

RURAL AREA FLEXIBILITY ANALYSIS

DEPARTMENT OF TAXATION AND FINANCE

1. Types and estimated numbers of rural areas: Every employer, including any public or private employer located in a rural area as defined in section 102(10) of the State Administrative Procedure Act, that is currently subject to the City of New York withholding requirements will continue to be subject to such requirements and will be required to comply with the provisions of this rule. The number of employers that are also public or private interests in rural areas cannot be determined with any degree of certainty. The effect on employers in rural areas is minimized because the changes relate to the New York City personal income tax on residents withholding requirements. There are 44 counties throughout this 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).

2. Reporting, recordkeeping and other compliance requirements; and professional services: This rule requires employers that are already subject to the City of New York withholding requirements to continue to deduct and withhold amounts from employees using the revised withholding tables and other methods. The promulgation of this rule will not require employers to submit any new information, forms or other paperwork.

Further, many employers currently utilize bookkeepers, accountants, and professional payroll services in order to comply with existing withholding requirements. This rule will not encourage or discourage the use of any such services.

3. Costs: Employers are already subject to the City of New York withholding requirements. Therefore, employers are accustomed to withholding revisions, including minor programming changes for federal, state, City of New York, and City of Yonkers purposes. As such, these City of New York changes should place no

additional burdens on employers located in rural areas. See, also, section 4(a) of the Regulatory Impact Statement for this rule.

4. Minimizing adverse impact: Section 671(a)(1) of the Tax Law requires that the New York State withholding tables and other methods be promulgated. Section 1309(a) of the Tax Law requires that the City of New York withholding of tax on wages shall be administered and collected by the Commissioner of Taxation and Finance in the same manner as the tax imposed by Article 22 of the Tax Law. There are no provisions in the Tax Law that exclude employers located in rural areas from the withholding requirements.

5. Rural area participation: The following organizations are being given an opportunity to participate in the rule's development: the Association of Towns of New York State; the Division of Local Government Services of New York State Department of State; 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 and Municipal Officials; the Small Business Council of the New York State Business Council; the Retail Council of New York State; the New York Association of Convenience Stores; the Tax section of the New York State Bar Association; the Association of the Bar of the City of New York; the National Tax Committee for the National Conference of CPA Practitioners; the New York State Society of CPAs; and the Business Council of New York State.

6. Initial review of the rule, pursuant to SAPA 207, as amended by L. 2012, ch. 462; the proposed initial review period for this rule is 5 years after the year in which it is adopted, rather than 3 years. The justification for a five year review period is that the proposed amendment is necessary to implement the increase in the City of New York income tax surcharge rate, pursuant to Part C of Chapter 59 of the Laws of 2017. New Appendix 10-C merely reflects the rate increase enacted by Part C. The substantive provisions of the proposed amendment cannot be repealed or modified unless there is a further change to the New York State Tax Law, affecting the City of New York's rate of tax or the New York State Tax income tax rates on which it is based.

Accordingly, there is no need for a shorter review period. The Department invites public comment during the public comment period for the rule.