

## ASSESSMENT OF PUBLIC COMMENT

### DEPARTMENT OF TAXATION AND FINANCE

Written comments were received regarding proposal TAF-44-08-00016-P from the Interagency Council of Mental Retardation and Developmental Disabilities Agencies, Inc. (“IAC”). IAC is a membership organization of some 120 voluntary not-for-profit providers of services to individuals with mental retardation or other developmental disabilities, and their families, in the New York City metropolitan region, along with associate members in other parts of New York State. The membership operates residences, schools, clinics, vocational rehabilitation programs, day treatment centers, preschools, early intervention services, and family support programs.

IAC expressed concern regarding the provision in the rule that requires certain exempt organizations to collect sales tax when operating certain services, such as building maintenance services:

Many exempt organizations operate these services not as fund-raising operations but as part of an organized, state-funded and state-regulated program teaching job skills to individuals with disabilities. Often, the tax benefit to the user is a decisive factor in their selection of such a program; it is an important marketing tool for the exempt organization. Additionally, there is a very strong fiscal incentive and benefit to the State in the transition of these individuals from service users to taxpayers. We strongly recommend that the regulations exempt programs which are funded and certified or authorized by the State as job training programs for individuals with disabilities.

Section 529.7(i)(2)(iii) of the regulations, as added by Section 5 of the rule, and the corresponding provisions incorporated into Sections 529.8(k) and 529.9(d) reflect nondiscretionary provisions of Section 1116(b)(1)(ii) of the Tax Law, added by Part KK-1 of Chapter 57 of the Laws of 2008. As such, there is no

authority to provide the recommended exemption. The rule merely reflects the new statutory provisions in this regard.

Accordingly, no changes were made to the rule as a result of these comments.