

Taxes and Tabs – A New Line on Your Brewery Tab May Be on the Horizon

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One way to know your industry is doing well is when you see the government taking a closer look at how your industry is taxed and how it can expand tax collections from you.

Recently, the Pennsylvania Department of Revenue issued a new tax bulletin regarding the state's sales and use tax with respect to breweries. Breweries are no strangers to taxes — they have to pay an excise tax on the beer they produce and, in some cases, post a bond to cover their expected tax obligations. Fortunately for Pennsylvania brewers, our state's excise tax is one of the lowest in the country. Given Pennsylvania's budget concerns over the past few years, I have been concerned that the excise tax might be a potential target for an increase, especially since Pennsylvania is one of the largest producers of beer. However, the Pennsylvania Department of Revenue had another tax in mind when they started looking at the beer industry to help add tax revenue to the state.

For the past few years, Pennsylvania breweries have been relying upon a previous opinion from the Department of Revenue that advised breweries they did not have to charge sales tax for sales made to consumers at the brewery's location. This was a great benefit, not only to breweries, but also consumers at those breweries. However, on July 27, 2018, the Department of Revenue issued a Tax Bulletin that turned their prior advice on its head.

According to this tax bulletin, the Department of Revenue will require breweries to collect the state's 6% sales tax on its sales to consumers, whether for on-premise or off-premise consumption. The tax bulletin provides two methods for breweries to collect or pay this tax — either include the sales tax in the advertised price (must include signage stating that the tax is included in the price) or separately identify and charge the sales tax on the customer's bill. Neither option is particularly pleasant. Either breweries will need to find a way to keep prices the same and absorb the tax internally, increase their prices, or ask customers to pay a sales tax they are not used to seeing on their bar tab.

The collection of sales tax was set to take effect on January 1, 2019; however, the Brewers of Pennsylvania have successfully obtained an extension until July of 2019. Therefore, there is still time for breweries to plan on how to incorporate this tax change into their business model. This is an active issue for a number of trade associations with competing interests. Legislation related to this tax heated up recently, but no changes were made prior to the legislative break. It will likely heat up again next year leading up to the July 2019 effective date, so we will be keeping an eye on this for any additional changes.

Should you require assistance or any addition information regarding this topic, feel free to contact Ken McDermott.