



## Alcoholic Beverage Production Credit (formerly the Beer Production Credit)

Part V of Chapter 60 of the Laws of 2016 expanded the former beer production credit available under Article 9-A (franchise tax on business corporations) and Article 22 (personal income tax) to include cider, wine, and liquor, produced in New York State. The amended credit is renamed the alcoholic beverage production credit.

Part V of Chapter 60 of the Laws of 2016 amended sections 37, 210-B(39), 606(i)(1)(B)(xxxiv), and 606(uu) of the Tax Law. The amendments expanded the former beer production credit to include cider, wine, and liquor produced in New York State and renamed the credit the alcoholic beverage production credit. The expanded credit may be claimed for a tax year that begins on or after January 1, 2016. (For information on the beer production credit for tax years beginning on or after January 1, 2012, and before January 1, 2016, see [TSB-M-12\(8\)C, \(7\)I, Beer Production Credit.](#))

### Who is eligible

The alcoholic beverage production credit may be claimed by a taxpayer subject to tax under Article 9-A or Article 22 that is:

- a registered distributor of alcoholic beverages (beer, cider, wine, or liquor) under Article 18 of the Tax Law (taxes on alcoholic beverages); **and**
- produces beer, cider, wine, or liquor in New York State in the tax year for which the credit is claimed, subject to the following production limitations:
  - 60,000,000 or fewer gallons of beer;
  - 60,000,000 or fewer gallons of cider;
  - 20,000,000 or fewer gallons of wine; or
  - 800,000 or fewer gallons of liquor.

A registered distributor that produces more than one type of alcoholic beverage in New York State in the same tax year qualifies for the credit for each alcoholic beverage produced within the production limits stated above. If the production limitation is exceeded for an alcoholic beverage, no credit is allowed for that beverage.

**Example:** *A registered distributor that produced 50,000,000 gallons of cider and 100,000,000 gallons of beer in New York State in the same tax year qualifies to claim the credit for the cider production. The registered distributor would not qualify to claim a credit for the beer production since it produced greater than 60,000,000 gallons of beer in New York State in the tax year.*

**Amount of credit**

The alcoholic beverage production credit for beer, cider, wine, and liquor is equal to:

- 14 cents per gallon for the first 500,000 gallons of beer, cider, wine, or liquor produced in New York State in a tax year; **plus**
- 4.5 cents per gallon for each additional gallon of beer, cider, wine, or liquor (up to 15,000,000 additional gallons for beer, cider, or wine and up to 300,000 additional gallons for liquor) produced in New York State in the same tax year.

The maximum amount of credit for each type of alcoholic beverage allowed to a qualified taxpayer in a tax year is shown in the chart below:

<b>Alcoholic beverage type</b>	<b>Gallon limitation</b>	<b>Maximum credit allowed</b>
Beer	15,500,000	\$745,000 *
Cider	15,500,000	\$745,000 *
Wine	15,500,000	\$745,000 *
Liquor	800,000	\$ 83,500**

\*  $(\$ .14 \times 500,000 \text{ gallons}) + (\$ .045 \times 15,000,000 \text{ gallons}) = \$745,000$

\*\*  $(\$ .14 \times 500,000 \text{ gallons}) + (\$ .045 \times 300,000 \text{ gallons}) = \$83,500$

**Rules for New York S corporation shareholders, partners, members of limited liability companies (LLCs), and beneficiaries of estates and trusts.**

A shareholder, partner, LLC member, or beneficiary of an estate or trust that is taxable under Article 9-A or Article 22 is allowed to claim a share of the credit passed through from a New York S corporation, partnership, LLC, estate, or trust that is a registered distributor eligible for the credit.

The maximum credit amount is applied at the entity level. Accordingly, the aggregate credit amount for each such entity allowed to all shareholders, partners, members, or beneficiaries of each entity cannot exceed the maximum credit amounts for each type of alcoholic beverage listed above.

**How to claim the credit**

Article 9-A business corporation taxpayers may claim this credit by filing Form CT-636, *Alcoholic Beverage Production Credit*, with their franchise tax returns. Personal income taxpayers may claim this credit by filing Form IT-636, *Alcoholic Beverage Production Credit*, with their personal income tax returns. The revised forms will be made available on the Tax Department’s website by January 2017.

**Application and refund of the credit**

For Article 9-A taxpayers, the credit cannot reduce the tax due to less than the applicable fixed dollar minimum tax under section 210(1)(d) of the Tax Law. However, if the

credit allowed for any tax year reduces the tax to the minimum amount, any excess credit may be treated as an overpayment of tax to be credited or refunded. However, no interest will be paid on the refund.

For Article 22 taxpayers, the credit may reduce the tax to zero. If the credit allowed exceeds the tax, the excess may be treated as an overpayment of tax to be credited or refunded. However, no interest will be paid on the refund.

(Tax Law sections 37, 210-B(39), 606(i)(1)(B)(xxxiv), and 606(uu))

**Note:** A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.