



July 20, 2009

The Honorable Jamie Woodward
Acting Commissioner
New York State Department of Taxation and Finance
Transaction Tax Audit Bureau
Building #9, Room 302
W.A. Harriman Campus
Albany, NY 12227

Dear Acting Commissioner Woodward:

I write to express concerns of the International Franchise Association regarding the recently enacted franchisor information returns requirement (Subpart G of Part V-1 of Chapter 57 of the Laws of 2009) and request a delay in the initial reporting deadline so that the franchise community has an opportunity to understand this new law and develop a means to comply. Importantly, we have noted many significant comments and concerns from our members following the Department of Taxation and Finance's July 7 Taxpayer Guidance, and we do not feel that the business structure of many franchise relationships will allow for proper compliance as currently outlined.

The IFA's mission is to safeguard the business environment for franchising worldwide. The association represents businesses in more than 85 industries, including more than 11,000 franchisee, 1,200 franchisor and 600 supplier members nationwide. According to a 2008 study conducted by PricewaterhouseCoopers, there are more than 900,000 franchised establishments in the U.S. that are responsible for creating 21 million American jobs and generating \$2.3 trillion in economic output. In New York alone there are 40,579 franchised small businesses employing 432,000 workers, providing an annual economic output to the state of \$40.3 billion.

We are working with franchisors around the country to help them comply with the law, and there is significant uncertainty among franchisors about how to cope with this new obligation. It is important to note that the New York information reporting requirement is the first of its kind in the nation, and it poses several challenges for franchise systems. Therefore, the IFA requests the initial deadline of September 20, 2009, for the reporting period March 1 – August 31, 2009, be delayed until December 31, 2009.

A common concern raised in numerous industry sectors is that twenty days is insufficient time for franchise systems to gather data from franchisees following the close of a particular reporting period. Many franchised businesses in New York do not electronically report data to their franchisors, and therefore simply cannot be expected to comply with a twenty day window for compiling such detailed data. Therefore, we believe it is important to extend the annual deadlines so that subsequent reports are due no sooner than ninety days after the close of the reporting period.

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Beyond the deadlines, the IFA also has significant concerns about the nature of the information requested by the state. The legislature may have failed to contemplate the extent to which franchisors and franchisees operate as distinctly separate and independent businesses, and franchisors may be unable to fully comply with these obligations. Much of the requested information may not be available to the franchisor in the normal course of business, and franchisors may not have any contractual right to obligate franchisees to provide some of the information. In particular, information such as tax identification numbers, franchisee social security numbers, or tax certificates of authority may not be available to every franchisor. While some of this information may have been obtained during the initial background check on a franchise investor, it is often expunged or redacted after the initial franchise investment. Even if the information remained on file with franchisors, this requirement raises serious legal and privacy concerns, particularly if this information is to be transmitted electronically.

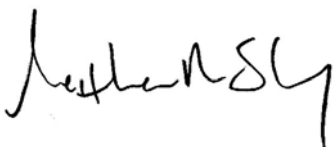
In addition, we would like to draw your attention to several specific concerns which we have noted in the comments of our members:

1. The value of goods and services sold may vary due to the different tax treatments of goods and services. For example, a gross sales figure reported to a franchisor might be different than the figure reported for sales tax purposes if certain goods and service are not taxable in New York.
2. Some franchise systems may measure franchisee performance by factors other than gross revenue, such as room-nights sold for the lodging industry or cents-per-gallon of products sold in certain food service systems.
3. Data regarding sales by suppliers may be difficult or impossible to gather by the franchisor. While some franchisors do negotiate with suppliers on behalf of franchisees, this is not a universal practice, and franchisors may not keep track of this information on a store by store basis. Additionally, the gathering of supplier sales data by a franchisor may be viewed as an infringement on a franchisee's relationship with the supplier.

These are the concerns of our members that we have catalogued so far, but we note that many franchise systems likely remain unaware of this significant new mandate. We continue to work to educate our members, and we anticipate that more concerns will be raised as more systems evaluate this obligation. In the meantime, please carefully consider the broad ramifications of this unprecedented law, and we urge you to grant our request for a delay to allow franchise systems to more fully comply.

Thank you for taking the time to consider these concerns. Please do not hesitate to contact the IFA if we can provide further information.

Sincerely,



Matthew R. Shay
President & CEO

cc: Andris Blumbergs, Project Manager
Sue Grubb, Tax Auditor III