

Smart Growth Development Impact Analysis

The proposed amendments, that pertain to the scanning of applications, declarations, and documents that are required by the Commission's six-point identification system, will have no impact on smart growth development and will not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan, because they only authorize the Commission to scan certain documents so that the documents can be electronically stored.

Full text of the proposal follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 21
LICENSING SERVICE

SUBCHAPTER 8. DRIVER LICENSES

13:21-8.2 Age requirements; proof of identity and date of birth; proof that presence in United States is authorized under Federal law; proof of address

(a) Each applicant for a license, permit, or non-driver identification card shall be required to furnish to the Commission, upon request, proof of identity and date of birth and proof that the applicant's presence in the United States is authorized under Federal law. Such proof may be established by submission of the original or certified (by the issuing authority) copy of the primary and/or secondary documents [which] **that** are listed in (b) below, as follows:

1.-8. (No change.)

9. Commission staff members are authorized to scan all applications, declarations, and documents presented or accepted toward satisfying document requirements. All scanned documents will be retained electronically in accordance with Division of Revenue and Enterprise Services (DORES) statutes and retention schedules.

[9.] **10.** (No change in text.)

(b)-(g) (No change.)

CHAPTER 82
BOATING REGULATIONS

SUBCHAPTER 8. REGISTRATION AND LICENSING

13:82-8.20 Operator license; proof of age and identity; expiration

(a) Each applicant for a boat operator license shall, upon request, furnish proof of identity and date of birth and proof that the applicant's presence in the United States is authorized under Federal law. Such proof may be established by submission of the original or certified (by the issuing authority) copy of the primary and/or secondary documents [which] **that** are listed in (b) below as follows:

1.-8. (No change.)

9. Commission staff members are authorized to scan all applications, declarations, and documents presented or accepted toward satisfying document requirements. All scanned documents will be retained electronically in accordance with Division of Revenue and Enterprise Services (DORES) statutes and retention schedules.

[9.] **10.** (No change in text.)

(b)-(g) (No change.)

TREASURY — TAXATION

(a)

DIVISION OF TAXATION**Alcoholic Beverage Tax Act—State Licensees****Proposed Readoption with Amendments: N.J.A.C. 18:3****Proposed Repeals: N.J.A.C. 18:3-3.3, 8.1, 8.3, 8.5, 8.10, 8.22, 8.23, 9.1 through 9.6, 9.8, 9.10, 9.11, 9.12, 9.14, 9.16, 10.2, 10.3, 10.4, 10.10, 11.13, 12.2 through 12.5, 12.9, 13.3, 13.4, 13.7, 13.11, 13.12, 14.1 through 14.10, 14.17, and 18:3 Appendix A**

Authorized By: Dennis Shilling, Acting Director, Division of Taxation.

Authority: N.J.S.A. 54:42-1 and 54:50-1.

Calendar Reference: See Summary below for an explanation of exception to calendar requirement.

Proposal Number: PRN 2015-124.

Submit comments by December 4, 2015, to:

Elizabeth J. Lipari
Administrative Practice Officer
Division of Taxation
Director's Office
50 Barrack Street
PO Box 240
Trenton, NJ 08695-0240
E-mail: tax.rulemakingcomments@treas.nj.gov

The agency proposal follows:

Summary

Pursuant to N.J.S.A. 52:14B-5.1, N.J.A.C. 18:3 was scheduled to expire on August 27, 2015. As the Division of Taxation (Division) has filed this notice of readoption with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to February 17, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division of Taxation has reviewed these rules and has determined them to be necessary, reasonable, and proper for the purpose for which they were originally promulgated. As a result of the passage of P.L. 2009, c. 71, effective July 1, 2009, the tax rate provisions of N.J.S.A. 54:43-1 were amended. The Division proposes to readopt these rules with substantive changes that are necessary in order to conform the tax rates stated in the rule with the Alcoholic Beverage Tax Act, as amended. The amendments contain additional changes reflecting repeal of prior Federal law that required the use of strip stamps on distilled beverages, as well as the repeal of N.J.A.C. 18:3-3.3, which no longer reflects Division practice. The Division also proposes technical amendments to correct grammar and typographical errors, to substitute plain language, to repeal rules that merely cross-reference other sections of N.J.A.C. 18:3, and to recodify the rules for the purpose of achieving clarity. The amendments further reflect the repeal of N.J.A.C. 18:3 Appendix A because all of the noted forms are either invalid or available on the Division's website.

The Alcoholic Beverage Tax Law, N.J.S.A. 54:41-1 through 54:47-8 as amended and supplemented, was originally enacted as P.L. 1933, c. 434, effective December 5, 1933. Subsequent amendments to the statute were chiefly in the area of modification of tax rates. The Taxpayers' Bill of Rights, P.L. 1992, c. 175, provided that effective July 1, 1993, procedures for the administration of the alcoholic beverage tax would be governed by the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1 et seq.

The tax is imposed on the receipts from the first sale or delivery of alcoholic beverages to retailers in New Jersey and is based upon the number of gallons sold or otherwise disposed of in the State. The tax is collected from licensed manufacturers, wholesalers, and State beverage distributors. The law provides tax exemptions for qualified sales for medical, dental, industrial, and other nonbeverage use (N.J.S.A. 54:43-2), as well as sales to Armed Forces or Coast Guard personnel operating a

place for the sale of goods pursuant to Armed Forces regulations. (N.J.S.A. 54:43-2.1).

The rules proposed for readoption with amendments and repeals are summarized as follows:

Subchapter 1, General Provisions, authorizes the Director to make and enforce rules for enforcement of the law, and contains definitions of particular words and phrases used in the chapter.

Subchapter 2, Description of Tax, Exemptions, Credits, or Refunds, includes the applicable tax rates, and also provides for certain methods of paying the tax, exempt transactions, tax credits, and refunds. Amendments are proposed to N.J.A.C. 18:3-2.1 to reflect the statutory increases in the tax rates.

Subchapter 3, Tax Rulings, offers guidance on tax treatment of certain alcoholic beverages and mixes, sales of alcoholic beverages to certain special groups, and delivery of alcoholic beverages to ships. Amendments are proposed to N.J.A.C. 18:3-3.1, 3.2, and 3.4 to reflect the statutory increases in the tax rates. N.J.A.C. 18:3-3.3 is proposed for because it no longer reflects the Division's practices. An additional amendment is proposed to recodified N.J.A.C. 18:3-3.3 to delete the reference to Federal strip stamps for distilled beverages as the Federal Strip Stamp Law was repealed.

Subchapter 4, Penalties, provides penalties for failure to file reports and pay the tax.

Subchapter 5, Bonds, provides bond requirements for applicants and licensees with certain exceptions.

Subchapter 6, Records, deals with persons required to keep receiving and sales records, records of accounts payable and receivable, and provides detail concerning maintenance of records. N.J.A.C. 18:3-6.15 is proposed for amendment to include the addition of the phrase "upon request" because books and records were provided upon request, as the Division does not require every taxpayer to send in all of their books and records.

Subchapter 7, Reports in General, provides guidance for executing and filing reports and the manner in which certain items and transactions are to be reported. An amendment is proposed in N.J.A.C. 18:3-7.1 and 7.3 to reflect the correct address to be used when requesting reporting forms.

Subchapter 8, Rules and Instructions Concerning Manufacturers, sets forth the information to be provided to the Division in certain schedules filed by State licensees and manufacturers. The table at recodified N.J.A.C. 18:3-8.7(a) is proposed for amendment to reflect the correct address to be used when filing reports with the Division.

Subchapter 9, Rules and Instructions Concerning Wholesalers and State Beverage Distributors, describes the schedules and manner of required reporting for wholesalers and State distributors. N.J.A.C. 18:3-9.1 through 9.6, 9.8, 9.10, 9.11, 9.12, 9.14, and 9.16 are proposed for repeal as these rules merely cross-reference other rules in N.J.A.C. 18:3. The table at recodified N.J.A.C. 18:3-9.1(a) is proposed for amendment to reflect the correct address to be used when filing reports with the Division.

Subchapter 10 Rules and Instructions Concerning Alcoholic Beverage Warehouse Receipts Licensees, deals with the reporting requirements for warehouse receipts licensees, when purchasing or selling warehouse receipts given upon the storage of alcoholic beverages in New Jersey in a United States Internal Revenue or United States Custom warehouse under Federal bond. N.J.A.C. 18:3-10.2, 10.3, 10.4, and 10.10 are proposed for repeal as these rules merely cross-reference other rules in N.J.A.C. 18:3. The table at recodified N.J.A.C. 18:3-10.2(a) is proposed for amendment to reflect the correct address to be used when filing reports with the Division.

Subchapter 11, Rules and Instructions Concerning Public Warehouse Licensees, sets forth the rules for deliveries of alcoholic beverages to and from a licensed public warehouse and also sets forth the manner of reporting transactions involving public warehouse licensees. N.J.A.C. 18:3-11.13 is propose for repeal as it merely cross-references another rule in N.J.A.C. 18:3. The table at recodified N.J.A.C. 18:3-11.6(a) is proposed for amendment to reflect the correct address to be used when filing reports with the Division.

Subchapter 12, Rules and Instructions Concerning Transportation Licensees and Special Permittees to Transport Alcoholic Beverages, deals with deliveries by licensed transporters and the manner of reporting

required for transport licensees. N.J.A.C. 18:3-12.2, 12.3, 12.4, 12.5, and 12.9 are proposed for repeal as they merely cross-reference other rules in N.J.A.C. 18:3. The table at recodified N.J.A.C. 18:3-12.4(b) is proposed for amendment to reflect the correct address to be used when filing reports with the Division.

Subchapter 13, Special Rules for Plenary Retail Transit Licensees to Whom the Tax has Been Passed, deals with the manner of reporting for transit licensees. N.J.A.C. 18:3-13.3, 13.4, 13.7, 13.11, and 13.12 are proposed for repeal as they merely cross-reference other rules in N.J.A.C. 18:3. The table at recodified N.J.A.C. 18:3-13.3(a) is proposed for amendment to reflect the correct address to be used when filing reports with the Division.

Subchapter 14, Rules and Regulations Concerning Special Permittees to Sell Alcohol, contains rules dealing with reporting requirements for Permittees. N.J.A.C. 18:3-14.1 through 14.10 and 14.17 are proposed for repeal as they merely cross-reference other rules in N.J.A.C. 18:3. The table at recodified N.J.A.C. 18:3-14.2(a) is proposed for amendment to reflect the correct address to be used when filing reports with the Division.

N.J.A.C. 18:3 Appendix A, is proposed for repeal because a large percentage of the forms are no longer valid and those that are still valid can be found on the Division's website.

As the Division has provided a 60-day comment period for this notice of proposal, this notice is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Alcoholic Beverage Tax rules were enacted to provide taxpayers, licensees, permittees, and their attorneys and accountants with guidance and assistance in the administration of the Alcoholic Beverage Tax Act. The rules are also intended as guidelines to assist taxpayers and licensees in their preparation of various tax reports and records pursuant to that act. The rules proposed for readoption with amendments and repeals will continue to provide taxpayers and those required to report under the Alcoholic Beverage Tax Act with guidance in fulfilling their statutory obligations. The rules proposed for readoption with amendments will also continue the orderly administration and collection of the tax for the State of New Jersey. The Legislature amended the tax rates in 2009 and the proposed amendments reflect those changes. Amending N.J.A.C. 18:3 so that both the statute and the administrative rules have the same tax rates will eliminate taxpayer's confusion about the applicable tax rates, promote taxpayer's compliance with the statute, and decrease the potential for disputes regarding the applicable tax rates.

Economic Impact

The rules proposed for readoption with amendments will provide for the continued accurate filing of reports and maintenance of tax related schedules and records by licensees and for payment of the applicable tax. The rules will assist in the collection and remittance of anticipated revenue for State budgetary purposes and, additionally, provide mechanisms for claiming exemptions from tax in appropriate situations. The proposed amendments are not expected to have any economic impact because they primarily offer technical updates to existing rules and update the tax rates to bring them into conformity with the current rates prescribed by the amendments to N.J.S.A. 54:43-1, which have been in effect since July 1, 2009.

Federal Standards Statement

A Federal standards analysis is not required because the New Jersey alcoholic beverage tax is not subject to Federal regulatory standards.

Jobs Impact

The rules proposed for readoption with amendments and repeals are not expected to result in the creation or loss of jobs in the State.

Agriculture Industry Impact

The rules proposed for readoption with amendments and repeals will not have an impact on the agriculture industry.

Regulatory Flexibility Analysis

The rules proposed for readoption with amendments and repeals apply to all taxpayers subject to the Alcoholic Beverage Tax Act, including some that are "small businesses" within the meaning of the Regulatory

Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules govern the administration of the Alcoholic Beverage Tax Act, N.J.S.A. 54:41-1 et seq., which imposes a tax on alcoholic beverages. The Division does not administer the tax differently based on the size of the business as the requirements of the statute are uniformly imposed upon all taxpayers.

The rules proposed for readoption with amendments and repeals do not impose additional reporting, recordkeeping, or other compliance requirements. The Division expects that no services beyond customary accounting services are needed for a business to comply with the requirements of the rules. Compliance with the rules should not require complex accounting or any other professional services, or the expenditure of any capital. Each taxpayer may make individual decisions regarding the purchase of optional equipment or retaining professional services to ensure that the taxpayer is in compliance with the Alcoholic Beverage Tax Act.

Every person subject to the Alcoholic Beverage Tax Act is required to keep receiving records, accounts payable and receivable ledgers, and sales records. These records are to be complete and accurate records of all the information required in this chapter regarding all transactions (cash or charge) in alcoholic beverages and of all transactions in warehouse receipts in New Jersey.

Reports consisting of a control sheet and supporting schedules are to be filed with the Division on such forms as the Director shall prescribe. A report is to be filed with the Division, for each bi-monthly period that a license is in force, even if during that time, or any portion thereof, no business was transacted under the license. Such reports are to be filed by State licensees, special permittees, and holders of special permits to sell alcohol at retail, on or before the 15th day of the following month. Reports must disclose all transactions in alcoholic beverages, warehouse receipts, and contracts during the period covered by the report.

Housing Affordability Impact Analysis

The rules proposed for readoption with amendments and repeals will not result in a change in the average costs associated with housing or on any aspect of housing because the rules deal solely with the administration of the alcoholic beverage tax.

Smart Growth Development Impact Analysis

The Division anticipates that the rules proposed for readoption with amendments and repeals will have no impact on smart growth in New Jersey and the rules would not evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey.

Full text of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 18:3.

Full text of the proposed amendments and repeals follows: (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

18:3-1.1 Director’s power to make rules and regulations

The Alcoholic Beverage Tax Law authorizes and empowers the Director to make and enforce such rules and regulations as he **or she** may deem necessary for the administration and enforcement of the law.

18:3-1.2 Definitions

The following words and terms, when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

“Alcoholic beverages” means liquors, fruit brandies, beer, wines, sparkling wine, and vermouth, having an alcoholic content of [½] **one-half** of one percent or more by volume.

“Beer” means, beer, lager beer, ale, stout, porter, and all similar fermented malt beverages having an alcoholic content of [½] **one-half** of one percent or more by volume.

...

“Container” means the receptacle immediately surrounding the alcoholic beverage and not the carton, box, case, sack, bag, or other covering in which such containers may be packed, placed, or transported.

...

“Liquors” means all distilled or rectified spirits, alcohol, brandy, fruit brandy, whiskey, rum, gin, and all similar distilled alcoholic beverages,

including all dilutions and mixtures of one or more of the foregoing, such as liqueurs, cordials, and similar compounds, having an alcoholic content of [½] **one-half** of one percent or more by volume.

“Manufacturer” means any person holding a valid and unrevoked brewery, winery, distillery, supplementary limited distillery, or rectifier and blender’s license issued pursuant to the provisions of any relevant law of this State.

“Person” means a natural person, an association, a partnership, or a corporation.

“Plenary retail transit licensee” means any person holding a valid and unrevoked plenary retail transit license issued pursuant to any relevant law of this State, authorizing the sale of alcoholic beverages for consumption only on railroad trains, airplanes, and boats while in transit in this State.

“Plenary winery license” means[: see] **as defined in** N.J.S.A. 33:1-10 and N.J.A.C. 13:2.

...

“Return” means the return (including exchange) of alcoholic beverages by a customer to the source from which such alcoholic beverages were obtained, upon the cancellation of a sale, and shall include:

1. (No change.)

2. The sending of the alcoholic beverages by the customer to another person upon instructions of the source; but shall not include any other disposition, such as samples, breakage, shortage, merchandising credits, or alcoholic beverages dumped on the premises of the customer, except where such dumping is done under the supervision of the Director or his **or her** representative. (See N.J.A.C. 18:3-2.21[, Deductions for tax credits.]])

“Sale” means and includes, in addition to its ordinary meaning, any exchange, gift, loss, theft, or other disposition. In every case where alcoholic beverages are exchanged, given, lost, stolen, or otherwise disposed of, they shall be deemed to have been sold, unless, in case of loss by fire, proof is furnished to the satisfaction of the Director that the alcoholic beverages have been so destroyed that they could not have been put to any use.

...

“Vermouth” means any compound made by the mixture of extracts from macerated aromatic flavoring materials with wines, and manufactured in such a manner that the product possesses the taste, aroma, and characteristics generally attributed to vermouth.

...

“Wholesaler” means any person holding a valid and unrevoked plenary wholesale, limited wholesale, or wine wholesale license issued pursuant to any relevant law of this State.

“Wines” means all wines, whether known as [“dry wines[“], [“sweet wines[“, [“still wines[“, or [“fortified wines[“] and any artificial or imitation wine or compound sold as wine, and any fruit juice containing one-half of one percent or more of alcohol by volume, and any other beverage containing alcohol produced by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar, and consisting of one-half of one percent or more of alcohol by volume, but shall not mean or include vermouth or cider containing less than three and two-tenths [percentum] **percent** of alcohol by volume.

SUBCHAPTER 2. DESCRIPTION OF TAX, EXEMPTIONS, CREDITS, OR REFUNDS

18:3-2.1 Tax rates on alcoholic beverages

(a) The Alcoholic Beverage Tax Law levies and imposes **an excise tax** upon any sale of alcoholic beverages made within this State, or upon any delivery of alcoholic beverages made within or into this State, **at the following [excise taxes] rates:**

1. Beer – at the rate of \$0.10 a gallon or fraction [thereof] **of a gallon** from July 1, 1990 through June 30, 1992. On and after July 1, 1992, the rate [will be] **is** \$0.12 a gallon or fraction [thereof] **of a gallon;**

2. Liquors – at the rate of \$4.20 a gallon [thereof] **or fraction of a gallon** from July 1, 1990 through June 30, 1992. [On and after] **From** July 1, 1992 **through July 31, 2009,** the rate [will be] **is** \$4.40 a gallon

[thereof;] or fraction of a gallon. On and after August 1, 2009, the rate is \$5.50 a gallon or fraction of a gallon;

3. Wines, vermouth, and sparkling wines – at the rate of \$0.50 per gallon or fraction of a gallon from July 1, 1990 through June 30, 1992. [On and after] From July 1, 1992 through July 31, 2009, the rate is \$0.70 a gallon [including] or fraction of a gallon. On and after August 1, 2009, the rate is \$0.875 a gallon or fraction of a gallon. Qualifying wines, vermouth, and sparkling wines include those manufactured by holders of a farm winery license, or wines, vermouth, and sparkling wines manufactured from grapes or fruit grown in New Jersey by holders of a plenary winery license issued pursuant to the provisions of N.J.S.A. 33:1-10[.]; and

4. Cider containing at least three and two-tenths [per centum] percent of alcohol by volume but not more than seven [per centum] percent of alcohol by volume [shall be taxed] at the rate of \$0.12 a gallon or fraction of a gallon from July 1, 1997 through July 31, 2009. On and after August 1, 2009, the rate is \$0.15 a gallon or fraction of a gallon.

18:3-2.2 Due date of taxes

(a) The excise taxes provided in N.J.A.C. 18:3-2.1 [(Tax rates on alcoholic beverages)] are due and payable at the time of the first sale or delivery, as the case may be, in this State, except as otherwise provided in the law and in this chapter. In case the tax so imposed has not been paid or secured by the person making the sale or delivery, or causing the delivery to be made, the purchaser or the person accepting delivery shall be liable for the tax and the payment thereof.

(b) All taxes are to be paid not later than the 15th day of the month next following the reporting period in which the sales or deliveries were made. Where the 15th day of the month falls on a Saturday, Sunday, legal holiday, or bank holiday, the tax payment, if forwarded by mail, will be considered as received within time, only if the envelope bears the postmark of the next business day or some prior day.

18:3-2.3 Method of tax payment; improperly drawn checks

(a) All taxes are to be paid by check or money order drawn to the order of the State of New Jersey, Beverage Tax, and forwarded to the Division of Taxation, **Alcoholic Beverage Tax Section**, [P.O.] PO Box [241] 264, Trenton, [New Jersey] NJ 08646-0264.

(b) (No change.)

18:3-2.4 Purchaser payment for certain transactions

(a) Where a manufacturer, wholesaler, or State beverage distributor sells or delivers alcoholic beverages to another State licensee who is either a manufacturer, wholesaler, State beverage distributor, or plenary retail transit licensee which operates under Interstate Commerce Commission Regulations and is required to post a surety bond with [this] the Division, and where delivery is made to the New Jersey licensed premises of the purchaser or of another State licensee or to a retail licensee or to a New Jersey licensed public warehouse for the account of the purchaser, the alcoholic beverage tax upon such a sale or delivery is to be assumed by the State licensee so purchasing the same and is to be paid by the said purchasing licensee at the time of the next taxable sale or delivery, provided, however, this is not to be construed so as to relieve the original or any subsequent seller [or] of liability to pay the tax upon any sale or delivery should payment thereof not have been made.

(b) In every case, such transactions are to be set forth by the seller as a sale on Schedule [“]A[”] and by the purchaser as a purchase on Schedule [“]H[”] in their respective reports to the Director.

18:3-2.5 Sales to plenary retail transit licensees not posting surety bond taxable

Sales to boats[,] holding a plenary retail transit license[, which] that do not operate under Interstate Commerce Commission Regulations and are not required to post a surety bond with [this] the Division, are taxable and are to be reported as a line item on Schedule [“]D[”] of the report to the Director.

18:3-2.6 Sale and delivery for [non-beverage] nonbeverage use not taxable; certificates; exemptions

(a) No tax is payable on any sale or delivery by a State licensee of alcoholic beverages intended for use and actually used in the manufacture or sale of the following products, or for the following purposes:

1. (No change.)
2. Patent, proprietary, medicinal, pharmaceutical, antiseptic, and toilet preparations;
3. Flavoring extracts, syrups, and food products;
4. Scientific, chemical, mechanical, and industrial products and purposes;
5. (No change.)

(b) Certificates of [Non-Beverage] **Nonbeverage** Use may be signed only by a licensed physician, a licensed dentist, the superintendent or supervisor of a hospital, a New Jersey registered pharmacist who is actually in charge of, and personally responsible for, the compounding of prescriptions in which alcoholic beverages are to be used, a manufacturer who uses alcohol or alcoholic beverages in the manufacture of his or her products or an officer or duly authorized agent of such manufacturer, or the holder of a special permit authorizing the purchase of alcohol or alcoholic beverages for [non-beverage] **nonbeverage** purposes.

(c) To obtain an exemption on such transactions, where delivery is made in New Jersey, the licensee selling the alcoholic beverages for any such use must secure from the purchaser or consignee a Certificate of [Non-Beverage] **Nonbeverage** Use signed under oath stating the [non-beverage] **nonbeverage** purposes for which specific quantities of alcoholic beverages were purchased and are to be used, and must file the certificate with the report for the reporting period in which the sale or delivery was made. (See N.J.A.C. 18:3-[8.18 and 8.19, Schedules on exemption and claims for exemptions.]**8.14 and 8.15**)

(d) Where a certificate is not submitted and the tax is not paid with the report, an assessment will be levied for the amount of the tax plus penalty and interest as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1[.] et seq.

18:3-2.7 Sales and deliveries for vinegar stock not taxable

No tax imposed is payable on any sale or delivery by a State licensee of alcoholic beverages intended for use and actually used in the manufacture of vinegar. (See N.J.A.C. 18:3-[8.18 and 18:3-8.19 for schedules on exemptions and claims for exemption.]**8.14 and 8.15**)

18:3-2.9 Sales outside State

(a) Where a State licensee purchases alcoholic beverages which are located outside of this State and sells and delivers the same to a purchaser outside of this State, in accordance with the laws of such [State] state, and the alcoholic beverages at no time come into [the State of] New Jersey, the transaction is not taxable under the New Jersey Alcoholic Beverage Tax Law.

(b) (No change.)

18:3-2.11 Purchases or sales in bond

Purchases or sales [“]in bond[”] of alcoholic beverages stored in New Jersey, in a United States Internal Revenue or United States Customs Warehouse under Federal bond, not involving the actual delivery of the warehouse receipts, are exempt from the tax upon proof satisfactory to the Director that the alcoholic beverages have not been released from Federal bond. (See N.J.A.C. 18:3-[8.21, Schedule “BW” – withdrawals from bond]**8.17**.)

18:3-2.12 Breakage in transit

Alcoholic beverages lost through breakage in the course of delivery from a [point] location outside of the State to a [point] location inside the State are taxable, except where proof is furnished to the satisfaction of the Director that the alcoholic beverages did not actually come into the State and that there was no actual delivery of such alcoholic beverages in this State.

18:3-2.14 Out-of-State sales for temporary storage in New Jersey

(a) Sales of alcoholic beverages by a State licensee, from inventory maintained in New Jersey, where delivery is made to a licensed New Jersey public warehouse for temporary storage in the name of a person not licensed by the State of New Jersey and for ultimate delivery to a [point] location outside the State are exempt from the tax and are to be reported as a line item and included in the total of Schedule [“]A[”]. The names and addresses of both the [nonlicensed] **unlicensed** purchaser and the warehouse are to be listed.

(b) Sales of alcoholic beverages by a State licensee who does not maintain inventory in New Jersey, where delivery is made to a licensed New Jersey public warehouse for temporary storage in the name of a person not licensed by the State of New Jersey and for ultimate delivery to a [point] **location** outside the State, are exempt from the tax and are to be reported on Schedule [“]A[”] and an entry is also to be made on Schedule [“]H-1[”]. The names and addresses of both the [nonlicensed] **unlicensed** purchaser and the warehouse are to be listed.

18:3-2.15 Sale to Army, Air Force, Navy, and Coast Guard organizations

(a) Sales or deliveries of alcoholic beverages are exempt from the New Jersey [Alcoholic Beverage Tax] **alcoholic beverage tax** when made by a State licensee to a voluntary unincorporated organization of the United States Army, Air Force, Navy, or Coast Guard personnel, authorized to deal in alcoholic beverage and operating pursuant to regulations promulgated by the Secretary of the Army, Air Force, Navy, or Transportation:

1. This exemption does not extend to a private concessionaire operating within or upon territory used for military or naval purposes, nor to any individual even though the individual is a member of the Army, Air Force, Navy, or Coast Guard, nor is the exemption extended to service clubs and other similar organizations.

2. State licensees making such exempt sales within this State are to report the total monthly sales to each such organization as a separate line item on Schedule [“]A[“] of the bi-monthly tax report.

3. State licensees making such exempt sales to a [place] **location** outside this State are to report the total bi-monthly sales to each such organization on Schedule [“]E[“] of the bi-monthly report and such sales shall be included with the total out-of-State sales on Schedule [“]F[“].

4. Sales or deliveries to a voluntary unincorporated organization of the United States Army, Air Force, Navy, or Coast Guard personnel located in New Jersey, not authorized to deal in alcoholic beverages, are taxable. In the event the taxes have not been paid by the consignor, the transporter is liable for the tax.

18:3-2.16 Temporary storage reported on Schedule [“]A[”]

(a) Where alcoholic beverages are shipped or caused to be shipped into New Jersey by a person not licensed in this State, having no place of business in this State, and not engaged in the sale of alcoholic beverages in this State and the alcoholic beverages pursuant to such shipment are either:

1. Temporarily stored in a licensed New Jersey public warehouse and subsequently [reforwarded] **forwarded** out of this State by a New Jersey licensed transporter; or

2. Bottled by a licensed manufacturer in this State and placed in temporary storage in a New Jersey licensed public warehouse for the account of such [nonlicensee] **non-licensee** and subsequently [reforwarded] **forwarded** out of this State by a New Jersey licensed transporter, the transaction shall be reported on Schedule [“]A[“] by the manufacturer who bottled the alcoholic beverages and placed them in temporary storage in a licensed New Jersey public warehouse. The names and addresses of both the customer and the warehouse shall be listed.

18:3-2.17 Transportation through State not taxable

(a) The importation into this State of alcoholic beverages which are not intended for sale or delivery [herein] **in this State** and which pass through this State in continuous transportation and are delivered to a [point] **location** outside this State are exempt from the Alcoholic Beverage Tax Law.

(b) If any transporter fails to consummate the delivery of any such alcoholic beverages to a [point] **location** outside this State, such transporter and the person to whom he **or she** is to deliver such alcoholic beverages in this State are liable for the tax due by reason of the delivery or other disposition of such alcoholic beverages.

18:3-2.18 Tax credit memoranda issued by Division

(a)-(b) (No change.)

(c) Where a deduction has been made from a tax payment for a credit which has not been so authorized, or if a deduction has been made from a tax payment for an authorized credit without submitting the original tax credit memorandum with the report, an assessment will be levied for the

amount deducted, plus penalty and interest as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1[,] et seq.

18:3-2.20 Tax credit and issuance of inventory credit memoranda for returned alcoholic beverages

(a) (No change.)

(b) Every State licensee, receiving returns of alcoholic beverages from a customer other than a consumer, is to immediately issue an inventory credit memorandum to the person making the return. Each inventory credit memorandum must show the wine gallons returned in sealed containers, the date when the alcoholic beverages were originally sold, and the date of return. Breweries are to show wine gallons of draught beer returned in sealed containers only.

(c) (No change.)

18:3-2.21 When deductions for tax credits are taken

(a) Deduction for tax credits are taken when:

1. Made by reason of a tax credit memorandum issued by the Division of Taxation; **such deductions** are to be made in accordance with the instructions on the tax credit memorandum. (See N.J.A.C. 18:3-2.18[, Tax credit memoranda issued by the Division.])

2. Made by the seller by reason of the [recision] **rescission** or cancellation of a sale, and where the alcoholic beverages if delivered have been returned; **such deductions** are to be made with the report filed for the reporting period in which the alcoholic beverages were actually returned. (See N.J.A.C. 18:3-2.19[, Cancellation of sale; tax credit.])

3. Made by the purchasers by reason of the return of alcoholic beverages; **such deductions** are to be made with the report filed for the reporting period in which the alcoholic beverages were returned to the seller in accordance with [Section 20 (Returns-tax credit and issuance of inventory credit memoranda for returned alcoholic beverages) of this Subchapter] **N.J.A.C. 18:3-2.20**.

4. Made by reason of the destruction of alcoholic beverages under supervision of the Director[.]; **such deductions** are to be made with the report filed for the reporting period in which the alcoholic beverages were destroyed. (See [Section 22 (Destruction of alcoholic beverages under supervision) of this Subchapter.] **N.J.A.C. 18:3-2.22**)

[18:3-2.23 through 18:3-2.26 (Reserved)]

SUBCHAPTER 3. TAX RULINGS

18:3-3.1 Tax on sparkling cider

(a) Cider containing three and two-tenths [per centum] **percent** but not more than seven [per centum] **percent** of alcohol by volume which is charged artificially or as [a] **the** result of secondary fermentation is [taxable] **taxed** at the rate of [\$0.12] **\$0.15** a gallon **or fraction of a gallon**.

(b) Cider containing more than seven [per centum] **percent** of alcohol by volume which is charged either artificially or as the result of secondary fermentation is [taxable] **taxed** as a sparkling wine **at the rate of \$0.875 a gallon or fraction of a gallon**.

18:3-3.2 Tax on mixture of cider and malt beverage

(a) Any beverage composed of a mixture of cider containing three and two-tenths [per centum] **percent** but not more than seven [per centum] **percent** of alcohol by volume with a malt beverage, and charged either artificially or as the result of secondary fermentation, is [taxable] **taxed** at the rate of [\$0.12] **\$0.15** per gallon **or fraction of a gallon**.

(b) Any beverage composed of a mixture of cider containing more than seven [per centum] **percent** of alcohol by volume with a malt beverage and charged either artificially or as the result of secondary fermentation, is [taxable] **taxed** as a sparkling wine **at the rate of \$0.875 a gallon or fraction of a gallon**.

18:3-3.3 Tax on bottled drinks

The tax rate of alcoholic beverages treated with carbonation or other ingredients which tends to distort their normal characteristics will be determined after analysis.]

18:3-[3.4]3.3 Tax on bitters, grenadine, and other mixes

All bitters, grenadine, highballs, cocktails, cordials, and other mixes which are classified by the United States Treasury Department, Internal

Revenue Service, as intoxicating liquors [and which require Federal strip stamps,] are [taxable] **taxed** at the rate of [\$4.40] **\$5.50 a gallon or fraction of a gallon.**

18:3-[3.5]3.4 Sales to religious organizations

Sales or deliveries of alcoholic beverages to churches, convents, or other religious societies and organizations, whether for sacramental purposes or otherwise, are taxable.

18:3-[3.6]3.5 Sales to governmental agencies and concessionaires

(a) All sales or deliveries of alcoholic beverages by the holder of an alcoholic beverage license to governmental agencies except as provided for by N.J.S.A. 54:43-2.1 are taxable. (See N.J.A.C. 18:3-2.15[, Sales to Army, Air Force, Navy and Coast Guard organizations.]

(b)-(c) (No change.)

(d) Sales to private concessionaires, operating within or upon territory used for military or naval purposes, to an individual even though the individual is a member of the Army, Air Force, Navy, or Coast Guard, or to service clubs or other similar clubs are taxable.

18:3-[3.7]3.6 Deliveries of alcoholic beverages to steamships at piers in New Jersey; tax exemptions for licensees; reports filed

(a) Where alcoholic beverages are delivered to a steamship company which is not the holder of a New Jersey license or permit, from inventories maintained either within or [without] **outside of** this State:

1. Delivery by State licensees for [“]export[”] are exempt from tax only if the consignor submits an affidavit signed by the ship’s master or other authorized agent or an [“]on board[”] bill of lading certifying that the alcoholic beverages were laden on the vessel for delivery at a designated point located outside [the State] of New Jersey.

2. Delivery by State licensees for [“]ship’s supplies[”] are exempt from tax only if the consignor submits an affidavit signed by the ship’s master or other authorized official certifying that the alcoholic beverages were purchased for consumption outside [the State] of New Jersey.

3. Where delivery is made for [“]export[”] or [“]ship’s supplies[”] from consignor’s inventory in New Jersey, these transactions are to be reported on Schedule [“]E[“] (out-of-State sales). Affidavits must be attached to and listed on Schedule [“]F[”].

4. Where delivery is made for [“]export[”] or [“]ship’s supplies[”] from out-of-State inventory by a licensee maintaining inventory in the State of New Jersey, an entry is to be made on Schedule [“]H-1[”] and the transaction also reported on Schedule [“]E[”]. Affidavits are to be attached and listed on Schedule [“]F[”].

5. Where delivery is made for [“]export[”] or for [“]ship’s supplies[”] from out-of-State inventory by a licensee maintaining no inventory in the State of New Jersey, the transaction must be reported on Schedule [“]E[”]. Affidavits are to be attached and listed on Schedule [“]F[”].

6. Deliveries to a steamship company or to a person on a ship for consumption or resale on board **the** ship while at a pier in New Jersey, are taxable and are to be reported as a sale on Schedule [“]D[”].

18:3-[3.8]3.7 Tax liability of transporter of alcoholic beverages to steamships

(a) The delivery of alcoholic beverages by transporters to a steamship company or to a ship at a pier in New Jersey from a consignor who is not the holder of a New Jersey license renders the transporter liable for the tax unless:

1. (No change.)

2. The alcoholic beverages are delivered under [“]Cord and Seal[”]; **or**

3. The alcoholic beverages are consigned to a [point] **location** outside this State.

(b) These transactions are to be reported on Schedule [“]N[”] or [“]M-N[”].

18:3-[3.9]3.8 Delivery of alcoholic beverages to licensed ships in New Jersey

(a) (No change.)

(b) Deliveries to a ship at a pier in New Jersey of alcoholic beverages under [“]Cord and Seal[”] (which cover importations of alcoholic beverages from a foreign country that remain in Customs bond and are consigned to a person located in a foreign country or for consumption while on the high seas) are exempt from tax.

(c) Deliveries of alcoholic beverages in the custody of the United States Internal Revenue delivered [“]in-bond[”] to a ship at a pier in New Jersey for export to a person located in a foreign country or for [“]ship’s supplies[”] for consumption outside of New Jersey are exempt from the tax.

[18:3-3.10 through 18:3-3.12 (Reserved)]

SUBCHAPTER 4. PENALTIES

18:3-4.1 Failure to file report

Every person who fails to file any report required by the Alcoholic Beverage Tax Law or this [Chapter] **chapter** on the day when the same is due, is subject to penalty and interest as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1[,] et seq.

18:3-4.2 Failure to pay tax

Every person who fails to pay any tax as required by the Alcoholic Beverage Tax Law, or this [Chapter] **chapter** on the day when the same is due, is subject to penalty and interest as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1[,] et seq.

18:3-4.3 Suspension or revocation of license or special permit

The license or special permit of every licensee or special permittee who fails to make and file any report, to post any bond, or to pay any tax, penalty, or interest which has become due, as required by the Alcoholic Beverage Tax Law, or who fails to comply with this chapter is subject to suspension or revocation proceedings by the issuing authority.

[18:3-4.4 (Reserved)]

SUBCHAPTER 5. BONDS

18:3-5.1 Bond requirements

(a) (No change.)

(b) The bond under (a) above shall be in such form as approved by the Director, shall be executed by a surety company duly licensed to do business under the laws of the State of New Jersey, and shall be conditioned upon the prompt filing of true reports and the payment by the licensee to the Director of all alcoholic beverage taxes which are due at the time of filing or which thereafter may be levied or imposed by the State [of New Jersey], together with any and all penalties and interest thereon, and generally upon faithful compliance with the provisions of this chapter.

18:3-5.4 Deposit in lieu of bond

In lieu of any bond or bonds required under N.J.A.C. [18:18]18:3-5.2 [through 5.4] **and 5.3**, a State licensee may deposit with the State Treasurer, under such terms and conditions as the Director may prescribe, a like amount of lawful money of the United States.

SUBCHAPTER 6. RECORDS

18:3-6.1 Records kept by persons subject to [Act] **the Alcoholic Beverage Tax Law (N.J.S.A. 54:41-1 et seq.)**

(a) Every person subject to the [Act] **the Alcoholic Beverage Tax Law (N.J.S.A. 54:41-1 et seq.)** is required to keep receiving records, accounts payable and receivable ledgers, and sales records. These records are to be complete and accurate records of all the information required in this [Chapter] **chapter** regarding all transactions (cash or charge) in alcoholic beverages and of all transactions in warehouse receipts given upon the storage of alcoholic beverages in United States Internal Revenue or United States Customs Warehouses under Federal bond in New Jersey. Such records are to be of a kind and in the form prescribed or approved by the Director.

(b) (No change.)

(c) All invoices pertaining to sales to [other] New Jersey State licensees are to be kept separate and apart from invoices pertaining to other sales and are to be filed in alphabetical order by accounts.

(d) All invoices pertaining to sales out-of-State are to be kept separate and apart from invoices pertaining to other sales and are to be filed alphabetically, by accounts, and by [States] **states**.

(e)-(g) (No change.)

18:3-6.4 Uniformity of records; information

(a) All receiving records, accounts payable and receivable, sales records, and all other records must show:

- 1.-8. (No change.)
 9. The number of cases, barrels, or other units of each size package; and
 10. (No change.)
- (b) All receiving records, in addition to containing the information required in [subsection] (a) [of this Section] **above**, must show the name and address of the licensed transporter or person through whom the alcoholic beverages were received.
- (c)-(d) (No change.)

18:3-6.5 Uniform invoices; information

(a) (No change.)

(b) All invoices, credit memoranda, and delivery and receiving slips must show:

- 1.-5. (No change.)
6. The number of cases, barrels, or other units; and
7. The exact gallonage of each line item listed[;] or
- [8. The] **the** gross gallonage of each class of alcoholic beverage.

18:3-6.7 Uniform inventories; items includible

(a) Physical inventories are to be taken on the last day of each reporting period even though a perpetual inventory record is maintained. All tally sheets and recapitulations are to be preserved as part of the permanent records. Such inventory records shall state:

- 1.-5. (No change.)
 6. The number of cases, barrels, or other units of each size package; and
 7. (No change.)
- (b)-(c) (No change.)
- (d) The inventory records shall not include:
1. (No change.)
 2. Any wine in fermenters, vermouth in process, or champagne in process not permanently corked.
- (e) Plenary and limited winery licensees must accurately determine the capacity of all tanks and other containers in the winery or warehouse and each tank, barrel, or other container must be marked with a serial number and the total capacity of the container in wine gallons. The capacity per inch of depth of all tanks must be determined and marked on each tank. The serial number of each tank or other container is to be preceded by an identifying letter as follows:
1. ["F"] – fermenting tanks;
 2. ["S"] – storage tanks;
 3. ["B"] – bottling tanks;
 4. ["VP"] – vermouth processing tanks;
 5. ["VPR"] – barrels used in processing vermouth.
- (f) (No change.)

18:3-6.8 Recording and reporting delivery in New Jersey to a person other than the actual purchaser

(a) Alcoholic beverages delivered to a person in New Jersey, other than the actual purchaser, must be entered in the records and reported as follows:

1. The shipper is to set forth on Schedule ["A"] of his **or her** report the name, address, and the license number of the purchaser and of the person to whom the actual delivery was made.
2. The purchaser (who in turn sells to the consignee) is to set forth the purchase on Schedule ["H-1"] of his **or her** report and the name, address, and license number of the shipper. He **or she** must also report on Schedule ["A"] the name, address, and license number of the consignee in New Jersey to whom the alcoholic beverages were actually delivered and the name, address, and license number of the shipper; or report on Schedule ["D"] all sales as prescribed in N.J.A.C. 18:3-[9.10 (Schedule "D" – Sales to retailers and miscellaneous sales)]**8.13**.
3. The consignee (person actually receiving the alcoholic beverages) is to set forth on Schedule ["H-1"] of his **or her** report the name, address, and license number of the person from whom the alcoholic beverages were purchased, and the name, address, and license number of the shipper.

4. The shipper, the seller, and the person actually receiving the alcoholic beverages in the transactions, in all cases are to enter in their respective records and invoices detailed information supporting that set forth in the report and all other details required in [Sections 4 (Uniformity of records; information) 5 (Uniform invoices; information) of this Subchapter] **N.J.A.C. 18:3-6.4 and 6.5**.

5. (No change.)

18:3-6.9 Recording and reporting delivery by a shipper located in New Jersey to a consignee outside the State for the account of the seller

(a) Alcoholic beverages delivered to a consignee outside New Jersey from a [point] **location** in New Jersey for the account of the seller are to be entered in the records and reported as follows:

1. The shipper is to set forth on Schedule ["E"] in the report the name and address of the consignee to whom the actual delivery was made, together with the gallonage of each class of alcoholic beverage and the name, address, and license number of the seller for whose account the alcoholic beverages were shipped.

2. The seller is not to include entries on his **or her** report for this transaction but proper entries are to be made in the accounting records to show the name, address, and license number of the shipper and the name and address of the consignee to whom the alcoholic beverages were sold.

18:3-6.10 Recording and reporting returns to persons in New Jersey other than the source from which the alcoholic beverages were actually purchased

(a) Returns made, not to the actual source but delivered to another licensee in New Jersey for the account of the source or to a New Jersey licensed public warehouse and placed therein in the name supplied by the source, are to be entered in the records and reported as follows:

1. The shipper, if a State licensee, must set forth on Schedule ["A"] of his **or her** report the name, address, and license number of the source and of the person to whom the actual delivery was made. Any such deliveries to warehouses are to be entered on the report with the name of both the consignee and the warehouse.

2. The source is to issue a credit memorandum to the shipper and is to set forth on Schedule ["H-3"] or Schedule ["H-4"] of his **or her** report the credit memorandum number, the name, address, and license number of the shipper and, in turn, on Schedule ["A"] the name, address, and license number of the consignee to whom the alcoholic beverages were sold if the consignee is a State licensee or on Schedule ["D"] if the consignee is a retailer.

3. The consignee (person actually receiving the alcoholic beverages) is to set forth on Schedule ["H-1"] of his **or her** report the name, address, and license number of the person from whom the alcoholic beverages were actually purchased and the name, address, and license number of the shipper.

4. The shipper, the source, and the consignee receiving the alcoholic beverages in such transactions are to enter in their respective records and in the credit memorandum detailed information supporting that set forth in the report and all other details required in [Sections 4 (Uniformity of records; information) 5 (Uniform invoices; information) of this Subchapter] **N.J.A.C. 18:3-6.4 and 6.5**.

5. (No change.)

18:3-6.11 Recording and reporting returns from a place in New Jersey to a consignee, located out-of-State, who is other than the original seller

(a) Returns made, not to the actual source but delivered to a consignee located outside [the State of] New Jersey, upon the instructions of the source, are to be entered in the records and reported as follows:

1. State licensee shipper:
 - i. The shipper, when a State licensee, must set forth in Schedule ["E"] of his **or her** report the name and address of the consignee and the name, address, and license number of the source for whose account the alcoholic beverages were shipped, together with the gross gallonage of each class of alcoholic beverage.
 - ii. The source shall not include entries in his **or her** report transactions covered by [paragraph 1 of this subsection] **this paragraph**, but proper entries are to be made in the accounting records to show the name,

address, and license number of the shipper and the name and address of the consignee to whom the alcoholic beverages were sold.

2. Where the shipper is a retailer, the source (the State licensee original seller) must set forth in Schedule [“]H-3[”] and in Schedule [“]E[”] of his **or her** report the name, address, and license number of the consignee and the name, address, and license number of the shipper, together with the gross gallonage of each class of alcoholic beverage.

18:3-6.12 Recording and reporting returns from a place in New Jersey to a nonresident licensee who maintains inventory in New Jersey

(a) Returns made to the New Jersey inventory of a nonresident New Jersey State licensee who maintains an inventory in this State are to be entered in the records and reported as follows:

1. State licensee:

i. The shipper, when a State licensee, must set forth in Schedule [“]A[”] of his **or her** report the name and address of the source to whom the alcoholic beverages were shipped together with the gross gallonage of each class of alcoholic beverages.

ii. The source (who is a nonresident New Jersey licensee maintaining an inventory in this State) is to report accepting such returns in his **or her** New Jersey inventory on Schedule [“]H-4.[”] They are not to be reported on Schedule [“]E[”] unless they are shipped outside of the State in some subsequent transaction.

2. Nonresident licensee; in-State:

i. Returns accepted by a nonresident New Jersey State licensee who maintains an inventory in this State directly from New Jersey licensees at his **or her** premises outside the State of New Jersey must be reported as a memo only on Schedule [“]H-4.[”] The transaction is not to be included in the total of Schedule [“]H-4[”] nor is it to be carried forward to the control sheet.

ii. Where a nonresident New Jersey State licensee maintains an inventory in this State and accepts returns directly from a New Jersey State licensee at his **or her** premises outside of New Jersey, the shipper is to set forth on Schedule [“]E[”] of his **or her** report the name and address of the source to whom the alcoholic beverages were shipped together with the gross gallonage of each class of alcoholic beverage.

3. Nonresident licensee; out-of-State:

i. Where a nonresident New Jersey State licensee maintains an inventory in this State and accepts returns from New Jersey State licensees and the returns are delivered for the account of the nonresident State licensee to a [point] location outside the State, the shipper is to set forth the transaction in Schedule [“]E[”] of his **or her** report together with the gross gallonage of each class of alcoholic beverage.

ii. A nonresident New Jersey State licensee is not to report the transaction on Schedule [“]E[”]. However, he **or she** is to report it as a memo transaction on Schedule [“]H-4.[”] but is not to include it in the total of Schedule [“]H-4[”] or carry it into his **or her** control sheet.

18:3-6.13 Delivery slips[.]; freight bills to accompany deliveries

(a) All deliveries of alcoholic beverages are to be accompanied by an invoice, delivery slip, freight bill, waybill, or bill of lading setting forth:

1. The name, address, and license number of the transporter;

2. The name, address, and license number of both the consignee and the consignor;

3.-5. (No change.)

6. The number of cases, barrels, or other units; and

7. (No change.)

18:3-6.15 Examination of records and premises

Every person engaged in transactions involving alcohol or alcoholic beverages, and all directors, officers, agents, or employees of such person, are to [exhibit] **provide** to the Director, **upon request**, all the books, records, physical inventory tally sheets, papers, work sheets, invoices, vouchers, accounts, **and** documents and **access to the** premises [of said person] and to facilitate[, as far as possible.] any examination or investigation by the Director or his **or her** employees.

[18:3-6.16 through 18:3-6.17 (Reserved)]

SUBCHAPTER 7. REPORTS IN GENERAL

18:3-7.1 When due

(a) Reports consisting of a control sheet and supporting schedules are to be filed with the Director on such forms as the Director shall prescribe. [(See Appendix).]

(b) A report is to be filed with the Division of Taxation, **Alcoholic Beverage Tax Section**, [P.O.] **PO Box [241] 264**, Trenton, [New Jersey] **NJ 08646-0264**, covering each bi-monthly period that a license is in force, even though during that time, or any portion thereof, no business was transacted under the license.

(c) Such reports are to be filed by State licensees, special permittees, and holders of special permits to sell alcohol at retail, on or before the 15th day of the month next following.

(d) Where the last day of filing reports falls on a Saturday, Sunday, legal holiday, or bank holiday, a report forwarded by mail will be considered as filed within time only if the envelope bears the postmark of the next business day or some prior day.

(e) Reports must disclose all transactions in alcoholic beverages, warehouse receipts, and contract during the period covered by the report, and such other information as the Director may require.

(f) There are no exceptions to [these rules] **this section**.

18:3-7.2 Manner of executing reports

(a) (No change.)

(b) No report signed by an agent of a licensee will be accepted for filing, unless the licensee has filed with the Division of Taxation a written authorization for such agent on [form] **Form R-3** prescribed by the Director.

18:3-7.3 Report forms; how obtained

(a) Forms upon which reports are to be made are customarily mailed by the Director to the licensee in ample time for preparation and filing, but, if such forms are not received, the licensee is not relieved of the obligation of filing the reports within the time prescribed by [Section 1 (When due) of this Subchapter] **N.J.A.C. 18:3-7.1**.

(b) Extra copies of forms upon which reports are to be made may be [obtainable] **obtained** upon application to the Division of Taxation, [West State and Willow Streets] **Alcoholic Beverage Tax Section, PO Box 264**, Trenton, [New Jersey] **NJ 08646-0264**.

(c) (No change.)

18:3-7.4 Reports without postage refused

Reports mailed with insufficient postage will be refused and, if not returned to the Director on or before the date when the same are due, the penalties provided in [Sections 4.1 (Failure to file report), 4.2 (Failure to pay tax) of this Chapter] **N.J.A.C. 18:3-4.1 and 4.2**, will be assessed against the taxpayer.

18:3-7.6 Seizures; tax postponed

(a) (No change.)

(b) The licensee is to report the removal on Schedule [“]A[”] of the monthly report, setting forth the date, by whom removed, and the gross gallonage of each class of alcoholic beverage, as shown on the receipt for such alcoholic beverages. If and when the beverages are returned, the licensee is to report the same on Schedule [“]H-4[”] of the monthly report, setting forth the date, by whom returned, and the gross gallonage of each class of alcoholic beverage actually received, thus placing the alcoholic beverages back in the inventory.

18:3-7.7 Reporting donations

The gratuitous giving away of alcoholic beverages by any person is a sale which is to be reported as such on Schedule [“]D[”] of the bi-monthly report, and the tax thereon paid in the same manner as in the case of a sale.

18:3-7.8 Reporting samples

(a) An invoice is to be made for each sample given out, showing the name, address, and license number of the licensee or of the person receiving the sample, the date, the brand and kind of alcoholic beverage,

and the quantity. The invoice or a delivery receipt is to bear the signature of the person actually receiving the sample.

(b) When alcoholic beverages are sold or forwarded to the holder of a State license to be used as samples, the tax is to be assumed by the consignee and reported on Schedule [“H-1”] of the report.

(c) Where the receiving State licensee sells, gives, or returns to a representative of another State licensee or special permittee or any other person, alcoholic beverages to be used as samples within this State, the transaction is to be set forth in Schedule [“D”], as a line item and such entry marked [“samples”] and the tax thereon paid. Under no condition is such a transaction to be entered as a “Return” on Schedule [“A”] or [“E”].

18:3-7.9 Losses by theft, breakage, or other disposition

(a) No deductions from taxes are to be permitted to be made, nor is any credit or refund [is] to be claimed, for taxes which have accrued or have been paid on the sale or delivery of alcohol or alcoholic beverages because of the loss of such alcohol or alcoholic beverages or any part thereof, **whether** sustained by reason of theft, breakage, or other disposition in this State, either on the licensed premises or in connection with a sale or delivery. The liability to pay such tax may not be passed on or postponed.

(b) Such an item, **as described in (a) above**, is to be set forth on Schedule [“D”] of the report as a line item. (See N.J.A.C. 18:3-[8.17, Schedule “D” – Sales to retailers and miscellaneous sales.]**8.13**)

(c) Where the taxpayer makes such a deduction, penalty and interest as provided in the State Tax Uniform Procedure Law, N.J.S.A. 54:48-1[,] et seq., will be assessed in addition to the tax.

[18:3-7.13 through 18:3-7.14 (Reserved)]

SUBCHAPTER 8. RULES AND INSTRUCTIONS CONCERNING MANUFACTURERS

[18:3-8.1 Passage of tax]

18:3-[8.2]**8.1** Consumer sales reports

(a) State licensees, who under the provisions of their licenses are allowed to sell to consumers, are to report the gross daily total of such sales during a reporting period as line items on Schedule [“D”] and pay the tax on the same.

(b) (No change.)

[18:3-8.3 Samples reported]

18:3-[8.4]**8.2** Out-of-State sales and returns

(a) Where the sale or return is made by a State licensee and accompanied by delivery to a point outside of the State of New Jersey, the transaction is to be reported on Schedule [“E”].

(b) Where a State licensee sells or returns alcoholic beverages to a person not licensed by the State of New Jersey for ultimate delivery to a [point] **location** outside the State but causes the alcoholic beverages to be delivered by a licensed transporter to a licensed New Jersey public warehouse for temporary storage in the name of the purchaser, the transaction is exempt from the tax and is to be reported on Schedule [“A”] of the bi-monthly report listing the names and addresses of both the [nonlicensed] **unlicensed** purchaser and the warehouse.

[18:3-8.5 Tax exemptions for nonbeverage use]

18:3-[8.6]**8.3** Alcoholic beverages bottled for [nonlicensees] **non-licensees**

(a) Where a manufacturer receives alcoholic beverages from a person not licensed in [the State of] New Jersey or from Federal bond for the account of such [nonlicensee] **non-licensee** and bottles the alcoholic beverages, the delivery of the bottled alcoholic beverages is to be reported as a sale.

(b) (No change.)

18:3-[8.7]**8.4** Alcoholic beverages bottled for others

(a) Where a manufacturer receives alcoholic beverages for bottling:

1. The delivery in New Jersey of the bottled alcoholic beverages to a State licensee or for the account of a [nonlicensee] **non-licensee** is to be

reported on Schedule [“A”] as a sale. (See N.J.A.C. 18:3-[8.16, Schedule “A” – sales and “returns made” within this State . . .]**8.12**)

2. The delivery at a [point] **location** outside of this State of the bottled alcoholic beverages to a State licensee or a [nonlicensee] **non-licensee** is to be reported on Schedule [“E”]. (See N.J.A.C. 18:3-[8.18, Schedule “E” – exemptions.]**8.14**)

3. The delivery in New Jersey of the bottled beverages to a retail licensee is taxable and is to be reported as a sale on Schedule [“D”]. (See N.J.S.A. 54:43-1[.]

18:3-[8.8]**8.5** Alcoholic beverages bottled for retail licensees

Where a manufacturer receives for bottling alcoholic beverages for the account of a New Jersey retail licensee the delivery of the bottled alcoholic beverages are taxable and is to be reported as a sale to the retailer on Schedule [“D”].

18:3-[8.9]**8.6** Alcoholic beverages bottled [“in-bond”]

Alcoholic beverages bottled [“in-bond”] in United States Internal Revenue or United States Customs warehouses which remain [“in-bond”] are not to be reported as a sale until they are actually removed from Federal bond.

[18:3-8.10 Consolidated reports]

18:3-[8.11]**8.7** Number of schedules required in report

(a) A manufacturer’s tax sales report is to consist of a control sheet supported by detailed information to be given on schedules.

(**Agency Note:** The text of the table below follows with additions in indicated in italicized boldface **thus**; deletions indicated in brackets [thus]. Those portions of the table appearing solely in boldface **thus** are intended to be so permanently.)

NUMBER OF COPIES TO BE MADE, FILED, AND RETAINED WHETHER OR NOT ANY BUSINESS IS TRANSACTED:

	Make	*File with Division of Taxation	**Retain in Tax Manufacturer’s File
Control Sheet.....	3 copies	2 copies	1 copy
Schedules [“A”], [“B”], [“C”], [“D”], [“F”], [“H”], [“J”], or [“BW”].....	3 copies	2 copies	1 copy
Schedule [“E”].....	4 copies	3 copies	1 copy
Certificate of Nonbeverage Use.....	2 copies	1 copy	1 copy

*File reports with the Division of Taxation, *Alcoholic Beverage Tax Section*, [P.O.] **PO** Box [241] **264**, Trenton, [New Jersey] *NJ* 08646-**0264** on or before the 15th day of the **following** month [next following].

** (No change.)

(b) If any schedule supporting the control sheet is not required in making the report for any particular period, it is to be indicated on the reverse side of the control sheet by entering the word “no” thus: Schedule [“A”] consisting of .. no.. sheets.

18:3-[8.12]**8.8** Entries in schedules to be by accounts

(a) In preparing schedules of purchases and sales, entries are to be in alphabetical order by accounts except where written permission has been received from the Director to report Schedule [“D”] by “daily total.”[.]

(b)-(c) (No change.)

18:3-[8.13]**8.9** Schedule [“B”] – inventory, control, distillers, rectifiers, and blenders

(a) Schedule [“B”], which is to be filed by all distillers, rectifiers, and blenders is an inventory control report of Federal-tax-paid finished products.

(b) All items on Schedule [“B”] must be entered in the appropriate column as set forth on the schedule.

(c) If any transactions or operations affecting the inventory cannot be set up on Schedule [“B”], attach a detailed description of such transactions and operations to the schedule.

18:3-[8.14]**8.10** Schedule [“C”] – inventory control, wineries

(a) Schedule [“C”], which is to be filed by all holders of winery licenses is an inventory control report of alcoholic beverages in both Federal bonded and Federal-tax-paid sections of the licensed premises and in the Federal-tax-paid sections of New Jersey licensed public warehouses, but is not to include [“still wine”] in fermenters, [“vermouth”] in processing tanks, or alcoholic beverages stored in United States Internal Revenue or United States Customs bonded public warehouses.

(b) In addition to Schedule [“B”], distillers who operate a winery under a distiller’s license are required to submit Schedule [“C”].

(c) All items on Schedule [“C”] must be entered on the appropriate line as set forth on the schedule.

(d) If any transactions and operations affecting the inventory cannot be set up on Schedule [“C”], a detailed description of such transactions and operations is to be attached to the schedule.

18:3-[8.15]**8.11** Schedule [“J”] – brewery inventory control, Federal-tax-paid beer

(a) Schedule [“J”], which is to be filed by all breweries is an inventory control report of the Federal-tax-paid finished products.

(b) All items on Schedule [“J”] must be entered on the appropriate line as set forth on the schedule.

(c) If any transactions or operations affecting the inventory cannot be set up on Schedule [“J”], a detailed description of such transactions and operations is to be attached to the schedule.

18:3-[8.16]**8.12** Schedule [“A”] – sales and [“returns made”] within this State to State licensees, Army, Air Force, Navy, Coast Guard, or National Guard organizations, [nonlicensees] **non-licensees** for storage

(a) On Schedule [“A”], list under separate heading, by accounts, the total of the following items for the reporting period for each account:

1. All sales of alcoholic beverages made and delivered to the licensed premises in New Jersey of, or to a New Jersey licensed public warehouse for the account of manufacturers, wholesalers, State beverage distributors, and plenary retail transit licensees, on which sales and deliveries the tax has been passed to the purchaser. (See N.J.A.C. 18:3-8.7, Alcoholic beverages bottled for others.)**8.4**

2. Sales of alcoholic beverages to State licensees located within New Jersey involving the actual delivery of the alcoholic beverages from a [point] **location** other than the seller’s premises:

i. Proper notation is to be made on the schedule by the seller as to the name, address, and license number of the person who actually made the shipment upon instruction of the seller, and the [point] **location** from which shipment was made.

ii. In addition, the seller must show the name, address, and license number of the actual consignee or purchaser.

iii. The person who actually made the shipment must also report the name, address, and license number of the person to whom shipment was delivered, and, in addition, the name, address, and license number of the person for whose account the shipment was made.

iv. Such transactions are to be segregated by the seller and the shipper from sales made direct from the seller’s premises. (See N.J.A.C. 18:3-6.8[Recording and reporting delivery.])

3. Sales of alcoholic beverages to voluntary unincorporated organizations of the Army, Air Force, Navy, Coast Guard, or National Guard personnel, authorized to deal in alcoholic beverages where delivery is made within this State. The total of each account is to be listed as a separate line item, with the name, address, and location of each organization. (See N.J.A.C. 18:3-[8.18, Schedule “E” – exemptions.]**8.14**)

4. Sales where delivery has been made to a licensed public warehouse in New Jersey for temporary storage for the account of [nonlicensee] **non-licensee**. (See N.J.A.C. 18:3-2.14,[Out-of-State sales for temporary storage in New Jersey, N.J.A.C. 18:3-8.6, Alcoholic beverages bottled for

nonlicensees, N.J.A.C. 18:3-8.7, Alcoholic beverages bottle for others.]**8.3, and 8.4**)

5. [“Returns made”] to [other] State licensees where delivery has been made to the licensed premises of such licensees or to New Jersey licensed public warehouses within the State [of New Jersey].

6. [“Returns made”] to [other] State licensees where delivery has been made to the licensed premises of another licensee or to New Jersey licensed public warehouses within the State [of New Jersey]. If the return is for the account of another State licensee, proper notation is to be made on the Schedule in accordance with [Section 6.10 (Recording and reporting required) of this Chapter] **N.J.A.C. 18:3-6.10**.

7. [“Returns made”] for the account of an out-of-State source, not licensed, which involves delivery to State licensees within [the State of] New Jersey or to New Jersey licensed public warehouses. (See N.J.A.C. 18:3-6.10[Recording and reporting returns . . .])

8. [“Returns made”] where actual delivery has been made to a [point] **location** outside [the State] of New Jersey are to be entered on Schedule [“E”]. (See N.J.A.C. 18:3-6.9[,] **and** [18:3-6.11[Reporting and recording requirements.])

9. The totals thus determined are to be entered on the control sheet and included in Schedule [“B”], [“C”], or [“J”].

18:3-[8.17]**8.13** Schedule [“D”] – sales to retailers and miscellaneous sales

(a) Schedule [“D”] is to be completed as follows:

1.-3. (No change.)

(b) Total all the items listed in [subsection] (a) [of this Section] **above** and enter final total on the control sheet. Manufacturers are to include the total in Schedules [“B”], [“C”], or [“J”].

18:3-[8.18]**8.14** Schedule [“E”] – exemptions

(a) On Schedule [“E”], under separate headings by accounts and using a separate schedule for each State into which deliveries were made, list the total for the reporting period for each account of:

1. Sales of alcoholic beverages for resale and consumption outside of this State that were accompanied by actual transportation of the alcoholic beverages to [points] **locations** outside [the State of] New Jersey;

2. Sales of alcoholic beverages for nonbeverage purposes accompanied by actual transportation of the alcoholic beverages to [points] **locations** out of New Jersey (Certificates of nonbeverage use not required);

3. Transfers of alcoholic beverages from a licensee’s New Jersey inventory or withdrawals from bonded warehouses in New Jersey for his **or her** account which are delivered to himself **or herself** to a [point] **location** out of New Jersey;

4. [“Returns made”] of alcoholic beverages actually delivered to [points] **locations** out-of-New Jersey either directly to the original source or to others at [points] **locations** out of the State for the account of the original source. Such transactions are to be included in the report for the period in which the shipments were actually made. (See N.J.A.C. 18:3-6.11[Recording and reporting returns . . .])

5. Sales of alcoholic beverages to voluntary unincorporated organizations of the United States Army, Air Force, Navy, or Coast Guard personnel, accompanied by actual transportation of the alcoholic beverages out of New Jersey[;]. (See N.J.A.C. 18:3-[8.16, 8.17, Sales and returns made within this State and miscellaneous sales.]**8.12 and 8.13**)

6. [“Returns accepted”] where a nonresident New Jersey State licensee accepts returns of alcoholic beverages from a New Jersey retail licensee at his **or her** premises outside this State, or the returned alcoholic beverages have been delivered for the State licensee’s account to another point out-of-State, the total gallonage for such transactions are to be reported as a line item under the heading: “Returns Accepted From New Jersey Retail Licensees.”[.] These transactions are also to be reported on Schedule [“H-3”] as set forth in [Section 9.13 (Schedule “H” – alcoholic beverages received) of this Chapter] **N.J.A.C. 18:3-9.3**;

7. Deliveries of alcoholic beverages actually made to a [point] **location** outside the State of New Jersey for the account of the seller. (See N.J.A.C. 18:3-6.9, 6.11, **and** 6.12[Recording and reporting requirements.])

(b) A separate Schedule [“E”] for New Jersey is to be prepared, listing under separate headings by accounts the total for the reporting period for each account of:

1. Sales of alcoholic beverages for nonbeverage use where delivery has been made within the State of New Jersey. (See [Section 2.6 (Sale and delivery for nonbeverage use) of this Chapter.] **N.J.A.C. 18:3-2.6**)

2. (No change.)

3. Deliveries of alcoholic beverages to steamships at piers in New Jersey for [“]export[“] or [“]ship’s supplies[“] for consumption outside New Jersey. (See [Section 3.7 (Deliveries to steamships at piers in New Jersey) of this Chapter.] **N.J.A.C. 18:3-3.6**)

(c) The total of all Schedule[s] [“]E[“] items are to be entered on the control sheet of the reports, and, in the case of manufacturers, the total of the Schedule[s] [“]E[“] items are to be included on Schedule [“]B[“], [“]C[“], or [“]J[“], whichever is applicable.

18:3-[8.19]**8.15** Schedule [“]F[“] – claims for exemptions

(a) Schedule [“]F[“] is to be used to enter the following:

1. A list of the Schedule [“]E[“] items by states, giving the total gallonage for each state, except New Jersey;

2. All certificates of nonbeverage use covering New Jersey sales submitted with the report for which exemption is claimed[;]. (See N.J.A.C. 18:3-2.6[, Sale and delivery for nonbeverage use.]

3. Each Division of Taxation inventory credit memorandum[;].

4. (No change.)

(b) The combined total of the items listed under [subsection] (a) [of this Section] **above** are to be entered on the control sheet of the report.

18:3-[8.20]**8.16** Schedule [“]H[“] – alcoholic beverages received during the reporting period, in transit at the end of the reporting period, returns accepted from customers

(a) Schedule [“]H-1[“] – manufacturers are to file Schedule [“]H-1[“] for Federal-tax-paid finished products received only. The totals of Schedule [“]H-1[“] are to be entered in Schedule [“]B[“], [“]C[“], or [“]J[“], whichever is applicable. (See N.J.A.C. 18:3-[9.13, Schedule “H” Requirements.]**9.3**)

(b) Schedule [“]H-2[“] – finished products in transit at the end of the reporting period:

1. Schedule [“]H-2[“] is to contain a list by accounts of all finished products shipped to the reporting licensee before the end of the reporting period but not actually received on the licensed premises or in the Federal-tax-paid section of a New Jersey licensed public warehouse for the account of the licensee until after the end of the reporting period[;].

2. Do not total or enter these items on the control sheet; they will appear on Schedule [“]H-1[“] of the report for the period in which the alcoholic beverages are actually received.

(c) Schedule [“]H-3[“] – returns accepted from customers on which tax credit or refund is claimed:

1. Schedule [“]H-3[“] is to contain a list by accounts of all returns in sealed containers accepted from customers upon which a tax credit or refund is claimed and for which inventory credit memoranda or credit memoranda have been actually issued; in addition:

i. The name, address, and license number of each customer making the return;

ii. (No change.)

iii. The number of gallons accepted as returns is to be included. (See N.J.A.C. 18:3-2.20[, Report returns.]

2. Where the alcoholic beverages are not actually received but are delivered upon the instructions of the seller to another licensee, proper entry is to be made on Schedule [“]H-3[“], giving the name, address, and license number of the person from whom the alcoholic beverages were actually delivered for the account of the seller, and, in addition, the name, address, and license number of the person to whom the alcoholic beverages were actually delivered:

i. Where the return by a retailer involves the delivery for the account of the seller to another retailer, pursuant to another sale, a corresponding sales entry is to be made in the records of the seller and the sale to the retailer included in Schedule [“]D[“]. (See N.J.A.C. 18:3-6.10[, Recording and reporting requirements.]

ii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee at a [point] **location** within [the State of] New Jersey, pursuant to another sale, a corresponding sales entry is to be made in the records of the seller and the sale to the State licensee

included in Schedule [“]A[“]. (See N.J.A.C. 18:3-6.10[, Recording and reporting requirements.]

iii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee or [nonlicensee] **non-licensee** at a [point located] **location** outside [the State of] New Jersey, pursuant to another sale, a corresponding entry is to be made in the records of the seller and the sale included in Schedule [“]E[“]. (See N.J.A.C. 18:3-6.11[, Recording and reporting requirements.]

3. The total of these items are to be entered on the control sheet, and included in Schedule [“]B[“], [“]C[“], or [“]J[“], whichever is applicable.

4. (No change.)

(d) Schedule [“]H-4[“] returns accepted from customers on which tax credit is not claimed:

1. Schedule [“]H-4[“] is to contain a list under separate headings, by accounts, of the number of gallons in sealed containers, as shown by inventory credit memoranda or credit memoranda issued by the seller, accepted from each customer during the reporting period on which the seller is not claiming a tax credit or refund.

2. Where the alcoholic beverages are not actually received by the seller but are delivered upon the instructions of the seller to another licensee, proper entry is to be made on Schedule [“]H-4[“] giving the name, address, and license number of the person to whom the alcoholic beverages were actually delivered for the account of the seller, and, in addition, the name, address, and license number of the person to whom the alcoholic beverages were actually delivered. (See N.J.A.C. 18:3-2.20[, Reporting returns, 18:3-6.10, Recording and reporting requirements.] **and 6.10**)

3. The total of these items are to be included on Schedule [“]B[“], [“]C[“], or [“]J[“], whichever is applicable.

18:3-[8.21]**8.17** Schedule [“]BW[“] – withdrawals from bond

Schedule [“]BW[“] is to contain a list of all withdrawals from bond of finished products stored under United States Internal Revenue or United States Customs bond and importations received ex-Customs at piers. Separate totals for each are to be set forth in Schedule [“]H-1[“] including appraisal stores.

[18:3-8.22 Inventories

18:3-8.23 Procedure where statements disagree

18:3-8.24 through 18:3-8.25 (Reserved)]

SUBCHAPTER 9. RULES AND INSTRUCTIONS CONCERNING WHOLESALE AND STATE BEVERAGE DISTRIBUTORS

[18:3-9.1 Passage of tax

18:3-9.2 Out-of-State sales and returns

18:3-9.3 Samples

18:3-9.4 Consumer sales

18:3-9.5 Exemptions for nonbeverage use

18:3-9.6 Consolidated reports]

18:3-[9.7]**9.1** Number of schedules required

(a) A tax sales report consists of a control sheet supported by detailed information to be given on Schedules [“]A[“], [“]D[“], [“]F[“], [“]H[“], [“]BW[“], or [“]E[“] as the case may be.

(**Agency Note:** The text of the table below follows with additions in indicated in italicized boldface **thus**; deletions indicated in brackets [thus]. Those portions of the table appearing solely in boldface **thus** are intended to be so permanently.)

NUMBER OF COPIES TO BE MADE, FILED, AND RETAINED WHETHER OR NOT ANY BUSINESS IS TRANSACTED:

	*File with	**Retain
	Division of	in File of
Make	Taxation	Licensee

Control Sheet.....	3 copies	2 copies	1 copy
Schedules [“]A[“], [“]D[“], [“]F[“], [“]H[“], and [“]BW[“].....	3 copies	2 copies	1 copy
Schedule [“]E[“].....	4 copies	3 copies	1 copy
Certificate of Nonbeverage Use.....	2 copies	1 copy	1 copy

*File reports with the Division of Taxation, *Alcoholic Beverage Tax Section*, [P.O.] *PO* Box [241] **264**, Trenton, [New Jersey] *NJ* 08646-0264 on or before the 15th day of the *following* month [next following].

** (No change.)

(b) If any schedule supporting the control sheet is not required in making the report for any particular period, it must be indicated on the reverse side of the control sheet by entering the word “no” thus: Schedule [“]A[“] consisting.. no.. sheets.

[18:3-9.8 Entries in schedules to be by accounts]

18:3-[9.13]9.2 Schedule [“]A[“] – sales and [“]returns made[“] within this State to State licensees, Army, Air Force, Navy, Coast Guard, or National Guard organizations, [nonlicensees] **non-licensees** for storage

(a) Schedule [“]A[“] is to contain a list under separate headings, by accounts, including the total for the reporting period of the following:

1. All sales of alcoholic beverages made and delivered to the licensed premises in New Jersey of manufacturers, wholesalers, State beverage distributors, and plenary retail transit licensees, or to New Jersey licensed public warehouses for the account of such State licensees, on which sales and deliveries the tax has been passed to the purchasers.

2. Sales of alcoholic beverages to State licensees located within New Jersey involving the actual delivery of the alcoholic beverages from a [point] **location** other than the seller’s premises. Proper notation is to be made on Schedule [“]A[“] by the seller as to the name, address, and license number of the person who actually made the shipment upon instructions of the seller, and the [point] **location** from which shipment was made. In addition, the seller must show the name, address, and license number of the actual consignee or purchaser. The person who actually made the shipment must likewise report the name, address, and license number of the person to whom shipment was delivered, and, in addition, the name, address, and license number of the person for whose account shipment was made. Such transactions are to be segregated by the seller and by the shipper from sales made direct from the seller’s premises. (See N.J.A.C. 18:3-6.9[, Recording and reporting requirements.])

3. Sales of alcoholic beverages to voluntary unincorporated organizations of the Army, Air Force, Navy, Coast Guard, or National Guard personnel, authorized to deal in alcoholic beverages, where delivery is made within this State. The total of each account is to be listed as a separate line item, with the name, address, and location of each organization. (See N.J.A.C. 18:3-[8.16, Schedule “A” – sales and “returns made” within this State.]8.12)

4. Sales where delivery has been made to a licensed public warehouse in New Jersey for temporary storage for the account of [nonlicensees] **non-licensees**. (See N.J.A.C. 18:3-2.14[, Out-of-State sales temporarily stored in State.])

5. [“]Returns made[“] to [other] State licensees where delivery has been made to the licensed premises of such licensees or to New Jersey licensed public warehouses at a [point] **location** within [the State of] New Jersey.

6. [“]Returns made[“] to the actual source but delivered to another licensee in New Jersey for the account of the source, or to a New Jersey licensed public warehouse, and placed therein in the name supplied by the source. Entries on the schedule are to be made by the shipper and by the source in accordance with [Section 6.10 (Record requirements) of this Chapter] **N.J.A.C. 18:3-6.10**.

7. [“]Returns made[“] for the account of an out-of-State source, not licensed, which involve delivery to State licensees within [the State of] New Jersey or to New Jersey licensed public warehouses, are to be

reported on Schedule [“]A[“]. [“]Returns made,[“] where actual delivery has been made to a [point] **location** outside the State [of New Jersey], are not to be entered on Schedule [“]A[“] but on Schedule [“]E[“]. (See N.J.A.C. 18:3-[8.18, Schedule “E” – exemptions.]8.14)

8. (No change.)

[18:3-9.10 Schedule “D” – sales to retailers and miscellaneous sales

18:3-9.11 Schedule “E” – exemptions

18:3-9.12 Schedule “F” – claims for exemptions]

18:3-[9.13]9.3 Schedule [“]H[“] – alcoholic beverages received during the reporting period, in transit at the end of the reporting period, returns accepted from customers

(a) Schedule [“]H-1[“] alcoholic beverages actually received including bond withdrawals and purchases delivered direct to other licensees for the account of the reporting licensee. Schedule [“]H-1[“] is to contain a list under separate headings and by accounts of the gallonage of alcoholic beverages:

1. Actually received by the licensee in New Jersey or for the account of the licensee in the Federal-tax-paid section of a New Jersey licensed public warehouse; do not include any returns accepted from customers (see Schedules [“]H-3[“] and [“]H-4[“]) or alcoholic beverages in transit (see Schedule [“]H-2[“]);

2. Withdrawn from bonded sections of United States Internal Revenue or United States Customs warehouses and importations received ex-Customs at piers; the totals are to be the same as those shown on Schedule [“]BW[“]; (See N.J.A.C. 18:3-[8.21, Schedule “BW”.]8.17);

3. Purchased but delivered by the shipper direct to other licensees in New Jersey for the account of the reporting licensee, in accordance with [Section 6.8 (Recording and reporting delivery) of this Chapter] **N.J.A.C. 18:3-6.8**;

4. Wholesalers who are the holders of a winery license and operate a Federal bonded winery are to segregate all transactions in wines bottled by others[;] (See N.J.A.C. 18:3-[8.20, Schedule “H”.]8.16);

5. (No change.)

(b) Rules concerning Schedule [“]H-2[“] – alcoholic beverages in transit at the end of the reporting period include the following:

1. Schedule [“]H-2[“] is to contain a list by accounts of all alcoholic beverages shipped to the reporting licensee before the end of the reporting period but not actually received on the licensed premises or in the Federal-tax-paid section of a New Jersey licensed public warehouse for the account of the licensee until after the end of the reporting period;

2. These items are not to be totaled or entered on the control sheet, as they will appear in Schedule [“]H-1[“] of the report for the period in which the alcoholic beverages are actually received.

(c) Rules concerning Schedule [“]H-3[“] – returns accepted from customers on which tax credit or refund is claimed include:

1. Schedule [“]H-3[“] is to contain a list by accounts of all returns in sealed containers accepted from customers upon which a tax credit or refund is claimed and for which inventory credit memoranda or credit memoranda have actually been issued; they are to include the name, address, and license number of each customer making the return, the serial number and date of each credit memorandum issued, and the number of gallons accepted as returns[;] (See N.J.A.C. 18:3-2.20[, Returns.]);

2. Where the alcoholic beverages are not actually received but are delivered upon the instructions of the seller to another licensee, proper entry is to be made on Schedule [“]H-3[“], giving the name, address, and license number of the person from whom the alcoholic beverages were actually delivered for the account of the seller, and the name, address, and license number of the person to whom the alcoholic beverages were actually delivered:

i. Where the return by a retailer involves the delivery for the account of the seller to another retailer, pursuant to another sale, a corresponding sales entry is to be made in the records of the seller and the sale to the retailer included in Schedule [“]D[“]; (See N.J.A.C. 18:3-6.10[, Recording returns.]);

ii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee at a [point] **location** within [the State of] New Jersey pursuant to another sale, a corresponding sales entry is to be

made in the records of the seller and the sale to the State licensee included in Schedule [“]A[”]; (See N.J.A.C. 18:3-6.10[Recording returns.]);

iii. Where the return by a retailer involves the delivery for the account of the seller to a State licensee or non-licensee at a [point located] **location** outside [the State of] New Jersey pursuant to another sale, a corresponding entry is to be made in the records of the seller and the sale is to be included in Schedule [“]E[”]. (See N.J.A.C. 18:3-6.11[Recording returns.])

3. (No change.)

(d) Schedule [“]H-4[”] returns accepted from customers on which tax credit is not claimed:

1. Schedule [“]H-4[”] is to contain a list under separate headings and by accounts of the number of gallons in sealed containers, as shown by the inventory credit memoranda or credit memoranda issued by the seller accepted from each customer during the month in which the seller is not claiming a tax credit or refund;

2. Where the alcoholic beverages are not actually received by the seller but are delivered upon the instructions of the seller to another licensee in New Jersey, proper entry is to be made on Schedule [“]H-4[”, giving the name, address, and license number of the person by whom the alcoholic beverages were actually delivered for the account of the seller, and the name, address, and license number of the person to whom the alcoholic beverages were actually delivered;] (See N.J.A.C. 18:3-2.20[Returns 18:3-6.10, Recording returns.] **and 6.10**);

3. A licensee may request permission to report returns, normally shown on Schedule [“]H-4[”, on Schedule [“]H-1[”];

4. The combined total of the items listed on Schedules [“]H-3[”] and [“]H-4[”] are to be entered on the control sheet.

[18:3-9.14 Schedule “BW” – withdrawals from bond]

18:3-[9.15]**9.4** (No change in text.)

[18:3-9.16 Procedure where statements disagree

18:3-9.17 through 18:3-9.19 (Reserved)]

SUBCHAPTER 10. RULES AND INSTRUCTIONS CONCERNING ALCOHOLIC BEVERAGE WAREHOUSE RECEIPTS LICENSEES

[18:3-10.2 Samples and donations

18:3-10.3 Records required

18:3-10.4 Consolidated reports]

18:3-[10.5]**10.2** Number of schedules required

(a) A warehouse receipts licensee’s report consists of a control sheet supported by detailed information to be given on Schedules [“]WR-1[”], [“]WR-2[”], [“]WR-3[”], or [“]WR-4[”] as the case may be.

(Agency Note: The text of the table below follows with additions in indicated in italicized boldface **thus**; deletions indicated in brackets [thus]. Those portions of the table appearing solely in boldface **thus** are intended to be so permanently.)

NUMBER OF COPIES TO BE MADE, FILED, AND RETAINED WHETHER OR NOT ANY BUSINESS IS TRANSACTED:

	Make	*File with Division of Taxation	**Retain in File of Licensee
Control Sheet.....	3 copies	2 copies	1 copy
Schedules [“]WR-1,[”] [“]WR-2,[”] [“]WR-3,[”] [“]WR-4[”].....	3 copies	2 copies	1 copy

*File reports with the Division of Taxation, *Alcoholic Beverage Tax Section*, [P.O.] **PO** Box [241] **264**, Trenton, [New Jersey] *NJ* 08646-0264 on or before the 15th day of the **following** month [next following].

** One complete copy of every report shall be kept on the premises of the licensees for [3] **three** years, for examination by the Director.

(b) If any schedule supporting the control sheet is not required in making the report for any particular period, it is to be indicated on the control sheet by entering the word “no” thus: Schedule [“]WR-1[”] consisting of.. no.. sheets.

(c) All gallonage entries are to be made in wine gallons of 128 fluid ounces and where it is impossible to determine the wine gallons, and the records show proof gallons only, the gallonage reported is to be marked “P.G.” or “Proof Gallons.”[.]

(d) (No change.)

18:3-[10.6]**10.3** Schedule [“]WR-1[”] – purchases of warehouse receipts

Schedule [“]WR-1[”] is to contain a list of all transactions in purchasing, accepting, or otherwise obtaining or acquiring warehouse receipts given upon the storage of alcoholic beverages in New Jersey in a United States Internal Revenue or United States Customs warehouse under Federal bond.

18:3-[10.7]**10.4** Schedule [“]WR-2[”] – sales of warehouse receipts

(a) Schedule [“]WR-2[”] is to contain a list of all sales to any person having a New Jersey license or giving or known to have a New Jersey address of:

1. (No change.)

2. All other receipts, certificates, contracts, or other documents given upon the storage of alcoholic beverages in Federal-tax-paid sections of a New Jersey licensed public warehouse.

(b) (No change.)

18:3-[10.8]**10.5** Schedule [“]WR-3[”] – inventory of warehouse receipts

Schedule [“]WR-3[”] is to contain a list in the same manner as set forth for Schedule [“]WR-2[”] of all warehouse receipts and all other receipts, certificates, contracts, or other documents given upon the storage of alcoholic beverages in New Jersey, or representing the same, of which the licensee is the owner and in control of at the end of the reporting period.

18:3-[10.9]**10.6** Schedule [“]WR-4[”] – alcoholic beverages received

(a) Schedule [“]WR-4[”] is to contain a list of all alcoholic beverages actually received in New Jersey, as samples or otherwise, from any source whatsoever, during the period covered by the report. Particular attention is to be given to the column headed “Document number of goods which this sample represents.”[.]

(b) The total of the items listed in [subsection] (a) [of this Section] **above** are to be entered on the control sheet.

(c) If any alcoholic beverages received cannot be definitely identified with the number of a warehouse receipt, receipt, certificate, contract, agreement, or other document of which the licensee is the owner and in control of at the time of receiving such alcoholic beverages, a complete detailed explanation must be attached to the schedule, giving the name, address, and license number of the person from whom the alcoholic beverages were received.

[18:3-10.10 Procedure where statements disagree

18:3-10.11 through 18:3-10.12 (Reserved)]

SUBCHAPTER 11. RULES AND INSTRUCTIONS CONCERNING PUBLIC WAREHOUSE LICENSEES

18:3-11.1 Temporary storage by a [nonlicensee] **non-licensee**; tax exempt

(a) The delivery of alcoholic beverages from [without] **outside** this State into a licensed public warehouse in this State for temporary storage by any person other than the holder of a license is exempt from the alcoholic beverage tax, provided that such alcoholic beverages, when released from storage, are actually transported outside of this State by a New Jersey licensed transporter. (See N.J.A.C. 18:3-2.16[Temporary storage.])

(b) (No change.)

(c) To obtain an exemption under this section the public warehouse licensee, before effecting a release of the alcoholic beverages, is to secure and retain a written receipt signed by the licensed transporter setting forth:

1. His **or her** vehicle license number;
2. (No change.)
3. The number of cases, barrels, or other units;
- 4.-6. (No change.)

18:3-11.3 Releases to retail licensees and special permittees

(a) New Jersey public warehouse licensees are liable for the payment of the alcoholic beverage tax on alcohol or alcoholic beverages released to the holders of retail licenses or to any person not licensed in this State unless:

1. The alcoholic beverages were stored in the Federal-tax-paid section of the warehouse in the name of the retailer by the retailer or by a State licensee; [or]
 2. The alcoholic beverages are released on the written order and from the stock of a State licensee; [or]
 3. (No change.)
 4. The alcoholic beverages are released in accordance with the provisions of [Section 1 (Temporary storage) of this Subchapter] **N.J.A.C. 18:3-11.1**.
- (b) (No change.)

18:3-11.4 Releases from Federal bond for out-of-State deliveries

(a) Where the alcoholic beverages which are sought to be released from Federal bond are to be delivered to a [point] **location** outside of the State [of New Jersey], the public warehouse licensee may release such alcoholic beverages without payment of the tax to the holder of the warehouse receipt embracing the same or to his **or her** representative, provided that immediately following such release the alcoholic beverages are handed over by the public warehouse licensee to the holder of a New Jersey transportation license or special permit for immediate delivery to a [point] **location** outside the State [of New Jersey].

- (b) In all such cases, the public warehouse licensee, before effecting a release, is to secure and retain a written receipt signed by the transportation licensee or special permittee or his **or her** duly authorized representative. The receipt shall set forth:
- 1.-2. (No change.)
 3. The number of cases, barrels, or other units;
 - 4.-6. (No change.)

18:3-11.5 Losses by theft or breakage

New Jersey public warehouse licensees are to use Schedule [“]WR-4[”] to list all breakage or theft of alcoholic beverages from the Federal-tax-paid section of a warehouse, total such schedule and transmit it with each bimonthly report together with a check for the taxes shown to be due.

18:3-11.6 Number of schedules required

(a) A report consists of a control sheet supported by detailed information to be given on Schedules [“]R[”], [“]RR[”], [“]S[”], [“]T[”], or [“]WR-4[”] as the case may be.

(**Agency Note:** The text of the table below follows with additions indicated in italicized boldface **thus**; deletions indicated in brackets [thus]. Those portions of the table appearing solely in boldface **thus** are intended to be so permanently.)

NUMBER OF COPIES TO BE MADE, FILED, AND RETAINED
WHETHER OR NOT ANY BUSINESS IS TRANSACTED:

	Make	*File with Division of Taxation	**Retain in File of Licensee
Control Sheet.....	3 copies	2 copies	1 copy
Schedules [“]R[”] [“]RR[”] [“]S[”].....	3 copies	2 copies	1 copy
Schedule [“]T[”].....	4 copies	3 copies	1 copy
Schedule [“]WR[”].....	3 copies	2 copies	1 copy

*File reports with the Division of Taxation, *Alcoholic Beverage Tax Section*, [P.O.] **PO** Box [241] **264**, Trenton, [New Jersey] **NJ** 08646-**0264** on or before the 15th day of the *following* month [next following].

** (No change.)

(b) If any schedule supporting the control sheet is not required in making the report for any particular period, it is to be indicated on the control sheet by entering the word “no” thus: Schedule [“]R[”] consisting of. no.. sheets.

18:3-11.8 Schedule [“]R[”] – receipts in bond

- (a) Schedule [“]R[”] is to contain a list under separate headings of:
1. (No change.)
 2. All alcoholic beverages bottled in-bond, giving the name, address, and license number of the person for whom the alcoholic beverages were bottled.

18:3-11.9 Schedule [“]RR[”] – receipts in the Federal-tax-paid section

Schedule [“]RR[”] is to contain a list of all receipts of alcoholic beverages in the Federal-tax-paid section of the warehouse, including transfers of title within the warehouse.

- 18:3-11.10 Schedule [“]S[”] – releases for delivery in this State
- (a) Schedule [“]S[”] is to contain a list under separate headings where delivery is to a consignee located within the State [of New Jersey], of:
1. All transfers of alcoholic beverages [“]in-bond[”] including transfers of title within the warehouse;
 2. All releases of alcoholic beverages from the Federal bonded section of the warehouse; **and**
 3. (No change.)

- 18:3-11.11 Schedule [“]T[”] – releases for delivery outside this State
- (a) Schedule [“]T[”] is to contain a list under separate headings, of any delivery to a consignee located outside of the State [of New Jersey]. The list is to contain:
1. All transfers of alcoholic beverages [“]in-bond[”];
 2. All releases of alcoholic beverages from the Federal bonded section of the warehouse; **and**
 3. (No change.)
- (b) A separate Schedule [“]T[”] is to be used for each state into which deliveries were made.

18:3-11.12 Schedule [“]WR-4[”] – losses by thefts or breakage

Schedule [“]WR-4[”] is to contain a list, according to accounts, of the quantities of any alcoholic beverages broken or stolen during the reporting period.

[18:3-11.13 Procedure where statements disagree]

SUBCHAPTER 12. RULES AND INSTRUCTIONS CONCERNING
TRANSPORTATION LICENSEES AND
SPECIAL PERMITTEES TO TRANSPORT
ALCOHOLIC BEVERAGES

18:3-12.1 Taxability of deliveries

(a) A licensed transporter is entitled to exemption from tax on delivery of alcoholic beverages in this State only when the delivery from [without] **outside** this State is made by order of or to a State licensee.

- (b) (No change.)
- (c) If the licensed transporter fails to deliver all alcoholic beverages given into his **or her** custody as set forth on a waybill, bill of lading, or other evidence of delivery from a consignor [without] **outside** this State, the transporter is liable for the tax on the alcoholic beverages not delivered to the consignee within [the State of] New Jersey, unless proof is furnished satisfactory to the Director of other disposition out of the State.

(d) (No change.)

(e) Delivery of alcoholic beverages upon which the tax has not been paid or secured to governmental agencies and concessionaires in this State, renders the licensed transporter making the delivery liable for payment of the tax. (See N.J.A.C. 18:3-[3.6, Sales to government agencies.]**3.52**)

(f) The delivery of alcoholic beverages by transporters to a steamship company or to a ship at a pier in New Jersey from a consignor who is not the holder of a New Jersey license renders the transporter liable for the tax unless:

1. (No change.)
2. The alcoholic beverages are delivered under ["Cord and Seal[";
3. The alcoholic beverages are consigned to a [point] **location** outside this State.

(g) No tax imposed is payable by the holder of a special permit to transport alcoholic beverages from a licensed public warehouse or the premises of a State licensee in this State or from or between piers of import in this State to [points] **locations** outside this State, in accordance with the provisions of such permits, provided that the alcoholic beverages are actually removed from the State by the special permittee.

[18:3-12.2 Transportation through State

18:3-12.3 Consolidated reports

18:3-12.4 Delivery slips, freight bills required

18:3-12.5 Records to be kept separate]

18:3-[12.6]**12.2** Recording and reporting shipments involving more than two persons

Where a transporter transports alcoholic beverages on instructions from a person other than the consignor or consignee, the name, address, and license number of the consignor, of the consignee, and of the person from whom the instructions are received are to be set forth on the waybill, delivery ticket, invoice, and also upon the proper schedule of the transporter's report, in addition to the other detail required by the schedule.

18:3-[12.7]**12.3** Transfers from one transporter to another in course of delivery

Where transfers are made from one transporter to another transporter in the course of delivery, each transporter is to set forth on his **or her** waybill, delivery ticket, invoice, and the proper schedule of his **or her** report, the name, address, and license number of the transporter to or from whom the transfer was made, the name, address, and license number of the original consignor and the ultimate consignee, and the [place] **location** at which the transfer was made, in addition to the other detail required by the schedule.

18:3-[12.8]**12.4** Number of schedules required

(a) A report covering the transportation of alcoholic beverages consists of a control sheet supported by detailed information to be given on Schedules ["M["], ["N["], **and** ["M-N["], as the case may be.

(b) Licensees may obtain permission to attach to the report a copy of each bill of lading or waybill instead of listing each transaction on the schedule. Application for such permission is to be made in writing, stating reasons [therefore] **therefor**, and attaching a sample waybill or bill of lading. Where permission is granted in writing by the Director, such waybills or bills of lading are to be submitted in separate groups arranged alphabetically by consignees and securely attached to the schedule to which they apply.

(**Agency Note:** The text of the table below follows with additions in indicated in italicized boldface **thus**; deletions indicated in brackets [thus]. Those portions of the table appearing solely in boldface **thus** are intended to be so permanently.)

NUMBER OF COPIES TO BE MADE, FILED, AND RETAINED
WHETHER OR NOT ANY BUSINESS IS TRANSACTED:

	Make	*File with Division of Taxation	**Retain in File of Licensee
(1) By Transportation [Licenses] Licensees:			
Control Sheet.....	2 copies	1 copy	1 copy
Schedule ["M["].....	2 copies	1 copy	1 copy
Schedule ["N["].....	2 copies	1 copy	1 copy
(2) By Special Permittees			
Control Sheet.....	2 copies	1 copy	1 copy

Schedule ["M-N["]..... 2 copies 1 copy 1 copy

*File reports with the Division of Taxation, **Alcoholic Beverage Tax Section**, [P.O.] **PO** Box [241] **264**, Trenton, [New Jersey] **NJ** 08646-**0264** on or before the 15th day of the **following** month [next following].

** (No change.)

(c) If any schedule supporting the control sheet is not required in making the report for any particular period, it is to be indicated on the control sheet by entering the word "no" thus: Schedule ["M["] consisting of..no..sheets.

[18:3-12.9 Penalties for failure to file reports or pay taxes]

18:3-[12.10]**12.5** Transportation licensees; schedules required

(a) Various schedules segregated. In preparing schedules transportation licensees are to list each transaction in alphabetical order or daily sequence segregated as to Federal-tax-paid and ["in-bond["] shipments.

(b) Schedule ["M["] – alcoholic beverages transported to [places] **locations** outside the State. Schedule ["M["] is to contain a list of each shipment of alcoholic beverages transported from a [place] **location** in New Jersey to a [place] **location** outside New Jersey during the reporting period, giving the detailed information required by the schedule. A separate Schedule ["M["] is to be used for each state into which deliveries were made.

(c) Schedule ["N["] – alcoholic beverages transported into this State. Schedule ["N["] is to contain a list of each shipment of alcoholic beverages transported from a [place] **location** outside of New Jersey to a [place] **location** within New Jersey during the reporting period, giving the detailed information required by the schedule.

(d) (No change.)

18:3-[12.11]**12.6** Special permittees; Schedule ["M-N["]

(a) In preparing the schedule, special permittees are to list each transaction in alphabetical order or daily sequence segregated as to Federal-tax-paid and ["in-bond["] shipments.

(b) Schedule ["M-N["] is to contain a list of:

1. All deliveries of alcoholic beverages picked up at a [place] **location** in New Jersey and delivered to a [place] **location** outside of New Jersey;

2. All return shipments to the original sources within New Jersey from places outside of New Jersey; **and**

3. All deliveries of alcoholic beverages transported to a pier in New Jersey or from one pier to another in New Jersey for reshipment to a [place] **location** outside this State.

(c) Deliveries and returns are to be listed separately on the schedule, each group properly headed. A separate Schedule ["M-N["] is to be used for each state into which deliveries were made.

[18:3-12.12 through 18:3-12.14 (Reserved)]

SUBCHAPTER 13. SPECIAL RULES FOR PLENARY RETAIL
TRANSIT LICENSEES TO WHOM THE TAX
HAS BEEN PASSED

18:3-13.2 Sales taxable

Sales of alcoholic beverages in New Jersey by a plenary retail transit licensee are taxable. (See N.J.A.C. 18:3-1.2[, Definitions].)

[18:3-13.3 Reporting required in wine gallons

18:3-13.4 Consolidated reports]

18:3-[13.5]**13.3** Number of schedules required

(a) A tax sales report consists of a control sheet supported by detailed information to be given on Schedules ["H["], ["BW["], ["A-E["], or ["D["], as the case may be.

(**Agency Note:** The text of the table below follows with additions in indicated in italicized boldface **thus**; deletions indicated in brackets [thus]. Those portions of the table appearing solely in boldface **thus** are intended to be so permanently.)

NUMBER OF COPIES TO BE MADE, FILED, AND RETAINED
WHETHER OR NOT ANY BUSINESS IS TRANSACTED:

	Make	*File with Division of Taxation	**Retain in File of Licensee
Control Sheet.....	3 copies	2 copies	1 copy
Schedules [“]H,[“] [“]BW,[“] [“]A-E,[“] and [“]D[“].....	3 copies	2 copies	1 copy

*File reports with the Division of Taxation, *Alcoholic Beverage Tax Section*, [P.O.] PO Box [241] 264, Trenton, [New Jersey] NJ 08646-0264 on or before the 15th day of the following month [next following].

** (No change.)

(b) If any schedule supporting the control sheet is not required in making the report for any particular period, it is to be indicated on the control sheet by entering the word “no” thus: Schedule [“]H[“] consisting of.. no.. sheets.

18:3-[13.6]13.4 Schedule [“]H[“] – alcoholic beverages received in New Jersey

(a) Schedule [“]H-1[“] – alcoholic beverages received in New Jersey during the reporting period and transfers from stock maintained outside this State shall be entered on Schedule [“]H-1[“]. Schedule [“]H-1[“] is to consist of a list under separate headings, by accounts of the gallonage of alcoholic beverages:

1. Purchased and actually received by the licensee in their New Jersey commissary or for the account of the licensee in the Federal-tax-paid section of a New Jersey licensed public warehouse[;] (Do not include any returns accepted[;]);

2. Withdrawals from bond of cases stored in United States Internal Revenue or United States Customs warehouse and importations received ex-Customs at piers as set forth on Schedule [“]BW[“];

3. Transferred from stock maintained outside this State to commissary or to a New Jersey licensed public warehouse; **and**

4. (No change.)

(b) Schedule [“]H-2[“] – purchases in transit at the end of the reporting period are governed by the following:

1. Schedule [“]H-2[“] is to contain a list by accounts of all alcoholic beverages shipped to the reporting licensee before the end of the reporting period but not actually received on the licensed premises or in the Federal-tax-paid section of a New Jersey licensed public warehouse for the account of the licensee until after the end of the reporting period;

2. These items are not to be totaled or entered on the control sheet, as they will appear in Schedule [“]H-1[“] of the report for the period in which the alcoholic beverages are actually received.

(b) Schedule [“]H-4[“] is to consist of a list of the total number of gallons of returns accepted during the period from dining cars, boats, and other carriers in New Jersey. These totals are to be entered on the control sheet.

[18:3-13.7 Schedule “BW”]

18:3-[13.8]13.5 Schedule [“]A-E[“] – returns made

(a) Schedule [“]A-E[“] is to consist of a list under separate headings by accounts, giving the total for the reporting period for each account:

1. [“]Returns made[“] to State licensees at a [point] location within [the State of] New Jersey, either to their licensed premises or to a licensed public warehouse for their account;

2. [“]Returns made[“] to [points] locations outside the State [of New Jersey], whether the person to whom the alcoholic beverages were delivered was licensed or not licensed by the State of New Jersey.

(b) Returns to persons other than the actual source are to be listed in accordance with [Section 6.10 (Recording and reporting returns in State), 6.11 (Recording and reporting returns out-of-State) of this Chapter] N.J.A.C. 18:3-6.10 and 6.11.

(c) Transfers of alcoholic beverages from New Jersey commissaries or warehouses to other commissaries or warehouses at a [point] location outside the State [of New Jersey].

(d) The total of the items listed in this [Section] section are to be entered on the control sheet.

18:3-[13.9]13.6 Reporting beverages issued to New Jersey carriers

This item on the control sheet[,] is to contain the total gallonage of each type of alcoholic beverage supplied from commissaries in New Jersey to dining cars, boats, and other carriers.

18:3-[13.10]13.7 Schedule [“]D[“] – sales to consumers, breakage, thefts, inventory adjustments

(a) Schedule [“]D[“] is to consist of a list, by line item entries, of the total:

1.-2. (No change.)

3. Thefts[, and so forth]; **and**

4. Inventory adjustments[;] (This item will be used as a balancing figure and will include unidentified inventory differences).

(b) (No change.)

[18:3-13.11 Inventories

18:3-13.12 Preservation of records]

18:3-[13.13]13.8 Purchases reported; special for plenary retail transit licensees for whom the tax has been prepaid

All plenary retail transit licensees who do not operate under Interstate Commerce Commission regulations and who do not post a surety bond with [this bureau] the Director are required to purchase alcoholic beverages which have had the tax prepaid.

18:3-[13.14]13.9 Schedule [“]H[“] – alcoholic beverages received during the reporting period

Schedule [“]H[“] is an acquisition schedule on which every plenary retail transit licensee who received tax paid beverages is to enter all purchases of alcoholic beverages actually received on the licensed premises or in the Federal-tax-paid section of New Jersey licensed public warehouses for his **or her** account.

18:3-[13.15]13.10 Schedule [“]A-E[“] – returns

Schedule [“]A-E[“] is a disposition schedule on which every plenary retail transit licensee is to enter returns made to State licensees from whom the beverages were originally purchased as evidenced by an inventory credit memorandum. (See N.J.A.C. 18:3-2.20[. Inventory credit memoranda.]

18:3-[13.16]13.11 Physical inventories

(a) Physical inventories are to be taken on the last day of each reporting period even though a perpetual inventory record is maintained. All tally sheets and recapitulations are to be preserved as part of the permanent records. Such inventory records are to state:

1.-4. (No change.)

5. The number of cases, barrels, or other units of each size package; **and**

6. (No change.)

(b) (No change.)

[18:3-13.17 (Reserved)]

SUBCHAPTER 14. RULES AND REGULATIONS CONCERNING SPECIAL PERMITTEES TO SELL ALCOHOL

- [18:3-14.1 Tax rates
- 18:3-14.2 When due
- 18:3-14.3 How paid
- 18:3-14.4 Penalties
- 18:3-14.5 Records required
- 18:3-14.6 Reports – when due
- 18:3-14.7 Preservation of reports
- 18:3-14.8 Report forms
- 18:3-14.9 Reporting, required in wine gallons
- 18:3-14.10 Manner of executing reports]

18:3-[14.11]**14.1** Losses by theft, breakage, or other disposition
 (a) No deductions from taxes are permitted to be made, or credit refund claimed for taxes which have accrued or have been paid on the sale or delivery of any alcohol lost by reason of theft, breakage, or other disposition in this State, either on the licensed premises or in connection with a sale or delivery.

(b)-(c) (No change.)

18:3-[14.12]**14.2** Number of reports required
 (a) Permittees are to make an original and one copy of the control sheet and supporting schedules. The original report is to be filed with the Division of Taxation, **Alcoholic Beverage Tax Section**, [P.O.] **PO Box [241] 264**, Trenton, [New Jersey] **NJ 08646-0264**.

(b) (No change.)

Recodify existing 18:3-14.13 and 14.14 as **14.3 and 14.4** (No change in text.)

18:3-[14.15]**14.5** Schedule [“H”] – alcohol received during the reporting period
 (a) Schedule [“H”] is an acquisition schedule on which every permittee is to enter all the purchases of alcohol actually received on the licensed premises or in the Federal-tax-paid section of New Jersey licensed public warehouses for his **or her** account.

(b) (No change.)

18:3-[14.16]**14.6** Schedule [“A-E”] – returns
 Schedule [“A-E”] is a disposition schedule on which every permittee is to enter returns made to State licensees from whom the alcohol was originally purchased as evidenced by inventory credit memorandum. (See N.J.A.C. 18:3-2.20[, Inventory credit memoranda.]

[18:3-14.17 Inventories]

[APPENDIX “A” BEVERAGE TAX BUREAU REPORT FORMS PRESCRIBED BY THE DIRECTOR

- R-1 Manufacturer’s Control
- R-2 Wholesaler’s Control
- R-15 Transportation Control
- R-19 Discontinued
- R-23 Public Warehouse Control
- R-27 Plenary Retail Transit Report
- R-27 A Plenary Retail Transit Report “Tax-Paid”
- R-28 Warehouse Receipts Control
- R-37 Transportation Control Special Permittees
- R-38 Discontinued
- R-44 United States Army, Navy, and so forth
- R-48 Alcohol (SP) Control
- R-52 Discontinued
- R-5 Schedule “A”
- R-40 Schedule “B”
- R-57 Schedule “BW”

- R-41 Schedule “C”
- R-8 Schedule “D”
- R-9 Schedule “E”
- R-10 Schedule “F”
- R-12 Schedule “H”
- R-55 Schedule “J”
- R-17 Schedule “M”
- R-46 Schedule “M-N”
- R-18 Schedule “N”
- R-24A Schedule “R”
- R-24B Schedule “RR”
- R-25 Schedule “S”
- R-26 Schedule “T”
- R-29 Schedule “WR-1”
- R-30 Schedule “WR-2”
- R-31 Schedule “WR-3”
- R-32 Schedule “WR-4”
- R-45 Special Permittee’s Report
- R-3 Authorization of Agent
- M-17 Non-beverage Use]

(a)

DIVISION OF TAXATION

Gross Income Tax

Proposed Readoption with Amendments: N.J.A.C. 18:35

Proposed New Rule: N.J.A.C. 18:35-2.9

Authorized By: Dennis Shilling, Acting Director, Division of Taxation.
 Authority: N.J.S.A. 54:50-1, 54A:9-8.2, and 54A:9-17(a).
 Calendar Reference: See Summary below for explanation of exception to calendar requirement.
 Proposal Number: PRN 2015-122.

Submit written comments by December 4, 2015, to:

Elizabeth J. Lipari
 Administrative Practice Officer
 Division of Taxation
 Director’s Office
 50 Barrack Street
 PO Box 240
 Trenton, NJ 08695-0240
 E-mail: Tax.RuleMakingComments@treas.nj.gov

The agency proposal follows:

Summary

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, the gross income tax rules at N.J.A.C. 18:35 will expire on August 21, 2015. As the Division of Taxation (Division) has filed this notice of readoption with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to February 17, 2016, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division of Taxation has reviewed these rules and has determined that, as amended, as set forth and summarized herein, they are necessary, reasonable, and proper for the purpose for which they were originally promulgated.

The New Jersey Gross Income Tax Act, N.J.S.A. 54A:1-1 et seq., was approved on July 8, 1976 as P.L. 1976, c. 46, and was applicable on July 1, 1976 (this act has been amended and supplemented over time). The gross income tax rules, N.J.A.C. 18:35, have been updated and revised periodically. Since the last readoption, the rules have been amended to implement P.L. 2011, c. 60, enacted as N.J.S.A. 54A:3-9. This legislation established the alternative business income calculation, which affords the ability to utilize and carry forward business losses and consolidate income and/or losses from four gross income tax categories.

The amendments proposed as part of this rulemaking will increase ease of use and consistency throughout the chapter. Certain language, phrasing, and formatting inconsistencies have been addressed throughout.