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How we identify and respond to illicit alcohol activities.

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# Illicit alcohol activities

Learn about our concerns with illicit alcohol and when duty is not paid.

**Last updated** 9 June 2023

We have increased our focus on alcohol products that reach retailers and consumers without customs or excise obligations being met. We look closely into activities where duty should have been paid but was not – this is 'illicit alcohol'.

We publish information on illicit alcohol activities to:

- help you get things right
- remain transparent
- keep a level playing field.

We also want to make sure:

- the system remains fair for businesses doing the right thing
- the community isn't deprived of vital funds needed to support our economy and essential services.

We aim to share our concerns early to help businesses make informed decisions about their tax affairs.

There are several activities involving excisable alcohol that attract our attention. These activities are offences under the *Excise Act 1901*

(Excise Act) and penalties may apply.

These activities include:

- unlicensed manufacture of excisable alcohol
- licensed manufacture with unreported excise duty
- selling duty-unpaid excisable alcohol
- concessional spirits used for non-concessional purposes
- incorrect refund, remission or drawback claims.

These activities are the main contributors to the [Alcohol tax gap](#).

You can use our confidential reporting process to [report suspected tax evasion](#). This will help keep the system fair.

For more information:

- Refer to Taxpayer Alert [TA 2021/1 Retail sale of illicit alcohol](#) for details of arrangements where retailers are knowingly or recklessly purchasing illicit alcohol for resale.
- Download our factsheet for tips to avoid buying illicit alcohol [Could you be selling illicit alcohol without realising it? \(PDF, 248KB\)](#) [↗](#)
- [What attracts our attention – illicit alcohol](#)

QC 72792

## Unlicensed manufacture of excisable alcohol

When you need an excise manufacture licence and to pay excise duty, and how to contact us with concerns.

**Last updated** 9 June 2023

### What you need to know

Sometimes businesses or individuals illegally manufacture, produce or sell excisable alcohol without:

- an [excise licence](#)
- paying the required excise duty.

We treat these activities very seriously. See [How we respond to illicit alcohol](#).

**Media:** Distil the facts about alcohol.

<https://tv.ato.gov.au/ato-tv/media?v=bd1bdiub87koiw> [↗](#) (Duration: 0:30)

## When you need an excise licence

You need an [excise manufacturer licence](#) to manufacture or produce excisable alcohol in Australia. You must meet the legal obligations attached to your licence, and pay excise duty where applicable.

The only exception is brewing or fermenting certain alcoholic beverages for personal consumption. See [When you don't need an excise licence](#).

To manufacture, produce or sell excisable alcohol, you may also need to check the requirements of other state and local organisations, including:

- state liquor licensing organisations
- health agencies
- local government.

## Distilling alcohol

To distil spirits, you need an [excise manufacturer licence](#) from us. If you are licensed, you don't need to apply for separate permission for your still.

We do not grant licences to distil spirits for personal consumption. There must be a commercial purpose involved.

Severe penalties apply if you distil alcohol without a licence.

You don't need a licence or permission for stills that are 5 litres or less that are [not used to distil alcohol](#).

Example: low-priced stock manufactured without an excise licence

Jay is a person who distils spirit without an excise manufacturer licence. He bottles the spirit and labels it to give the appearance of a legitimate product, using:

- manufacturer details on the label that are fictitious and not his own
- a barcode that belongs to an entity that is not the manufacturer specified.

Jay does not report or pay any excise duty on the product.

Jay then sells the spirit to a wholesale distributor, Wholesale Liquor, for a price significantly lower than when the excise duty component (and GST) would be included in the selling price.

The excise duty payable on a 700 ml bottle of spirit with an alcoholic content of 37% alcohol by volume is about \$25.00 per bottle (see [Note 1](#)).

The product should have a retail price of greater than \$25.00, taking into account the other costs, taxes and overheads to manufacture and sell a bottle of the spirit.

Wholesale Liquor does not hold an excise storage licence. They are only able to purchase from its suppliers and store alcohol that has already been properly entered into the Australian market.

Wholesale Liquor on-sells the illicit alcohol to a retail outlet. The price is still less than, or similar to, the excise duty component (and GST) that should be included in the selling price.

The retailer then sells the illicit spirits to consumers.

This is an offence under the *Excise Act 1901* committed by each entity in the supply chain, including the:

- person who manufactured the product without an excise licence
- wholesale distributor
- retailer.

Various offences and consequences could apply in this situation.

Penalties may include having to pay up to 5 times the amount of duty that would have been payable or criminal prosecution.

**Note 1:** this is an estimation only. Use our [Excise duty rates for alcohol](#) to work out specifically for each type of spirit.

## When you don't need an excise licence

The only alcoholic products you can make without an excise manufacturer licence are:

- products that [wine equalisation tax](#) applies to
- beer and other fermented beverages that are made for non-commercial purposes using non-commercial facilities and equipment. This does not apply to spirits or products that contain spirits.

Common examples of alcoholic products you can make without a licence are:

- home-brewed beer
- fermented cider and wine.

## How to contact us about excise

[Contact us](#) early if you think you may have made a mistake, or you have questions about when you need:

- an excise licence
- to pay excise duty.

We will work with you to help you understand and meet any applicable excise obligations.

To reduce penalties that may apply, you can make a [voluntary disclosure](#).

For more information, see [Excise on alcohol](#).

# Licensed manufacture or storage of unreported alcohol

Your obligations when your business manufactures or stores dutiable excisable alcohol.

**Last updated** 9 June 2023

## Reporting excisable alcohol

We know that most businesses do the right thing. However, some businesses that manufacture or produce excisable alcohol, or store underbond excisable alcohol, don't report all the excisable alcohol products they are required to.

Excisable alcohol is 'underbond' while it is subject to our control. Our control ceases when excisable alcohol has been delivered into the Australian domestic market, exported or a remission has been applied.

The alcohol is no longer underbond in these following examples:

- the product has been delivered into the Australian domestic market for home consumption under a periodic settlement permission
- a remission has been applied in relation to product that was unfit for human consumption
- you have applied the [Excise remission scheme for manufacturers of alcoholic beverages](#) (Remission scheme) subject to meeting the eligibility criteria.

Selling illicit alcohol is illegal and unfair to other businesses who are doing the right thing.

## Excise manufacturer licence obligations

If we grant you an excise manufacturer licence, you have obligations that you must meet, including:

- keeping proper records of **all** excisable alcohol you manufacture, produce or store under your licence

- reporting on your excise return the **full and correct** amount of **all** excisable alcohol you enter into the Australian domestic market
- paying the full and correct amount of excise duty for all excisable alcohol you manufacture at the correct time, where the automatic remission available under the Remission scheme doesn't apply. (For example, because you are not an eligible manufacturer or you have reached the threshold.)

## Keeping records and reporting

If we grant you an excise storage licence, you must:

- keep proper records of **all** excisable alcohol you store under your licence
- report on your excise return and pay the **full and correct** amount of excise duty on **all** excisable alcohol you store and then enter into home consumption at the correct time.

Example: bonus stock

Spirit Manufactory is a business that holds an excise manufacturer licence and manufactures spirits. It sells bottles of spirits it has manufactured to a retail bottle shop, Spirit Retail, and includes a significant amount of 'bonus stock'. Spirit Manufactory is not entitled to an automatic remission under the Remission scheme.

Spirit Manufactory gives an invoice for the sale to Spirit Retail. While the price of the product on the invoice appears to include excise duty, the quantity of product on the invoice is significantly less than what was supplied because the invoice does not include the bonus stock. Spirit Manufactory only reports and pays excise duty on the volume of invoiced product and not on the bonus stock.

By providing the bonus stock, Spirit Manufactory is able to sell the product to the retailer at a cost for the total supply that is less than the amount of the excise duty component of the supply.

Spirit Retail is then able to sell the product to consumers at a discount, while still making a profit.

This is an offence under the *Excise Act 1901* that has been committed by both the:

- licensed manufacturer
- retailer.

Various offences and consequences could apply in this situation.

Penalties may include having to pay up to 5 times the amount of duty that would have been payable or criminal prosecution.

For more information, see [Excise on alcohol](#).

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## Buying or selling illicit alcohol

What to do if you've been sold illicit alcohol and your responsibilities for paying excise duty on alcohol you sell.

**Last updated** 9 June 2023

### What is illicit alcohol

Some alcohol products are being sold, offered for sale, or entered into the Australian domestic market for consumption without the required excise or customs duty being paid. This is what we mean by 'illicit'. We treat this activity very seriously as it's illegal and unfair to businesses who do the right thing.

Excise duty is a tax that applies to beer, spirits and other excisable alcoholic beverages manufactured in Australia before they are sold to consumers.

Customs duty must be paid on [equivalent imported alcohol goods](#).

### Low price alcohol

While a key indicator of illicit alcohol is unrealistically low prices, lower alcohol prices can still exist in the market. For example, there may be

some lower priced products in the market following the introduction of the [Remission scheme](#).

We are focused on each part of the supply chain to understand the cause of low-price alcohol in the market. This includes:

- manufacturers
- wholesale distributors
- importers
- retailers.

## Responsibility of manufacturer or producer

The manufacturer of excisable alcohol is generally legally responsible for paying the excise duty on excisable alcohol it manufactures **before** it's entered into the Australian domestic market for consumption, unless:

- they are entitled to, and have applied, an automatic remission under the [Remission scheme](#)
- they pay excise duty **after** the excisable alcohol is delivered into the Australian domestic market under an approved [periodic settlement permission](#)
- it is sold underbond pursuant to a movement permission from us.

If you manufacture excisable alcohol without a manufacturer licence, you will still have an excise liability for the alcohol you manufacture.

## Responsibility of distributor or retailer

Alcohol distributors and retailers need to understand that if they purchase illicit alcohol products and then sell them (or offer them for sale), they are also committing an offence under the *Excise Act 1901*. Penalties and other consequences may apply, regardless of whether the distributor or retailer knew that duty had not been paid on the alcohol.

If we find that the distributor or retailer knowingly or recklessly purchased the illicit alcohol for resale, more serious penalties and


consequences may apply, including criminal convictions and imprisonment.

Similar penalties apply to the sale of imported alcohol on which excise equivalent customs duty should have been paid.

See Taxpayer Alert [TA 2021/1](#) *Retail sale of illicit alcohol* – for our concerns about arrangements where alcohol retailers are knowingly or recklessly purchasing illicit alcohol for the purposes of resale.


## What to look out for

We recommend that distributors and retailers be alert to situations that may indicate a supplier is involved in the supply of illicit alcohol:

- Check the product price and labelling
  - Make sure the price is realistic.
  - Be careful when offered 'bonus stock' that substantially reduces the price of the total supply.
  - Check if the price looks odd when compared to similar product from other suppliers.
  - Watch out for incorrect or odd product labelling, including country of origin, supplier or manufacturer details, lot identification, barcode, tampered lot codes.
- Check the invoice details
  - Ensure the amount of product matches what was delivered.
  - Be alert to missing, vague or incorrect product descriptions.
- Check the supplier's details
  - Confirm if they hold an ATO-issued manufacturer or storage licence.
  - Be careful of requests to hold or store product without purchasing it.
  - Verify the bona fides of new suppliers.
  - Check if they are registered on the [Australian Business Register](#) .
- Check your internal controls


- Monitor your stock.
- Understand how much excise duty is payable on different alcohol products by checking the [excise duty rates for alcohol](#) on our website.

If you purchase directly from an alcohol manufacturer, you can [contact us](#) for certain information about the excise licences and permissions of those suppliers.

You can download or order a visual PDF factsheet for reference – [Could you be selling illicit alcohol without realising it?](#) 

## What to do if you have been sold illicit alcohol products

If you are concerned you may have purchased illicit alcohol, or otherwise have illicit alcohol in your possession, we can help you rectify the problem. We encourage you to:

- [contact us](#) for further advice about excisable alcohol
- [contact Australian Border Force](#)  for further advice about imported alcohol
- [make a voluntary disclosure](#) to reduce penalties that may apply.

You may also want to seek independent professional advice.

For more information, see [Excise on alcohol](#).

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## Diversion of illicit alcohol

How to claim a remission, drawback or refund and avoid illegally diverting alcohol into the domestic market.

**Last updated** 9 June 2023

## Alcohol diverted for home consumption

Sometimes businesses illegally divert illicit alcohol into the Australian domestic market for home consumption after:

- a remission, refund or drawback has been claimed
- spirits have been obtained for an approved concessional purpose.

Example: export diversion by storage licence holder

Wholesale B & S is a wholesaler with an excise storage licence. It stores well-known brands of beer and spirits, underbond, at a licensed warehouse.

Wholesale B & S pays excise duty at the correct rate on some of the beer they store, at the time it is entered for home consumption. They then load the remaining underbond beer into export containers at their licensed warehouse. However, they incorrectly declare the beer they are exporting to be spirits in the Australian Border Force (ABF) Integrated Cargo System (ICS).

Wholesale B & S then diverts the underbond spirits that they declared to ABF as exported into the Australian domestic market for sale. They sell the spirits directly to a retailer, and to another retailer via a wholesale distributor, without paying excise duty.

They sell the spirits to the retailer at a price that is significantly below the usual price of the brand because no excise duty has been paid on the spirits. The retailer sells the illicit spirits to consumers at a discount, while still making a profit.

This is an offence under the *Excise Act 1901* that has been committed by both the:

- excise storage licence holder (the wholesaler)
- retailer.

Various offences and consequences could apply in this situation.

Penalties may include having to pay up to 5 times the amount of duty that would have been payable or criminal prosecution.

## Remission, refund or drawback claims

Sometimes businesses make incorrect claims for a remission, refund or drawback of excise duty. In these situations, once the remission, refund or drawback of excise duty is granted, the excisable alcohol is then diverted into the Australian market for consumption.

In some situations, claims are fraudulently made. In other situations, the claims are made correctly however the products may be diverted into the Australian market by an entity other than the claimant (for example, goods may be diverted before or at a destruction facility).

Other than a remission for eligible entities under the [Remission scheme](#), you can generally only claim a **remission** of the excise duty you would have had to pay for your goods if both of the following apply:

- your goods **can't** be delivered into the Australian domestic market
- you haven't paid the excise duty for them.

You can only claim a **refund** of excise duty you've paid on goods delivered for domestic consumption under certain situations. You can't claim a refund for duty-paid products that go missing, or are destroyed, in transit.

You can only claim a **drawback** of excise duty if you export excisable alcohol products that have had excise duty paid on them.

For more information, see [Excise refunds and drawbacks for excisable alcohol](#).

Example: diversion of alcohol that should have been destroyed

An excise-licensed manufacturer has a specific quantity of alcohol that is unfit for human consumption.

They apply to us for:

- permission to destroy the alcohol on which duty has not been paid
- remission of the excise duty.

We grant permission for the alcohol to be moved to a destruction facility and destroyed.

The manufacturer sends the alcohol to the destruction facility, however, it is not destroyed. Instead, lot and batch codes are

removed and the alcohol is supplied to a wholesale distributor. They then sell alcohol duty unpaid, to a retailer at a significantly reduced price.

The retailer sells the alcohol to consumers at a much cheaper price than similar alcohol products, while still making a profit.

This is an offence under the *Excise Act 1901* committed by each entity in the supply chain, including the:

- destruction facility
- wholesale distributor
- retailer.

Various offences and consequences could apply in this situation.

Penalties may include having to pay up to 5 times the amount of duty that would have been payable or criminal prosecution.

In addition, selling products that the manufacturer declared were unfit for human consumption poses a risk to public health.

## **Concessional spirits used for non-concessional purposes**

Sometimes [concessional spirits](#) are used for non-concessional purposes and excise duty isn't being paid. One example is where concessional spirits are used to produce an excisable alcoholic beverage. This is an offence and could pose a risk to public health if the concessional spirit used is unfit for human consumption (denatured spirit).

Concessional spirits are generally very high-strength spirits (around 96% alcohol by volume). You can only use concessional spirits for approved concessional purposes. You generally need to hold a concessional spirit permit.

Spirits are only free of excise duty if they are:

- used for approved concessional purposes – that is, used for either
  - fortifying Australian grape wine or grape must

- an industrial, manufacturing, scientific, medical, veterinary or educational purpose
- denatured in accordance with a formula approved by us, that is they
  - are made unfit for human consumption
  - aren't for use in an internal combustion engine.

## How to correct a mistake or amend a return

If you need to [fix a mistake or amend an excise return](#) to change information you have previously lodged, you should do this as quickly as possible. For example, when you haven't reported and paid all the excise duty you needed to.

To reduce penalties that may apply, you can make a [voluntary disclosure](#).

You may also want to seek independent professional advice.

For more information on paying excise duty, see [Lodging, paying and rates – excisable alcohol](#).

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## How we respond to illicit alcohol

How we identify and respond to illicit alcohol activities.

**Last updated** 9 June 2023

## Excise and excise equivalent goods activities

We have increased our focus on activities involving illicit alcohol, which are offences under the *Excise Act 1901*. We also work closely with the

Department of Home Affairs – [Australian Border Force](#)  for activities related to excise equivalent goods (EEGs) covered by the *Customs Act 1901*.

Wherever possible, we want to work with people and businesses to help them correct any mistakes and comply with their obligations.


We encourage you to [contact us](#) about [excise on alcohol](#) or excise equivalent goods (imports) early if you identify any mistakes or have concerns about whether you are meeting your obligations.

## When we identify instances of these activities

We will contact people that we identify as engaging in illicit alcohol activities. We will advise what you need to do to rectify the situation and avoid further compliance action by us.

Penalties and other consequences may apply to participants in, and promoters of, these types of activities. However, consequences vary depending on whether the action was done with negligence, knowledge, or intent.

If we find that the activity was done with knowledge or intent, more serious penalties and other sanctions under criminal law may apply, including imprisonment.

Registered tax agents involved in the promotion of these types of activities may be referred to the [Tax Practitioners Board](#)  which can lead to deregistration.

We will ensure the most serious offenders are brought to justice.

## How to report tax evasion

If you are aware of anyone who is engaging in tax evasion activities, we encourage you to report it to us by [making a tip-off](#).

You can also find the ATO tip-off form in the **Help & support** section of the [ATO app](#).

The reporting process is confidential. It will help us support the Australian community and retain fairness in the excise system.

For more information, see [What attracts our attention – illicit alcohol](#).

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## **Our commitment to you**

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.

If you follow our information and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we will take that into account when determining what action, if any, we should take.

Some of the information on this website applies to a specific financial year. This is clearly marked. Make sure you have the information for the right year before making decisions based on that information.

If you feel that our information does not fully cover your circumstances, or you are unsure how it applies to you, contact us or seek professional advice.

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