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3 **1. Role of the Operator**

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5 1.1 The operator and the operator's employees shall ensure that,

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7 a. Before the end of the customer's first visit to the premises for the
8 purpose of making beer or wine, the operator transfers to the customer
9 ownership of the ingredients being purchased by the customer from
10 the operator to make the beer or wine;

11 b. The customer combines or mixes his or her beer wort, wine juice, wine
12 juice concentrate or other juice or juice concentrate with such of the
13 customer's other ingredients as the customer wishes to add, except
14 that the operator or the operator's employees;

15 i. May add finings or stabilizing agents to the customer's other
16 ingredients;

17 ii. May operate equipment to filter and add carbonation to the
18 customer's ingredients, and

19 iii. May rack the customer's beer or wine;

20 1.2 The customer adds to the beer wort, wine juice, wine juice concentrate or
21 other raw material of beer or wine any yeast or enzymes required to begin
22 the fermentation process;

23 1.3 The customer places his or her beer or wine in containers;

24 1.4 The customer labels, corks, caps, shrink wraps or packages his or her beer
25 or wine;

26 1.5 The customer removes his or her beer or wine from the premises
27 immediately after it has been placed in containers.

28 1.6 Except as provided in clause (1.1) (b), the operator and the operator's
29 employees and agents shall not carry out an operation mentioned in
30 subsection (1.1) on behalf of a customer

31 1.7 If a customer is in need of assistance to carry out an operation that the
32 customer is required to carry out under this section, the operation may be
33 carried out by an assistant to the customer as long as the customer is on
34 the premises at the time it is carried out

35 1.8 The operator is not in breach of this section if an assistant to a customer
36 carries out an operation on behalf of the customer in accordance with
37 subsection 1.7.

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39 **2 Prohibitions of the Operators**

- 40 2.1 The operator and the operator's employees and agents shall not,
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42
43 a. Produce or manufacturer on the premises beer or wine for sale or
44 exchange;
45 b. Keep for sale or exchange, offer for sale or exchange, sell or exchange
46 beer or wine on the premises, regardless of who the beer or wine belongs
47 to or who made it;
48 c. Give liquor to any person on the premises;
49 d. Permit on the premises the exchange, sale or giving of beer or wine made
50 by customers.
51 e. The operator or the operator's employees may give a customer a sample
52 of the customer's beer or wine after fermentation, carbonation or filtration
53 has occurred, as long as the sample is no larger than 170 millilitres and is
54 consumed on the premises.
55 f. Permit anyone other than a customer to make beer or wine on the
56 premises;
57 g. Deliver a customer's beer or wine;
58 h. Store or permit the storage on the premises of beer or wine that has been
59 placed in containers;
60 i. Remove or permit the removal of carboys being used in the making of
61 beer or wine from the premises; or
62 j. Bring or permit to be brought onto the premises liquor to be added to beer
63 or wine or to ingredients for making beer or wine.
64 k. The operator or any of the operator's employees may make beer or wine
65 on the premises.
66 l. The operator or the operator's employees from carrying the customer's
67 beer or wine out of the premises to a waiting vehicle.
68
69 2.2 The operator and the operator's employees shall not, and shall ensure
70 that the customer does not, place the customer's ingredients in a carboy
71 that contains ingredients belonging to any other customer.
72
73 2.3 The operator shall retain for at least one year,
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76 a. Records of the operator's purchases of ingredients; and
77 b. A copy of each invoice prepared under section 3.
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3 Invoice Requirements

- 83
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85 3.1 Before a person begins to make beer or wine on the premises, the
86 operator shall prepare and provide to the person making the beer or wine
87 an invoice setting out,
88 c. The name, address and telephone number of the operator;
89 d. The name, address and telephone number of the person making the
90 beer or wine;
91 e. Whether beer or wine is being made and the quantity;
92 f. The ingredients provided to the person making the beer or wine and
93 the price charged for the ingredients;
94 g. The services provided to the person making the beer or wine and the
95 price charged for the services;
96 h. The date on which the making of the beer or wine is to begin;
97 i. The amount of payment received from the person making the beer or
98 wine; and
99 j. A notice to the person making the beer or wine that it must be for the
100 person's personal use only.
101
102 3.2 For greater certainty, subsection 3.1 applies whether the person making
103 the beer or wine is a customer or is the operator or one of the operator's
104 employees.
105
106 3.3 The operator shall ensure that each carboy being used for the making of
107 beer or wine on the premises has attached to it a tag bearing the number
108 of the invoice provided to the person whose ingredients have been placed
109 in the carboy and, where applicable, the date on which enzymes or yeast
110 were added to beer wort, wine juice, wine juice concentrate or other juice
111 or juice concentrate in the carboy.
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4 Advertisement

- 114
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116
117 4.1 The operator shall follow the guidelines as established by the industry with
118 respect to advertising beer or wine, the availability of beer or wine, the price
119 on a per bottle basis for making beer or wine, or any promotions relating to
120 the making of beer or wine.
121
122

- 123 4.2 In an advertisement, the operator may,
124 k. State that the facility is where a customer where equipment is available
125 for the making of beer or wine is provided for customers for personal
126 consumption and not for commercial use;
127 l. State the name of the premises and its address;
128 m. Provide a list of the goods and services available and their prices;
129 n. Advertise the availability of various types of materials, beer wort, wine
130 juices, wine juice concentrates or other juices or juice concentrates.
131
- 132 4.3 The operator shall ensure that no advertisement used by the operator,
133 a. Promotes immoderate consumption;
134 b. Indicates that beer or wine is available for sale or exchange on the
135 premises.
136 c. Ensure that no customer advertises, on the premises beer or wine
137 for exchange.
- 138 4.3 The operator in order to be consistent with the principles of depicting
139 responsibility in use or service must do the following;
140
141 A. Is consistent with the principles of depicting responsibility in use or
142 service of liquor:
143 i. Advertising cannot promote excessive consumption or depict
144 excessive or prolonged consumption, or excessive quantity
145 of liquor, or occasions of use or drinking situations, which are
146 likely to involve risk to those present. An example of
147 excessive consumption, which cannot be implied, is
148 consumption of more than three drinks on an occasion.
- 149 4.4 Promotes a general brand or type of liquor and not the consumption of
150 liquor in general:
151 a. Advertisements may not promote the merits of consumption.
152 b. Advertisements may not make claims, direct or implied, of
153 healthful, nutritive, curative, dietetic, stimulative or sedative
154 benefits of the liquor product. However, the actual attributes of the
155 liquor product which are commonly accepted by recognized
156 authorities (such as the Centre for Addiction and Mental Health,
157 Health Canada) may be stated in the advertisement provided
158 the attributes relate to the particular brand or type of liquor and
159 does not promote the consumption of liquor in general.
- 160 4.5 Does not imply that consumption of liquor is required in obtaining or
161 enhancing;
162 a. Social, professional or personal success;
163 b. Athletic prowess;
164 c. Sexual prowess, opportunity or appeal,
165 d. Enjoyment of any activity;

- 166 e. Fulfillment of any goal, or
167 f. Resolution of social, physical or personal problems.
168 g. Endorsement of a liquor product by well-known personalities
169 shall not directly or indirectly suggest that the consumption of
170 any liquor has contributed to the success of their particular
171 endeavours.
- 172 4.6 Does not appeal, either directly or indirectly, to persons under the legal
173 drinking age, or is not placed in media that are targeted specifically at
174 people under the age:
- 175 a. No well-known personality may be used in liquor advertising
176 who may reasonably be expected to appeal, either directly or
177 indirectly, to persons under the legal drinking age if the
178 advertisement contains any direct or indirect endorsement of
179 liquor or the consumption of liquor. This may include historical,
180 political, religious and cultural figures as well as celebrities and
181 sports figures.
182 b. Children’s songs, fictional characters, etc., or the imitation
183 thereof, may not be used in advertising;
184 c. Donate corporate or brand identified scholarships or prizes to be
185 awarded to post secondary school students.
186 d. The use of a medium that is targeted at persons under the legal
187 drinking age is not permitted. For example, advertisements may
188 not appear in magazines targeted specifically at people under
189 the legal drinking age.
190 e. Advertisements should not be placed within areas, which are
191 specifically targeted at persons under the legal drinking age if
192 the advertisement directly or indirectly endorses liquor or the
193 consumption of liquor.
194 f. Songs, which have a specific appeal to persons under the legal
195 drinking age, shall not be used for advertising.
196 g. Portrayals of well known personalities which would generally be
197 prohibited due to the potential that the personality may appeal to
198 persons under the legal drinking age may be used provided the
199 use of the personality is incidental to the advertisement and the
200 use of the personality does not make the advertisement
201 appealing to persons under the legal drinking age
202
- 203 4.7 Does not associate consumption of liquor with driving a motorized vehicle,
204 or with any activity that requires care or skill or has elements of danger;
- 205 a. Persons should not be depicted with liquor prior to, in
206 anticipation of, or while engaging in any activities, which
207 involves care and skill or elements of physical danger. Some
208 examples, of activities, which are considered to be activities,
209 which involve care and skill or elements of physical danger are;

- 210 skiing, swimming, hockey, child care; hunting; football,
211 baseball, working; volleyball, racing; studying, boating, carving,
212 surfing;
213 b. Consumption should not be associated with the performance of
214 any aspect of any activity, which calls for a high degree of skill
215 if imitation by the unskilled or underage could be considered
216 dangerous.
217 c. The depiction of an activity which involves care and skill or
218 elements of physical danger must clearly establish that the
219 individual shown with liquor are merely spectators or have
220 completed that activity for the day and are then depicted with
221 the product.
222 d. Vehicles involved in races, competitions, contests, exhibitions,
223 or public displays may be used as a medium for liquor
224 advertising; however, graphics of the product and specific
225 references to alcohol content are not permitted.

- 226 4.8 Does not depict motorized vehicles in motion in advertising showing
227 consumption of liquor, unless the motorized vehicle is a form of public
228 transportation;
229 a. Persons should not be depicted with liquor prior to in
230 anticipation of or while operating a motorized vehicle. There
231 cannot be any indication, direct or implied, that an individual
232 who has been depicted with liquor will then be operating a
233 motorized vehicle.
234 b. Motorized vehicles should not be shown in motion in an
235 advertisement, which includes a consumption scenario unless
236 the vehicle is a form of public transportation. Parked vehicles, or
237 vehicles such as buses, trains, planes, taxicabs, in motion, may
238 appear in advertisements with consumption scenarios.
239 c. Motorized vehicles involved in races, competitions, contests,
240 exhibitions, or public displays may be used as a medium for
241 liquor advertising, however, graphics of the product and specific
242 references to alcohol content are not permitted.

- 243 4.9 Does not suggest any illegal sale, illegal purchase, illegal gift, illegal
244 handling or illegal consumption of liquor.
245 a. An advertisement may not depict an operator gifting any patron
246 with liquor, or an individual gifting a person under the legal
247 drinking age with liquor.
248 b. The illegal handling of liquor may not be depicted. For
249 example, smuggling liquor across a border may not be
250 depicted.
251 c. The consumption of liquor may not be depicted or implied in
252 settings where this would not be legal in Quebec.

253 d. Liquor may be depicted in a setting where consumption is not
254 permitted provided it is clearly a beauty shot with no evidence
255 of people or of previous or imminent consumption.
256

257 4.10 The operator shall not offer a gift or the opportunity to receive a gift that
258 requires the purchase of liquor.

259 a. Offers linked to a single purchase of services or ingredients are
260 permitted but not linked to multiple purchases such as a
261 frequent buyer's club.

262 4.11 The operator shall ensure that no customer advertises, on the premises,
263 beer or wine for sale or exchange.
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265

266 **5 Legal Age**

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269 5.1 To prevent a person under the age of 19 from making beer or wine on the
270 premises, the operator shall ensure that an item of identification from every
271 person who is apparently under the age of 19 is inspected and that the
272 person is not permitted to make beer or wine on the premises unless the
273 item of identification indicates that the person is at least 19 years old.

274 5.2 The item of identification must include a photograph of the person and state
275 his or her date of birth and must reasonably appear to have been issued by
276 a government.
277

278 5.3 The following types of identification are acceptable:
279

280 1. A driver's licence issued by the Province of Ontario with a photograph of
281 the person to whom the licence was issued.
282

283 2. A Canadian passport.
284

285 3. A Canadian citizenship card with a photograph of the person to
286 whom the card was issued.
287

288 4. A Canadian armed forces identification card with a photograph of
289 the person to whom the card was issued.
290

291 **6 Excise Requirements**

292

293 6.1 Operators are to follow Circular 212-10 as stated in Appendix A (in both
294 French and English).

295 6.2 Operators are to follow Notice 91 as stated in Appendix B (in both French
296 and English).

297

298 **7 Definitions**

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301 "carboy" means a fermentation vessel where enzymes or yeast may
302 be added to cause fermentation of beer wort, wine juice, wine
303 juice concentrate or other juices or juice concentrates;

304

305 "container" means a bottle, can, cask or any other receptacle
306 into which beer or wine may be placed following completion of the
307 brewing or fermentation process;

308

309 "customer" means an individual who pays to make beer or wine on
310 the licensed premises, but does not include the licensee or an
311 employee of the licensee;

312

313

314 "operator" means the owner of a Uvint or U brew.

315

316 "premise" means a facility where an individual can make their own
317 beer or wine for personal consumption and not for commercial use.
318 This includes the making of beer or wine.

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APPENDIX A - F

8 CIRCULAIRE DA 212-10

septembre 2002

9 LIGNES DIRECTRICES CONCERNANT LES CENTRES DE BRASSAGE LIBRE-SERVICE

La présente circulaire ne remplace pas les dispositions figurant dans La *Loi sur l'accise* ou dans les règlements qui en découlent. Elle vous est fournie à titre documentaire. Comme elle ne traite peut-être pas de tous les aspects de vos activités particulières, vous pourriez consulter la Loi ou le règlement pertinent ou communiquer avec un bureau d'accise - TPS de Revenu Canada pour obtenir de plus amples renseignements.

L'article 172 de La *Loi sur l'accise* permet la production, en franchise des droits d'accise, de la bière à des fins non commerciales. Les lignes directrices ci-dessous visant à informer les exploitants de centres de brassage libre-service de leurs obligations découlant des articles 11 et 172 de la *Loi sur l'accise*. Les exploitants doivent se rappeler que l'observation de ces lignes directrices ne les exonère pas de l'obligation de respecter les exigences provinciales et municipales ou encore les autres exigences fédérales.

Les définitions et les interprétations du Ministère visant à expliquer des termes particuliers se trouvent à la fin de la présente circulaire.

10 RENVOIS

Loi sur l'accise, articles 4, 11, 118, 172, 176 et 179

Article 11 "Quiconque importe, fait ou a en sa possession ou garde un alambic, serpent, cuve-matière, tonneau à fermentation, appareil de distillation, de rectification ou de brassage, presse à tabac, ou Moulin pour hacher ou moulin le tabac, doit, après que cet article est entré en sa possession, et dans chaque année subséquente, le ou avant le 10 avril, en donner immédiatement au receveur de la division d'accise dans laquelle se trouve cet article, une liste, une description et un rapport complets et détaillés, de la même nature et sous la même forme que ceux qui sont exigés par la présente loi dans le cas d'une demande de licence pour l'usage d'un tel article."

Paragraphe 172(1) "Nonobstant les articles 170 et 171, les droits d'accise imposés par ces articles ne peuvent être prélevés ni perçus sur la bière fabriquée ou brassée par une personne pour son usage personnel ou celui de sa famille ou pour être donnée gratuitement et non pour la vente ni un usage commercial."

Paragraphe 172(2) "Tout appareil utilisé dans le seul but de fabriquer ou de brasser de la bière dans les circonstances visées au paragraphe (1) est soustrait aux dispositions de la présente loi relatives à la possession d'appareils de brassage par des personnes qui ne détiennent pas une licence."

11 OBSERVATION

1. Avant de lancer leur entreprise, les exploitants de centres de brassage libre-service doivent en informer officiellement, par écrit, le bureau régional d'accise et décrire les activités qu'ils comptent exercer (à savoir les principaux responsables en cause, le lieu de l'entreprise et les services fournis).
2. En outre, les exploitants de centres de brassage libre-service doivent remplir en duplicata la formule E111, *Désignation des vaisseaux et ustensiles*, et la présenter à leur bureau régional d'accise. Cette formule énumère tous les vaisseaux et outils à utiliser dans l'exploitation des centres de brassage libre-service. Les exploitants doivent mettre ladite liste à jour annuellement, le 10 avril ou avant cette date de chaque année subséquente.
3. L'exploitant devrait tenir un système comptable pourvu de contrôle internes adéquats pour assurer la justesse et la fiabilité des livres et registres. Ce système comptable doit, au minimum, fournir des registres internes adéquats, notamment des factures à numérotage séquentiel où figurent le nom et l'adresse des clients, un système comptable de base du genre "journal" couvrant les achats de matières brutes, la bière en cours de traitement et les ventes.
4. Les exploitants de centres de brassage libre-service qui ont l'intention de fabriquer du moût doivent satisfaire aux critères d'obtention de licences prévus dans la *Loi sur l'accise* et avoir obtenu une licence pour exploiter une brasserie (pour la fabrication du moût). Cette licence est délivrée uniquement pour les besoins de la fabrication du moût non fermenté et n'autorise pas l'exploitant d'un centre de brassage libre-service à se livrer à la fabrication de bière pour la vente ou à des fins commerciales.

12 NORMES D'EXPLOITATION

5. Les exploitants de centres de brassage libre-service ne doivent pas utiliser leurs installations pour exercer des activités de brassage commercial ni pour vendre de la bière ou servir de la bière à des fins de dégustation.
6. Les exploitants de commerces U-Brew ne peuvent fournir que les activités et les services qui permettent à un particulier de brasser de la bière pour son usage personnel ou celui de famille, à savoir :
 - (a) fournir du moût non fermenté (c'est-à-dire du moût auquel on n'a pas ajouté de levure) ou les matières pour la préparation du moût,
 - (b) fournir la levure,
 - (c) fournir les récipients pour le moût,
 - (d) fournir des conseils techniques concernant le processus de brassage,
 - (e) fournir l'équipement de soutirage,
 - (f) fournir les colles et les agents stabilisants,
 - (g) fournir l'équipement de transfert, de filtrage, de gazéification et conditionnement,
 - (h) fournir les matériaux d'emballage,

(i) fournir l'équipement d'essai densimétrique, alcoométrique, etc.

7. Les exploitants de centres de brassage libre-service et leurs employés ne peuvent participer matériellement à aucune partie du processus de brassage ou d'emballage. Toutes les activités connexes aux processus de production et d'emballage doivent être exécutées par le client lui-même.

8.

(a) Le propriétaire du mélange peut, à des fins d'assurance de la qualité, prélever des échantillons de la bière exonérée des droits d'accise. Le prélèvement d'échantillons peut être fait seulement avant l'emballage. Les échantillons ne peuvent dépasser le moins élevé du total de 200 ml par mélange, peu importe le nombre de propriétaires du mélange, et de la quantité et la fréquence permises par la réglementation provinciale pour les échantillons.

(b) La bière exonérée des droits d'accise ne peut en aucun cas être goûtée sur place, ni demeurer sur les lieux une fois emballée.

13 PEINES ET INFRACTIONS EN VERTU DE LA LOI SUR L'ACCISE

9. Les articles 118, 172, 176 et 179 de la *Loi sur l'accise* prévoient des pénalités qui, selon les circonstances, peuvent s'appliquer soit aux personnes exploitant des centres de brassage libre-service, soit à leurs clients qui n'observent pas les lignes directrices susmentionnées,

14 DÉFINITIONS

"**brasseur**" Personne qui dirige, administre, occupe ou exploite une brasserie, soit par elle-même, soit par son agent.

"**brasserie**" Local ou établissement où il est fabriqué de la bière. Tous bureaux, greniers, chambres réservées au fardeau, chambres de réfrigération, voûtes, cours, caves et magasins qui en dépendent ou dans lesquels sont gardées ou emmagasinées les matières qui doivent servir à la fabrication de la bière, ou dans lesquels se poursuit un procédé de fabrication, ou dans lesquels sont gardés ou employés les appareils se rattachant à cette fabrication, ou dans lesquels est gardé ou emmagasiné tout produit de la brasserie ou de la fermentation, sont réputés compris dans la brasserie à laquelle ils sont attachés ou dont ils dépendent, et en faire partie.

"**Centre de brassage libre-service**" Correspond à un établissement commercial qui fournit l'équipement, les matières brutes et les conseils techniques, où une personne peut brasser et emballer de la bière pour usage personnel ou celui de sa famille ou pour être donné gratuitement et non pour la vente ni un usage commercial. Parfois les centres de brassage libre-service sont appelés "U-Brew en entrepôt".

LA PUBLICATION DE LA PRÉSENTE CIRCULAIRE EST AUTORISÉ PAR LE SOUS-MINISTRE DU REVENU NATIONAL, ACCISE, DOUANES ET IMPÔT À TITRE DE RENSEIGNEMENTS SUR LES DISPOSITIONS DE LA LOI SUR L'ACCISE ET DU RÈGLEMENT CONNEXE.

Ceci remplace la circulaire DA 212-10 daté le 9 août 1993

323

APPENDIX B - F

324

325 AVIS 91

326 **Le 26 février 1999**

327 INFORMATION CONCERNANT LES ENTREPRISES DE << BRASSAGE LIBRE-SERVICE >>

328 L'interprétation suivante a pour but de répondre aux demandes de clarification concernant l'application
329 de la taxe sur les produits et services (TPS) aux activités des entreprises de <<brassage libre-
330 service>>.

331 FOURNITURES DE MATÉRIEL DE FABRICATION DE VIN ET DE BIÈRE POUR UTILISATION À 332 DOMICILE

- 333 • Les ventes de matériel de fabrication de vin et de bière pour utilisation à domicile comprenant
334 uniquement les ingrédients sont détaxées (c.-à.d. taxées à 0 p. 100).
- 335 • La fourniture de jus ou de concentré pour utilisation à domicile est détaxée.
- 336 • Les ventes de matériel de fabrication de vin et de bière comprenant à la fois des ingrédients
337 et des appareils, de l'équipement ou du matériel comme par exemple un contenant muni de
338 soupapes aux fins de brassage ou de fermentation du produit dans le contenant, sont
339 assujetties à la TPS au taux de 7 p. 100.

340 FOURNITURES DE SERVICES ET DE BIENS POUR UTILISATION SUR LES LIEUX DE 341 L'ENTREPRISE

342 Fournitures multiples d'ingrédients et de services

- 343 • Les ingrédients de fabrication de vin et de bière sont détaxés lorsqu'on démontre clairement
344 qu'ils sont vendus au client avant le processus de fabrication de vin ou de bière et que les
345 ingrédients traités sont détenus par l'entreprise en vertu d'un contrat de dépôt, clairement mis
346 à part et identifiés jusqu'à la remise au client. Dans ce cas, on considérera qu'il y a fournitures
347 multiples (c.-à.d., une fourniture d'ingrédients et une fourniture de services). Les sommes
348 facturées par l'entreprise pour ses services ou pour l'utilisation d'équipement et/ou
349 d'installations en tant que dépositaire ou autrement seront sujets à la TPS de 7%, y compris la
350 contrepartie attribuable à tout ingrédient supplémentaire de fabrication de vin ou de bière qui
351 n'est pas détenu par l'entreprise en vertu du contrat de dépôt, clairement mis à part et
352 identifié.
- 353 • Lorsque la contrepartie pour la fourniture d'ingrédients et de services est combinée,
354 l'attribution de la contrepartie à chacune de ces fournitures doit être raisonnable.

355 Fourniture unique

- 356 • Lorsqu'une entreprise fournit des services ou seulement l'utilisation d'équipement et/ou
357 d'installations (c.-à.d. que le client apporte ses propres ingrédients achetés ailleurs), les
358 fournitures effectuées par l'entreprise sont assujetties à la TPS au taux de 7 p. 100.
- 359 • À compter du 1^{er} avril 1999, à moins qu'il n'y ait un contrat de dépôt tel que décrit ci-haut,
360 l'entreprise sera considérée comme ayant effectué la fourniture unique d'un service. Cette
361 fourniture sera assujetti à la TPS au taux de 7 p. 100, même si le montant total facturé
362 comprend le coût de tous les ingrédients de fabrication de vin et de bière, et même si les
363 ingrédients sont indiqués séparément sur la facture.

364 Pour le moment, les entreprises de <<brassage libre-service>> sont exploitées seulement dans les
365 provinces de l'Ontario et de la Colombie-Britannique.

366 <<Dépôt>> signifie la livraison pour un usage particulier ou pour simple dépôt de biens dont le client
367 est propriétaire, sur la base d'une entente prévoyant qu'une fois cet usage accompli, le bien est remis
368 au client ou traité selon les instructions du client, selon le cas.

369 Pour de plus amples renseignements à ce sujet, y compris tout renseignement relatif à l'accise,
370 veuillez rejoindre votre bureau de services fiscaux de Revenu Canada le plus près.

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APPENDIX A - ENGLISH

15 CIRCULAR ED 212-10

September 2002

16 GUIDELINES FOR BREW ON PREMISES OPERATIONS

This circular does not replace the law found in the *Excise Act* and its Regulations. It is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate Regulations or contact any Canada Customs and Revenue Agency Excise Duty regional office for additional information.

Section 172 of the *Excise Act* allows for the production of beer, exempt of excise duty, for non-commercial purposes. The following guidelines are provided to inform operators of Brew on Premises operations of their obligations under sections 11 and 172 of the Excise Act. Operators should be aware that conforming with these guidelines does not release them from their obligations in respect of provincial, municipal or other federal requirements.

Definitions and departmental interpretations to explain specific terms are provided at the end of this circular.

17 REFERENCES

Excise Act, sections 4, 11, 118, 172, 176 and 179

Section 11 "Every person who imports, makes, has in his possession or keeps any still, worm, mash-tub, fermenting-tun, distilling, rectifying or brewing apparatus, tobacco press or mill for cutting or grinding tobacco shall, forthwith, after the apparatus or machinery comes into his possession and in each subsequent year on or before April 10, give to the collector of the division in which the apparatus or machinery is located a full and particular list, description and return thereof, the same in nature and form as is required by this Act in an application for a licence to use similar apparatus or machinery "

Subsection 172(1) "Notwithstanding sections 170 and 171, the duties of excise thereby imposed shall not be levied or collected on beer that is made or brewed by any person for personal or family consumption or to be given away without charge and that is not for sale or commercial use. "

Subsection `172(2) "Any apparatus used only for making or brewing beer in the circumstances described in subsection (1) is exempt from the provisions of this Act respecting the possession of brewing apparatus by unlicensed persons."

18 COMPLIANCE

1. Prior to start-up, all Brew on Premises operators must formally notify, in writing, the local Excise duty office in their region and outline their intended operations (e.g., principals involved, location, services provided).

2. Additionally, Brew on Premises operators must complete form E111, *Description of Vessels and*

Utensils, in duplicate, and submit it to their local Regional Excise office. This form lists all vessels and utensils to be used in the Brew on Premises operation. Operators must update this listing annually, on or before April 10 of each subsequent year.

3. The operator should maintain an accounting system that provides adequate internal controls to ensure the accuracy and reliability of the books and records. The accounting system must provide, as a minimum, satisfactory internal records including sequentially numbered invoices indicating customer name and address, a basic journal accounting system covering purchases of raw materials, beer in process, and sales.

4. Brew on Premises operators who intend to manufacture wort must meet the licensing requirements of the *Excise Act* and have obtained a licence to operate as a Brewery (for the Manufacture of Wort). This licence is issued solely for the purpose of manufacturing unfermented wort and does not authorize the Brew on Premises operator to engage in the manufacture of beer for sale or commercial purposes.

19 OPERATION STANDARDS

5. Brew on Premises operators may not use their facilities to engage in commercial brewing or offer beer for sale or sampling purposes.

6. Brew on Premises operators may only provide operations and services that allow an individual to brew beer for personal or family use, such as

(a) providing an unfermented wort (i.e., a wort to which no yeast has been added) or the materials for preparation of a wort,

(b) providing yeast,

(c) providing containers for the wort,

(d) providing technical advice on the brewing process,

(e) providing equipment for racking,

(f) providing linings and stabilizing agents,

(g) providing transfer, filtering, carbonation and packaging equipment,

(h) providing packaging materials, and

(i) providing testing equipment for specific gravity, alcohol content, etc.

7. Brew on Premises operators and their staff cannot physically be involved in any part of the brewing or packaging process. All operations relating to the production and packaging process must be conducted by the individual customer.

8.

(a) The owner of the batch, for quality assurance purposes, may do sampling of excise duty exempt beer. Sampling can only be done prior to packaging. The sample(s) cannot exceed a total of 200 ml per batch, regardless of the number of owners of that batch, or the amount and frequency allowed for sampling by Provincial regulation whichever is less.

(b) Under no other circumstances can excise duty exempt beer be sampled on the premise, nor may any excise duty exempt beer remain on the premises once packaged.

20 PENALTIES AND OFFENCES UNDER THE *EXCISE ACT*

9. Sections 118, 172, 176 and 179 of the *Excise Act* provide for penalties which, depending on the circumstances, may apply either to persons engaged in Brew on Premises operations or their customers who do not observe the above guidelines.

21 DEFINITIONS

"**brewer**" means any person who conducts, works, occupies or carries on any brewery, either personally or by an agent.

"**brewery**" means any place or premises where any beer is manufactured, and all offices, granaries, mash-rooms, cooling-rooms, vaults, yards, cellars and store-rooms connected therewith or in which any material to be used in the manufacture of beer is kept or stored, where any process of manufacture is carried on, where any apparatus connected with that manufacture is kept or used or where any of the products of brewing or fermentation are kept or stored, shall be held to be included in and to form part of the brewery to which they are attached or appurtenant.

"**Brew on Premises Operation**" means a commercial establishment providing equipment, raw materials and technical advice, where a person can brew and package beer for personal or family consumption or to be given away without charge, and not for sale or commercial use. Brew on Premises Operations are sometimes also referred to as "U-Brew Warehouses".

THIS CIRCULAR IS ISSUED UNDER THE AUTHORITY OF THE DEPUTY MINISTER OF NATIONAL REVENUE, CUSTOMS, EXCISE AND TAXATION, AS INFORMATION RELATING TO THE PROVISIONS OF THE *EXCISE ACT* AND REGULATIONS.

This supersedes Circular ED 212-10, dated August 9, 1993.

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APPENDIX B – ENGLISH

Notice 91

February 26, 1999

INFORMATION REGARDING "BREW ON PREMISES" OPERATORS

The following interpretation is in response to requests for clarification of the application of the Goods and Services Tax (GST) to supplies made by "Brew on Premises" operators.

WINE AND BEER MAKING SUPPLIES FOR HOME USE

- Sales of wine and beer making kits for home use containing ingredients only are zero-rated (i.e., taxed at 0%).
- The supply of juice or concentrate for home use is a zero-rated ingredient.
- Sales of wine and beer making kits that contain both ingredients and apparatus, equipment or materials, such as a container with valves for the purpose of brewing or fermenting the product in the container are subject to the GST at 7%.

SUPPLIES OF SERVICES AND GOODS FOR USE ON PREMISES

Multiple supplies of ingredients and services

- The wine or beer making ingredients are zero-rated where there is clear evidence that they are sold to the customer prior to the beginning of the wine or beer making process and they are held by the operator in their processed form under a contract of bailment in a clearly segregated and identified manner until they are returned to the customer. In this case, multiple supplies would be considered to have been made (i.e., a supply of ingredients and a supply of services). Amounts charged for the services or the use of equipment/facilities provided by the operator as bailee or otherwise will be subject to GST at 7% including the cost of any additional wine or beer making ingredients that are not held by the operator under the contract of bailment in a clearly identified and segregated manner.
- Where there is combined consideration for a supply of ingredients and services, the consideration attributed to each of the supplies must be reasonable.

Single supply

- Where an operator provides services or the use of equipment/facilities only (i.e., a customer brings in their own ingredients purchased elsewhere), the supplies by the operator are subject to GST at 7%.
- Effective April 1, 1999, unless there is a contract of bailment as described above, the operator will be considered to have made a single supply of a service. This supply would be subject to GST at 7% even though the total amount charged includes the cost of any wine and beer making ingredients and even if the ingredients are listed separately on the invoice.

At present, "Brew on Premises" businesses operate only in the provinces of Ontario and British Columbia.

The term "bailment" means the delivery of property owned by the customer for a particular use or on mere deposit, on the understanding that after the purpose has been fulfilled, the property shall be returned to the customer, or otherwise dealt with according to the customer's direction, as the case

may be.

For further information regarding this matter, including information regarding possible excise obligations, please contact your nearest Revenue Canada tax services office.

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