



2016 Legislation Related to Taxes on Alcoholic Beverages

This memorandum summarizes amendments to the corporation franchise tax, personal income tax, alcoholic beverages tax, and sales and use tax, enacted by Part V of Chapter 60 of the Laws of 2016.

Chapter 60 of the Laws of 2016 (Part V) amended the Tax Law in relation to alcoholic beverages. The amendments:

- expand the corporation franchise tax and personal income tax beer production credit to also apply to the production of cider, wine, and liquor;
- update the alcoholic beverages tax law to include cider within the definition of alcoholic beverages and to exempt alcoholic beverages furnished at tastings from the tax; and
- expand the types of alcoholic beverage producers eligible for the use tax exemption for items used at a tasting.

Expansion of the beer production credit to include cider, wine and liquor

Part V amended section 37 of the Tax Law to expand the beer production credit to also apply to the production of cider, wine, and liquor. The corporation franchise tax and personal income tax were also amended to change the name of the credit to *alcoholic beverage production credit*. These amendments are explained in detail in [TSB-M-16\(5\)C, \(3\)I](#), *Alcoholic Beverage Production Credit (formerly the Beer Production Credit)*.

Definition of cider

Effective April 1, 2016, Part V amended the definition of alcoholic beverages under section 420(3) of the alcoholic beverages tax to include ciders as defined in the Alcoholic Beverage Control Law (ABCL).

Section 3.7-b of the ABCL defines cider, in part, as the partially or fully fermented juice of fresh, whole apples or other pome fruits, containing more than 3.2% but not more than 8.5% alcohol by volume (ABV):

- to which nothing has been added to increase the alcoholic content produced by natural fermentation; and
- with the usual cellar treatments and necessary additions to correct defects due to climate, saccharine levels and seasonal conditions.

In certain cases, products that meet the definition of cider may also meet the definition of wines. The Tax Law defines *wines* as wine, fruit juice containing .5% or more ABV, and all other beverages containing alcohol manufactured or produced by the fermentation of the natural

sugar contents of fruit or other agricultural products containing sugar, with an ABV of no more than 24%, excluding cider containing 3.2% ABV or less.

The following table summarizes how a product labeled as a cider is taxed, based on the ABV percentage:

ABV amount	How it is taxed
3.2% ABV or less	not subject to the alcoholic beverages tax
more than 3.2% but not more than 8.5% ABV	taxed as cider
more than 8.5% but not more than 24% ABV	taxed as wine

Alcoholic beverages tax exemption for alcoholic beverages furnished at tastings

Part V amended section 424 of the alcoholic beverages tax to add a new section 424.6, which provides an exemption for alcoholic beverages furnished by a licensed producer at no charge to a customer or prospective customer at a tasting for consumption at the tasting.

To qualify for the exemption, the alcoholic beverage tasting must be held by a licensed producer of alcoholic beverages as defined by the ABCL, and in accordance with all alcoholic beverage control laws governing consumption at tastings.

This amendment is effective April 1, 2016.

Use tax exemption for items used at alcoholic beverage tastings

Part V amended section 1118(13) of the sales and use tax to make the use tax exemption available to any licensed *producer of alcoholic beverages*. The amendment makes no other change to the exemption described in this section. For more information on this exemption, see [TSB-M-15\(1\)S](#), *Sales and Use Tax Exemptions for Alcoholic Beverage Tastings*.

This amendment applies to uses occurring on and after June 1, 2016.

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