

STATEMENT OF CONSENSUS RULE MAKING DETERMINATION

DEPARTMENT OF TAXATION AND FINANCE

The Department of Taxation and Finance has determined that no person is likely to object to the adoption of this rule as written because these amendments merely repeal outdated regulatory provisions and add new provisions to update the provisions relating to treatment of an allocation of partnership income which has as a principal purpose the avoidance or evasion of personal income tax to reflect current federal provisions under Internal Revenue Code section 704(b), and continue the consistency of the New York personal income tax rules with federal treatment of certain allocations contained in partnership agreements. The new rule is not substantially different from the existing regulations and the amendments largely reflect current administrative policy regarding existing statutes.

In addition, the update to personal income tax regulations section 117.5 is consistent with language incorporated in amendments to the Business Corporation Franchise Tax regulations concerning corporate partners (20 NYCRR section 3-13.3(a)(3)), and provides uniformity between corporate and individual partners.

The rule also makes a technical correction to section 3-13.5(a)(1) to correct a cross-reference. This editorial change is not controversial in nature.