

4/02/08

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Regulatory Analysis Form

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(1) Agency

2008 AUG 13 AM 11:19

Revenue

INDEPENDENT REGULATORY
REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

15-444

IRRC Number: 2715

(3) Short Title

Malt Beverage Tax

(4) PA Code Cite

61 Pa. Code, Chapters 73 & 74

(5) Agency Contacts & Telephone Numbers

Primary Contact: Mary R. Sprunk (717) 783-7524

Secondary Contact: Douglas A. Berguson (717) 346-4633

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The regulation codifies legislative changes relating to the Malt Beverage Tax that were set forth in Act 46-2003 (P.L. 250, No. 46) (72 P.S. § 9010). Reference should be made to the preamble for a detailed description of the revisions. The title of Chapter 73 is amended to remove the words "Emergency and." The Department has added clarifying language and removed obsolete language throughout Chapters 73 and 74.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Statutory authority for the regulation is contained in the Malt Beverage Tax Law (72 P.S. §§ 9001 – 9016).

Regulatory Analysis Form

(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by federal, court order, or federal regulation. See the answer to (9) above for the appropriate state law.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation is necessary to bring Title 61 into conformity with legislative changes regarding malt beverage tax.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Taxpayers and tax practitioners will benefit from having the Department's regulations reflect recent statutory changes and the addition of clarifying language.

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No parties should be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Manufacturers of malt beverages will be required to comply with the regulation. The approximate number of people required to comply is indeterminable.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A copy of the regulation was forwarded to the PA Brewers Association, Pennsylvania Beer Wholesalers Association, Pennsylvania Bar Association; the Pennsylvania Institute of Certified Public Accounts, the Pennsylvania Society of Public Accountants, the Pennsylvania Chamber of Business and Industry and stakeholders. The regulation is listed in the Department's Agenda of Regulations published at 38 Pa.B. 713 (February 2, 2008) and will be forwarded to interested parties upon request. In addition, the regulation is listed on the "Regulatory Report" posted on the Department's website.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

Compliance with the regulation could result in a savings to the regulated community by increasing their awareness of the possible tax credits and also reducing the possibility of assessment of penalty and interest. No legal, accounting or consulting procedures are required by the regulation.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

This regulation does not increase costs or savings to local governments:

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

This regulation does not increase costs or savings to state government.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

(20a) Explain how the cost estimates listed above were derived.

There are no savings from implementing this regulation.
 There are no costs for implementing this regulation.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
	NA	NA	NA	NA

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

This regulation does not alter existing law. There are no costs for implementing this permanent regulation. The permanent regulation serves to reflect a legislative change relating to Malt Beverage Tax that was set forth in Act 46 of 2003.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no nonregulatory alternatives associated with the regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no alternative regulatory schemes associated with the regulation..

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

This regulation relates to the imposition of malt beverage tax, and there currently is no comparative Federal tax.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

The taxation of malt beverages in this Commonwealth is consistent with the taxation of such malt beverages in surrounding states. The regulation will not put Pennsylvania at a competitive disadvantage with other states and may give Pennsylvania brewers an advantage.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation does not affect any other existing or proposed regulations of the Department or any other state agency.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The Department has not scheduled any public hearings or informational meetings to discuss the regulation.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

This regulation simplifies the malt beverage tax credit application. (*See attached form.*)

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

See response to (25) above.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This regulation will be effective upon final publication in the Pennsylvania Bulletin. Compliance with the regulation is required upon publication. There are no permits, licenses or other approvals required by the regulation.

(31) Provide the schedule for continual review of the regulation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

PA DEPARTMENT OF REVENUE
BUREAU OF BUSINESS TRUST FUND TAXES
PO BOX 280909
HARRISBURG, PA 17128-0909



COMMONWEALTH OF PENNSYLVANIA
APPLICATION FOR LIMITED TAX CREDIT

Malt Beverage Limited Tax Credit Claim Report Application

PLCB License Number _____

Business Name _____ Address _____

Contact Person _____ Phone Number _____

1. Calendar Year expenditures were incurred: _____

NOTE: (Expenditures must be segregated by calendar year.)

2. Have the expenditures been paid for? Yes No

(a). If YES, continue to question number 3.

(b). If NO, have amounts been promised to be paid under executed firm purchase contracts?

Yes No

(b.1). If Yes, submit this expenditure under a separate application and indicate below that this report is for said type of expenditure.

Amounts have been promised to be paid for the attached expenditure.

(b.2). If No, please provide an explanation on a separate 8 1/2 x 11 sheet of paper and attach it to this form.

3. Please check the information attached is submitted along with this application:

A statement of the nature, amounts and dates of the qualifying capital expenditures made.

A full description together with copies of all contracts, bills, and receipts and related papers pertaining to the qualifying capital expenditures for which a tax credit is sought.

Under penalties of perjury, the undersigned authorized agent of the company states that the company named above verifies that all information contained and attached to this application is true and correct.

Authorized Agent Signature _____ Type or Print Name _____ Title _____ Date _____

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

4/02/08

2715

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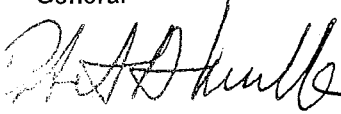
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INDEPENDENT REGULATORY
REVIEW COMMISSION
DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Copy below is hereby approved as to form and legality. Executive or Independent Agencies



PA Department of Revenue
(AGENCY)

BY 
Andrew C. Clark

By: _____
(Deputy Attorney General)

DOCUMENT/FISCAL NOTE NO. 15- 444

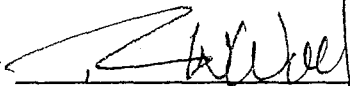
MAY 14 2008
DATE OF APPROVAL

JUL 24 2008

DATE OF ADOPTION _____

(Deputy General Counsel)
~~(Chief Counsel Independent Agency)~~
(Strike inapplicable title)

DATE OF APPROVAL

BY 

Check if applicable
Copy not approved. Objections attached.

Thomas W. Wolf
TITLE Secretary of Revenue
(Executive Officer, Chairman or Secretary)

Check if applicable. No Attorney General Approval or objection within 30 days after submission.

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code, Chapters 73 & 74

Malt Beverage Tax

PREAMBLE

The Department of Revenue (Department), under authority contained in the Article XX of the TRC (72 P.S. §§ 9001 - 9016), proposes amendments to 61 Pa. Code, Chapter 73 Emergency and Limited Malt Beverage Tax Credit, and Chapter 74 Malt Beverage Tax, to read as set forth in Annex A.

Purpose of Regulation

The regulation codifies legislative changes relating to the Malt Beverage Tax that were set forth in section 23 of the act of December 23, 2003 (P.L. 250, No. 46) (72 P.S. § 9010) (relating to limited tax credits). The title of Chapter 73 is being amended to remove the words "Emergency and." In addition, the Department has added clarifying language and removed obsolete language throughout Chapters 73 and 74.

Explanation of Regulatory Requirements

Several definitions in § 73.52 (relating to definitions) are amended to reflect legislative changes in Act 46-2003. The definition for "Bureau" is obsolete and has been removed from the regulation. The definition for "Report" is renamed to "Application," and this change is reflected in revisions throughout the rulemaking. The detailed instructions that previously appeared in the definition of "Report" have been moved to § 73.54 (relating to application for tax credit). The term "emergency period" is replaced with "effective period" to mirror

the language in the act. Additionally, increased dollar amounts and revised dates are changed in the definitions of "Amounts paid," "Emergency period (renamed "Effective period") and "Qualifying capital expenditures."

Sections 73.51 and 74.1 (relating to purpose) have been revised to update citations.

Section 73.53 (relating to tax credit to be allowed and limitations) is amended to reflect an increase from \$100,000 to \$200,000 for tax credits allowed, not to exceed in total amount the amount of qualifying capital expenditures. In paragraphs (1) and (2), the terms "actually" and "actual" have been deleted from the phrases "amounts actually paid" and "actual amounts paid" respectively to mirror the term used in the definition "amount paid" in § 73.52 (relating to definitions). Additionally, clarifying language is added in paragraph (4).

Section 73.54 has been renamed to "Application for tax credit." The text immediately appearing under the section name has been updated for clarity, and the last sentence has been moved to paragraph (3). In paragraphs (1) and (3) under this section, obsolete language has been replaced. Paragraph (4) updates the period for maintaining auditable record schedules and supporting data regarding tax credit claims to "January 31, 2011" and deletes January 31, 1980. Paragraph (5) updates the period for keeping

and retaining account records to not less than 3 years after "December 31, 2008" and deletes December 31, 1977.

Section 73.55 (relating to grant of credit, conditions and limitations) deletes December 31, 1977 and revises to "December 31, 2008" as the ending date when no credit will be allowed against any tax due to any taxable period. Paragraph (2) in this section is amended with clarification language of 3 years, but not beyond December 31, 2008 for tax credits not utilized by taxpayer.

Subchapter "Malt Beverage Tax Refunds" (§§ 74.31 - 74.41) has been renamed "Malt Beverage Tax Credits." The term "refunds" has been changed to "credits" in the section headings and text throughout this entire subchapter to mirror the use of the term "credit" as authorized in the statute at 72 P.S. § 9009 (f) (relating to refund of tax).

Section 74.35 (relating to credits on malt beverage rendered unsalable by reason of damage or destruction) is amended to include a new reason of "recalled due to defect."

Section 74.37 (relating to credits) deletes obsolete language, "attention Bureau of Examination."

Section 74.41 (relating to time limits on credits) is amended to increase from 2 to 3 years the time limit on credits from the date of sale.

Affected Parties

Manufacturers, retailers and purchasers of malt or brewed beverages may be affected by the regulation.

Fiscal Impact

The Department has determined that the proposed amendment will have minimal fiscal impact on the Commonwealth.

Paperwork

The proposed amendment will not create additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The regulation will become effective upon final publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions, or objections regarding the proposed amendment to Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, P.O. Box 281061, Harrisburg, Pennsylvania 17128-1061, within thirty (30) days after the date of the publication of this notice in the Pennsylvania Bulletin.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on *August 13, 2008* the Department submitted a

copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the amendment, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

The Committees may, at any time prior to the submittal of the final-form regulation, convey to the agency and the Commission, their comments, recommendations and objections to the proposed regulation. The Independent Regulatory Review Commission may, within 30 days of the close of the public comment period, submit to the agency and Committees any comments, recommendations and objections to the proposed regulation. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

THOMAS W. WOLF
SECRETARY OF REVENUE

10/17/07

CONTINUATION SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part I. Department of Revenue, Subpart B. General Fund Revenues, Article III. Cigarette and Beverage Taxes, Chapter 73. [Emergency and] Limited Malt Beverage Tax Credit.

§ 73.51. Purpose.

The Secretary of Revenue, under the authority [contained in section 10.1(d) and other provisions of the act (47 P.S. § 112.1(d))] of the Malt Beverage Tax Law (72 P.S. §§ 9001-9016) and by reason of the act provides, among other things, that the General Assembly of the Commonwealth, conscious of the financial emergency facing the brewing industry of this Commonwealth and the attendant risk of business failure and loss of employment opportunity, declares it public policy that the renewal and improvement of the capital facilities of the brewing industry be encouraged and assisted by a limited tax subsidy to be granted during the period of the emergency and further making provisions for a limited subsidy by tax credits to be allowed under certain terms, conditions and limitations, adopts this section and §§ 73.52 - 73.57 to assist in these and other purposes and to

aid and guide in the administration, operation and enforcement of the act.

§ 73.52. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Act - [The act of May 9, 1974 (P.L. 279, No. 82) (47 P.S. § 112.1), an amendment to the Malt Beverage Tax Law (47 P.S. §§ 103 - 120.3).] The act of March 4, 1971 (P.L. 6, No. 2), Article XX of the TRC (72 P.S. §§ 9001 - 9016).

Amounts paid - Amounts actually paid, or at the taxpayer's election, amounts promised to be paid under firm purchase contracts actually executed within any calendar year falling within the [emergency] effective period provided, however, that there shall be no duplication of amounts paid under this definition. Provided, further, that no amount or amounts shall constitute amounts paid until full proof thereof, as provided in the act and as provided in this chapter, shall have been submitted and filed under oath or other verification, as hereinafter required, and the Secretary has approved and certified the amounts and then only to the extent of the amounts so approved and certified by the Secretary not to exceed [\$100,000] \$200,000 within a single calendar year.

Application - The report for claiming a tax credit.

[Bureau - The Pennsylvania Bureau of Cigarette and Beverage Taxes.]

* * * * *

[Emergency] Effective period - The period from January 1, 1974, to [December 31, 1976] December 31, 2008, inclusive.

Qualifying capital expenditures - Amounts paid by a taxpayer during the [emergency] effective period for the purchase of items of plant, machinery or equipment intended for use by the taxpayer within this Commonwealth in the manufacture and sale of malt or brewed beverages. However, the total amount of qualifying capital expenditures made by the taxpayer within a single calendar year included within the [emergency] effective period may not exceed [\$100,000] \$200,000. Provided further that the plant, machinery and equipment shall be directly related to the utilization of the manufacture and sale of malt or brewed beverages. Provided, further, that the total amount of qualifying capital expenditures made within a single calendar year within the [emergency] effective period shall include all amounts paid as defined in this chapter and the act, and shall not exceed [\$100,000] \$200,000 in any single calendar year.

* * * * *

[Report - The application for claiming a tax credit as provided for in section 10.1(d) of the act (47 P.S. § 112.1(d))

and all attachments thereto. The report shall be in writing, shall contain in addition to other information the Secretary shall require, a statement of the nature, amounts and dates of the qualifying capital expenditures made, including a full description of the same, with specifications, together with copies of all contracts, bills, receipts and related papers pertaining to the qualifying capital expenditures for which a tax credit is, or may be sought. The report shall be made under oath or verified so as to subject the maker of the same to the penalties of perjury for any false statement, including attachments, in the report.]

* * * * *

§ 73.53. Tax credit to be allowed and limitations.

A tax credit or credits shall be allowed to a taxpayer, as provided in this section, not to exceed in total amount the amount of qualifying capital expenditures made by the taxpayer and certified by the Secretary.

(1) The amount of qualifying capital expenditures made by the taxpayer in any single calendar year shall be the total of the amounts [actually] paid, and at the taxpayer's election, amounts promised to be paid under firm purchase contracts executed during the calendar year, and certified by the Secretary, but not exceeding a total of [\$100,000] \$200,000.

(2) No taxpayer, notwithstanding the number of plants, sales quarters or other facilities of the taxpayer within this Commonwealth for the manufacture and sale of malt or brewed beverages, and further notwithstanding the [actual] amounts paid as defined in § 73.52 (relating to definitions) shall be certified by the Secretary to receive or shall receive a tax credit or credits in any single calendar year in excess of [~~\$100,000~~] \$200,000.

* * * * *

(4) Tax credit used in any calendar year may not exceed tax [paid] owed to the Department in that calendar year.
§ 73.54. [Report applying] Application for tax credit.

A taxpayer [desiring to claim] seeking a tax credit [or credits] under this act shall [from time to time, in accordance with regulations promulgated by the Secretary, report to the Secretary the nature, amounts and dates of qualifying capital expenditure made by him and other information the Secretary shall require] file an application with the Secretary. [If satisfied as to the correctness of the report, the Secretary shall issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within the report.]

(1) [Effective September 30, 1974, a taxpayer may no less than 4 weeks prior to making a commitment of expenditures

regarding a qualifying capital expenditure notify the Secretary in writing by personal delivery or certified mail, of the renewal or improvement intended to be made and fully describe the same. The Secretary may, at his discretion, cause an examination to be made of the taxpayer's capital facilities to ascertain what renewal and improvement, or either, of the capital facilities is intended. No report provided for in this subchapter or the act may be made or submitted by a taxpayer, nor may a tax credit for any renewal and improvement of the capital facilities be allowed, nor may a certificate establishing an amount of qualifying capital expenditures be made or tax credit allowed, whichever shall in the Secretary's discretion be applicable, unless the foregoing written notification has been submitted by the taxpayer.] The application shall be in writing on a form provided by the Department and shall include a statement of the nature, amounts and dates of the qualifying capital expenditures made, including a full description of the same, with specifications, together with copies of all contracts, bills, receipts and related papers pertaining to the qualifying capital expenditures for which a tax credit is, or may be sought, and other information required by the Secretary. The application shall be made under oath or verified so as to subject the maker of the same to the penalties

of perjury for any false statement, including attachments, in the application.

* * * * *

(3) [Every report provided for in this section or in the act shall include and have attached thereto a full description of the items of plant, machinery or equipment, which is the subject matter of the report and which is concerned in any claim for a tax credit, including in detail the nature, amounts and dates of the qualifying capital expenditures made by the taxpayer, together with a written and signed statement, by the taxpayer or an officer thereof, under oath or verified so as to subject the maker of the same to the penalties of perjury for any false statement, including attachments, in the report, that the statements, items and amounts in the report and the attachments thereto are fully true, exact, correct and authentic, and submit exact copies of all documents, and the like, in support thereof including, but not restricted to, contracts, bills, receipts and other related papers pertaining to the qualifying capital expenditures.] If satisfied as to the correctness of the application, the Secretary will issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within the application.

(4) It shall be the duty of the taxpayer to maintain auditable records schedules and relevant supporting data regarding tax credit claims until [January 31, 1980] January 31, 2011. In addition, a schedule of payments and commitments shall be accurately maintained and be explicitly identifiable as to the amounts paid as well as the qualifying capital expenditure.

(5) Every taxpayer shall keep and retain full and complete books of account records and appropriate subsidiary accounts and data as to every qualifying capital expenditure, [reports] applications with attachments and every tax credit allowed and every certificate issued under the act as to qualifying capital expenditures by the Secretary for a period of not less than 3 years after [December 31, 1977] December 31, 2008, or later date as the Secretary may in writing notify the taxpayer on or prior to [December 31, 1977] December 31, 2008. All records shall be subject to examination by the Department. Every taxpayer shall give to the Department, or its duly authorized representative, reasonable means, facilities and opportunity for these examinations and audits.

* * * * *

§ 73.55. Grant of credit, conditions and limitations.

Upon receipt from a taxpayer of a certificate from the Secretary, [issued under section 10.1(c) of the act (47 P.S. § 112.1(c)] the Secretary [shall] will grant a tax credit in the

amount certified against any tax then due or thereafter becoming due from the taxpayer under the act. No credit will be allowed against any tax due for any taxable period ending after [December 31, 1977] December 31, 2008.

* * * * *

(2) Tax credits not utilized by taxpayer because taxpayer's tax payments were exceeded by the tax credit allowable in any calendar year are available for utilization by the taxpayer [in subsequent calendar years] for 3 years, but not beyond [December 31, 1977] December 31, 2008.

* * * * *

Chapter 74. Malt Beverage Tax.

§ 74.1. Purpose.

It is the purpose of the Malt Beverage Tax Law [(47 P.S. §§ 103 - 120.3)] (72 P.S. §§ 9001 - 9016) to provide revenue by imposing a State Tax upon the sale of malt beverages by the manufacturer and importing agents for foreign manufacturers, the obligation to collect said taxes for the Commonwealth and transmit same monthly to the Commonwealth.

§ 74.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act - The Malt Beverage Tax Law [(47 P.S. §§ 103 - 120.3).]
(72 P.S. §§ 9001 - 9016).

* * * * *

MALT BEVERAGE TAX [REFUNDS] CREDITS

§ 74.31 [Refunds] Credits for manufacturers on out-of-State sales.

In the event any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold or shipped by him to a licensed or regular dealer in such malt or brewed beverages in another state, such manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by him, upon condition that the seller shall make affidavit that the malt or brewed beverages were so sold and shipped, and that he shall furnish from the purchaser an affidavit, or in cases where the total purchase price is \$5 or less, a written certificate in lieu of an affidavit from the purchaser, or, upon satisfactory proof that such affidavit or certificate cannot be obtained, other evidence satisfactory to the Department that he has received such malt or brewed beverages for sale or consumption outside this Commonwealth, together with the name and address of the purchaser.

§ 74.32. [Refunds] Credits for Pennsylvania manufacturers on sales to exempt parties.

In the event any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold to

commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.

§ 74.33. [Refunds] Credits for out-of-State manufacturers on sales to tax exempt parties.

In the event any malt or brewed beverages upon which the tax has been paid by an out-of-State manufacturer and subsequently sold by an importing distributor to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by him upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.

§ 74.34. [Refunds] Credits for manufacturers on sales to public service licensee.

In the event any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold and delivered to a public service licensee who is obligated to pay the tax thereon, the manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by him, upon condition that he

shall make affidavit and furnish proof satisfactory to the Department of the facts.

§ 74.35. [Refunds] Credits on malt beverage rendered unsalable by reason of damage or destruction.

In the event any malt or brewed beverages, upon which the tax has been paid by a manufacturer shall be rendered unsalable by reason of damage or destruction or recalled due to defect, such manufacturer shall be entitled to a [refund] credit of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof satisfactory to the Department that the malt beverages were so damaged or destroyed.

§ 74.36. [Refunds] Credits on leakers, stale beer and beer which has become unsalable or over-aged.

The Department will not permit [refunds] credits on leakers, stale beer and beer which has become unsalable or over-aged.

§ 74.37. Credits.

No credits will be granted without the approval of the Department of Revenue[, attention Bureau of Examination].

* * * * *

§ 74.40. Off-premises storage.

Malt beverages returned to an off-premises location shall not be entitled to a tax [refund] credit.

§ 74.41. Time limit on [refunds] credits.

No application for [refund] credit shall be recognized or processed unless filed within [two] three years from date of sale.

10/17/07

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**


I.D. NUMBER: 15-444
 SUBJECT: MALT BEVERAGE TAX
 AGENCY: DEPARTMENT OF REVENUE

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
 - a. With Revisions
 - b. Without Revisions

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 INDEPENDENT REGULATORY
 REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
		HOUSE COMMITTEE ON FINANCE
8/13/08 (minority)		Stephen R. Nickol
	Sharon L. Snell 8/13/08	MAJORITY CHAIRMAN
		David K. Levdansky
	Ju Keeper 8/13/08 (minority)	SENATE COMMITTEE ON FINANCE
	Bonita Jone 8/13/08	MAJORITY CHAIRMAN
		John N. Wozniak
	8/13/08 Kathy Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL (for Final Omitted only)
	8/13/08 Marya Garcia	LEGISLATIVE REFERENCE BUREAU (for Proposed only)