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THE TAX LAWYER

Sep. 15 2012 — 12:05 am

If Soda Tax Can Make It In NY It Can Make It Anywhere

New York is on its way to a historic Soda Ban. Call it an Obesity Check or Big Soda Prohibition. Like so much else Bloombergian, it's historic. It's One Small Soda for Man, One Giant Soda Nixed for Mankind. But will it work?

As a consumer, I think we should be able to buy a big soda without having to buy two small ones. But as a tax lawyer, I was persuaded by this: [NYC's Soda Ban Is A Good Idea, But A Tax Would Be Better](#). In a study [published](#) in *Health Affairs*, experts estimated that a 15% cut in consuming sugared beverages among 25 to 64 year olds would prevent staggering numbers of deaths and serious illnesses, not to mention saving billions in medical costs.

The numbers are impressive. To top it off, a soda tax would generate billions in revenue. What's not to like? In fact, I'm lovin' it.

Besides, our local, state and national governments *like* to tax things. We're *used* to regulating by taxing. *Everything* else seems downright un-American. And taxes are big business.



Faced with budget deficits, an eroding tax base and the legal and political impediments to raising tax rates, what's to be done? Find new and untapped things to tax. Soda is **such** an easy target.

There's Botox, tanning, music downloads and more. Soda taxes are [sin taxes](#), targeting what legislators view as socially irresponsible behavior. They have the dual purpose of raising revenue and decreasing the targeted bad conduct.

Sin taxes are really excise taxes, like those on alcohol, cigarettes and candy. They are indirect and technically imposed on producers or sellers. As a practical matter, of course, they are usually passed on to buyers. Sounds like sales tax.

They differ from sales taxes mostly by being more targeted. Suspect services can be targeted too. A 10% tanning tax went into effect in July 2010, and was projected to raise \$2.7 billion over 10 years from the nation's 20,000 indoor tanning salons. See [Tan Tax Causes Confusion](#).

Taxes also keep government in business. The tanning tax produced [government regulations](#) and line-drawing how fees should be divvied up between tanning and other services. The IRS even issued guidance about tanning salon points akin to frequent flier miles useful for more tanning or for lotions and facials. See IRS Chief Counsel Advice [201128024](#).

You guessed it, these arcane rules help keep tax lawyers busy too. Everyone likes to feel good that they are avoiding some. See [Mitt Romney, John Kerry And Italians All Like To Save Taxes](#). As for other sinful services, remember the proposed tax on cosmetic surgery?

Also dubbed the Botox tax, the proposed 5% excise tax was buried in the massive health care bill. Sadly, it became controversial and was dropped. Tanning was taxed instead.

Then there's the ripple effect in the legal system. After paying \$8 for a soda and a box of candy, a Michigan man filed a class action suing AMC Theatres for price gouging he claimed violated Michigan's Consumer Protection Act. [Read](#) it and weep.

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