

## 2009-2010 Budget Bill S.57b/A.157b, Subpart G

2 Section 1. Section 1136 of the tax law is amended by adding a new  
3 subdivision (i) to read as follows:

4 (i) (1) The following persons must file, in addition to any other  
5 return required by this chapter, annual information returns with the  
6 commissioner providing the information specified below about their tran-  
7 sactions with vendors, hotel operators, and recipients of amusement  
8 charges:

9 (A) Every insurer licensed to issue motor vehicle physical damage or  
10 motor vehicle property damage liability insurance for motor vehicles  
11 registered in this state if, during the period covered by the return, it  
12 has paid consideration or an amount under an insurance contract for the  
13 servicing or repair of a motor vehicle on behalf of an insured. For each  
14 person to whom the insurer has paid the consideration or amount  
15 described in the preceding sentence, the return must report the total  
16 amount paid for that period, along with the other information required  
17 by paragraph two of this subdivision.

18 (B) Every franchisor, as defined by section six hundred eighty-one of  
19 the general business law, that has at least one franchisee, as defined  
20 by subdivision four of section six hundred eighty-one of the general  
21 business law, that is required to be registered under section eleven  
22 hundred thirty-four of this part. For each franchisee, the return must  
23 include the gross sales of the franchisee in this state reported by the  
24 franchisee to the franchisor, the total amount of sales by the franchi-  
25 sor to the franchisee, and any income reported to the franchisor by each  
26 franchisee, along with the information required by paragraph two of this  
27 subdivision.

28 (C) Every wholesaler, as defined by section three of the alcoholic  
29 beverage control law, if it has made a sale of an alcoholic beverage, as  
30 defined by section four hundred twenty of this chapter, without collect-  
31 ing sales or use tax during the period covered by the return, except (i)  
32 a sale to a person that has furnished an exempt organization certificate  
33 to the wholesaler for that sale; or (ii) a sale to another wholesaler  
34 whose license under the alcoholic beverage control law does not allow it  
35 to make retail sales of the alcoholic beverage. For each vendor, opera-  
36 tor, or recipient to whom the wholesaler has made a sale without  
37 collecting sales or compensating use tax, the return must include the  
38 total value of those sales made during the period covered by the return  
39 (excepting the sales described in clauses (i) and (ii) of this subpara-  
40 graph) and the vendor's, operator's or recipient's state liquor authori-  
41 ty license number, along with the information required by paragraph two  
42 of this subdivision.

43 (2) The returns required by paragraph one of this subdivision must  
44 also include, for each vendor, operator, or recipient about whom infor-  
45 mation is required to be reported under such paragraph, the name and  
46 address, and the certificate of authority or federal identification  
47 number, and any other information required by the commissioner. The  
48 commissioner may, in the commissioner's discretion, require the report-  
49 ing of less than all the information otherwise required to be reported  
50 by this paragraph and paragraph one of this subdivision.

51 (3) The returns required by paragraph one of this subdivision must be  
52 filed annually on or before March twentieth and must cover the four  
53 sales tax quarterly periods immediately preceding such date. Notwith-  
54 standing section three hundred five of the state technology law or any

1 other law to the contrary, the returns must be filed electronically in  
2 the manner prescribed by the commissioner.

3 (4) Any person required to file a return under paragraph one of this  
4 subdivision must, on or before March twentieth, give to each vendor,  
5 operator, or recipient about whom information is required to be reported  
6 in the return the information pertaining to that person. The commissioner  
7 may prescribe a form to be used to provide the information required  
8 to be given by this paragraph.

9 (5) Nothing in this subdivision is to be construed to limit the  
10 persons from whom the commissioner can secure information or the infor-  
11 mation the commissioner can require from those persons pursuant to the  
12 commissioner's authority under section eleven hundred forty-three of  
13 this part or any other provision of law.

14 § 2. Section 1145 of the tax law is amended by adding a new subdivi-  
15 sion (i) to read as follows:

16 (i)(1) Every person required to file an information return by subdivi-  
17 sion (i) of section eleven hundred thirty-six of this part who (A) fails  
18 to provide any of the information required by paragraph one or two of  
19 subdivision (i) of section eleven hundred thirty-six of this part for a  
20 vendor, operator, or recipient, or who fails to include any such infor-  
21 mation that is true and correct (whether or not such a report is filed)  
22 for a vendor, operator, or recipient, or (B) fails to provide the infor-  
23 mation required by paragraph four of subdivision (i) of section eleven  
24 hundred thirty-six of this part to a vendor, operator, or recipient  
25 specified in paragraph four of subdivision (i) of section eleven hundred  
26 thirty-six of this part, will, in addition to any other penalty provided  
27 in this article or otherwise imposed by law, be subject to a penalty of  
28 five hundred dollars for ten or fewer failures, and up to fifty dollars  
29 for each additional failure.

30 (2) Every person failing to file an information return required by  
31 subdivision (i) of section eleven hundred thirty-six of this part within  
32 the time required by subdivision (i) of section eleven hundred thirty-  
33 six of this part will, in addition to any other penalty provided for in  
34 this article or otherwise imposed by law, be subject to a penalty in an  
35 amount not to exceed two thousand dollars for each such failure,  
36 provided that the minimum penalty under this paragraph is five hundred  
37 dollars.

38 (3) In no event will the penalty imposed by paragraph one, or the  
39 aggregate of the penalties imposed under paragraphs one and two of this  
40 subdivision, exceed ten thousand dollars for any annual filing period as  
41 described by paragraph three of subdivision (i) of section eleven  
42 hundred thirty-six of this part.

43 (4) If the commissioner determines that any of the failures that are  
44 subject to penalty under this subdivision was entirely due to reasonable  
45 cause and not due to willful neglect, the commissioner must remit the  
46 penalty imposed under this subdivision. These penalties will be deter-  
47 mined, assessed, collected, paid, disposed of and enforced in the same  
48 manner as taxes imposed by this article and all the provisions of this  
49 article relating thereto will be deemed also to refer to these penalties.

51 § 3. This act shall take effect immediately, provided that the first  
52 return required by subdivision (i) of section 1136 of the tax law, as  
53 added by section one of this act, shall be due on or before September  
54 20, 2009 and shall cover the period March 1, 2009 through August 31,  
55 2009; provided, further, that the returns required to be filed by such  
1 subdivision on or before March 20, 2010, shall cover the period from  
2 September 1, 2009 to February 28, 2010.