



1. What is the Sugar-Sweetened Beverage Product Tax?

The Sugar-Sweetened Beverage Product Tax is a city general tax adopted by the voters in November 2016 on the distribution of “sugar-sweetened beverage products” in the City of Albany. Products whose distribution is subject to the tax include both products like soda, energy drinks, and heavily presweetened tea, as well as the “added caloric sweeteners” used to produce them, such as the syrup used to make fountain drinks. Certain drinks containing certain forms of sugar, such as infant formula, milk products, and natural fruit and vegetable juice are exempted.

2. When will the tax take effect?

The tax will take effect on April 1, 2017, with April’s taxes due on or before May 20, 2017.

3. What is the tax rate?

The tax rate is one cent (\$0.01) per fluid ounce of a sugar-sweetened beverage.

For taxable caloric sweeteners such as syrups, the tax is calculated on the largest volume, in fluid ounces, of beverage that the syrup can produce based on the manufacturer’s instructions. If the distributor uses the syrup to produce a sugar-sweetened beverage, the volume produced by the syrup may be based on the regular practice of the distributor. For example, if one ounce of syrup produces 12 ounces of a sugar-sweetened beverage, the tax would be \$0.12.

While the ordinance requires the tax to be paid on the first non-exempt distribution in the city, if it is not paid at that time, it is payable on the next (or any subsequent) distribution, provided that no taxable product may be taxed more than once.

4. Who is responsible for remitting the tax?

The tax is to be paid by distributors – those who bring any items taxable by the Sugar-Sweetened Beverage Ordinance into the City. This includes retailers who obtain and bring any items taxable by the Sugar-Sweetened Beverage Ordinance into the City themselves. The tax defines “distribution” as the transfer of title or possession from one business entity to another, or within a single business, such as by a wholesale or warehousing unit to a retail outlet or between two or more employees or contractors. Distribution excludes retail sale to a consumer.

5. What is an “Added Caloric Sweetener”?

An “added caloric sweetener” is any substance or combination of substances that meets all of the following four criteria:

1. it is suitable for human consumption;
2. it adds calories;
3. it is perceived as sweet; and
4. it is used for making sugar-sweetened beverages by combining it with one or more other ingredients.

Added caloric sweeteners do not include a substance that exclusively contains natural, concentrated, or reconstituted fruit or vegetable juice or any combination thereof.

6. 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
- delivery of drinks with added caloric sweeteners to retail outlets and restaurants; and
- retail outlets or restaurants bringing drinks into the City for sale at their own store

This is not an exclusive list of potentially taxable distributions, but is intended only to provide typical examples.



7. Are there any exemptions to the tax?

Yes.

The tax does not apply to:

- any distributor who is not subject to taxation by the city under state or federal law;
- any distribution of a sugar-sweetened beverage product to a retailer with less than \$100,000 in annual gross receipts in the most recent year;
- any distribution of natural or common sweeteners; or
- any distribution of added caloric sweeteners to a Food and Beverage Sales Retail Store, if that store then offers the sweetener for sale to customers for later use.

In addition, distribution of certain beverages is specifically exempted:

- beverages in which milk is the primary ingredient;
- beverages for medical use;
- liquids sold for use for weight reduction as a meal replacement;
- products commonly referred to as "infant formula" or "baby formula"; and
- alcoholic beverages.

8. Does the tax apply to coconut and tree waters?

No, as long as these products do not contain added caloric sweeteners.

9. How do I determine whether the tax applies to the distribution of a particular beverage?

Below is a suggested 2-step method for determining whether the tax applies to the distribution of a particular beverage. It does not constitute legal advice, so legal counsel should be consulted on the applicability of the tax to the distribution of a particular beverage.

Step 1: Does the beverage have at least 2 calories per ounce?

If no, then the tax does not apply. (Example: This includes most diet drinks that don't have calories.)

If yes, proceed to Step 2.

Step 2: Does the beverage have an added caloric sweetener (ACS)?

If no, then the tax does not apply. (Example: 100% fruit or vegetable juice that, by definition, does not have added sugar because it is 100% fruit or vegetable. 100% coconut and tree waters would also be outside because they are 100% coconut or tree waters.)

If yes, then the tax is likely to apply.

10. Is sugar (e.g., sucrose, glucose, fructose, etc.) an added caloric sweetener?

Yes. Sugar is an added caloric sweetener because it meets the definition of an added caloric sweetener as found in Albany Municipal Code Article 4-13 of Chapter XIII. It (i) is suitable for human consumption; (ii) adds calories to the diet if consumed; (iii) is perceived as sweet when consumed; and (iv) is used for making, mixing, or compounding sugar-sweetened beverages.

11. Is the distribution of granulated sugar a taxable distribution?

No. Albany Municipal Code Article 4-13, Chapter XIII exempts the distribution of natural or common sweeteners from the tax. Article 4-13 defines natural or common sweeteners to include granulated sugar. However, once granulated sugar is used to make a sugar sweetened beverage, the distribution of that beverage is taxable. (See previous answer.)



12. Is the tax a sales tax?

No, this is not a sales tax.

13. May distributors increase their prices to retailers to pay for the tax?

The tax does not prohibit distributors from doing so. That is a private business decision.

14. When is the tax due?

The tax must be remitted/postmarked on or before the 20th day following the month the tax was collected.

15. Where can I find the tax itself?

The tax is Article 4-13 of Chapter XIII of the Albany Municipal Code.

16. I am a retailer. Do I have any obligations under the tax?

Retailers who do not bring the sugar-sweetened beverages or syrups to their stores themselves are required to identify their distributors.

17. What if I pay late?

Payments that are up to 30 days delinquent should add a penalty of 10%, and payments that are more than 30 days delinquent should add a 50% penalty. Interest accrues on delinquent amounts at the rate of 1% per month.

18. Where can I get additional information about the tax?

The City of Albany has partnered with MuniServices, LLC for the administration of the Sugar-Sweetened Beverage Tax. For information regarding the tax, please contact MuniServices at:

City of Albany
C/O MuniServices, LLC
2342 Shattuck Ave #889
Berkeley, CA 94704
Toll Free Phone: (866) 240-3665
Toll Free Fax: (855) 219-4338
Email: AlbanySSBsupport@muniservices.com

19. Who is MuniServices, LLC?

MuniServices, LLC is a private company that has been contracted by the City of Albany to administer the tax.