

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

1. Effect of the rule: This rule will not impose any adverse economic impact or any additional reporting, record-keeping, or other compliance requirements on small businesses. Nor does the rule distinguish between different types and sizes of regulated parties. On the contrary, the rule merely provides that separately stated, reasonable charges for alterations to all items of clothing, regardless of where these services are performed or by whom, are to be treated as tailoring and are specifically excluded from State and local sales and compensating use taxes. Thus, under the rule, small businesses and others that are selling or using these services will not have to collect or pay sales or use taxes for such services. Consequently, it is estimated that the rule will effect a decrease in local sales and use tax revenues of approximately \$1.6 million annually. (See section 4, Costs, of the Regulatory Impact Statement that has been filed with this rule.) There are 62 counties (five of which comprise New York City) and 22 cities that directly share in local sales and use tax revenues. Currently, 17 counties and 4 cities (including NYC) have made the election to exempt receipts from the sales of clothing and footwear from tax pursuant to section 1115(a)(30) of the Tax Law. In general, items of clothing (and footwear) costing less than \$110 per article, including any fees for alterations, are exempt from State and local taxes, provided the locality has elected to afford the exemption. The local government impact is estimated at the county level, which includes city taxing jurisdictions, to range from \$266 annually, to a total of \$454,960 annually in the five counties of New York City.

2. Compliance requirements: There are no reporting, record-keeping, or other compliance requirements imposed by the rule. The local sales and compensating use taxes at issue are administered by the Commissioner of Taxation and Finance pursuant to the authority of Articles 28 and 29 of the Tax Law.

3. Professional services: No professional services are necessary in order to comply with the rule.

4. Compliance costs: There are no initial capital costs or annual costs of complying with this rule. Costs of the rule are limited to the diminished local sales and use tax revenues. Any one-time costs for vendors would be attributable to reclassifying alteration services from taxable to nontaxable activities and are considered to be routine, nonmeasurable adjustments that will be handled in the normal course of business.

5. Economic and technological feasibility: The rule does not impose any economic or technological compliance burdens beyond the reduction in local tax revenues.

6. Minimizing adverse impact: Alterations to new items of clothing that are currently subject to local tax if performed by a tailor (or other service provider such as a seamstress), or if performed by a clothing vendor on nonexempt items of clothing, or if performed by a vendor in a locality in which the clothing and footwear exemption does not apply will be excluded from tax under this rule. While this is economically beneficial to the taxpayers of New York State, its adverse effect on local tax revenues is directly proportional. In this regard, the interests of taxpayers and local governments are mutually exclusive.

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 its development: the Small Business Council of the NYS Business Council, the Division for Small Business of NYS Empire State Development, the National Federation of Independent Businesses, the Retail Council of NYS, the NYS Association of Counties, the Association of Towns of NYS, the NYS Conference of Mayors and Municipal Officials, and the Office of Local Government and Community Services of the NYS Department of State.