



CITY OF SEATTLE

# Sweetened Beverage Tax

## *Illustrative examples\**

*\*taken from the Seattle Business Tax Rule 5-953*



Effective Jan. 1, 2018, sugary beverage products distributed within Seattle will be subject to a 1.75 cent per ounce tax, to be paid by distributors. More information is available online at [www.seattle.gov/sweetened-beverage-tax](http://www.seattle.gov/sweetened-beverage-tax). Tax filers may contact us at 206-684-8484 or [SweetenedBevTax@seattle.gov](mailto:SweetenedBevTax@seattle.gov). General consumer questions should be directed to the City's Customer Service Bureau at 206-684-2489 (CITY).

The following examples, taken from Seattle Business Tax Rule 5-953, are intended to illustrate how the tax is administered in different scenarios.

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### **EXAMPLE 1**

XYZ is a large grocery store with three locations in Seattle and two locations outside Seattle. XYZ buys its sweetened beverages from ABC distributor. ABC distributor distributes the sweetened beverages to each of XYZ's locations.

**Question 1:** Who is liable for the sweetened Beverage tax (SBT)?

**Answer:** ABC distributor is liable for the SBT. The tax is imposed on the distribution of sweetened beverage for retail sale in Seattle. ABC is distributing to XYZ and XYZ is offering the beverages for retail sale in Seattle.

**Question 2:** Which distributions are subject to the SBT?

**Answer:** ABC will need to pay the SBT on the distributions to the three locations in Seattle. The tax is imposed on the soda and sweetened beverages distributed in Seattle for sale at retail. ABC shall not remit the tax on the distributions of sweetened beverages outside Seattle.

**Question 3:** What happens if XYZ grocery store moves sweetened beverages from a location outside Seattle to one of its locations inside Seattle?

**Answer:** In this instance, XYZ will become liable for the SBT on sweetened beverages that were initially delivered to its location outside Seattle but subsequently distributed into Seattle to be sold at retail. XYZ will need to report and pay SBT on its own distributions of sweetened beverages into Seattle.

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## EXAMPLE 2

XYZ is a large grocery store with locations in Seattle and outside Seattle. XYZ maintains a warehouse and distribution center outside Seattle where it holds inventory. XYZ will move inventory, including sweetened beverages, from the warehouse and distribution center to its stores as needed. XYZ will also have other sweetened beverages distributed directly to its stores by MT Cola Co.

**Question:** Who is liable for the SBT?

**Answer:** MT Cola Co is liable for the SBT on its distributions of sweetened beverage to XYZs locations in Seattle. XYZ will also be liable for SBT on the sweetened beverages that it distributes to its stores in Seattle from its warehouse and distribution center located outside Seattle.

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## EXAMPLE 3

ABC Distributes name-brand sweetened beverages and bottles of flavored syrups to XYZ Grocer, a retail grocery store, located in Seattle. XYZ Grocer also has a warehouse that holds inventory outside Seattle. XYZ Grocer will transfer its house-brand sweetened beverages to its locations inside Seattle.

**Question 1:** Who is liable for the SBT?

**Answer:** Both ABC distributor and XYZ Grocer are distributing sweetened beverages into Seattle and therefore both will be subject to the SBT.

**Question 2:** On which items will ABC Distributor be liable for the SBT?

**Answer:** ABC Distributor must pay the SBT on the sweetened beverages distributed to XYZ Grocer locations in Seattle. ABC Distributor may exclude the flavored syrups from the SBT because these syrups are distributed to a grocery store where it is presumed that the buyers are consumers who will combine the syrups with other ingredients to create their own beverages. If a person purchases syrups at XYZ Grocer and uses them to create sweetened beverages for retail sale (e.g. coffee shop) then the purchaser of the syrups will be deemed a distributor and liable for SBT.

**Question 3:** On which items will XYZ Grocer be liable for the SBT?

**Answer:** XYZ Grocer will pay the SBT on the sweetened beverages that it distributed to its Seattle retail location from its warehouse. It may exclude the flavored syrups because these are concentrates that will be mixed with other ingredients by the consumer to create a sweetened beverage.

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## EXAMPLE 4

ABC Distributor distributes 20 bottles of syrups to a restaurant in Seattle. The restaurant uses the syrups to make Italian sodas and other house beverages.

**Question 1:** Is SBT due on this distribution?

**Answer:** Yes. ABC is distributing a concentrate that will be combined with other ingredients to create a beverage for retail sale in Seattle. It is presumed that the restaurant, not the customer, will use the syrup to create sweetened beverages that are sold to its customers.

**Question 2:** How much SBT is due on the bottles of syrups?

**Answer:** The amount of SBT due is based on the total whole ounces of beverages that can be created from the syrup based on the manufacturers instructions or industry practice. For example, each bottle contains approximately 25 ounces (750 ml) and instructions provide for 1 ounce of syrup to make a 12-ounce Italian soda. Therefore, one bottle will potentially make 300 ounces of Italian sodas. This equates to \$5.25 of SBT per bottle (300 oz. of sweetened beverage X 0.0175). Total SBT due for this distribution to the restaurant will be \$105.00. (20 bottles x \$5.25).

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## EXAMPLE 5

ABC Distributor distributes 100 bottles of flavored syrups to restaurants in Seattle. The syrups do not contain any manufacturers instructions as to the amount of syrup to be used in creating a sweetened beverage.

**Question:** How does ABC Distributor calculate the amount of tax that is due on the distributions of syrups if there are no instructions from the manufacturer?

**Answer:** If there are no instructions from the manufacturer, or if the manufacturer provides for a variety of measurements for different beverages, then ABC Distributor may default to the measure provided in II.B.1 of this rule, above, and presume one ounce of syrup yields one 12-ounce beverage, unless the distributor has documentation to establish otherwise.

If the ratio of 1 ounce to one 12-ounce sweetened beverage applies, then one 25-ounce (750 ml) bottle of syrup will create 300 ounces of sweetened beverage, making the tax \$5.25 per bottle of syrup (300 sweetened beverage X \$0.0175). The tax on the distribution of 100 bottles of flavored syrups will be \$525.00 (100 bottles x \$5.25 per bottle).

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## EXAMPLE 6

MN Restaurant Chain has locations inside and outside Seattle. MN Restaurant orders its sweetened beverages from ABC Distributor which distributes the sweetened beverages to MNs primary location in Seattle. MN then distributes the sweetened beverages to its different locations based on their needs. In this case, MN issues a Redistribution Certificate to ABC Distributor. ABC accepts the Redistribution Certificate from MN.

**Question 1:** Who is liable for the SBT?

**Answer:** MN has provided ABC Distributor a Redistribution Certificate, which places the responsibility to pay the SBT on MN. ABC Distribution may now exclude the sweetened beverages distributed to MN Restaurant Chain from the SBT. ABC Distribution will need to maintain copies of the Redistribution Certificate from MN in its records to support the excluded distributions as well as provide a copy of the distribution certificate it received from MN to the City.

**Question 2:** On what sweetened beverages will MN be liable for the SBT?

**Answer:** MN will owe SBT on the sweetened beverages that it distributed to its locations where the sweetened beverages will be offered for retail sale in Seattle. MN will not report and pay SBT on sweetened beverages distributed to its locations outside Seattle. MN will need to maintain documentation on the inventory that it distributed both inside and outside Seattle.

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## EXAMPLE 7

LM is a small retail convenience store located in Seattle. The owners purchase their inventory of sweetened beverages from a retail supplier located outside Seattle.

**Question:** Is LM liable for the SBT?

**Answer:** LM is liable for the SBT on the sweetened beverages it distributes into Seattle to sell at its convenience store. In this instance, LM is deemed to be the distributor because LM is distributing sweetened beverages into Seattle that will be sold at retail.

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## EXAMPLE 8

ABC Distributing distributes bag-in-box (BiB) soda syrups, cocktail mixers, and bottled alcoholic mixed drinks to D&D Bar and Grill in Seattle. ABC also distributes alcoholic drink mixers and cans of soda to XYZ grocery store in Seattle.

**Question 1:** Who is liable for the SBT?

**Answer:** ABC distributing is liable for the SBT on distributions of sweetened beverages in Seattle.

**Question 2:** What items are subject to the SBT?

**Answer:** The distribution of the soda syrups (BiB) to D&D Bar and Grill and the cans of soda distributed to XYZ grocery store are subject to the SBT. The cocktail mixers sold to D&D Bar and Grill are also subject to the tax because the mixers are included in the definition of sweetened beverage.

The cocktail mixers distributed to XYZ grocery store, however, are not subject to the SBT because it is presumed the consumer will be using the cocktail mixers to mix their own beverages. The bottled alcoholic mixed drinks are not subject to the tax because these are alcoholic beverages and are specifically excluded from the sweetened beverage definition.

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## EXAMPLE 9

MN Pizza has locations just outside Seattle. MN Pizza will make deliveries into Seattle. MN also sells beverages with its pizza on request.

**Question:** Is MN liable for SBT?

**Answer:** Yes. In this instance, MN is deemed to be distributing sweetened beverages in Seattle. MN is liable for SBT on sweetened beverages that it distributes for retail sale in Seattle.

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## EXAMPLE 10

JM operates a food truck that sells food and sweetened beverages (e.g. soda) in Seattle. JM purchases its supplies including sweetened beverages from a supplier located outside Seattle.

**Question 1:** Is JM liable for SBT?

**Answer:** Yes. JM is distributing sweetened beverages into Seattle because it is bringing into Seattle and ultimately offering the sweetened beverages for retail sale inside Seattle. JM is liable for SBT on the sweetened beverages it distributes in Seattle for sale at retail.

**Question 2:** What if JM purchases its sweetened beverages from a supplier located in Seattle?

**Answer:** If JM purchases sweetened beverages from a supplier located in Seattle then JM will not be liable for SBT on those sweetened beverages it sells in Seattle that it also purchased from a supplier located in Seattle. In this instance, it is presumed that the SBT was already paid on the beverages previously distributed to the supplier located in Seattle.

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## EXAMPLE 11

ABC Distributing distributes sweetened beverages into Seattle. On occasion, ABC donates and distributes sweetened beverages to a Seattle non-profit.

**Question 1:** Is SBT due on the donated sweetened beverages?

**Answer:** No. In this instance, ABC Distributing did not transfer to another recipient for consideration where that recipient offers the sweetened beverage for retail sale in Seattle, nor did ABC sell the sweetened beverages under a self-distribution scenario. Therefore, the donation does not meet the definition of a distribution.

**Question 2:** What if ABC Distributing distributed sweetened beverages to a grocery store in Seattle, but the grocery store later donates some of the sweetened beverages to the nonprofit. Is SBT due in this instance?

**Answer:** Yes. ABC Distributing distributed sweetened beverages to the grocery store in Seattle for retail sale. ABC Distributing will report and pay sweetened beverage tax on its distributions to the grocery store in Seattle.

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### **EXAMPLE 12**

During third quarter of 2018, BIG Cola sells its product to ABC Distributing. BIG Cola sells 5,000 cans of regular cola and 5,000 cans of diet cola to ABC Distributing. BIG Cola distributes its products into ABC Distributing's Seattle warehouse. ABC Distributing then distributes the BIG Cola products to its retail store customers in Seattle. During the same quarter, ABC Distributing sells all 5,000 cans of regular cola and 5,000 cans of diet cola to its retail customers in Seattle.

**Question 1:** Whos liable for the SBT?

**Answer:** ABC Distributing is liable for the SBT. This is because ABC is distributing to its customers that offer the sweetened beverages for retail sale in Seattle.

**Question 2:** What items are subject to the SBT?

**Answer:** All the regular colas are subject to the SBT. Assuming each can is 12 ounces, ABC will report and pay \$1,050.00 (5,000 x 12 x 0.0175) on its distribution of 5,000 cans. The diet colas are excluded from the definition of a sweetened beverage so they are exempt.

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### **EXAMPLE 13**

NB is a small manufacturer of specialty sodas. NB does not distribute to its customers. EZ Distributing distributes NBs sodas to its customers. NBs worldwide gross income is \$1,700,000 and would like to allow for its products to be exempt from the SBT.

**Question 1:** Can EZ Distributing exempt NBs sweetened beverages from the SBT?

**Answer:** EZ Distributing can exempt all of NBs sweetened beverages from the SBT if NB provides EZ with a Small Manufacturers SBT Exemption Certificate.

**Question 2:** How does NB obtain an exemption certificate?

**Answer:** NB will need to apply for a Small Manufacturers SBT Exemption Certificate with the City of Seattles License and Tax Administration department. NB will need to fill out an application and provide with it a copy of its federal income tax return page showing its worldwide gross income; acceptable documentation includes page one from Form 1120, 1120S, 1065, or Schedule C, depending on the entity type, or pertinent pages from its audited financials. If approved, NB may provide the exemption certificate to EZ allowing EZ to exclude NBs products from the SBT.

**Question 3:** NB does not have a federal tax return or audited financial statements for the current year; what does it provide with the application?

**Answer:** NB should provide its FITR information or audited statements for its last completed year. Thus, if its applying for the exemption certificate in November 2017, then it can use its tax return or audited financials for 2016.

**Question 4:** What does EZ need to do with the certificate?

**Answer:** EZ will need to maintain a copy of the certificate for five years.

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## EXAMPLE 14

MT Cola Inc. manufactures and distributes sweetened beverages to retailers for sale in Seattle. MT also sells its sweetened beverages itself through its own vending machines in Seattle.

**Question:** Is MT Cola liable for the SBT?

**Answer:** MT Cola is liable for the SBT on distributions to retailers in Seattle. The distribution of the sweetened beverages through their vending machines in Seattle would be entitled to the exemption for direct retail sales of sweetened beverages by manufacturers to a consumer without the involvement of a third party to transport or distribute.

Same facts as Example 14 except MT Cola Inc. transfers the sweetened beverages it manufactures to a sister entity, MT Cola LLC, that distributes the sweetened beverages in MT Cola LLCs vending machines.

**Question:** Would MT Cola Inc. still be exempt from the SBT for the distribution of its products through the vending machine?

**Answer:** MT Cola Inc. would not be subject to the SBT because they are not distributing into Seattle. MT Cola LLC would be liable for the SBT. MT Cola LLC is the entity distributing the sweetened beverages into Seattle for retail sale in its vending machines.

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## EXAMPLE 15

ABC Distributing distributes sweetened beverages to a restaurant in Seattle. The distribution consists of:

- 10 five-gallon Bag-in-box (BiB) concentrates for the restaurants soda dispenser, five (5) of these BiBs are zero calorie (diet) drink syrups;
- 720 twelve-ounce canned beverages (all non-diet);
- 20 Bottles of flavored syrups.

The restaurant utilizes the flavored syrups for their dessert creations or as an ingredient in other non-beverage items.

**Question 1:** What items are subject to the SBT?

**Answer:** The five (5) BiBs of non-diet concentrate and the 720 canned beverages are subject to the SBT. The diet soda concentrates are not subject to the SBT because they are excluded from the definition of a sweetened beverage. Generally, the 20 bottles of flavored syrups would be subject to the SBT because based on the manufacturers instructions they are to be used to make sweetened beverages. The restaurant, however, uses these for creating desserts. Therefore, these syrups may be excluded from the SBT.

**Question 2:** How much sweetened beverage tax is due on this distribution?

**Answer:** \$487.20

- ITEM TOTAL Oz SB per ITEM NUMBER OF ITEMS TOTAL OUNCES TAX
- (0.0175/oz.)
- BiB 3,840\* 5 19,200 \$336.00
- Cans 12 720 8,640 \$151.20
- TOTAL \$487.20

\* One BiB contains 640 oz. of concentrate. If the manufacturers instructions provide for 2 ounces per 12-ounce drink, then there is approximately 3,840 ounces of sweetened beverage per BiB.

**Question 3:** What documentation does the distributor need to obtain from the restaurant if it wishes to exclude the syrups from the SBT?

**Answer:** The distributor will need to obtain documentation from the restaurant operator that the syrups purchased are not used to create sweetened beverages but are intended for other purposes. For example, the distributor may secure from the restaurant a written statement that clearly provides those specific syrups are not used for

sweetened beverages but instead are used in the production of certain meal items. The document should be signed by an individual authorized to sign off on tax matters for the restaurant. The distributor will need to retain this signed statement as documentation for the syrups it excluded from the SBT in this instance. If the distributor does not obtain documentation from the restaurant operator, then they should remit the SBT on the distribution of the flavored syrups to the restaurant.

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### **EXAMPLE 16**

LM operates a coffee shop in Seattle. ABC Distributor distributes 50 bottles of syrups to LM in Seattle for use in its coffee drinks.

**Question 1:** Who is liable for SBT in this instance?

**Answer:** ABC Distributor is liable for the SBT.

**Question 2:** What if LM determines that approximately 25 bottles of the syrups will be used to make coffee drinks in which the primary ingredient is milk?

**Answer:** If LM provides ABC Distributor with documentation stating that the 25 bottles of syrup are used to create drinks in which the primary ingredient is milk, ABC may exclude the 25 bottles from the SBT. The ABC may secure from LM a written statement that clearly provides those specific syrups are used for beverages in which the primary ingredient is milk. The document should be signed by an individual authorized to sign off on tax matters for LM. ABC will need to retain this signed statement as documentation for the syrups it excluded from the SBT in this instance. If ABC does not obtain documentation from LM, then ABC must remit the SBT on the distribution of the flavored syrups to LM.

The remaining 25 bottles of syrups distributed to LM that are used to make coffee drinks in which milk is not the primary ingredient (even though the drinks may contain milk in them) are subject to SBT.

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### **EXAMPLE 17**

JM is a restaurant chain with locations in Seattle. JM purchases syrups from EZ Distributing. EZ Distributing pays the SBT based on the manufacturers intended use of 2 ounces of syrup per a 12-ounce drink. Therefore, based on manufacturers instructions, if EZ distributes 100 bottles of syrup to JM and each bottle can create approximately 150\* ounces of sweetened beverage, then SBT on one bottle is \$2.625. EZ will be liable for \$262.50 in SBT on the distribution of 100 bottles to JM.

JM, however, does not use the syrups under the manufacturers instructions. Instead, JM uses multiple syrups for its own custom drink recipes and as a result, one drink has approximately 4 ounces of different syrups per 12-ounce drink. Therefore, based on its recipes it can only produce an average of 75 ounces of sweetened beverage from one bottle.

**Question:** Is EZ required to follow the manufacturers standard in determining the SBT due on the distribution to JM?

**Answer:** SMC 5.53.030.A.2 specifically allows for the SBT to be calculated proportionately so that the combined tax when using multiple concentrates yields \$.0175 per whole fluid ounce of the resulting beverage. JM may provide documentation to EZ Distributing showing that it does not use the syrups as instructed by the manufacturer, detailing in its declaration to EZ that an average drink uses 4 ounces of syrup per drink, rather than 2 ounces. Without such documentation, JMs use would make the syrup taxable at \$0.0353 per oz. ( $\$2.625 / 75$  beverages per bottle average) rather than \$0.0175 per oz. ( $\$2.625 / 150$  sweetened beverages per bottle).

However, EZ may instead pay the SBT on the distribution of syrups to JM based on JMs use of 4 ounces of syrup per a 12-ounce sweetened beverage, meaning each bottle can create approximately 75 ounces of sweetened beverage, making the SBT on one bottle \$1.3125. Therefore, EZ will be liable for \$131.25 of SBT on the distribution of syrups to JM. EZ is required to maintain in its records the declaration from JM detailing its use of the syrups to support its tax calculation on the distributions to JM.

\* (25-ounce bottle / 2 ounces per drink x 12-ounce drink)

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## Example 18

ABC Distributing distributes sweetened beverages as well as flavored syrups directly to consumers through its office break-room supply business. XYZ Co is a business in Seattle that purchases coffees, sweetened beverages, and other items for employee break-room. XYZ orders ground coffee, regular soda, diet soda (flavored with only non-nutritive sweeteners), creamers, and flavored syrups and has it delivered by ABC Distributing to XYZs office in Seattle.

**Question 1:** Which items are subject to SBT?

**Answer:** The item that is subject to SBT in this example is the regular soda because the soda is a sweetened beverage.

**Question 2:** Which items are exempt from the SBT?

**Answer:** Items that are exempt from the SBT in this example include: coffee grounds, diet soda, creamers, and flavored syrups. The coffee grounds are not a sweetened beverage; therefore, they are exempt. The diet soda is exempt because it is flavored only with non-nutritive or artificial sweeteners. The flavored syrups and the creamers are exempt in this example because the consumer is combining the syrups with other ingredients to create a beverage. The creamers are also exempt because their primary ingredient is milk.

**Question 3:** Who is liable for the SBT in this example?

**Answer:** ABC Distributing is liable because ABC is procuring sweetened beverages outside Seattle and bringing them into the Seattle for retail sale (i.e. ABC is self-distributing.)

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## Example 19

ABC Distributing delivers sweetened beverages to a loading dock in Seattle for shipment to Alaska where the beverages will be sold at retail by ABCs customer.

**Question:** Are ABCs deliveries to the loading dock in Seattle subject to SBT?

**Answer:** The deliveries of sweetened beverages to the loading dock in Seattle in Seattle that will be shipped to a customer in Alaska are exempt. The SBT is imposed upon the distribution of sweetened beverages for retail sale in Seattle. Therefore, because the sweetened beverages are destined for Alaska, those sweetened beverages are exempt from SBT. The distributor will need to maintain proper records to demonstrate that the sweetened beverages were ultimately delivered to the location in Alaska (e.g. sales invoices and bills of lading or other similar shipping documents).

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## Example 20

ABC Distributing distributes sweetened beverages to a retailer in Seattle. The business distributes 100 bottles of product Z. Each bottle of product Z contains 15.6 ounces of sweetened beverage.

**Question 1:** How is the tax calculated?

**Answer:** The sweetened beverage tax is on the whole fluid ounce. Therefore, the tax applies to the 15 ounces of each bottle of product and the tax for this distribution would be \$26.25 (15 oz X 100).

**Question 2:** What if the sweetened beverages were sold as unit in a four-pack, how would the tax be determined?

**Answer:** If the sweetened beverages are sold as a four-pack, then each four-pack consists of 62.4 ounces of sweetened beverage per package. The sweetened beverage tax due would be \$1.09 per package. If ABC distributed 25 four-packs of product Z, then the total sweetened beverage tax would be \$27.25 (62 oz X 25).

## Questions about the Sweetened Beverage Tax?

Information is available online at [www.seattle.gov/sweetened-beverage-tax](http://www.seattle.gov/sweetened-beverage-tax)

General consumer questions: contact the City's Customer Service Bureau, 206-684-2489 (CITY)

Tax filer questions: contact us at 206-684-8484 or [SweetenedBevTax@seattle.gov](mailto:SweetenedBevTax@seattle.gov)

