

# Excise Duty Memoranda Series

## 4.1.3 Ferment-On-Premises Registrants

June 2003

### Overview

The *Excise Act, 2001* (the “Act”) requires a person to obtain a ferment-on-premises registration in order to perform certain activities under the Act. This memorandum provides an overview of the obligations and entitlements of persons who may become ferment-on-premises registrants.

### Disclaimer

The information in this memorandum does not replace the law found in the Act and its Regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its Regulations, or contact any Canada Customs and Revenue Agency (CCRA) tax services office for additional information.

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## Requirement for a ferment-on-premises registration

### Ferment-on-premises registration s 15

1. The Act provides for the issuance of a ferment-on-premises registration that authorizes a person to possess, at their ferment-on-premises facility, bulk wine that has been produced at the premises by an individual and which is owned by the individual.

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La version française de ce document est intitulée *Exploitants autorisés de vineries libre-service*.



Canada Customs and Revenue Agency  
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### 4.1.3 Ferment-on-Premises Registrants

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- Meaning of “produce”  
s 2
2. To “produce” wine means to bring wine into existence by fermentation.
- Meaning of “ferment-on-premises facility”  
s 2
3. A “ferment-on-premises facility” means the premises of a ferment-on-premises registrant that are specified by the CCRA as the registrant’s ferment-on-premises facility.
- Meaning of “ferment-on-premises registrant”  
s 2
4. A “ferment-on-premises registrant” means a person who holds a ferment-on-premises registration under section 15 of the Act. A ferment-on-premises registrant may only undertake the authorized activities in those facilities approved in the registration.

### Obtaining a ferment-on-premises registration

5. Instructions and requirements for obtaining a ferment-on-premises registration are provided in Excise Duty Memorandum 2.4.1, *Obtaining a Registration*.

### Restrictions imposed on a ferment-on-premises registrant

- Prohibition – ferment-on-premises facilities  
ss 62(1) and s 65
6. No person may carry on at a ferment-on-premises facility any activities provided for under a licence or registration issued under the Act, other than those specified in the ferment-on-premises registration. Specifically, a ferment-on-premises registrant may not produce or package wine at the facility.
- Wine produced by individuals  
ss 62(2)
7. A ferment-on-premises registrant is authorized only to operate a ferment-on-premises facility where individuals may produce and package wine for their personal use. A ferment-on-premises registrant may store bulk wine that is produced by an individual until it is packaged, but may not take part in the production or packaging of the wine.
- Providing assistance
8. In order to produce wine, an individual’s minimum requirement is to pitch the yeast into a primary container. The ferment-on-premises registrant may assist with other stages during the wine making process, such as adding stabilizing agents or fining agents, filtering, carbonation or racking.
- Wine produced by others  
s 64
9. Wine is not considered to be produced by an individual if it has been produced or packaged by a person acting on their behalf.
- Meaning of “packaged”  
s 2
10. To package wine means to place it into a container of a capacity of not more than 100 litres that is ordinarily sold to consumers without being repackaged. Generally, individuals will package wine using bottles containing 750 ml to 1 litre in capacity.
11. Individuals must place the wine into the containers themselves and must cork or cap the containers. The ferment-on-premises registrant may demonstrate the correct use of the bottling or capping equipment to the individuals, but may not perform the packaging process on their behalf.

- Wine storage para 70(2)(f) 12. A ferment-on-premises registrant may store bulk wine that has been produced by an individual in the ferment-on-premises facility.
- No storage of packaged wines 89 13. A ferment-on-premises registrant is prohibited from storing packaged wine at their ferment-on-premises facility. Immediately after packaging their wine, individuals must remove the wine from the ferment-on-premises facility.

### Wine produced by individuals

- Licence not required ss 62(2) 14. Generally, a wine licence is required under the Act to produce or package wine in Canada, except for the production or packaging of wine by an individual for their personal use.
- Meaning of "personal use" ss 2 15. "Personal use", in relation to the production of wine, means wine that is produced and used by an individual, or used by others at the individual's expense. It does not include the sale or other commercial use of the wine.
- Location para 70(2)(g) 16. The production of wine by an individual may take place at the individual's residence, at another individual's residence, at a ferment-on-premises facility, or at some or all of those premises at the same time.
- Excise duty not imposed ss 134(3) para 135(2)(a) 17. Excise duty is not imposed on wine that is produced and packaged by an individual for their personal use and that is consumed in the course of that use.
- Prohibition – sale of wine produced for personal use ss 63 18. Wine that was produced, or produced and packaged, by an individual for personal use may not be sold or put to another commercial use.
- Maximum quantity allowed for individuals para 70(2)(g) 19. Individuals who produce wine for their personal use may lawfully possess this wine in bulk form, provided that its volume is less than 500 litres at any time. The bulk wine may have been produced at the individual's residence, another individual's residence, or at a ferment-on-premises facility for an individual's personal use. It does not include and is separate from any amounts of packaged wine in an individual's possession.

### Maintaining records and filing returns

- Keeping records ss 206(1) 20. Every registrant under the Act is required to maintain all records that are necessary to determine whether they are in compliance with the Act.
21. Additional information on the requirement to maintain books and records is available in Excise Duty Memorandum 9.1.1, *General Requirements for Books and Records*.
- Filing by other persons ss 161 22. A ferment-on-premises registrant is not normally required to file an excise duty return. They are only required to file a return for a fiscal month in which they may have incurred an excise duty liability.

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#### Offences and penalties

- Unlawful production or sale of wines 214
23. A ferment-on-premises registrant who produces or packages wine without a wine licence is guilty of an offence and is liable:
- (a) on conviction on indictment, to a fine of not less than \$50,000 and not more than \$1,000,000 or to imprisonment for a term of not more than five years, or both the fine and imprisonment; or
  - (b) on summary conviction, to a fine of not less than \$10,000 and not more than \$500,000 or to imprisonment for a term of not more than 18 months, or both.
- Unlawful storage of packaged wines 243
24. A ferment-on-premises registrant who stores packaged wine at their ferment-on-premises facility is liable to a penalty of \$0.5122 per litre of wine to which the contravention relates.
- Other offences
25. There are other offences that a ferment-on-premises registrant may commit, and penalties to which a ferment-on-premises registrant may become subject. The contraventions may not be restricted to that specific registration.
- Enforcement Part 6
26. Additional information relating to offences and penalties will be available in Excise Duty Memorandum 4.9.1, *Wine-Related Offences and Penalties*. Excise Duty Memorandum 12.9.1, *Administrative Offences and Penalties*, addresses offences and penalties relating to administrative contraventions.

All of the memoranda in the Excise Duty Memoranda Series will be available on the CCRA Web site at <http://www.ccr-aadrc.gc.ca/tax/technical/act2001-e.html>