

Coates' Canons Blog: Local Beer and Wine Privilege License Taxes

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Sadly the Panthers are not returning to the Super Bowl this year. Despite Cam's absence

from the big game, much of America will still be watching. And drinking. A lot.

One frequently cited study suggests that over 325 million gallons of beer will be consumed during the big game. That seems high, as this Asheville newspaper points out. But regardless of the actual total, we know that beer and wine sales soar during the week before the Super Bowl.

What does this have to do with local governments? Taxes. All of those Super Bowl six-packs purchased in North Carolina were sold by retailers that paid local privilege license taxes on their business activities.

Beer and wine privilege license taxes are one of the very few local business privilege license taxes that survived the General Assembly's elimination of general privilege license taxes in 2015. (Municipal taxicab taxes are the other survivors.)

If you've ever visited an ABC ("Alcoholic Beverage Control") store, you know that both the state and local governments are heavily involved with the regulation of alcoholic beverages. Readers interested in the details of this system should check out my SOG colleague Michael Crowell's ABC chapter in our extensive *County and Municipal Government* book.

From a local tax perspective, all you really need to know is that businesses selling beer and wine are required to obtain privilege licenses from their respective cities and counties and pay (minimal) taxes for those licenses. G.S. 105-113.77 (retail sales, municipalities), G.S. 105-113.78 (retail sales, counties), and G.S. 105-113.79 (wholesale, municipalities) mandate the following taxes per business activity:

Type of Sale	County Tax	Municipal Tax
Beer, on-premises	\$25	\$15
Beer, off-premises	\$5	\$5
Wine, on-premises	\$25	\$15
Wine, off-premises	\$25	\$10
Beer and/or wine, wholesale	N/A	Up to \$37.50

Technically a business must obtain a license and pay a tax for each of the permitted taxable activities it conducts. However, officials from the state ABC agency report that an on-premises beer or wine license also covers off-premises sales.

For example, if a bar sells beer and wine for both on-site consumption and take-out, it would be required to pay for two local beer and wine retail license taxes, on-premises beer and on-premises wine. Those licenses would also cover take-out sales for off-premises consumption. If that bar were located in a city, it would need to obtain and pay for those same two licenses at the city rate. The total annual local beer and wine taxes for this establishment would be \$80 (\$25 for county beer on-premises, \$25 for county wine on-premises, \$15 for city beer on-premises, \$15 for city wine on-premises).

How about those tastings that many beer or wine shops offer? According to the state ABC agency, on-premises licenses are required for any establishment that offers tastings in house regardless of whether the establishment charges for those tastings.

Each local ABC license covers that specific activity at one specific location. If a business has multiple locations in one county or city, that business will need to obtain separate ABC licenses for each location. City beer and wine taxes (but for some reason not county taxes) must increase by 10% for each additional license of the same type issued to the same taxpayer for use at a separate location.

Assume World of Beer, Inc. operates 3 beer and wine shops in the city. Each location sells both beer and wine for off-premises consumption. The city ABC taxes for the first location would be \$5 for beer off-premises and \$10 for wine off-premises. The city taxes for the second location would increase by 10%: \$5.50 and for beer off-premises and \$11 for wine off-premises. The city taxes for the third location would again increase by 10%: \$6.05 for beer off-premises and \$12.10 for wine off-premises. To see how city ABC taxes would continue to increase for even more locations, take a look at this beer and wine tax schedule from the city of Durham. County ABC taxes would remain the same for each location: \$5 for off-premises beer and \$25 for off-premises wine.

These local privilege license taxes are in addition to the excise taxes imposed by the state on all beer and wine sales proceeds, a portion of which is shared on a per-capita basis with the local governments that permit alcohol sales.

Unlike property taxes that are tied to the fiscal year (July 1 to June 30), local beer and wine licenses and taxes must cover the period from May 1 to April 30. Local licenses are non-transferable, meaning if the operator of a wine or beer store sells the business then the new owner will be required to obtain a new license and pay the applicable tax.

These local ABC taxes are exclusive, meaning that local governments may not levy any other taxes on the sale or manufacture of alcoholic beverages. In particular, local governments may not levy privilege license taxes on the many breweries and wineries across our state beyond those mandated for the wholesale and retail sales of beer and wine. Nor may local governments charge privilege license taxes for the sale of mixed drinks in bars or the sale of liquor by the bottle at state ABC stores.

The penalties in G.S. 105-236 apply to the failure to pay for and obtain local beer and wine license taxes. Operating a business without the required privilege license triggers a monthly penalty of 5 % of the applicable privilege license tax, up to a total of 25 %. Failure to pay the required tax triggers a separate 10% penalty. These violations are also Class 1 misdemeanors.

As is true of any local tax, unpaid local beer and wine privilege taxes may be collected using the property tax attachment and garnishment or levy and sale procedures. Because privilege taxes are not automatically a lien on the taxpayer's real property, foreclosure is not a collection option for unpaid local ABC taxes unless the local government were to sue the taxpayer and obtain a civil judgment.

There is no general successor liability for local ABC taxes. If a business with delinquent ABC taxes sells an establishment to another owner for fair market value then that new owner is not liable for the ABC taxes owed by the original owner. But that new owner will be required to obtain and pay for its own new local ABC licenses.



Links

- canons.sog.unc.edu/wp-content/uploads/2017/01/beer.png
- www.marketwatch.com/story/super-bowl-consumption-by-the-numbers-2016-01-29
- www.citizen-times.com/story/news/local/2016/02/04/answer-man-325m-gallons-beer-consumed-super-sunday/79773090/
- www.nielsen.com/us/en/insights/news/2016/super-bowl-sunday-is-no-longer-just-a-beer-holiday.html
- canons.sog.unc.edu/the-axe-finally-falls-on-local-privilege-license-taxes/
- www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=20-97
- www.sog.unc.edu/publications/book-chapters/alcoholic-beverage-control
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- ncbeer.brewerymap.com/
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