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## A Legislator's Guide to Taxation

### ABC Taxes

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#### Overview

Alcoholic beverage taxes are fairly unique to the Commonwealth's tax structure. Unlike most taxes, they are not levied for the sole purpose of generating revenue. Instead, alcoholic beverage taxes are merely one component of the Commonwealth's overall alcoholic beverage control (ABC) policy, which has three goals: service, control, and revenues.

Revenues are generated through retail sales, license fees, general sales taxes, sales taxes on distilled spirits, and excise taxes on wine and beer. Virginia's alcohol sales generated \$464 million in tax revenue in fiscal year 2018, roughly two percent of the general fund.<sup>1</sup> Significant revenues were also distributed to localities and for the study and treatment of alcoholism. The Code of Virginia dedicates two-thirds of net ABC profits and 44 percent of the wine liter tax to localities to help meet their budget needs.<sup>2</sup>

In 2018, the Commonwealth's ABC administration changed as the ABC Department became the ABC Authority. As an authority, it has greater independence to conduct its own affairs, but its taxing power did not change.

#### History

Virginia's ABC taxes began with the end of prohibition in 1933. The Virginia Alcoholic Beverage Control Act was passed shortly thereafter, which created the Alcoholic Beverage Control Board (ABC Board).<sup>3</sup> The ABC Board was given the exclusive right to sell liquor and to regulate the hours and conditions of alcoholic beverage sales. The Act also allowed private licensees to sell beer and wine. Tax revenues collected were deposited into the state's general fund, with a portion of net profits distributed to localities on the basis of population.<sup>4</sup>

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<sup>1</sup> Virginia Department of Taxation, *Annual Report: Fiscal Year 2018* (2019).

<sup>2</sup> Va. Code §§ 4.1-234 and 4.1-235.

<sup>3</sup> Chapter 94, Acts of Assembly of 1934.

<sup>4</sup> *Id.*

Virginia's 1934 liquor control plan imposed low taxes to discourage bootlegging.<sup>5</sup> Originally, taxes were limited to a state and local license tax and an excise tax on beer.<sup>6</sup> Virginia did not impose a state excise tax on wine or distilled spirits until 1980.<sup>7</sup> Tax increases on alcoholic beverages have been infrequent in the Commonwealth. In 1982, the state tax on distilled spirits was increased from 15 percent to 20 percent. In 1986, fees charged for licenses to sell alcoholic beverages were increased slightly. In 1988, the General Assembly transferred the administration and collection of the beer and beverage excise tax from the Department of Taxation to the ABC Department to centralize ABC tax collection procedures. In 1992, the sales and use tax exemption for alcoholic beverages sold in Virginia ABC stores was eliminated.

In 2015, the General Assembly passed legislation to transform ABC from a department into an authority, which became effective on July 1, 2018.<sup>8</sup> The law changed the administration and structure of the agency—for instance, it exempted the authority from public procurement laws and personnel laws and provided that ABC Board members may be removed only for cause—but it did not alter alcohol-related taxes.<sup>9</sup> Future references will be to the ABC Authority.

## Revenue Collection and Tax Rates

ABC taxes are a small percentage of total state revenues. In part, this reflects the fact that ABC taxes are not only concerned with raising revenue. The ABC Authority's mission is "to generate a reliable stream of revenue for Virginia and promote public safety through the responsible sale and regulation of alcoholic beverages."<sup>10</sup> In fiscal year 2018, ABC taxes generated \$419 million in total revenues, excluding the amount attributable to the ordinary sales tax.<sup>11</sup> This equals roughly 0.9 percent of the Commonwealth's total revenue collections and 2.1 percent of the general fund.<sup>12</sup>

The following table shows five categories of revenues collected by the ABC Authority. In fiscal year 2018, it collected \$464.7 million.<sup>13</sup> This figure includes ABC profit transfers (retail sales and licensing fees), state taxes (on distilled spirits and wine sold in ABC stores), the general sales tax, the wine liter tax, and the malt beverage tax.

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<sup>5</sup> Unlike most taxes, ABC taxes from the beginning were concerned with priorities aside from generating revenue, like discouraging excess consumption and bootlegging. See *Report of the Liquor Control Committee* (Senate Document No. 5, December 1933) ("Temperance, social betterment, and respect for law should be the prime objectives of any system of liquor control. Taxes should be levied as a method of promoting social control and not primarily raising State or local revenues.").

<sup>6</sup> The original tax rate on beer was \$2.75 per 31-gallon barrel on manufacturers and bottlers and a one-cent (\$0.01) tax on beverages in 12-ounce bottles.

<sup>7</sup> Chapter 624, Acts of Assembly of 1980.

<sup>8</sup> Chapters 38 and 730, Acts of Assembly of 2015.

<sup>9</sup> The legislation did not amend Article 3 (§ 4.1-230 et seq.) of Chapter 2 of Title 4.1, which governs ABC taxes.

<sup>10</sup> Virginia ABC, *2018 Annual Report* (2019).

<sup>11</sup> *Id.*

<sup>12</sup> Virginia Department of Taxation, *Annual Report: Fiscal Year 2018* (2019).

<sup>13</sup> Virginia ABC, *2018 Annual Report* (2019).



## ABC Revenues, Fiscal Years 2014 to 2018 (\$)

Revenue Source	FY 18	FY 17	FY 16	FY 15	FY 14
ABC profit transfers (retail sales and licensing fees)	179,190,609	171,154,888	164,888,413	152,037,837	139,987,344
State taxes (taxes on distilled spirits and wine sold in ABC stores)	160,909,741	154,446,630	147,812,928	139,832,186	132,043,584
General sales tax	45,357,513	43,343,103	41,343,208	39,199,161	36,879,111
Wine liter tax	37,649,424	36,801,248	36,208,113	35,249,206	34,608,741
Malt beverage tax	41,633,945	42,818,745	43,181,973	42,948,462	43,341,595
<b>Total</b>	<b>464,741,232</b>	<b>448,564,614</b>	<b>433,434,635</b>	<b>409,266,851</b>	<b>386,860,375</b>

Source: *Virginia ABC, 2018 Annual Report (2019)*.

The ABC Authority, which operates 370 retail stores across the Commonwealth, administers and collects four types of state taxes on alcoholic beverages (in addition to the general sales tax):

1. Liter tax on wine (40 cents (\$0.40) per liter sold);<sup>14</sup>
2. Distilled spirits tax (20 percent of the sales price on distilled spirits and four percent of the sales price on wine from state vineyards sold through state stores);<sup>15</sup>
3. License tax (amount varies depending on type of license);<sup>16</sup> and
4. Beer and beverage excise tax (\$7.95 per 31-gallon barrel; two cents (\$0.02) per bottle of seven ounces or less; 2.65 cents (\$0.0265) per bottle of seven to 12 ounces; and 2.22 mills (\$0.00222) per ounce for bottles of more than 12 ounces).<sup>17</sup>

Beer and most wine excise taxes are collected by wholesalers at the time of sale to retail licensees, so they are not paid directly by retail customers.<sup>18</sup> Taxes on distilled spirits and wine sold in ABC stores are collected by ABC at the time of retail sale in ABC stores.<sup>19</sup>

<sup>14</sup> Va. Code § 4.1-234. The wine liter tax was enacted in 1980 and combined the following previous taxes: the state wine tax, the state sales tax on wine, and the ABC Department's markup on wine sold through distributors. Pursuant to subsection B of § 4.1-235 of the Code of Virginia, 44 percent of revenue from the tax is distributed to localities in proportion to population, 12 percent is retained to defray ABC operating expenses, and the remainder accrues to the general fund. Furthermore, any revenue attributable to sales by a farm winery is deposited in the Virginia Wine Promotion Fund.

<sup>15</sup> Va. Code § 4.1-234.

<sup>16</sup> Va. Code § 4.1-231; local governments can impose local license taxes under Va. Code § 4.1-233.

<sup>17</sup> Va. Code § 4.1-236.

<sup>18</sup> Va. Code §§ 4.1-235 and 4.1-236.

<sup>19</sup> Va. Code § 4.1-235.



In addition to its taxing authority, ABC generates revenue from retail sales and license fees. ABC can impose a reasonable markup on the sale price for alcoholic beverages.<sup>20</sup> The total price charged in Virginia for distilled spirits is the delivered cost plus (i) a reasonable markup, (ii) 20 percent state tax, and (iii) 5.3 percent sales tax (6.0 percent in certain localities). The ABC Authority is responsible for setting the retail prices of the various classes, varieties, and brands of alcoholic beverages sold in government stores. Differences in the cost of operating stores and in market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores.<sup>21</sup>

### **Disposition of ABC Tax Revenues and Net Profits**

As noted above, the ABC Authority generates revenue through sales, license fees, and taxes. In fiscal year 2018, profits from ABC sales and license fees were \$179 million. The 2018 Appropriation Act transferred \$65 million to the Department of Behavioral Health and Developmental Services (DBHDS) for the care, treatment, study, and rehabilitation of alcoholics.<sup>22</sup> The remaining \$113.8 million was transferred to the general fund.<sup>23</sup> Each year, two-thirds of the net profits that are transferred to the general fund are then distributed to localities on the basis of population.<sup>24</sup>

Regarding the disposition of tax revenues, beer and distilled spirits taxes are transferred to the general fund and are not redistributed, totaling roughly \$202 million in 2018. Wine liter taxes are more complex. Forty-four percent of wine liter tax revenues are distributed to localities in proportion to population, 12 percent is retained to defray ABC operating expenses, and the remainder accrues to the general fund.<sup>25</sup> Furthermore, the portion of wine liter tax collected that is attributable to sales by a farm winery is deposited in the Virginia Wine Promotion Fund.<sup>26</sup> Additionally, each year the General Assembly sets aside a portion of wine liter tax revenues for alcohol rehabilitation services. The 2018 Appropriation Act adjusted the wine tax by transferring \$9 million to be used for the expenses incurred for care, treatment, study, and rehabilitation of alcoholics by DBHDS.<sup>27</sup> In fiscal year 2018, the wine liter tax generated \$37 million.

### **Comparison with Other States**

Compared with other states, Virginia has relatively average taxes on beer and high taxes on wine. For beer, Virginia imposes a tax of 26 cents (\$0.26) per gallon.<sup>28</sup> Beer excise taxes in other states range from a low of two cents (\$0.02) per gallon in Wyoming to a high of \$1.07 in Alaska. Nineteen states have a higher beer tax than Virginia. Virginia's tax rate for wine is \$1.51 per gallon. Only five states have wine excise tax rates that exceed Virginia's. Wine taxes vary widely from a low of \$0.20 per gallon in California to \$2.25 in Florida.

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<sup>20</sup> *Id.*

<sup>21</sup> Va. Code § 4.1-119.

<sup>22</sup> See Item 3-1.01 of Chapter 854, Acts of Assembly of 2019.

<sup>23</sup> *Virginia ABC, 2018 Annual Report* (2019).

<sup>24</sup> Va. Code § 4.1-117.

<sup>25</sup> Va. Code § 4.1-234.

<sup>26</sup> Va. Code § 4.1-235.

<sup>27</sup> Item 3-1.01 of Chapter 780, Acts of Assembly of 2016.

<sup>28</sup> Va. Code § 4.1-236.

Virginia is one of 17 states in which state alcoholic beverage control agencies have a monopoly over selling at least one category of alcoholic beverages. In most states, including Virginia, this monopoly extends only to the sale of liquor. Only Pennsylvania, Utah, and Wyoming extend the monopoly to wine. No state has a government monopoly on the sale of beer. Current information on all 50 states' alcohol tax rates can be found on the Federation of Tax Administrators website for [beer](#), [wine](#), and [distilled spirits](#).<sup>29</sup>

### Issue: Privatization

Beginning in the 1990s, some legislators sought to rescind the state liquor franchise and replace it with privately operated retail stores.<sup>30</sup> The last time legislation was introduced to privatize ABC was in 2011. The bill would have auctioned off licenses to sell alcohol to private stores. A fiscal impact statement prepared by the Department of Planning and Budget projected that annual revenues would increase by \$13 million as a result of increased sales volume and decreased state operating costs.<sup>31</sup> However, the bill did not pass.

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<sup>29</sup> Federation of Tax Administrators, *State Tax Rates on Beer* (2019) <https://www.taxadmin.org/assets/docs/Research/Rates/beer.pdf>; Federation of Tax Administrators, *State Tax Rates on Wine* (2019) <https://www.taxadmin.org/assets/docs/Research/Rates/wine.pdf>; Federation of Tax Administrators, *State Tax Rates on Distilled Spirits* (2019) <https://www.taxadmin.org/assets/docs/Research/Rates/liquor.pdf>.

<sup>30</sup> See *A Study of Virginia's Existing Liquor Distribution System*, Senate Document No. 35 (1993), <https://rga.lis.virginia.gov/Published/1993/SD35>.

<sup>31</sup> HB 2456 Fiscal Impact Statement (2011), <http://lis.virginia.gov/cgi-bin/legp604.exe?111+oth+HB2456F122+PDF>.

