

## 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; Tax Law, section 697(a), provides the authority for the Commissioner to make such reasonable rules and regulations as are necessary to enforce the personal income tax.

2. Legislative objectives: This proposal contains amendments which demonstrate the Commissioner's ability to take regulatory action when it is warranted. Regulatory action is necessary in order to update the Personal Income Tax regulations and to remove incorrect and unnecessary material from the regulations.

3. Needs and benefits: The purpose of these amendments is to update the Personal Income Tax regulations concerning the New York deduction used in computing the New York taxable income of a resident individual. Article 2 of the Personal Income Tax regulations deals with the taxation of residents. Parts 113, 114 and 115 of Article 2 concern the deductions subtracted by a resident individual from New York adjusted gross income in arriving at New York taxable income.

The amendments to Parts 113, 114, and 115 remove incorrect language and material which either mirrors the statute or only serves to illustrate the statute where no additional guidance is necessary. To compensate for the removal of the statutory material, the amendments include references to the Tax Law. This drafting procedure will help ensure that the regulations will not become outdated when amendments are made to the Tax Law or language in the statute becomes obsolete. This approach also accords with the Governor's directive to reduce regulations.

These amendments provide for a reflection in the regulations of the Tax Appeals Tribunal decision in the Matter of James R. Shorter, Jr. This decision invalidated the method for determining the subtraction

modifications from itemized deductions contained in section 115.2(g) of the regulations. The method for determining these modifications mandated by the Shorter decision has already been reflected in the Personal Income Tax forms and instructions issued by the Department since the 1997 tax year. A clear benefit of the regulation is the elimination of the confusion caused by having the invalidated method remaining in the regulations.

4. Costs: There are no costs to regulated parties, this agency, the state or local governments for the implementation and continuing compliance with this rule beyond those already imposed by 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 Client Services Division.

5. Local government mandates: There are no local government mandates associated with these amendments.

6. Paperwork: There are no additional paperwork requirements associated with these amendments.

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

8. Alternatives: Because the current regulations are not up-to-date, the alternatives to proposing these amendments would be to (1) leave the currently out-of-date regulations in place, or (2) repeal the existing regulations without adding any further guidance. After examining both of these alternatives, we have decided that it is preferable to make this proposal to attain the benefits listed in section 3 above.

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

10. Compliance schedule: There is no time period needed for regulated parties to comply with these amendments. The proposed amendments include updates to the regulations to reflect existing Department policy which taxpayers should already be aware of.