



Washington State Liquor and Cannabis Board

Guidance for Distillers Producing Hand Sanitizer

March 24, 2020

With COVID-19, we know distillers are eager to do what they can to assist their communities, and that you've got the immediate capability to produce hand sanitizer and sell distilled alcohol to other entities that can do the same.

Under normal circumstances, an entity that will be producing hand sanitizer needs to have a [Class 2 Permit](#). However, during the COVID-19 pandemic, entities may produce hand sanitizer prior to obtaining the Class 2 Permit. Before beginning production you must:

- Notify customerservicelicensing@lcb.wa.gov
- Register with the Food and Drug Administration (FDA)
 - Follow an approved recipe
 - Apply an approved label to the product

The FDA has created a guidance document called [Temporary Policy for Preparation of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency \(COVID-19\)](#) that explains exactly what you will need to do.

Tax information for production/sale of sanitizer and/or selling distilled alcohol

If you choose to sell distilled alcohol (denatured or not) to a medical or permitted facility for non-consumptive purposes, they will not be required to pay the spirits distributor fees. Only normal B&O taxes will apply.

- **B&O tax**

Distilleries are subject to B&O tax both for production activities (manufacturing classification) and selling activities (retailing or wholesaling classification).

 - The Manufacturing B&O tax rate is 0.484 percent (0.00484) of the gross receipts.
 - The Retailing B&O tax rate is 0.471 percent (.00471) of the gross receipts.
 - The Wholesaling B&O tax rate is 0.484 percent (.00484) of the gross receipts.
 - Distilleries will be allowed the Multiple Activities Tax Credit against the applicable selling B&O tax for the Manufacturing B&O tax (RCW 82.04.440).
 - If a bona fide donation of the alcohol is made, rather than a sale, amounts derived from the donated alcohol may be deducted from the B&O tax (RCW 82.04.4282).
- **Retail Sales Tax**

Sales to hospitals are subject to retail sales tax. The retail sales tax rate is the state portion of 6.5 percent plus the applicable local sales tax rate for the locality, currently as high as 4 percent. Accordingly, the combined retail sales tax rate can be as high as 10.5 percent. The location of receipt will determine the tax rate. For example, if alcohol is delivered by a distiller to a hospital location, then the combined sales tax rate at the location would apply.

 - The seller of alcohol needs to collect the retail sales tax from the hospital and remit the collected tax to the Department of Revenue.
 - Items purchased by a hospital for the purpose of being resold to patients may be purchased without paying sales tax if the hospital provides a valid reseller permit.

- The retail sales tax exemption for sales of prescription drugs likely does not apply. The exemption is only applicable to sales of drugs for human use dispensed to patients pursuant to a prescription. The prescription must be transmitted by an authorized duly licensed practitioner.
 - If the sales are made to a free hospital, the sales may be exempt under RCW 82.08.02795. A free hospital is a hospital that does not charge patients for health care provided by the hospital.
 - If the alcohol is donated, rather than sold, retail sales tax would not apply. If the hospital is a nonprofit charitable organization or state or local governmental entity, the use by the hospital may also be exempt from use tax under RCW 82.12.02595.
- **Differences in taxes due**
 - **Products sold directly by distillers to hospitals**

Products sold directly by a distiller to a hospital are generally retail sales, as long as absent there being a purchase for resale without intervening use. These sales are subject to retail sales tax and distillers are obligated to collect the retail sales tax from the hospital. The applicable selling B&O tax classification for these sales would be retailing.
 - **Products sold by distillers to distributors, and then to hospitals**

Products sold by distillers to distributors are generally wholesale sales. Sales to distributors are not subject to retail sales tax if a distributor furnishes a valid reseller permit to verify the wholesale nature of the transaction. The applicable selling B&O tax classification for the distiller is wholesaling.

Sales from distributors to hospitals are generally retail sales subject to retail sales tax absent there being a purchase for resale without intervening use. Distributors need to collect retail sales tax from hospitals, and be subject to B&O tax under the retailing classification.

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