

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 663(f) of the Tax Law as added by Chapter 62 of the Laws of 2003 provides that the Commissioner shall promulgate rules and regulations implementing the estimated tax on the sale or transfer of real property within New York State by nonresident taxpayers; and section 697(a) provides the authority for the Commissioner to make such rules and regulations that are necessary to enforce the personal income tax.

2. Legislative objectives: The purpose of these amendments is to implement the estimated tax on the sale or transfer of real property within New York State by nonresident taxpayers, contained in section 663 of the Tax Law. Section 663 was added by part V3 of Chapter 62 of the Laws of 2003.

3. Needs and benefits: New section 663(f) of the Tax Law provides that the Commissioner shall promulgate rules and regulations implementing the estimated tax on the sale or transfer of real property within New York State by nonresident taxpayers. The adoption of this regulation will satisfy that requirement. The rule will benefit taxpayers by providing guidance about the new statutory requirements by clarifying (1) who the new law applies to, (2) what sales or transfers are covered by the law, and (3) how the exceptions to the requirements apply to taxpayers.

4. Costs: There are no fiscal or nonfiscal costs related to the promulgation of the regulation to the State, to this agency, to local governments, or to regulated parties beyond those imposed by the statute. This analysis is based on a review of the statutory provisions and on discussions among personnel from the Department's Technical Services Bureau, Office of Counsel, Division of Tax Policy Analysis, Bureau of Fiscal Management, and Planning and Management Analysis Bureau.

5. Local government mandates: Although there are certain requirements imposed on local recording officers concerning the recording of deeds described in the regulation, the requirements are imposed by section 663 of the Tax Law rather than by this regulation.

6. Paperwork: Since the requirements for nonresident taxpayers to estimate the tax upon the sale or transfer of real property within New York State were established by new section 663 of the Tax Law, any paperwork required is attributable to the statute and not the regulation.

7. Duplication: There are no relevant rules which are duplicated, overlapped, or in conflict with the regulation.

8. Alternatives: Because the regulation is specifically required by section 663(f) of the Tax Law, no significant alternative to promulgating the regulation was considered.

9. Federal standards: The rule does not exceed any federal minimum standard for the same or similar subject area.

10. Compliance schedule: Section 663 of the Tax Law, which imposes new requirements on nonresident taxpayers and local recording officers, applies to sales or transfers of real property within New York State on or after September 1, 2003. This effective date is set by Section 2 of Part V3 of Chapter 62 of the Laws of 2003 and the regulation will require no additional schedule of compliance. These regulatory amendments provide guidance to help these groups comply with the requirements imposed by the statute.