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LEGAL BRIEFING: NYS Tax Legislation
TAX DEPARTMENT STAVES OFF THE NYS "WHISKEY REBELLION"

Page 1 of 1

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By issuing Technical Memorandum TSB-M-15(1)M on February 12, 2015, the New York State Tax Department may have been able to stave off the kind of protest that even the nation's first President George Washington could not – all out rebellion over taxes on alcohol. Admittedly that may be a bit melodramatic, but the new tax position does make life easier for New York's ever burgeoning Farm Winery, Farm Brewery, and Farm Distillery industry.

Previously Farm Winery, Farm Brewery, and Farm Distillery taxpayers were required to file their taxes monthly on Form MT-40 (Return of Tax on Wines, Liquors, Alcohol, and Distilled or Rectified Spirits). Administratively this was cumbersome, but often the burden was worth the profits. The burden itself was likely a relic of New York's decades old fear of the alcohol industry that seemed to be embedded in its statutory framework until more recent times. But the results of the industry's growth and ability to be an engine of economic change for rural and economically underdeveloped regions is causing New York to rethink this position.

Now taxpayers may file annually by requesting permission from the Tax Department using Form MT-38. Taxpayers SHOULD NOT begin filing annually though until after written approval is obtained.

Questions or other issues regarding your requirements and opportunities as a Farm Winery, Farm Brewery, or Farm Distillery may be directed to a member of the Firm's Corporate Practice Group.

This Legal Briefing is intended for general informational and educational purposes only and should not be considered legal advice or counsel. The substance of this Legal Briefing is not intended to cover all legal issues or developments regarding the matter. Please consult with an attorney to ascertain how these new developments may relate to you or your business.

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