State Approaches to Taxation of Sugar-Sweetened Beverages

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Presentation Objectives

• Explain how taxes applied to sugar- and artificially-sweetened beverages are different than taxes applied to tobacco products
• Describe applicability of state tax definitions of “food” for understanding tax applicability for SSBs and/or ASBs
• Describe four main approaches to taxing SSBs and ASBs
• Review data on SSB and ASB taxes at the state level
• Provide new, preliminary data on local taxes applied to regular, sugar-sweetened sodas
• Provide information on where to access the state tax data
SSBs and ASBs are currently taxed differently than tobacco products

<table>
<thead>
<tr>
<th>Category</th>
<th>Tobacco Taxes</th>
<th>SSB/ASB Taxes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Predominant tax vehicle</td>
<td>Excise taxes</td>
<td>Sales taxes (with exception in 7 states)</td>
</tr>
<tr>
<td>Type of tax</td>
<td>Specific tax—$/pack</td>
<td>Ad valorem – % of price</td>
</tr>
<tr>
<td>Highest state tax</td>
<td>$3.46/pack (Rhode Island)</td>
<td>7.25% (equivalent to $0.0725 for $1.00 bottle of soda) (California)</td>
</tr>
</tbody>
</table>
Understanding Food/Beverage Tax Definitions-1

• Depending on the state definitions, taxes on sodas and other beverages are based on either the general sales tax or the food sales tax

• General sales tax applies when “food” is defined to explicitly exclude items of interest
  • E.g., KY Rev Stat Ann 139.485: “Food and food ingredients” are not taxable items; however, “food and food ingredients” shall not include...soft drinks.
    • In this example, food generally is not taxed but soft drinks are taxed at a rate of 6% (same as state sales tax)
Understanding Food/Beverage Tax Definitions-2

• Food sales tax applies when “food” is defined to explicitly include items of interest
  • *E.g.*, AZ Admin Code R15-5-1860: “The following are examples of items which the Department consider as tax exempt food…soft drinks and soda”
    • *In this example, food generally is not taxed so soft drinks and soda also are not taxed*

• States that tax items higher than the state food tax rate are considered to have *disfavored* the item relative to food products generally – *disfavored tax*
  • *E.g.* State tax on sodas is 6% while food tax is 1% → Disfavored amount is 5%

• Taxes applied to vending machine sales are higher than those applied to grocery sales
## State Approaches to SSB Taxation

<table>
<thead>
<tr>
<th>Approach</th>
<th>Specific Tax/ Fee on Quantity of Sugar or Bev. Volume</th>
<th>Ad Valorem (% of price)</th>
<th>Upon Whom Tax Imposed</th>
<th>Where Tax Presented to Consumer</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Non-Sales Taxes</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax all SSBs</td>
<td>X</td>
<td>X</td>
<td>Manufacturer Distributor Wholesaler Retailer</td>
<td>Shelf-price</td>
</tr>
<tr>
<td>Tax all Beverages (or selected including non-SSBs)</td>
<td>X</td>
<td>X</td>
<td>Manufacturer Distributor Wholesaler Retailer</td>
<td>Shelf-price</td>
</tr>
<tr>
<td><strong>Sales Taxes</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax all SSBs</td>
<td></td>
<td>X</td>
<td>Consumer</td>
<td>Point of purchase</td>
</tr>
<tr>
<td>Tax all/selected Beverages</td>
<td></td>
<td>X</td>
<td>Consumer</td>
<td>Point of purchase</td>
</tr>
</tbody>
</table>

*bridging the gap*
State Approaches to SSB Taxation—Examples Assuming 20 oz. bottle of soda at $1/bottle

<table>
<thead>
<tr>
<th>Type of Tax</th>
<th>Taxable Beverage(s)</th>
<th>Tax Approach</th>
<th>Where Tax Presented to Consumer</th>
<th>Tax Amount</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-sales</td>
<td>SSB bottles/syrups/powders</td>
<td>Excise tax -- $0.01 per gram* of sugar</td>
<td>Shelf price</td>
<td>$0.55</td>
<td>$1.55</td>
</tr>
<tr>
<td>Non-sales</td>
<td>All SSB and ASB bottles/syrups/powders</td>
<td>Ad valorem – 5% of price</td>
<td>Shelf price</td>
<td>$.05</td>
<td>$1.05</td>
</tr>
<tr>
<td>Sales</td>
<td>All SSBs</td>
<td>Excise tax -- $0.01/ounce</td>
<td>Check out</td>
<td>$0.20</td>
<td>$1.20</td>
</tr>
<tr>
<td>Sales</td>
<td>All SSBs and ASBs</td>
<td>Ad valorem – 6% of price</td>
<td>Check out</td>
<td>$0.06</td>
<td>$1.06</td>
</tr>
</tbody>
</table>

*According to the USDA National Nutrient database, there are 55.08 grams of sugar per 20 oz. bottle of sugar-sweetened soda
Sales Taxes on Selected Beverages, All States
(as of January 1, 2010)

Note: Three states also impose a mandatory statewide local tax that is not reflected in the above data: CA (1%), UT (1.25%), VA (1%).

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Sales Taxes on Selected Beverages, Taxing States
(as of January 1, 2010)

Note: Three states also impose a mandatory statewide local tax that is not reflected in the above data: CA (1%), UT (1.25%), VA (1%).

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Sales taxes applied to vending machines sales, selected beverages (as of January 1, 2010)

<table>
<thead>
<tr>
<th></th>
<th>Mean all states (%)</th>
<th>Max (%)</th>
<th>N</th>
<th>Mean taxing states (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soda</td>
<td>4.06</td>
<td>8.00</td>
<td>39</td>
<td>5.31</td>
</tr>
<tr>
<td>Diet Soda</td>
<td>4.06</td>
<td>8.00</td>
<td>39</td>
<td>5.31</td>
</tr>
<tr>
<td>≤ 50% fruit juice</td>
<td>3.94</td>
<td>8.00</td>
<td>38</td>
<td>5.29</td>
</tr>
<tr>
<td>Isotonic beverages</td>
<td>3.94</td>
<td>8.00</td>
<td>38</td>
<td>5.29</td>
</tr>
<tr>
<td>Sweetened teas (bottle/can)</td>
<td>3.83</td>
<td>8.00</td>
<td>37</td>
<td>5.27</td>
</tr>
<tr>
<td>Bottled water</td>
<td>3.36</td>
<td>8.00</td>
<td>34</td>
<td>5.04</td>
</tr>
<tr>
<td>&gt;51% fruit juice, but &lt; 100%</td>
<td>3.28</td>
<td>8.00</td>
<td>33</td>
<td>5.07</td>
</tr>
<tr>
<td>fruit juice</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>100% fruit juice</td>
<td>3.28</td>
<td>8.00</td>
<td>33</td>
<td>5.07</td>
</tr>
</tbody>
</table>
State Sales Taxes on Regular and Diet Soda as of January 1, 2010

Note: Three states also impose a mandatory statewide local tax that is not reflected in the above data: CA (1%), UT (1.25%), VA (1%).

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States with Non-Sales* Taxes on Selected Beverages (as of 1/1/10) or SSB-related Legislative Proposals in 2010

Map Legend
- States with excise taxes (N=3)*
- States with other license/privilege fees/Taxes (N=4)*
- States with current SSB legislative proposals (N=4)
- States with SSB legislative proposal that died (N=1)

*Additional excise/ad valorem (non-sales) taxes may be applied at the manufacturer, distributor, wholesaler, and/or retailer levels and are applied to bottles, syrup, powders and/or mixes. Taxes apply to regular and diet soda, isotonics, and sweetened tea in AL, AR, RI, TN, and WV. Taxes only apply to regular and diet soda in VA and WA.
State SSB-related Legislative Activity, 2010 Legislative Session (includes carryover)

5 states have introduced SSB-specific excise/privilege tax bills during the current legislative session:

- California and Kansas (tax upon sweetened beverage manufacturers at a rate of $0.01/teaspoon sugar in SSB/concentrate)
- Hawaii (1% gross proceeds on sale of SSBs)
- Mississippi ($0.02/ounce or $2.56/gallon produced from syrup)—Died in Committee
- New Mexico ($0.005/ounce imposed on distributors)

City-level tax proposals

- Philadelphia - $0.02/ounce – Died in City Council
- Washington DC - $0.01/ounce – Died in DC Council (but did extend sales tax base to include SSBs)
Local governments also tax SSBs and ASBs

- Collecting local taxes applied to regular, sugar-sweetened soda and candy for communities nationwide surrounding the University of Michigan’s 2010 Monitoring the Future schools

- Preliminary data compiled from 42 communities located in 10 states indicate that local taxes are definitely being added on top of the state tax:
  - Local Tax Range: 0-5.87%
  - Mean: 1.53%
  - Standard Deviation: 1.30%
  - Example: State soda tax (2%) + local tax (5.87%) = 7.87% state + local tax
For more information—state tax data: www.impacteen.org/data/obesitydata.htm

State Snack and Soda Sales Tax Data
State Food Definitions
State Soda Non-Sales Tax Data

State Snack and Soda Sales Tax Data (2009 now included)

Data and Codebook.xls (871 KB)

This data set contains annual data on sales tax rates for each of the 50 states and the District of Columbia for sodas and selected snack products sold through grocery stores and vending machines using a January 1 annual reference date beginning with 1997 (historical data will be posted in 2010; data for 2007-2009 are currently posted). Sales tax rates are captured for the following snack products: candy, chewing gum, ice cream, popsicles, milkshakes, and baked goods. In addition to variables for each item and sales location (grocery stores and vending machines), dichotomous variables indicate the extent to which each product is taxed at a higher rate than food, generally known as a disfavored tax. Additional variables include state, state FIPS code, and year. The data were compiled by The MayaTech Corporation for the Bridging the Gap Program at the University of Illinois at Chicago.

Data File Format: Microsoft Excel 2003 (.xls)
Original Posting Date: April 17, 2009
File Last Updated: February 10, 2010

Additional information on the sales tax data set may be obtained from:

State Food Definitions (2009 now included)

2009Definitions.pdf (115 KB)
2009Definitions.pdf (122 KB)

These files contain definitions of food and food products for use in conjunction with the sales tax data. These definitions were compiled beginning with the 2008 tax data file year and reflect codified state law as of January 1 of each year. Additional variables include state abbreviation, enacted and effective date (where applicable or if able to be determined), and the statutory/administrative law citations. The data were compiled by The MayaTech Corporation for the Bridging the Gap Program at the University of Illinois at Chicago.
For more information:
www.bridgingthegapresearch.org
Contact for additional information

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