

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, sections 171, subdivisions First and Twenty-fourth; 1142(1); and 1250 (not subdivided). Section 171, subdivision First of the Tax Law provides for the Commissioner of Taxation and Finance to make reasonable rules and regulations, which are consistent with the law, that may be necessary for the exercise of the Commissioner's powers and the performance of the Commissioner's duties under the Tax Law, including regulations which shall advise the public of (i) the various methods by which the department communicates tax policy and interpretations to taxpayers, tax practitioners, personnel of the department and the general public and (ii) the legal force and effect, precedential value and binding nature of each such method of communication. Section 171, subdivision Twenty- Fourth of the Tax Law provides that the Commissioner of Taxation and Finance may promulgate rules and regulations with respect to the procedures for submitting a petition for an advisory opinion. Subdivision (1) of section 1142 of Article 28 and section 1250 of Article 29 of the Tax Law provide for the adoption of rules and regulations that are appropriate to carry out and jointly administer the New York State and local sales and compensating use taxes imposed by and pursuant to the authority of such Articles.

2. Legislative objectives: This rule is being proposed pursuant to the above authority to update the regulations advising the public of (i) the various methods by which the Division of Taxation of the Department of Taxation and Finance ("department") communicates tax policy and interpretations and (ii) the legal force and effect, precedential value and binding nature of each method of communication.

3. Needs and benefits: This rule updates Parts 2375 and 2376 in conjunction with the implementation of recent changes in policy concerning communications of the department. It recognizes alternative methods of disseminating communications of the department, including use of the department's Web site and online tax

information, as well as electronic mail. In addition, the procedures for review and issuance of advisory opinions have been streamlined to improve timeliness. The new procedures help protect taxpayer confidentiality.

Opinions of Counsel, which were discretionary and similar in many respects to technical memoranda (TSB-Ms), are being discontinued to avoid unnecessary duplication.

4. Costs:

(a) Costs to regulated persons: There is no cost to regulated parties for the implementation of and continuing compliance with the rule. The rule merely serves to inform regulated persons as to the nature of the department's communications.

(b) Costs to the State and its local governments including this agency: This rule will not impose any costs on New York State or its local governments. The implementation and continued administration of this rule will not impose costs on the Department of Taxation and Finance. The rule also eliminates references to the department disseminating documents by mail; the department is moving toward disseminating more documents by alternative methods, such as the Internet and electronic mail, resulting in cost savings.

(c) Information and methodology: The conclusions reached above were based on an analysis of the rule, which merely updates the department's rules on communications and their force and effect, from the department's Taxpayer Guidance Division, Office of Tax Policy Analysis, Office of Counsel, Audit Division, Office of Budget and Management Analysis, and Management Analysis and Project Services Bureau.

5. Local government mandates: This rule imposes no mandates upon any county, city, town, village, school district, fire district or other special district.

6. Paperwork: This rule does not impose any reporting requirement upon regulated parties nor does it require any forms or other paperwork.

7. Duplication: There are no relevant rules or other legal requirements of the Federal or State governments that duplicate, overlap, or conflict with this rule.

8. Alternatives: This rule is being proposed in conjunction with recent changes in policy concerning communications of the department in order to improve efficiency in this area. The alternative would be to continue with the former policy and forego projected improvement in communications.

9. Federal standards: The amendments do not exceed any minimum standards of the Federal government for the same or similar subject area.

10. Compliance schedule: The rule will take effect on the date that the Notice of Adoption is published in the State Register. Regulated parties and the department will not require any period of time to achieve compliance with the rule.