LEGAL BULLETIN

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Uniform Beer Tax

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Uniform Beer Tax

The Alabama Legislature adopted the Uniform Beer Tax Act (Act 82-344) during the closing days of the 1982 Regular Session. After passage, this Act radically changed municipal authority to tax malt or brewed beverages when it became effective at midnight on September 30, 1982. The Act was codified at §§ 28-3-190 through 28-3-199, Alabama Code, 1975. This bulletin was prepared to acquaint municipal officials and revenue officers with provisions of the Uniform Beer Tax Act.

Uniform Tax Rate

The Act levies a tax of 1.625 cents per 4-fluid ounces (4.875 cents per 12-ounce container or $1.17 per case of 24 12-ounce containers) on every person licensed under the provisions of the Alcoholic Beverage Licensing Code, § 28-3A-1, et seq., Code of Alabama (1975), who sells, stores, or receives any beer for the purpose of distribution, to any person, firm, corporation, club, or association within the State of Alabama. The law further states that the tax shall be added to the sales price of all beer sold and shall be collected from the purchasers. The tax levied by the Uniform Beer Tax is in addition to the excise tax levied by Article 5A of Chapter 3 of this Title 28 on malt and brewed beverages (proceeds of which are paid to the credit of wet counties in the state) and the licenses provided for by Chapter 3A of Title 28 and by Section 28-3-194.

In Act 2026-512, codified in relevant part at Ala. Code § 28-4A-21, the Legislature extended the taxes imposed by §§ 28-3-184 and 28-3-190 to the sale of beer brewed by a brewpub licensee as defined by Act 2026-512.

Collection and Distribution

Pursuant to Ala. Code § 28-3-190:

- The tax shall be collected by a return in the form approved by the county or municipal governing body.
- The return shall be filed by the wholesaler with the wet county or wet municipality where sold.
- The return shall be postmarked not later than the 15th day of the month following the month during which the beer is sold.
- If the taxes are paid on time, the tax due shall be discounted by two and one-half percent (2.5%). This discount, subject to certain limitations, shall be retained by the wholesaler. A sample "Beer Tax Report" form is included at the end of this publication.
- This Act provides a separate formula for each of the 31 wet counties outlining the procedure for distribution of beer tax revenues. Ala. Code §§ 28-3-190(c)(2)(a-dd). These counties are Autauga, Baldwin, Calhoun, Chambers, Choctaw, Colbert, Conecuh, Coosa, Dale, Dallas, Elmore, Escambia, Etowah, Greene, Hale, Jefferson, Lee, Lowndes, Macon, Madison, Marengo, Mobile, Perry, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, and Wilcox.
- The Act further provides that the Alabama Legislature may enact other local laws to establish a different distribution formula for specific counties and the municipalities located within those counties.

- Distribution of beer tax revenues to the counties and municipalities of the nine wet counties that do not have special formulas are governed by provisions in the Act which state that if beer is sold in the corporate limits of the municipality, the municipality will receive all of the tax revenue. If beer is sold in the police jurisdiction of a municipality or beyond, the county receives all of the tax revenues.
- A municipality has a right to inspect, examine, and audit the books and records of any person, firm, corporation, club or association which sells, stores, or receives any beer for the purpose of distribution, to determine the accuracy of any return required to be filed by it. A municipality can also require beer licensees to file a bond conditioned upon payment of the tax.

Exclusive Tax

The tax levied by the Uniform Beer Tax, Ala. Code § 28-3-190 (1975), is declared to be exclusive and in lieu of all other municipal taxes or licenses imposed on or measured by the sale or volume of sale of beer. In *Danny's v. City of Muscle Shoals*, 620 So. 2d 8 (Ala. Civ. App. 1992), the Alabama Court of Civil Appeals held that where alcoholic beverage licensees filed an action challenging the cities' imposition of a local tax on the sale of beer, the Alabama Uniform Beer Tax preempted local taxes on the sale of beer which were in addition to general sales taxes. All municipalities which base their business licenses on gross receipts of the business must amend their ordinances so that gross receipts derived from the sale of beer are excluded from the gross receipts of the business for determining business licenses. The tax does state that a municipality may continue to collect municipal sales taxes on the sale of beer at retail.

Licenses

The Tax gives municipalities the authority to levy a reasonable privilege or license fee on beer wholesalers, retailers and importers – but only for administrative costs and not to raise revenue. Ala. Code § 28-3-194 (1975). **Further, the Tax limits such licenses to one-half of the state license fee.** Ala. Code § 28-3-194 (1975). This means the municipal licenses on beer wholesalers and retailers cannot exceed the following annual amounts:

- Beer Wholesaler – $250
- Retail Beer for on-premises and off-premises consumption – $75
- Retail Beer for off-premises consumption – $50

Offenses

According to the state law, it is unlawful for any wholesale beer licensee to fail to keep, for a period of at least three years, complete and truthful records covering the operation of the license. Ala. Code § 28-3-192 (1975).

The licensee must not refuse the governing authority of any county or municipality in which beer sales are made, or any authorized employees or agent of the county or municipality, access to such records or the opportunity to make inspections, examinations, audits or copies of the same when the request is made at any time during which the licensed premises are open for the transaction of business. Ala. Code § 28-3-192 (1975). The Tax further makes it unlawful for any wholesale beer licensee to refuse the governing authority of any county or municipality in which the licensee sells beer, or any authorized employee or agent thereof or any duly commissioned law enforcement officer thereof, the right to completely inspect the entire licensed premises at any time during which such premises are open for the transaction of business. Ala. Code § 28-3-192 (1975).

Advice to Municipalities

1. Repeal all local beer tax ordinances that were effective prior to September 30, 1982.
2. Continue to collect sales tax on retail beer sales.
3. Amend business license schedules on beer wholesalers and retailers to reflect annual license fees of not more than one-half of state license fees.

4. If establishments that sell beer at retail are licensed on a gross receipts basis, amend the license schedule to provide that gross receipts from beer sales are excluded in determining total gross receipts of the business for license tax purposes.
5. If beer tax revenues are to be paid directly to the municipality by the beer wholesaler, then the municipality should adopt a form to be sent to all wholesalers doing business within the municipality for use in calculating and remitting the municipal taxes. (See sample form attached). Municipalities in the following counties fall into this category – Autauga, Baldwin, Barbour, Bullock, Cleburne, Colbert, Coosa, Covington, Crenshaw, Dallas (Selma only), Henry, Houston, Lowndes, Montgomery, Pike and Russell.

Sample Beer Tax Report

City of _____

City Account Number _____ **Date:** _____

BEER TAX REPORT

Name of Firm: _____

Address of Firm: _____

For month of _____**, 20**_____

NOTE: Per Case Tax Computed on 24 Container Basis

TAXABLE INVENTORY BEGINNING OF MONTH		
	7 oz. containers @ .78 per case	
	8 oz. containers @ .78 per case	
	12 oz. containers @ 1.17 per case	
	14 oz. containers @ 1.56 per case	
	16 oz. containers @ 1.56 per case	
1	**TOTAL TAXABLE INVENTORY BEGINNING OF MONTH**	
TAXABLE BEER RECEIVED DURING MONTH		
	7 oz. containers @ .78 per case	
	8 oz. containers @ .78 per case	
	12 oz. containers @ 1.17 per case	
	14 oz. containers @ 1.56 per case	
	16 oz. containers @ 1.56 per case	
2	**TOTAL TAXABLE BEER RECEIVED DURING MONTH**	
3	**TOTAL TAXABLE INVENTORY DURING MONTH (Line 1 + Line 2)**	
4	**TOTAL EXEMPTIONS (Provide itemized list)**	
TAXABLE BEER INVENTORY AT END OF MONTH		
	7 oz. containers @ .78 per case	
	8 oz. containers @ .78 per case	
	12 oz. containers @ 1.17 per case	
	14 oz. containers @ 1.56 per case	
	16 oz. containers @ 1.56 per case	
5	**TOTAL TAXABLE INVENTORY END OF MONTH**	
TOTAL TAX DUE ON SALES DURING MONTH (Line 3 Minus Lines 4 & 5)		

Make checks payable to _____
City of _____

I hereby certify that the foregoing is a full and true report as stated.
Firm: _____
By: _____