
SUGAR SWEETENED BEVERAGE TAX
INFORMATION CIRCULAR (RAA-SSB updated 2022-08-31)
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The purpose of this circular is to provide general information regarding the application of the sugar sweetened beverage tax (SSBT).

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Overview

Effective September 1, 2022 the sugar sweetened beverage tax will apply to a person, who, as a consumer, acquires a sugar sweetened beverage at a retail sale in the province or brings/receives delivery of a sugar sweetened beverage into the province.

1) Sugar Sweetened Beverage Types and Tax Rate

SUGAR SWEETENED BEVERAGE TYPES	TAX RATE (applied on a pro-rata basis)
<p>Ready-to-Drink Beverages and Dispensed Beverages</p> <p><i>These include ready-to-drink beverages to which the manufacturer has added sugar such as soft-drinks, sweetened fruit-flavoured juices, sweetened iced-tea and lemonades, sweetened sports and energy drinks, and dispensed beverages such as sweetened soda fountain drinks, slush drinks and fruit juices.</i></p>	<p>\$0.20 per litre (prorated based on container size)</p>
<p>Concentrated Drink Mixtures</p> <p><i>These include frozen concentrated sweetened fruit punches, sweetened flavoured drink crystals and powders, and flavoured syrups to which the manufacturer has added sugar. These also include concentrates used to produce dispensed beverages (e.g. post-mix).</i></p>	<p>Where the manufacturer provides directions for finished beverage preparation and/or volume:</p> <p>\$0.20 per litre of beverage that can be produced in accordance with the manufacturer's directions.</p>
	<p>Where the manufacturer does <u>not</u> provide sufficient directions for finished beverage preparation and/or volume:</p> <p>\$0.80 per litre for frozen concentrated juices, \$2.00 per kilogram for flavoured powders, and \$1.20 per litre for syrups.</p>

2) Identification of Sugar Sweetened Beverage Products

a) Ready to Drink Beverages

Refer to the **List of Ingredients** on the container (bottle, can, tetra-pak, etc.). If sugars (e.g., sugar, fructose, glucose, glucose-fructose, sucrose, honey, molasses, agave syrup, corn syrup, etc.) are listed as an ingredient, that product would be taxable unless it is an exempt product.

*Note: The **Nutrition Facts Table** on a container may show that a product contains naturally occurring sugars; however, only products that include sugars in the **List of Ingredients** are taxable.*

b) Dispensed Beverages

Speak to the manufacturer or refer to the manufacturer's website or other published materials to determine if these beverages have added sugars.

c) Concentrated Drink Mixture

A flavouring syrup that may be used in many different applications and for which there are no specific recommended mixing or dilution rates on the label would be an ingredient, not a beverage, and would therefore not be taxable. The definitions in paragraph 2(1.1) of the **Revenue Administration Regulations**, are relevant:

"concentrated drink mixture" means a product that is primarily intended by the manufacturer to be mixed with water or other non-sugar ingredients to produce a beverage for human consumption..."

This definition is intended to ensure that concentrated beverages are subject to the tax, but it is not intended to extend the tax to ingredients or additives. It would be useful to consider whether a product

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is simply a concentrated version of the beverage that will ultimately be consumed. If the instructions provide a recommended dilution ratio, that would suggest a taxable product.

3) Non-Taxable Products

The following products would not meet the definition of a sugar sweetened beverage and would not be taxable for the purpose of this tax:

- 100% natural fruit and/or vegetable juices;
- syrups, purées and powders which the manufacturer intends to be used primarily as a cooking or food preparation ingredient; and
- beverages prepared for a consumer in a food and/or beverage-service establishment at the time of purchase including but not limited to coffee, tea and mixed beverages but not including soda fountain drinks, and pre-packaged coffee, tea and mixed beverages where sugars are a listed ingredient.

4) Transactions that do not Attract SSBT

a) Exports

Sugar sweetened beverage tax is not applicable to exports/shipments of sugar sweetened beverage products outside of Newfoundland and Labrador. Wholesalers can export product without imposing tax, while retailers can claim a refund of the tax paid on products (manufactured exclusively in the province) shipped outside of the province. Please refer to section 6 and 7 to obtain details regarding wholesalers' and retailers' responsibilities when exporting/shipping goods outside of the province.

b) Deliveries to Retailers Located on an Indian Reserve

Section 87(1) of the **Indian Act** provides for an exemption to an Indian and a band located on a reserve as follows:

87 (1) Notwithstanding any other Act of Parliament or any Act of the legislature of a province, but subject to section 83 and section 5 of the [First Nations Fiscal Management Act](#), the following property is exempt from taxation:

- (a) the interest of an Indian or a band in reserve lands or surrendered lands; and
- (b) the personal property of an Indian or a band situated on a reserve.

Also, the **Indian Act** defines Indian and Band as follows:

Indian means a person who pursuant to this Act is registered as an Indian or is entitled to be registered as an Indian;

Band means a body of Indians

- (a) for whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after September 4, 1951,
- (b) for whose use and benefit in common, moneys are held by Her Majesty, or
- (c) declared by the Governor in Council to be a band for the purposes of this Act;

To effectively administer section 87 of the **Indian Act**, registered wholesalers will not impose the SSBT, when delivering sugar sweetened beverage products directly to retailers located on an Indian reserve.

5) Exemptions under Section 21.1(1) of the Revenue Administration Regulations

a) Product Exemptions

- beverages that contain alcohol
- medical or therapeutic beverages including but not limited to infant formula, nutritional supplements, and meal-replacement or weight-loss beverages but not including sports and energy drinks

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- chocolate flavoured milk other than chocolate flavored milk that is described as a shake or milkshake by the manufacturer
- fortified plant based milk alternative to a non-taxable or exempt milk product
- yogurt beverages

b) Other Exemptions

- ready-to-drink beverages packaged in an individual container holding less than 75 millilitres
- ready-to-drink or dispensed beverages that are brought into the province by a person who is a consumer, in a total quantity not exceeding 5 litres
- concentrated drink mixtures that are brought into the province by a person who is a consumer, in a total quantity not exceeding 1 litre for frozen concentrated juices or syrups or 500 grams for flavoured powders.

6) Special Cases

(a) Coffee Creamers

- Regular coffee creamers (without mixing instructions), that are intended to be used as an additive, and are not intended to produce a beverage to which they are added, are not “concentrated drink mixtures” and are not subject to sugar sweetened beverage tax (SSBT). Examples include:

Non-taxable: Coffee mate (original powder)
Coffee mate Double Double Mate Liquid Coffee Enhancer
Splenda – Coffee Creamers
Blue Diamond Almond Breeze Creamer
Starbuck’s Toffee Nut creamer

- Sweetened flavor creamer products, such as caramel, vanilla and almond, which are intended for mixing with water and other non-sugar ingredients to produce a beverage, meets the definition of “concentrated drink mixture” and therefore are taxable. Examples include:

Taxable: International Delight – Flavor Faves
Starbucks Caramel Macchiato Liquid Coffee
Coffee mate – French Vanilla
Tim Hortons French Vanilla Cappuccino

(b) Coffee Concentrates Purchased by Restaurant Establishments

- Coffee concentrates purchased by food establishments, meeting the definition of a “concentrated drink mixture”, are treated the same as similar products purchased by a consumer. A coffee house/food establishment purchasing sweetened concentrates intended to produce beverages will pay the tax to the wholesaler at the time of purchase or will self - assess in instances where tax was not imposed by the wholesaler.

(c) Gift Baskets

- Sugar sweetened beverage products bundled into a gift basket are taxed based on the rate specified for their respective category.

(d) Water Enhancers

- Water enhancers (containing sugar) that are intended for mixture with water to produce a flavoured beverage are taxable.

(e) Wine Making Kits

- Concentrated juice (containing added sugar), packaged as part of a wine making kit, is considered an ingredient in the production of wine and does not attract SSBT.

Requirements

7) Wholesaler

A wholesaler who sells sugar sweetened beverages in the province for resale is required to:

- register as a collector [Sugar Sweetened Beverage Wholesaler/Retailer Registration Form](#);
- collect the sugar sweetened beverage tax, at the time of sale, from retailers and consumers (no tax is imposed on transactions between registered collectors);
- sell sugar sweetened beverage products, exclusive of SSBT, when delivered directly to retailers located on an Indian reserve;
- obtain bills of lading for sugar sweetened beverages exported outside of the province that details the purchaser, the purchaser's address and the volume and descriptions of goods;
- issue an invoice, at the time of the sale, containing the following information;
 - a) date of sale;
 - b) seller's name, address and wholesaler's registration number;
 - c) if sales are made to a registered wholesaler, the wholesaler's registration number (number can be confirmed at [Licensed Sugar Sweetened Beverage Wholesalers](#)) and
 - d) line items listing each sugar sweetened beverage product, quantity sold and total sugar sweetened beverage tax imposed per product.
- self-assess and remit tax on sugar sweetened beverage products utilized, gifted or consumed;
- complete and file tax returns ([Sugar Sweetened Beverage Wholesaler Tax Return](#)) as required under the "Returns" section (found on page 6)
- provide sugar sweetened beverage tax refunds to retailers or consumers as detailed in the "Refunds" section(found on page 6); and
- keep and maintain books and records relating to the business and returns and make such records available within the province (or make other satisfactory arrangements) for inspection, examination and audit.

8) Retailer

Retailers are not required to include the sugar sweetened beverage tax on the customer's receipt, but have requirements which are determined based on where the product has been sourced, as follows:

a) Purchasing from Registered Wholesalers

Retailers purchasing from Registered Wholesalers are required to:

- levy and collect the sugar sweetened beverage tax from consumers and pay over the tax amount collected to the registered wholesaler, as per the wholesaler's invoice;
- request refunds for tax paid on sugar sweetened beverage products manufactured exclusively in the province and shipped outside of the province as detailed in the "Refunds" section (found on page 6);
- provide sugar sweetened beverage tax refunds to consumers as detailed in the "Refunds" section (found on page 6); and
- keep and maintain books and records relating to the business and returns and make such records available within the province (or make other satisfactory arrangements) for inspection, examination and audit.

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Please note a retailer purchasing solely from Registered Wholesalers is not required to register as a “Collector” under this tax program.

b) Purchasing/Acquiring from Non-Registered Wholesalers/Businesses

This group of retailers include businesses who;

- i. purchase sugar sweetened beverage products from non-registered out of province wholesalers, and/or
- ii. import/receive sugar sweetened beverage products from non-registered out of province parent companies and franchisors.

Retailers who purchase, import or receive sugar sweetened beverage products from non-registered businesses from outside of the province are required to:

- register as a collector [Sugar Sweetened Beverage Wholesaler/Retailer Registration Form](#);
- record purchases from non-registered wholesalers and calculate the tax payable on sugar sweetened beverage products ;
- complete and file tax returns ([Sugar Sweetened Beverage Retailer Tax Return](#)) in relation to the monthly purchases, as required under the section “Returns”(found on page 6);
- provide sugar sweetened beverage tax refunds to consumers as detailed in the “Refunds” section(found on page 6); and
- keep and maintain books and records relating to the business and returns and make such records available within the province (or make other satisfactory arrangements) for inspection, examination and audit.

9) Consumer

A consumer is a person who purchases sugar sweetened beverage products in the province or receives delivery/brings sugar sweetened beverage products in the province, for that person's own consumption or for consumption by others, at that person’s expense.

Consumers are required to:

- pay tax on the purchase of sugar sweetened beverage products purchased from retailers and wholesalers in the province; and.
- calculate and pay tax directly to the crown on sugar sweetened beverages purchased from non-registered wholesalers and retailers located outside of the province that exceed the exemption limits as provided in Figure 1 as follows.

Figure 1

Exemption Limit Sugar Sweetened Beverage Products-Brought into the Province by a Consumer	
Sugar Sweetened Beverage Product	Exemption Limit
Ready-to-Drink or Dispensed Beverages	5 litres
Frozen Concentrated Juices or Syrups	1 litre
Flavoured Powders	500 grams

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Calculation of Tax

Tax is calculated on sugar sweetened beverage products as follows:

Product	Taxable Unit	Tax Calculation
Ready to Drink / Dispensed Beverage	355ml container	(Container Size / Litre) X Tax Rate (355/1000) X .20 = 7 cents
Ready to Drink Beverage	Box of 12 355ml Cans	(Container Size / Litre) X Tax Rate X Number of Units (355/1000) X .20 = .07 .07 X 12 = 84 cents
Concentrated Drink Mixture with Manufacturer Instructions Provided	Container Producing 12 litres	Litres Produced X Tax Rate 12 X .20 = \$2.40
Insufficient manufacturer directions for finished beverage preparation and/or volume		Litres/Grams in Container X Tax Rate
	2 litre can of frozen concentrate juice	2 X .80 = \$1.60
	750 grams of powder flavoured powder	.750 X 2.00 = \$1.50
	1 litre of syrup	1 X 1.20 = \$1.20

The sugar sweetened beverage tax is imposed prior to the HST and the HST will be applied on the total price of the sugar sweetened beverage inclusive of the sugar sweetened beverage tax.

Returns

A tax return is required to be filed in the prescribed form ([Tax Return Retailer](#) or [Tax Return Wholesaler](#)) and is considered to be filed when received by the department.

10) Separate Returns

A separate return is required for each retail location unless a return for multiple locations has been approved by the minister.

11) Due Date

Returns are due by the 20th of the month following the month for which the return is filed.

12) Penalty for Failure to File

Failure to file a return will result in a \$100 late filing penalty and may result in the assessment of a penalty equal to the tax that should have been remitted as prescribed in the **Revenue Administration Act (RAA)**. See below for more information on penalties.

Refunds

13) Conditions

A refund of the sugar sweetened beverage tax will be provided to a consumer by a registered wholesaler or a retailer where,

- The sugar sweetened beverage products were previously sold by the registered wholesaler or retailer;
- the sugar sweetened beverage tax was collected on the sale; and
- the product is returned; and the beverage amount is refunded.

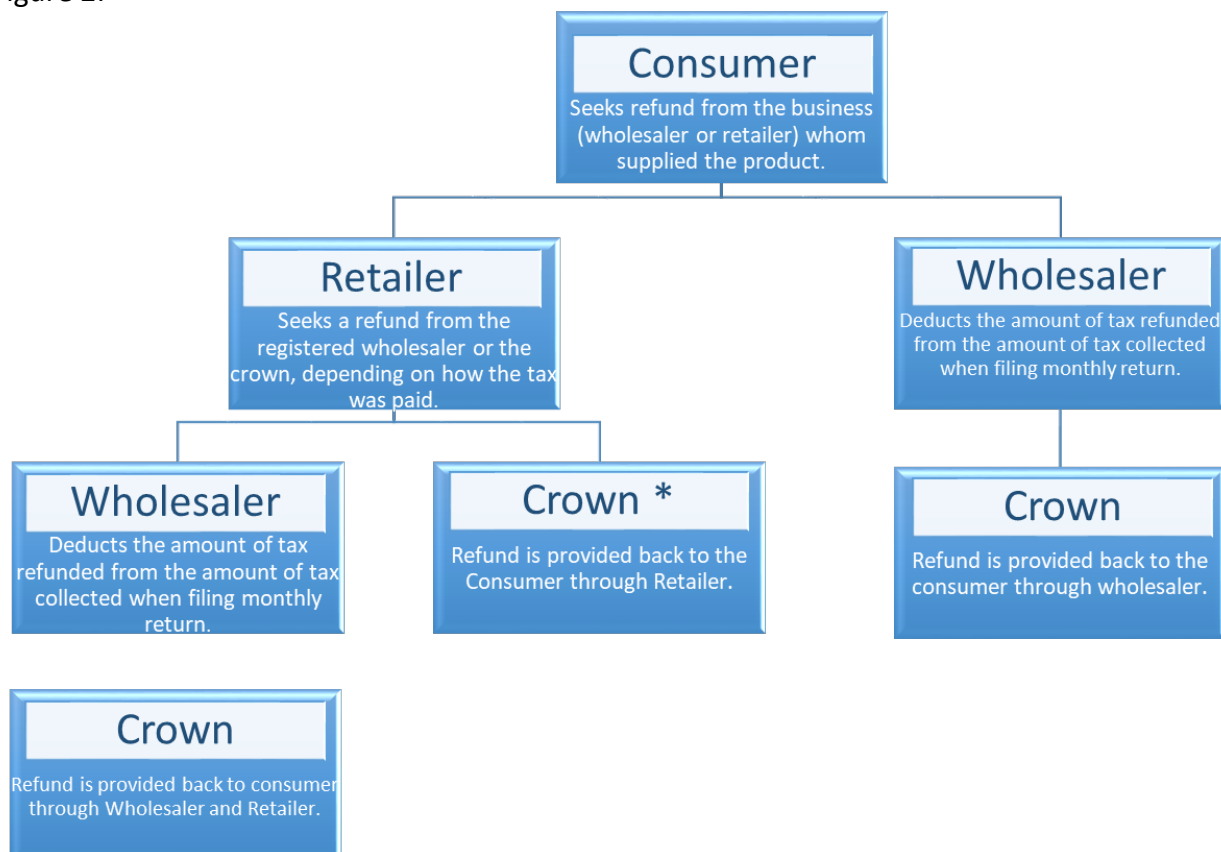
A refund will be provided to retailers who ship sugar sweetened beverages (**manufactured solely in the province**) outside of Newfoundland and Labrador where,

- a bill of lading is submitted evidencing the sale of sugar sweetened beverages exported/shipped outside of the province, which that details the purchaser, the purchaser's address and the volume and descriptions of goods, and
- invoices are submitted detailing sugar sweetened beverage tax paid and a description of the products purchased.

14) Refund Process Relating to Returns from Consumers

The consumer may obtain a refund of sugar sweetened beverage tax from the business where the product was purchased. That business may then seek a refund from a wholesaler or seek a credit adjustment on their tax return to the Crown, depending on the method of initial payment of the tax. A registered wholesaler may recover the refund provided to a consumer through a credit adjustment on their tax return. Figure 2 below depicts the role of the parties involved in the stages of the refund process.

Figure 2:



**Please note, adjustments are not available to retailers, where identical products are purchased from a combination of Registered Wholesalers and Non-Registered Wholesalers and separate inventory and sales systems are not maintained with respect to these purchases.*

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Imposition of Interest

Interest will be imposed on tax not paid in the correct time or manner.

Interest is imposed upon an amount due for each month or part of a month from the date the amount is required to be paid to the date of payment and is compounded monthly.

The annual rate of interest with respect to unpaid tax is the rate equal to the prime lending rate of the bank holding the province's general revenue fund (determined and adjusted on June 15 and December 15 in each year) plus 4 percentage points.

Interest is not levied for a month in which the amount due is less than \$100.

Offences

Section 32. (1) of the **RAA** contains a number of general offences relating to the sugar sweetened beverage tax including:

- refusing, neglecting or failing to produce books and records to a person entitled under this Act to inspect, examine or audit the books and records;
- refusing, neglecting or failing to file a return or make a report required under the Act; and
- destroying, altering, mutilating, concealing or disposing of the books and records of a business or commercial activity in order to evade tax.

Penalties

15) Penalty for Failure to File, Collect or Remit Tax

A wholesaler who sells sugar sweetened beverages in the province and fails to file, collect or remit tax may be subject to a penalty, without the interposition of a court, as provided in Figure 3 below.

Figure 3

Failure	Penalty
(a) failure to collect tax	equal to the loss sustained by Crown
(b) failure to pay tax in the manner and within the time provided by the RAA or the regulations	10% of an amount of tax payable or the amount of the loss in (a),
(c) failure to make a return required by the RAA or the regulations in the manner and within the time provided - penalty	not less than \$100 nor more than \$5,000

16) Court Imposed Penalties

A person who is guilty of an offence under the **RAA** is liable on summary conviction to a penalty as prescribed by the **RAA**.

In addition to the fine imposed, a court shall order:

- the person found guilty of an offence to pay the tax due under the **RAA** and in default of such payment, a term of imprisonment as prescribed, and
- a person who defaults in the payment of fines be imprisoned for a prescribed period and that period of imprisonment shall be in addition to any other period of imprisonment.

Where a person is guilty of a continuing offence under this Act, the person may be liable to a further fine of not more than \$10,000 for each day during which the offence continues.

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Inspection and Compliance

An inspector may, at all reasonable times, for a purpose related to the administration or enforcement of sugar sweetened beverage product tax, inspect or examine the premises, processes, books and records of a person considered relevant for the purpose of determining compliance, and may, without a warrant,

- enter any premises where
 - (i) a business is carried on,
 - (ii) any property, or books and records are or may be kept, or
 - (iii) anything is or is suspected of being done or stored in connection with a tax imposed under this Act;
- make copies, extracts, photographs or videos the inspector considers necessary;
- require the owner or person in charge of a premises to give all reasonable assistance, including the production of books and records, and to answer all proper questions; and
- require the owner or person in charge to make available the means to generate and manipulate books and records that are in machine readable or electronic form and any other means or information necessary to assess the books and records.

Assessment and Reassessment

An assessment for any amounts in relation to tax of sugar sweetened beverage products becomes binding, notwithstanding an error or omission when a notice of assessment in writing is served to a taxpayer personally or by express post certified mail addressed to the current address in the Department's records or to another address where the taxpayer is known to reside or maintain an office or place of business. The mailed notice shall be considered to be received on the day it would be received in the normal course of mailing. This notice is for administrative purposes only and does not affect a person's liability.

Any person who receives a notice of assessment is required to pay the tax assessed within 30 days of receiving the notice, regardless of any objection or appeal.

Objections and Appeals

17) Review of Objection

An objection to an assessment of tax may be made within 90 days of receiving the notice of assessment by providing written notice to the Minister clearly identifying the following:

- the matter objected to,
- the reasons for objection,
- all the relevant facts, and
- the remedy requested.

18) Appeal to Trial Division

A decision of the minister in response to a notice of objection may be appealed to the Trial Division by commencing a proceeding in the Trial Division within 60 days of receiving the minister's reply.

The costs of the proceeding are in the discretion of the judge and he or she may make an order respecting costs in favour of or against the Crown and may fix the amount of them.

19) Appeal to Court of Appeal

A decision upon a point of law raised upon the hearing of a judge of the Trial Division may be taken to the Court of Appeal. The rules governing appeals to the Court of Appeal from a decision of a judge of the Trial Division apply.

Further information regarding this information circular may be obtained at www.gov.nl.ca/fin or by contacting:

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