

Understanding Alcohol Taxes v. Fees in California

The alcohol industry currently pays both taxes and fees in California. Excise taxes are assessed on the production of a good such as tobacco, alcohol, or gas. Alcohol excise taxes go into California's general fund to pay for things like roads, healthcare, or whatever the state needs money for--not necessarily for alcohol-related services.

In contrast, fees are paid for a specific regulatory purpose that is tied to the product itself. For example, in California, the various sectors of the alcohol industry pay "regulatory fees" to the state department of Alcoholic Beverage Control (ABC) in exchange for licenses to sell alcohol. Fees can and should also be paid to help fund alcohol-related programs such as treatment and prevention. Fees provide the appropriate policy vehicle to hold the alcohol industry accountable for the tremendous economic harm its products cause.

California is somewhat unique in requiring a two-thirds vote of the legislature to pass a tax law. However, fees only require a majority of the legislature to pass. (This same rule applies at the local level.) This is one reason why it can be more desirable to attempt to enact a fee instead of a tax.

Currently, a number of California cities assess local fees on alcohol retailers, mostly for enforcement of nuisance laws. Marin Institute believes local alcohol fees can also be assessed to mitigate the various economic costs of over-consumption, including healthcare, treatment, and criminal justice.

Regulatory fees are imposed under the government's police power for the purpose of funding the regulation of activities that have an adverse effect on the public. California courts have articulated the following rules for a charge to be considered a fee instead of a tax:

- The fee must bear a reasonable relationship to a benefit conferred on the payer (for example, a license to sell alcohol). The benefit received by the payer need not be direct; rather the fee may offset the adverse effects from an activity the payer is allowed to engage in (such as the harm caused by alcohol consumption).
- The fee must be used for the purpose for which it is being charged.
- The fee amount must not exceed the reasonable cost of providing the services for which the fees are charged.
- The fee can be a fixed amount, as long as there is a reasonable basis for the amount.
- Fees may be imposed on an entire industry.

Tax	Fee
Requires a supermajority vote (2/3) to pass; applies to the state legislature, local government, or the voters	Requires a simple majority vote (50% + 1) to pass a new fee program or increase fees
Pays for general government expenses	Offsets costs associated with a specific government activity or requirement
Used for any government purpose	Cannot be used for a general revenue purpose
No need for any relation between the amount of taxes paid and the benefit taxpayers receive	Must be a relationship between the fee amount paid and the benefit taxpayers receive. The fee must bear a reasonable relationship to adverse effects caused by the fee payers' operations.