

Note: Please see [TSB-M-15\(1\)S](#), *Sales and Use Tax Exemptions for Alcoholic Beverage Tastings*, for information on 2015 amendments to the Tax Law relating to sales and use tax exemptions for wine tastings.

TSB-M-14(9)S begins on page 2 below.



Sales and Use Tax Exemption for Certain Wine Tastings

This memorandum explains the Tax Department's policy regarding the exemption from sales and use taxes for certain wine tastings held in accordance with section 80 of the Alcoholic Beverage Control Law.

A wine seller must collect sales tax when making retail sales of wine and wine products in New York State (whether sold by the bottle or by the glass). In addition, a wine seller generally owes use tax when it takes property out of inventory for its own use.

Section 1115(a)(33) of the Tax Law provides for an exemption from the sales and use taxes for wine or wine product (wine) furnished by the official agent of a winery, farm winery, wholesaler, or importer at wine tastings held in accordance with section 80 of the Alcoholic Beverage Control Law (ABCL).

For purposes of section 1115(a)(33) of the Tax Law, a wine tasting is an event or occasion held in accordance with section 80 of the ABCL by a winery, farm winery, wholesaler, or importer at its licensed premises where participants taste samples of a number of different wines. Sometimes wine tastings are held free of charge, while other times participants pay a fee per person for the tasting. Incidental food items may be made available to participants, mainly to serve as palate cleansers between the samples of wine being tasted.

Exempt wine tastings

Section 80 of the ABCL allows licensed wineries, farm wineries, wholesalers, and importers to conduct wine tastings at their own licensed premises. Wine tastings conducted by these licensees **at other locations** are not covered by section 80 of the ABCL. Only a winery or farm winery may charge a fee for a tasting held in accordance with section 80 of the ABCL.

Wine means the product of the normal alcoholic fermentation of the juice of grapes, or other fruits or plants, including champagne, sparkling, and fortified wine. The alcoholic content of wine cannot exceed 24% by volume.

Wine product means a beverage containing wine to which is added concentrated or unconcentrated juice, flavoring material, water, citric acid, sugar, and carbon dioxide. The alcoholic content of wine product cannot exceed 6% by volume.

No use tax is due on the wine furnished by the official agent of a winery, farm winery, wholesaler, or importer at a wine tasting (or on the bottles, corks, caps, or labels used to package the wine served) that is held in accordance with section 80 of the ABCL and which is, therefore, exempt under section 1115(a)(33) of the Tax Law.

In addition, no sales tax is owed on a charge by a winery or farm winery for a wine tasting held in accordance with Section 80 of the ABCL.

Example: A winery hosts tastings at its vineyard, where the wines being offered at the tasting are also available for sale. Participants in the tastings are charged a per-person fee to sample up to seven wines that the winery produces and sells. Small bowls of crackers and plates of small cubes of cheese are made available to be used as palate cleansers by participants in the wine tastings.

The wine served at the tastings (including the bottles, corks, caps, or labels used to package the wine served) is exempt from use tax under section 1115(a)(33) of the Tax Law. In addition, no sales tax is required to be collected on the fee charged to participants in the wine tasting.

Example: A wine wholesaler hosts tastings at its facility. No fee can be charged by the wholesaler to participants in the tastings. Small bowls of crackers and small plates of sliced cheese are made available to be used as palate cleansers by participants in the wine tastings.

The wine served at the tastings (including the bottles, corks, caps, or labels used to package the wine served) is exempt from use tax under section 1115(a)(33) of the Tax Law.

Other wine events

The exemption in section 1115(a)(33) of the Tax Law does not apply to other events or occasions where wine is tasted, regardless of whether they are described as or called a "wine tasting." Only wine tasting events, as described above, held in accordance with section 80 of the ABCL by a winery, farm winery, wholesaler, or importer at its licensed premises qualify for the exemption from sales and use taxes.

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.