



Special Notice

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New Wine Regulation 2558.1 Takes Effect January 1, 2012

The Office of Administrative Law approved the adoption of the Alcoholic Beverage Tax Regulation 2558.1, *Wine*, by the State Board of Equalization (BOE) on July 8, 2011, and it has been filed with the Secretary of State. The BOE adopted the regulation to clarify the definition of wine for Alcoholic Beverage Tax purposes. Regulation 2558.1 takes effect January 1, 2012.

Regulation 2558.1. Wine.

(a) Effective January 1, 2012, wine as defined by Business and Professions Code (BPC) section 23007 does not include any alcoholic beverage containing 0.5 percent or more alcohol by volume obtained from the distillation of fermented agricultural products other than from the particular agricultural product or products of which the wine is made. (b) Except as provided in subdivision (a), wine-based products authorized for sale as wine by the Department of Alcoholic Beverage Control are deemed to be wine as defined by BPC section 23007 for purposes of the Alcoholic Beverage Tax Law.

BPC section 23007 defines wine as "the product obtained from the normal alcoholic fermentation of the juice of sound ripe grapes or other agricultural products containing natural or added sugar or any such alcoholic beverage to which is added grape brandy, fruit brandy, or spirits of wine, which is distilled from the particular agricultural product or products of which the wine is made and other rectified wine products and by whatever name and which does not contain more than 15 percent added flavoring, coloring, and blending material and which contains not more than 24 percent alcohol by volume and includes vermouth and sake, known as Japanese rice wine."

Regulation 2558.1 also stipulates that wine as defined by BPC section 23007 may not contain 0.5 percent or more alcohol by volume from a source other than the particular agricultural product from which the wine is made. For example, a nonconforming source would be alcohol distilled from grain added to a grape based wine product, whereas a conforming source would be alcohol distilled from grapes such as brandy, added to a grape based wine product. If the wine product contains 0.5 percent or more alcohol from a nonconforming source, it would be considered a distilled spirit and taxed as a distilled spirit for California Alcoholic Beverage Tax purposes. Regulation 2558.1 is consistent with current Alcoholic Beverage Tax Regulations concerning distilled spirits and the treatment of alcohol from a nonconforming source. (Regulations 2558, 2559, 2559.1, 2559.3, and 2559.5 available on the BOE's website at www.boe.ca.gov/sptaxprog/sptaxregs.htm.)

With the adoption of Regulation 2558.1, wine growers, manufacturers and importers should be cognizant of the alcohol source of any flavorings and blending material that may be added to natural wine that would result in the reclassification of their wine product to a distilled spirit for taxation purposes. Wine growers and manufacturers with these products should contact the BOE to obtain an account in order to report and pay their wine gallons at the distilled spirits tax rate. Current wine importers who are registered as a beer and wine importer may already receive tax returns that accommodate the reporting and payment of distilled spirits.

The Department of Alcoholic Beverage Control (ABC) deems wine meeting the BPC section 23007 definition for wine, notwithstanding the source of the alcohol, to be a wine for their licensing requirements. Those selling wine products that may have been reclassified as a distilled spirit for taxation purposes would not be required to obtain a new license from the ABC.

If you have any questions regarding this notice, you may contact the BOE through our website at www.boe.ca.gov/info/email.html or www.boe.ca.gov. You may also call our Taxpayer Information Section at 800-400-7115 (TTY:711). Customer service representatives are available to assist you weekdays from 8:00 a.m. to 5:00 p.m. (Pacific time), except state holidays.

