

# INTRODUCTION

The Revenue Administration Division of the Comptroller of Maryland is responsible for collecting the alcoholic beverages tax and tobacco tax, and the Field Enforcement Division is responsible for regulation and enforcement of the State's alcoholic beverages and tobacco tax laws.

This annual report provides data and statistics related to both the tax collection function of the Revenue Administration Division and the regulatory function of the Field Enforcement Division. All information in this report, including but not limited to revenue, licensure, and other regulatory activities are for fiscal year 2011: July 1, 2010 through June 30, 2011.

## **Taxes**

The Maryland Alcohol Beverages Tax is imposed on each gallon at the following rates:

Distilled Spirits *	\$ 1.50
Wine	\$ 0.40
Beer ** & Hard Cider	\$ 0.09

(\* If distilled spirits contains a percentage of alcohol greater than 100 proof, or 50% alcohol, an additional tax for each 1 proof over 100 proof is 1.5 cents for each gallon.

\*\* Flavored Malt Beverages (FMBs) are taxed at the same rate as beer)

Local jurisdictions are prohibited from imposing an alcohol tax. After paying refunds and the administrative costs of the Comptroller, alcohol beverage taxes are distributed to the General Fund of the State.

The Maryland Tobacco Tax is imposed on cigarettes and other tobacco products. Local jurisdictions are prohibited from imposing a tobacco tax on cigarettes. In addition to the \$ 2.00 tax on a 20-cigarette pack, there is an additional \$ .10 cent tax for each cigarette in a package of more than 20 cigarettes, and a \$ 0.10 cent tax for each cigarette in a package of free sample cigarettes. If the cigarette pack has 10 or fewer cigarettes, the tax is \$ 1.00 for each pack.

The tax rate for OTP is 15% of the wholesale price, which means the price for which a wholesaler buys other tobacco products, exclusive of any discount, trade allowance, rebate, or other reduction.

Tobacco tax revenues are used to pay for refunds, and the Comptroller's administration costs with the balance distributed to the General Fund of the State.

## **Revenue**

Total net receipts from alcoholic beverages and tobacco taxes, license and permit fees, and miscellaneous income for fiscal year 2011 was \$ 439,305,747. Compared to fiscal year 2010, fiscal year 2011 tax revenues indicate the following changes: 2.7% increase in distilled spirits; a 3.5% increase in wine; and a 0.3% decrease in beer with an overall increase of 1.9% in alcoholic beverages tax collections.

The net receipts from the sale of cigarette tax stamps in the amount of \$ 395,220,949 reflects a 0.4% increase from fiscal year 2010. The net receipts from Other Tobacco Products tobacco tax is \$ 12,366,968, an increase of 5.1% from fiscal year 2010. Other Tobacco Products include chewing tobacco, moist snuff, pipe tobacco, cigars, and roll-your-own tobacco.

Compared to alcoholic beverages tax revenues, tobacco taxes provided the largest percentage of net receipts at 93%. As a percentage of net tax revenue, distilled spirits accounted for 4.0%; wine: 1.0%; and beer: 2.0%. Other tobacco products tax accounted for 3.0% of the total tax revenues.

The Comptroller issues alcoholic beverages manufacturer and wholesaler licenses, and various permits. Local liquor boards issue alcoholic beverages retail licenses. Cigarette manufacturer and wholesaler licenses are issued by the Comptroller. As of May 1, 2011, OTP in-state manufacturer licenses and OTP licenses for both in-state and out-of-state wholesalers have been issued by the Comptroller repealing the OTP registration system. The Clerks of the Court issue cigarette retail licenses; and as of May 1, 2011, OTP retailer licenses and tobacconist licenses.

The tobacco license fees collected consist of cigarette manufacturer and wholesaler licenses issued by the Comptroller, and beginning on May 1, 2011, license fees for other tobacco products manufacturer and wholesaler licenses.

Alcohol and tobacco license fees collected by the Comptroller are paid to the General Fund. Cigarette license fees are to be used to enforce the Maryland Cigarette Sales Below Cost Act.

## Alcohol and Tobacco Legislation

The Maryland General Assembly passed 4 legislative bills during the 2011 session related to alcohol and tobacco laws. These bills are listed with the corresponding chapter number. The General Assembly also passed approximately 33 alcohol bills affecting laws at the county level. A summary of the legislation is available at <http://mlis.state.md.us>, the Maryland General Assembly's website.

### 2011 Legislative Session

**Senate Bill 248** (*Chapter 204*)

**House Bill 1175** (*Chapter 205*)

#### Alcoholic Beverages - Direct Wine Shipment

(1) These identical bills (hereinafter referred to as "bill") created a Direct Wine Shipper's Permit to be issued by the Comptroller to Maryland to in-state and out-of-state wine manufacturers authorizing the sale of wine manufactured by the permittee to a Maryland consumer when ordered through electronic or other means. The wine shipped and delivered by the Direct Wine Shipper Permittee must be through a common carrier who holds a permit issued by the Comptroller. The definition of wine includes pomace brandy.

The Direct Wine Shipper's Permit is an annual permit expiring on July 1 of each year. There is no application fee. A \$200 permit fee is imposed annually. A Direct Wine Shipper Permittee may not ship more than 18 9-liter cases of wine each year to a single delivery address, or cause wine to be shipped on Sunday to an address in Maryland.

Quarterly tax returns to pay the alcoholic beverage tax are required to be filed with the Comptroller as well as quarterly sales and use tax returns. The Direct Wine Shipper Permittee must ensure that containers of wine have a label stating the name of the direct wine shipper, name and address of the consumer, and the words: "Contains Alcohol: Signature of Person at least 21 Years of Age Required For Delivery." Records must be maintained for 3 years, which are subject to audit by the Comptroller.

An out-of-state wine manufacturer must obtain a \$1,000 bond, which may be waived after 3 years if there has been substantial tax and reporting compliance. No additional bond is required for Maryland wine manufacturers, or out-of-state wine manufacturers who currently have a bond with the Comptroller; however, adjustments may be made to the amount of the Direct Wine Shipper's Bond based upon review of tax returns and alcoholic beverage tax payments.

The bill provides that direct wine shipments may be made to consumers in Montgomery County, and that the prohibition of multiple licenses in Article 2B, § 9-102(a) does not apply to the Direct Wine Shipper's Permit. The Direct Wine Seller's Permit is repealed and replaced in Article 2B, § 7.5 by the Direct Wine Shipper's Permit.

(2) This bill also creates a Common Carrier Permit for direct wine shipment authorizing an in-state or out-of-state holder to deliver wine directly to a Maryland consumer. To qualify for the permit, the common carrier must transport in interstate or foreign commerce for compensation any class of passenger or property, and does not include a business entity that transports property it owns or that is consigned to it. The Common Carrier Permit is an annual permit expiring on July 1 of each year. There is no application fee. A \$100 permit fee is imposed annually.

The Common Carrier Permittee is required to obtain the signature of the consumer or another individual who is at least 21 years old verified by a government-issued photographic identification. Information about age verification training must be submitted to the Comptroller at time of application, and the Common Carrier Permittee shall verify annually that wine shippers had a valid Maryland Direct Wine Shipper's Permit at time of shipment and delivery.

Quarterly reports must be filed with the Comptroller stating the date of each delivery of wine in Maryland, and the name and address of the direct wine shipper and consumer of each delivery. Records must be maintained for 3 years.

The Comptroller is required to study the effects of implementation of the Direct Wine Shipper's Permit, and submit a report to the General Assembly by December 31, 2012 about the number of direct wine shipper's permits and common carrier permits issued; the volume of wine shipped to Maryland consumers; the revenue and costs to the State related to direct wine shipment; and the availability of certain imported varieties of wine to Maryland consumers. EFFECTIVE JULY 1, 2011

**Senate Bill 496** (*Chapter 238*)

**House Bill 1202** (*Chapter 239*)

#### Alcoholic Beverages - Brewery License - Samples and Sales

This bill increases the amount and number of samples a brewery with a Class 5 manufacturer license may serve to a person who participates in a guided tour of the brewery or attends a scheduled promotional event or other organized activity on the licensed premises. Under

the prior provision, the brewery could serve up to 6 ounces for a sample of beer. This bill authorizes the brewery to serve up to 6 samples of beer brewed at the licensed premises with each sample consisting of no more than 3 ounces from a single beer brand.

Also, the amount of beer allowed to be sold by the brewery to a participant in a guided tour for off-premises consumption is increased from 144 ounces of beer per person per calendar year to 288 ounces of beer per person without the limitation of a calendar year. In addition to a guided tour, the off-premises sales provision is expanded to a person who attends a scheduled promotional event or other organized activity.

Finally, the amount of samples authorized to be provided at a special brewery promotional event is increased from 2 to 3 fluid ounces per brand, and the number of special brewery promotional event permits issued in a calendar year is increased from 4 to 12. EFFECTIVE JULY 1, 2011

**Senate Bill 994** (*Chapter 571*)

**House Bill 1213** (*Chapter 572*)

### **Sales and Use Tax - Alcoholic Beverages - Supplementary Appropriation**

The sales and use tax rate is increased from 6% to 9% of the taxable price of the alcoholic beverage. This is not a change in the alcoholic beverage tax rate, but an increase in the sales and use tax rate that is imposed on retail sales of alcoholic beverages. EFFECTIVE JULY 1, 2011

**Senate Bill 82** (*Chapter 22*)

### **Commercial Law - Sales of Unpackaged Cigarettes - Prohibitions and Penalties**

This bill clarifies the meaning of a "loose" cigarette in the Commercial Law Article, Subtitle 5A by defining "unpackaged cigarette" as any cigarette not contained in a sealed package of 20 or more cigarettes. Also, a criminal sanction is provided for the Comptroller to charge for a retailer, vending machine operator, or wholesaler who sells, resells, distributes, dispenses, or gives away an unpackaged cigarette to any person in Maryland. It is specified that the prohibition on selling unpackaged cigarettes does not apply to an individual who produces those cigarettes for individual consumption by using a mechanical rolling machine, or a hand rolling device or procedure. EFFECTIVE JULY 1, 2011