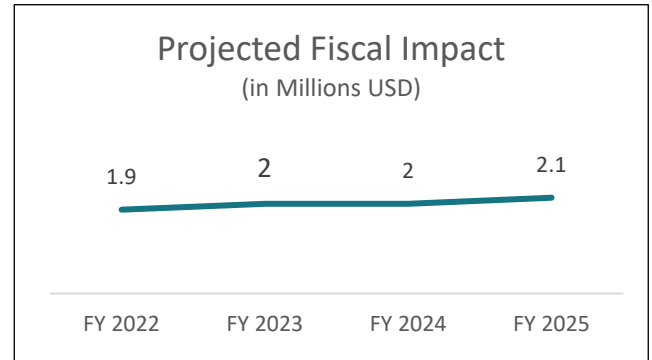


# Credit for Small Brewers

## Tax Expenditure Initial Review - TEB 7.07

### Tax Expenditure Facts

Year Enacted	1985
Statute	Minn. Stat. § 297G.04, subd. 2
Tax Type	Alcoholic Beverages Taxes
Provision Type	Credit
Latest Fiscal Impact Estimate	\$2,000,000 – Fiscal Year 2024
Latest Claims Estimate	Latest figure of claims filed is not available
Expiration Date	None



### Tax Expenditure Description

A credit is allowed to a brewer who manufactures less than 250,000 barrels of beer in the calendar year preceding the year for which the credit is claimed. The credit is \$4.60 per barrel on 25,000 barrels sold in a fiscal year, with a maximum credit of the lesser of the brewer's tax liability or \$115,000.

### Additional Background Information

Beneficiaries of this tax exemption include in-state and out-of-state brewers who produced less than 250,000 barrels of fermented malt beverages in the previous calendar year and sell beer in Minnesota. The exemption is administered by the Department of Revenue and the Department of Public Safety. The Credit for Small Brewers reduces the amount of excise tax revenue that would otherwise be generated. State alcohol excise tax collections are deposited in the state General Fund except as provided in the Minnesota Constitution or Statutes 297G.10.

### Proposed Tax Expenditure Objective for Consideration

The objective of the credit for small brewers is to promote development and survivorship among small brewers.

### Sources

An explicit tax expenditure objective was not identified in the legislative record.

Other states, including New York, Washington, and Wisconsin, provide a similar tax incentive to small brewers as defined by each respective state. The New York Alcohol Beverage Production Credit was enacted in 2012 to offset the excise taxes paid by in-state producers.<sup>i</sup> The Washington Legislative Auditor inferred the objective of the state's microbrewery exemption was to provide tax relief to in-state breweries as the industry develops.<sup>ii</sup> Most similar in policy design to Minnesota's tax expenditure is Wisconsin's Tax Credit to Eligible Producers. The enacting language of this tax credit stated that the legislation was enacted "to encourage and preserve a competitive market in the brewing industry."<sup>iii</sup>

At the federal level, a rate reduction was passed in 2017 under the Tax Cuts and Jobs Act, cutting the excise tax rate in half on the first 60,000 barrels produced by a domestic brewer who produces no more than 2,000,000 barrels in total per calendar year.<sup>iv</sup> The rate reduction was made permanent under the Taxpayer Certainty and Disaster Tax Act of 2020, which was written into the 2021 Consolidated Appropriations Act.<sup>v</sup>

A similar credit is provided by Minnesota to microdistilleries. The legislative record on that policy was considered in drafting this proposed objective.

### **Other Considerations Regarding Proposed Tax Expenditure Objective**

As of March 29, 2023, there were 190 microbreweries, 12 small breweries, and 70 brew pubs licensed by the Minnesota Department of Public Safety. A brewery license designation is determined by production limits. Microbreweries are limited to 2,000 barrels of production annually. Small breweries and brew pubs are limited to 3,500 barrels of production annually. A Minnesota brewery producing over 3,500 barrels annually is considered a large brewer for the purpose of licensure. All license designations are eligible for the credit for small brewers.<sup>vi</sup>

### **Potential Metrics and Performance Measures**

The following are evaluation considerations with respect to administrative and enforcement actions.

Performance measurement: Statistical analysis of claims to assess counts, regional distribution, and trends in claims over time.

Performance attribution: Calculate the effective tax rate and differential as a result of the tax credit. Financial analysis of participating brewers to assess free cash flow trends.

Performance appraisal: Conduct an operating ratio analysis to understand the impact of the tax credit on a producer's budgetary solvency. Assess whether budgetary solvency has improved over time as a result of the tax credit.

### **Contact Information and Disclaimer**

This tax expenditure review was prepared by the Legislative Budget Office for the Tax Expenditure Review Commission pursuant to Minnesota Statutes 2023, section 3.8855, subdivision 4.

Notice: Proposed tax expenditure objective statements are not binding authority and should not be used as a legal interpretation of any tax expenditure statute.

For questions regarding this review, please contact the Legislative Budget Office at 651-297-7146 or [lbo@lbo.mn.gov](mailto:lbo@lbo.mn.gov).

For more information, please visit the [Tax Expenditure Review Commission website](#).

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<sup>i</sup> Mark A. Nickerson; Linda Hall. "New York Pours Tax Incentives in the Craft Brewing Industry," *The CPA Journal*, October 2017, 28. <https://www.cpajournal.com/2018/11/22/icymi-new-york-pours-tax-incentives-into-the-craft-brewing-industry/>

<sup>ii</sup> Washington Joint Legislative Audit and Review Committee. 20-07 Final Report: 2020 Tax Preference Performance Reviews Microbrewers. December 2020. Accessed on 01/31/2023. [https://leg.wa.gov/jlarc/taxReports/2020/microbrewers/f\\_final/default.html](https://leg.wa.gov/jlarc/taxReports/2020/microbrewers/f_final/default.html)

<sup>iii</sup> Laws of Wisconsin 1973, Chapter 256.

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<sup>iv</sup> Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat 2170.

<sup>v</sup> "Tax Reform – Craft Beverage Modernization Act (CBMA) Notice," Alcohol and Tobacco Tax and Trade Bureau, accessed on March 16, 2023, <https://www.ttb.gov/alcohol/craft-beverage-modernization-and-tax-reform-cbmtra>.

<sup>vi</sup> Licensure counts were provided by the Minnesota Department of Public Safety Alcohol and Gambling Enforcement Division on March 29, 2023.