

# Sugar Sweetened Beverage Tax Frequently-Asked-Questions (FAQs)

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Question 1: What is the Sugar-Sweetened Beverage Distribution Tax?

The Sugar-Sweetened Beverage Product Tax (“tax”) is a City general tax adopted by the voters in November 2016 on the privilege of distributing “sugar-sweetened beverage products” in the City. 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.

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Question 2: Who is responsible for paying the tax?

The tax is to be paid by distributors— those who bring the beverages to retailers in the City. This includes retailers who obtain and bring the beverages into the City themselves (“self-distributors”). 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.

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Question 3: When does the tax take effect?

The tax takes effect on July 1, 2017. Taxes are due and payable on the 15th day of the month following the close of the reporting month, e.g. the tax is due on August 15, 2017 for the month of July 2017. Those who fail to file their returns and remit tax payments will be subject to enforcement action.

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Question 4: What is the tax rate?

The tax rate is one cent (\$0.01) per fluid ounce of a sugar-sweetened beverage product. The tax on added “caloric sweeteners” or syrups is calculated on the maximum 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 regular practice of the distributor may be used to calculate the ounces. For example, if one ounce of syrup produces 12 ounces of a sugar-sweetened beverage, the tax would be \$0.12.

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Question 5: What qualifies as an added “Caloric Sweetener” or Syrup?

An “added caloric sweetener” is any substance or combination of substances that meets all of the following 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 with one of more ingredients

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Question 6: Is the Tax a Sales Tax?

No, this is an excise tax. The Sugar-Sweetened Beverage Distribution Tax is on the distribution of sweetened beverages intended for retail sale in Oakland, based on volume sold. The Sugar-Sweetened Beverage Tax is typically paid by the distributor.

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Question 7: Can the Distributor pass the cost of the Sugar-Sweetened Beverage Tax on to its customers?

The law does not require a Distributor to pass the cost of the Sugar-Sweetened Beverage Tax on to customers. A Distributor has discretion in setting its prices. It is possible that a Distributor may independently decide to pass some, all or none of the cost of the Sugar-Sweetened Beverage Tax onto its customers.

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Question 8: When is the Tax due?

The tax is due on or before the 15<sup>th</sup> of the month following the close of the preceding month. For example, the tax is due on or before August 15, 2017 for the month of July 2017.

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Question 9: How often are tax returns due?

The tax is due monthly.

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Question 10: How do I file a tax return for the Oakland Sugar-Sweetened Beverage Distribution Tax?

Mail the completed Sugar-Sweetened Beverage Distribution Tax Remittance Form along with the payment to:

City of Oakland, SSBT  
C/O MuniServices, LLC  
1714 Franklin St #100-292  
Oakland, CA 94612

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Question 11: 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 with added caloric sweeteners 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.

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Question 12: Are natural sweeteners, like agave, honey, and stevia, taxable?

Multi-use sweeteners like table sugar, agave, honey, and stevia are not taxable when sold on their own, but beverages, syrups, and concentrates containing these sweeteners as an ingredient may be taxable.

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Question 13: Does the Tax apply to coconut and tree waters?

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

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Question 14: Are there any exemptions to the Tax?

The Tax does not apply to:

- any distributor who is not subject to taxation by the City under state or federal law; and
- any distribution of natural or common sweeteners.

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”;
- alcoholic beverages

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Question 15: Does the tax apply to alcoholic mixers?

Mixers fit the description of an “added caloric sweetener” and are taxed at the maximum amount of beverage produced. Mixers do not fit the description of an “Alcoholic Beverage” as defined in Part 14 (commencing with Section 32001) of the California Revenue and Taxation Code; therefore, mixers are not exempt.

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Question 16: Does this tax apply to soda only?

No, this tax applies to sugar sweetened beverages. Please see item 16 to determine if the tax applies to a particular beverage.

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Question 17: 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 and 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, don't 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

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Question 18: Is the distribution of granulated sugar an added caloric sweetener a taxable distribution?

No. Oakland Municipal Code (“OMC”) Section 4.52.020 exempts the distribution of natural or common sweeteners from the tax. OMC 7.72.020.L 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.)

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Question 19: I am a restaurant owner and I prepare beverages such as lemonade and sweet tea in-house for my customers. Are those beverages taxable?

No. Mixing sugar into beverages (for example, tea or lemonade) at your retail store in Oakland does not make those beverages taxable. If the items were not distributed to your store already in the form of taxable items (added caloric sweeteners or ready-to-consume sugar-sweetened beverages), they are not taxable.

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Question 20: Is there a complete list of products that are covered by Oakland Sugar-Sweetened Beverage Tax?

No. New products come on the market every day and keeping up would be impractical. The text of [Measure HH](#) provides guidance about ingredients and categories of products that are subject to the tax. Have a question about a specific product? Please email us at [OaklandBevTaxSupport@muniservices.com](mailto:OaklandBevTaxSupport@muniservices.com).

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Question 21: I am a retailer. Do I have any obligations under the Tax?

Retailers who obtain and bring sugar-sweetened beverages into the City are subject to register for and pay the Sugar-Sweetened Beverage Tax. Retailers who obtain and bring one or more caloric sweeteners into the City, whether as liquid, frozen or other substances, to produce beverage products in the City are also subject to register for and pay the Sugar-Sweetened Beverage Tax.

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Question 22: What about penalties and interest?

- A. Original Delinquency. Any distributor who fails to remit any tax imposed within the time required shall pay a penalty of twenty-five (25) percent of the amount of the tax in addition to the amount of the tax.
- B. Fraud. If the Tax Administrator determines that the nonpayment of the tax is due to fraud, a penalty of fifty (50) percent of the amount of the tax shall be added thereto in addition to the penalties stated in subsection A above.
- C. Interest. In addition to the penalties imposed, any distributor who fails to remit any tax imposed shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, inclusive of penalties, from the date on which the tax first became delinquent until paid.
- D. Penalties Merged With Tax. Every penalty imposed and such interest as accrues under the provisions of this section shall become a part of the tax herein required to be paid.

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Question 23: Where can I get advice about paying the Tax?

The City of Oakland has enlisted MuniServices, LLC to assist in the implementation, administration and collection of its taxpayers-approved Sugar-Sweetened Beverage Tax. For information regarding the tax, please contact MuniServices at

City of Oakland, SSBT  
C/O MuniServices, LLC  
1714 Franklin St #100-292  
Oakland, CA 94612  
Toll Free Phone: (866) 240-3665  
Toll Free Fax: (855) 219-4338  
Email: [OaklandBevTaxSupport@muniservices.com](mailto:OaklandBevTaxSupport@muniservices.com)

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