



NORTH DAKOTA OFFICE OF STATE TAX COMMISSIONER GUIDELINE - ALCOHOL TAX: ALCOHOLIC BEVERAGE SUPPLIERS - BEER

The North Dakota Office of State Tax Commissioner is responsible for the administration of North Dakota Century Code (N.D.C.C.) Title 5 laws relating to the licensing, taxation, and regulation of alcoholic beverage manufacturers, wholesalers, and suppliers in North Dakota. An alcoholic beverage supplier must be licensed as a manufacturer, importer or marketer under North Dakota Administrative Code (N.D.A.C.) § 81-12-01-02(3), or as a wholesaler in the state in which they reside. Beer suppliers may apply for a North Dakota Alcoholic Beverage Supplier License under N.D.C.C. ch. 5-01.

LICENSING

The North Dakota Alcoholic Beverage Supplier License is a license which allows the sale of alcoholic beverage products to licensed North Dakota wholesalers.

With the exception of marketers, the first step in becoming a licensed alcoholic beverage supplier is to obtain a Basic Permit under the [Federal Alcohol Administration Act from the Alcohol and Tobacco Tax and Trade Bureau \(TTB\)](http://www.ttb.gov/business-tools/qualify-with-ttb) (www.ttb.gov/business-tools/qualify-with-ttb). After the appropriate Federal Basic Permit is received, the business may apply for [Application for Alcoholic Beverage Supplier License](http://www.nd.gov/tax/alcoholtax/forms) (www.nd.gov/tax/alcoholtax/forms). The following items must be submitted with the completed application:

Manufacturers

- A copy of the federal basic permit issued by the TTB for manufacturing.
- A copy of the permit issued by your state of residence

Importers

- A copy of the federal basic permit issued by the TTB for importing alcohol.
- A copy of the permit issued by your state of residence

Marketers

- A copy of the permit issued by your state of residence
- A copy of trademark registration documentation

Wholesalers

- A copy of the federal basic permit issued by the TTB for wholesaling.
- A copy of the permit issued by your state of residence

A North Dakota alcoholic beverage supplier license may be suspended or revoked for a violation of any applicable N.D.C.C. Title 5 provision if the licensee engages in any activity that does not comply with all statutes or regulations pertaining to alcoholic beverage suppliers. An alcoholic beverage supplier is entitled to an administrative hearing before its license may be suspended or revoked.

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OPERATING ACTIVITIES

North Dakota alcoholic beverage suppliers are authorized to engage in the following activities as allowed by N.D.C.C. Title 5:

- Sell beer products to licensed North Dakota wholesalers.
- Conduct tasting or sampling activities at a retail establishment. Product being sampled must first go through a licensed North Dakota wholesaler. Credits may not be issued to a retailer for product used for a tasting/sampling.

North Dakota alcoholic beverage supplier licensees are prohibited from engaging in the following activities:

- Assign beer wholesalers a sales territory for a beer brand/product that is already assigned to another beer wholesaler for the same sales territory. (Dual Distributorship prohibited under N.D.C.C. § 5-04-03)
- Suggest a retail price or fix the price a beer product must be sold for at retail. (Product price fixing prohibited under N.D.C.C. § 5-04-09)
- Offer a price or promotion to one beer wholesaler, and not to other beer wholesalers. (Discrimination prohibited under N.D.C.C. § 5-04-12)
- Furnishing, giving, renting, lending, or selling at a discount any equipment, fixtures, signs, supplies, money, service, or other things of value to a retailer constitutes a means to induce, including using a third-party arrangement where the resulting benefits flow to individual retailers.
- The act of paying or crediting a retailer for any advertising, display, or distribution services. This includes payments or credits to retailers that are reimbursements, in full or in part, for such services purchased by a retailer from a third party.
- Payment to a retailer for any arrangement in which a supplier participates with a retailer in an advertisement placed by the retailer.
- Purchases from a retail concessionaire of advertising on signs, scoreboards, programs, scorecards, and similar items at ballparks, racetracks, or stadiums.
- Purchases of advertising in a retailer publication for distribution to consumers.
- Payment to a retailer for setting up product or other displays, display shelf space rental, or any other related activity.
- Requiring a retailer to accept and dispose of any product.

Under N.D.A.C. § 81-12-01-10(3), alcoholic beverage suppliers may engage in providing contest prizes, premium offers, refunds, and other like items for a consumer promotion. Retailers may distribute coupons and other consumer premiums to customers, but only for redemption by the manufacturer or wholesaler. Retailers may not be involved in the redemption of consumer premiums (for example IRCS (Instant Redeemable Coupons)) and may not be compensated or reimbursed for engaging in such consumer promotions. Officers, employees, and representatives of manufacturers, wholesalers, and retailers shall be excluded from participation in such promotions.

Alcoholic beverage suppliers must maintain adequate records of all consumer promotions. In order to ensure compliance with North Dakota rules and regulations regarding consumer promotions, prior approval is required. Prior approval requests can be emailed to alcoholtax@nd.gov.

TAX REPORTING AND RECORD KEEPING

Wholesale Excise Tax - North Dakota alcoholic beverage suppliers are not subject to North Dakota wholesale excise tax. When a licensed North Dakota wholesaler purchases and sells alcoholic beverage products to retailers they will remit the wholesale excise tax imposed under N.D.C.C. § 5-03-07.

Sales, Use, and Gross Receipts Tax – An alcoholic beverage supplier selling additional items of tangible personal property, such as glasses, openers, carafes, literature, or other bar accessories, must collect state sales tax of 5% and local sales tax on these sales. Local gross receipts taxes and local sales taxes are calculated at the point of sale, which is the location where the purchaser consumes or takes possession of the goods.

An alcoholic beverage supplier that purchases equipment or other tangible personal property for storage, use, or consumption in North Dakota, from a seller that did not collect sales tax on the purchase, must remit state and local use tax on the retail selling price which includes delivery charges of the items.

Information on North Dakota local sales, use, gross receipts, and lodging taxes is available at www.nd.gov/tax/salesanduse/localtaxes.

Reporting Schedules and Returns – North Dakota alcoholic beverage suppliers are required to file monthly reports documenting each invoice for beer sold to licensed North Dakota wholesalers.

Monthly Reports - Schedule C: An alcoholic beverage supplier must complete and submit the following reporting form to the Office of State Tax Commissioner for each month in which sales were made to a North Dakota wholesaler. Zero reports are not required for the Schedule C. This report is required to be filed electronically through the North Dakota Taxpayer Access Point (ND TAP) (www.nd.gov/tax/tap). These forms and instructions are available at www.nd.gov/tax/alcohol/efile and www.nd.gov/tax/salesanduse/forms.

Form ST Sales, Use & Gross Receipts Tax Return: A periodic return to report state and local sales, use, and gross receipts tax. The periodic filing frequency is assigned at the time of registration. The due date is the last day of the month following the period end date. This form must be filed through ND TAP (www.nd.gov/tax/tap).

Record Keeping - An alcoholic beverage supplier must maintain detailed records of sales to North Dakota retailers.

AUDIT

The Office of State Tax Commissioner may at any reasonable time make an examination of the books of an alcoholic beverage supplier to determine if it has fully complied with all statutes and rules pertaining to alcoholic beverage suppliers.

CONTACT INFORMATION

For more information on North Dakota alcohol taxes, please visit [Alcohol Tax \(www.nd.gov/tax/user/businesses/formspublications/alcohol-tax\)](http://www.nd.gov/tax/user/businesses/formspublications/alcohol-tax). If you have questions, please contact our office at alcoholtax@nd.gov or 701-328-2702.

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