

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 1096(a) of the Tax Law generally authorizes the Commissioner to make such rules and regulations, and to require such facts and information to be reported, as it may deem necessary to enforce the provisions of Article 27 of the Tax Law; section 1299-G of Article 29-C of the Tax Law states that the provisions of Article 27 of the Tax Law apply with respect to the administration of and procedure with respect to the congestion surcharge; section 1299-A of Article 29-C of the Tax Law imposes a surcharge on for-hire transportation trips that begin in, end in, or pass through the geographic area of the city of New York, in the borough of Manhattan, south of and excluding 96th Street (the “congestion zone”); Article 29-C of the Tax Law requires the Commissioner to administer the congestion surcharge, and to accept the registration of persons liable for the surcharge. Section 1299-C of Article 29-C requires that persons liable for the congestion surcharge file with the Commissioner a completed application for a certificate of registration, in a form prescribed by the Commissioner, subject to renewal in accordance with rules promulgated by the Commissioner. Section 1299-E of Article 29-C requires records to be kept by persons liable for the surcharge.

2. Legislative objectives: New Subchapter E (section 700.1 through section 700.4) of Chapter IV of Title 20 NYCRR reflects the imposition of the congestion surcharge. Subchapter E implements the registration and administration requirements of Article 29-C of the Tax Law. Section 700.1 of Subchapter E contains definitions that are applicable throughout Subchapter E, while section 700.2 reflects the imposition of the congestion surcharge. Section 700.3 sets forth registration and renewal requirements (including the payment of fees) for persons liable for the surcharge. Finally, section 700.4 identifies the types of records and information

that must be kept, how they must be kept and transmitted, and who is responsible for keeping them (i.e., persons liable for the congestion surcharge).

3. Needs and benefits: This rule sets forth the renewal and registration requirements necessary to comply with Article 29-C, as well as the records that must be kept to accomplish compliance with Article 29-C. This rule benefits taxpayers by putting in place the means for complying with the congestion surcharge effective January 1, 2019.

4. Costs: (a) Costs to regulated parties for the implementation and continuing compliance with this rule: There is no additional cost or burden to comply with these amendments. There is no additional time period needed for compliance. (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 Sales and Use and Other Miscellaneous Tax regulations under Article 29-C of the Tax Law arises due to the statutory changes requiring that the Commissioner administer the congestion surcharge, and accept the registration of those who will be liable for the surcharge, 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 Counsel, Office of Tax Policy Analysis Bureau of Tax and Fiscal Studies, Office of Budget and Management Analysis, and Management Analysis and Project Services Bureau.

5. Local government mandates: There are no costs or burdens imposed on local governments to comply with this amendment.

6. Paperwork: This rule will not require any new forms or information. The rule merely implements the registration, renewal and recordkeeping requirements of Article 29-C of the Tax Law.

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

8. Alternatives: Since Article 29-C, as added by Part NNN of Chapter 59 of the Laws of 2018, requires that the Commissioner administer the congestion surcharge, and prescribes renewal, registration and recordkeeping requirements, there are no viable alternatives to providing for registration, renewal and recordkeeping procedures and 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 registration, renewal and recordkeeping information has been made available to regulated parties, by means of the emergency adoption of New Subchapter E of the Sales and Use and Other Miscellaneous Tax Regulations on November 19, 2018, the readoption as an emergency measure and proposal as a permanent rule on February 12, 2019 and the subsequent readoption as an emergency rule on April 10, 2019 and June 6, 2019, in sufficient time for affected parties to comply with the congestion surcharge effective January 1, 2019. This rule readopts the amendments relating to the congestion surcharge as an emergency measure in order to maintain the effectiveness of the amendments until the adoption of the rule as a permanent measure becomes effective, when published in the State Register. The readoption of the rule as an emergency measure permits continuing compliance with the requirements of Article 29-C of the Tax Law, avoiding a gap in the effectiveness of the congestion surcharge regulations.