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## Case study

# Taxing the distribution of sugar-sweetened beverages in Berkeley (California)



July 2015

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Effective January 1, 2015, the City of Berkeley in California (United States) has imposed a tax on sugar-sweetened beverages (SSB) of US\$0.01 per ounce (about \$0.35/litre).

This case illustrates the feasibility of a tax on these products and allows drawing lessons for other jurisdictions considering the adoption of tax measures to reduce the consumption of SSB.

## Background

Founded in November 2013 to counter the growth of chronic diseases and childhood obesity, the *Berkeley Healthy Child Coalition* circulated a petition at the start of 2014 asking the City of Berkeley to hold a referendum on a future SSB tax. The aim of the tax was to reduce the human and economic costs of diseases associated with SSB consumption by discouraging their distribution and consumption.

On July 1, 2014, the Municipal Council granted the petition and approved the final wording of the ballot to be put to the public in November. The proposition, titled *Measure D*, asked citizens to pronounce themselves on the following question:

*“Shall an ordinance imposing a 1¢ per ounce general tax on the distribution of high-calorie, sugary drinks (e.g., sodas, energy drinks, presweetened teas) and sweeteners used to sweeten such drinks, but exempting: (1) sweeteners (e.g., sugar, honey, syrups) typically used by consumers and distributed to grocery stores; (2) drinks and sweeteners distributed to very small retailers; (3) diet drinks, milk products, 100% juice, baby formula, alcohol, or drinks taken for medical reasons, be adopted”*

On November 4, 2014, 29,540 citizens of Berkeley<sup>1</sup> voted in favour of a general tax on the distribution of SSB. This represented 76% of the electorate that went out to vote; only 50% support was required for the measure to pass.

### **Referendum 2014: 56% support in San Francisco, but no tax... why?**

In San Francisco, a similar referendum to the one in Berkeley was held concerning a tax of 2 cents per ounce (\$0.70/l) on SSB. Popular support exceeded the 50% threshold required for the imposition of a general tax. However, under U.S. law, a 2/3 majority is required when tax revenues are earmarked. This was the case in San Francisco, where the measure specified that revenues would be allocated to prevention activities. Though the vote was deemed a public health failure, a majority of 123,475 citizens nevertheless voted in favour of a heavy SSB tax whose revenues would be used for prevention<sup>2</sup>.

## The tax in question<sup>3</sup>

**Effective date:** January 1, 2015.

## Case study: Taxing SSB distribution in Berkeley

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**Economic model:** Municipal excise tax of US\$0.01 per ounce of SSB on the privilege of distributing SSB in the City of Berkeley. The tax was made effective by the addition of a chapter to the City's municipal code (Chapter 7.72) and will be in effect for 12 years until January 1, 2027, if not renewed<sup>4</sup>.

In the case where a network of various distributors is involved in the same delivery, the tax is collected from the first distributor. According to initial estimates, approximately 20 distribution companies were subject to the measure<sup>5</sup>. In fact, the tax has been collected from 36 distributors<sup>6</sup>.

**Targets:** Sweet-tasting non-zero-calorie beverages, as well as sweetened powders and syrups used to manufacture such beverages.

**Exceptions:** Baby formula, milk products, 100% pure fruit and vegetable juice, SSB taken for medical reasons or as meal replacements.

Small retailers who transport SSB themselves for sale in their businesses are exempt from the tax, as are small distributors with gross sales of less than \$100,000 per year.

**Annual revenues:** The tax revenues were estimated between US\$200,000<sup>7</sup> and \$US1,5 million per year. During the first month introduction, the real revenues reached an impressive \$US116 000, according to Berkeley city councillors<sup>8</sup>.

**Investment of revenues:** Given that this was a general tax, the measure was put to the vote without being tied directly to the commitment of investing the revenues in prevention. However, it included the creation of a standing committee on SSB, whose mandate it is to propose to the City of Berkeley actions and investments aimed at reducing the consumption of these beverages<sup>9</sup>. The committee is formed by nine experts\* from the sectors of public health, childhood nutrition, education or food access. A city employee is assigned to it as well to serve as secretary, draft annual reports, and safeguard the committee's briefs. It is understood that a portion of the funds collected through the tax will serve to implement the committee's proposals.

The advisory committee first met on May 19, 2015. The City allocated it a budget of \$US500 000 drawn from the tax revenues for the implementation of its first recommendations<sup>10</sup>. Of this amount, it is expected that \$US250 000\$US will be set aside to gardening programs and developing food and cooking competencies at school. The committee is expected to publish a report of recommendations on October 1, 2015.

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\* Appointed members of the standing committee: Jennifer Brown, Xavier Morales, Pat Crawford, Nancy, Fenstermacher, Joy Moore, Poki Namkung, Bobbie Rose, Holly Scheider, and Julie Sinai

## References

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- <sup>2</sup> Ballotpedia (2014). City of San Francisco Sugary Drink Tax, Proposition E. Consulted on January 7, 2015 at [http://ballotpedia.org/City\\_of\\_San\\_Francisco\\_Sugary\\_Drink\\_Tax\\_\(November\\_2014\)](http://ballotpedia.org/City_of_San_Francisco_Sugary_Drink_Tax_(November_2014))
- <sup>3</sup> City of Berkeley (2014). Ordinance no. #, ### - N.S. Imposing a General Tax on the Distribution of Sugar-Sweetened Beverage Products. Consulted on December 15, 2015 at [www.cityofberkeley.info/uploadedFiles/Clerk/Elections/Sugar%20Sweetened%20Beverage%20Tax%20%20-%20Full%20Text.pdf](http://www.cityofberkeley.info/uploadedFiles/Clerk/Elections/Sugar%20Sweetened%20Beverage%20Tax%20%20-%20Full%20Text.pdf)
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- <sup>7</sup> Berkeleyside (2015). Berkeley seeks experts for soda tax advisory panel. Consulted on July 7, 2015 at [www.berkeleyside.com/2015/01/06/berkeley-seeks-experts-for-soda-tax-advisory-panel/](http://www.berkeleyside.com/2015/01/06/berkeley-seeks-experts-for-soda-tax-advisory-panel/)
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- <sup>9</sup> City of Berkeley (2015). Sugar-Sweetened Beverage Product Panel. Consulted on January 13, 2015 at [www.ci.berkeley.ca.us/Clerk/Commissions/Commissions\\_Sugar-Sweetened\\_Beverage\\_Panel.aspx](http://www.ci.berkeley.ca.us/Clerk/Commissions/Commissions_Sugar-Sweetened_Beverage_Panel.aspx)
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