

## NEBRASKA GRAPE EXCISE TAX STATUTES

**Administration:** These statutes are administered by the Nebraska Department of Agriculture, Finance and Personnel Division. The Nebraska Department of Agriculture is located in the State Office Building, 301 Centennial Mall South, Lincoln, Nebraska 68509, telephone: (402) 471-6817.

**Adoption:** The provisions of these statutes were initiated during the 2007 session of the Nebraska Legislature. This reproduction was prepared following that session.

**Rules:** The Department of Agriculture has no authority to adopt and promulgate regulations under these statutes.

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2-5601. Terms, defined. For purposes of sections 2-5601 to 2-5604:

(1) Commercial channels means the sale or delivery of grapes for any use, except grapes intended for ultimate consumption as table grapes, to any commercial buyer, dealer, processor, or cooperative or to any person, public or private, who resells any grapes or product produced from grapes;

(2) Delivered or delivery means receiving grapes for utilization or as a result of sale in the State of Nebraska but excludes receiving grapes for storage;

(3) First purchaser means any person, public or private corporation, association, partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property in or to grapes from a grower;

(4) Grower means any landowner personally engaged in growing grapes, a tenant of the landowner personally engaged in growing grapes, and both the owner and tenant jointly and includes a person, a partnership, a limited liability company, an association, a corporation, a cooperative, a trust, or any other business unit, device, or arrangement; and

(5) Table grapes means grapes intended for ultimate consumption as produce in fresh, unprocessed form and not intended for wine production, juice production, or drying.

2-5602. Excise tax; amount; payment. (1) Except as provided in subsection (2) of this section, an excise tax of one cent per pound is levied upon all grapes sold through commercial channels in Nebraska or delivered in Nebraska. The excise tax shall be paid by the grower at the time of sale or delivery and shall be collected by the first purchaser. Grapes shall not be subject to the excise tax imposed by this section more than once.

(2) The excise tax imposed by this section shall not apply to the sale of grapes to the federal government for the ultimate use or consumption by the people of the United States when the State of Nebraska is prohibited from imposing such excise tax by the United States Constitution and the laws enacted pursuant thereto.

2-5603. Excise tax; first purchaser; deduction; records; contents; statement; remitted to State Treasurer. (1) The first purchaser, at the time of settlement, shall deduct the excise tax imposed by section 2-5602. The excise tax shall be deducted whether the grapes are stored in this state or any other state. The first purchaser shall maintain the necessary records of the excise tax for each purchase or delivery of grapes on the settlement form or check stub showing payment to the grower for each purchase or delivery. Such records maintained by the first purchaser shall provide the following information:

- (a) The name and address of the grower and seller;
- (b) The date of the purchase or delivery;
- (c) The number of pounds of grapes purchased; and
- (d) The amount of excise taxes collected on each purchase or delivery.

Such records shall be open for inspection during normal business hours observed by the first purchaser.

(2) The first purchaser shall render and have on file with the Department of Agriculture by the last day of January and July of each year, on forms prescribed by the department, a statement of the number of pounds of grapes purchased in Nebraska. At the time the statement is filed, such first purchaser shall pay and remit to the department the excise tax imposed by section 2-5602.

(3) All excise taxes collected by the department pursuant to this section shall be remitted to the State Treasurer for credit to the Winery and Grape Producers Promotional Fund. The department shall remit the excise tax collected to the State Treasurer within ten days after receipt.

2-5604. Department of Agriculture; calculate costs; report. For each fiscal year beginning with FY2007-08, the Department of Agriculture shall calculate its costs in collecting and enforcing the excise tax imposed by section 2-5602 and shall report such costs to the Department of Administrative Services within thirty days after the end of the calendar quarter. Sufficient funds to cover such costs shall be transferred from the Winery and Grape Producers Promotional Fund to the Management Services Expense Revolving Fund at the end of each calendar quarter. Funds shall be transferred upon the receipt by the Department of Administrative Services of a report of costs incurred by the Department of Agriculture for the previous calendar quarter.

2-5605. Violation; penalty. Any person violating sections 2-5601 to 2-5603 shall be guilty of a Class III misdemeanor.

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