

REGULATORY FLEXIBILITY ANALYSIS
FOR SMALL BUSINESSES AND LOCAL GOVERNMENTS
DEPARTMENT OF TAXATION AND FINANCE

1. Effect of rule: Section 663 of the Tax Law provides that every recording officer in New York State shall act as an agent of the Commissioner of Taxation and Finance for purposes of collecting the estimated personal income tax. The section also provides that the Commissioner, by regulation, shall prescribe one or more methods for the recording officer's collection of such estimated tax and the due dates for the recording officer's remittance of funds collected and returns filed. The effect on local governments is the addition of responsibilities placed on local recording officers, which is primarily due to the statute. The rule has a small effect on local governments because it provides the collection method and due date for remitting funds collected and returns filed.

It is anticipated that the rule will have little or no effect on small businesses.

2. Compliance requirements: Local recording officers are required by the statute to act as agents of the Commissioner and collect and remit tax payments and returns. The recording officers must build this new process into their office procedures. The rule provides the method for the collection of the estimated tax and that the recording officer must remit to the Department any funds collected and returns filed in a timely manner, not to exceed three business days after receipt of the funds and returns.

3. Professional services: No professional services are necessary in order to comply with the rule. Some taxpayers may choose to utilize professional services in order to comply with the rule, and because the requirements involve the sale of real property, it is likely that the taxpayers affected already utilize professionals to perform these types of services.

4. Compliance costs: Because the requirements on the recording officers are primarily imposed by section 663 of the Tax Law rather than the regulation, there are no compliance costs to local governments as a result of the rule. See, also, section 4(a) of the Regulatory Impact Statement for this rule.

5. Economic and technological feasibility: The rule does not impose any economic or technological compliance burdens on small businesses or local governments.

6. Minimizing adverse impact: In order to minimize any adverse impact on the local recording officers, the Department met with the County Clerks' Association to discuss the new procedures and to receive their input regarding the proposed requirements. Advance copies of estimated tax forms and instructions were provided to the recording officers so they could prepare for the change in procedure.

7. Small business and local government participation: The following organizations were notified that the Department was in the process of developing this rule and were given an opportunity to participate in the rule's development: 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 Conference of Mayors; the Small Business Council of the New York State Business Council; and the Retail Council of New York State.