

STATE OF NEW YORK
DEPARTMENT OF TAXATION AND FINANCE
COMMISSIONER OF TAXATION AND FINANCE
ALBANY, NEW YORK

Pursuant to the authority contained in subdivision First of section 171, subdivision (1) of section 429, and section 436 (not subdivided) of the Tax Law, the Commissioner of Taxation and Finance hereby proposes to make and adopt the following amendments to the Alcoholic Beverage Tax regulations of the Department of Taxation and Finance, as published in Subchapter H of Chapter I of Title 20 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Section 1. Subparagraphs (i) and (ii) of paragraph (3) of subdivision (a) of section 60.1 of such regulations are amended to read as follows:

(i) A distributor that:

“(a)” is required to register as a distributor solely because such person’s activities relate to the production of beer in New York State; and

“(b)” is licensed by the State Liquor Authority of New York State as either:

“(1)” a brewer, pursuant to sections 51 and 56 of the Alcoholic Beverage Control Law, or a farm brewery pursuant to sections 51-a and 56 of such law, whose annual production of beer will not exceed 60,000 barrels (“i.e.”, a “micro-brewer” or “farm brewery”); or

“(2)” “a restaurant-brewer,” pursuant to section 64-c of the Alcoholic Beverage Control Law; may file an annual tax return in lieu of the monthly returns required by paragraph (1) of this subdivision. Such annual return shall relate to the distributor's activities during the calendar year and shall be due on or before January 20th of the succeeding calendar year. Such return must show the information required in paragraph (1)

of this subdivision, except that "month" shall be read as "year," and must be accompanied by proof of such distributor's continuing license as a "micro-brewery," "farm brewery," or [as a] "restaurant-brewer."

(ii) If a distributor meeting the requirements of subparagraph (i) of this paragraph (a "qualifying distributor") at any time during the period to be covered by an annual return ceases to be licensed by the State Liquor Authority as [either] a "micro-brewery," "farm brewery," or [a] "restaurant-brewer," but continues to be a licensed brewer, such distributor must immediately begin filing monthly tax returns, as described in paragraph (1) of this subdivision. Similarly, if at any time during the period to be covered by an annual return, a qualifying distributor imports any beer into New York State or engages in any activities of a distributor other than those related to the production of beer in New York State, such distributor must immediately begin filing monthly tax returns, as described in paragraph (1) of this subdivision.

Dated: Albany, New York
November 13, 2012

Thomas H. Mattox
Commissioner of Taxation and Finance