



Penalty Information for Individuals Who Are Not Registered Distributors of Alcoholic Beverages

Introduction

If you bring small quantities of alcoholic beverages into New York State for your personal use and not for resale, you are generally not considered a distributor and do not have to register as a distributor of alcoholic beverages. However, other provisions of the Alcoholic Beverages Tax Law still apply; depending on the quantities and types of alcoholic beverages you bring into the state (and whether you bring them into the city of New York). For example, you may have to file returns and pay New York's excise tax on alcoholic beverages.

This bulletin provides an overview of the alcoholic beverages tax penalties that may apply to you as an individual who is not required to be registered as a distributor of alcoholic beverages.

For details on provisions of the Alcoholic Beverages Tax Law that may apply to individuals who are not required to be registered as a distributor of alcoholic beverages, see:

- Tax Bulletin [Do I Have to Register as a Distributor of Alcoholic Beverages? \(TB-AB-180\)](#);
- Tax Bulletin [Filing Requirements for Individuals Who Import Alcoholic Beverages for Personal Use \(TB-AB-275\)](#); and
- Tax Bulletin [Alcoholic Beverages Tax – Introduction and Definitions \(TB-AB-25\)](#).

Even if you are not required to register as a distributor, you must follow the alcoholic beverages tax rules that apply to you. If you do not comply with the law, you will be subject to the following penalties.

Penalties for late filing and failing to file a return	
If you:	the penalty is:
are an individual required to file and you fail to file or fail to file a return on time,	50% of the tax due plus 1% for each additional month or part of a month. (Tax Law, sec. 433(1)(a)(ii))
are required to file and you file a return late by more than 60 days,	50% of the tax due plus 1% for each additional month or part of a month. However, this penalty cannot be less than \$100 or the amount of tax required to be shown on the return, whichever is less. (Tax Law, sec. 433(1)(a)(iii))
You may be subject to fines and a jail sentence if you fail to make, render, sign, certify, or file any return or report. (Tax Law, sec.1801(a)(1) and sec.1802-1807)	

Penalties for failing to pay tax	
If you:	the penalty is:
are an individual required to file and you fail to file or fail to timely file a return,	50% of the tax due plus 1% for each additional month or part of a month. (Tax Law, sec. 433(1)(a)(ii))
If your failure to pay any tax due by the due date was due to fraud, instead of the penalty described above, you will be subject to a penalty of double the amount of tax due. (Tax Law, sec. 433(d))	
You may be subject to fines and a jail sentence if you willfully fail to pay any tax with the intent to evade tax. (Tax Law, sec. 1801(a)(7) and sec. 1802-1807)	

Penalties for document and record keeping violations
<p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> • willfully file or submit a return, report, statement, or other document that you know contains any materially false or fraudulent information or omits any material information (Tax Law, sec. 1801(a)(2) and sec. 1802-1807); or • knowingly supply or submit false or fraudulent information in connection with any return, audit, investigation, or proceeding or you willfully fail to supply information within the time required. (Tax Law, sec. 1801(a)(3) and sec. 1802-1807)

Penalties for miscellaneous tax fraud acts (other tax fraud acts are listed in the appropriate specific category)
<p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> • fail to make, render, sign, certify, or file any tax return or report (Tax Law, sec. 1801(a)(1) and sec. 1802-1807); or • engage in any act to defraud the state or its political subdivisions or a government instrumentality within the state by false or fraudulent pretenses, representations, or promises as to any material matter in connection with alcoholic beverages taxes. (Tax Law, sec. 1801(a)(4) and sec. 1802-1807)

Miscellaneous penalties for individuals while not registered as a distributor for New York State purposes
<p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> • knowingly and intentionally import or cause to be imported more than 360 liters of liquors into New York State for sale or use in a one-year period; • knowingly and intentionally produce, distill, manufacture, compound mix, or ferment in New York State more than 360 liters of liquors for sale in a one-year period; or • as a purchaser of a warehouse receipt, knowingly and intentionally cause more than 360 liters of liquor in a one-year period to be removed from a warehouse in New York State. (Tax Law, sec. 1813(e)(2))

Miscellaneous penalties for individuals while not registered as a distributor for New York City purposes

You may be subject to fines and a jail sentence if you:

- are not required to be registered and you knowingly and intentionally import or cause to be imported more than 360 liters of liquors into New York City for sale or use in a one-year period; or
- are not required to be registered and you knowingly and intentionally produce, distill, manufacture, compound, mix, or ferment more than 360 liters of liquors in New York City in a one-year period.
- as a purchaser of a warehouse receipt, knowingly and intentionally cause more than 360 liters of liquor in a one-year period to be removed from a warehouse in New York City. (Tax Law, sec. 1813(f)(2))

Penalties for any individual other than a registered distributor

You may be subject to fines and a jail sentence if you:

- import or cause liquors to be imported into New York and you willfully and knowingly have in your custody, possession, or under your control liquors when the alcoholic beverages tax has not been assumed or paid by a registered distributor. (Tax Law, sec. 1813(g))

Additional penalties for alcoholic beverage wholesalers

If you're an alcoholic beverage wholesaler and you don't comply with the sales tax law that requires you to file an information return regarding your transactions, you may be subject to civil penalties. For more information, see [TSB-M-09\(10\)S](#), *New Requirement for the Filing of Information Returns for Alcoholic Beverage Wholesalers*.

Seizure and forfeiture

A motor vehicle (or other means of transportation) used to transport liquor, and the liquor itself, may be seized if a police officer or peace officer discovers that the vehicle contains more than 90 liters of liquor and:

- the liquor is being imported for sale or use in New York State or New York City by a person who is not a registered distributor; and
- while the liquor is being distributed or held for sale in New York State or New York City, the alcoholic beverages tax due on that liquor has not been paid or assumed by a registered distributor.

Within five business days from the date of seizure, the Tax Department must confirm seizure by initiating action in the Supreme Court in the county where the seizure occurred; otherwise, the Tax Department must return the property that was seized. After seizure is confirmed, the seized liquor or vehicle may be subject to forfeiture and may be sold at auction.

We may reduce or eliminate some penalties if reasonable cause is shown

If you can show that your failure to comply with the alcoholic beverages tax laws was due to reasonable cause, and not due to willful neglect, we may reduce or eliminate the applicable civil penalties imposed by section 433 of the Tax Law and noted in this bulletin. See Section 2392.1 of the Regulations (Title 20 NYCRR).

The collection process

See [Publication 131](#), *Your Rights and Obligations Under the Tax Law*, for an overview of the legal enforcement procedures the Tax Department may use to collect your tax debt if you fail to pay, or fail to make arrangements to pay, an assessed tax liability (Tax Law, sec. 431 and sec. 433(e)).

Interest for failure to pay tax

If you don't pay the full amount due on time, you will owe interest in addition to a penalty. Interest is due on any amount not paid when due and accrues from the due date of the return to the date the tax is paid. Interest is compounded daily, and the rate may be adjusted quarterly. You can use the online [Penalty and Interest Calculator](#) to determine the amount of penalty and interest due.

Note: A Tax Bulletin is an informational document designed to provide general guidance in simplified language on a topic of interest to taxpayers. It is accurate as of the date issued. However, taxpayers should be aware that subsequent changes in the Tax Law or its interpretation may affect the accuracy of a Tax Bulletin.

References and other useful information

Tax Law: Sections 433; 1802-1807; 1813, and 1817

Regulations: Section 2392.1

Publications:

[Publication 131](#), *Your Rights and Obligations Under the Tax Law*

Memorandums:

[TSB-M-09\(10\)S](#), *New Requirement for the Filing of Information returns for Alcoholic Beverage Wholesalers*
[TSB-M-09\(10.1\)S](#), *Additional Guidance Relating to the New Requirement for the Filing of Information Returns for Alcoholic Beverage Wholesalers*

Bulletins:

[Do I Have to Register as a Distributor of Alcoholic Beverages? \(TB-AB-180\)](#)
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