



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The Alcoholic Beverages Tax information in this document is outdated and provided only for historical purposes.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 on the Alcoholic Beverages Tax return filing requirements and the election to file an annual return, see [Alcoholic beverages tax](#) and [Form MT-38, Application for Annual Filing Status for Certain Liquor, Beer and Wine Manufacturers](#).

This Technical Services Bureau Memorandum begins on page 2 below.

Annual Filing Option Available for Certain Beer Distributors

The alcoholic beverage tax regulations were recently amended to allow certain beer distributors to elect to file Form MT-50, *Beer Tax Return (and Similar Fermented Malt Beverages)*, on an annual basis rather than a monthly basis. The annual return will cover the calendar year and will be required to be filed on or before January 20 of the following year. Eligible distributors may elect to begin filing an annual return for the calendar year beginning January 1, 2001. This first annual return will be due January 20, 2002.

Who is eligible to elect to file an annual beer tax return?

There are two requirements that a distributor must meet to qualify for annual filing of a beer tax return.

1. The distributor must be licensed with the State Liquor Authority (SLA) as either a *restaurant brewer* pursuant to section 64-c of the Alcoholic Beverage Control Law or as a *microbrewery* pursuant to sections 51 and 56 of the Alcoholic Beverage Control Law. To qualify for a license as a *microbrewery* a distributor must produce less than 60,000 barrels (1,860,000 gallons) of beer annually.
2. The distributor's activities in New York State with respect to alcoholic beverages must be limited to the production of beer for sale. If the distributor conducts any other activities in New York relating to alcoholic beverages, such as importing beer, the distributor does not qualify for annual filing.

A beer distributor that meets both qualifications on January 1 of any calendar year and anticipates that these qualifications will be met for the remainder of the calendar year, may elect to file an annual rather than monthly beer tax returns. This election may be made at any time during the calendar year by completing form MT-38, *Application for Annual Beer Tax Return Filing Status*, and returning it to the address shown on that form. Note: A distributor applying for annual filing status must continue to file monthly returns until notified by the Tax Department that the request to file annually has been received and approved.

A beer distributor that does **not** meet both qualifications on January 1 of any calendar year must file monthly returns for the entire calendar year even if both qualifications are met during the course of the year. This distributor may apply for annual filing status beginning with the next calendar year by filing form MT-38. However, a new business that begins acting as a distributor during a calendar year may file an annual return for that calendar year if it otherwise meets the requirements for annual filing stated above.

Failure to maintain requirements to qualify for annual filing

If, at any time, a beer distributor ceases to meet the requirements for annual filing, the distributor must begin filing monthly returns. The first monthly return will cover the first full month following the month in which the distributor failed to meet the requirements for annual filing. In addition, the distributor must file an abbreviated annual return covering the activities from January 1 through the end of the month in which the distributor ceased to meet the qualifications for annual filing.

Reinstatement for the next or subsequent calendar years

A distributor that met the requirements for annual filing, but failed to continue to meet those requirements, and anticipates that the qualifications will again be met for the next or any subsequent annual filing period, may request reinstatement as an annual filer. To do this, the applicant must send a letter to the Tax Department. The letter should include an explanation of the activities that resulted in the disqualification and a summary of how the circumstances have changed. Address the letter to:

New York State Tax Department
ABT>Returns Processing Unit
Building 8 Room 658
W A Harriman Campus
Albany, New York 12227

Note: A distributor requesting reinstatement as an annual filer must continue to file monthly returns until the Tax Department notifies the distributor that the request has been received and approved.

Need Forms?

Form MT-38, *Application for Annual Beer Tax Return Filing Status* and Form MT-50, *Beer Tax Return* may be obtained by:

Calling - 1 800 462-8100
Fax on Demand - 1 800 748-3676
Internet access - www.tax.state.ny.us