



Department of Revenue

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## Cook County Department of Revenue Regulation

### Sweetened Beverage Tax Regulation 2017-1

Subject – Retailers who qualify to register and remit in the same manner as distributors

Effective Date – March 20, 2017 (updated May 23, 2017)

On November 10, 2016, the Cook County Board enacted the Sweetened Beverage Tax Ordinance (“Ordinance”). The Ordinance imposes a \$0.01 tax on each ounce of sweetened beverage sold at retail in the County. The ultimate liability of the tax is to be borne by the retail purchaser. 74-852.

The Ordinance provides the following definitions:

*Distributor* means any person, including manufacturers and wholesale dealers, who receives, stores, manufactures, bottles or distributes bottled sweetened beverages, syrup or powder, for sale to retailers doing business in Cook County, whether or not that person also sells such products to purchasers.

*Purchaser* means any person who purchases in a retail sale.

*Retailer* means any person engaged in the business of selling sweetened beverages at retail in the County. 74-851.

Distributors are required to register with the Department and collect tax when they sell sweetened beverages, syrup and/or powder to a retailer or purchaser in Cook County. 74-852(d) and 74-853(a). Distributors must then file monthly tax returns with the Department and remit any tax due. 74-853(b). The only time retailers must remit tax directly to the Department is when they purchase untaxed product from an unregistered distributor. 74-853(c). Otherwise, retailers must pay tax to the distributor.

The Department is aware that there are some retailers who frequently purchase sweetened beverages, syrup and/or powder for storage in a retail distribution center. Some of that product may be sold at retail in Cook County while some is sold at retail outside of the County. As the retailer may not know which product will be sold where, remittance to the distributor at the time of purchase is uncertain. To alleviate confusion on how tax should be remitted under these circumstances, the Department now issues this regulation.

Under the Ordinance definitions, a business who purchases sweetened beverages, syrup and/or powder from another business and sells that product only at retail is not a distributor. Accordingly, that business would be required to pay tax to the distributor from which it purchases its product.

Per this regulation, a retailer who meets the following criteria **MUST** register with the Department and remit monthly tax returns in the same manner as a distributor:

- (1) The retailer is not also a distributor by definition (further clarification provided below);
- (2) The retailer has multiple (more than 2) retail locations, both inside and outside of Cook County;
- (3) The retailer stores product it purchases from other businesses in a retail distribution center;  
and
- (4) The retailer transports product from its retail distribution center to its retail locations, both inside and outside of Cook County.

*Retail distribution center* means a warehouse or other specialized building used by a retailer to store products that will later be transported to that same retailer's stores for retail sale. A retail distribution center does not include a storage building from which products are transported when sold to other legal entities for resale.

Retailers that meet the above criteria are permitted to register with the Department and remit tax on sweetened beverages, syrup and/or powder purchased from a distributor and stored in a retail distribution center. For all retailers, except vending machine operators, once such a retailer registers, it is required to file monthly tax returns, even when no tax is due. Said returns along with the tax payment, if applicable, must be submitted to the Department by the 20<sup>th</sup> of the month following the month in which the retailer transports said sweetened beverages, syrup and/or powder to the retail sale location. Failure to file a monthly return and/or remit tax due will subject the retailer to interest and penalties pursuant to the Ordinance and/or the Uniform Penalties, Interest and Procedures Ordinance.

Due to the nature of the vending machine operations business, such retailers registering and remitting in the same manner as distributors, must file monthly tax returns and submit the applicable tax payments to the Department by the 20<sup>th</sup> of the month following the month in which the sweetened beverage(s) in the vending machine is/are sold to a purchaser. Monthly tax returns are required even when no tax is due, and failure to file said monthly return and/or remit tax due will subject the vending machine operator to interest and penalties pursuant to the Ordinance and/or the Uniform Penalties, Interest and Procedures Ordinance.

Although registered retailers must remit tax on sweetened beverages, syrup and/or powder stored at its retail distribution center, the retailer must pay tax to any registered distributor from which it purchases sweetened beverages, syrup and/or powder that are shipped directly to retail locations rather than the retail distribution center. Those products cannot be accounted for on the registered retailer's monthly tax return.

This regulation does not apply to distributors who are also retailers. All distributors must register with the Department pursuant to Section 74-853(a). For those businesses who are both a distributor and a retailer, product must be segregated and tax must be remitted separately. When the business acts as a distributor (sells product to other businesses who will then sell to a purchaser/end user), the business must remit tax collected to the Department. However, if that business purchases product from a registered distributor for its retail business, it must pay tax to that distributor who will then remit to the Department.