

This memorandum supersedes TSB-M-09(8)M, issued on August 21, 2009.

Federal Court Modifies Injunction, Authorizing New York State to Implement Major Portions of Amendments to Returnable Container Act (Bottle Bill) - Revised

The first *Quarterly Report of Beverage Container Deposits* will cover the period August 13, 2009, through August 31, 2009.

On August 13, 2009, the United States District Court lifted a prior injunction that had temporarily delayed the registration and filing provisions related to beverage containers for beverages other than water (see *International Bottled Water Association, et. al., v. Paterson*). Affected deposit initiators are once again required to electronically register with the Tax Department and to file and pay quarterly reports beginning with the quarterly report for the period August 13, 2009, through August 31, 2009.

The injunction relating to beverage containers for water remains in effect until October 22, 2009. The district court has scheduled a proceeding on that date to determine whether the injunction related to bottled water should be continued. (See additional information under *Deposit initiators - water only* on page 2.)

Deposit initiators on beverage containers for beverages other than water

As explained in TSB-M-09(2) M, *Registration and Filing Responsibilities for Beverage Container Deposit Initiators*, every deposit initiator on beverage containers used for beverages such as carbonated soft drinks, beer, other malt beverages, and wine coolers, was required to begin placing deposits in a special refund value account as of April 15, 2009, and was required to register with the Tax Department as a deposit initiator by June 1, 2009. The first quarterly report for the partial quarter April 15, 2009, through May 31, 2009, was required to be electronically filed by June 22, 2009. Now that the injunction has been lifted, if you are a deposit initiator on beverage containers for beverages other than water, you must electronically register (if you haven't already registered) and file quarterly returns at the Tax Department's Web site (www.nystax.gov) as follows:

- You must electronically register as a deposit initiator no later than September 21, 2009. (**Note:** If you begin initiating deposits after September 21, 2009, you must establish a refund value account and register with the Tax Department before you begin collecting deposits.)
- You must electronically file your first *Quarterly Report of Beverage Container Deposits* and remit 80% of the unclaimed beverage container deposits collected for the period August 13, 2009, through August 31, 2009, by September 21, 2009.

- Subsequent quarterly reports are due on December 20, March 20, June 20, and September 20 each year.

Deposit initiators - water only

If you anticipate initiating deposits on beverage containers for water in the future, you may voluntarily register online at the Tax Department's Web site. Be sure to check the box for *Water deposit initiator*. In addition, you should be prepared to start placing deposits collected on beverage containers used for water in a refund value account as of October 22, 2009.

Handling fees and unique New York UPC bar code

The injunction has also been lifted in relation to the increased handling fees for stores and redemption centers, but it continues to prevent New York State from requiring that beverage containers have a unique New York UPC bar code. For additional information, contact the Department of Environmental Conservation (DEC). For contact information, visit the DEC Web site (www.dec.ny.gov).

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.