



# Department of Taxation and Finance

## Important

The Alcoholic Beverages Tax information in this document is outdated and provided only for historical purposes.

For up-to-date information, see [Alcoholic beverages tax](#).

This TSB-M begins on page 2 below.

**New York State Department of Taxation and Finance**  
**Office of Tax Policy Analysis**  
**Technical Services Division**

TSB-M-00(3)M  
Alcoholic Beverage  
June 15, 2000

**Changes in the Alcoholic Beverage Tax Law Regarding Beer**

**New York State brewers' exemption increases**

On May 15, 2000, Governor George E. Pataki signed into law Chapter 63 of the Laws of 2000. This act contains a provision to increase the number of barrels of beer eligible for the brewers' exemption from 100,000 to 200,000 in a calendar year retroactively to January 1, 2000. Chapter 407 of the Laws of 1999, which had enacted the increase in the barrel exemption, had an effective date of March 1, 2001.

Any distributor, who is also a brewer, and whose principal executive office is located in New York State is eligible for this exemption. The exemption applies to the first 200,000 barrels (6,200,000 gallons) of beer that is both brewed and sold or used in New York State in each calendar year.

Brewers must indicate on their sales invoices for the first 200,000 barrels that the state beer tax is not included because of the brewers' exemption, and therefore no state beer tax will be paid by the brewer on these sales.

**Exemption also applies to the New York City beer tax**

Article 18 of the New York State Tax Law, *Taxes on Alcoholic Beverages*, authorizes New York City to impose an excise tax on beer. As authorized by this Article, the Administrative Code of the City of New York imposes an excise tax on a distributor or noncommercial importer at the rate of twelve cents per gallon on beer, sold or used within the City. (Sales in New York City include sales to purchasers whose licensed premises are located within the City and sales for delivery to purchasers located within the City.)

Article 18 also provides that all of its provisions apply to the New York City beer tax. Therefore, the provisions discussed above, exempting up to 200,000 barrels of beer brewed and sold or used in New York State in each calendar year by brewers whose principal executive offices are located in New York State (brewers' exemption), also apply to the New York City beer tax.

Accordingly, a distributor who is also a brewer, and whose principal executive office is located in New York State (whether in or outside of New York City), is also entitled to exemption from the New York City beer tax on up to 200,000 barrels (6,200,000 gallons) of beer brewed in the state and sold or used in New York City. To claim the City beer tax exemption, the distributor/brewer should enter the amount of exempt beer sold or used in New York City, on Form MT-53, *Schedule E, New York City, line 5*.

### **Brewery exclusion for sales to registered distributors located within New York City**

Do not confuse the brewers' exemption with the **brewery exclusion**. This exclusion allows a brewer (located in or outside of New York State) to exclude the New York City beer tax when making sales directly to registered distributors located within New York City. The purchasing distributor must pay the city beer tax on its own MT-50, *Return of Tax on Beer and Similar Fermented Malt Beverages*. (For further information on this exclusion, see TSB-M-82(8)M.)

### **Refunds**

A distributor **who is also a brewer**, and whose principal executive office is located in New York State, is entitled to a refund of any New York City beer tax paid on the exempt gallonage. The refund must be claimed within **two** years from the date the payment was made. Such a distributor may claim the refund as an adjustment on Form MT-50, line 20, or file amended forms MT-50 and MT-53.