



BELIZE TAX SERVICE DEPARTMENT (BTSD)

PUBLIC RULING
GENERAL SALES TAX

**TREATMENT OF TAX FOR RETURNABLE
BEVERAGE CONTAINERS**

BTSD PR NO. 05/2023

EFFECTIVE DATE: January 1st, 2023

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ACRONYMS

BTSD *Belize Tax Service Department*

IBTA *Income and Business Tax Act, Chapter 55 of the Laws of Belize, R.E. 2020*

TAPA *Tax Administration and Procedure Act, Chapter 51 of the Laws of Belize, R.E. 2020*

1.0 OBJECTIVE

- 1.1 *The objective of this public ruling is to set out the Director General's interpretation of the application of specific provisions of the General Sales Tax Act (GST Act) to the transaction specified below.*
- 1.2 *The purpose is to achieve consistency in the administration of tax legislation and to provide guidance to the public and officers of the Belize Tax Service Department ("BTSD").*
- 1.3 *This public ruling is made pursuant to Section 9 of the Tax Administration and Procedure Act, ("TAPA") and is binding on the Director General until revoked. This public ruling is not binding on the taxpayers.*

2.0 DEFINITIONS

- 2.1 *"Belize Tax Service Department" or "BTSD" means the Department created pursuant to Section 5 of the TAPA and which is under the overall control of the Minister responsible for Finance;*
- 2.2 *"Beverage Container" means the glass, metal, aluminium, steel, or plastic bottle, or beer can, used for containing one gallon (or 3.8 litres) or less at the time of sale of a beverage intended for use or consumption in Belize;*
- 2.3 *"Dealer" means every person, firm or corporation who engages in the sale of beverages in beverage containers to a consumer for off premises consumption in Belize;*
- 2.4 *"Director General" refers to the Director General of the Belize Tax Service Department appointed pursuant to Section 4 of the TAPA;*
- 2.5 *"Distributor" means any person, firm or corporation that bottles or cans beverages or otherwise fills beverage containers or packages beverages or engages in the sale of such containers to a dealer and includes an importer of beverage containers;*
- 2.6 *"General Sales Tax" means the tax imposed under the GST Act, and includes any amount to the extent that it is treated as GST for the purposes of the Act, including interest or a penalty payable under the Act;*
- 2.7 *"Input Tax Credit" means a credit for input tax allowed under section 32 of the GST Act;*
- 2.8 *"Redeemer" means every person who demands a refund value in exchange for the empty beverage container but shall not include a dealer.*

3.0 RELEVANT PROVISIONS OF THE LAW (GST Act)

3.1 *The relevant provisions of the GST Act are:*

- *Section 31 (1)*

31.–(1) The GST payable by, or the refund due to, a person in respect of a tax period is calculated in accordance with the following formula,

$$A-B$$

where,

A is the total output tax payable by the person in relation to supplies made by the person during the tax period, plus any additional amounts required by this Act to be included in the output tax for the period;

and B is the total input tax credits allowed to the person under section 32 in respect of that tax period, plus any additional amounts allowed by this Act to be included in the input tax for the period.

- *Section 32 (1)*

32.–(1) If all of the supplies made by a taxable person during a tax period are taxable supplies, the person shall be allowed input tax credits for the purposes of section 31 for all of the input tax paid or payable by the person on acquisitions or importations made by the person during that period.

- *Section 37 (1) and (2)*

37.–(1) This section applies where a registered person has given a tax invoice in respect of a taxable supply and thereafter–

(a) the supply is cancelled;

(b) the consideration for the supply is altered, whether due to a discount or otherwise;

(c) the goods or services supplied, or any part thereof, are returned to the supplier; or

(d) the nature of a supply, whether or not it was a taxable supply, is fundamentally varied or altered.

37.–(2) Where this section applies, the supplier shall give to the recipient a credit note or a debit note, as the case requires, to adjust the amount of GST shown on the tax invoice to the amount, if any, (referred to in this section as “the adjusted amount”) that would have been so shown if–

- (a) the cancellation or alteration referred to in subsection (1) (a) or (b) had taken place before the tax invoice was given; or
- (b) the goods or services returned had not been supplied, as the case requires.

- Section 37 (10)

37.–(10) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of not less than three thousand dollars and not more than five thousand dollars, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

4.0 THE RETURNABLE BEVERAGE CONTAINER REGIME

- 4.1 Per the RCA, a dealer shall, on proof of purchase from him, accept at his place of business from a redeemer, any empty beverage container sold by that dealer to the redeemer (containing beverage), and shall pay to the redeemer the refund value of each such beverage container.¹
- 4.2 A distributor or his agent shall accept from a dealer, and a dealer or an agent designated or appointed by the distributor shall accept from a redeemer, any empty beverage container of the design, shape, size, colour, composition, and brand sold by such distributor or dealer, and shall pay to the dealer or the redeemer, as the case may be, the refund value of each beverage container.²
- 4.3 Put in practice, a dealer/distributor issues tax invoices for its beverages at its retail prices on sales to consumers. GST is charged and collected on the amount of said invoices.
- 4.4 At the point of sale, ownership of the beverage container, as well as its content, is transferred to the consumer.
- 4.5 The exercise of returning containers to dealers/distributors for monetary consideration is, in essence, the resale of said container by the consumer to the respective dealer/distributor.

¹ The Returnable Containers Act, Chapter 328:01 of the Laws of Belize, R.E. 2020, section 4(1)

² Ibid, section 4(2)

5.0 INTERPRETATION AND APPLICATION OF THE LAW TO THE RETURNABLE BEVERAGE CONTAINER REGIME

- 5.1 Indisputably, if the process is completed as described in 4.0 above, then it is evident that the sale/supply of the products (the beverage container plus its contents) at no point would have been cancelled, nor was the consideration (the prices) for the supplies altered, whether due to a discount or otherwise. Furthermore, the BTSD takes the position that the nature of the supply remains fundamentally unvaried and unaltered. It follows then, that subsections 37(1)(a), (b) and (d) are inapplicable to the returnable beverage container regime and requires no further analysis.
- 5.2 As aforementioned, when the supply is sold to the consumer, the beverage as well as the container in which it is sold, becomes the property of the consumer. Therefore, the question to be considered is whether the return of the beverage containers by redeemers qualifies as “the goods ... or any part thereof” being returned to the supplier to justify the issuing of credit notes for the entire sale price of the beverages. This must be answered in the negative. It would be contrary to the law to issue credit notes for the entire price paid for the beverages and reduce the amount of GST paid over to the BTSD by the total value of that price.
- 5.3 Ultimately, a credit note issued under the returnable beverage container regime is in breach of the GST Act as the return/sale of beverage containers is not properly to be regarded as the return of a good or parts of goods sold in accordance with the true construction of section 37(1)(c). The beverage containers are not returned for a partial refund of the price paid for the beverage; rather, they are purchased by the dealer/distributor as an item to be reused. In fact, this point is solidified by the fact that the containers can be resold by any person who chooses to collect and deliver them to the dealer/distributor and does not necessarily have to be the initial customer to whom the beverage was sold. Even further, the beverage containers need not be returned, which confirms that the ownership of them passed with the sales.

6.0 HOW GST/INPUT TAX CREDIT IS TO BE APPLIED TO THE REGIME

6.1 The dealer/distributor may claim **the value of GST charged and collected on the price of the returned container itself** (comprised within the GST charged and collected on the entire retail price for the beverage) as input tax credit against its GST obligation; however, no claim may be made for the cost of the container itself, nor for the entire retail price of the beverage or the GST charged and collected on the entire retail price.

6.2 Practical Application:

- A beverage is sold to customers at \$1.25. The distributor sells 50 beverages for the month. A total of \$62.50 is collected.
- The GST obligation of the distributor for these sales is 12.5% of \$62.50 which amounts to \$7.81.
- Each customer redeemed the beverage container and received \$0.25; therefore, the distributor bought back the containers for a combined \$12.50.
- The distributor may claim 12.5% of the \$12.50 (\$1.56) as input tax against his GST obligation of \$7.81. The new GST to be paid by the distributor then amounts to \$6.25.

7.0 EFFECTIVE DATE

7.1 *This Ruling is effective for the basis year 2023 and subsequent basis years, unless and until revoked by the Director General.*

**ISSUED BY:
MICHELLE LONGSWORTH
DIRECTOR GENERAL
NOVEMBER 23, 2023**