

CITY OF OAKLAND
DEPARTMENT OF FINANCE
REVENUE MANAGEMENT BUREAU
DIRECTOR OF FINANCE RULING NO. 34

APPLICATION OF SUGAR-SWEETENED BEVERAGE DISTRIBUTION TAX ON
BEVERAGE PRODUCTS FIRST DISTRIBUTED INTO THE CITY OF OAKLAND AND
SUBSEQUENTLY REDISTRIBUTED OUTSIDE THE CITY

Reference: Oakland Municipal Code, Chapter 4.52

PURPOSE

This Ruling clarifies the application of the Sugar-Sweetened Beverage Distribution Tax (the "Tax") on sugar-sweetened beverage products, which include syrups and/or powders used to produce a sugar-sweetened beverage, that are distributed within the City of Oakland (the "City") but are destined for sale outside the City.

BACKGROUND

Pursuant to Chapter 4.52 of the Oakland Municipal Code, the Sugar-Sweetened Beverage Distribution Tax Ordinance ("Ordinance"), the Tax shall be paid upon the first non-exempt¹ distribution of a Sugar-Sweetened Beverage product in the City. "Distribution" is defined as "the transfer of title or possession: (a) from one Business Entity to another for consideration; or (b) within a single Business Entity, such as by a wholesale or warehousing unit to a retail outlet or between two or more employees or contractors of said Business Entity." Distribution does not include a retail sale to a consumer. It also does not include a transfer of possession without consideration between non-retail warehouses owned by the same Business Entity.

To the extent that there is a chain of distribution within Oakland involving more than one distributor, the Tax shall be levied on the first distributor subject to the jurisdiction of the City. To the extent the Tax is not paid as set forth above for any reason, it shall be payable on subsequent distributions and by subsequent distributors; provided, that the distribution of sugar-sweetened beverage products may not be taxed more than once in the chain of commerce.

¹ Oakland Municipal Code section 4.52.030.C provides that the Tax shall not apply to: (1) any Distributor that is not subject to taxation by the City under the laws of the United States or the State of California; (2) the distribution of any Sugar-Sweetened Beverage Product by a Small Business as defined in the code; or (3) any Distribution of Natural or Common sweeteners as defined in the code

Any distributor of a sugar-sweetened beverage product and any distributor of syrup and/or powder used to produce a sugar-sweetened beverage shall remit the Tax to the City's Finance Department Revenue Management Bureau ("Revenue Bureau").

RULING OF THE DIRECTOR OF FINANCE

The Sugar-Sweetened Beverage Distribution Tax does not apply to sugar-sweetened beverage products if those products are destined for sale outside the City limits. A distributor of sugar-sweetened beverage products may choose between the three procedures outlined in this Ruling in order to comply with the Ordinance as it relates to those products destined for sale outside the City.

1. Refrain from paying Tax and maintain supporting documentation

A distributor who distributes a sugar-sweetened beverage product in the City that is destined for sale outside the City may choose not to pay Tax on that product provided the distributor identifies the product in the tax remittance form provided by the Tax Administrator and maintains records showing that the product is destined for sale outside the City. Such records must be maintained for as long as the product remains in the City and for four (4) years after the product is transported out of the City.

If a sugar-sweetened beverage product is identified by a distributor as destined for sale out of the City and as a result no Tax is paid on the product, and if that product is ultimately sold at retail in the City, then the full Tax and a twenty-five (25) percent penalty and interest from the date the Tax would have been due on the product's first distribution in the City must be paid on the product.²

2. Refrain from paying Tax and maintain Outbound Distribution Certificate

A distributor who distributes a sugar-sweetened beverage product in the City that is destined for sale outside the City may choose not to pay Tax on that product provided (1) the distributor identifies the product in the tax remittance form provided by the Tax Administrator, and (2) the person receiving possession or title of that product provides the distributor thereof with a certificate, on a form furnished by the Revenue Bureau, stating that the products will be transported out of the City for sale at a location outside of the City ("Outbound Distribution Certificate"). A recipient of an Outbound Distribution Certificate may rely upon that certificate to not pay the Tax on the products to which the certificate applies, although the recipient of a certificate could be liable for the Tax if the products are ultimately sold at retail in the City. Any person that provides an Outbound Distribution Certificate shall be required to maintain documentation establishing that the products were destined for sale at a location outside of the City and were in fact transported out of the City for sale outside of the City. Such records must be maintained for as long as the products remain in the City and for four (4) years after the products are transported out of the City.

² See OMC section 4.52.050.B.

If a sugar-sweetened beverage product for which an Outbound Distribution Certificate has been issued is ultimately sold at retail in the City, then the full Tax and a twenty-five (25) percent penalty and interest from the date the tax would have been due on the product's first distribution in the City must be paid on the product by the issuer of the Outbound Distribution Certificate.³ If the City is unable to collect the Tax from the issuer of an Outbound Distribution Certificate, then the recipient of the Outbound Distribution Certificate and any other distributors of the product shall be liable for the unpaid Tax, although they will not be liable for any penalties or interest.

3. Remit Tax and seek refund or credit

In the case of Tax paid on products destined for sale outside of the City, the Tax Administrator shall issue a refund or a credit upon receiving a fully executed refund claim form with supporting documentation demonstrating that the products were destined for sale outside the City limits.

Refund Claim Requirements: To request a refund from the Revenue Bureau, the distributor must:

- Submit a claim in writing within one year from the date of payment of the Tax;
- State fully and in detail each reason or ground on which the claim is founded; and
- Identify the type and the volume of Sugar-Sweetened Beverage products and the period during which the claim of overpaid Tax payment was made.

Refund Claim/Credit Review and Supporting Documentation Requirements: Distributors seeking refunds and credits are required to provide the Revenue Bureau documentation to verify and support refund claims and credits and additional information requested by the Revenue Bureau for each transaction during the verification process. The items can include, but are not limited to:

- Proof of Payment, such as cancelled checks, checkbook registers, etc.
- Billing statements, folios, invoices, general ledger, tax returns, loss & profit statements, etc.
- Executed contracts
- Statutory Authority
- Air Waybill, Bill of Lading or truck billing of lading, etc.
- Any relevant documents
- Outbound Distribution Certificates

Refunds/credits shall not be issued to distributors who fail to provide supporting documentation and information.



Adam Benson
Finance Director

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³ See OMC section 4.52.050.B.