



# OKLAHOMA TAX COMMISSION

STATE OF OKLAHOMA

**JAY DOYLE**  
Executive Director

**2501 NORTH LINCOLN BOULEVARD**  
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To All Interested Licensees:

An advisory letter issued by the ABLE Commission allows mixed beverage and other related licensees whose primary purpose is that of a restaurant to sell packaged beer and wine in conjunction with foods sales when the sales are completed through a curbside pickup or drive-through. The letter advises that sales and mixed beverage taxes are due on these sales. A question has been posed by one of the affected establishments if the imposition of mixed beverage tax is correct under the described circumstances.

Effective November 1, 2019, Section 2-110 of Title 37A was amended to allow the holder of a mixed beverage license that is also a holder of retail wine and retail beer licenses to make on-premises sale of wine or beer, according to the license held, for off-premises consumption, subject to the limitations of the retail wine license or retail beer license. The measure does not address the taxation of these sales.

The advisory letter issued by the ABLE Commission is silent regarding the retail beer and retail wine licensing requirement.

Section 5-105 of Title 37A levies a tax at the rate of thirteen and one-half percent (13.5%) on the total gross receipts of a holder of an on-premises beer and wine, mixed beverage, caterer, public event or special event license issued by the ABLE Commission, from:

1. The sale, preparation or service of mixed beverages;
2. The total retail value of complimentary or discounted mixed beverages;
3. Ice or nonalcoholic beverages that are sold, prepared or served for the purpose of being mixed with alcoholic beverages and consumed on the premises where the sale, preparation or service occurs; and
4. Any charges for the privilege of admission to a mixed beverage establishment which entitle a person to complimentary mixed beverages or discounted prices for mixed beverages.

For purposes of the levy, Section 1-103 defines mixed beverages to mean one or more servings of a beverage composed in whole or part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage, beer and wine, caterer, public event, charitable event or special event license.

Therefore, based on the foregoing, because the curbside and drive through sales of packaged beer and wine are not sold for consumption on the premises of the establishment holding the mixed beverage or other related license, the described sales would not constitute mixed beverages for purposes of the levy in Section 5-105 of Title 37A and, as such, is not subject to the 13.5% gross receipts tax.

Sincerely,



Jay Doyle, Executive Director  
Oklahoma Tax Commission