

**MEMORANDUM**

**TO: Representative Stevens**  
**FROM: Vermont Department of Taxes**  
**DATE: April 14, 2016**  
**RE: S.250; Free Samples of Alcoholic Beverages**

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The Department of Taxes requests the following language be added to S.250. This change clarifies that free samples of malt beverages, vinous beverages, and spirits served for immediate consumption are not subject to six percent sales tax. Instead, they are subject to the meals and rooms tax, which has no use tax component for free samples. Additionally, this change terminates the link between license type and liability for meals and rooms tax. Instead, the focus is on whether a transaction is for immediate consumption (subject to 10 percent meals and rooms tax) or is a retail sale for off-site consumption (subject to six percent sales and use tax). This allows the Department to administer the meals and rooms and sales and use taxes without interpreting the alcoholic beverages title, for which it has no authority to interpret.

Sec. X. 32 V.S.A. § 9202 is amended to read:

§ 9202. DEFINITIONS

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(4) "Operator" means any person, or his or her agent, operating a hotel, whether as owner or proprietor or lessee, sublessee, mortgagee, licensee, or otherwise; and any person, or his or her agent, charging for a taxable meal or alcoholic beverage; and any person, or his or her agent, engaged in both of the foregoing activities. In the event that an operator is a corporation or other entity, the term "operator" shall include any officer or agent of such corporation or other entity who, as an officer or agent of the corporation, is under a duty to pay the gross receipts tax to the Commissioner as required by this chapter.

\* \* \*

(11) "Alcoholic beverages" means any malt beverages, vinous beverages, or spirituous liquors as defined in 7 V.S.A. § 2 and served ~~on premises by a holder of a first or third class license issued under 7 V.S.A. chapter 9~~ for immediate consumption. "Alcoholic beverages" do not include any beverages

served under the circumstances enumerated in subdivision 9202(10)(D)(ii) of this chapter under which beverages are excepted from the definition of "taxable meal."

Sec. X. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

\* \* \*

(10) Sales of meals taxed or exempted under chapter 225 of this title or any alcohol provided for immediate consumption.