



Instructions for Form MT-70

Alcoholic Beverages Floor Tax Return – Beer and Wine

Instructions

Effective May 1, 2009, the New York State (NYS) excise tax on beer increased by 3¢ (\$ 0.03) per gallon (from 11¢ to 14¢). The NYS excise tax on wine increased by 11.07¢ (\$ 0.1107) per gallon (from 18.93¢ to 30¢). As a result, a special floor tax is imposed with respect to all beer and wine held in inventory at the beginning of business on May 1, 2009, for purposes of sale in New York State. The amount of the floor tax is equal to the difference between the new tax rate and the one just previous to it.

Definitions

Beers mean and include all alcoholic beer, lager beer, ale, porter, and stout, and all other fermented beverages of any name or description manufactured from malt, wholly or in part, or from any substitute containing one-half of 1% or more of alcohol by volume.

Wines mean and include wine (both still and sparkling and when fortified by the addition of alcohol or spirits), fruit juice containing one-half of 1% or more alcohol by volume, and all other beverages containing alcohol manufactured or produced by the fermentation of the natural sugar contents of fruits or other agricultural products containing sugar, provided they contain no more than 24% of alcohol by volume.

Note: For purposes of this return, wines do **not** include cider.

Who is subject to the alcoholic beverages floor tax

All wholesalers, retailers, or other sellers of beer and wine not registered as distributors are subject to the floor tax. They must take a physical inventory, file a floor tax return, and pay the increased tax on all beer and wine in their possession or under their control for purposes of sale in NYS as of the beginning of business on May 1, 2009.

Additionally, all beer and wine manufacturers and distributors must **file** a floor tax return. However, manufacturers and distributors must pay the floor tax **only** on any beer and wine in their possession on May 1, 2009, on which the tax was already imposed at the prior rate (any beer or wine that was purchased tax-paid).

A manufacturer, distributor, wholesaler, retailer, or other seller that has no beer or wine in its possession subject to the floor tax must file a floor tax return and enter **0**s in column A, lines 1 and 2, and in each line of column C.

When to file

The alcoholic beverages floor tax return must be filed no later than July 20, 2009.

Failure to file a return or pay the total amount required to be paid by July 20, 2009, will result in civil penalties and interest under Article 18 of the NYS Tax Law and may result in criminal penalties under Article 37 of the Tax Law.

Penalties and interest

Penalty is imposed on any distributor at the rate of ten percent of the tax due for the first month or fraction of a month, and one percent for each subsequent month or fraction of a month in which the tax remains unpaid, up to a maximum penalty of

30%. If a return is not filed within 60 days of the due date, the minimum penalty is \$100 or 100% of the tax required to be paid, whichever is less.

Interest is computed at the rate set by the Commissioner of Taxation and Finance and is compounded daily. It is computed from the day the tax was due until the day the tax is paid. If you need help computing interest, access our Web site at www.nystax.gov and click on the *Online Tax Center* or see *Need help?* on the back.

Taxpayer information

Enter your employer identification number or social security number, and State Liquor Authority (SLA) license number. Enter your sales tax identification number, business name, address, and telephone number if they are not preprinted. If the printed information is incorrect, make the appropriate corrections on the return **and** complete Form DTF-95, *Business Tax Account Update*. If only your address is incorrect, complete Form DTF-96, *Report of Address Change for Business Tax Accounts*, instead of Form DTF-95. If you need a copy of either form, see *Need help?* on the back.

Nature of business activity

Mark an **X** in each applicable box to indicate your business activities. Enter a brief description if you mark *Other*.

Inventory

Attach a copy of your May 1, 2009, inventory to this return. The inventory for beer and wine should contain the following information:

A	B	C	D
Brand	Per unit measurement (ounces, gallons, milliliters, liters)	Number of units	Total (B x C)

In your inventory, include the contents of all open bottles and partial kegs. Include all beer and wine owned and in your possession even if it is in a "free section" of a bonded warehouse.

Use the following conversion amounts to convert ounces or liters to gallons before entering the inventory amounts on line 1 or 2 (see *Rounding of gallons*, below).

- 128 fluid oz. = 1 gallon
- 3.785 liters = 1 gallon

Rounding of gallons

You must maintain complete and accurate records for the actual volume of beer and wine in your May 1, 2009, inventory, whether the amounts are whole or partial liters or gallons. However, after ounces or liters are converted to gallons, the totals to be carried to line 1 or 2 must be rounded to whole gallons for the alcoholic beverages floor tax computation. A quantity of less than 0.5 gallons should be rounded down to the nearest whole gallon. A quantity of 0.5 gallons or more should be rounded up to the nearest whole gallon.

Multiple locations

Any person required to file a floor tax return for more than one location must file one consolidated alcoholic beverages floor

tax return. Take an inventory of stock on hand at each location. Keep the original inventory report at each location. Enter the business name, address, sales tax identification number and SLA license number(s) (if different from that on the front of the return), and inventory of each location on the inventory report attached to the consolidated return.

Amount due

Multiply the gallons in column A by the floor tax rate in column B and enter the result in column C.

Payment and mailing address

Make your check or money order payable to: **Commissioner of Taxation and Finance**. On your check or money order, write **ABT Floor Tax** and your taxpayer identification number. You **must** send a check or money order for the exact amount of the alcoholic beverages floor tax due only, and must mail the floor tax return and payment separately from any other tax return.

Attach your remittance to Form MT-70 and mail to:

**NYS TAX DEPARTMENT
ABT FLOOR TAX
PO BOX 22025
ALBANY NY 12201-2025**

Private delivery services

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to mail in your return and tax payment. However, if, at a later date, you need to establish the date you filed your return or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* below for information on obtaining forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your return, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery. If you use any private delivery service, whether it is a designated service or not, send the forms covered by these instructions to: NYS Tax Department, ABT Floor Tax, W A Harriman Campus, Albany NY 12227.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 5-a, 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Manager of Document Management, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone (518) 457-5181.

Need help?



Internet access: www.nystax.gov
(for information, forms, and publications)



Fax-on-demand forms: Forms are
available 24 hours a day,
7 days a week.

1 800 748-3676



Telephone assistance is available from 8:00 A.M. to
5:00 P.M. (eastern time), Monday through Friday.

Miscellaneous Tax Information Center: (518) 457-5735
In-state callers without free long distance: 1 800 470-4353

To order forms and publications: (518) 457-5431
In-state callers without free long distance: 1 800 462-8100



Text Telephone (TTY) Hotline (for persons with hearing
and speech disabilities using a TTY): If you have
access to a TTY, contact us at 1 800 634-2110.
If you do not own a TTY, check with independent
living centers or community action programs to find
out where machines are available for public use.



Persons with disabilities: In compliance with the
Americans with Disabilities Act, we will ensure that our
lobbies, offices, meeting rooms, and other facilities
are accessible to persons with disabilities. If you have
questions about special accommodations for persons
with disabilities, call the information center.