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**Georgia Department of Revenue**  
**Policy Bulletin Alcohol & Tobacco Division-2015-01**  
**Facility Tours**

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- 1) **Purpose: Effective Date:** July 1, 2015.
- 2) **Authority:** O.C.G.A. §§ 3-1-2; 3-2-2; 3-2-3; 3-3-46; 3-4-24; 3-4-60; 3-4-180; 3-5-38; 3-5-60; 3-5-80.
- 3) **Scope:** A Policy Bulletin is intended to provide guidance to the public and to Department personnel. It is a written statement issued to apply principles of law to a specific set of facts or a general category of taxpayers, superseding all conflicting documents and oral directives previously issued by the Department. A Policy Bulletin is the Department's position on the law and is binding on agency personnel until superseded or modified by a change in statute, regulation, court decision, or subsequent Policy Bulletin.
- 4) **Summary:**
  - (a) The purpose of this bulletin is to provide guidance to licensed Brewers and Distillers with regard to changes in the law governing Facility Tours under Senate Bill 63 (2015).
  - (b) License Brewers and Distillers may now apply to the Department of Revenue for a permit to conduct Facility Tours. As a part of a Facility Tour, such Brewers and Distillers may provide limited quantities of free alcoholic beverages manufactured on the premises to tour attendees for consumption on the premises and to take for consumption off of the licensed premises. Brewers and Distillers are also permitted to provide free food, prepared by the Brewer or Distiller or by a third party vendor, to the tour attendees.
  - (c) Brewers and Distillers are under no circumstance permitted to make retail sales of alcoholic beverages to tour attendees. Brewers and Distillers are permitted to charge varying fees for tours, but may not vary tour prices in such a way that the tour prices are clearly and directly tied to the market value of the alcohol furnished. Beverage alcohol furnished in the form of sample tastings and souvenirs must be furnished to tour attendees free of charge.
  - (d) Brewers and Distillers will be required to pay excise tax and use tax on the free alcoholic beverages furnished to tour attendees. Additionally, the sale of admission for tours is subject to sales tax. Brewers and Distillers should consult a tax professional regarding sales and use tax and excise tax as the collection and remittance of these taxes may not have previously arisen in the ordinary course of manufacturing malt beverages and distilled spirits.

## 5) Frequently Asked Questions:

### **(Q1) What is a Facility Tour?**

A facility tour is a guided access tour of the manufacturing portion of the licensed premise of a brewer or distiller.

### **(Q2) Can a manufacturer make retail sales of beverage alcohol directly to tour attendees?**

No. The retail sale of beverage alcohol by a manufacturer is prohibited under Georgia law. Licensed Brewers and Distillers are however permitted to apply to the Department to attain a Facility Tour Permit. Once a permit has been issued, a Distiller or Brewer is allowed to provide free tastings and free souvenirs.

The furnishing of free tastings and free souvenirs as part of a facility tour will generally not be deemed a retail sale of beverage alcohol even though the tour attendee is charged a fee to take the tour. However, where the price of tour admissions is clearly and directly tied to the volume or market value of the alcohol furnished, a Brewer or Distiller will be cited for making retail sales of alcohol.

### **(Q3) Can a manufacturer charge varying fees for facility tours?**

Yes. However, the basis for varying fees may not be due to differences in the volume or market value of alcohol provided to tour attendees. Fees may vary based on the furnishing of non-alcoholic promotional items, the day of the week, live entertainment, etc. However, a manufacturer who furnishes beverage alcohol in the course of a tour must not vary prices based on the change in relative market value or volume of the alcoholic beverages furnished.

For example, a manufacturer must charge the same rate for a tour where one tour attendee elects to sample free beverage alcohol during a tour and the second attendee elects to sample free beverage alcohol and receive a free beverage alcohol souvenir.

### **(Q4) What are free tastings and free souvenirs?**

Free tastings are complimentary samples of malt beverage or distilled spirits given to tour attendees for consumption on the premises of the manufacturer before, during, or after a tour.

Free souvenirs are complementary sealed containers of malt beverage or a single sealed container of distilled spirits given to tour attendees for consumption off of the premises of the manufacturer. For these purposes, “sealed” means to fasten or close securely. The definition could include a vacuum sealed or shrink wrapped container lid, but such a process is not necessary to satisfy Department of Revenue requirements.

### **(Q5) Can I serve free beverage alcohol manufactured by someone other than myself?**

No. A Brewer or Distiller may only serve free samples of beverage alcohol manufactured by the Brewer or Distiller.

### **(Q6) How much beverage alcohol can I give away as a free tasting during a tour and how much can I give away as a free souvenir?**

A Brewer may give away up to 36 ounces of free malt beverage to each tour attendee in a calendar day in free tastings, and may give away up to 72 ounces of malt beverage in a calendar day as a free souvenir.

A Distiller may give away up to three free samples of up to ½ of 1 ounce of distilled spirits in a calendar day as a free tasting, and may give away up to 750 milliliters of distilled spirits in a calendar day as a free souvenir.

**(Q7) Can I sell food to tour attendees?**

No. Brewers and Distillers are prohibited from selling food on the licensed premises. However, food may be given to tour attendees free of charge. Brewers and Distillers are permitted to give the food directly or hire a third party food vendor to provide the food.

**(Q8) Can I allow food trucks to set up in my parking lot and sell food?**

Yes. Food trucks can station on the premises to sell food to the public.

**(Q9) Can I use a food truck as a caterer (Third Party Food Vendor) to provide free food as part of a tour? Can food the truck sell food to people who do not attend a tour?**

Yes. A food truck can meet the definition of third party food vendor for the purpose of furnishing food free of charge to tour attendees. While serving as third party food vendor, a food truck may also make retail sales of food to members of the public who are not consuming free food as part of a facility tour.

**(Q10) I have a facility tour permit. Can I rent my space to a special event licensee to host a special event?**

No. A Special Events License is a temporary retail alcohol license. A special event licensee who sells alcohol on the premises of a Brewery or Distiller which carries a Facility Tour Permit has engaged in a retail sale of alcohol. This type of transaction is prohibited by O.C.G.A. 3-4-180(e) [distilled spirits] and 3-5-38(e) [malt beverages].

However, Brewers and Distillers are permitted to rent a licensed manufacturer's premises to individuals to host private events where alcohol is provided free of charge to guests as long as those guests are not charged for attendance to the event (E.g., a wedding reception).

**(Q11) Do Brewers and Distillers owe excise tax on beverage alcohol furnished as Free Tastings and Free Souvenirs?**

Yes. Brewers and Distillers must collect and remit a state and local excise taxes for the free beverage alcohol given away to tour attendees.

**(Q12) What are the excise tax rates for Malt Beverage?**

Brewers must accrue state and local excise tax at the following rates:

(1) For barrel and bulk containers (tap and draft):

State: \$10.00 on each container of 31 gallons and less, and a proportionate tax at the same rate on all fractional parts of 31 gallons.

Local: \$6.00 on each container containing 15.5 gallons and less, and a proportionate tax at the same rate on all fractional parts of 15.5 gallons.

(2) For bottles, cans, and other containers:

State: 4 ½¢ per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

Local: 5¢ per 12 ounces and a proportionate tax at the same rate on all fractional parts of 12 ounces.

**(Q13) What are the excise tax rates for Distilled Spirits?**

Distilleries must accrue state excise tax at the following rates:

- (1) For all distilled spirits, 50¢ per liter, and a proportionate tax at the same rate on all fractional part of a liter;
- (2) For all other alcohol, 70¢ per liter, and a proportionate tax at the same rate on all fractional parts of a liter.

*Note:* Local excise taxes may also apply. Consult your local governing authority for specific local excise tax collection liabilities.

**(Q14) How should a Brewer or Distiller account for and report excise tax on free alcohol given to tour attendees?**

Brewers and Distillers can use any reasonable inventory accounting method to account for and accrue excise tax on free beverage alcohol given to tour attendees.

The excise tax should be reported by the manufacturer to the Department of Revenue via its Georgia Tax Center (GTC) account.

**(Q15) Is the free alcoholic beverage given for Free Tastings and as Free Souvenirs subject to sales and use tax?**

Yes. Beverage alcohol furnished free of charge to tour attendees is subject to use tax. Use tax is calculated by multiplying the “fair market value” (*see* Q16) of the alcohol furnished by the applicable rate of sales and use tax.

The State rate of sales and use tax is 4%. The local sales and use tax rate will depend on the county in which the manufacturer is located. You can determine the applicable county rate in your county from the Georgia Department of Revenue website (<http://dor.georgia.gov/documents/sales-tax-rate-chart>).

**(Q16) How do I account for and report use tax on free alcoholic beverage given away for Free Tastings and as Free Souvenirs?**

As with excise tax, Brewers and Distillers can use any reasonable inventory accounting method to account for and accrue use tax on free beverage alcohol given to tour attendees.

Use tax is determined by multiplying the “fair market value” of the inventory by the applicable rate of sales and use tax. Use tax accrues at the time that the beverage alcohol is removed from inventory to be given away during tours and tastings.

Fair market value for these purposes is the “total raw material cost;” however, a Brewer or Distiller may use a reasonable estimate of the retail sale price of the beverage alcohol when determining the appropriate taxable amount. This amount is multiplied by the applicable rate of sales and use tax.

The State rate of sales and use tax is 4%. The local sales and use tax rate will depend on the county in which the manufacturer is located. You can determine the county rate in your county from the Georgia Department of Revenue website (<http://dor.georgia.gov/documents/sales-tax-rate-chart>).

Example: Brewer has designated five 15.5 gallon kegs and twenty six packs to be given away as free samples and souvenirs. The kegs retail at \$100 apiece and the six packs retail at \$10 apiece. The total estimated retail selling price for the malt beverage would be \$700. Brewer is located in Gwinnett County, which has a local sales and use tax rate of 2%. The state rate of sales and use tax is 4%. By multiplying \$700 times the sales and use tax rate of 6%, Brewer determines that it must remit

\$42 for the malt beverage it has withdrawn from inventory for to be given away as free tastings and free souvenirs.

**(Q17) Do I collect sales tax on the sale of Tour Admissions?**

Yes. The sale of a tour admissions is a taxable retail sale subject to the sales and use tax.

The State rate of sales and use tax is 4%. The local sales and use tax rate will depend on the county in which the manufacturer is located. You can determine the county rate in your county from the Georgia Department of Revenue website (<http://dor.georgia.gov/documents/sales-tax-rate-chart>).

**(Q18) Do I need to file an ATT-104 brand registration and designation form for beverage alcohol given as free tastings or given as free souvenirs?**

No. You do not need to designate a sales territory for the free beverage alcohol that will be given away to tour attendees in the course of facility tours and tastings. Form ATT-104 is only required for beverage alcohol that will be sold to a designated licensed wholesaler and distributed through the three-tier system.

**FOR MORE INFORMATION**

**For more information on this subject, contact Taxpayer Services at 1-877-423-6711 from 8:00 a.m. to 4:30 p.m. EST, Monday through Friday, excluding holidays. For forms and other information, visit our website (<http://dor.georgia.gov>).**

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