

OPINIONS 1-166
1983 - 1992



STATE OF VERMONT
DEPARTMENT OF TAXES

INTRODUCTION

This volume contains opinions numbered 1 through 166 interpreting various tax provisions of Vermont law.

Several opinions expressly supersede early opinions. Some construe statutes which have subsequently been amended and therefore may not reflect current law or Department policy. A number of the opinions are based on actual and specific fact patterns and may not apply in factually different situations

OPINION NO. 143

Vermont Department of Taxes STATUTORY INTERPRETATION

Date: June 21, 1989

Statute: Meals and rooms tax - 10% tax on alcoholic beverages.

Section(s) Involved: 32 V.S.A. § 9241, 32 V.S.A. § 9202(10), and 32 V.S.A. § 9242

Question/ Issue:

1. What tax is due when alcoholic beverages are included with a meal?
2. Do the meals tax exemptions in 32 V.S.A. § 9202(10) apply to the alcoholic beverage tax?
3. What tax is due if an operator sells a drink mixer separately from a serving of alcohol?

Interpretation:

1. If alcoholic beverages are included with the meal, the vendor may:

Separately state the charges and either separately collect the two taxes or sell the items "tax included" and remit the appropriate taxes, or

Sell the meal "tax included" for a single charge and remit the two taxes based on a reasonable allocation of the sales price between the meal and the alcoholic beverage. The allocation should be made based on the relative cost of the meal and the alcoholic beverages.

2. Because the exemptions under the meals tax are included in the definition of "taxable meal" and the legislature amended the definition of "taxable meal" to exclude alcoholic beverages, it appears that the exemptions in the meals tax do not apply to sales of alcoholic beverages. This was probably a drafting error, however, and not an intentional repeal of the exemptions from the tax on alcoholic beverages. The Department of Taxes will seek legislative clarification next year. In the meantime, we will construe the exemptions in 32 V.S.A. § 9202(10) to apply to the tax on alcoholic beverages as well as the tax on taxable meals.

3. When alcohol and a mixer are served separately to a single customer, the Department will consider this to be a single alcoholic beverage and will require the vendor to collect and remit 10% of the entire charge, even if the vendor separately states the charge for the alcohol and the charge for the mixer.

Signed: Elizabeth Anderson

Approved: Norris Hoyt