

INTERNATIONAL TRADE

ALBERTA GOVERNMENT FAVOURS LOCAL BREWERIES IN NEW MARK-UP REGIME

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Earlier this month, the Alberta government implemented a new subsidy for Alberta-based craft breweries and increased the provincial mark-up on all beer imported into the province. The introduction of the subsidy is part of an increasing trend across the country to promote local production.

BACKGROUND

On October 28, 2015, the Alberta government increased the Alberta Gaming and Liquor Commission's ("AGLC") mark-up on beer from large brewers, as well as craft brewers outside of the *New West Partnership Trade Agreement* ("NWPTA"). As a result, craft brewers within the jurisdictions of NWPTA (Alberta, British Columbia and Saskatchewan) benefited from a graduated tax system (they were taxed at an average rate of \$0.48/litre on annual worldwide production below 200,000 hectolitres (hL)), while those outside NWPTA were taxed at a base rate of \$1.25/litre.¹

As of August 5, 2016, the AGLC has eliminated the graduated mark-up rate applied to beer produced by small craft brewers in NWPTA jurisdictions. Instead, a mark-up of \$1.25/litre, regardless of the size of the company or its location of production, has been applied to all beer.² However, Alberta-based brewers producing and selling less than 300,000 hL in Alberta annually will be eligible to participate in the Alberta Small Brewers Development Program (the "Program").

PROGRAM DETAILS

The Program was created under the Alberta Jobs Plan as part of the Alberta government's 2016 budget commitment to support job creation and encourage business capital investment within the province.³ The Program carries a 10-year term, and the government projects it will grant about \$20 million per year to local, small brewers.⁴ In addition to the government funding, the Program will be funded by the increased mark-up collected by the AGLC.

The Program provides a monthly grant based on an approved applicant's sales volume of beer containing up to 11.9% alcohol ("Qualifying Product").⁵ To be eligible, the brewery must hold a Class E Manufacturer's License or a Class E Brew Pub License, and have sold no more than 300,000 hL of Qualifying Product in the previous calendar year.

The grant will be allocated on a sliding scale based upon a brewer's previous 12 months of production data, and the rate will be re-calculated every six months using the most recent 12 months of production.⁶

CALCULATION OF THE GRANT

The current payment regime allows an eligible Alberta brewery to receive a grant of \$1.15/litre, for up to their first 10,256 hL of beer produced and sold. The rate gradually decreases to \$0.80/litre for production up to 150,000 hL. For any production greater than 150,000 hL, the amount of the grant is reduced from \$0.80/liter until production reaches 300,000 hL, at which point the grant expires.⁷

| Alberta Small Brewers | Development Program |
|-----------------------|--------------------------|
| Amount of Beer Sold | Grant Received (approx.) |
| Under 10,256 hL | \$1.15 per litre |
| 10, 256 - 150,000 hL | \$0.80 per litre |
| 300,000 hL | \$0 |

Dickinson Wright lawyers are available to respond to industry inquiries regarding the new regime.

¹ Claire Theobald, "Alberta Brewers Cheers to Liquor Changes", Edmonton Sun (28 October, 2015), online: <<http://www.edmontonsun.com/2015/10/28/alberta-brewers-cheers-to-liquor-changes>>.

² *Ibid.*

³ Alberta Agriculture and Forestry, "Alberta Small Brewers Development Program" (28 July, 2016), online: <<http://www1.agric.gov.ab.ca/general/progserv.nsf/all/pgmsrv457>>

⁴ David Bell, "Grant Program Aims to Make Alberta Craft Breweries 'Signature Industry'", CBC News (28 July, 2016), online: <<http://www.cbc.ca/news/canada/calgary/alberta-craft-brewery-grant-1.3699875>>; Alberta Agriculture and Forestry, "Alberta Small Brewers Development Program Terms and Conditions" (August 5 2016), online: <<http://www1.agric.gov.ab.ca/general/progserv.nsf/all/pgmsrv457>>.

⁵ Alberta Agriculture and Forestry, "Alberta Small Brewers Development Program Terms and Conditions" (August 5 2016), online: <<http://www1.agric.gov.ab.ca/general/progserv.nsf/all/pgmsrv457>>.

⁶ *Ibid.*

⁷ Howard Anglin, "Alberta's Beer Policy Still Unconstitutional" (30 July, 2016), online:< <http://www.torontosun.com/2016/07/29/albertas-beer-policy-still-unconstitutional>>.

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