

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, section 26(a); section 171, Subdivision First; sections 697(a) and 1096(a). Section 26(a) of the Tax Law, which was added by Chapter 537 of the Laws of 2005, provides that, for workers not employed as qualified security officers for a full year, the security tax training credit shall be prorated under regulations of the Commissioner of Taxation and Finance. Section 171, Subdivision First, provides for the Commissioner to make reasonable rules and regulations, which are consistent with law, that may be necessary for the exercise of the Commissioner's powers and the performance of the Commissioner's duties under the Tax Law. Sections 697(a) and 1096(a) provide the authority for the Commissioner to make such rules and regulations as are necessary to enforce the personal income tax and the franchise taxes.

2. Legislative objectives: The rule is being proposed pursuant to such authority and in accordance with the legislative objectives that the Commissioner equitably administer the provisions of the Tax Law. Additionally, Section 26(a) of the Tax Law requires the Commissioner to promulgate a rule as to the proration of the security training tax credit where a qualified security officer is not employed for a full year.

3. Needs and benefits: Section 26(a) of the Tax Law provides that the Commissioner shall promulgate regulations regarding the security training tax credit which provides a credit proration rule applicable where a qualified security officer is not employed for a full year. This regulation will satisfy that requirement. Also, the rule will benefit taxpayers by providing guidance to the State Office of Homeland Security when it administers and issues certificates of tax credit to eligible taxpayers.

An eligible taxpayer that is a qualified building owner and that has been issued a certificate of tax credit is allowed to claim a credit against tax imposed by Article 9, 9-A, 22, 32 or 33 of the Tax Law. The amount of the credit allowed is \$3,000 for each qualified security officer who is so employed by the taxpayer for a full

year. In the case of a qualified security officer employed for less than a full year, the amount of the credit is being prorated by the number of hours worked during the calendar year.

4. Costs:

(a) Costs to regulated persons: It is estimated that there would be no costs to regulated parties associated with implementation of this rule.

(b) Costs to the agency and to the State and local governments for the implementation and continuation of this rule: It is estimated that the implementation and continued administration of this rule will not impose any costs upon this agency, New York State, or its local governments.

(c) Information and methodology: These conclusions are based upon an analysis of the rule, which merely provides a method of prorating the security training tax credit as directed by statute, by the Department's Office of Tax Policy Analysis, Office of Budget and Management Analysis, and Management Analysis and Project Services Bureau. The amount of credit per qualified security officer and in total is set by statute.

5. Local government mandates: This rule imposes no mandates upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: The rule imposes no new reporting requirements, forms, or other paperwork upon regulated parties beyond those required by existing law and regulations. As required by Tax Law Section 26(d), taxpayers seeking to take the credit will need to apply to the State Office of Homeland Security to obtain a credit certification. The taxpayers will need to provide the information necessary to prorate the credit for security officers employed for less than a full year.

7. Duplication: There are no relevant rules or other legal requirements of the Federal or State governments that duplicate, overlap, or conflict with this rule.

8. Alternatives: The credit could have been prorated using a different method, such as by months or weeks. However, it was thought that prorating the limited credit by hours was more precise and thus more fair. When a qualified security officer is employed for less than a “full year”, the amount of the credit is being prorated by the number of hours worked during the “full year”. The rule defines “full year” as 1,750 qualified hours worked during the calendar year. The 1,750 hours is based upon the computation of a 35 hour work week multiplied by 50 weeks. The 35 hour work week comes from the existing interpretations of “full time employment” used in the Empire Zone Wage Tax credit and the QETC Employment Tax credit. In addition, the proration rule was developed in consultation with the State Office of Homeland Security, which is responsible for issuing the credit certifications.

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

10. Compliance schedule: The amendment will take effect when the Notice of Adoption is published in the State Register. No additional time is needed in order for regulated parties to comply with this rule.