

Sacramental Wine Exemption



OFFICE OF THE STATE AUDITOR

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Colorado levies a total liquor excise tax of \$0.0833 per liter of wine sold, offered for sale, or used in the state. The Sacramental Wine Exemption exempts the sale and distribution of “sacramental wines sold and used for religious purposes” from the liquor excise tax. The exemption was likely intended to avoid taxing wine used by religious organizations for religious purposes.

We found that the exemption is likely not being applied to most of eligible sales of sacramental wine.

- Most religious organizations we contacted purchase wines used for religious purposes at liquor stores, but the exemption is not likely applied to these sales because liquor distributors and producers pay the excise tax long before the wine’s end use is known.
- The exemption is generally used when a non-liquor-licensed entity, such as a religious supply store or church, imports wine directly from an out-of-state producer.

Policy Considerations

We did not identify any new policy considerations for this exemption. In our previous evaluation of the exemption, we included a policy consideration that, in order to ensure that all religious groups are treated equally, the General Assembly could consider amending the exemption to accommodate sacramental wines’ different distribution paths, or alternatively, it could repeal the exemption.

Tax Type:	Liquor excise tax	Year Enacted:	1933
Expenditure Type:	Exemption	Repeal/Expiration date:	None
Statutory Citation:	Section 44-3-106(1), C.R.S.	Revenue Impact:	Minimal

Purpose given in statute or enacting legislation? **No**



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Background

Colorado levies a liquor excise tax of \$0.0733, plus an additional “wine development fee” of \$0.01, per liter of wine sold, offered for sale, or used in the state. In this report, we refer to both the excise tax and development fee collectively as the excise tax. The excise tax is remitted to the State by the wine’s producer or, if obtained from outside the state, the first licensee receiving the product in Colorado, usually a liquor wholesaler. Consumers rarely pay the excise tax directly, but the tax is generally passed on to them in the final price they pay.

The Sacramental Wine Exemption exempts the sale and distribution of “sacramental wines sold and used for religious purposes” from Colorado’s liquor excise tax. The exemption is one component of a broader exclusion for these wines from all provisions of the Colorado Liquor Code, such as the requirements that liquor sellers obtain a liquor license and file excise tax returns with the Department of Revenue (Department). No documentation or reporting to the Department is required to claim this exemption; a wine producer or importer may simply refrain from paying excise tax on the sacramental wine.

The exemption was likely intended to avoid taxing wine used by religious organizations for religious purposes. The National Prohibition Act (1919) outlawed the production and sale of most alcohol in the United States between 1920 and 1933. However, the Prohibition Act did not prohibit wine used for “sacramental purposes, or like religious rites,” which suggests that such wine was broadly viewed as distinct from wine used for personal consumption in the years leading up to and during Prohibition. Colorado lawmakers seem to have upheld this view with the 1933 legislation that allowed the sale of alcohol for personal consumption in the state and imposed a new liquor excise tax by exempting sacramental wines from the tax and from the new liquor regulations. The exemption has remained unchanged since 1935.

Technical Note:

Statute does not define either “sacramental wines” or “religious purposes,” so the intended extent of Colorado’s exemption is unclear. Wine is used in the practice of several religions. Many Christian traditions, such as Catholic and Episcopalian, use wine in the sacrament of the Eucharist, but other traditions, such as Baptist and Methodist, use grape juice instead. In the Jewish tradition, wine is used in rituals such as Passover, Kiddush, and Havdalah. Additionally, some varieties of wine are made in adherence to religious law, such as Kosher wine, but may be used for personal consumption by those adhering to a religiously-prescribed diet instead of being used in a formal religious ceremony.

At least 25 other states exempt sacramental wine from the state liquor excise tax, although some states administer their exemptions differently than Colorado. For example, unlike Colorado, North

Carolina requires religious organizations to seek a refund after first paying tax on sacramental wine, and Florida requires them to first obtain a permit before buying wine excluded from excise tax.

Performance Measures. In order to determine whether the exemption is meeting its purpose, we assessed the extent to which the exemption is applied to eligible sales of sacramental wines.

Evaluation Results

The exemption is likely not being applied to most eligible sales of sacramental wine.

Most religious organizations that we contacted appear to purchase wines used for religious purposes at liquor stores, but the exemption is not likely applied to these sales. We contacted representatives of Jewish synagogues, several Christian denominations, wine distributors, and religious supply retailers in Colorado to determine the circumstances under which the exemption is being applied. Both Jewish and Christian religious leaders reported using wine in their religious ceremonies, and most reported that they acquired such wine at local liquor stores. Liquor stores are supplied exclusively by licensed liquor distributors and producers, and none of the wine distributors told us that they apply the exemption or distribute any wines explicitly for religious use. The exemption would be difficult to apply to wine sold in liquor stores because liquor excise tax is generally paid long before the wine's end use is known, and the wine used for religious purposes may not be materially distinct from wine otherwise sold in the state. It is possible that a distributor could apply the exemption by excluding some of their stock from the liquor excise tax and ensuring that stock is sold only to religious organizations for religious use. However, it is unlikely that the savings provided by the exemption (about 6 cents per 750 ml bottle of wine) would merit this additional administrative burden. For example, one stakeholder reported that a typical church in their denomination might use 1 to 2 liters of wine per week, which equates to about \$4 to \$9 in excise tax per year.

The exemption is generally used when a non-liquor-licensed entity, such as a religious supply store or church, imports wine directly from an out-of-state producer. Although most representatives we spoke with reported that sales of sacramental wine occur at liquor stores, religious organizations may also obtain their wine through other retailers or directly from producers. For example, one religious leader reported purchasing wine directly from a producer outside of Colorado. We also identified two specialty religious supply retailers in the state, at least one of which sells sacramental wine purchased from an out-of-state producer. The exemption is being applied to these sales because the purchasers do not pay excise tax on the wine they import. The religious supply retailer noted that they sell wine only to religious organizations and do not sell any other alcohol, so they do not hold a liquor license or conform to other provisions of Colorado's liquor code.

The exemption’s revenue impact is likely minimal. We were unable to quantify the extent to which the exemption is used because neither retailers nor distributors are required to report these exempt sales to the Department. However, since the exemption appears to be used by relatively few organizations and Colorado’s liquor excise tax on wine is low, the exemption likely has a very small impact on state revenue. For example, exempting 100,000 bottles of wine from the tax would reduce state revenue by about \$6,250.

Policy Considerations

We did not identify any new policy considerations for this exemption. In our previous evaluation of the exemption, released in September 2018, we included a policy consideration that the General Assembly could consider amending the exemption to ensure that all religious groups are treated equally by either allowing for rebates for sacramental wine purchased through liquor stores and expanding the exemption to other types of alcohol that are also used in religious ceremonies or repealing the exemption. Although legislators introduced bills in 2020 and 2022 that would have removed the exemption from statute, the 2020 bill did not pass, and the provision that would have repealed the exemption was removed from the bill enacted in 2022.

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