



## Beer Taxes

### Overview of Changes Affecting Ontario's Beer Industry as of July 1, 2010

- This bulletin provides general information about some of the changes affecting the Ontario beer manufacturing and distribution industry. It is not exhaustive and should not be considered as a substitute for the *Alcohol and Gaming Regulation and Public Protection Act, 1996 (Act)* and its regulations.

#### Background

##### Legislative Framework

The 2009 Ontario Budget proposed to replace certain alcohol and other fees, levies and charges imposed by the Alcohol and Gaming Commission of Ontario (AGCO), with taxes to enhance their operational structure and legislative clarity. On December 15, 2009, changes to the *Alcohol and Gaming Regulation and Public Protection Act, 1996*, replacing certain fees, levies and charges with taxes on certain beer, wine and wine coolers, became law.

Purchasers of beer, wine and wine coolers from the Liquor Control Board of Ontario (LCBO) and consumers that make their own beer, wine and wine coolers are not subject to the taxes.

The move to a tax-based structure will make it easier for Ontario's beer and wine manufacturers to do business with the Ontario government. We are streamlining processes and providing them with modern and convenient tools that will help them meet their reporting requirements.

##### When Changes Take Effect

The taxes, called the "beer and wine taxes", come into effect on July 1, 2010.

##### Current AGCO Practices

Currently, the AGCO (and LCBO) is responsible for the general regulation of the beer and wine industries in Ontario, including licensing. The AGCO also administers and collects various fees paid by manufacturers of beer, wine and wine coolers in Ontario.

Generally, manufacturers file reports and remit fees to the AGCO on a monthly basis. Manufacturers are required to keep records for AGCO audit purposes.

#### General Changes

##### Manufacturers Collect the Beer and Wine Taxes

When the beer and wine taxes come into effect on July 1, 2010, the Ministry of Revenue will administer the taxes. However, the AGCO (and LCBO) will remain responsible for the general regulation of the beer and wine industries in Ontario, including licensing.

Under the tax-based structure, Ontario beer, wine and wine cooler manufacturers will collect the beer and wine taxes and remit them to the ministry on a monthly basis. This process is similar to other tax statutes that the ministry administers, where manufacturers in certain industries act as agents of the Minister in collecting the taxes in trust and remitting them to the ministry with a return by the required date.

As part of the transition to collecting the beer and wine taxes, certain processes currently in place with the AGCO for manufacturers will change. To mirror existing ministry practices in

other tax programs, new measures will be introduced. Some of these changes are described further in this bulletin.

## Beer Taxes

**Beer Purchases Subject to Beer Taxes** Beer purchased from a “beer manufacturer”, whether the beer is draft, bottled or canned, will be subject to the beer taxes when the beer is purchased from:

1. Brewers Retail Inc. (i.e., The Beer Store),
2. Licensed establishments (i.e., restaurants and bars),
3. On-site retail stores of beer manufacturers or microbrewers, and
4. Southern agency stores of the LCBO (e.g., cottage-country agency stores).

A beer manufacturer, microbrewer or licensee of a brew pub in Ontario collects the beer taxes on the beer it distributes in Ontario and must remit the taxes it collects to the ministry.

The beer taxes include:

1. Beer basic tax,
2. Volume tax, and
3. Environmental tax (if applicable).

Draft beer manufactured and purchased at a brew pub or a secondary location of the brew pub is subject to the beer basic tax only.

**Deemed Purchasers** A beer manufacturer, microbrewer or a licensee of a brew pub is deemed to be a purchaser of the beer it distributes in Ontario without charge (e.g., providing samples) and must pay the beer taxes on that beer.

## Beer Basic Tax

**How Beer Basic Tax is Calculated** The beer basic tax is calculated based on the volume of beer purchased, regardless of whether the beer purchased is from a beer manufacturer, a microbrewer, a brew pub or a secondary location of the brew pub.

The tax rate applicable to the volume of beer purchased, other than draft beer made by a brew pub, depends on whether the beer is:

1. Draft beer or non-draft beer (e.g., bottled beer), and
2. Made by a beer manufacturer or a microbrewer.

There is only one tax rate applicable to the volume of draft beer made by a brew pub and purchased at the brew pub or a secondary location of the brew pub.

Effective July 1, 2010, and until the first annual adjustment, the beer basic tax rates will be:

Type of Beer	Beer Basic Tax Rate - Beer Manufacturers	Beer Basic Tax Rate - Microbrewers	Beer Basic Tax Rate - Brew Pub
Draft Beer	54.75 cents per litre	18.26 cents per litre	20.9 cents per litre
Non-Draft Beer	69.75 cents per litre	19.76 cents per litre	N/A

For example, on a 341mL bottle of beer (non-draft) made by a microbrewer, the beer basic tax will be  $0.341L \times \$0.1976/L = \$0.0674$ .

## Adjustments to Beer Basic Tax Rates

Annually	The beer basic tax rates will be adjusted annually on a date determined by the Minister.
Current Adjustment Method	<p>The Act currently provides that the adjustment to the beer basic tax rates will be based on the Consumer Price Index for Ontario for the past year.</p> <p>Under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010, it is proposed that the Act be amended to change the way in which the annual adjustment to the beer basic tax is determined. For additional information refer to the “Proposed Amendments under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010” section at the end of this bulletin.</p>

## Who is a Microbrewer?

Criteria to be Considered a Microbrewer for a Sales Year	<p>In order for a beer manufacturer to be considered a microbrewer, and have the microbrewer beer basic tax rates apply to its beer for any given sales year, it must meet all of the following conditions:</p> <ol style="list-style-type: none"> <li>1. The microbrewer’s worldwide production of beer for the previous production year must not have been more than <b>50,000 hectolitres</b>, and</li> <li>2. The microbrewer must not have any agreement or arrangement where a beer manufacturer, that is not a microbrewer, manufactures beer for it.</li> </ol>
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If the beer manufacturer does not meet the conditions to be considered a microbrewer, the normal beer manufacturer beer basic tax rate applies to its beer for the sales year.

Under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010, it is proposed that the Act be amended to include an additional criterion for determining if a beer manufacturer is a microbrewer. For additional information refer to the “Proposed Amendments under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010” section at the end of this bulletin.

How Worldwide Production is Determined	<p>Currently, a microbrewer’s worldwide production of beer for any given production year will include all of the following amounts:</p> <ol style="list-style-type: none"> <li>1. All beer manufactured during the production year by the microbrewer, whether the beer is manufactured for sale on the microbrewer’s account or under contract for another beer manufacturer,</li> <li>2. All beer manufactured during the production year by any affiliate of the microbrewer, and</li> <li>3. All beer manufactured during the production year by another microbrewer under contract for the microbrewer.</li> </ol>
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Under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010, it is proposed that the Act be amended to clarify what is to be included in determining a microbrewer’s worldwide production. For additional information refer to the “Proposed Amendments under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010” section at the end of this bulletin.

## Beer Volume Tax

How Beer Volume Tax is Calculated	<p>The beer volume tax is calculated based on the volume of beer purchased, regardless of whether the beer purchased is draft beer or non-draft beer (e.g., bottled).</p> <p>The tax rate applicable to the volume of beer purchased is 17.6 cents per litre.</p> <p>The beer volume tax does not apply to draft beer manufactured and purchased at a brew pub or a secondary location of the brew pub.</p>
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## Environmental Tax

Non-refillable Containers	<p>The environmental tax is 8.93 cents for each non-refillable container in which the beer is purchased. See the definitions section at the end of this bulletin that explains what is considered a “non-refillable container”.</p> <p>The environmental tax does not apply to draft beer manufactured and purchased at a brew pub or a secondary location of the brew pub.</p>
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## Proposed: Introduction of the Small Beer Manufacturers’ Tax Credit

Tax Credit for Small Beer Manufacturers	<p>Under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010, it is proposed that the <i>Taxation Act, 2007</i> be amended to establish a corporate tax credit for small beer manufacturers.</p> <p>For additional information, refer to Bill 16, Creating the Foundation for Jobs and Growth Act, 2010.</p>
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## Administrative Changes

Changes to Administrative Processes	<p>Ontario beer manufacturers will collect the beer taxes and remit them to the Ministry of Revenue on a monthly basis. The information required in the ministry’s beer tax return forms, as well as the filing and remittances dates, may be slightly different than what is currently in place for the AGCO reports. In addition, to mirror existing ministry practices in other tax programs, new measures will be introduced.</p>
Free Online Tax Service to File Returns and Make Payments	<p>The Ministry of Revenue’s online tax service – ONT-TAXS online – provides businesses with secure, convenient and free online access to their Ontario business tax accounts, where and when they need it. With ONT-TAXS online, businesses can file tax returns, make tax payments, view and update tax account information, and more, 24 hours a day, seven days a week.</p>
Audit Functions	<p>The Ministry of Revenue will be responsible for the audit functions for the beer and wine taxes. Consistent with other tax statutes, and to maintain the integrity of the provincial tax system, the ministry will periodically conduct on-site audits to verify compliance with the legislation. Records must be maintained for a minimum of seven years back from the current fiscal year. More information on the maintenance of books and records is available in the ministry’s Tax Information Bulletin, <a href="#">Retention/Destruction of Books and Records</a>.</p>
Notice of Objection Processes	<p>Consistent with other tax statutes, businesses which are issued notices of assessment or statements of disallowance of refund claims may formally object and request a reconsideration of the assessment or disallowance by the Ministry of Revenue.</p>

## Definitions

### Beer-related Definitions

“beer” means a beverage that is beer for the purposes of the *Liquor Licence Act*, but does not include a beverage purporting to be beer that contains alcohol obtained by a means other than the fermentation of an infusion or decoction of barley, malt and hops or similar products if the alcohol so obtained increases the total alcohol content of the beverage by more than 0.5 per cent by volume;

“beer manufacturer” means,

- (a) a person who makes beer in Ontario for sale in Ontario, other than a holder of a licence with a brew pub endorsement,
- (b) a person in Ontario who sells beer in Ontario that is made in Ontario under contract by a person described in clause (a), or
- (c) a person who makes beer in a province or territory of Canada other than Ontario and who, for the purpose of selling the beer to purchasers in Ontario, ships the beer to a facility in Ontario,
  - (i) at which the person or a wholly-owned subsidiary of the person makes beer at an annual production rate of not less than 2,500 hectolitres of beer, and
  - (ii) at which the annual production capacity is not less than 10,000 hectolitres of beer;

“brew pub” means premises for which the licensee holds a licence with a brew pub endorsement;

“draft beer” means,

- (a) beer made by a beer manufacturer other than non-draft beer, or
- (b) beer made at a brew pub;

“non-draft beer” means beer made by a beer manufacturer for sale in containers each of which has a capacity of less than 18 litres;

“non-refillable container” means a container that the manufacturer of a beverage or other person who initially fills the container with the beverage does not intend to refill;

“purchaser” means a person, including the Crown in right of Ontario, who purchases or receives delivery of beer in Ontario,

- (a) for use or consumption by the person or by someone else at the person’s expense, or
- (b) on behalf of or as agent for a principal who desires to acquire the beer for use or consumption by the principal or by someone else at the principal’s expense.

## Proposed Amendments Under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010

Under Bill 16, Creating the Foundation for Jobs and Growth Act, 2010, tabled on March 25, 2010, it is proposed that the Act and the *Taxation Act, 2007*, be amended to include the following changes:

### Annual Beer Basic Tax Rate Adjustment Methods

Implement two separate methods for calculating the annual adjustment to the beer basic tax rates; one method for the beer basic tax rates on beer from beer manufacturers and brew pubs, and another method for the beer basic tax rates on beer from beer manufacturers that are considered microbrewers.

#### **Method for Adjustment to Rate for Beer from Beer Manufacturer and Brew Pub:**

Annual adjustment of the beer basic tax rates for beer that is not from a microbrewer would be calculated based on the average of the Consumer Price Index for Ontario over the previous three years.

#### **Method for Adjustment to Rate for Beer from Microbrewer:**

Annual adjustment of the beer basic tax rates for beer from a microbrewer is calculated as a fixed reduction of the adjusted beer basic tax rate for beer manufacturers. If passed, the annual adjusted rates would be calculated as follows:

- For draft beer from a microbrewer, the adjusted rate for draft beer from a beer manufacturer **less** 36.49 cents per litre, and
- For non-draft beer from a microbrewer, the adjusted rate for non-draft beer from a beer manufacturer **less** 49.99 cents per litre.

### Additional Qualifying Condition to be Considered a Microbrewer

Any affiliate of a microbrewer that manufactures beer must also be a microbrewer.

### How Worldwide Production is Determined

A microbrewer's worldwide production for any given production year would include all of the following amounts:

1. All beer manufactured during the production year by the microbrewer, including beer that is manufactured under contract for another beer manufacturer,
2. All beer manufactured during the production year by any affiliate of the microbrewer, including beer manufactured by the affiliate under contract for another beer manufacturer, and
3. All beer manufactured during the production year by another microbrewer under contract for the microbrewer or for an affiliate of the microbrewer.

Refer to Bill 16 for additional information about the proposed amendments to the Act - [www.ontla.on.ca](http://www.ontla.on.ca).

**Note: The proposed amendments must be passed by the Legislature and receive Royal Assent to become law.**

## Additional Information

If this bulletin does not completely address your particular situation, refer to the Act and related regulations, or contact the:

Ministry of Revenue  
Client Accounts and Services Branch  
33 King Street West  
Oshawa, ON L1H 8H9

Tel.: 1 866 ONT-TAXS (1 866 668-8297)  
Fax: 905 436-4511  
Teletypewriter (TTY): 1 800 263-7776

This bulletin and various other English and French tax materials published by the Ministry of Revenue may be obtained online at [ontario.ca/revenue](http://ontario.ca/revenue). The *Alcohol and Gaming Regulation and Public Protection Act, 1996*, and Ontario's other public statutes and regulations may be obtained online at [ontario.ca/e-laws](http://ontario.ca/e-laws).

Cette publication est disponible en français sous le titre « *Taxes sur la bière - Vue d'ensemble des changements affectant l'industrie de la bière en Ontario en date du 1<sup>er</sup> juillet 2010* ».

Vous pouvez en obtenir un exemplaire en appelant le 1 866 ONT-TAXS (1 866 668-8297).

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