

# Administrative Release

Comptroller of Maryland • Alcohol and Tobacco Tax Bureau • Goldstein Treasury Building  
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**AB-36**

**February 1, 2007**

**TO:** All Licensed Wholesalers, Manufacturers and Nonresident Wineries

**Subject:** Price Filings – Class “A” Amended Schedules for Wines and Distilled Spirits

State Regulation 03.02.01.05 titled “Price Filings.” requires wholesalers, manufacturers and nonresident wineries to post prices for each brand and size of wine and distilled spirits sold to retailers in this state. While in most cases the normal filing deadline is the 5<sup>th</sup> of the month for new items and price changes, to take effect the first of the following month, section C of that regulation also authorizes the filing of amended price schedules under certain circumstances. The conditions for an amended price filing are as follows:

- May be filed to add a new brand or a new size for an existing brand.
- Shall be filed by the 13<sup>th</sup> of the month, unless the 13<sup>th</sup> falls on a weekend or holiday, and then shall be due by the next business day.
- Shall be filed at the same price as a competitor’s product for the same size.

No other type of amended filing is covered by the Price Filing Regulation (COMAR 03.02.01.05 – copy attached).

Accordingly, it shall be the policy of the State Comptroller that only amended new items that fit the aforementioned parameters described shall be given consideration as amended price filings. Requests for amended price filings describing errors made on the part of the licensee or requests for amendments received after the amended deadline will be returned disapproved.

Should you have any questions pertaining to this administrative release or price filings in general, please feel free to contact Patricia Anthony at 410-260-7532.

John R. Horney  
Acting Director

Attachment

# Regulation

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Title 03  
Comptroller of the Treasury  
Subtitle 02 Alcohol and Tobacco Tax  
Chapter 01 Alcoholic Beverages  
Authority: Article 2B, §§16-301, 16-302; Tax-General Article §2-103;  
Annotated Code of Maryland

## .05 Price Filings.

### A. Definitions.

(1) Class "A" Supplier.

(a) Class "A" supplier means any licensed wholesaler or licensed manufacturer who supplies a licensed retail dealer with wine or distilled spirits.

(b) Class "A" supplier includes a nonresident winery permit holder who supplies a licensed retail dealer with wine.

(2) Class "B" retailer means any licensed retail dealer as defined in Article 2B, Annotated Code of Maryland.

(3) Class "C" supplier means licensed manufacturers, licensed wholesalers, and nonresident dealers who supply licensed wholesalers with wine or distilled spirits.

(4) "Conditions of sale" includes a discount within the limitations of this regulation and any present or future consideration, other than properly filed prices, that may reflect a higher or lower cost of the merchandise purchased.

(5) "Depletion allowance" means an allowance offered by a Class "C" supplier to a Class "A" supplier which is:

(a) For a given brand and size;

(b) For a specific duration;

(c) For a given amount per case;

(d) Based upon sales from existing wholesaler inventories; and

(e) Not conditioned upon purchases by the Class "A" supplier from the Class "C" supplier.

(6) "Private label" means any label that is owned by a licensed retail dealer, or is bottled and labeled exclusively for sale to a licensed retail dealer.

(7) "Restricted or confined label" means any label of wine or distilled spirits, domestic or imported, other than private labels and those labels available for sale to licensed retail dealers generally.

(8) "Self-imports" means any alcoholic beverages which are purchased and imported by a licensed wholesaler when the alcoholic beverages are invoiced by the foreign supplier direct to the Maryland licensed wholesaler.

(9) "Special pack" or "gift pack" means a carton or package which:

(a) Contains:

(i) More than one brand of wine or distilled spirits, or

(ii) One brand of wine or distilled spirits and one nonalcoholic item; and

(b) Is intended for ultimate sale to the consumer.

(10) "Wholesaler" means a person who purchases from a nonresident dealer, or self-imports from a foreign source, any alcoholic beverages for sale to other licensed wholesalers or licensed retail dealers, and includes a county liquor control board and a county wholesale dispensary.

## B. Brand, Size, and Price Filings.

(1) This regulation applies only to packaged wines and distilled spirits intended for ultimate sale to consumers.

(2) Filings.

(a) Class "A" and Class "C" suppliers shall file with the Alcohol and Tobacco Tax Bureau, notices of prices to be charged for all brands and sizes of wines and distilled spirits. These filings shall be on forms or in the manner prescribed by the Comptroller and shall include all conditions of sale. Each filing of wine or distilled spirits shall include the proper Universal Numeric Code (UNIMERC) as assigned by the Distilled Spirits Council of the United States.

Type of Schedule	Due Date	Status	Format
Class "A" Price Changes	5th of Month	Optional: January - November Required: December	Turnaround Document
Class "A" New Items	5th of Month	Optional	ATTD form
Class "A" Amended Schedule	13th of Month	Optional	ATTD form
Class "C" Price Changes	5th of Month	Optional: January - November Required: December	Turnaround Document
Class "C" New Items	5th of Month	Optional	ATTD form
Class "C" Depletion allowances	Before effective date	Optional	Letter
Class "A" and Class "C" Conditions of Sale	5th of Month	Optional	Letter

(b) Due Dates. Schedules shall be physically received in the Annapolis Office of the Alcohol and Tobacco Tax Bureau as follows:

(c) Effective Dates. Approved filings become effective the first day of the following month except Class "C" depletion allowances, which shall become effective on the requested date or the date received, whichever is later.

(d) Weekends and Legal Holidays. When the due date falls on a weekend or legal holiday, then the next business day is considered the designated day.

(3) General Provisions.

(a) Wines and distilled spirits shall be sold at the prices and under the terms established in schedules that are currently in effect under this regulation.

(b) Class "A" suppliers who self-import wines or distilled spirits shall list themselves as the vendor.

(c) Discounts of any nature by Class "A" suppliers are prohibited.

(d) This regulation does not apply to the sale or delivery of wine and distilled spirits when the Class "A" licensed wholesaler and Class "B" licensed retail dealer are the same person.

(e) A label that is sold to more than one licensed retail dealer in Maryland may not qualify as a private label, and shall be made available for sale to licensed retail dealers generally.

(f) Restricted or confined labels are prohibited for sale to licensed retail dealers.

(g) Terms or conditions of sale, including delivery charges, C.O.D. charges, etc., shall be stated on the invoice covering the sale.

## C. Amended Price Filings.

(1) An amended schedule is established to permit a licensed wholesaler, licensed manufacturer, or nonresident winery permit holder who files Class "A" price filings to file new items not previously posted.

(2) An amended schedule shall be physically received in the Annapolis Office of the Alcohol and Tobacco Tax Bureau not later than the 13th day of any month and, if approved, shall become effective the 1st day of the following month. If the 13th falls on a weekend or holiday, then the next business day shall be considered the designated day.

(3) A new item amended schedule may be filed to add a new brand or new size of an existing brand and shall

be identical to the price of the comparable brand or size.

(4) Amended schedules approved based upon a representation of a comparable brand are approved conditioned upon the right of the Alcohol and Tobacco Tax Bureau to review or rescind the approval, based on subsequent information received refuting the validity of the original comparative claim.

(5) Review and Approval. The Alcohol and Tobacco Tax Bureau shall review and evaluate each amended schedule submitted and shall notify the Class "A" supplier in writing of approval or disapproval.

#### **D. Price Filing Notifications and Publications.**

(1) Price notifications required under this section apply to persons who file prices under this regulation.

(2) Copies of all price schedules filed by Class "A" suppliers upon being received and reviewed by the Comptroller shall be made available by the Comptroller. Price schedules shall be in a format established by the Comptroller. The Comptroller may charge a reasonable fee to recover the cost of producing, handling, and mailing price schedules.

(3) Class "A" Suppliers.

(a) Class "A" suppliers shall notify all licensed Class "B" retail dealers before the effective date of any price changes and new items by direct mail or through publication in a trade magazine having a circulation among licensed Class "B" retail dealers.

(b) A Class "A" supplier who manufactures wine or distilled spirits and who produces less than 6,000 gallons annually may petition the Comptroller for permission to provide notification by direct notice to licensed retail dealers.

(c) If a Class "A" supplier elects to make direct notification to licensed Class "B" retail dealers, then a copy of each notice shall be simultaneously provided to the Alcohol and Tobacco Tax Bureau.

(4) Class "C" Suppliers.

(a) Class "C" suppliers shall directly notify their designated Class "A" suppliers of any proposed price changes to existing items on file at least 30 days before the official due date for submission of applicable price filings with the Alcohol and Tobacco Tax Bureau as provided by this regulation.

(b) A copy of the notification in §D(4)(a) of this regulation shall be sent simultaneously to the Alcohol and Tobacco Tax Bureau.

(c) The notice may be in any legible uniform format and shall include the UNIMERC brand code number, full brand name, size code and description, current price, proposed new price, and effective date.

(d) Failure of the Class C supplier to make notifications required under this regulation could result in the disapproval of all or a portion of any price change schedule subsequently received by the Alcohol and Tobacco Tax Bureau.

#### **E. Special Pack or Gift Pack Requirements.**

(1) Size of Containers. Only one size of an alcoholic beverage container shall be represented within a special pack.

(2) Containers in Carton. The total number of containers in a carton shall be in conformance with the provisions of §F of this regulation.

(3) Nonalcoholic Items. Nonalcoholic items shall be restricted to those items which are physically packaged with the special pack and which are intended for ultimate purchase by the consumer. Signs, placards, devices, and graphic displays bearing advertising or other forms of advertising may not be included in special packs.

(4) Consumer Oriented. A special pack shall be:

(a) Entirely consumer oriented; and

(b) Configured and packaged to show that it is intended for ultimate sale to the consumer.

(5) Handling and Package Costs. The cost of special packaging materials and additional labor costs to assemble the special pack may be added to the price of the special pack if it is reported on a special pack price analysis.

(6) Brand Identity. Each special pack shall be considered a distinct brand. Each special pack shall be assigned a unique UNIMERC brand code number as described in §B of this regulation.

(7) Component Pricing. The cost of the special pack is not dependent on the price of any component alcoholic beverage also filed in regular case lots. However, special pack pricing may not be used to circumvent the

prohibition on quantity discounts or be tantamount to providing free goods directly to the licensed retailer.

(8) Approval Process.

(a) Suppliers and wholesalers shall:

(i) File a new item form on the 5th day of the month to be effective on the 1st day of the following month;

(ii) File Special Pack Price Analysis Form 523 simultaneously with the new item filing;

(iii) File Special Pack Price Analysis Form 523 any time the special pack price is changed; and

(iv) Comply with the provisions of §D of this regulation.

(b) The Alcohol and Tobacco Tax Bureau reserves the right to request more detailed information, including physical inspection or photograph, if a particular problem or question arises with regard to a specific filing.

(9) Multipacks. Special packs which are only available as multipacks, without nonalcoholic items, are authorized if the component items are not available in regular case lots.

**F. Containers in Carton.**

(1) Packages are to be distributed as follows:

(a) Multiples of 12;

(b) Half quantities;

(c) Four 5 liters;

(d) Four 4 liters;

(e) Four 3 liters;

(f) Six 3 liters;

(g) Six 1¾ liters;

(h) Six 1½ liters;

(i) 15, 12, or 9 1-liter containers, but not more than one configuration per brand in any 12 consecutive months;

(j) 15 or 12 750-milliliter containers, but not more than one configuration per brand in any 12 consecutive months; or

(k) Any legal size packaged and sold as a single container.

(2) When containers hold less than 12.8 ounces or 378.7 milliliters, the quantity of containers may not be restricted to multiples of 12 but shall be in accordance with the prevailing practice in effect as to size and as to the number of containers in a carton.

(3) When the same brand and size is offered in more than one approved container in carton configuration, the price filed by the wholesaler shall be the same price per bottle.

**Effective October 1, 2006**