

STATEMENT OF CONSENSUS RULE MAKING DETERMINATION

DEPARTMENT OF TAXATION AND FINANCE

The Department of Taxation and Finance has determined that no person is likely to object to the adoption of this rule as written because these amendments merely repeal regulatory provisions that are no longer applicable; implement and conform to nondiscretionary statutory provisions that were enacted in 2003; and make other technical, editorial, and conforming changes that are not controversial in nature.

Part R3 of Chapter 62 of the Laws of 2003, as amended by Part V of Chapter 686 of the Laws of 2003, reads, in part, as follows:

Notwithstanding any provision of law, rule or regulation to the contrary, the commissioner of taxation and finance shall insert new lines in such personal income tax forms and other tax forms as the commissioner deems appropriate to report unpaid sales and compensating use tax imposed pursuant to articles 28 and 29 of the tax law....

Pursuant to this legislative directive, the Department included lines in the personal income tax returns to report and pay unpaid sales and use taxes, and created Form ST-140, Individual Purchaser's Annual Report of Sales and Use Tax, to allow individuals, estates, and trusts that are not otherwise required to file personal income tax returns to also report and pay their sales and use tax liabilities on an annual basis. The Department also created Form ST-141, Individual Purchaser's Periodic Report of Sales and Use Tax, to be filed at the discretion of individuals, estates, and trusts that choose not to defer payment of tax to an annual basis. In conjunction with these efforts, the Department revised existing Form ST-130, now the Business Purchaser's Report of Sales and Use Tax, for use by New York State businesses that are not registered or required to be registered for sales tax purposes. In accordance with the existing regulation, the revised ST-130 continues to be

filed within 20 days after the date of a taxable transaction, as was the former ST-130, Purchasers Report of Sales and Use Tax.

This rule updates section 531.6 of the Department's regulations, "Reporting of sales and use tax by purchasers not required to file periodic returns," to delete erroneous references to a form that no longer exists (i.e., Purchaser's Report of Sales and Use Tax) and to codify the statutory exception. The rule also makes technical, editorial, and conforming changes to update pertinent sections 532.1(e), 533.4(b)(3), and 537.3(e) of the regulations.