APRIL 2012

TAX TOPICS

SALES AND USE TAX

Texas Comptroller of Public Accounts

Monthly Reporting Requirements for Alcohol Distributors

Filing Requirements

The 82nd Texas Legislature passed House Bill 11, effective Sept. 1, 2011. It requires brewers, manufacturers, distributors and package store local distributors to file a monthly report with the Comptroller showing monthly net sales to retailers.

The report must be filed electronically, using the Comptroller's Retail Inventory Tracking System (RITS). Each report must include all sales from each outlet and each outlet must be identified by a separate Texas Alcoholic Beverage Commission (TABC) permit or license number.

As required by Tax Code Section 151.462, the report must include the:

- Seller's TABC permit or license number for each separate location making a retail sale
- Retailer's name and physical address (street name and number, city, state and ZIP)
- Retailer's taxpayer number assigned by the Comptroller
- Beverage class of the product sold to the retailer (DS, W, B, ML only)
- Universal Product Code (UPC) of the product sold to the retailer
- Brand name of the product sold to the retailer
- Container size of the product sold to the retailer
- Number of containers sold to the retailer for each brand, UPC and container size
- Total selling price of all containers listed on each report line (not the per unit price)

RITS is located under Other Electronic Reporting Tools at *www.comptroller.texas.gov/webfile/*. The visual guide at *http://comptroller.texas.gov/taxinfo/alcohol/RITSvisualguide.pdf* covers site navigation and *http://comptroller.texas.gov/taxinfo/alcohol/RITSdatalayout.pdf* covers the data layout of the report.

Enforcement Actions for Failure to Timely File

House Bill 11 provides for civil and criminal penalties, the suspension or cancellation of permits and administrative action by the TABC if a reporting entity fails to file complete monthly reports by the 25th of the following month. Reports that do not include all the required information will be considered incomplete and subject to the civil and criminal penalties and other enforcement action noted below.

Beginning with the March 2012 report, due on April 25, 2012, the Comptroller will impose penalties when complete monthly reports are not timely filed. Additionally, the Comptroller may suspend or cancel permits, advise the TABC of failures to file and seek criminal penalties.

FOR MORE INFORMATION, VISIT OUR WEBSITE AT **Comptroller.Texas.Gov.**

TO RECEIVE TAX HELP, SEE **comptroller.texas.gov/taxhelp**

OR CALL **1-800-252-5555.**

This publication is intended as a general guide and not as a comprehensive resource on the subjects covered. It is not a substitute for legal advice.

Texas Comptroller of Public Accounts

FOR MORE INFORMATION, VISIT OUR WEBSITE AT **Comptroller.Texas.Gov.**

TO RECEIVE TAX HELP, SEE **comptroller.texas.gov/taxhelp**

OR CALL **1-800-252-5555.**

MONTHLY REPORTING REQUIREMENTS FOR ALCOHOL DISTRIBUTORS

Civil Penalties

Two types of civil penalties will be imposed if either a report is filed after the due date (25th of the following month) or if a report is determined to be incomplete:

- A $50 penalty will be imposed under Tax Code Section 151.703(d) for each report filed after the due date.
- Tax Code Section 151.468(b) requires the Comptroller to impose a civil penalty between $25 and $2,000 per day. The Comptroller has determined that the current civil penalty will be $500 for the first day and $25 per day thereafter until a complete report is filed. **If the penalty remains outstanding, the Comptroller may file a lien or freeze assets to secure payment of the unpaid penalty.**

  For example, a report that is one day late is subject to:

Daily Civil Penalty	$500
Late Filing Penalty	$ 50
Total penalty for report filed one day late	$550

For each additional day a complete report remains unfiled, a $25 daily civil penalty will accrue.

These penalties will be imposed on reporting entities that have not filed their Monthly Alcoholic Beverage Distributor Report by the due date, starting with the March 2012 report due April 25, 2012.

Criminal Penalties

Pursuant to Tax Code Section 151.709, a reporting entity may be subject to a criminal penalty for refusing to furnish a report. A decision to pursue criminal penalties against a reporting entity will be made on a case-by-case basis.

Suspension or Cancellation of Permits

Tax Code Section 151.467 allows the Comptroller to suspend or cancel permits. The Enforcement Division will determine if and when it is necessary to suspend or cancel permits on a case-by-case basis. If a determination is made that it is necessary to suspend or cancel a permit, in accordance with Tax Code Section 151.203, the reporting entity will be provided with a 20-day written notice to show cause at a hearing why a suspension or cancellation should not take place.

Administrative Action by the Texas Alcoholic Beverage Commission

Tax Code Section 151.469 provides that the Comptroller may notify the TABC of a reporting entity's failure to file a report. A decision to notify TABC will be made on a case-by-case basis. In the event the Comptroller determines such a notification to be necessary, the TABC may take administrative actions against the reporting entity under the Alcoholic Beverage Code.

If you have questions regarding filing a report, please contact us at 512-463-0959, 1-800-531-5441 extension 3-0959 or *HB11@cpa.texas.gov*. If you have questions regarding the enforcement sanctions that may be used to ensure timely filing, please contact us at 1-800-252-8880.

The Texas Comptroller of Public Accounts is an equal opportunity employer and does not discriminate on the basis of race, color, religion, sex, national origin, age, or disability in employment or in the provision of any services, programs or activities.

In compliance with the Americans with Disabilities Act, this document may be requested in alternative formats by calling **1-800-252-5555**, or by sending a fax to **512-475-0900**.

Sign up to receive email updates on the Comptroller topics of your choice at **comptroller.texas.gov/subscribe**.