



Penalty Information for Registered Distributors of Alcoholic Beverages

Introduction

Alcoholic beverages distributors must register with the Tax Department and comply with all other provisions of New York’s alcoholic beverages tax. These requirements include:

- keeping accurate records,
- filing your return on time, and
- paying any tax due by the applicable due date.

If you don’t know whether you’re considered a distributor of alcoholic beverages and need to register, see:

- Tax Bulletin [Do I Have to Register as a Distributor of Alcoholic Beverages? \(TB-AB-180\)](#);
- Tax Bulletin [Filing Requirements for Registered Distributors of Alcoholic Beverages \(TB-AB-276\)](#); and
- Tax Bulletin [Alcoholic Beverages Tax – Introduction and Definitions \(TB-AB-25\)](#).

If you’re a registered distributor and you don’t comply with the alcoholic beverages tax laws, you may be subject to civil or criminal penalties. This bulletin provides an overview of those penalties.

Penalties for late filing and failing to file a return	
If you:	the penalty is:
fail to file or fail to file a return on time,	10% of the tax due plus 1% for each additional month or part of a month not to exceed 30% of the tax due. (Tax Law, sec. 433(1)(a)(i))
are required to file and you file a return late by more than 60 days,	10% of the tax due plus 1% for each additional month or part of a month not to exceed 30% of the tax due. 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/or 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:
fail to pay any tax due by the due date.	10% of the tax due plus 1% for each additional month or part of a month not to exceed 30% of the tax due. (Tax Law, sec. 433(1)(a)(i))
If your failure to pay any tax due by the due date is due to fraud, you will be subject to a penalty of twice the amount of tax due. (Tax Law, sec. 433(d))	
You may be subject to fines and a jail sentence if, with intent to evade tax, you willfully fail to pay any tax. (Tax Law, sec. 1801(a)(7) and sec. 1802-1807)	

Penalties for document and recordkeeping 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)

Penalties for failing to collect tax
<p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> • willfully fail to collect the alcoholic beverages tax required to be collected. (Tax Law, sec.1801(a)(6) and sec.1802-1807)

Miscellaneous penalties
<p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> • are required to be registered but are not, and you knowingly import or cause to be imported any liquors into New York State for sale or use; • are not registered and knowingly produce, distill, manufacture, compound mix, or ferment any liquors in New York State for sale; or • as a purchaser of a warehouse receipt, knowingly cause liquors covered by the receipt to be removed from a warehouse in New York State. (Tax Law, sec. 1813(e)(1))

Miscellaneous penalties for distributors of liquor required to be registered for New York City purposes
<p>You may be subject to fines and a jail sentence if you:</p> <ul style="list-style-type: none"> • are required to be registered but are not, and you knowingly import or cause to be imported any liquors into New York City for sale or use; • are not registered and knowingly produce, distill, manufacture, compound, mix, or ferment any liquors in New York City for sale; or • as a purchaser of a warehouse receipt, knowingly cause liquors covered by the receipt to be removed from a warehouse in New York City. (Tax Law, sec. 1813(f)(1))

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 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

In addition to a penalty if you don't pay the full amount due in time, you will owe interest. 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.

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:

[Filing Requirements for Registered Distributor of Alcoholic Beverages \(TB-AB-276\)](#)
[Do I Have to Register as a Distributor of Alcoholic Beverages? \(TB-AB-180\)](#)
[Alcoholic Beverages Tax – Introduction and Definitions \(TB-AB-25\)](#)