** The Secretary may require the holder of a nonresident vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The bond shall be conditioned on compliance with this Article, shall be payable to the State, shall be in a form acceptable to the Secretary, and shall be secured by a corporate surety or by a pledge of obligations of the federal government, the State, or a political subdivision of the State.

Bonding requirements, as set out in the North Carolina Administrative Code 17 NCAC 04E .0601, are as follows:

- (1) Where the combined tax due for any three months of the previous 12 months exceeds forty thousand dollars (\$40,000), the amount of the bond shall be fifty thousand dollars (\$50,000);
- (2) Where the combined tax due for any three months of the previous 12 months exceeds twenty-five thousand dollars (\$25,000) but does not exceed forty thousand dollars (\$40,000), the amount of the bond shall be forty thousand dollars (\$40,000);

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- (3) Where the combined tax due for any three months of the previous 12 months exceeds twelve thousand five hundred dollars (\$12,500) but does not exceed twenty-five thousand dollars (\$25,000), the amount of the bond shall be twenty-five thousand dollars (\$25,000).
- (4) Where the combined tax due for any three months of the previous 12 months exceeds five thousand dollars (\$5,000) but does not exceed twelve thousand five hundred dollars (\$12,500), the amount of the bond shall be twelve thousand five hundred dollars (\$12,500);
- (5) Where the combined tax due for any three months of the previous 12 months does not exceed five thousand dollars (\$5,000), the amount of the bond shall be five thousand dollars (\$5,000).

Pursuant to 17 NCAC 04E .0602, "[i]n the case of a new wholesaler subject to the excise tax, or where such operation has been conducted for less than 12 months prior to January 1, the amount of the bond is determined by the Secretary of Revenue for the remainder of the calendar year or the ensuing calendar year based upon the wholesaler's anticipated business volume as evident by inventory, but shall be no less than five thousand dollars (\$5,000)."

An Irrevocable Letter of Credit from a resident commercial bank may be filed in lieu of a surety bond. The Irrevocable Letter of Credit must be available to the State as a beneficiary and in the same amount as required for a bond. N.C.G.S. § 105-1 13.86(c).

The requisite bond to file with the Department is Form BC-790, Bond of Resident Beer and /or Wine Wholesaler of Importer. There is also a requisite template to be followed for filing an Irrevocable Letter of Credit. Both are available on the North Carolina Department of Revenue website at www.dorn.com. Additionally, Form BC-790A, titled "Tax Liability Increase or Decrease Rider Alcoholic Beverage Tax" is also available on the Department's website if the amount of your bond requires an increase or decrease to be proportionate to your tax liability based on the requirements set out above.

Please submit the required alcohol bond or letter of credit within 30 days from the date of this letter.

Part II: Taxation, Filing Requirements, Record Retention, and Tax Compliance

Taxation - North Carolina General Statute §105-113.80 sets forth the following excise taxes on beer, wine, and liquor:

- (a) Beer. - An excise tax of sixty-one and seventy-one hundredths cents (61.71¢) per gallon is levied on the sale of malt beverages.
- (b) Wine. - An excise tax of twenty-six and thirty-four hundredths cents (26.34¢) per liter is levied on the sale of unfortified wine, and an excise tax of twenty-nine and thirty-four hundredths cents (29.34¢) per liter is levied on the sale of fortified wine.
- (c) Liquor. - An excise tax of thirty percent (30%) is levied on spirituous liquor and antique spirituous liquor sold in ABC stores and in permitted distilleries, Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is computed is the distiller's or the antique spirituous liquor seller's price plus (i) the State ABC warehouse freight and bailment charges, and (ii) a markup for local ABC boards.

Note: Wholesalers and importers of malt beverages and wine are exempt from excise taxes on the following:

- (a) Malt beverages or wine rendered unsalable by a major disaster;
- (b) Malt beverages or wine sold and delivered for use on oceangoing vessels;
- (c) Malt beverages or wine sold to the Armed Forces of the United States;
- (d) Malt beverages or wine shipped out of this State for resale outside the State.
- (e) Tastings: Resident breweries, wineries, and distilleries are not required to remit excise taxes on malt beverages, wine, or spirituous liquor given free of charge to customers, visitors, and employees on the manufacturer's licensed premises for consumption on those premises.

Filing Requirements - N.C. Gen. Stat. § 105-113.83(a) as amended by Session Law 2015-98 requires that the excise tax on liquor levied under G.S. 105-113.80(c) be payable monthly by the local ABC board and by a distillery permittee to the Secretary. The tax shall be paid on or before the 15th day of the month following the month in which the tax was collected. The excise taxes on malt beverages and wine levied under G.S. 105-113.S0(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer, including breweries and wineries, who first handles the beverages in this State. The excise taxes levied under G.S. 105-113.S0(b) on wine shipped directly to consumers in this State pursuant to G.S. ISB-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and wine are payable only once on the same beverages. The tax is due on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State.

A resident or nonresident brewery, resident winery, or nonresident vendor must file a monthly report with the Secretary. The report must list the amount of beverages delivered to North Carolina wholesalers, importers, and purchasers under G.S. ISB-1001.1 during the month. The report is due by the 15th day of the month following the month covered by the report. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary. N.C.G.S. § 105-113.84. (Note: breweries, whether resident or nonresident, must file informational returns per N.C.G.S. 105-113.84). N.C.G.S. § 105-113.84(b) & (c)

A wine shipper permittee must file and pay excise taxes on an annual report with the Secretary. The report required must list the amount of beverages delivered to North Carolina wholesalers, importers, and purchasers under G.S. ISB-1001.1 during the period covered by the report. The report and payment are due by the 15th day of the first month of the following calendar year. The report must be filed on a form approved by the Secretary and must contain the information required by the Secretary.

Record Retention - A person who is required to file a report or return under Article 2C of Chapter 106 must keep a record of all documents used to determine information the person provides in a report or return. The records must be kept for three years from the due date of the report or return to which the records apply. N.C.G.S. § 105-113.88.

Tax Compliance - ABC Commission Procedure to Confirm State Tax Compliance (effective May 1, 2015): Upon request of the Commission, the Department of Revenue must provide information to the Commission to confirm a taxpayer's compliance with N.C.G.S. ISB-900 (a)(8). If the Department of Revenue notifies the Commission that a person is not in compliance, then the Commission may not issue or renew the person's permit until the Commission receives notice from the Department of Revenue that the person is in compliance. The requirement to pay all taxes, interest, and penalties may be satisfied by an operative agreement under G.S. 105-237 covering any amounts that are collectible under G.S. 105-241.22. Chapter 106B of the General Statutes does not apply to a Commission action on issuance, suspension, or revocation of an ABC permit under N.C.G.S. 18B-900 (a)(8).

If you have questions about the information in this document or about excise tax, please contact the Department's Alcoholic Beverage Unit at (919) 707-7500.

NC ABC Commission
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