

Legal Opinion for the Camden County Board of Commissioners and County Staff
Taxation on Alcohol Beverages as authorized by the Official Code of the State of
Georgia

Tax on Alcoholic Beverages

State Taxation on Distilled Spirits

OCGA 3-4-69: State Excise Taxation: Levy and amount of tax.

The following state taxes are levied and imposed:

- (a) There shall be imposed upon the first sale, use, or final delivery within this state of all distilled spirits an excise tax in the amount of \$0.50 cents per liter and, upon the first sale, use or final delivery within this state of all alcohol, an excise tax in the amount of \$0.70 cents per liter, and a proportionate tax at the same rate on all fractional parts of a liter;
- (b) There shall be imposed upon the importation for use, consumption, or final delivery into this state of all distilled spirits an import tax in the amount of \$0.50 cents per liter and, upon the importation for use, consumption, or final delivery into this state of all alcohol, and import tax in the amount of \$0.70 cents per liter; and a proportionate tax at the same rate on all fractional parts of a liter.

Local Taxation on Distilled Spirits

OCGA 3-4-80: Levy of tax on sale of distilled spirits by the package authorized; rate of tax; manner of imposition; imposition of tax by both county and municipality located within county.

- (a) The governing authority of each municipality or county where the sale of distilled spirits by the package is permitted by Article 3 (Regulation of alcoholic beverages generally) **may at its discretion levy an excise tax on the sale of distilled spirits by the package at either the wholesale or retail level**, which tax shall not exceed \$0.22 cents per liter of distilled spirits, excluding fortified wine, and a proportionate tax at the same rate on all fractional parts of a liter. (No county excise tax shall be imposed, levied, or collected in any portion of a county in which a municipality within the county is imposing the same tax on distilled spirits sold by the package).

OCGA 3-4-131: Imposition of tax by counties authorized; rate of tax; taxation by both county and municipality located within county.

- (a) The governing authority of each county in which the sale of distilled spirits by the drink is permitted may impose, levy, and collect an excise tax upon the sale of the beverages, which tax shall not exceed 3 percent (3%) of the charge to the public for the beverages.
- (b) No tax by subsection (a) of the Code section may be imposed, levied, and collected in any portion of a county in which the tax provided for in Code Section 3-4-130 (authorizes a municipality to collect 3% tax on distilled spirits by the drink) is being imposed, levied, and collected.

Opinion of the Attorney General of Georgia No: U78-4 (decided under former GA. Law 1977, Ex. Sess., Page 744.

Under this part of the code, a county may impose excise tax upon sale of alcoholic beverages within a city in the county which has not imposed a similar tax, until such time as city does impose such tax.

OCGA 3-4-133: Allowance and reimbursement to dealers collecting tax of percentage of tax due.

Dealers collecting the tax authorized by Code Sections 3-4-130 (City) and 3-4-131 (County) shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due, if the amount is not delinquent at the time of payment. The rate of deduction shall be the same rate authorized for deductions from state tax under Chapter 8 title 48.

State Tax on Malt Beverages

OCGA 3-5-60: Levy of State Excise Tax on Malt Beverages.

There is levied and imposed on the first sale, use, or possession within this state of malt beverages the following taxes:

- (1) Where malt beverages are sold in or from a barrel or bulk container, such malt beverages being commonly known as tap or draft beer, an excise tax of \$10.00 on each container sold not more than 31 gallons and a proportionate tax at the same rate on all fractional parts of 31 gallons.
- (2) Where malt beverages are sold in bottles, cans, or containers, except barrel or bulk containers, an excise tax of \$0.04 ½ cents per 12 ounces and an proportionate tax at the same rate on all fractional parts of 12 ounces; and
- (3) A tax on all such beverages in excess of 576 ounces or two standard cases of 12 ounce size or the equivalent thereof or one 7.75 gallon keg or barrel of such beverages at the same rate of taxation as imposed in this part for other such beverages and on which the taxes are not otherwise imposed by paragraph (1) or (2) in this Code section.

Local Tax on Malt Beverages

OCGA 3-5-80 Local levy and amount of tax:

Municipalities and counties permitting the sale of malt beverages shall impose an excise tax, **in addition to the excise taxes levied by the state**, as follows:

- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of \$6.00 on each container sold containing not more than 15 ½ gallons and a proportionate tax at the same rate on all fractional parts of 15 ½ gallons;
- (2) Where malt beverages are sold in bottles, cans, or other containers, except barrel or bulk containers, a tax of \$0.05 cents per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

OCGA 3-5-81: Payment of tax by wholesale dealer generally; time of payment; reports by dealers as to quantities of beverages sold.

- (1) The excise taxes provided for in 3-5-80 (stated above) shall be imposed upon and shall be paid by the licensed wholesale dealer in malt beverages.

- (2) The taxes shall be paid on or before the tenth day of the month following the calendar month in which the beverages are sold or disposed of within the particular municipality or county by the wholesale dealer.

State Tax on Wine

OCCA 3-6-50: State tax levy and amount of tax on wine.

- (a) There shall be levied and imposed on the first sale, use, or final delivery within this state of all table wines an excise tax in the amount of \$0.11 cents per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (b) There shall be imposed upon the importation for use, consumption, or final delivery into this state of all table wines and import tax in the amount of \$0.29 cents per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (c) There shall be levied and imposed upon the first sale, use, or final delivery within this state of all dessert wines an excise tax in the amount of \$0.27 cents per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (d) There shall be levied and imposed upon the importation for use, consumption, or final delivery into this state of all dessert wines an import tax in the amount of \$0.40 cents per liter and a proportionate tax at the same rate on all fractional parts of a liter.

Local Tax on Wine

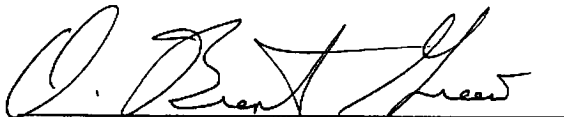
OCCA 3-6-60: Local levy and amount of tax generally; rate of tax; manner of imposition; payment, and collection; imposition of tax by both county and municipality located within county.

- (a) The governing authority of each municipality or county where the sale of wine is permitted by this chapter, **at its discretion**, may levy an excise tax on the first sale or use of wine by the package, which tax shall not exceed \$0.22 cents per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (b) The rate of taxation, the manner of its imposition, payment, and collection, and all other procedures related to the tax authorized by subsection (a) of this Code section shall be provided for by each county and municipality electing to exercise the power conferred by subsection (a) of this Code section.
- (c) No county excise tax shall be imposed, levied, or collected in any portion of a county in which a municipality within the county is imposing the same tax on wine sold by the package.

CONCLUSION

All taxation is a pass down through the different levels of the purchase process of alcohol beverages. The individual at the final sale being it sold by container, package, or by the drink pays the tax. The importer, wholesale dealer, retail dealer or bar owner collects taxes at each level, but the fact remains, the final consumer pays the tax.

This Legal Opinion this 13th day of January 2009 is for the sole use of the Camden County Board of Commissioner and the Camden County Staff.



O. Brent Green, County Attorney