



CITY OF SEATTLE

# Sweetened Beverage Tax

## *A quick guide for distributors*



### **1. What is the sweetened beverage tax?**

On June 6, 2017, Mayor Murray signed the sweetened beverage tax passed by the City Council (Ordinance 125324). It is a tax on the distribution of sweetened beverage products. This tax is on any non-alcoholic beverage, syrup or other concentrate used to prepare a beverage that lists as an ingredient any form of caloric sugar-based sweetener, including but not limited to sucrose, glucose or high fructose corn syrup.

### **2. Who pays the tax?**

Distributors of sweetened beverages are responsible for paying the tax. A distributor is any person that distributes sweetened beverages in the city. The tax defines distribution as the transfer of title or possession from the final distributor to a retailer. If a distributor sells to another distributor, the second distributor is responsible for reporting and paying the tax. The tax is on the final distribution between a distributor and a retailer. Distribution does not mean the retail sale to a consumer.

If a retailer brings its own sweetened beverages into the city to sell, that retailer is deemed to be a self-distributor. In this situation, the retailer would be subject to the sweetened beverage tax. For example, a convenience store in Seattle purchases 10 cases of soda from a business outside of Seattle and sells the soda at their convenience store, the convenience store is then a self-distributor and will need to report and pay the tax.

### **3. What are some typical taxable distributions?**

Typical taxable distributions would be:

- delivery of syrup to fast food or other restaurants;
- delivery of syrup to stores that sell fountain drinks; and
- delivery of bottled sweetened beverages with added caloric sweeteners to retail outlets and restaurants.
- purchase of bottled sweetened beverage or powders/syrups with added caloric sweeteners from unregistered distributors (self-distribution).

This is not an exclusive list of taxable distributions.

### **4. When does the tax take effect?**

The tax takes effect on Jan. 1, 2018. Distributors responsible for the tax will report and pay on the same schedule as their business and occupation taxes (B&O). For example, if a business files B&O taxes quarterly, it will also file the sweetened beverage tax quarterly. Currently there are only quarterly and annual filing schedules.

## 5. What does it mean to calculate the tax on whole fluid ounces?

Exactly that. If a beverage is 16.9 ounces, the tax is calculated using whole fluid ounces. In this case the tax would be calculated using 16 times the tax rate. Total fluid ounces is based on the primary intent of the unit sale. If a 4-pack of 15.8 ounces sweetened beverages is sold as one unit, the total ounces would be  $15.8 \times 4 = 63.20$  ounces. When calculating the tax, the tax would be calculated using 63 times the tax rate.

## 6. What is the tax rate?

For sweetened beverages, the tax rate is 1.75 cents per fluid ounce. Total fluid ounces is the combined total of ready-to-consume ounces as well as the ounces calculated for concentrates. For concentrates, the tax shall be calculated using the largest volume of beverage that would typically be produced by the amount of concentrate distributed based on the manufacturer's instructions or industry practice.

*Example:* On March 1, 2018, Beverage Distributor X delivered 600 12-ounce cans of cola to Retailer Z. Distributor X also delivered three 5-gallon bag-in-a-box ("BiB") concentrates for Retailer Z's soda fountain. The BiB instructions provide that there are 2 ounces of syrup for each 12-ounce serving of soda.

For this distribution, Distributor X will determine the sweetened beverage tax as follows:

Tax due on cans of soda:

- 12 ounces X 600 cans = 7,200 total ounces X 0.0175 tax rate = \$126 sweetened beverage tax
- Tax due on bag-in-a-box (BiB):
- 1 BiB = 640 ounces of syrup. That will produce 3,840 ounces of sweetened beverage based on 2 ounces of syrup per 12-ounce beverage ( $640 / 2 \times 12$ ).
- 3 BiBs = 11,520 ounces of sweetened beverage
- 11,520 ounces X 0.0175 tax rate = \$201.60 sweetened beverage tax

Total sweetened beverage tax due from this distribution is \$327.60 (\$126 + \$201.60).

Exceptions: If a manufacturer has been certified by the City to have worldwide gross income of more than \$2 million but less than \$5 million in the prior calendar year, the tax rate shall be 1 cent per fluid ounce. The manufacturer must apply for reduced rate certification according to rules established by the City.

If a manufacturer has been certified by the City of have worldwide gross income of \$2 million or less in the prior calendar year, no tax is asserted. The manufacturer must apply for an exemption certification according to rules established by the City.

## 7. How does a manufacturer become certified with the City?

A manufacturer may qualify for either reduced rate certification or exemption certification. The manufacturer must contact the City and request the applicable certification. The manufacturer must complete the prescribed documentation and submit back to the City with the required financial records of the business, and the City will review and determine eligibility. If approved, the City will issue the applicable certificate to the manufacturer. If denied, the City will notify the manufacturer of the denial and provide appeal information. Exemption certificates and reduced rate certificates must be renewed every calendar year.

Exemption certificates are issued to manufacturers who are completely exempt from the sweetened beverage tax. Reduced rate certificates are issued to those manufacturers that are eligible for the reduced tax rate (1 cent per fluid ounce).

## 8. Who is responsible for the certification?

The manufacturer is responsible for obtaining the exemption certificate from the City.

## 9. What is the distributor's role with regard to certification?

It is up to the distributor (if they are a third party) to accept and maintain copies of the exemption certificate. The burden is on the distributor to keep records of what items are exempt and to properly report all sales. Upon audit, the auditor will request certificates from the distributor for the beverages deducted or exempted.

## **10. How long must a distributor maintain certification documents?**

Every person liable for any fee or tax imposed by this ordinance shall keep and preserve, for a period of five years after filing a tax return, such records as may be necessary to determine the amount of any tax for which the person may be liable.

## **11. What is a Redistribution Certificate?**

A redistribution certificate can be issued to a retailer who chooses to report the sweetened beverage tax to the City instead of the tax being reported and remitted by the distributor.

Example 1, Distributor XYZ distributes 10 cases of sweetened beverage syrups to a restaurant in Seattle. The restaurant uses only 4 cases of the syrup for sweetened beverages and uses the other 6 cases of syrup as an ingredient in food recipes. Instead of the distributor collecting the sweetened beverage tax on all 10 cases, the retailer can apply for a redistribution certificate and report and remit the sweetened beverage tax on just the 4 cases of syrup. In this example, the distributor would exclude all 10 cases when reporting the beverage tax.

Example 2, Distributer ABC distributes 500 cases of ready-to-consume sweetened beverages to a retailer's warehouse in Seattle. The retailer sends 300 cases of the beverage to its retail locations in Seattle and sends the other 200 cases to its locations outside of Seattle. Instead of the distributor collecting the sweetened beverage tax on all 500 cases, the retailer can apply for a redistribution certificate and report and remit the sweetened beverage tax on just the 300 cases of sweetened beverages used in its Seattle locations. In this example, the distributor would exclude all 500 cases when reporting the beverage tax.

## **12. How does a retailer apply for a Redistribution Certificate?**

The application for a redistribution certificate can be obtained on the City's website: <http://www.seattle.gov/business-licensing-and-taxes/business-license-tax/other-seattle-taxes/sweetened-beverage-tax>

## **13. Who maintains the Redistribution Certificate?**

The retailer applies for the redistribution certificate. A distributor that accepts the certificate must also remit a copy to the City of Seattle within 15 days of receipt. This copy must be sent to the City via email at [SweetenedBevTax@seattle.gov](mailto:SweetenedBevTax@seattle.gov). The distributor will receive a confirmation of receipt from the City. A distributor needs only to secure one redistribution certificate per customer.

## **14. What if the retailer decides it wants to cancel its Redistribution Certificate?**

In the event the business that issued the redistribution certificate desires to cancel the redistribution certificate, such business shall notify the distributor and the City of Seattle in writing.

## **15. What qualifies as an added "caloric sweetener" or syrup?**

Caloric sweetener means any substance or combination of substances that contains calories, is suitable for human consumption and that humans perceive as sweet. This includes, but is not limited to, sugar, sucrose, dextrose, fructose, glucose and other monosaccharides and disaccharides; corn syrup or high fructose syrup; and honey.

## **16. What is excluded as a "sweetened beverage"?**

Sweetened beverages do not include the following:

- Any beverage in which natural milk is the primary ingredient.
- Any beverage for medical use.
- Any liquid sold for use as a meal replacement or weight reduction.
- Infant or baby formula.
- Alcoholic beverages.
- Any beverage consisting of 100 percent natural fruit or vegetable juice with no added sweetener.
- Any concentrate that the consumer combines with other ingredients to create a beverage.
- Any beverage that contains fewer than 40 calories per 12-ounce serving.
- Sweetened medications such as cough syrup, fever reducer and similar products.

## **17. Is this tax a sales tax?**

No, it is not a sales tax or use tax or other excise tax on the sale, consumption, use or gross receipts of sweetened beverages. The tax imposed is a general excise tax on the privilege of conducting certain business within the City. The tax is imposed on the act of distributing sweetened beverages in Seattle.

## **18. Can distributors increase their prices to retailers to pay for the tax?**

The ordinance does not prohibit distributors from increasing prices; that is a private business decision. The ordinance does not prohibit a business from passing on the expense of this tax however the business deems appropriate.

## **19. I have existing sweetened beverages in my inventory (pre-2018). Do I have to pay this tax on that inventory when it is sold in 2018?**

No. Inventory distributed before Jan. 1, 2018, is not subject to the sweetened beverage tax. These sales should not be included in the 2018 tax filing(s).

## **20. I am a retailer. Do I have any obligation under the tax?**

Retailers who do not bring sweetened beverages or syrups into their own stores will be required to identify their distributors if requested by the City. Retailers who bring in sweetened beverages from a business outside the City limits will be responsible for the tax as they are deemed to be the distributor.

## **21. Exempt Purchasers – Are any entities exempt from the beverage tax? Public schools? State and Local governments? County jail? Military? Churches?**

There are no exempt purchasers/entities listed in the ordinance. Persons that are exempt from taxation by Washington cities pursuant to federal or state tax statutes or regulations are exempt from the tax imposed by Chapter 5.53 SMC.

## **22. Is a sale to a nursing homes or assisted living facility a distribution subject to the sweetened beverage tax?**

The distribution of ready-to-consume sweetened beverages, powders and syrups to nursing homes or assisted living facilities is taxable in the city. The distribution has taken place when the distributor delivers sweetened beverage products for consideration to the facility.

## **23. When consumers use Supplemental Nutrition Assistance Program (SNAP) benefits to buy sweetened beverages, are those purchases exempt from the Sweetened Beverage Tax?**

The Sweetened Beverage Tax is a tax on the distributor. It is not a tax on the consumer. Therefore, sweetened beverages purchased with SNAP benefits are not exempt.

## **24. What if I file and/or pay after the due date?**

If payment and tax filing are received postmarked after the due date, the following penalties will be added:

- 9 percent of the tax due amount if postmarked after the due date.
- 19 percent of the tax due if postmarked after the last day of the month following the due date.
- 29 percent of the tax due amount if postmarked after the last day of the second month following the due date.

Interest due on late payments will be calculated from the date due until the date paid. Use the following formula to calculate:  $\text{annual interest rate}/360 \times \text{tax due} \times \text{number of days late}$ .

## **25. Where can I find the actual tax language?**

The tax information can be found by visiting the City Clerk's website at: [www.seattle.gov/cityclerk](http://www.seattle.gov/cityclerk). Please search ordinance number 125324 and/or Council bill number 118965.

## **26. Who can answer any additional questions I may have?**

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).

## **Questions about the Sweetened Beverage Tax?**

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

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