

REGULATORY IMPACT STATEMENT

DEPARTMENT OF TAXATION AND FINANCE

1. Statutory authority: Tax Law, sections 171, subdivision First; 429(1); and 436 (not subdivided).

Section 171, subdivision First of the Tax Law provides the Commissioner of Taxation and Finance with the authority 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. Section 429(1) of the Tax Law, while providing generally for monthly alcoholic beverage tax returns, provides that the Commissioner may require tax returns to be made at such times and covering such periods as is deemed necessary in order to insure the payment of the tax. Section 436 of the Tax Law provides for the authority provided by section 171 to be exercisable specifically with respect to the alcoholic beverage tax imposed by Article 18 of the Tax Law.

2. Legislative objectives: The rule is being proposed pursuant to this authority to allow returns to be filed by certain filers for periods and upon such dates other than those prescribed in the Tax Law.

3. Needs and benefits: Section 60.1 of the regulations allows micro-brewers and restaurant brewers to elect to file annual beer tax returns. Chapter 108 of the Laws of 2012 amended the Alcoholic Beverage Control Law to create a new class of licensees, farm breweries, which would be authorized to manufacture and sell beer and cider made from crops grown in New York State. Farm breweries, like micro-brewers licensed under sections 51 and 56 of the Alcoholic Beverage Control Law, are restricted to producing no more than 60,000 barrels of beer annually. This rule would provide that persons registered as farm breweries pursuant to section 51-a of the Alcoholic Beverage Control Law may also file annual beer tax returns.

4. Costs:

(a) Costs to regulated parties: There is no cost to regulated parties for the implementation of and continuing compliance with the rule. If anything, the impact on taxpayers will be positive as the regulated parties will be allowed to file annual returns in lieu of monthly returns.

(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.

(c) Information and methodology. This analysis is based on discussions among personnel from the Department's Office of Tax Policy Analysis, the Office of Counsel and the Office of Budget and Management Analysis, which examined the rule that merely allows farm breweries to file annual rather than monthly beer tax returns.

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 imposes no reporting requirements, forms or other paperwork upon regulated parties beyond those required by statute. The rule allows licensed farm breweries to file annual beer tax returns rather than monthly tax returns, reducing the number of returns that could be required to be filed by affected parties and, in turn, processed by the Department.

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: An alternative to this rule would be to require farm breweries to file monthly beer tax returns. While it may be advantageous for many micro-brewers to convert their license to a farm brewery license for State Liquor Authority purposes, they would lose their status as annual filers for tax purposes.

9. Federal standards: This rule does not exceed any minimum standards of the Federal government for the same or similar subject area.

10. Compliance Schedule: This rule would become effective on the date that the Notice of Adoption is published in the *State Register*.