



MAINE REVENUE SERVICES SALES, FUEL AND SPECIAL TAX DIVISION INSTRUCTIONAL BULLETIN

INITIATORS OF DEPOSIT

This bulletin is intended solely as advice to assist persons in determining and complying with their obligations under Maine law. It is written in a relatively informal style and is intended to address issues commonly faced by initiators of deposit with respect to the beverage container deposit statute. Taxpayers are responsible for complying with all applicable tax statutes and rules. Although bulletins issued by Maine Revenue Services (“MRS”) do not have the same legal force and effect as rules, justifiable reliance upon this bulletin will be considered in mitigation of any penalties for any underpayment of unclaimed deposits due. This bulletin is current as of the last revision date shown at the end of the document.

The beverage container deposit statute, 38 M.R.S.A. § 3108, requires that initiators of deposit that have not entered into a commingling agreement establish a Deposit Transaction Fund and file a monthly report with the State Tax Assessor. The report concerns transactions affecting the Deposit Transaction Fund. Initiators of deposit are required to reconcile amounts in the Fund and pay over any abandoned deposits to the State.

1. EXEMPTIONS. A brewer who produces no more than 50,000 gallons of its product or a bottler of water who sells no more than 250,000 containers each containing no more than one gallon of its product in a calendar year is exempt from these requirements for that year.

2. DEFINITIONS.

a. Commingling agreement. A commingling agreement is an agreement by which 2 or more initiators of deposit agree that some or all of the beverage containers for which the initiators have initiated deposits may be commingled by dealers and operators of redemption centers in accordance with 38 M.R.S.A. § 3107. The commingling agreement must be filed with the Department of Environmental Protection. The Department of Environmental Protection informs MRS when an initiator has entered into a commingling agreement.

b. Initial fund balance. The initial fund balance is the sum of the refund values received for nonrefillable beverage containers during the first three months an initiator becomes subject to the provisions of 38 M.R.S.A. § 3108.

3. DEPOSIT TRANSACTION FUND. The Deposit Transaction Fund account must be held in trust for consumers and the State and maintained separate from other revenues and accounts.

a. Monthly Funding of the Deposit Transaction Fund. On the last day of each month, every initiator must place into the Deposit Transaction Fund, an amount equal to the difference between the refund values received and refund values paid out during the month for nonrefillable beverage containers.

b. Fund Balance. On the last day of each month, every initiator must determine its Deposit Transaction Fund balance for that month as follows:

1. Begin with the fund balance on the last day of the previous month. Subtract interest income earned in the previous month and abandoned deposit amounts paid to the State Tax Assessor for the previous month. Add any reimbursements due from the State Tax Assessor for the previous month. These amounts should be included even if they have not yet been received.

2. Add refund values received during the month for nonrefillable beverage containers sold in this State and interest income earned during the month on the Deposit Transaction Fund. Subtract refund values paid during the month for nonrefillable beverage containers redeemed in this State, excluding any handling charges.

c. Use of Deposit Transaction Fund. Money in the Deposit Transaction Fund, other than interest earned, is not income to the initiator. Payments can only be made from the Fund to:

1. pay refund values of nonrefillable beverage containers returned in this State by dealers, distributors, and redemption centers;
2. pay to the State Tax Assessor abandoned deposit amounts; and
3. withdraw interest income earned on money in the Deposit Transaction Fund.

4. MONTHLY REPORTING TO THE STATE TAX ASSESSOR.

a. General Rule. Every initiator required to maintain a Deposit Transaction Fund must file a report to Maine Revenue Service on or before the 20th day of each month, or fraction thereof, and pay to the State Tax Assessor any deposit amounts determined to be abandoned.

b. Content. Each monthly report must include the following information:

1. the number of nonrefillable beverage containers sold and returned in this State during the applicable month;
2. the amount of deposits received and payments made by the fund in the most recent 3-month period, including the applicable month;
3. any income earned on amounts in the fund during the applicable month;

4. the balance in the fund at the close of the applicable month; and
5. the abandoned deposit amounts paid to the State Tax Assessor or reimbursements due from the State Tax Assessor for the immediately preceding 24-month period.

c. Abandoned Deposit Amounts. As of the last day of each month, every initiator must determine the abandoned deposit amounts in their Deposit Transaction Fund and turn that amount over to the State Tax Assessor. The abandoned deposit amounts for the month are determined by subtracting from the fund balance the following two amounts:

1. interest income earned during the reporting month on the Fund; and
2. the total amount of refund values received for nonrefillable beverage containers during the most recent 3-month period, including the reporting month.

d. Reimbursements. If in any month, the authorized payments from the Deposit Transaction Fund by an initiator exceed the funds that are or should be available, the State shall reimburse the initiator. The reimbursement will be limited to the amount(s) received as abandoned deposits from the initiator in the preceding 24-month period, less amounts reimbursed to the initiator during the preceding 24-month period.

e. Enforcement Provisions. Upon notice of noncompliance by the State Tax Assessor, the Department of Environmental Protection may remove from sale a beverage that is sold or distributed in the State by an initiator who is not in compliance with reporting and payment requirements of 38 M.R.S.A. § 3108. The Department of Environmental Protection shall allow the sales of the beverage to resume upon notification by the Assessor that all delinquent reports have been submitted and all payments are current. Penalties may apply for a failure to timely file a return or pay an amount due on a return. See 36 M.R.S.A. § 187-B.

5. ADDITIONAL INFORMATION

The information in this bulletin addresses some of the more common questions regarding the Deposit Transaction Fund faced by your business. It is not intended to be all inclusive. Requests for information on specific situations should be in writing, should contain full information as to the transaction in question and should be directed to the:

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