

Brown-bagging and
"Bring-your-own-bottle" Businesses

Mixing
Bar tax
notice

Tenn. Code Ann. Section 67-4-410 imposes a 15% gross receipts tax on the sale of mixed drinks and/or setups for mixed drinks. This includes any sales of beverages containing any alcoholic content, other than beer, and includes sales of water, soft drinks, ice or any item capable of being used to prepare a mixed drink whether or not consumed on the premises. The tax applies to setup sales by, but not limited to, any restaurant, country club, nightclub, private club or fraternal organization made to persons supplying alcoholic beverages from their own container in an establishment allowing "bring your own bottle" or "brown-bagging."

The tax is *not* limited to those items *actually* used to prepare a mixed drink. The tax applies to any beverage that *may* be used as a setup for a mixed drink. In *Woods v. Holiday Inn of Murfreesboro*, 581 S.W.2d 648 (Tenn. 1979), the

Tennessee Supreme Court held that simply knowing a beverage sold may be used as a setup or a mixed drink is sufficient to support imposition of this tax. **The tax therefore applies to 100% of a taxpayer's sales of water, ice, juice and/or soft drinks.**

Sales of alcoholic beverages made by wholesalers and off premise retailers licensed under Tenn. Code Ann. Sections 57-3-203 and 57-3-205 are not taxed by this law. Except in certain circumstances, the department does not intend to assess the tax on sales of setups by restaurants where such sales are merely incidental to the principal business.

Have questions or comments? Please let us know. [Contact us.](#)

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