

## Federal Court Lifts Injunction Related to Beverage Containers For Water

On October 23, 2009, the United States District Court lifted an injunction that had temporarily delayed the implementation of provisions requiring deposits on beverage containers for water (see *International Bottled Water Association, et. al., v. Paterson*). As a result, deposits must be collected for beverage containers for water beginning **October 31, 2009**. Deposit initiators on beverage containers for water are required to electronically register with the Tax Department and to file quarterly reports beginning with the quarterly report for the period September 1, 2009, through November 30, 2009, for deposits collected between October 31, 2009, and November 30, 2009.

On August 13, 2009, the district court had previously lifted an injunction related to beverage containers for carbonated soft drinks, beer, other malt beverages, and wine coolers. For additional information, see TSB-M-09(8.1)M, *Federal Court Modifies Injunction, Authorizing New York State to Implement Major Portions of Amendments to Returnable Container Act (Bottle Bill) - Revised*.

### Definitions of *water*, *beverage container*, and *deposit*

*Water* means any beverage identified through the use of letters, words, or symbols on its product label as a type of water, including any flavored water or nutritionally enhanced water. *Water* does not include any beverage identified as a type of water to which a sugar has been added. To meet this requirement, the nutritional label must indicate that the water contains zero grams (0g) of sugar.

A *beverage container* means the individual, separate, sealed glass, metal, aluminum, steel or plastic bottle, can, or jar used for containing a beverage of less than one gallon or 3.78 liters at the time of sale, or offer for sale, of a beverage intended for use or consumption in New York State. Deposits are not required for beverage containers sold or offered for sale or distributed aboard aircraft or ships.

The *deposit* (or *refund value*) collected on each beverage container sold in New York State may not be less than five cents (\$0.05).

### Electronic registration and filing

If you are a deposit initiator on beverage containers for 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](http://www.nystax.gov)) as follows:

- You must electronically register as a deposit initiator no later than **December 21, 2009**. (Note: If you begin initiating deposits after December 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* for the period September 1, 2009, through November 30, 2009, and remit 80% of the unclaimed beverage container deposits collected between October 31, 2009, and November 30, 2009. The quarterly report is due by **December 21, 2009**.
- Subsequent quarterly reports are due on March 20, June 20, September 20, and December 20 each year.

For additional details related to the registration and filing provisions, see TSB-M-09(2)M, *Registration and Filing Responsibilities for Beverage Container Deposit Initiators*, beginning on page 2, *Registration of Deposit Initiators*.

### **Unique New York UPC bar code**

The Court permanently enjoined New York State from requiring that beverage containers have a unique New York UPC bar code.

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.