

TAX CODE

TITLE 2. STATE TAXATION

SUBTITLE G. GROSS RECEIPTS AND MIXED BEVERAGE TAXES

CHAPTER 183. MIXED BEVERAGE TAXES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 183.001. DEFINITIONS. (a) The definitions in Section [1.04](#), Alcoholic Beverage Code, apply to this chapter.

(b) In this chapter:

(1) "Permittee" means a mixed beverage permittee, a private club registration permittee, a private club exemption certificate permittee, a private club late hours permittee, a daily temporary private club permittee, a private club registration permittee holding a food and beverage certificate, a daily temporary mixed beverage permittee, a mixed beverage late hours permittee, a mixed beverage permittee holding a food and beverage certificate, a caterer permittee, or a distiller's and rectifier's permittee.

(2) "Business day" means the period beginning at 3 a.m. one day and ending at 3 a.m. the next day.

(3) "Sales price" has the meaning assigned by Section [151.007](#), as applicable.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 1, eff. Aug. 28, 1995; Acts 1995, 74th Leg., ch. 1001, Sec. 7, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 106 (S.B. [905](#)), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. [3572](#)), Sec. 4, eff. January 1, 2014.

SUBCHAPTER B. MIXED BEVERAGE GROSS RECEIPTS TAX

Sec. 183.021. TAX IMPOSED ON GROSS RECEIPTS OF PERMITTEE FROM MIXED BEVERAGES. A tax at the rate of 6.7 percent is imposed on the gross receipts of a permittee received from the sale,

preparation, or service of mixed beverages or from the sale, preparation, or service of ice or nonalcoholic beverages that are sold, prepared, or served for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. [3572](#)), Sec. 6, eff. January 1, 2014.

Sec. 183.0212. SEPARATE DISCLOSURE OF TAX ALLOWED.

(a) For informational purposes only, a permittee may provide that each sales invoice, billing, service check, ticket, or other receipt to a customer for the purchase of an item subject to taxation under this subchapter include:

(1) a separate statement disclosing the amount of tax to be paid by the permittee under this subchapter in relation to that item; or

(2) a statement of the mixed beverage taxes, consisting of the combined amount of the tax to be paid by the permittee under this subchapter in relation to that item and the amount of tax imposed under Subchapter B-1 on that item.

(b) A statement under Subsection (a)(1) must clearly disclose the amount of tax payable by the permittee.

(c) The tax may not be separately charged to or paid by the customer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 516 (H.B. [2033](#)), Sec. 1, eff. June 17, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. [3572](#)), Sec. 7, eff. January 1, 2014.

Sec. 183.022. TAX RETURN DUE DATE. (a) A permittee shall file a tax return with the comptroller not later than the 20th day of each month.

(b) The return under this section shall be in a form prescribed by the comptroller and shall include a statement of the total gross taxable receipts during the preceding month and any

other information required by the comptroller.

(c) A tax due for a business day that falls in two different months is allocated to the month in which the business day begins. Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 2, eff. Aug. 28, 1995.

Sec. 183.023. PAYMENT. (a) The tax due for the preceding month shall accompany the return and shall be payable to the state.

(b) The comptroller shall deposit the revenue received under this section in the general revenue fund.

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(7), eff. June 14, 2013.

(d) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(7), eff. June 14, 2013.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 431, Sec. 3(7), eff. June 14, 2013.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994. Amended by Acts 1997, 75th Leg., ch. 1035, Sec. 71, eff. Sept. 1, 1997.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 10.06, eff. September 28, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 431 (S.B. 559), Sec. 3(7), eff. June 14, 2013.

Sec. 183.024. FAILURE TO PAY TAX OR FILE REPORT. (a) A permittee who fails to file a report as required by this subchapter or who fails to pay a tax imposed by this subchapter when due shall pay five percent of the amount due as a penalty, and if the permittee fails to file the report or pay the tax within 30 days after the day the tax or report is due, the permittee shall pay an additional five percent of the amount due as an additional penalty.

(b) The minimum penalty under Subsection (a) is \$1.

(c) A delinquent tax draws interest beginning 60 days from the due date.

(d) In addition to any other penalty authorized by this

section, a permittee who fails to file a report as required by this subchapter shall pay a penalty of \$50. The penalty provided by this subsection is assessed without regard to whether the permittee subsequently files the report or whether any taxes were due from the permittee for the reporting period under the required report.

Added by Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 14.09, eff. October 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 8, eff. January 1, 2014.

Sec. 183.025. SECURITY REQUIREMENT. (a) A permittee subject to the tax imposed by this subchapter must comply with the security requirements imposed by Chapter 151 except that a permittee is not required to comply with Section 151.253(b).

(b) The total of bonds, certificates of deposit, letters of credit, or other security determined to be sufficient by the comptroller of a permittee subject to the tax imposed by this subchapter shall be in an amount that the comptroller determines to be sufficient to protect the fiscal interests of the state. The comptroller may not set the amount of security at less than \$1,000 or more than the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by Acts 2001, 77th Leg., ch. 442, Sec. 24, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 931 (H.B. 3314), Sec. 9, eff. June 15, 2007.

Transferred, redesignated and amended from Tax Code, Section 183.053 by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 9, eff. January 1, 2014.

Sec. 183.026. AUDIT FREQUENCY. The comptroller shall have the discretion to determine the frequency of mixed beverage tax audits under this subchapter. In determining the frequency of the audit the comptroller may consider the following factors:

- (1) reasonable and prudent accounting standards;
- (2) the audit history of the permittee;
- (3) the effect on state revenues; and
- (4) other factors the comptroller deems appropriate.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Transferred, redesignated and amended from Tax Code, Section 183.054 by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 10, eff. January 1, 2014.

Sec. 183.027. CREDITS AND REFUNDS FOR BAD DEBTS. (a) A permittee may withhold the payment of the tax under this subchapter on a portion of the gross receipts that remains unpaid by a purchaser if:

- (1) during the reporting period in which the mixed beverage is sold, the permittee determines that the unpaid portion will remain unpaid;

- (2) the permittee enters the unpaid portion of the sales gross receipts in the permittee's books as a bad debt; and

- (3) the bad debt is claimed as a deduction for federal tax purposes during the same or a subsequent reporting period.

(b) If the portion of a debt determined to be bad under Subsection (a) is paid, the permittee shall report and pay the tax on the portion during the reporting period in which payment is made.

(c) A permittee is entitled to credit or reimbursement for taxes paid on the portion of the gross receipts determined to be worthless and actually charged off for federal income tax purposes.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.
Amended by Acts 1995, 74th Leg., ch. 1001, Sec. 3, eff. Aug. 28, 1995.

Transferred, redesignated and amended from Tax Code, Section 183.055 by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 11, eff. January 1, 2014.

SUBCHAPTER B-1. MIXED BEVERAGE SALES TAX

Sec. 183.041. TAX IMPOSED ON SALES OF MIXED BEVERAGES AND RELATED ITEMS. (a) A tax is imposed on each mixed beverage sold,

prepared, or served by a permittee in this state and on ice and each nonalcoholic beverage sold, prepared, or served by a permittee in this state for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee.

(b) The rate of the tax is 8.25 percent of the sales price of the item sold, prepared, or served.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. [3572](#)), Sec. 12, eff. January 1, 2014.

Sec. 183.042. DISCLOSURE OF TAX. A permittee may provide that a sales invoice, billing, service check, ticket, or other receipt to a customer for the purchase of an item subject to taxation under this subchapter include:

(1) a statement that mixed beverage sales tax is included in the sales price;

(2) a separate statement of the amount of tax imposed under this subchapter on that item;

(3) a statement of the mixed beverage taxes, consisting of the combined amount of the tax to be paid by the permittee under Subchapter B in relation to that item and the amount of tax imposed under this subchapter on that item; or

(4) a statement of the combined amount of taxes imposed under this subchapter and Chapter [151](#) on all items listed on the invoice, billing, service check, ticket, or other receipt.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. [3572](#)), Sec. 12, eff. January 1, 2014.

Sec. 183.043. APPLICABILITY OF OTHER LAW. (a) Except as otherwise provided by this section:

(1) the tax imposed by this subchapter is administered, collected, and enforced in the same manner as the tax under Chapter [151](#) is administered, collected, and enforced; and

(2) Chapter [151](#) applies to the tax imposed by this subchapter in the same manner as Chapter [151](#) applies to the tax imposed under Section [151.051](#).

(b) Sections [151.423](#) and [151.424](#) do not apply to the tax imposed by this subchapter.

(c) A sale to a permittee of an item described by Section 183.021 is not a sale for resale for purposes of Section 151.302 if the item is mixed with or becomes a component part of a mixed beverage subject to taxation under this subchapter that is served without any consideration paid to the permittee.

(d) An item subject to tax under this subchapter is exempt from the taxes imposed under Subtitle C, Title 3.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 12, eff. January 1, 2014.

SUBCHAPTER C. MIXED BEVERAGE TAX CLEARANCE

Sec. 183.051. MIXED BEVERAGE TAX CLEARANCE FUND. (a) Not later than the last day of the month following a calendar quarter, the comptroller shall calculate the total amount of taxes received under Subchapters B and B-1 during the quarter from permittees outside an incorporated municipality within each county and the total amount received from permittees within each incorporated municipality in each county.

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue fund in an amount appropriated by the legislature that may not be less than 10.7143 percent of the taxes received from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in an amount appropriated by the legislature that may not be less than 10.7143 percent of the taxes received from permittees within the incorporated municipality during the quarter.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by Acts 1999, 76th Leg., ch. 1467, Sec. 2.63, 2.64, eff. Oct. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 58.01, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. 3572), Sec. 13, eff. January 1, 2014.

Sec. 183.052. CONFLICT OF RULES. If a rule or policy adopted by the Texas Alcoholic Beverage Commission conflicts with a rule adopted by the comptroller for the application, enforcement, or collection of a tax imposed by this chapter, the comptroller's rule prevails. A conflicting rule or policy adopted by the commission is invalid to the extent of the inconsistency. If the comptroller determines that a rule or policy adopted by the commission conflicts with one adopted by the comptroller relating to the application, enforcement, or collection of a tax imposed by this chapter, the comptroller shall notify the commission in writing of the determination. After receipt of the notification, the commission must amend or repeal the conflicting rule or policy not later than the 90th day after the date of notification.

Added by Acts 1993, 73rd Leg., ch. 934, Sec. 106, eff. Jan. 1, 1994.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1403 (H.B. [3572](#)), Sec. 14, eff. January 1, 2014.