

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, section 171, subdivision First, generally authorizes the Commissioner of Taxation and Finance to promulgate regulations; section 671(a)(1) provides that the method of determining the amounts of New York State personal income tax to be withheld will be prescribed by regulations promulgated by the Commissioner; section 697(a) provides the authority for the Commissioner to make such rules and regulations as are necessary to enforce the personal income tax; section 1329(a) of the Tax Law and section 15-105 of the Codes and Ordinances of the City of Yonkers provide that the City of Yonkers Income Tax Surcharge shall be withheld in the same manner and form as that required by sections 671 through 678 of the Tax Law, except where noted; section 1332(a) of the Tax Law and section 15-108(a) of the Codes and Ordinances of the City of Yonkers provide that the City of Yonkers Income Tax Surcharge shall be administered and collected by the Commissioner of Taxation and Finance in the same manner as the tax imposed by Article 22 of the Tax Law. Section 5 of Part Z-1 of Chapter 57 of the Laws of 2009 requires the Commissioner to adopt rules to implement changes in the withholding tax tables and methods relating to the personal income tax increases made by Part Z-1. Section 6 of Part W-1 authorizes the Commissioner to adopt rules to adjust the withholding tables in accordance with limitations on itemized deductions contained in Part W-1.

2. Legislative objectives: The proposal amends the appendixes related to the exact calculation method (Method II) for New York State income tax withholding purposes and for City of Yonkers income tax surcharge purposes to adjust the withholding tables and methods as required by Chapter 57 of the Laws of 2009. Because the income tax changes made by Chapter 57 relate to taxpayers with incomes over certain amounts, the wage bracket table method (Method I) tables are not affected. Amendments to provisions regarding withholding on supplemental wages are also made to reflect the new rate of withholding. The amendments implement revised

New York State and City of Yonkers withholding tables and other methods applicable to wages and other compensation paid on or after May 1, 2009. Specifically, the amendments reflect the limitation of itemized deductions in Part W-1 of Chapter 57 and the revision of the tax tables and tax table benefit recapture in Part Z-1 of Chapter 57. As required by the new law, the withholding rates for the remainder of tax year 2009 reflect the full amount of tax liability for tax year 2009 as accurately as practicable.

3. Needs and benefits: This rule sets forth amendments to the New York State and City of Yonkers withholding tables and other methods, applicable to wages and other compensation paid on or after May 1, 2009, reflecting the limitation of itemized deductions and the revision of the tax tables and the tax table benefit recapture contained in Part W-1 and Part Z-1, respectively, of Chapter 57 of the Laws of 2009. This rule benefits taxpayers by providing New York State and City of Yonkers withholding rates that more accurately reflect the current income tax rates. If this rule is not promulgated, the use of the existing withholding tables would cause some under-withholding for some taxpayers.

4. Costs: (a) Costs to regulated parties for the implementation and continuing compliance with this rule: Since (i) the Tax Law and the Codes and Ordinances of the City of Yonkers already mandate withholding in amounts that are substantially equivalent to the amounts of New York State and City of Yonkers personal income tax on residents reasonably estimated to be due for the taxable year, and (ii) this rule conforms Appendixes 10 and 10-A of Title 20 NYCRR to the rates of the New York State income tax and the City of Yonkers income tax surcharge on residents, as required by Chapter 57 of the Laws of 2009, any compliance costs to employers associated with implementing the revised withholding tables and other methods are due to such statutes, and not to this rule.

(b) Costs to this agency, the State and local governments for the implementation and continuation of this rule: Since the need to make amendments to the New York State Personal Income Tax Regulations under Article 22 of the Tax Law, and to Appendixes 10 and 10-A, arises due to the statutory changes in the itemized

deductions and rates of New York State personal income tax, there are no costs to this agency or the State and local governments that are due to the promulgation of this rule.

(c) Information and methodology: This analysis is based on a review of the statutory requirements and on discussions among personnel from the Department's Taxpayer Guidance Division, Office of Tax Policy Analysis, Office of Budget and Management Analysis, and Management Analysis and Project Services Bureau.

5. Local government mandates: Local governments, as employers, would be required to implement the new withholding tables and other methods in the same manner and at the same time as any other employer.

6. Paperwork: This rule will not require any new forms or information. The reporting requirements for employers are not changed by this rule. Employers will be notified of the amendments to the tables and other methods and directed to the Department's website for the updated tables and other methods.

7. Duplication: This rule does not duplicate any other requirements.

8. Alternatives: Since section 671(a) of the Tax Law and Chapter 57 of the Laws of 2009 require that withholding tables and other methods be promulgated, there are no viable alternatives to providing such tables and other methods.

9. Federal standards: This rule does not exceed any minimum standards of the federal government for the same or similar subject area.

10. Compliance schedule: The required information will be made available to affected employers in sufficient time to implement the revised New York State and City of Yonkers withholding tables and other methods for wages and other compensation paid on or after May 1, 2009.