



Special Notice

WASHINGTON STATE DEPARTMENT OF REVENUE

JUNE 11, 2010

Retailers Subject to Temporary Carbonated Beverage Tax

Summary

Second Engrossed Substitute Senate Bill (2ESSB) 6143, Sections 1401 – 1406, temporarily imposes a carbonated beverage tax of \$.02 per 12 ounces on persons that sell carbonated beverages.

Background

Washington State imposes the carbonated beverage tax on sales at wholesale and retail. With limited exemptions, the carbonated beverage tax applies to every person, such as a bottler, distributor, wholesaler, or retailer that sells carbonated beverages in Washington. The carbonated beverage tax is in addition to all other taxes currently imposed on a seller, such as the wholesaling and retailing business and occupation taxes.

Unlike the retail sales tax, the carbonated beverage tax is not imposed on the consumer.

Effective dates

Persons who sell carbonated beverages are subject to the tax on sales made July 1, 2010, through June 30, 2013.

Successive sales exemptions

A retailer owes the carbonated beverage tax when it sells carbonated beverages in this state unless one of two exemptions applies. Sales of carbonated beverages by a retailer are exempt only if the sale is a successive sale of carbonated beverages that were:

- Previously subject to the carbonated beverage tax when either the bottler or the distributor sold those beverages in Washington. This is generally referred to as “previously taxed carbonated beverages;” or
- Exempt from the tax because the product was exempt under an exemption limited to the bottler. This is generally referred to as the “bottler’s exemption” and it applies to the first \$10 million of the bottler’s sales.

Examples of retailers that owe the tax include grocery stores, convenience stores, general merchandise stores, restaurants, bars and taverns, vending machine operators, and any other retailer that sells carbonated beverages packaged in cans, bottles, or other similarly sealed containers.

Documenting exempt sales

A retailer that claims the exemptions for successive sales of previously taxed or bottler-exempt carbonated beverages must keep documentation to support that claim.

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Documentation from the previous seller may be in the form of:

- Information printed on each sales invoice stating that the carbonated beverages identified on the invoice were either previously subject to the carbonated beverage tax or exempt from the tax under the bottler's exemption; or
- A separate certification stating that the carbonated beverages sold under a specific sales invoice were either previously subject to the carbonated beverage tax or exempt from the tax under the bottler's exemption.

The Department will presume that the carbonated beverage tax has not been paid unless the retailer has the documentation described above to verify the claim of exemption. The retailer must keep the documentation for a minimum of five years (the current and previous four calendar years).

Carbonated beverages acquired before July 1, 2010

A retailer that acquires carbonated beverages before July 1, 2010, and sells such beverages on July 1st or after owes the carbonated beverage tax on those beverages.

Example: A Tacoma convenience store sells carbonated beverages. On June 20th, the store receives a shipment of carbonated beverages. On July 1st, half of the beverages from that shipment remain unsold in the store's inventory. The retailer owes the carbonated beverage tax on the beverages it sells July 1, 2010, and after from that pre-July 1 shipment. This is because neither the bottler's exemption nor the previously taxed carbonated beverage exemption applies to sales of the remaining product.

Instead of tracking individual sales of beverages acquired before July 1st, but sold on or after that date, a retailer may inventory all carbonated beverages in stock on July 1st and, depending on the retailer's assigned reporting frequency, report the carbonated beverage tax on the July 2010, Quarter 3, 2010, or the annual 2010 excise tax return.

Carbonated beverages acquired on or after July 1, 2010

On and after July 1, 2010, most carbonated beverages purchased by a retailer from a bottler or distributor will qualify for exemption as a successive sale of a previously taxed carbonated beverage or a successive sale of beverages that qualify for the bottler's exemption. Under these circumstances, the carbonated beverage tax will not apply to the retailer's sales of such beverages. However, a retailer owes the tax if the retailer acquires carbonated beverages from a supplier that does not provide the documentation as described above.

Example: An Ellensburg tavern sells carbonated beverages packaged in 20 ounce bottles. The tavern receives a monthly delivery of carbonated beverages from a Yakima distributor. The sales invoice identifies both that the carbonated beverage tax was previously paid and the amount of tax that was paid. The tavern's sales of carbonated beverages are successive sales of previously taxed beverages and the tavern does not owe the tax.

Example: A Seattle grocer sells carbonated beverages. The grocer receives a weekly delivery of carbonated beverages from a Bellevue distributor that purchased the beverages from a Washington bottler. The bottler's sales invoice to the distributor includes a statement that the carbonated beverages are not subject to the carbonated beverage tax under the bottler's exemption. The distributor's sales invoice to the grocer

includes the same statement. The grocer’s sales of these carbonated beverages are successive sales of bottler-exempt beverages and the grocer does not owe the tax.

Example: A White Salmon deli sells carbonated beverages packaged in 12-ounce cans. Each month after June 30th, the deli picks up cases of carbonated beverages and other food items from a Portland, Oregon, distributor. The distributor’s sales invoice does not mention the carbonated beverage tax. The deli owes the carbonated beverage tax because neither the bottler’s exemption nor the previously taxed carbonated beverage exemption applies.

Example: A multi-state general merchandise retailer receives shipments of carbonated beverages at the retailer’s Gresham, Oregon, warehouse for distribution to area stores, including stores located in Southwest Washington. Sales invoices to the retailer from carbonated beverage distributors do not mention the carbonated beverage tax. The retailer owes the carbonated beverage tax on sales of carbonated beverages made at the retailer’s Washington locations because neither the bottler’s exemption nor the previously taxed carbonated beverage exemption applies.

Reporting the carbonated beverage tax

The carbonated beverage tax is reported on the excise tax return. A new line for reporting taxable sales of carbonated beverages will appear on page two of the tax return under “V. OTHER TAXES:”

Line No.	Carbonated Beverage Tax	Code 136	# of taxable (non-exempt case equivalents sold)	Quantity	Rate .48	Tax Due
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The tax will be reported on a “case equivalent” basis, which is equal to 24 – 12 ounce cans. Thus, 288 fluid ounces of carbonated beverages equals one case equivalent. A worksheet to convert various container sizes to case equivalents will be available July 1 at dor.wa.gov/carbonatedbeverages.

Carbonated beverages defined

“*Carbonated beverages*” are any packaged nonalcoholic liquids intended for human consumption that contain carbonation by natural or artificial means and any of the following substances:

- Caffeine;
- Extracts;
- Fruit juice or concentrated fruit juice;
- Herbs;
- Sweeteners; or
- Syrup (a concentrated mixture in liquid or powdered form that contains sugar or a sugar substitute).

Carbonated beverages are packaged in cans, bottles, or other similarly sealed containers.

Carbonated beverages do not include:

- Fountain drinks mixed by a retailer and sold in unsealed containers; or
- Bottled water that is carbonated. For information about bottled water, please refer to the Department’s Special Notice titled *Bottled Water Subject to Sales Tax*.

**Sales tax
unchanged**

The carbonated beverage tax does not affect the application of retail sales tax to sales of carbonated beverages. Retail sales of sweetened carbonated beverages that contain less than 50% fruit or vegetable juice are soft drinks that remain subject to sales tax. (See RCW 82.08.0293.)

**B&O tax
unchanged**

The carbonated beverage tax does not affect the application of the B&O tax to sales of carbonated beverages. Retail sales of carbonated beverages remain subject to the retailing B&O tax as measured by the gross proceeds of sales from such sales. (See RCW 82.04.250 and 82.04.070.)

**For more
Information**

To learn more about the new carbonated beverage tax, visit our website at dor.wa.gov/carbonatedbeverages. Also, check our website for updates to frequently asked questions. You can also send an email to communications@dor.wa.gov or call the Department's Telephone Information Center at 1-800-647-7706.