

RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: The rule will affect approximately 65 distributors of tobacco products that import, cause to import, or manufacture roll-your-own cigarette tobacco, some of which may be located in rural areas as defined by section 102 (10) of the State Administrative Procedure Act. There are 44 counties in the 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.) The rule affects all of these distributors of tobacco products in the same way; it does not distinguish between distributors of tobacco products that are located in rural, suburban, or metropolitan areas of the State. All distributors of tobacco products that import, cause to be imported, or manufacture roll-your-own cigarette tobacco, regardless of where they are located, are required to file a supplemental schedule to account for roll-your-own cigarette tobacco imported or caused to be imported into New York State, or manufactured in New York State.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule codifies the requirement that all distributors of tobacco products that import, cause to be imported, or manufacture roll-your-own cigarette tobacco, including those located in rural areas, must complete and attach to their monthly tobacco products tax return a supplemental schedule to account for roll-your-own cigarette tobacco imported or caused to be imported into New York State, or manufactured in New York State. Although not required, an affected distributor of tobacco products may employ professional services in preparing its tax returns.

3. Costs: There are no variations in costs for public or private concerns in rural areas. With regard to the affected distributors of tobacco products located in rural areas or elsewhere, there are administrative costs associated with the filing of the supplemental schedule. This supplemental schedule is currently required to be

filed by distributors importing or causing to be imported into New York State, or manufacturing roll-your-own cigarette tobacco in New York State. The rule merely codifies this filing requirement. It is estimated that it takes an affected distributor of tobacco products that imports, causes to be imported, or manufactures roll-your-own cigarette tobacco thirty minutes to learn about the supplemental schedule, one hour for record keeping, and one hour and thirty minutes for preparing the supplemental schedule for a total of three hours. Assuming an hourly rate of \$17 an hour (equivalent with a clerical New York State position), the average cost for an affected distributor of tobacco products to complete the supplemental schedule as part of their monthly tobacco products tax return is \$51 a month. After the first filing, the costs of learning about the supplemental schedule could be reduced to zero for these distributors, resulting in compliance costs to each affected distributor \$42.50 a month for each subsequent month.

4. Minimizing adverse impact: The rule does not distinguish between affected distributors of roll-your-own cigarette tobacco located in rural areas and those located elsewhere as the information is required from all such distributors. As discussed in more detail in the Regulatory Impact Statement, the Public Health Law, as it relates to the enforcement of the tobacco Master Settlement Agreement (MSA), was amended by Chapter 272 of the Laws of 2006 to require that non-participating manufacturers, as defined in the MSA, include units of roll-your-own cigarette tobacco imported or caused to be imported into New York State, or manufactured in New York State in determining their annual escrow payments. In addition, the Tax Department is required to provide certain information to the New York State Attorney General (AG) necessary for the administration and enforcement of the *Tobacco Escrow Funds Act*. Accordingly, beginning with the return for January 2007, distributors importing, causing to be imported, or manufacturing roll-your-own cigarette tobacco are required to complete and attach a supplemental schedule to their monthly return to account for roll-your-own cigarette tobacco that is imported or caused to be imported into New York State, or manufactured in New York State. This rule codifies in regulation the additional reporting requirements needed to assist the AG's office with the

enforcement of the Public Health Law. Recognizing the impact of the additional reporting requirements, the Department has taken the following steps to minimize any adverse effects. The rule mirrors 20 NYCRR 75.1(f), which requires similar reporting requirements for New York State cigarette excise tax stamps affixed to packages of cigarettes by an agent. In addition, in developing the supplemental schedule for distributors of tobacco products importing, causing to be imported, or manufacturing roll-your-own cigarette tobacco, the Department modeled such schedule after Form CG-5/6-ATT, which requests similar information from New York State cigarette stamping agents that affix New York State tax stamps.

5. Rural area participation: The following organizations were notified that the Department was in the process of developing this rule and were given the opportunity to participate in its development: the New York State Association of Tobacco and Candy Distributors; the Association of Towns of New York State; the Deputy Secretary of State for Local Government and Community Services; 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 State Conference of Mayors and Municipal Officials; the Small Business Council of the New York State Business Council; and the Retail Council of New York State. The notified groups did not submit any comments concerning the rule.