

A solid yellow right-angled triangle pointing downwards and to the right.

BLOGS

New York Creates Extension Process and Clarifies Issues Relating to New Franchisor Tax Reporting Requirements

As reported in our last issue of *The GPMemorandum*, New York recently enacted a new tax law that imposes unprecedented new reporting requirements on franchisors that have at least one franchisee in New York that is required to collect sales tax. To provide further detail as to these reporting requirements, on July 7, 2009, the New York Department of Taxation and Finance issued an informational statement titled "New Requirement for the Filing of Information Returns for Franchisors". This document is available at www.nystax.gov. In reaction to the new law, on July 20, 2009, IFA President Matthew Shay wrote a letter to the Acting Commissioner of the Department of Taxation and Finance requesting an extension of at least 90 days for the first and all subsequent reporting deadlines, pointing out the near impossibility for many franchisors of collecting data regarding third-party supplier sales to franchisees and seeking to clarify the use of the term "gross sales" in the guidelines.

Yesterday the IFA reported that it received a response from New York that contains good news for franchisors. According to the IFA, New York is creating an automatic 90-day extension process for all reporting deadlines and will post on its web site instructions for requesting extensions. Franchisors requesting an automatic extension of their first reporting deadline (September 20, 2009), will have it extended to December 20, 2009, and franchisors requesting an automatic extension of any future March 20 deadline, will have it extended to June 20. In addition, in what should come as a relief to many franchisors, New York has notified the IFA that while franchisors must still report in their returns the amount of sales they or their affiliated companies make to franchisees, New York is dropping the requirement that franchisors report sales designated or approved suppliers make to franchisees. Finally, according to the IFA, New York has clarified that if a franchisor uses a performance measure other than a percentage of gross sales, an explanation of that performance measure, as well as any quantitative data for the relevant reporting period, still must be reported to the state.