

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-82(8)M
Alcoholic Beverage Tax
July 29, 1982

Subject: Alcoholic Beverage Tax Regulations
Beer-New York City sales
Credit and/or reimbursement of New York City beer tax
Invoicing requirement

New York City Sales

Effective May 1, 1982 changes in the Alcoholic Beverage Tax Regulations require that all sales of beer to customers whose licensed premises are located in New York City, or where the sale is completed by delivery to any purchaser in New York City, are subject to both the New York State and New York City beer taxes. However, the sale of beer by a brewery (located within or without New York State) directly to a registered distributor located within New York City is excluded from the New York City beer tax.

The New York City tax is imposed at the point of first sale into New York City. Accordingly, this precludes tax free sales in New York City between registered distributors.

Credit and/or reimbursement of New York City taxes on beer sold outside New York City on or after May 1, 1982.

A registered distributor in New York City who completes a sale of beer to a wholesaler by delivery outside of New York City may take a credit on Schedule E, Calculation of New York City Tax Due, for sales of beer on which the New York City beer tax was previously paid. If there is a net credit on Schedule E, the credit may be used to offset any New York State beer tax liability reported on Form MT103.7, Return of Tax on Beer and Similar Fermented Malt Beverages. If the credit is more than the New York State beer tax liability, the remaining credit may be applied to future tax returns. If the credits cannot be exhausted, a refund of New York City beer tax may be requested with the filing of the monthly beer tax return.

Please note, however, that if a wholesaler picks up a load of beer at the dock of a registered distributor whose licensed premises are located in New York City, credit may not be taken for that sale. Such sale was completed by delivery within New York City and is subject to the tax.

A beer wholesaler who purchases beer with the New York City tax included in the purchase price from either registered distributors or wholesalers and then makes sales of such beer by delivery outside of New York City may apply for a refund of the New York City beer tax on Form TP-165.7, Claim for Refund of New York City Tax Paid on Beer. The claim must be filed within two years of the date of the sale outside New York City and must be accompanied by substantiating invoices.

Invoice Requirements

Effective June 1, 1982 changes in the Alcoholic Beverages Tax Regulations require that all sales in New York State of beers (other than retail sales) must be evidenced by and recorded on a serially-numbered invoice. (A retail sale is a sale to anyone for any purpose other than resale). The new Alcoholic Beverage Tax Regulations require that all purchasers receive a copy of such serially-numbered invoices. The invoice must include:

the identifying number of the invoice

the date of sale (if the delivery date and date of sale are not the same, the seller must keep a record of both dates)

the names of the seller and purchaser

the seller's and purchaser's State Liquor Authority numbers and, if registered as distributors, the Tax Department registration (certificate) numbers

the address of the licensed premises of the seller and purchaser (The premises from which the beer was delivered and the premises at which it was received must also be shown, if they are not the same as the seller's and purchaser's licensed premises).

the brand name and price of the beers.

statement of taxes paid:

(a) if the sale is made to a purchaser whose licenses premises are in New York City or if it is completed by delivery to a purchaser in New York City, the invoice must also include a statement that all New York City and New York State alcoholic beverages taxes have been paid. If either or both of these taxes have not been paid, the invoice must specifically set forth the exception and exclusion to these taxes contained in Article 18 of the Tax Law, Title Y of Chapter 46 of the Administrative Code of the City of New York, or the rules of the State Tax Commission which exempts or excludes the sale from tax. For example, a statement that "sale of beer to noncommissioned officers' open mess of the U.S. Army, as purchaser" will be considered an acceptable statement if the other information on the invoice supports it.

(b) if the sale is subject only to the New York State alcoholic beverage tax, the invoice must include a statement that the tax has been paid. If it has not, the invoice must include the explanation set forth in the preceding paragraph.

The regulations require that on all sales both seller and purchaser must retain copies of the invoice.