

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 87

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO WINE EXCISE TAX; AMENDING SECTION 23-1319, IDAHO CODE, TO PRO-
2 VIDE CLARIFICATION WHEN EXCISE TAX IS TO BE PAID BY A WINERY AND TO MAKE
3 TECHNICAL CORRECTIONS.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 23-1319, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 23-1319. EXCISE TAX -- SALES INCLUDED -- REFUND FOR EXPORT SALES -- RE-
9 FUND FOR BREAKAGE OR SPOILAGE -- DISTRIBUTION OF REVENUE. Upon all wines sold
10 by a distributor or winery to a retailer or consumer and upon all wines sold
11 and shipped directly to Idaho state residents by an out-of-state wine manu-
12 facturer holding a wine direct shipper permit under section 23-1309A, Idaho
13 Code, for use within the state of Idaho pursuant to this chapter there is
14 hereby imposed an excise tax of forty-five cents (45¢) per gallon. Sales of
15 wine by a distributor or winery for the purpose of and resulting in export of
16 wine from this state for resale outside this state shall be exempt from the
17 taxes on wine imposed by this chapter.

18 (a) Every sale of wine by a distributor to a retailer shall constitute
19 a sale of wine for resale or consumption in this state, whether the sale is
20 made within or without this state, and the distributor shall be liable for
21 the payment of taxes. In every ~~transfer sale~~ of wine by a ~~licensed winery to~~
22 through any of its licensed retail outlets, the winery shall be liable for
23 payment of taxes imposed by this section.

24 (b) When wine has been destroyed by breakage or has spoiled or otherwise
25 become unfit for beverage purposes prior to payment of taxes on it, the dis-
26 tributor, upon satisfactory proof of destruction or spoilage, shall be enti-
27 tled to deduct from existing inventories, subject to tax, the amount of wine
28 so destroyed or spoiled.

29 (c) If the state tax commission determines that any amount due under
30 this chapter has been paid more than once or has been erroneously or ille-
31 gally collected or computed, the commission shall set forth that fact in its
32 records and the excess amount paid or collected may be credited on any amount
33 then due and payable to the commission from that person and any balance re-
34 funded to the person by whom it was paid or to his successors, administrators
35 or executors. The commission is authorized and the state board of tax ap-
36 peals is authorized to order the commission in proper cases to credit or re-
37 fund such amounts whether or not the payments have been made under protest
38 and certify the refund to the state board of examiners.

39 (d) No credit or refund shall be allowed or made after three (3) years
40 from the time the payment was made, unless before the expiration of that pe-
41 riod a claim is filed by the taxpayer. The three (3) year period allowed by
42 this subsection for making refunds or credit claims shall not apply in cases

1 where the state tax commission asserts a deficiency of tax imposed by law,
2 and taxpayers desiring to appeal or otherwise seek a refund of amounts paid
3 in obedience to deficiencies must do so within the time limits elsewhere pre-
4 scribed by law.

5 (e) All revenue received pursuant to this chapter shall be distributed
6 as follows:

7 (1) An amount of money shall be distributed to the state refund account
8 sufficient to pay current refund claims as authorized in subsection (c)
9 of this section and those moneys are continuously appropriated.

10 (2) The balance remaining after distributing the amount in paragraph
11 (1) of this subsection shall be distributed as follows:

12 (i) Twelve percent (12%) shall be distributed to the substance
13 abuse treatment fund which is created in section 23-408, Idaho
14 Code;

15 (ii) Five percent (5%) shall be distributed to the Idaho grape
16 growers and wine producers commission account; and

17 (iii) The remainder shall be distributed to the general account.

18 (f) Any person who is not a distributor or winery but who makes, whether
19 as principal, agent or broker, any sales of wine not otherwise taxed under
20 this section and not exempt from such tax, shall be liable for payment of
21 taxes imposed by this section. This subsection shall not impose tax on wine
22 sold pursuant to section 23-1336, Idaho Code.