

## RURAL AREA FLEXIBILITY ANALYSIS

### DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: Types and estimated numbers of rural areas: The purpose of these amendments is to implement certain of the recommendations of the Task Force on Regulation of Tax Return Preparers (the “Task Force”), convened pursuant to section 4 of Part VV of the Laws of 2009, to make recommendations regarding the scope of the regulatory scheme and appropriate professional qualifications for tax return preparers, including, but not limited to, educational qualifications and continuing professional education requirements (“CPE”). The Task Force submitted a report, dated September 28, 2011, containing its recommendations. In keeping with these recommendations, the rule imposes certain educational, testing, and conduct requirements on registered tax return preparers. Some taxpayers affected by these rules may be located in rural areas throughout the State. There are 43 counties throughout this State that are rural areas (having a population of less than 200,000) and 9 more counties having towns that are rural areas (with population densities of 150 or fewer people per square mile).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule imposes minimal additional reporting requirements, forms, or other paperwork upon the regulated parties beyond those required by existing law and regulations. Commercial tax return preparers who must currently register under section 32 of the Tax Law will be required to complete educational and testing requirements, and submit proof of completion to the department. This recordkeeping does not require any specific professional skills other than general recordkeeping skills already needed to own and operate a small business or to competently act as a tax return preparer. It is estimated that the necessary recordkeeping will take tax return preparers 30 minutes to 1 hour annually. (See Part 6 of the Regulatory Impact Statement.) The department

believes that this rule will not impose any compliance requirements on taxpayers in rural areas. Tax return preparers in rural areas also will not require professional services to comply with this rule.

3. Costs: Costs to regulated persons: When the CPE and exam requirements of the rule are implemented, tax return preparers will incur certain associated costs. (See Part 4 of the Regulatory Impact Statement.) These costs include the cost of the preparer's time, CPE tuition, and competency exam fees. Beginning tax return preparers will incur an initial annual cost of \$605, for CPE tuition and time spent completing CPE coursework. Beginning preparers who have satisfied their initial annual requirements, as well as experienced preparers, will incur an estimated annual cost of \$151. There will be a one-time additional cost of approximately \$31 for time spent completing the competency exam, plus a fee for taking the exam.

4. Minimizing adverse impact: The rule does not distinguish between rural areas and non-rural areas as there is no distinction in the requirements imposed on registered tax return preparers in these areas. The rule strikes a balance between protecting taxpayers from incompetent, undereducated, or unscrupulous tax return preparers and imposing minimal costs on preparers.

5. Rural area participation: The following organizations were given an opportunity to participate in the rule's development: the Association of Towns of New York State; the Division of Local Government Services of New York State Department of State; the Division of Small Business of Empire State Development; the National Federation of Independent Businesses; the New York State Association of Counties; the New York Conference of Mayors and Municipal Officials; the Small Business Council of the New York State Business Council; the Retail Council of New York State; and the New York Association of Convenience Stores. A draft of the regulation was sent to the participants in the Task Force on Regulation of Tax Return Preparers, which was composed of representatives from various agencies of the New York State, New York City, and United States governments, non-governmental representatives from the academic sector, the New York State Bar Association, the New York State Society of Certified Public Accountants, the New York State Society of

Enrolled Agents, and the National Association of Tax Professionals, and other representatives of the tax return preparation industry.

6. Initial review of the rule, pursuant to SAPA §207 as amended by L. 2012, ch. 462: The proposed initial review period for this rule is 5 years after the year in which it is adopted, rather than 3 years. The educational and testing requirements of the rule are to be phased in over time. The annual CPE requirement will not apply to tax return preparers until the calendar year immediately succeeding the date on which the department publishes a list of certified CPE providers or courses. The competency test requirement will first apply to registrations for the third calendar year following the date on which an exam has been made available. For these reasons, a three-year review period is insufficient to assess the practical application of the rule and determine whether modification is in order. The department invites public comment during the public comment period for the rule.