



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

AUGUST 6, 2009

Direct Wine Sales to Consumers – New Registration and Tax Collection Requirements

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Domestic and out-of-state wineries are now allowed to sell wine directly to consumers in Washington. The wineries must collect and remit applicable state and local use or sales taxes from their Washington customers.

Before wine may be sold and shipped directly to Washington consumers:

- **Domestic wineries** must be licensed as a domestic winery by the Washington Liquor Control Board (LCB) and pay all assessed license fees.
- **Out-of-state wineries** must obtain a wine shipper's permit from the LCB and pay all assessed permit fees.

Wineries must also register with the Washington State Department of Revenue and receive a tax registration number as a condition for obtaining a wine shipper's permit.

Registering with the Department of Revenue

Out-of-state wineries must register with the Department of Revenue by completing a *Master Business Application*, which may be downloaded from the Department of Licensing's web site at <http://www.dol.wa.gov/forms/700028.html>. Send the completed form electronically (if filling out the online version) or mail it to the address provided with the instructions. Please include payment for all necessary licensing fees with your application.

Once the application is processed, you will receive a Master License. The Master License will note your Department of Revenue (DOR) Tax Registration Number, also known as your Unified Business Identifier (UBI) number. This is a nine-digit number

Excise tax returns

Once registered with the Department of Revenue, you'll receive excise tax returns to report your sales to Washington customers and to remit use or retail sales taxes owed or collected.

Depending on your level of sales, you may be required to report excise taxes on a monthly, quarterly, or annual basis. To file electronically, go to our web site at <http://dor.wa.gov> to sign up.

Please note: Excise tax returns must be filed even if you've had no sales to Washington customers during the period covered by the return.

Applicable taxes

The law requires out-of-state wineries that sell and ship directly to Washington consumers to collect either **use tax or retail sales tax** from their Washington customers. Wineries are required to collect tax, regardless of whether or not they have a physical presence in Washington.

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Use tax and sales tax are companion taxes and have the same rate. Either use tax or sales tax applies, not both. Both use and sales tax are calculated on the selling price, including all shipping, handling, or delivery charges.

- **Use tax** must be collected when the seller **does not have a physical presence** in Washington.
- **Sales tax** must be collected when the seller **has a physical presence** in Washington. (See below for discussion of the business and occupation tax due when sales tax applies.)

What taxes apply to your winery?

To determine whether you must collect use tax or retail sales tax on your sales of wine to Washington consumers, you must determine if you've established a physical presence or **nexus** in Washington.

“Nexus” is any activity the winery conducts in Washington that is significantly associated with the winery's ability to establish or maintain a market for its products in Washington. You don't need to have an office or physical location in the state to have nexus and be subject to Washington's tax laws. Many activities can create sufficient nexus, including, but not limited to:

- Maintaining a stock of goods in Washington, or delivering from a local stock of goods.
- Maintaining a branch office, local outlet or other place of business in this state.
- Visiting trade shows, wine events, or other such activities in Washington on an occasional basis to promote or showcase your products.
- Soliciting orders in this state by an employee, third party agent, or other representative.

If you don't have nexus (physical presence) in Washington:

- **You must collect use tax** on direct sales of wine to Washington consumers.
- The use tax rate is determined by your customer's location. To determine the correct use tax rate to charge, use the Department's Tax Rate Lookup Tool at <http://gis.dor.wa.gov/taxratefinder/>.

If you have nexus (physical presence) in Washington:

- **You must collect retail sales tax** on direct sales of wine to Washington consumers.
 - The location of an in-state store, outlet, stock of goods, or representative, determines the sales tax rate you charge.
 - If you don't have an in-state store, outlet, stock of goods, or representative, the sales tax rate is determined by your customer's location. Use the Department's Tax Rate Lookup Tool at <http://gis.dor.wa.gov/taxratefinder/> to find the correct sales tax rate.
- You are subject to Washington's **business and occupation (B&O) tax under the Retailing classification** on your gross Washington sales.
 - B&O tax applies to the gross proceeds from sales of tangible personal property without any deductions for the cost of goods sold, labor costs, delivery costs, discounts paid, taxes, or any other expenses or losses. It is a cost of doing business in Washington.
 - B&O tax is reported and paid on the excise tax return. The current rate for the retailing classification is .00471.
- You are subject to Washington's **litter tax** on your gross Washington sales.
 - The litter tax is assessed on manufacturers, wholesalers, and retailers of certain products that contribute to Washington's litter problem, including retailers of wine. Litter tax is owed on all sales subject to the Retailing B&O tax. It is also a cost of doing business in Washington.
 - Litter tax is reported and paid on the excise tax return. The current rate is .00015.

Note: Your excise tax return filing obligation is different from and in addition to any reporting requirements of the Liquor Control Board.

More information

For additional information regarding your **obligations with the LCB**, see their web site at http://www.liq.wa.gov/publications/DirectShipping_Info.aspx.

For more information on **doing business in Washington**, see our web site at <http://dor.wa.gov> or call our Telephone Information Center at 1-800-647-7706.