

**M e m o r a n d u m**

**To:** Ms. Susanne Buehler, Chief  
Tax Policy Division (MIC:92)

**Date:** January 6, 2016

**From:** Erin Dendorfer  
Tax Counsel  
Tax and Fee Programs Division (MIC:82)

**Subject:** Yeast Used in Winemaking  
Assignment No. 15-456

On August 25, 2015, you requested a legal opinion regarding the application of tax to yeast used in winemaking. Your request states that it is your understanding yeast perform the same function in both winemaking and beer brewing. The Sales and Use Tax Annotations (Annotation or Annot.), however, state that tax applies to sales of yeast used in winemaking, but not sales of yeast used in beer brewing. (See, e.g., Annots. 440.0780 (5/2/61), 245.1101 (11/23/83), 245.0089 (8/10/95).)

We have previously determined that tax does not apply to the sale of viable yeast that is sold as a food for human consumption in the production of bread and malted alcoholic beverages such as beer, mead, and ale because it is a food product under Regulation 1602. Active viable yeast is also used in the production of wine. In both processes, yeast is typically filtered out of the end product, but its presence during fermentation creates the end product. In the process of making beer or wine, yeast is added to wort or must to convert sugars into alcohol and carbon dioxide. In addition, yeast contributes to the flavor and aroma of beer or wine during the fermentation process. Yeast strains also vary in alcohol tolerance, which affects the alcohol content in the end product. Beer brewers and winemakers select specific strains of yeast for the flavor, aroma, and alcohol content that the yeast contributes to the end product. Therefore, we find that the use of yeast in both wine making and beer brewing is substantially similar.

To answer your question, like beer yeast, the yeast purchased by winemakers to produce wine for human consumption is a food product. (See Reg. 1602.) Therefore, despite the fact that yeast is typically not incorporated into the end product, sales of viable yeast that is sold as food for human consumption and is used in the production of beer, mead, ale, and wine are not subject to tax under Regulation 1602. As a result, we request that the follow annotations be deleted as inconsistent and misleading:

440.0780 Yeast Used in Wine. 5/2/61.  
245.1101 Yeast Granulars. 11/23/83.

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cc: Ms. Kirsten Stark (MIC:50)  
Mr. Jason Parker (MIC:44)  
Mr. Brad Miller (MIC:92)  
Ms. Lynn Whitaker (MIC:50)