

# WEST VIRGINIA CODE: §11-16-13

## **§11-16-13. Barrel tax on nonintoxicating beer.**

(a) There is hereby levied and imposed, in addition to the license taxes provided for in this article, a tax of \$5.50 on each barrel of thirty-one gallons and in like ratio on each part barrel of nonintoxicating beer manufactured in this state for sale within this state, whether contained or sold in barrels, bottles or other containers, and a like tax is hereby levied and imposed upon all nonintoxicating beer manufactured outside of this state and brought into this state for sale within this state; but no nonintoxicating beer manufactured, sold or distributed in this state is subject to more than one barrel tax. The brewer manufacturing or producing nonintoxicating beer within this state for sale within this state shall pay the barrel tax on such nonintoxicating beer, and, except as provided otherwise, the distributor who is the original consignee of nonintoxicating beer manufactured or produced outside of this state, or who brings such nonintoxicating beer into this state, shall pay the barrel tax on such nonintoxicating beer manufactured or produced outside of this state: Provided, That the barrel tax imposed by this section shall not apply to nonintoxicating beer manufactured by a brewpub.

(b) On or before the tenth day of each month during the license period, every brewer or operator of a brewpub who manufactures or produces nonintoxicating beer within this state shall file a report in writing, under oath, to the Tax Commissioner, in the form prescribed by the Tax Commissioner, stating its total sales, or in the case of a brewpub, its total estimated production of nonintoxicating beer within this state during that month, and at the same time shall pay the tax levied by this article on such production. On or before the tenth day of each month during the license period, every distributor who is the original consignee of nonintoxicating beer manufactured or produced outside this state or who brings such beer into this state for sale shall file a report in writing, under oath, to the Tax Commissioner, in the form prescribed by the Tax Commissioner, stating its total estimated purchases of such nonintoxicating beer during that month, and at the same time shall pay the tax thereon levied by this article for such estimated monthly purchase: Provided, That the Tax Commissioner may allow, or require, a brewer who manufactures or produces nonintoxicating beer outside this state to file the required report and pay the required tax on behalf of its distributor or distributors. Any brewer or distributor or operator of a brewpub who files a report under this subsection may adjust its monthly estimated sales or purchases or production report or reports by filing amended reports by the twenty-fifth day of the reporting month.

(c) Every brewer or distributor or operator of a brewpub who files a report under subsection (b) of this section shall file a final monthly report of said sales or purchases or production, in a form and at a time prescribed by the Tax Commissioner, stating actual nonintoxicating beer sales, purchases, or production and other information which the Tax Commissioner may require, and shall include a remittance for any barrel tax owed for actual sales or purchases

or production made in excess of the amount estimated for that month.

(d) Any brewer or distributor or operator of a brewpub who files a report pursuant to subsection (b) of this section reflecting an underestimation of twenty-five percent or more of actual sales or purchases or production of nonintoxicating beer as shown by the report filed pursuant to subsection (c) of this section shall be assessed a penalty of one percent of the total taxes due in such prior month.

(e) Brewers and distributors and operators of brewpubs shall keep all records which relate to the sale or purchase in this state of nonintoxicating beer for a period of three years unless written approval for earlier disposal is granted by the Tax Commissioner.

(f) Brewpubs shall keep such records as required by the federal government and may, in lieu of the recordkeeping and reporting requirements contained in subsections (a) through (e) of this section, file copies of the federal reports contemporaneously with the Tax Commissioner at the time of such filings with the federal government. The filing of duplicate copies of the federal reports with the State Tax Commissioner shall be deemed as compliance with subsections (a) through (e) of this section.