

APPLICATION OF THE TAX TO MATERIALS PURCHASED BY BREWERIES

A. Products Used in Brew:

(1) Chillproofers and Foam Stabilizers

Activase
Century Special
Cerevase
Collupulin
Diastase
D & S Schaumade
Gum Arabic
Heading Powder
KMS Crystals
Liquidase
Mitt body foam
Papain
Pepsin
P/L 104
P/L 400
Rapidose
Reinfirm
Tansul

COMMENTS

The above listed chemicals, colloids, and proteolytic enzymes are used in the brew for the purpose of putting the ingredients in such chemical condition as will obviate cloudiness in the beer when chilled, and/or will improve the foaming qualities of the beverage. The theory has been advanced that many of these products, while undoubtedly remaining for the most part in the brew, were purchased for a use other than for resale, namely, to cause changes in the chemical composition of the ingredients so as to improve the resulting product. If it could be demonstrated that, after having caused chemical changes without entering into them, the products (such as enzymes) were to as great a degree as possible either precipitated or filtered out, with a remainder of only a portion that had no value to the beverage but could not be removed practically, there would be little doubt that they had been purchased for a use other than resale. However, such a condition has not been demonstrated, and it is the firm belief of brewmasters and chemists that, not only do these products remain to a great degree in the beverage, but that the distinctive flavor, consistency, and properties of the beverage would be so altered were it possible to remove them, that the resulting product would not be what people have been accustomed to since time immemorial. While there is undoubtedly a strong legalistic and technical argument in favor of the theory that the products (such as enzymes) were purchased for a purpose other than resale, it is apparent that such a decision would offend the common man's notions of reality. It, therefore, appears that the practice which has been generally followed in the past of considering these items as having been properly purchased for resale as component ingredients of the finished product, should be continued.

(2) Water Conditioners

Burton Salts
Calcium Chloride
Gypsum (Calcium Sulphate)
Hydrated Lime
Lactic Acid
Sodium Bisulphite
Sulphuric Acid
Tannic Acid
Tartaric Acid

COMMENTS:

To make beer or ale of an accepted pattern of palatability, it is necessary to adjust the mineral content of the brew water to approximate that of waters that are considered best for the purpose. For that reason brew water is treated with the above salts and acids, and recognized professional opinion holds that they remain in the finished beverage and were bought for the purpose of constituting a part of it.

(3) Organic Ingredients

Enzymes
Grains
Hops
Juniper Berries
Malt
Yeast

COMMENTS:

Those of the above products which are food products in themselves are, by virtue of the rule on food products, property purchased ex-tax. Enzymes have been discussed in Section A(1) above. The question has been raised as to whether or not yeast is purchased for a purpose other than resale because, after having been used in the brew, masses of it are filtered out, indicating that it may have been purchased for a purpose other than resale as a component part of the finished beverage.

Yeast is a plant and feeds on the starch in the brewer's grains. As it grows it converts starch into alcohol and carbon dioxide, the component parts of which were, prior to their creation, components of the yeast plant. It would appear, therefore, that it would be reasonable to apply the rule on annual plants and hold that the yeast is property purchased for resale, it being a plant whose product is resold, and the life of the plant being one season (Ruling 48).

(4) Clarifiers

Activated Carbon

Colloidal Clay

Dicalite

Gelatin

Irish Moss

Isinglass

Talc Sierra Snow

Inerto (When sold in combination packages with Tansul, the combination is known as Tansul 7. Breakdown must be made so Inerto is consumed in manufacture of beer, while Tansul is properly purchased for resale as component part of beer.)

COMMENTS:

The above-listed products are purchased for the purpose of clarifying the beer and are to the most part filtered out. Accordingly, they are purchased for a purpose other than resale, and the sale to the brewer is a retail sale.

B. MISCELLANEOUS ITEMS:

(a) Taxable items purchased for use and not considered resold:

1. Bung tins
2. Filter Asbestos
3. Filter Mass
4. Pitch to repair barrels
5. Returnable containers such as kegs and barrels
6. Revenue Stamp Protectors. (While one of these items is used on each barrel sent out, it is our opinion that it is not an integral part of the container; and while one is consumed on each trip of the barrel, it is used for revenue purposes, not for container purposes, and would be more comparable to a shipping label.)

(b) Non-taxable purchases considered for resale:

1. Bungs
2. Non-returnable containers
3. Paper wrappers in which beer bottles are wrapped for shipment in cases
4. Plugs, wooden
5. Tap corks used to close beer barrels and knocked out when beer barrel opened

Memorandum

440.1926

To: Mr. Glenn Bystrom

Date: May 29, 1996

From: Gary Jugum

Subject: Non-Attorney Opinions

I have reviewed Application of Tax to Materials Purchased by Breweries memorandum.

We are in agreement with his conclusion, as follows:

Beer Brewing. Ingredients used in the brew to obviate cloudiness in chilled beer or to improve the foaming qualities of the beer may be purchased for resale even though they are largely precipitated or filtered out. Examples are:

Activate	KMS Crystals
Century Special	Liquidase
Cerevase	Mitt Body Foam
Collopulin	Papain
Diatase	Pepsin
D&S Schaumade	P/L 104
Gum Arabic	P/L 400
Heading Powder	Rapidose
	Reinfirm
	Tansul

Chemicals added to brew water to improve the taste of the beer may be purchased for resale. Examples are:

Burtom Salts	Calcium Chloride
Gypsum (Calcium Sulfate)	Sulfuric Acid
Hydrated Lime	Tannic Acid
Lactic Acid	Tartaric Acid
Sodium Bisulfite	

Ingredients which are food products in themselves are not subject to tax. Examples are grains, hops, juniper berries and malt, as well as enzymes.

Products used to clarify the beer are manufacturing aids and subject to tax. Examples are:

Activated Carbon
Colloidal Clay
Dicalite
Gelatin

Irish Moss
Isinglas
Tacc Sierra Snow
Inerto

Bung tins, filter asbestos, filter mass, pitch for barrel repair, returnable containers and revenue stamp protectors are not regarded as containers. Paper bottle wrappers, wooden plugs, and tap corks may be purchased for resale. 1/1/50. 5/29/96.

100597I