

Opinion No. 9**Liquor Control Board—State Excise Tax—Method of Computation—
Method of Apportionment.**

Held: 1. In computing the additional excise tax of 6% imposed by House Bill No. 16, Chapter 15 of the Session Laws of Montana, 1949, it will be appropriate to apply 14% against the retail selling price of liquor, and divide the proceeds on the basis of 8/14 to the State and 6/14 to the Counties, Cities and Towns.

March 17th, 1949.

Mr. R. M. O'Hearn
State Liquor Administrator
Helena, Montana

Dear Mr. O'Hearn:

House Bill No. 16 (Chapter 15 of the Session Laws of Montana 1949) directs that a six per centum (6%) excise tax on liquor sold by it be charged and collected by the Montana Liquor Control Board for the use and benefit of the Counties, Cities and Towns of Montana. Under the provisions of the bill, this excise tax "shall be figured in the same manner as the State excise tax of eight per centum (8%) and shall be in addition to said eight per centum (8%) excise tax." The State excise tax referred to is the tax provided for by Section 15 of Chapter 84, Session Laws of 1937, as amended by Section 1 of Chapter 41, Session Laws of 1939.

The question that arises at the present time to which you have requested an answer is:

"When the retail selling price is arrived at, will it be appropriate under the statutes mentioned to apply fourteen per centum (14%) against the retail selling price of liquor and divide the proceeds on the basis of 8/14 to the State and 6/14 to the Counties, Cities and Towns? This practice would minimize computations

and eliminate possible variations in figures resulting from carrying fractional cents arrived at by computations as the nearest cent. This is significant since House Bill No. 16 will require the figuring of an entirely new retail price list for liquor items before the effective date of House Bill No. 16 which is May 1, 1949.

In answer to your question, I requote the following pertinent language of House Bill No. 16:

"Said six per centum (6%) tax shall be figured in the same manner as the State excise tax of eight per centum (8%) and shall be in addition to said eight per centum (8%) excise tax."

The language just above quoted seems to make it clear that the eight per centum (8%), plus the six per centum (6%) making a total of fourteen per centum (14%) "of the retail selling price on all liquor so sold and delivered", must be charged, received and collected by the Montana Liquor Control Board for (1) the State and (2) the benefit of the Counties, Cities and Towns of the State. The total of the amount so charged, received and collected (that is, 14% of the retail selling price as arrived at by the Board's formula) shall be divided, 8/14 to go to the general fund of the State not later than the 10th day of each and every month, as required by Section 1 of Chapter 41, Session Laws of 1939, and 6/14 of said total amount to be paid quarterly to the County Treasurers in accordance with the proportion of the tax due each County, as required by House Bill No. 16.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.