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CHAPTER 33.

 ALCOHOLIC BEVERAGES TAXES

ARTICLE 1.

 GENERAL PROVISIONS

**SECTION 12‑33‑10.** Definitions.

As used in this chapter the several terms defined in Section 61‑6‑20 shall have the meaning there given.

**SECTION 12‑33‑20.** Taxes shall be in lieu of certain other taxes and licenses.

The license and excise taxes provided in this chapter for the privilege of engaging in the business of manufacturing and selling alcoholic liquors shall be in lieu of all other taxes and licenses, State, county and municipal, except property, State income and corporation license taxes.

**SECTION 12‑33‑30.** Collection and distribution of taxes.

The taxes levied by this chapter must be paid to and collected by the department and, when collected, must be deposited to the credit of the general fund of the State, sixty percent of which must be credited for public school use.

**SECTION 12‑33‑40.** Municipalities entitled to share in tax.

For the purpose of calculating the proper distribution of such taxes to the municipalities of the State a list of municipalities, certified to be active by the Municipal Association of South Carolina, shall be used and the word “active” as used for the purpose of distributing this tax shall mean a municipality which has a regularly elected mayor or intendant, a town council and a police officer or officers and which is collecting property or other taxes for municipal purposes.

**SECTION 12‑33‑50.** Disposition of bond forfeitures.

A sum derived from the violation of the condition of a bond or deposit required in this chapter must be paid to the department for deposit to the credit of the general fund of the State, sixty‑five percent of which must be credited to the special school account.

**SECTION 12‑33‑60.** Exemption from tax of certain property from outside continental limits of United States.

A person entering South Carolina from outside the continental limits of the United States may bring into the State on his person or in his baggage, property obtained outside the continental limits of the United States, and such property shall not be subject to the tax imposed by this chapter; provided, that the total cost of the property does not exceed twenty dollars.

**SECTION 12‑33‑70.** Rules and regulations of Department of Revenue.

The Department of Revenue may from time to time make such reasonable regulations, not inconsistent with Title 61, or with the general laws of the State, as the department shall deem necessary to carry out and enforce any other provisions of law relating to the enforcement, collection and payment of the license taxes provided in Title 61 and this chapter and to prevent the evasion of such provisions and the failure or refusal of any person subject thereto to pay such taxes.

The department may from time to time alter, repeal or amend such regulations or any of them. Such regulations shall be filed and published as provided for in Chapter 23 of Title 1. The department shall give additional notice thereof to all licensees in such manner as it may deem proper.

The wilful violation of any rule or regulation made under the provisions of this section and having the force and effect of law shall constitute a violation of Title 61.

ARTICLE 3.

 LICENSE TAXES FOR SALE OF ALCOHOLIC BEVERAGES

**SECTION 12‑33‑210.** Taxes on licenses granted under Alcoholic Beverage Control Act; filing fee.

(A) The biennial license taxes on licenses granted pursuant to Title 61, in addition to all other license taxes, are as follows:

(1) manufacturer’s license: one thousand dollars;

(2) wholesaler’s license: twenty thousand dollars;

(3) retail dealer’s license: one thousand two hundred dollars; and (4) special food manufacturer’s license: one thousand two hundred dollars.

(B) Each applicant shall pay a filing fee of one hundred dollars, which must accompany the initial application for each location and is not refundable.

(C) A person who applies for a license after the first day of a license period shall pay license fees in accordance with the schedule provided in Section 61‑6‑1810(C).

**SECTION 12‑33‑230.** License tax on sales; rate.

Every person doing business within this State and engaging in the business of selling alcoholic liquors, except distillers thereof, for the privilege of carrying on such business shall, in addition to the license tax provided in Section 12‑33‑210, be subject to the further payment of a license tax which shall be measured and graduated in accordance with the volume of sales of such business. There shall be levied, assessed, collected and paid in respect to the alcoholic liquors referred to in this chapter twelve cents upon each eight ounces or a fractional quantity thereof. Provided, that for alcoholic liquors offered for sale in metric size containers there shall be levied, assessed, collected and paid a tax at the rate of fifty and seven‑tenths cents per liter.

**SECTION 12‑33‑240.** Additional sales tax; rate.

In addition to the license tax levied, assessed, collected and paid in respect to sales of alcoholic liquors, as provided in Section 12‑33‑230, there shall be levied, assessed, collected and paid in respect to such alcoholic liquors an additional tax of five cents upon each eight ounces, or a fractional quantity thereof. Provided, that for alcoholic liquors offered for sale in metric size containers there shall be levied, assessed, collected and paid a tax at the rate of twenty‑one and one hundred twenty‑five one‑thousandths cents per liter.

**SECTION 12‑33‑245.** Excise tax on sales for on‑premises consumption; “gross proceeds” defined; nonprofit organizations exception; penalties; issuance of license for premises for which license revoked or suspended.

(A) In addition to taxes imposed pursuant to the provisions of Sections 12‑33‑230, 12‑33‑240, Article 5 of this chapter, and Chapter 36, Title 12, there is imposed an excise tax equal to five percent of the gross proceeds of the sales of alcoholic liquor by the drink for on‑premises consumption in an establishment licensed for sales pursuant to Article 5, Chapter 6, Title 61 or at a location holding a temporary license or permit that authorizes the sale of liquor by the drink. All proceeds of this excise tax must be deposited to the credit of the general fund of the State. Except with respect to the distribution of the revenue of this tax, this excise tax is considered to be imposed pursuant to Chapter 36, Title 12. For purposes of this subsection, “gross proceeds of sales” has the meaning as provided in Section 12‑36‑90, except that the sales tax imposed under Chapter 36, Title 12 is not included in “gross proceeds of sales”. The term “gross proceeds of sales” also includes, but is not limited to, the retail value of a complimentary or discounted beverage containing alcoholic liquor, an amount charged for ice for a drink containing alcoholic liquor, and an amount charged for a nonalcoholic beverage that is sold or used as a mixer for a drink containing alcoholic liquor. This section does not apply to nonprofit organizations that are issued a temporary permit to allow possession, sale, and consumption of alcoholic liquors pursuant to Section 61‑6‑510 or subarticle 5, Article 5, Chapter 6, Title 61.

(B) Eleven percent of the revenue generated by the excise tax provided for in subsection (A) must be placed on deposit with the State Treasurer and credited to a fund separate and distinct from the general fund of the State. On a quarterly basis, the State Treasurer shall allocate this revenue to counties on a per capita basis according to the most recent United States Census. The State Treasurer must notify each county of the allocation pursuant to this subsection in addition to the funds allocated pursuant to Section 6‑27‑40(B), and the combination of these funds must be used by counties for educational purposes relating to the use of alcoholic liquors and for the rehabilitation of alcoholics and drug addicts. A county may pool these funds with other counties and may combine these funds with other funds for the same purpose.

(C) Those state agencies and local entities, including counties, which by law received minibottle tax revenues in fiscal year 2004‑2005 for education, prevention, and other purposes, shall receive in a fiscal year at least the same amount of revenues from the excise tax revenues as they received from minibottle tax revenues during fiscal year 2004‑2005. If these state agencies and local entities do not, the difference must be made up from the general fund. Payments will be distributed in four equal payments based on the total payments remitted to these state agencies and entities in fiscal year 2004‑2005, including funds received pursuant to Section 6‑27‑40(B). At the end of each fiscal year, the State Treasurer, in consultation with the Department of Revenue, shall determine whether the tax collected pursuant to these sections exceed the total collection and remittance for fiscal year 2004‑2005. If the tax collected exceeds the amount collected and allocated in fiscal year 2004‑2005, a distribution of the difference will be remitted to the county treasurers within thirty days after the close of each fiscal year.

(D) In addition to all other penalties that may be imposed for violations arising pursuant to subsection (A) of this section, a failure to report and remit the full amount of the excise tax imposed pursuant to subsection (A) on the gross proceeds of the sale of each drink of alcoholic liquor sold for consumption in the establishment subjects the licensee to the following penalties:

(1) for a first violation, a civil penalty of one thousand dollars;

(2) for a second violation, a civil penalty of one thousand dollars and an automatic suspension for thirty days of the license allowing such sales; and

(3) for a third or subsequent violation, a civil penalty of five thousand dollars and a revocation of the license.

(E) When a license is suspended or revoked, a partner or person with a financial interest in the business may not be issued a license for the premises concerned. A person within the second degree of kinship to a person whose license is suspended or revoked may not be issued a license for the premises concerned for a period of one year after the date of suspension or revocation.

**SECTION 12‑33‑250.** Collection and payment of license tax and additional sales tax; reports; deductions.

Commencing with license taxes collected and paid after June 30, 1969, such taxes levied in respect to sales of alcoholic liquors pursuant to Sections 12‑33‑230 and 12‑33‑240 shall be collected and paid in the same manner and under the same conditions as the license taxes levied pursuant to Sections 12‑33‑410 and 12‑33‑460. The initial report to be made pursuant to this section shall be made on or before July 10, 1969, based on sales for the month of June, 1969. Commencing with license taxes required to be paid in July, 1969, and ending with such taxes to be paid in June, 1974, there shall be allowed each month a deduction from the amounts determined to be due under Sections 12‑33‑230 and 12‑33‑240. Such deduction shall be equal to one sixtieth ( 1/60 ) of the sum of: (1) the amount of the license taxes levied under Sections 12‑33‑230 and 12‑33‑240 and paid in July 1969, and (2) the dollar value of all stamps owned on June 30, 1969, evidencing payment in advance of sale of the license taxes levied under Sections 12‑33‑230 and 12‑33‑240.

**SECTION 12‑33‑260.** Payment and collection; taxes shall be debt owed to State and lien.

The license taxes provided in this article shall be paid to and collected by the department. All license taxes provided in this article shall be held a debt due and payable to the State by the taxpayers against whom the same shall be levied, assessed and charged and all such license taxes shall be a first lien in all cases whatsoever upon all property of the taxpayer charged therewith.

ARTICLE 5.

 ADDITIONAL TAX ON WHOLESALE SALES

**SECTION 12‑33‑410.** Imposition of tax; rate.

In addition to all other taxes levied, assessed, collected, and paid in respect to alcoholic liquors, every licensed wholesaler shall be subject to the payment of a tax of one dollar and eighty‑one cents on each standard case of alcoholic liquors.

**SECTION 12‑33‑420.** Additional tax; rate; payment and collection; penalties; disposition of proceeds.

Every licensed wholesaler shall pay an additional tax of fifty‑six cents on each standard case of alcoholic liquors sold. The tax shall be paid to and collected by the Department of Revenue in the same manner and with like penalties as provided in Sections 12‑33‑460 and 12‑33‑470. The proceeds of the tax shall be deposited into the State Treasury to the credit of the state’s general funds, and shall not be subject to the provisions of Section 12‑33‑30, as amended, relating to the distribution of alcoholic liquor revenue to counties and municipalities.

**SECTION 12‑33‑425.** Nine percent surtax on alcoholic liquor.

Notwithstanding any other provision of law relating to taxes on alcoholic liquor there is hereby levied an additional surtax of nine percent on all taxes imposed upon alcoholic liquors sold in this State which shall be collected from the wholesalers of such products on a monthly basis in accordance with procedures prescribed by law for the collection of all other taxes on alcoholic liquor. Revenue derived from such surtax shall be deposited into the State Treasury to the credit of the State’s General Fund and shall not be subject to the provisions of Section 12‑33‑30 of the 1976 Code, as amended, and Section 61‑5‑150 relating to the distribution of alcoholic liquor revenue to counties and municipalities.

For the fiscal year 1976‑77, the proceeds of the surtax levied in this section shall be applied to increasing by four and one‑half dollars per pupil the appropriation in Part I, Section 31, 1976 Act No. 709, for “school district operational aid”, to be apportioned on the same basis as funds appropriated in the said section for this purpose:

Provided, Further, If the tax derived from 9% surtax on alcoholic liquor is not adequate, the additional $4.50 shall be proportionately reduced.

**SECTION 12‑33‑430.** “Standard case of alcoholic liquors” defined.

For the purpose of this article “a standard case of alcoholic liquors” is a package or case containing not more than three gallons and not less than two and four‑tenths gallons and any package or case containing more than three gallons or less than two and four‑tenths gallons shall be taxed proportionately, based on the total tax per standard case as levied in this article for each three gallons. Provided, that for alcoholic liquors offered for sale in metric size containers “a standard case of alcoholic liquors” is a package or case containing not more than twelve liters and not less than nine liters and any package or case containing more than twelve liters or less than nine liters shall be taxed proportionately, based on the total tax per standard case as levied in this article for each twelve liters.

**SECTION 12‑33‑440.** Tax shall not be computed in markup or passed on to consumer.

The tax provided in Section 12‑33‑410 must be absorbed by the licensed wholesaler and in no case shall such tax be computed in the markup provided by law, nor shall it be made a part of the consumer price.

**SECTION 12‑33‑450.** Monthly reports.

Every wholesaler of alcoholic liquors shall file with the department on or before the twentieth day of each calendar month a report covering all sales of alcoholic liquors during the preceding month.

**SECTION 12‑33‑460.** Additional tax upon each case sold.

In addition to the tax levied under Section 12‑33‑410, every licensed wholesaler shall pay additional tax of two dollars and ninety‑nine cents on each standard case of alcoholic liquors sold.

**SECTION 12‑33‑470.** Additional tax shall be paid by retailer; tax shall not be computed in markup or passed on to consumer.

The tax levied in Section 12‑33‑460 shall be paid by the licensed retailer to the wholesaler from whom such alcoholic liquors are purchased. In no case shall such tax be computed in the markup provided by law and in no case shall it be made a part of the consumer price.

**SECTION 12‑33‑475.** Military tax exemption.

Alcoholic liquors subject to tax under the provisions of this chapter are exempt from this tax when sold to the United States Government or United States Government instrumentality for Army, Navy, Marine, or Air Force purposes and delivered to a place lawfully ceded to the United States, or delivered to a ship belonging to the United States Navy for distribution and sale to members of the military establishment only, or when sold and delivered to ships regularly engaged in foreign or coastwise shipping between points in this State and points outside the State.

**SECTION 12‑33‑480.** Returns and payment of taxes levied in Sections 12‑33‑410 and 12‑33‑460; taxes constitute debt owed to State and lien; collection; penalties.

The tax levied in Sections 12‑33‑410 and 12‑33‑460 shall be due and payable on or before the twentieth day of the month next succeeding the month in which the tax accrues. On or before the twentieth day of each month every person on whom the tax is levied or imposed by Sections 12‑33‑410 and 12‑33‑460 shall render to the department, on a form prescribed by it, a statement showing the number of cases of alcoholic liquors sold for the next preceding month, together with such other information as the department may require. At the same time the report is filed, the person shall pay to the department the amount of taxes due. The taxes provided in Sections 12‑33‑410 and 12‑33‑460 constitute a debt payable to the State by the persons against whom they are charged and all the taxes, penalties, and assessments constitute a first lien upon all property of such persons. The taxes, penalties, or interest in this section must be assessed and collected in the same manner and with like effect as other taxes are assessed and collected by the Department of Revenue. A return is considered filed on time if it is mailed and postmarked on or before the date it is required by law to be filed. Any person failing to file a return required by this section must be assessed a penalty of not more than one thousand dollars which must be assessed and collected in the same manner and with like effect as other taxes collected by the Department of Revenue. Any person required by this section to pay any tax and who fails to do so within the time allotted shall pay, in addition to the tax, a penalty of twenty‑five percent of the tax and interest at one half of one percent per month or fraction of a month from the date the tax was originally due to the date of the payment of the tax and penalty. The Department of Revenue may in its discretion waive or reduce the penalty or interest or any part thereof prescribed in this section. The provisions of Section 12‑33‑450 shall determine the payment of taxes for the month of June.

**SECTION 12‑33‑485.** Discount for timely payment of tax.

When a return required by this chapter is filed and the taxes shown due on the return are paid in full on or before the final due date, including any date to which the time for making the return and paying the tax has been extended by the Department of Revenue, the person must be allowed a discount equal to one percent of the taxes shown to be due by the return. In no case shall any discount be allowed if either the return or the tax thereon is received by the department after the date due, or after the expiration of any extension granted by the department. The discount permitted a person under this section shall not exceed forty thousand dollars during any one fiscal year.

**SECTION 12‑33‑490.** Collection and use of additional taxes.

The additional taxes levied in this article shall be paid to and collected by the department and, when collected, shall be paid into the State Treasury for credit to the general fund of the State for school use.

**SECTION 12‑33‑500.** Article shall be supplementary.

This article shall be supplementary and in addition to all other legislation on this subject.

ARTICLE 7.

 TAX LIABILITY OF POSSESSOR OF UNTAXED MIXTURE FOR PRODUCTION OF ALCOHOL

**SECTION 12‑33‑610.** Person possessing mixture for production of alcohol liable for tax; rate; possession as prima facie evidence of nonpayment.

Any person found in possession of materials mixed in such manner as to produce alcohol or any mixture in the process of fermentation shall be subject to a tax at the rate of fifty‑one cents per gallon or fraction thereof of such mixture and the possession of such mixture shall be prima facie evidence that no State tax has been paid when such mixture is found at or near the location of an illicit alcohol manufacturing facility.

**SECTION 12‑33‑620.** Duty of officer discovering mixture; notice of tax due; time for payment.

The officer discovering the mixture subject to tax under Section 12‑33‑610 shall notify, in writing, the Department of Revenue, advising it of the quantity discovered, together with the name and address of the person liable therefor. The department shall send by registered mail duplicate notices to the officer and the person liable for the tax giving the amount due and allowing ten days from the date of receipt of such notice for the payment of such tax.

**SECTION 12‑33‑630.** Unpaid tax constitutes a debt owed to State; lien; levy and collection.

After the expiration of the ten‑day notice provided for by Section 12‑33‑620, if the tax remains unpaid, the amount of such tax shall be deemed a debt to the State by the person liable therefor and shall be a lien upon all property of such person in this State. The Department of Revenue shall issue a warrant under its hand and official seal, directing any duly authorized agent of the department to proceed to the levy and collection of the tax and costs in the same manner and with like effect as provided for by Sections 12‑53‑10 to 12‑53‑60.