

Excise and brew on premises shops

How to apply for a licence and comply with your excise obligations.

WHAT ARE BREW ON PREMISES SHOPS?

Brew on premises shops (BOPS) are commercial facilities that produce beer for non-commercial purposes. The public can use these facilities and equipment to make their own beer for personal use, but not for sale. Bottling is carried out by your individual customers.

Beer produced in BOPS is excisable, that is, subject to excise duty (tax).

DO YOU NEED A LICENCE TO OPERATE BOPS?

You must have an excise manufacturer licence to brew on premises before you undertake any BOPS activity, including test and sample brews.

❗ Check with relevant local, state and Australian government bodies for other obligations that may impact on your business.

HOW DO YOU APPLY FOR A LICENCE?

You need to complete an *Application for a licence to brew on premises* (NAT 5904). To obtain a copy, visit our website at www.ato.gov.au/excise and select 'excise licences'.

You will need to provide detailed information including:

- consent forms for background checks on the applicant and other people associated with the management of the business
- information about your premises including
 - building structure
 - security measures
 - if you own or lease the premises
- manufacture details for the proposed beer products
- equipment used
- samples of your record keeping system.

We then assess your application, together with all the additional information, plans and photographs you provide.

You can expect a decision from us within 28 days of us receiving all the necessary information from you.

WHAT ARE THE MINIMUM SECURITY REQUIREMENTS?

The security standard we require is generally the same as the normal commercial standard and includes:

- locks or bars on doors and windows
- alarms, security lighting, security guard patrols or closed-circuit TV
- surveillance system
- access controls, for example limited distribution of keys or access codes.

WHAT PRODUCTS CAN BE BREWED?

Your customer can brew any product that meets the definition of beer for excise purposes.

❗ In August 2009, the definition of beer changed. The amended definition sets a minimum limit of bitterness and a maximum limit of sugar content in the final beverage. The changes do not affect the taxation of conventional beers.

You should be able to establish whether the product meets the definition from your manufacturing specifications and processes and from standard industry information.

Products that clearly meet the definition will not require testing. If you are unsure whether your product meets the definition, you should have one brew tested and as long as you continue to brew to that formula, you will not need to undertake further testing unless directed by us. You will need to do this for each type of beer you make where you are unsure it will meet the definition.

As testing only covers certain elements of the definition, you will not be able to prove your beverage meets the definition completely through testing. You will need to keep recipe sheets and formulas together with other ingredient specifications in support of your beverage meeting the definition.

➡ The definition of beer can be found in the Schedule to the *Excise Tariff Act 1921*, available on our website at www.ato.gov.au/excise under Rulings and law.



HOW IS EXCISE DUTY CALCULATED AND PAID?

The excise duty on beer brewed at BOPS is calculated on each batch (customer's fermenter).

Excise is payable on the full contents of each fermenter.

You pay the excise duty to us on a weekly basis (once you have a periodic settlement permission) by completing an *Excise return* (NAT 4285).

WHAT RATE OF EXCISE APPLIES?

Excise rates are indexed to CPI and are therefore subject to change in February and August each year.

To view the current rates, visit our website at www.ato.gov.au/excise and select 'excise tariff working pages'. Tariff sub items 1.15 and 1.16 are the rates that apply to BOPS.

⚠ Rates vary according to strength so check you are using the correct rates.

When rates change, you may need to lodge two separate returns, or lodge a single return with different product lines covering pre and post indexation rates.

HOW OFTEN DO YOU NEED TO TEST ALCOHOLIC STRENGTH?

Once you establish the strength of a recipe, you should record that strength and use it as a standard for that recipe when calculating excise duty.

You should re-test the strength of all recipes at least once a year.

You may use a hydrometer and formula to calculate the alcoholic strength of the beer, provided the following conditions are met:

- you produce less than 100,000 litres of beer in a financial year
- the formula is supported by a documented testing process that shows the formula produces accurate results.

⚠ Measuring equipment, for example hydrometers, must be calibrated once a year. Equipment must be able to produce results with a strength tolerance of + or - 0.2%.

CAN YOU PRODUCE TEST BREWS?

You may produce test brews for new recipes, quality control and to verify the strength of beer recipes. These test brews are subject to the applicable commercial beer rates depending on their strength and the size of the fermenter. Refer to tariff sub items 1.1 to 1.11 of the excise tariff working pages.

You may apply to us for remission (waiver) of excise duty for test brews that are disposed of with our prior approval.

CAN YOU PRODUCE SAMPLE BREWS?

Check your State licensing bodies before you produce any samples, as sample brews may not be permitted locally.

If allowed by State licensing regulations, you may produce sample brews for tasting by customers, whether consumed on the premises or not. As with test brews, excise duty on sample brews is calculated at the applicable commercial beer rates.

WHAT RECORDS DO YOU NEED TO KEEP?

You need to keep records like those listed below for at least five years and make them available to us if we request them. Your records may include:

- brew sheet or batch card sequencing (including the recipe, volume and strength details for each brew made)
- all stock received (raw material including pre-packaged recipes, yeast, hops, malt)
- details of test brews (including remission approval or excise return if test brew is not destroyed)
- details of sample brews
- copies of excise returns
- calibration test results.

The specific format of your records is up to you, but your records need to show that you can account for all of the excisable beer for which you are responsible.

We have provided examples as a guide.

CAN YOU BREW BEER FOR COMMERCIAL USE?

Your BOPS licence only allows you to produce beer for non-commercial purposes using commercial facilities or equipment. This means that the beer is made by the consumer and is not for sale.

You are only permitted to brew beer for commercial use if you make an application to do so. This includes brewing beer for customers who are not present.

If you want to apply for a commercial manufacturer licence, you need to complete an *Application for a licence to manufacture excisable products – alcohol* (NAT 5906). To obtain a copy, visit our website at www.ato.gov.au/excise and select 'excise licences'.

If you have both a BOPS licence and a licence to manufacture beer commercially, you must keep records that distinguish between the two types of production and clearly identify the commercially brewed product. All commercially manufactured beer will be subject to the full excise beer rate.

EXAMPLE: Test/Sample brew sheet

Test brews (including new recipes) are for *bona fide* analysis for quality control and for verification of the strength of beer recipes. Remission of duty may be sought for each test brew that is disposed of with our approval.

Sample brews or brews for tastings, whether consumed on the premises or not, are liable for excise duty at the applicable full rate.

All test and sample brews must be recorded and maintained for audit purposes.

Brew name	Special Porter
Test/Sample brew number	TB001 or SB001
Beer/Recipe number	32
Date of brew	Day: 2 4 / Month: 0 7 / Year: 2 0 0 9
Quantity	50 Litres

Ingredients used

Galaxy Pale 8.3kg
 Medium Crystal 1.5kg
 Pale Chocolate 0.6kg
 Goldings 0.14kg
 Yeast 0.4kg

Full details of workings

Tasting notes

Strength testing method used

Independently tested by ABC Measurement Pty Ltd

Final strength %

EXAMPLE: Customer brewing/bottling sheet

Brew number	CB001
Date of brew	Day: 2 4 / Month: 0 7 / Year: 2 0 0 9
Customer name	Mr Kevin Brew
Address	100 Jones Road, Smithville
Beer name/Recipe number	Stout
Quantity	50 Litres
Strength	5.0 %

Calculation notes

- Quantity is calculated on the size of the fermenter vessel.
- The first 1.15% is deducted from the beer strength to calculate excise duty.
- Check excise tariff sub items 1.15 and 1.16 for current rates.
- Litres of alcohol (LALs) = litres x strength %.

Example:

50 litres x (5% - 1.15% = 3.85%) = 1.9 LALs x \$2.85
 Total excise duty payable = \$5.41

MORE INFORMATION

For more information about any aspects of BOPS:

- phone us on **1300 137 290**
- fax us on **1300 130 916**
- email us at **ATO-EXC-Alcohol@ato.gov.au**
- visit our website at **www.ato.gov.au/excise**
- write to us at

Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

Refer to:

- *Application for a licence to brew on premises* (NAT 5904)
- *Excise (Alcoholic strength of excisable goods) Determination 2009 (no. 1)* (available at **www.ato.gov.au/excise** under Rulings and Law)
- Excise guidelines for the alcohol industry (available at **www.ato.gov.au/excise** under Rulings and Law)
- *Excise return* (NAT 4285).

If you do not speak English well and need help from the Tax Office, phone the Translating and Interpreting Service on **13 14 50**.

If you are deaf, or have a hearing or speech impairment, phone the Tax Office through the National Relay Service (NRS) on the numbers listed below:

- TTY users, phone **13 36 77** and ask for the Tax Office number you need
- Speak and Listen (speech-to-speech relay) users, phone **1300 555 727** and ask for the Tax Office number you need
- internet relay users, connect to the NRS on **www.relayservice.com.au** and ask for the Tax Office number you need.

If you would like further information about the NRS, phone **1800 555 660** or email **helpdesk@relayservice.com.au**

OUR COMMITMENT TO YOU

We are committed to providing you with guidance you can rely on. If you feel that this publication does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.

We regularly revise our publications to take account of any changes to the law, so make sure that you have the latest information. If you are unsure, you can check for a more recent version on our website at **www.ato.gov.au** or contact us.

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